AUDIT

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

U.S. Fish and Wildlife Service Grants Awarded to the State of Maine, Department of Marine Resources, From July 1, 2017, Through June 30, 2019, Under the Wildlife and Sport Fish Restoration Program

Report No.: 2020–ER–058

May 2023

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Memorandum

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

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

Subject: Final Audit Report – *U.S. Fish and Wildlife Service Grants Awarded to the State of Maine, Department of Marine Resources, From July 1, 2017, Through June 30, 2019, Under the Wildlife and Sport Fish Restoration Program*
Report No. 2020–ER–058

This report presents the results of our audit of costs claimed by the Maine Department of Marine Resources (MDMR) under grants awarded by the U.S. Fish and Wildlife Service (FWS) through the Wildlife and Sport Fish Restoration Program.

We provided a draft of this report to the FWS. The FWS concurred with all of our recommendations and stated that it will work with the MDMR to implement corrective actions. The full responses from the FWS and MDMR, as well as the Maine State Controller memorandum, are included in Appendix 4. We list the status of the recommendations in Appendix 5.

Please provide us with a corrective action plan based on our recommendations by August 15, 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. It should also clearly indicate the dollar value of questioned costs that you plan to either allow or disallow. If a recommendation has already been implemented, provide documentation confirming that the action is complete. Please send your response to aie_reports@doioig.gov.

We will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions regarding this report, please contact me at 202–208–5745.

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Introduction

Results in Brief

During our review of the Maine Department of Marine Resources' (MDMR's) use of Wildlife and Sport Fish Restoration Program (WSFR) funds, we found that, between 2017 and 2019, the MDMR used a portion of all 12 of its WSFR grants to pay for the State's unfunded retirement and retiree healthcare costs ("unfunded liabilities").[1] Specifically, the MDMR used 30 percent of WSFR grant payroll expenditures, intended for conservation-related purposes, to pay down unfunded liabilities for its retirees, which reduced the funding available to accomplish WFSR grant objectives. We examined the extent to which the MDMR used WFSR funds for unfunded liabilities and whether this practice was in compliance with Federal regulations and award terms and conditions. Given the percentage of funding at issue, we are questioning as unallowable the unfunded liability costs charged to the 12 WSFR grants totaling $539,948 ($386,763 Federal share).[2] Separately, we identified unsupported costs related to employment termination benefits, which we also question.

To more widely address the issue of unfunded liabilities within the WSFR program, we are issuing a management advisory[3] to the U.S. Fish and Wildlife Service (FWS) recommending that it consult with the appropriate U.S. Department of the Interior (DOI) offices to determine the extent to which unfunded liabilities are allowable grant expenditures and that it develop and implement guidance that clarifies the allowability of unfunded liabilities.

Objectives

In June 2016, we entered into an intra-agency agreement with the FWS to conduct audits of State agencies receiving grant funds under WSFR. These audits assist the FWS in fulfilling its statutory responsibility to oversee State agencies' use of these grant funds.

The objectives of this audit were to determine whether the MDMR used grant funds for allowable fish and wildlife activities and complied with applicable laws and regulations, FWS guidelines, and grant agreements.

See Appendix 1 for details about our scope and methodology. See Appendix 2 for a list of sites we reviewed.

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[1] In this report, the term "unfunded liabilities" refers to unfunded pension plan and retiree healthcare costs. Unfunded liabilities are also known as unfunded actuarial accrued liabilities and refer to liabilities that are not covered by assets. When a pension fund has projected debts that exceed its current capital, projected income, and investment returns, it has unfunded liabilities. In other words, an unfunded liability is the difference between the total projected amount due to retirees and the amount of money the fund actually has to make those payments.

[2] The amounts are presented as a total cost, which includes both State share (the difference between 100 percent and the Federal share percent) and Federal share (a maximum of 75 percent). The Federal share, in parentheses, identifies how much of the total cost was paid directly by the Federal grants.

[3] Our draft management advisory, *Unfunded Liabilities for Wildlife and Sport Fish Restoration Program Grants* (Report No. 2020–ER–058–A), was issued to the FWS for comment on December 12, 2022.

Background

The FWS apportions funding derived from certain excise taxes and provides grants to States[4] through WSFR for the conservation, restoration, and management of wildlife and sport fish resources as well as educational and recreational activities.[5] WSFR was established by the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act.[6] The Acts and related Federal regulations allow the FWS to reimburse grantees a portion of eligible costs incurred under WSFR grants—up to 75 percent for States and up to 100 percent for the Commonwealths, territories, and the District of Columbia.[7] The reimbursement amount is commonly referred to as the Federal share.

[4] Federal regulations at 50 C.F.R. § 80.2 define the term "State" as the 50 States; the Commonwealths of Puerto Rico and the Northern Mariana Islands; the territories of Guam, the U.S. Virgin Islands, and American Samoa; and the District of Columbia (Dingell-Johnson Sport Fish Restoration Act only). We use the term in the same way in this report.

[5] 16 U.S.C. §§ 669b(a), 777b.

[6] These statutes are formally titled, respectively, the Federal Aid in Wildlife Restoration Act, 16 U.S.C. § 669 *et seq.*, as amended, and the Federal Aid in Sport Fish Restoration Act, 16 U.S.C. § 777 *et seq.*, as amended.

[7] The District of Columbia does not receive funding under the Pittman-Robertson Wildlife Restoration Act.

Results of Audit

We determined that the MDMR did not ensure that grant funds were used for allowable fish and wildlife activities. We question $539,948 ($386,763 Federal share) as unallowable and $8,410 ($6,308 Federal share) as unsupported (see Figure 1). These questioned costs arose due to the MDMR's payments toward unfunded liabilities, which represent 30 percent of all WSFR grant payroll expenditures, as well as unsupported employment termination benefits.

Figure 1: Summary of Questioned Costs (Federal Share)

Issue	Unallowable Costs ($)	Unsupported Costs ($)	Total ($)
Unfunded Retirement	190,245	–	190,245
Unfunded Retiree Health	107,265	–	107,265
Related Indirect Costs	89,253	–	89,253
Employment Termination Benefits	–	6,308	6,308
Totals	**$386,763**	**$6,308**	**$393,071**

Unfunded Liabilities Resulted in Questioned Costs of $539,948 ($386,763 Federal Share)

The MDMR used WSFR grant funds for payments toward the State's unfunded liabilities. In this context, unfunded liabilities are projected financial obligations accrued in previous years that the State does not have requisite funds to pay. If a pension fund or other type of fund has projected debts that exceed its current capital, projected income, and investment returns, it has "unfunded liabilities." An unfunded liability is the difference between the projected amount due to current and future retirees and the amount of money the fund will have to make those payments in the future. In Maine, these unfunded liabilities occurred because the State underfunded the plan and had a lower-than-expected rate of return.[8] While State employees contribute a mandatory percentage of their salaries and wages to the normal costs for pensions,[9] the State of Maine (as their employer) contributes to both the normal costs for pensions and unfunded liabilities at a rate expressed as a percentage of payroll. During discussions with the State, we were informed the employer contributions for unfunded liabilities are calculated automatically during payroll processing. Maine then claims Federal reimbursement for the unfunded liability contributions made based on WSFR-funded salaries and wages.

We question whether using grant funds to pay for these unfunded liabilities constituted an allowable cost. Generally, for a cost to be considered allowable, it must meet various conditions

[8] State of Maine, Summary Budget Information 2012–2013, "Unfunded Government Employee Pension Liabilities Reform," issued February 11, 2011.

[9] "Normal costs for pensions" refers to the actuarial present value of projected benefits that is allocated to a period. For example, here it is the costs contributed to the pension fund by current employees for their future retirement and is separate from the unfunded liabilities contributions.

specified in Federal regulations and the award letter from the FWS to the State grant recipient. These conditions include factors related to reasonableness, timing, and nature of the costs.[10] With respect to pension plan and post-retirement healthcare, the costs must be incurred in accordance with established awardee policies and other requirements, such as reasonableness, to be allowable.[11] Unfunded liabilities, in particular, may be allowable costs if certain criteria are met.[12] We requested relevant policies from the State Controller, but it did not provide us with any related to unfunded liabilities. Under these circumstances, we question whether the State's use of WFSR funds to address these unfunded liabilities complied with Federal regulations and award letters as they relate to reasonableness and nature of the costs.

Reasonableness

As a general matter, a cost must be "reasonable" to be considered allowable for purposes of a Federal grant. "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost."[13] One of the factors in making this determination is whether a cost is "generally recognized as ordinary and necessary[14] for the operation of the non-Federal entity or the proper and efficient[15] performance of the Federal award."[16]

We found that Maine used 30 percent of grant payroll expenditures—the total amount of salaries and wages, including regular hours as well as sick, vacation, and holiday hours—for unfunded liabilities. By comparison, its employer "normal" costs for retirement are 5.7 percent of total grant payroll expenditures. The large percentage spent on unfunded liabilities and the wide disparity between the unfunded liability contributions and the normal contributions bring into question whether this amount of unfunded liability contributions is "generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award."[17] Therefore, we question whether the amounts of unfunded liabilities charged to the grants, in relation to the overall expenditures, are reasonable pursuant to relevant Federal guidance.

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[10] 2 C.F.R. § 200.403.

[11] 2 C.F.R. § 200.431 (c), (d), (g), (h).

[12] 2 C.F.R. § 200.431(g)(6)(ii), (h)(4).

[13] 2 C.F.R. § 200.404.

[14] "Ordinary and necessary" costs refer to those that are commonly and typically used by the State. For example, administrative expenses, such as office supplies to support the State and services of professionals that support the State. See IRS News Release FS–2007–17, issued March 2007.

[15] "Proper and efficient" means that the State used the Federal grant funds with the least waste of resources or effort and that the uses were suitable or appropriate in the context of the award letter terms and governing laws and regulations. Definitions retrieved on September 24, 2022, from https://www.merriam-webster.com/dictionary/efficient and https://www.merriam-webster.com/dictionary/proper.

[16] 2 C.F.R. § 200.404(a).

[17] *Id.*

Timing

In our review of the MDMR's use of WFSR grant funds for payments toward unfunded liabilities, we also considered other aspects of cost allowability—namely the timing and nature of payments. Specifically, we noted that the unfunded liabilities were not incurred during the FWS grants' periods of performance set in the grant terms in the "Notice of Award" letters accepted by the MDMR. These grant terms state, "Only allowable costs resulting from obligations incurred during the performance period may be charged to this award." Maine's pension liabilities began accruing many decades before the WSFR awards in our review. Because the liabilities accrued before the awards were made, these liabilities may constitute out-of-period costs as anticipated by the award letters.[18]

Nature of the Costs

Federal regulations permit recipients to claim both direct and indirect costs as allowable expenditures for awards. The MDMR claims the unfunded liabilities as a direct cost that is a fixed percentage of payroll costs for all State employees, including those paid with Federal grants. Although Federal regulations permit unfunded liabilities to be designated as either a direct or indirect cost depending on internal accounting policies,[19] we question whether unfunded liability costs are more indicative of an indirect cost rather than a direct cost. This issue matters because the State's classification of unfunded liabilities as a direct cost versus an indirect cost affects the amount that may be claimed for reimbursement on the Federal awards. More specifically, if the unfunded liabilities are classified as indirect costs, the Federal money spent toward unfunded liabilities may be reduced.

An indirect cost can be characterized as a "cost of doing business." In contrast, a direct cost serves the purpose of the award. "Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy."[20] Conversely, indirect costs are for a common or joint purpose within the State and benefit all programs or projects, and they are usually charged to the Federal awards using an indirect cost rate.[21]

For example, the pay and benefits of a marine resource scientist who works within the MDMR on a WSFR-funded grant are direct costs. In contrast, the cost of utilities at a building that many

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[18] 2 C.F.R. § 200.403.

[19] Unfunded liabilities are generally treated as "fringe benefits," but relevant Federal regulations do not differentiate between unfunded pensions and "normal" pensions. Retiree healthcare is also a fringe benefit. As mentioned earlier, when discussing unfunded liabilities, we have combined both terms due to their similarities. Fringe benefits are defined as "allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans." *See* 2 C.F.R. § 200.431(a). Fringe benefits may be charged directly or indirectly "[i]n accordance with the non-Federal entity's accounting practices." *See* 2 C.F.R. § 200.431(c). Therefore, States can implement a policy that identifies unfunded pensions as either direct or indirect costs.

[20] 2 C.F.R. § 200.413(a).

[21] In general terms, an indirect cost rate is the percentage of an organization's indirect costs to its direct costs and is a standardized method of charging individual programs for their share of indirect costs.

departments share is an indirect cost because it is necessary for the operation of the Maine government but cannot be assigned to individual departments within the building. These utility costs would be included in determining the indirect cost rate, and the State can request reimbursement of only the Federal portion (no more than 75 percent) of the indirect costs.

If only a portion of the direct costs are attributable to the Federal grant, the costs must be allocated between the Federal and non-Federal entity in proportion to the benefits received. When a cost is allocated, it must satisfy the following conditions:[22]

- The goods or services were specifically for the Federal grant,

- The goods or services benefit both the Federal grant and other work of the grant recipient and the costs can be shared equitably, and

- The goods or services are necessary for the grant recipient's overall operation and is allowable to the Federal grant.

We analyzed the nature of the unfunded liability expense and determined that although both direct and indirect costs are allowable under these Federal awards, Maine's unfunded liabilities may be more properly identified as indirect costs. These unfunded liabilities do not directly benefit only the Federal award. Moreover, they are incurred State costs and amortized on the basis of historical obligations; that is, they are not incurred specifically for the purposes of WSFR awards. These State liabilities also have no beneficial impact on the WSFR program, accomplishment of grant goals, or any benefit to the Federal award.

This designation is significant because, if unfunded liabilities are treated as indirect costs, the amounts charged to WSFR grants and thus to the Federal Government could be reduced, potentially substantially. More specifically, if Maine were to classify unfunded liabilities as indirect costs, Maine's statewide cost allocation would capture those costs and assign them to the benefiting activities on a reasonable and consistent basis; in addition, the MDMR's indirect cost rate would change. If unfunded liabilities were included in the States' indirect cost rate, it could decrease the amount of unfunded liabilities attributed to the Federal awards because indirect rates are charged as a percentage of direct costs incurred under the award and are spread among numerous cost objectives.

Cost Allowability

The MDMR charged each of the 12 FWS grants that we audited for payments toward the State's unfunded liabilities and related indirect costs, totaling $539,948 ($386,763 Federal share) in WSFR funds. This reduced the funding available to accomplish the WFSR grant objectives.

[22] 2 C.F.R. § 200.405.

The WSFR Program's authorizing legislation limits State central services[23] to 3 percent of the annual apportionment to that State each year.[24] This protects funding for WSFR projects and limits funding for activities that do not directly relate to those projects. The MDMR's apportionments[25] totaled just over $2.34 million for the 12 grants open during the audit period; accordingly, the maximum amount for central service costs that the MDMR could claim would be approximately $70,000.[26] We believe the unfunded liabilities for the MDMR potentially constitute central service costs within the meaning of the statute and that the FWS should consider this point when determining reasonableness.

We are separately issuing a management advisory to the FWS recommending that it consult with appropriate DOI offices to determine the extent to which unfunded liabilities are allowable grant expenditures and that it develop and implement guidance pertaining to the appropriate use of grant funds—if any—to pay unfunded liabilities.

Recommendation
We recommend that the FWS: 1. Address the questioned costs related to unfunded retirement and retiree health totaling $386,763 (Federal share) in consultation with appropriate U.S. Department of the Interior offices to determine if the costs are allowable pursuant to Federal regulations and award terms and conditions.

Unsupported Employment Termination Benefits Resulted in Questioned Costs of $8,410 ($6,308 Federal Share)

When a State employee uses leave earned while working on a Federal award, the costs of that leave can be allocated to the Federal award. States cannot claim more leave costs to the Federal award than were earned by a State employee on that award. We found, however, that the MDMR charged a WSFR grant $16,710 for a lump-sum employment termination benefit paid to an employee upon retirement from the MDMR in 2017. The payment consisted of the full amount of one employee's accrued leave, compensatory time, and related fringe benefits even though the employee worked 25 percent of the time on non-WSFR grants. We therefore question 25 percent of the accrued leave and fringe benefits that should have been charged to another grant program. We also question 100 percent of the compensatory time and associated indirect costs charged to WSFR because the MDMR did not have a system in place to track the amount of compensatory

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

[24] 50 C.F.R. § 80.53.

[25] For the context of this report, the maximum amount of central services costs of approximately $70,000 was calculated using actual award dollars received by the State of Maine for WSFR grants between January 1, 2017, and December 31, 2019, rather than the apportionment, due to timing differences between the State's fiscal year and the Government's fiscal year.

[26] Three percent of $2,342,612 (total apportionment) is $70,279.

time employees earned on a per-grant basis. As a result, we question the unsupported employment termination benefits and associated fringe benefits charged to Grant No. F17AF00142 totaling $8,410 ($6,308 Federal share) (see Figure 2).

Figure 2: Questioned Costs for Grant No. F17AF00142
Related to Employment Termination Benefits

Issue	Claimed ($)	Unsupported (%)	Unsupported Costs ($)	Federal Share ($)
Accrued Leave	11,105	25	2,776	2,082
Compensatory Time Payout	3,055	100	3,055	2,291
Fringe Benefits	2,550	25	638	479
Indirect Costs*		30	1,941	1,456
Totals	**$16,710**		**$8,410**	**$6,308**

* Indirect costs are calculated as 30 percent of the $6,469 in unsupported costs for accrued leave, compensatory time, and related fringe benefits.

States must follow specific cost principles when compensating employees for work performed under Federal awards. "Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards: (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles."[27] Additionally:

> The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if . . . [t]he costs are equitably allocated to all related activities, including Federal awards.[28]

Maine's policy[29] allows employees to accrue leave under categories, including vacation, compensatory time, and sick leave. Federal award funds can be used to pay for leave if the employees earned the leave while working on those Federal awards. Pursuant to Maine's policy, the maximum accruals per employee are 400 hours of vacation leave and 960 hours of sick leave. Upon retirement, the MDMR can allocate[30] the allowable portion of the employee's employment termination benefit to a Federal grant, but that amount must be commensurate with the amount of leave earned from work performed related to that grant. As discussed previously, a cost is allocable to a particular Federal award if the goods or services involved are incurred specifically for the Federal award and benefit the Federal award.

[27] 2 C.F.R. § 200.403.

[28] 2 C.F.R. § 200.431(b).

[29] State of Maine Office of the State Controller, *State Administrative and Accounting Manual*, Section 25.40.10, "Leave Processing," issued March 18, 2005.

[30] Allocability is one aspect of cost allowability.

The State's human resources policy defines termination benefits "as unused employee leave balances that represent a true liability to the State of Maine such as earned but unused vacation and sick time to retired or terminated employees."[31] However, only 75 percent of the employee's time worked during the prior 6 years was paid from the FWS grants and, because Maine could not provide support for the compensatory time earned, we could not confirm under which programs the employee earned those hours. Accordingly, we question the entire amount.

Throughout the course of a career, an employee could work and earn compensatory time on other Federal program awards and State-funded activities, and those other activities should also contribute to the accrued payout costs. By fully assuming payout costs, Federal grant programs could potentially divert funds intended for grant objectives, affecting the efficiency of these programs.

Recommendations

We recommend that the FWS:

2. Address the questioned costs related to the direct charges for retirement payouts totaling $6,308 (Federal share).

3. Require the Maine Department of Marine Resources to implement policies and procedures for the recordkeeping of employment history for retirement payouts of leave balances to ensure that they are appropriately allocated, as defined in 2 C.F.R. § 200.405, to the proper U.S. Fish and Wildlife Service program.

[31] State of Maine Office of the State Controller, *State Administrative and Accounting Manual*, Section 25.40.20, "Termination benefits," issued March 19, 2005.

Recommendations Summary

We provided a draft of this report to the FWS and the MDMR for review. The FWS stated that it concurred with all recommendations, and, based on its response, we consider the recommendations resolved. The MDMR responded to the recommendations and provided commentary on our analysis. Because the FWS is the DOI entity responsible for oversight of the Federal funding, we consider the FWS' response when determining recommendation status. Below we summarize both the FWS' and the MDMR's responses to our recommendations. See Appendix 4 for the full text of the FWS' and the MDMR's responses as well as the Maine State Controller's memorandum; Appendix 5 lists the status of each recommendation.

We recommend that the FWS:

1. Address the questioned costs related to unfunded retirement and retiree health totaling $386,763 (Federal share) in consultation with appropriate U.S. Department of the Interior offices to determine if the costs are allowable pursuant to Federal regulations and award terms and conditions.

   FWS Response: The FWS concurred with our recommendation and stated that it will work with the MDMR to develop and implement a corrective action plan.

   MDMR Response: The MDMR did not concur with the recommendation and referred us to a memorandum from the Maine State Controller's Office for its response. The Controller stated that "fringe benefits are granted under established written policies, charged as direct costs in accordance with our accounting practices, funded within the fiscal year charged, computed via an acceptable actuarial cost method, with the unfunded liability component amortized over a period of years in accordance with [generally accepted accounting principles]."

   The Controller further stated, "It is contended that the State cannot distinguish which former employee is receiving pension benefits and if they had worked on these FWS awards prior to their retirement; therefore, the OIG finds these costs are not fully representative of a direct cost, they are unreasonably high and do not satisfy grant objectives. This contention is irrelevant and in conflict with the Uniform Guidance. In a defined benefit pension plan, as is the case in Maine, pension costs are not tied directly to which former employee is receiving pension payments. Costs are calculated for classes of employees based on the pension plan in which they participate and the actuarial projections of the pension benefit obligation for those plans."

   OIG Comment: Based on the FWS response, we consider Recommendation 1 resolved. We will consider this recommendation implemented when the FWS provides documentation demonstrating that it has addressed the questioned costs related to unfunded retirement and retiree health.

With respect to the submission provided by the MDMR, we reviewed the Controller's position in addition to other criteria specified by Federal regulation (namely reasonableness and nature of the costs). As set forth in the report, we recommend that the FWS analyze and consider whether the WSFR program should pay costs that are computed accurately and follow 2 C.F.R. § 200.431 and its subsections but do not adhere to the cost principles outlined in Subpart E of the Uniform Guidance. As we also set forth in the report, we question whether the rate charged by Maine for unfunded liabilities is reasonable or necessary to achieve grant purposes. We note particularly the 3 percent apportionment limitation, described in the "Cost Allowability" section, which begins on page 6, expressly limits charges for administrative overhead costs and certain costs of State central services.

We acknowledge, however, that contributions to a defined benefit pension plan fund benefit payments to current retirees, future retirees, and the investments necessary to fund projected payments. We modified our discussion of this issue in light of the MDMR's suggestions for clarification. The FWS is in the best position to determine if these costs are reasonable within the context of the WSFR program.

2. Address the questioned costs related to the direct charges for retirement payouts totaling $6,308 (Federal share).

   FWS Response: The FWS concurred with our recommendation and stated that it will work with the MDMR to develop and implement a corrective action plan.

   MDMR Response: The MDMR concurred with the recommendation and stated, "We agree that 25 percent of the termination benefits totaling $6,308 should not have been charged to a WSFR grant." The MDMR further stated that it would "take steps to adjust related federal financial reports to reflect this change in position and return these grant funds."

   OIG Comment: Based on the FWS response, we consider Recommendation 2 resolved. We will consider this recommendation implemented when the FWS provides documentation demonstrating that it has addressed the questioned costs related to the direct charges for retirement payouts.

3. Require the Maine Department of Marine Resources to implement policies and procedures for the recordkeeping of employment history for retirement payouts of leave balances to ensure that they are appropriately allocated, as defined by 2 C.F.R § 200.405, to the proper U.S. Fish and Wildlife Service program.

   FWS Response: The FWS concurred with our recommendation and stated that it will work with the MDMR to develop a corrective action plan.

   MDMR Response: The MDMR did not concur with the recommendation and stated that the "Maine State Time and Attendance Management System (MS-TAMS) has been used for over two decades to report and accurately track this time." The MDMR further stated that “by appropriately using MS-TAMS, we will ensure that future employment termination costs are correctly allocated as defined in 2 C.F.R. § 200.405.”

OIG Comment: Based on the FWS’ response, we consider Recommendation 3 resolved. We will consider this recommendation implemented when the FWS provides evidence that policy and procedures have been developed to prevent future errors in allocation of retirement payouts of leave balances.

With respect to the MDMR’s submission, the report itself sets forth the basis for our conclusion that employment history for retirement payments of leave balances have not consistently been allocated appropriately.

Appendix 1: Scope and Methodology

Scope

We audited the Maine Department of Marine Resources' (MDMR's) use of grants awarded by the U.S. Fish and Wildlife Service (FWS) under the Wildlife and Sport Fish Restoration Program (WSFR). We reviewed 12 grants that were open during the State fiscal years (SFYs) that ended June 30, 2018, and June 30, 2019. The audit included expenditures of $3.1 million and related transactions.

Because of the COVID−19 pandemic, we could not complete our audit onsite. We gathered data remotely and communicated with MDMR personnel via email, telephone, and video conferences. The audit team relied on evidence provided by MDMR personnel that was determined to be sufficient and appropriate to support our conclusions.

Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We assessed whether internal control was significant to the audit objectives. We determined that the State's control activities and the following related principles were significant to the audit objectives.

- Management should design control activities to achieve objectives and respond to risks.
- Management should design the entity's information system and related control activities to achieve objectives and respond to risks.
- Management should implement control activities through policies.

We tested the operation and reliability of internal control over activities related to our audit objectives. Our tests and procedures included:

- Examining the evidence that supports selected expenditures charged to the grants by the MDMR.
- Reviewing transactions related to purchases, direct costs, and drawdowns of reimbursements. Our review of documentation showed that the MDMR did not have transactions related to in-kind contributions and program income, therefore we did not perform testing in those areas.

- Interviewing MDMR employees and WSFR participants remotely through video conferencing and by telephone (see Appendix 2 for a list of office locations for personnel interviewed).

- Determining whether the MDMR used hunting and fishing license revenue for the administration of fish and wildlife program activities.

- Determining whether the State passed required legislation assenting to the provisions of the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act.

- Evaluating State policies and procedures for assessing risk and monitoring subawards.

We found deficiencies in internal control resulting in our finding for unsupported employment termination benefits.

Based on the results of our initial assessments, we assigned a level of risk and selected a judgmental sample of transactions for testing. We used auditor judgment and considered risk levels relative to other audit work performed to determine the degree of testing performed in each area. Our sample selections were not generated using statistical sampling, and therefore we did not project the results of our tests to the total population of transactions.

This audit supplements, but does not replace, the audits required by the Single Audit Act Amendments of 1996. Single audit reports address controls over Statewide financial reporting, with emphasis on major programs. Our report focuses on the administration of the Maine fish and wildlife agency and that agency's management of WSFR resources and license revenue.

Maine provided computer-generated data from its official accounting system and from informal management information and reporting systems. We tested the data by sampling expenditures and verifying them against WSFR reports and source documents such as purchase orders, invoices, and payroll documentation. While we assessed the accuracy of the transactions tested, we did not assess the reliability of the accounting system as a whole.

Prior Audit Coverage

OIG Audit Reports

We reviewed our last two audits of costs claimed by the MDMR on WSFR grants.[32] We followed up on six recommendations from these reports and found that the U.S. Department of

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[32] *U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the State of Maine, Department of Marine Resources From July 1, 2013, Through June 30, 2015* (Report No. 2016–EXT–044), dated July 2017.

U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program Grants Awarded to the Maine Department of Marine Resources, from July 1, 2008, Through June 30, 2010 (Report No. R–GR–FWS–0010–2011), dated December 2011.

the Interior's Office of Policy, Management and Budget considered all six recommendations resolved and implemented.

State Audit Reports

We reviewed the single audit reports for SFYs 2018 and 2019 to identify control deficiencies or other reportable conditions that affect WSFR. In those reports, the Schedule of Expenditures of Federal Awards identified $7.2 million (combined). Of this, $1.5 million in Federal expenditures related to WSFR was directly related to the MDMR. The single audits did not include any findings directly related to WSFR, which was not deemed a major program for Statewide audit purposes. Neither of these reports contained any findings that would directly affect the program grants.

Appendix 2: Sites Reviewed

Headquarters	Augusta, ME
Field Office	West Boothbay Harbor, ME
Regional Office	Bangor, ME

Appendix 3: Monetary Impact

We reviewed 12 grants that were open during the State fiscal years that ended June 30, 2018, and June 30, 2019. The audit included expenditures of $3.1 million and related transactions. We question $539,948 ($386,763 Federal share) as unallowable and $8,410 ($6,308 Federal share) as unsupported.

Monetary Impact: Questioned Costs

Grant No.	Grant Title	State Fiscal Year	Cost Category	Questioned Costs ($) (Federal Share) Unallowable	Unsupported
F17AF00136	Restoration and Monitoring (R&M) of Diadromous Fish*	2017	Payroll	59,609	–
F17AF00138	Saltwater Recreational Fishing*	2017	Payroll	24,987	–
F17AF00140	Aquatic Education*	2017	Payroll	19,848	–
F17AF00142	Sport Fish*	2017	Payroll	16,562	6,308
F18AF00068	Sport Fish	2018	Payroll	16,076	–
F18AF00069	Aquatic Education	2018	Payroll	20,574	–
F18AF00070	Saltwater Recreational Fishing	2018	Payroll	25,430	–
F18AF00071	R&M of Diadromous Fish	2018	Payroll	72,772	–
F19AF00064	Saltwater Recreational Fishing	2019	Payroll	11,203	–
F19AF00066	Sport Fish	2019	Payroll	21,080	–
F19AF00068	Aquatic Education	2019	Payroll	20,434	–
F19AF00069	R&M of Diadromous Fish	2019	Payroll	78,188	–
Totals				**$386,763**	**$6,308**

* This grant began in State fiscal year 2017 but was open during the duration of our audit scope, so we included it in our calculation.

Appendix 4: Responses to Draft Report

The U.S. Fish and Wildlife Service's response to our draft report follows on page 20. The Maine Department of Marine Resources' response to our draft report follows on page 21. The Department's response includes a memorandum from the Maine State Controller (see page 22), which states, "We do not concur that Unfunded Pension Liability costs are unallowable, unreasonable or questionable." The memorandum provides five explanations regarding the State's stance on the allowability of unfunded pension liability costs, which we address below.

Maine State Controller Statement 1: "The fringe benefits identified in this finding are granted under established written policies, charged as direct costs in accordance with our accounting practices and approved in our [Statewide Cost Allocation Plan] by [the U.S. Department of Health and Human Services'] Division of Cost Allocation, funded within the fiscal year charged, computed via an acceptable actuarial cost method, with the unfunded liability component amortized over a period of years in accordance with [generally accepted accounting principles]."

OIG Response: We acknowledge the allowability of the type of charge; that is, unfunded liabilities can be an allowable cost, if all aspects of cost allowability to include reasonableness are met. We found that Maine used 30 percent of grant payroll expenditures—the total amount of salaries and wages, including regular hours as well as sick, vacation, and holiday hours—for unfunded liabilities. By comparison, its employer "normal" costs for retirement and health contributions are 5.7 percent of total grant payroll expenditures. The large percentage spent on unfunded liabilities and the wide disparity between the unfunded liability contributions and the normal contributions bring into question whether this amount of unfunded liability contributions is reasonable.

Maine State Controller Statement 2: "Maine charges these fringe benefits as direct costs by separate allocations to each selective group of employees based on the pension plan in which the position is eligible."

OIG Response: We acknowledge that Maine charges fringe benefits as direct costs and makes allocations depending on the group of employees eligible for pension plans. We do not call into question the manner in which fringe benefits were charged; rather, we question the reasonableness of the costs and accordingly made recommendations to the FWS.

Maine State Controller Statement 3: "Maine computes pension plan costs on an acceptable actuarial cost method in accordance with established written policies."

OIG Response: As set forth in the report itself, we requested the State's established written policies relating to unfunded liabilities during our audit and did not receive a response. Regardless of Maine's established written policies related to pension plan costs, we question the extent to which the State used WSFR funds for unfunded liabilities and accordingly made recommendations to the FWS.

Maine State Controller Statement 4: “Maine funds pension plan costs for a given fiscal year within that fiscal year.”

OIG Response: We do not dispute the State’s description of the manner in which it funds its pension plan costs. We question the reasonableness of the amount of the cost and accordingly made recommendations to the FWS.

Maine State Controller Statement 5: “Maine’s pension actuaries calculated an initial UAL [unfunded actuarial liability] at time of conversion to actuarial funding in 1998 and amortizes that liability over a fixed period of 30 years, specified in [the State] Constitution, in accordance with [generally accepted accounting principles]. The initial UAL balance under the current funding method will be fully amortized in [S]FY 2028. At that point, the employer contribution rates under this baseline scenario drop substantially, initially to 7.4%, with small further changes thereafter with a general downward trend, dropping to 4.9% by the end of the projection period. Note that this baseline projection is based on all assumptions being met each and every year where the reality is that there will be gains and losses each and every year, resulting in new amortization layers (negative or positive) occurring every year.”

OIG Response: We do not dispute that, based on the analysis the MDMR submitted, the unfunded liabilities balance should drop as the timeline approaches State fiscal year (SFY) 2028. The scope of our audit, however, was costs incurred during the SFYs that ended June 30, 2018, and June 30, 2019. More importantly, the precise details of Maine’s amortization schedule do not address the underlying issue that prompted our recommendations—whether the costs we have questioned are, in fact, reasonable.

United States Department of the Interior

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

February 15, 2023

In Reply Refer To:
FWS/IR01/WSFR

Kathleen Sedney
Assistant Inspector General for Audits,
Inspections and Evaluations
U.S. Department of the Interior
Office of Inspector General

Dear Assistant Inspector General Sedney:

Enclosed is the State of Maine, Department of Marine Resources (Department), response to the Office of Inspector General's Draft Audit Report No. 2020-ER-058. The Service has confirmed with the State these are the only comments they have on this Draft Report.

The Service concurs with the auditor's findings and recommendations and has reviewed and accepted the State's response. We will work closely with the Department staff in developing and implementing a corrective action plan that will resolve all the findings and recommendations.

Sincerely,

Shelley DiBona
Digitally signed by Shelley DiBona
Date: 2023.02.15 08:16:17 -05'00'

Acting for Colleen Sculley

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

Enclosure:
2020-ER-058 ME Department of Marine Resources Response
2020-ER-058 Unfunded Liabilities ME Office of the State Controller

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

JANET T. MILLS
GOVERNOR

PATRICK C. KELIHER
COMMISSIONER

February 8, 2023

Shelley DiBona, Grants Fiscal Officer
Wildlife and Sport Fish Restoration Program
U.S. Fish and Wildlife Service, Northeast Region
300 Westgate Center Drive
Hadley, MA 01035

RE: Audit Report - *U.S. Fish and Wildlife Service Grants Awarded to the State of Maine, Department of Marine Resources, From July 1, 2017, Through June 30, 2019, Under the Wildlife and Sport Fish Restoration Program:* Report No. 2020–ER–058

Ms. Shelley DiBona –

Thank you for the opportunity to review and comment on the subject draft audit report of the Office of Inspector General, U.S. Department of the Interior (OIG).

We partially concur with the finding that certain costs related to employment termination benefits were unallowable. We agree that 25 percent of the termination benefits totaling $6,308 should not have been charged to a WSFR grant. We will take steps to adjust related federal financial reports to reflect this change in position and return these grant funds. We do not concur with the contention made that the state of Maine does not appropriately record compensatory time earned by employees. The state's Maine State Time and Attendance Management System (MS-TAMS) has been used for over two decades to report and accurately track this time. By appropriately using MS-TAMS, we will ensure that future employment termination costs are correctly allocated as defined in 2 C.F.R. § 200.405.

We have consulted with the State of Maine, Office of the State Controller and they have drafted a letter on our behalf explaining their finding on the Unfunded Pension Liability costs are unallowable, unreasonable or questionable. Please see the attached letter.

If you have any questions or would like any additional information, please don't hesitate to reach out.

Sincerely,

Patrick Keliher, Commissioner
Department of Marine Resources

Cc: Gilbert Bilodeau, Director, Natural Resources Service Center

OFFICES AT 32 BLOSSOM LANE, MARQUARDT BUILDING, AUGUSTA, MAINE
http://www.Maine.gov/dmr
PHONE: (207) 624-6550 FAX: (207) 624-6024

February 3, 2023

Patrick Keliher, Commissioner
Maine Department of Marine Resources
21 State House Station
Augusta, Maine 04333-0021

RE: Draft Audit Report – *U.S. Fish and Wildlife Service Grants Awarded to the State of Maine, Department of Marine Resources, From July 1, 2017, Through June 30, 2019, Under the Wildlife and Sport Fish Restoration Program*
Report No. 2020–ER–058

Commissioner Keliher –

Thank you for the opportunity to review and comment on the subject draft audit report of the Office of Inspector General, U.S. Department of the Interior (OIG).

We do not concur that Unfunded Pension Liability costs are unallowable, unreasonable or questionable. The Uniform Guidance (2 CFR §200.431) explicitly states that such costs are allowable. In Maine's case, these fringe benefits are granted under established written policies, charged as direct costs in accordance with our accounting practices, funded within the fiscal year charged, computed via an acceptable actuarial cost method, with the unfunded liability component amortized over a period of years in accordance with GAAP.

It is contended that the State cannot distinguish which former employee is receiving pension benefits and if they had worked on these FWS awards prior to their retirement; therefore, the OIG finds these costs are not fully representative of a direct cost, they are unreasonably high and do not satisfy grant objectives. This contention is irrelevant and in conflict with the Uniform Guidance. In a defined benefit pension plan, as is the case in Maine, pension costs are not tied directly to which former employee is receiving pension payments. Costs are calculated for classes of employees based on the pension plan in which they participate and the actuarial projections of the pension benefit obligation for those plans. In general, the basic minimum required contribution is equal to: Normal cost, plus amortization of the unfunded actuarial liability ("UAL"), which is allowed under the Uniform Guidance as enumerated below.

Criteria:

2 CFR §200.431 Compensation—fringe benefits

(a) General. Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include. . .employee insurance, pensions. . .

(c) Fringe benefits. The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in §200.447); pension plan costs (see paragraph (i) of this section); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the non-Federal entity's accounting practices.

Maine's position:

The fringe benefits identified in this finding are granted under established written policies, charged as direct costs in accordance with our accounting practices and approved in our SWCAP by USHHS Division of Cost Allocation, funded within the fiscal year charged, computed via an acceptable actuarial cost method, with the unfunded liability component amortized over a period of years in accordance with GAAP.

(d) Cost objectives. Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the non-Federal entity demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.

Maine's position:

Maine charges these fringe benefits as direct costs by separate allocations to each selective group of employees based on the pension plan in which the position is eligible.

(6) Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-Federal entity.

Maine's position:

Maine computes pension plan costs on an acceptable actuarial cost method in accordance with established written policies.

(ii) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the non-Federal entity's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the pension fund.

Maine's position:

Maine funds pension plan costs for a given fiscal year within that fiscal year.

(iv) When a non-Federal entity converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP.

Maine's position:

Maine's pension actuaries calculated an initial UAL at time of conversion to actuarial funding in 1998 and amortizes that liability over a fixed period of 30 years, specified in Constitution, in accordance with GAAP.

The initial UAL balance under the current funding method will be fully amortized in FY 2028. At that point, the employer contribution rates under this baseline scenario drop substantially, initially to 7.4%, with small further changes thereafter with a general downward trend, dropping to 4.9% by the end of the projection period. Note that this baseline projection is based on all assumptions being met each and every year where the reality is that there will be gains and losses each and every year, resulting in new amortization layers (negative or positive) occurring every year.

If you have any questions or would like any additional information, please don't hesitate to reach out.

Sincerely,

Douglas E. Cotnoir

Douglas E. Cotnoir, CPA, CIA
State Controller

Cc: Gilbert Bilodeau, Director, Natural Resources Service Center

Appendix 5: Status of Recommendations

Recommendation	Status	Action Required
2020–ER–058–01 We recommend that the U.S. Fish and Wildlife Service (FWS) address the questioned costs related to unfunded retirement and retiree health totaling $386,763 (Federal share) in consultation with appropriate U.S. Department of the Interior offices to determine if the costs are allowable pursuant to Federal regulations and award terms and conditions.	Resolved: FWS regional officials concurred with these recommendations.	Complete a corrective action plan (CAP) that includes information on actions taken or planned to address the recommendations, target dates and titles of the officials responsible for implementation, and verification that FWS headquarters officials reviewed and approved the actions the State has taken or planned.
2020–ER–058–02 We recommend that the FWS address the questioned costs related to the direct charges for retirement payouts totaling $6,308 (Federal share).	Resolved: FWS regional officials concurred with these recommendations.	Complete a CAP that includes information on actions taken or planned to address the recommendations, target dates and titles of the officials responsible for implementation, and verification that FWS headquarters officials reviewed and approved the actions the State has taken or planned.
2020–ER–058–03 We recommend that the FWS require the Maine Department of Marine Resources to implement policies and procedures for the recordkeeping of employment history for retirement payouts of leave balances to ensure that they are appropriately allocated, as defined by 2 C.F.R § 200.405, to the proper U.S. Fish and Wildlife Service program.	Resolved: FWS regional officials concurred with these recommendations.	Complete a CAP that includes information on actions taken or planned to address the recommendations, target dates and titles of the officials responsible for implementation, and verification that FWS headquarters officials reviewed and approved the actions the State has taken or planned.

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

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