

PERFORMANCE AUDIT REPORT

Game and Fish Department
Report No. 3034

April 9, 2014

STATE AUDITOR
ROBERT R. PETERSON



Phone (701)328-2241
Fax (701)328-1406

STATE OF NORTH DAKOTA
OFFICE OF THE STATE AUDITOR
STATE CAPITOL
600 E. BOULEVARD AVENUE – DEPT 117
BISMARCK, NORTH DAKOTA 58505

April 9, 2014

Honorable Jack Dalrymple, Governor

Members of the North Dakota Legislative Assembly

We are pleased to submit this performance audit report on aspects of the North Dakota Game and Fish Department. This report contains the results of our review of whether the Private Land Program is operating effectively and whether the Game and Fish Department is complying with laws, rules, and policies related to human resources and the use of resources.

We conducted this audit under the authority granted within North Dakota Century Code Chapter 54-10. Included in the report are the objectives and scope, findings and recommendations, and management responses.

Respectfully submitted,

A handwritten signature in cursive script that reads "Bob Peterson".

Robert R. Peterson
State Auditor



OFFICE OF THE STATE AUDITOR

Performance Audit – Game and Fish Department Report Highlights

Purpose

Determine whether the Private Land Program is operating effectively.

Determine whether G&F is in compliance with laws, rules, and policies related to human resources and use of resources.

Audit Conclusion

We determined aspects of the Private Land Program were operating ineffectively.

We determined G&F was in noncompliance with laws, rules, and policies related to human resources and use of resources.

Audit Recommendations

Our audit resulted in 44 formal recommendations. G&F fully agreed with 43 of the recommendations. Management's agreement/disagreement with each recommendation and the 44 recommendations are included in Appendix A of the report. There is one Office of the State Auditor's concluding remark in this report.

Background

The mission of G&F is "to protect, conserve and enhance fish and wildlife populations and their habitat for sustained public consumptive and nonconsumptive use." The 2011-2013 G&F legislative appropriation was approximately \$65.5 million and the Department was authorized 157 FTE. No state general tax dollars are provided to fund G&F activities.

Summary Information

- The PLOTS goal of a million acres is not a reasonable goal for the program. Since the goal was established in 2003, there have been significant changes affecting PLOTS and no changes to the goal have occurred. Information provided by G&F showed the number of PLOTS acres has been less than one million since 2010. (page 1)
- G&F was in noncompliance with procurement requirements. For example, G&F used no formal bidding process or an appropriate alternative procurement process for services exceeding \$25,000. (page 12)
- G&F had not established appropriate agreements for services being received. For example, G&F did not establish appropriate agreements to address risks of liability and ensure appropriate insurance coverage of pilots used for low flying surveys of animals. (page 14)
- G&F provided funds as sponsorship payments to various private organizations. For example, G&F provided funds to an organization to pay a portion of various local sportsmen clubs' banquets. Due to the lack of establishing a grant program, G&F has limited, to no, assurance funds provided were used appropriately. (page 17)
- Employees received payments they were not entitled to, such as payments for meals when the employees were not in travel status. (page 18)
- Improvements are needed with the use of public funds. For example, G&F had entered into an agreement with a nonprofit organization which was involuntarily dissolved and ceased to exist within the state. The agreement required G&F to provide staff to assist in the administration and operations of the organization. Providing such services appears to result in noncompliance with the Constitution. (page 21)
- G&F attempted to treat a temporary position as an FTE position even though no legislative authorization existed for such a position. G&F was in noncompliance with NDAC by providing annual and sick leave to the temporary employee. (page 24)
- G&F was in noncompliance with general legislative salary increase requirements. (page 26)
- Improvements are needed to adequately safeguard sensitive information obtained and maintained by G&F. (page 29)
- G&F had not properly inventoried and was unaware of the location of over 100 guns used in the volunteer hunter education program. (page 30)

Table of Contents/Abbreviation Listing

Transmittal Letter

Report Highlights

Chapter 1 Private Land Program

Introduction.....	1
Private Land Program Background Information	1
Establishing an Appropriate Goal.....	1
Making Improvements to PLOTS	3
Making Improvements with Policies and Procedures	3
Ensuring Compliance with PLOTS Agreement Terms and Conditions.....	5
Establishing an Adequate Monitoring Process	5
Improving Contracting.....	6
Improving District Priority Incentive Areas	6
Improving Land Ownership Verification	7
Improving Information Available in Relation to PLOTS	8
Making Improvements to the Depredation Assistance Program	9
Making Improvements with Policies and Procedures	9
Establishing an Adequate Monitoring Process	10
Meeting with Risk Management.....	11

Chapter 2 Improving Procurement and Contracting

Introduction.....	12
Improving the Procurement of Goods and Services.....	12
Complying with State Procurement Laws, Rules, and Policies	12
Identifying the Appropriate Procurement Process	13
Complying with the P-Card Manual	14
Making Improvements with Contracting	14
Improving Contracting.....	14
Improving Contract Administration.....	15

Chapter 3 Use of Funds

Introduction.....	17
Making Improvements Related to Grants.....	17
Making Improvement with Payments to Employees.....	18
Improving Compliance	18
Game Warden's Normal Place of Employment	19
Establishing Working Arrangements.....	20
Complying with Policies for Providing Employee Meals	20
Ensuring Itemized Receipts and Lists of Attendees are Obtained.....	21
Being Good Stewards of Public Funds.....	21
Ensuring Approvers Comply with Responsibilities	22

Chapter 4 Human Resource Related Issues

Introduction.....	24
Complying with Leave Requirements	24
Making Improvements with the Hiring Process	24
Improving the Applicant Screening Process	24
Ensuring Adequate Documentation is being Maintained	25
Ensuring Compliance with Veterans Preference Requirements.....	26
Ensuring Compliance with Session Law Requirements	26

Table of Contents/Abbreviation Listing

Ensuring Minimum Qualifications are Met.....	27
Making Improvements with Performance Evaluations	27

Chapter 5 Additional Areas Requiring Improvements

Introduction.....	29
Safeguarding of Sensitive Information	29
Making Improvements to the Volunteer Education Instructor Program.....	29
Establishing Policies and Procedures for the Volunteer Education Instructors	30
Establishing Policies and Procedures for Hunter Education Guns	30
Performing Periodic Checks of the Sex Offender Registry for Volunteer Instructors	31
Ensuring Only Allowable Costs are Charged to Federal Grants.....	31
Establishing Requirements for Operating Equipment	32
Establishing Policies and Procedures for Promotional Items	32
Improving the Uniform Policy	32
Establishing Policies for Inventory.....	34
Making Improvements with Confiscated and Seized Items.....	35

Chapter 6 Audit and G&F Background Information

Purpose and Authority of the Audit.....	36
Background Information	36
Objective of the Audit	36
Scope and Methodology.....	37

Appendices

- Appendix A: List of Recommendations and Management Responses
- Appendix B: Private Lands Open to Sportsmen Program

Abbreviations

Game and Fish Department	G&F
North Dakota Administrative Code	NDAC
North Dakota Century Code	NDCC
Office of Management and Budget	OMB
Full-Time Equivalent	FTE
Private Lands Open to Sportsmen Program	PLOTS
Conservation Reserve Program	CRP

Private Land Program

Introduction

An objective of this performance audit was to answer the following question:

“Is the Private Land Program operating effectively?”

We determined aspects of the program were operating ineffectively. Significant improvements needed by G&F are included in this chapter. Improvements of less significance were communicated in a separate letter to management of G&F. To conduct a review of the program, we:

- Reviewed applicable laws and policies.
- Reviewed a selection of agreements with landowners.
- Determined compliance with laws and policies.
- Reviewed goals of the program.
- Interviewed selected personnel.

Private Land Program Background Information

According to NDCC, G&F may carry out a private land habitat and access improvement program. G&F has established and administers the Private Land Program (formerly known as the Private Lands Initiative). The Private Land Program is G&F's largest program expenditure (approximately \$13 million) accounting for approximately 31% of the Department's 2011-2013 biennium budget excluding salaries. Major components of the program include PLOTS and the Depredation Assistance Program.

PLOTS provides financial and technical assistance to private landowners for habitat protection, enhancement, and development. In administering PLOTS, G&F enters into rental agreements with landowners to allow public access for hunting. Payment structures, payment types, and agreement lengths vary depending on the type of agreement and land use. See Appendix B for additional information on PLOTS.

The Depredation Assistance Program provides funding for activities used to alleviate/minimize damage to property caused by predatory animals and big game animals. Individuals experiencing depredation issues may contact G&F for assistance.

Establishing an Appropriate Goal

In 2003, the former Governor established a goal for PLOTS – one million acres. While the million acre goal appears to have been met by G&F in 2007, information provided by G&F showed the number of PLOTS acres has been less than one million since 2010 (as of June 2013, there was less than 800,000 acres).

Since 2003, no changes to the million acre goal have occurred. It appears the million acre goal was established arbitrarily and does not take into consideration factors such as quality of the land or type of habitat. In addition, we identified a number of factors impacting PLOTS have changed significantly since 2003. For example, the number of

Chapter 1 Private Land Program

The number of PLOTS acres has been below the million acre goal since 2010. We identified the million acre goal is in need of review.

CRP acres in the state has decreased significantly. In 2003, there were over 3.3 million CRP acres in the state, as compared to approximately 2.4 million acres in 2012. CRP acres appear to provide G&F one of the biggest opportunities to enroll land into PLOTS. These landowners are receiving a payment from the federal government and G&F can provide an additional payment to open the land up to the public for walk-in hunting access. Other factors significantly changing since 2003 include increases in cash rental rates/land values, increases in commodity prices, and the state's oil boom. These factors, as well as other changes, have had a negative impact on G&F's ability to achieve the PLOTS goal and still maintain quality habitat.

Due to the significant changes since 2003, we concluded the million acre goal is not a reasonable goal for PLOTS. We identified no data justifying the reasonableness of the amount and the goal itself does not relate to or assess the quality of land enrolled. In addition, there appears to have been no involvement from major stakeholders in establishing a goal for the program. While significant changes have occurred impacting PLOTS, the goal has remained the same. G&F representatives stated there could be well over a million acres enrolled in PLOTS. However, the quality of the land would not be useful to hunters.

The establishment of a goal sets the direction and actions to be taken by an entity. Without an appropriate goal being established for PLOTS, budgets and resource allocations can be negatively impacted. The lack of an appropriate goal does not provide a reliable means to measure the program's effectiveness.

Recommendation 1-1

We recommend the Game and Fish Department obtain input from stakeholders of PLOTS to identify expectations of the program and use such information in establishing an appropriate goal to measure the effectiveness of the program.

Management's Response

The Department agrees with the recommendation and has obtained and will continue to obtain input from stakeholders. The Department has conducted hunter surveys every other hunting season since 2006 to gather input on overall quality and satisfaction of the PLOTS program. The Department will continue to survey hunters and will expand this effort to include a wider spectrum of stakeholders. The Department holds public advisory board meetings, hosts landowner workshops, and has general day to day conversations with private landowners; these efforts will continue and will be expanded. The Department is in the planning process of conducting human dimensions work in the area of landowner and hunter attitudes regarding conservation, agriculture programs, and program satisfaction, as well as to determine an appropriate goal of access and habitat acres needed. As part of this planning process, the Department is also in the process of updating species goals and objectives. These processes are on-going and

Chapter 1 Private Land Program

expected to be continually updated and will help establish and maintain a reasonable goal for the PLOTS program.

Making Improvements to PLOTS

Making Improvements with Policies and Procedures

As part of this performance audit, we made a selection of PLOTS rental agreements. Of the nine individual PLOTS programs available to landowners, we selected agreements and reviewed information for the following four programs:

- Habitat Plot Program
- Working Lands Program
- Wetland Reserve Program Incentive
- CRP Cost-Sharing Access Program

Based on our review of selected PLOTS agreements, we concluded additional documented policies and procedures are needed to guide employee actions and enhance consistency with program operations. G&F representatives indicated most policies and procedures were informal and based on institutional knowledge. The policies and procedures G&F has documented are not centralized. The operations of the programs are decentralized with private lands biologists located throughout the state. The lack of documented and centralized policies and procedures has resulted in inconsistencies between districts and could have a negative impact on the effectiveness and efficiency of the program if turnover was to occur.

In our review of compliance with policies and procedures G&F had formally established, we identified noncompliance areas and inconsistent processes when enrolling land into PLOTS. Examples include:

- G&F has separate evaluation forms for the various programs. Employees are required to use the forms to evaluate land and determine the payment amount. We identified incorrect evaluation forms being used to evaluate tracts of land. For example:
 - G&F has multiple evaluation forms in relation to the Working Lands Program which are to be used based on the tract's location within the state. We identified the wrong form was used to determine a landowner's payment. Had the appropriate form been used and completed correctly, the landowner would have been eligible for a higher per acre payment rate.
 - G&F used a Working Lands Program evaluation form to determine a payment rate for land being enrolled in the Habitat Plot Program. This could have impacted the rate paid to the landowner.
- G&F has established methods to determine payment rates for each of the individual PLOTS programs. We identified instances in which G&F inappropriately calculated payment rates. For example, G&F used an arbitrary formula to determine the payment rate for a tract of land enrolled into the Habitat Plot Program. This land was previously enrolled in federal CRP. The arbitrary formula took into consideration the expired federal CRP payment rate. When the

Additional documented policies and procedures related to PLOTS are needed. Also, we identified noncompliance and inconsistent processes when enrolling land into PLOTS.

Chapter 1 Private Land Program

Habitat Plot agreement was renewed, G&F used the expired federal CRP payment rate.

- G&F provides additional incentive payments for certain PLOTS programs if the land is located within a designated statewide priority zone/area. We identified a district biologist was not providing this incentive payment unless the landowner was willing to perform additional management practices on the land.
- G&F annually publishes a PLOTS guide and makes it available to the public free of charge. The guide identifies PLOTS tracts for all areas within the state. We identified tracts of land enrolled in PLOTS were not properly included in the published guide. For example, a tract of land included in a Habitat Plot agreement was not included in the PLOTS guide for two consecutive years. We also identified the legal description in the agreement for a tract of land did not match the respective area included in the PLOTS guide.
- G&F is recording long term CRP Cost-Sharing Access agreements with the county recorder to protect the interests of the State. We identified a long term agreement was not recorded with the county.

Recommendation 1-2

We recommend the Game and Fish Department establish adequate policies and procedures to improve the operations and effectiveness of PLOTS.

Management's Response

The Department agrees with the recommendation. The Department will ensure all existing and new policies and procedures for the PLOTS program are documented. We also have begun a process to formalize and centralize all policies and procedures which will alleviate these issues and provide more structure and guidance to staff responsible for delivering the program. The private lands program is continually adapting to resource concerns, changes on the landscape and changes in landowner preferences and companion conservation programs. Maintaining the flexibility of the program and ability to adjust policies and procedures is critical to the success of the program and we will give more attention to maintain these policies and procedures when adjustments or changes to the program are made.

Recommendation 1-3

We recommend the Game and Fish Department comply with policies and procedures related to PLOTS.

Management's Response

The Department agrees with the recommendation. The Department has begun addressing inconsistent policies; as an example, in 2013, the Department implemented changes to streamline the working lands program to a one-page evaluation form, which reduces the possibility of errors resulting from the use of multiple evaluation forms. The Department will develop formal guidelines for the program to ensure staff are in compliance.

Chapter 1 Private Land Program

Ensuring Compliance with PLOTS Agreement Terms and Conditions

PLOTS agreements contain terms and conditions landowners are required to comply with in order to be eligible to continue in PLOTS and receive payments. For example, certain agreements contain restrictions on haying and/or grazing, farming practices, noxious weed control, etc. A G&F representative stated the monitoring of compliance with such terms and conditions was important to ensure the quality of the acres enrolled in PLOTS remained high.

Improvements are needed with monitoring landowners' compliance with PLOTS requirements.

G&F developed a compliance review form to be completed by employees to document PLOTS tract inspections. We identified inconsistencies in the completion of the review form and identified the form was not completed for all reviews apparently performed. While G&F representatives stated a compliance review was being performed for all Working Lands tracts, our review identified this was not occurring. As a result, G&F could be making payments to landowners who have not complied with the required terms and conditions.

We identified changes being made to PLOTS tracts which were not allowed by the agreements and did not appear to be communicated to G&F by landowners. For example, a landowner sold 10 acres of a PLOTS tract to an oil company who developed the land into a compression station. A picture of the 10 acres clearly identified the compression station and 6 semi-trucks within the PLOTS tract.

Recommendation 1-4

We recommend the Game and Fish Department ensure compliance with terms/conditions included in PLOTS agreements. At a minimum, the Department should:

- a) Establish guidelines for frequency of reviews.
- b) Document reviews performed and actions taken if noncompliance issues are identified.

Management's Response

The Department agrees with the recommendation. We will establish documented guidelines to conduct consistent and thorough reviews of the program on a regular basis. We will also develop a standard compliance review form to replace existing forms to document actions taken when noncompliance issues occur.

Establishing an Adequate Monitoring Process

Tracts of land to be enrolled into PLOTS are evaluated by G&F private land biologists located throughout the state. The evaluations of the land include quality factors and generate a potential payment amount for access. The biologists work with landowners to enter into agreements for public hunting access. We identified a lack of a formal monitoring process for ensuring private land biologists were conducting work in accordance with management's expectations. Our review of PLOTS information identified several areas in which management's expectations were not being met and inconsistencies in operations were occurring. Without an appropriate monitoring process, management will continue to be unaware of such areas and will not be in a position to take

Chapter 1 Private Land Program

appropriate action to improve operations. This has a negative impact on the effectiveness of PLOTS.

Recommendation 1-5

We recommend the Game and Fish Department ensure the operations of the PLOTS programs are adequately monitored. At a minimum, the Department should:

- a) Generate reports to monitor the effectiveness of the PLOTS programs.
- b) Conduct reviews of land evaluations and agreements to ensure compliance with requirements and to identify areas for improvement.

Management's Response

The Department agrees with the recommendation. The Department will modify its existing database to develop reports, which will be used to monitor the effectiveness of the PLOTS program. Management will also develop and implement procedures for reviews of land evaluations and agreements to ensure compliance and identify areas for improvement. For example, management will conduct field reviews on a sample of PLOTS agreements annually, which will include reviews of the biologist's evaluations for the PLOTS tract. This information will be added to the modified database to generate reports for monitoring the effectiveness of the PLOTS program.

Improving Contracting

In our review of PLOTS information, we identified agreements were not being signed by the landowners and/or G&F prior to the effective date of the agreements. For example, in our review of Habitat Plot agreements, we identified 14 of 17 agreements were signed by the landowner and/or G&F after the effective date of the agreement. For instance, an agreement with an effective date of January 2010 was signed by the landowner in August 2010 and by G&F in December 2010. Even though no signed agreement existed, it appears PLOTS signs were on the land identifying the land was open to walk-in hunting during all of 2010.

Recommendation 1-6

We recommend the Game and Fish Department ensure PLOTS agreements are signed by both parties prior to the agreements effective date.

Management's Response

The Department agrees with the recommendation. The Department is working with legal counsel to determine appropriate language to be included in PLOTS agreements regarding effective dates. The Department will ensure that all PLOTS agreements are signed by both parties prior to the effective date on the agreement.

Improving District Priority Incentive Areas

In order to provide higher payment rates to landowners who were within certain areas of the state, G&F established incentive zones. Land located within such incentive zones was eligible to receive an additional per acre dollar amount (up to \$3 in the working lands program). We identified certain private land biologists had also established additional priority zones or areas within their district in order to provide additional

Chapter 1 Private Land Program

points in the evaluation of the land (higher points equated to a higher payment). We identified a lack of documented approval from management for these additional priority zones. While maps identifying such district priority zones appear to have been developed by private land biologists, we identified the maps were not being appropriately maintained. Also, certain maps we were able to review included no information related to point values to be awarded in the evaluation of land. Thus, justification for awarding points or for designating the areas as district priority zones was lacking.

Recommendation 1-7

We recommend the Game and Fish Department make improvements related to district priority incentive areas. At a minimum, the Department should:

- a) Document approval of district priority areas.
- b) Require documentation of the reasons for incentive payments.
- c) Ensure district priority maps are maintained.

Management's Response

The Department agrees with the recommendation. The Department is implementing a planning process to review species goals, habitat, and access needs. As part of this process the PLOTS priority areas are being reviewed. In January 2014, the Department started the process of remapping and centralizing district priority areas. The Department will develop an approval and documentation process to ensure district priority areas maps are maintained.

Improving Land Ownership Verification

When G&F enters into access agreements on land enrolled in federal programs (such as CRP), verification of the legal owner of the land has already been completed by the federal government. However, for PLOTS agreements entered into for land not enrolled in a federal program, we identified G&F performed limited to no work to ensure who the legal owner of the land was. During our review of agreements in the Working Lands Program, we identified G&F entered into an agreement and made payments on a tract of land which the individual did not own. After G&F was made aware of the rightful landowner, G&F paid the rightful owner for the prior years' access. This resulted in G&F paying twice for the same tract of land (\$960 inappropriately paid). G&F did not require the inappropriate payments be repaid. The individual, who inappropriately had the land in PLOTS, was allowed to keep other tracts enrolled.

Recommendation 1-8

We recommend the Game and Fish Department make improvements related to ownership of land included in PLOTS agreements. At a minimum, the Department should:

- a) Obtain assurance of the legal land owner.
- b) Recoup moneys from individuals inappropriately paid for land which was not owned by them.

Management's Response

The Department agrees and will implement the recommendation.

Improving Information Available in Relation to PLOTS

Improvements are needed with the information provided to hunters and landowners.

In review of information related to PLOTS and discussions with G&F representatives, we identified improvements are needed with the PLOTS information provided to hunters. Adequate information should be readily available to hunters to reduce confusion in regards to accessibility. We identified two areas where PLOTS access needs clarification:

- Standing crops: state law requires landowner permission be obtained to access and hunt on standing crops. In PLOTS agreements, landowners indicate whether they will allow access on standing crops or not. If a landowner decides not to allow access, the PLOTS signs on the tract of land specifically state access is not allowed on standing crops. If a landowner decides to allow access, the PLOTS signs on the tract of land do not state access is allowed on standing crops. Information related to standing crops was previously provided by G&F in the PLOTS guide. However, it had been removed.
- Dates on signs: PLOTS signs on tracts of land identify the area posted is open for public walk-in hunting access. We identified certain signs used included specific dates the tract was open to public access. The dates on the signs were September 1 to April 1. However, hunting seasons, such as spring turkey season, were outside of the date range. According to G&F representatives, even though the signs specify a date range, the public is allowed to enter the tract outside of the date range if it is during a legal hunting season.

During our review of PLOTS, we also identified the information made available to landowners via the G&F website was not up-to-date or easy to locate. If the informational brochure was actually located by a landowner, the brochure would have been of little value due to the fact the rental rates and incentive payments were not reflecting current practices for certain programs. Due to this, landowners' interest in PLOTS could be adversely affected.

Recommendation 1-9

We recommend the Game and Fish Department ensure adequate information is readily available to hunters in regards to PLOTS.

Management's Response

The Department agrees with the recommendation. The Department has made significant changes to the PLOTS section of its website in January 2014 to ensure adequate information is available to hunters. Additional clarification will be provided on several programs and rules such as hunting of standing crops and dates on signs. A complete section is dedicated to Frequently Asked Questions for hunters. Other clarifying information will be included in various media outlets such as ND OUTDOORS, webcast, and the PLOTS Guide. A section of the PLOTS guide that is currently dedicated to rules, regulations and changes will be improved and updated.

Recommendation 1-10

We recommend the Game and Fish Department ensure the information made available to landowners in regards to PLOTS is up-to-date and user friendly.

Chapter 1 Private Land Program

Management's Response

The Department agrees with the recommendation. The Department has made significant changes to the PLOTS section of its website in January 2014 to ensure adequate information is available to landowners. A complete section highlights program information, biologist contact information, and other resource materials for landowners. A user-friendly section was added to help guide landowners through the menu of program choices and options and a list of Frequently Asked Questions is also included. The Department will continue to maintain the website to ensure the information provided is up-to-date for landowners.

Making Improvements to the Depredation Assistance Program

NDCC states G&F may carry out a private land habitat and access improvement program. According to NDCC, this program may be accomplished by:

- Carrying out practices that will alleviate depredations caused by predatory animals and big game animals.
- Working with livestock producers experiencing chronic deer depredation problems to develop site-specific deer depredation management plans.
- Giving first consideration to producers impacted by deer foraging on stored winter forage when purchasing winter deer management supplies.
- Making available the sum of one million dollars from each biennial G&F appropriation to be used to provide feeding and other winter management practices to alleviate depredation caused by big game animals.

G&F administers the Depredation Assistance Program to reduce wildlife damage to property. We selected 25 individuals who received depredation assistance from G&F and reviewed actions taken.

Making Improvements with Policies and Procedures

Additional documented policies and procedures related to depredation are needed.

Based on our review of information related to the Depredation Assistance Program, we concluded additional documented policies and procedures are needed to guide employee actions and enhance consistency with program operations. The lack of documented policies and procedures has resulted in inconsistencies in program operations. For example, while a depredation policy prohibits payments for damaged property, our discussions with G&F representatives identified common situations in which payments were allowed (bales for short stop feeding). Also, guidance is lacking as to when an employee is required to develop a management plan to document the depredation actions to be taken. This is due, in part, to what constitutes "chronic" deer depredation as a management plan is only required to be developed in chronic situations.

In our review of compliance with policies and procedures G&F has formally established, we identified noncompliance issues. For example, if G&F provided certain tools such as cracker shells, a shotgun, etc. to a

Chapter 1 Private Land Program

landowner to use to reduce depredation, the landowner was to sign a liability waiver form. We identified the waiver form was not always completed as required by G&F policy.

Recommendation 1-11

We recommend the Game and Fish Department establish adequate policies and procedures to improve the operations and effectiveness of the Depredation Assistance Program.

Management's Response

The Department agrees with the recommendation. The Department has policies and procedures in place for the Depredation Assistance Program but agrees that improvements and updates are needed in some areas. The Department will implement a full review of its Depredation Assistance program policies and procedures to ensure the program operates in a more effective manner. Depredation contains many social aspects, in addition to habitat and population management. Maintaining the flexibility of the program and ability to adjust policies and procedures is critical to the success of the program; we will give more attention to maintaining these policies and procedures when adjustments or changes to the program are made.

Recommendation 1-12

We recommend the Game and Fish Department comply with policies and procedures related to the Depredation Assistance Program.

Management's Response

The Department agrees with the recommendation. The Department will improve compliance with policies and procedures. The Department will provide periodic training and updates on the depredation policies and procedures and will ensure the depredation policy is available to all staff. In December 2013, the Department began this process by providing a depredation update and overview at its annual staff meeting as well as follow up guidance to staff on policy updates relating to the use of pyrotechnics.

Establishing an Adequate Monitoring Process

The Depredation Assistance Program is administered through the Wildlife Division of G&F. Employees located throughout the state work on depredation issues. We identified a lack of a formal monitoring process for ensuring work conducted was in accordance with management's expectations. Without an appropriate monitoring process, management will continue to be unaware of areas in need of improvement and will not be in a position to take appropriate action to improve operations.

Recommendation 1-13

We recommend the Game and Fish Department establish a monitoring process for the Depredation Assistance Program. At a minimum, the Department should:

- a) Generate reports to monitor the program's effectiveness.
- b) Conduct reviews of the actions taken to ensure compliance with requirements and to identify areas for improvement.

Chapter 1 Private Land Program

Management's Response

The Department agrees with the recommendation. The Department will modify its existing database to develop reports, which will be used to monitor the effectiveness of the depredation program. Management will develop and implement procedures for reviews of actions taken to ensure compliance and identify areas for improvement. For example, management will conduct reviews of a sample of depredation cases annually to ensure the proper actions were taken by staff and to determine the effectiveness of the actions taken. This information will be added to the database and used to generate reports and year end summaries used to monitor the effectiveness of the program.

Meeting with Risk Management

We identified landowners were provided G&F property such as launcher pistols, shotguns, propane cannons, and cracker shells to alleviate depredation issues. According to G&F policy, short-term protection of livestock feed supplies is possible with scare devices. The policy required landowners to sign a liability waiver when using scare devices. The form was not completed on a consistent basis and we question whether G&F could even require landowners to sign such a waiver. G&F providing such devices may be placing the state in a high risk position exposing the state to tort liability claims and lawsuits.

Recommendation 1-14

We recommend the Game and Fish Department meet with the Risk Management Division of the Office of Management and Budget to address the risks associated with providing state owned property to private individuals as part of the Depredation Assistance Program.

Management's Response

The Department agrees with the recommendation. The Department will meet with the Risk Management Division of the Office of Management and Budget to address risks associated with providing state-owned property to private individuals as part of the Depredation Assistance Program. It should be noted that some of the pyrotechnic tools mentioned (cracker shells) are no longer issued by the Department as a result of changes in ATF regulations. The Department has a section of the existing depredation policy that addresses the use of scare devices and pyrotechnics and will work with Risk Management Division to ensure adequate policies are in place.

Improving Procurement and Contracting

Introduction

An objective of this performance audit was to answer the following question:

“Is the Game and Fish Department in compliance with laws, rules, and policies related to human resources and use of resources?”

We determined G&F was in noncompliance with laws, rules, and policies related to human resources and the use of resources. Significant improvements needed by G&F related to procurement and contracting are included in this chapter. Other improvements needed are addressed in Chapters 3 through 5. Improvements of less significance were communicated in a separate letter to management of G&F. To conduct a review of procurement and contracting, we:

- Reviewed applicable laws and policies.
- Reviewed a selection of procurement related expenditures.
- Reviewed a selection of contracts.
- Interviewed selected personnel.

Improving the Procurement of Goods and Services

As part of this performance audit, we reviewed expenditures and determined compliance with state laws, rules, and policies applicable to procurement. In addition to state procurement laws, OMB’s State Procurement Office has established procurement requirements state agencies are required to follow.

Complying with State Procurement Laws, Rules, and Policies

We identified G&F was in noncompliance with requirements related to formal and informal bidding, solicitation specification, and alternate procurement. For example, state agencies are required to use a formal bidding process or an appropriate alternative procurement process to procure goods and services estimated to exceed \$25,000. We identified instances where no formal bidding process or an appropriate alternative procurement process was used by G&F. Examples include:

- G&F uses a vendor for 1-800 telephone services allowing individuals to call and provide information to obtain hunting or fishing licenses. G&F had entered into a contract with the vendor in 1999. Since the term of the contract expired in 2004, G&F has used no formal bidding or alternative procurement process. Payments to the vendor exceeded \$170,000 during the audit time period.
- G&F used a vendor for weed spraying services on various state owned properties. Payments to the vendor exceeded \$70,000 during the audit time period with one payment exceeding \$33,000. Rather than using a formal bidding process or an appropriate procurement process, G&F attempted to piggy-back off an apparent procurement process completed by a county weed board.
- G&F uses various pilots to assist in conducting low flying surveys of animals. Based on information provided by G&F, total payments to pilots exceeded \$350,000 in the past three calendar years. G&F attempted to use an alternative procurement process for these services by completing an Alternative Procurement Request form.

G&F is in noncompliance with procurement requirements.

Chapter 2 Improving Procurement and Contracting

However, due to the services exceeding \$25,000, G&F was required to obtain approval from State Procurement. No approval was obtained.

Recommendation 2-1

We recommend the Game and Fish Department comply with procurement laws, rules, and policies.

Management's Response

The Department agrees with the recommendation. The Department strives to comply with all laws, rules and policies. We will ensure the instances listed in the report are brought into compliance with procurement laws, rules, and policies. We will also review policies and procedures with employees to strengthen compliance.

Identifying the Appropriate Procurement Process

While procurement requirements are established for purchases of goods in excess of \$2,500, no procurement requirements are established by State Procurement for public improvements (state law requires formal bidding for improvements estimated at \$100,000 or more). In February 2011, G&F used an informal bidding process to purchase 87 slide-in metal boat ramp sections (total cost of \$99,963). The ramp sections appear to be used as portable temporary boat ramps. According to a G&F representative, there is a stockpile of these ramp sections still remaining as of February 2014 (approximately 27). The apparent arbitrary purchase of 87 ramp sections allowed G&F to stay just under \$100,000. G&F considered the purchase a public improvement and therefore, used no formal bidding process. We identified an additional procurement of an apparent good following a public improvement procurement process (total cost of \$13,450).

G&F has entered into agreements to receive services with no procurement process being used.

NDCC provides G&F the authority to cooperate with federal agencies as well as to cooperate with and assist clubs and individuals in stocking the waters of the state with fish. G&F has entered into various cooperative agreements with non-profit and/or private entities not included in NDCC. In review of the cooperative agreements, it appears G&F is contracting for services. However, G&F used no procurement process to obtain the apparent services. For example, G&F entered into a two-year cooperative agreement to provide up to \$25,000 for two habitat biologists. Also, G&F entered into a two-year cooperative agreement to provide over \$165,000 for the costs of a contracted staff person.

Recommendation 2-2

We recommend the Game and Fish Department meet with representatives of the State Procurement Office to:

- a) Receive guidance on determining the required procurement process to use for goods being purchased for apparent public improvement purposes.
- b) Review various relationships and agreements established through memorandums of understanding, cooperative agreements, etc. to determine the appropriate procurement requirements.

Chapter 2 Improving Procurement and Contracting

Management's Response

The Department agrees with the recommendation to meet with the State Procurement Office (SPO). In explanation for part (a) of the recommendation, it is our belief that temporary slide-in metal boat ramp sections and fishing piers are public improvements based upon our interpretation of the law and initial guidance that we had received. We considered these purchases to be governed by North Dakota Century Code chapter 48-01.2 public improvement law. We will meet with SPO to receive guidance on determining the required procurement process. For part (b) of the recommendation, the Department will meet with SPO to review various agreements and determine the appropriate procurement requirements.

Complying with the P-Card Manual

OMB's Purchasing Card (P-Card) Manual states, "Only the person whose name appears on the card is authorized to use the card." When a card is issued to an employee, a Card Holder Employee Agreement is required to be signed. By signing, the employee agrees they "will not allow any other person to use the card." We identified two instances where a P-Card holder inappropriately gave their P-Card to another employee to use.

Recommendation 2-3

We recommend the Game and Fish Department comply with requirements of the P-Card Manual and ensure only the authorized person is allowed to use the P-Card.

Management's Response

The Department agrees with the recommendation. We will remind employees of the requirements of the P-Card Manual.

Making Improvements with Contracting

As part of this performance audit, we reviewed contracts G&F had entered into and determined whether applicable terms and conditions were included. Also, we reviewed information related to areas where a contract for service should have been established for services received. We used guidance the Office of the Attorney General and OMB's Risk Management Division have established related to contracting.

Improving Contracting

In our review of selected expenditures and contracts, we identified improvements are needed to establish formal agreements, reduce risks, and ensure the state's best interests are adequately protected. We identified various services being received by G&F and no formal agreements were entered into to identify terms and conditions. In addition, formal agreements entered into by G&F did not include appropriate terms and conditions. Examples include:

G&F has not established appropriate agreements for services being received.

- G&F has continued to enter into cooperative agreements with a non-profit organization the Secretary of State involuntarily dissolved in February 2003. In addition, this agreement required G&F to provide staff to assist in the administration and operations of the organization. G&F is not authorized to provide such staffing.
- G&F uses various pilots to conduct low flying surveys of animals. While G&F had a form to be completed annually by the pilots to

Chapter 2

Improving Procurement and Contracting

identify insurance information, experience, etc., this did not constitute an appropriate agreement for such services. G&F did not adequately address risks of liability and had limited assurance of adequate insurance coverage.

- G&F uses a vendor for 1-800 telephone services allowing individuals to call and provide information to obtain hunting or fishing licenses. G&F has no agreement with the vendor (last agreement entered into with the vendor expired in 2004). This vendor receives personal and sensitive information (including social security and credit card numbers) from individuals.
- G&F signed a vendor's lease agreement for a storage unit. This lease agreement should have been reviewed by legal counsel and it appears no legal review was performed. In addition, we identified certain cooperative agreements with non-profit organizations and/or private entities did not appear to be reviewed by legal counsel.

Recommendation 2-4

We recommend the Game and Fish Department make improvements with contracts and agreements entered into for services. At a minimum, the Department should:

- a) Ensure payments for services are made pursuant to a written contract or agreement.
- b) Include applicable terms and conditions within contracts and agreements as recommended by the Office of the Attorney General.
- c) Ensure appropriate reviews are performed by legal counsel.

Management's Response

The Department agrees with the recommendation. We will ensure payments for services are made pursuant to a written contract or agreement. We will remind employees to forward contracts and agreements to the business manager for review and for routing to legal counsel when appropriate.

Improving Contract Administration

In our review of information and actions taken by G&F after contracts were entered into, we identified improvements are needed to ensure compliance and to adequately monitor contracts. G&F has no central repository or a database of contracts. Examples of other areas needing improvement include:

- An agreement was entered into with an individual to reimburse the cost of a deer-proof fence. The agreement required the fencing purchased be of a specific height. G&F reimbursed the individual \$36,000 for fencing not meeting the specifications stipulated in the agreement.
- G&F has allowed agreements to expire and continues to use the vendors after the expiration of the agreements. For example, G&F was having pilots used for low-flying services annually complete a vendor form with information related to insurance, experience, etc. We identified G&F used a pilot for three years without having the annual forms completed.

Improvements are needed to ensure compliance and adequately monitor contracts.

Chapter 2

Improving Procurement and Contracting

- G&F has entered into various long-term agreements with various entities. We identified there is no periodic review of such agreements to ensure terms and conditions are still applicable. G&F representatives acknowledged the terms and conditions of a cooperative agreement with a non-profit entity no longer accurately reflected the relationship.

Recommendation 2-5

We recommend the Game and Fish Department make improvements with contract administration. At a minimum, the Department should:

- a) Ensure compliance with contracts and agreements.
- b) Periodically review contracts and agreements for changes in relationships between parties or for changes in law.
- c) Establish a central repository and/or database to actively manage contracts and agreements.

Management's Response

The Department agrees with the recommendation that improvements are needed. The Department will ensure compliance with contracts and agreements and periodically review them for changes. We had also identified the need to centralize contracting functions of the Department. In August 2013, we communicated to all staff the need to begin this process and work is ongoing.

Use of Funds

Introduction

Significant improvements needed by G&F related to the use of funds are included in this chapter. Improvements of less significance were communicated in a separate letter to management of G&F. To conduct a review of expenditures, we:

- Reviewed applicable laws and policies.
- Reviewed a selection of expenditures.
- Interviewed selected personnel.

Making Improvements Related to Grants

In September 2013, G&F provided information to our financial audit section related to sponsorship payments made to three private organizations. G&F stated they had been accused the payments were donations in violation of the state Constitution and requested our office review the payments for compliance. Our office determined this information would be reviewed as part of the performance audit. G&F coded such sponsorship/donation payments to miscellaneous grants. An example of a payment is an annual \$4,000 sponsorship of an environmental stewardship award recognizing livestock producers for innovative wildlife stewardship and conservation practices. While G&F provided a policy related to sponsorships, the policy was a draft and had yet to be formally adopted by the Department.

In our review of information, we originally questioned whether G&F was in compliance with Constitutional provisions requiring public funds be expended for public purposes. However, it appears G&F has legal authority to make such payments. While G&F may have legal authority to make such payments, we identified concerns related to G&F coding such payments to miscellaneous grants when no grant program exists and G&F had limited, to no, assurance funds provided were used appropriately. We identified there was a lack of informing the public of a grant program, no grant applications were completed, grant agreements were not entered into, and there was no grant monitoring. These items are typically included in an established grant program. Due to this, we concluded public funds were not adequately safeguarded. Organizations receiving funds could have used the moneys for unintended or inappropriate purposes without G&F's knowledge.

G&F provides funds as sponsorship payments to various private organizations. We identified G&F has limited, to no, assurance funds provided were used appropriately.

In review of expenditure information, we identified apparent additional sponsorships/donations being coded to miscellaneous grants. We concluded the three payments provided to our office for review were not the only sponsorship/donation type payments G&F had made. In our review of expenditure information, we identified G&F provided funds to an organization to pay a portion of various local sportsmen clubs' banquets.

Chapter 3 Use of Funds

Recommendation 3-1

We recommend the Game and Fish Department ensure an appropriate grant program is established when the Department is to provide public funds for sponsorships and similar payments. At a minimum, the Department should:

- a) Ensure grant programs have appropriate legislative authority to be administered.
- b) Establish appropriate policies and procedures related to grant applications and grant agreement terms and conditions.
- c) Monitor the use of grant funds awarded to ensure such moneys are expended appropriately.

Management's Response

The Department agrees with the recommendation and will establish an appropriate sponsorship grant program. In explanation, we will require applicants to meet at least one of the following criteria to be eligible for a sponsorship grant: 1) Inform and educate citizens about fish, wildlife, habitat, and conservation; 2) Promote environmental stewardship and awareness of environmental issues; 3) Foster landowner/sportsmen relations; 4) Encourage involvement of youth in hunting, fishing, and other outdoor activities; 5) Advance hunting, fishing, and boating safety and ethics; 6) Recruit and retain hunters and anglers. Sponsorship grants will continue to be coded to the grants line and we will identify them in the Department's grants line budget request. The Department will establish policies and/or procedures related to this grant program including applications, agreements, and monitoring to ensure funds are expended appropriately.

Making Improvements with Payments to Employees

We selected 20 payments to employees to review for compliance with applicable laws, rules, and policies (total of 4,804 payments subject to selection). The payments selected were related to requests submitted by employees claiming reimbursement for meal allowances, lodging, mileage, and other expenses.

Improving Compliance

Of the 20 payments to employees reviewed, we identified 12 (60%) with noncompliance errors. In total, the errors exceeded amounts allowed by \$1,535. Examples of noncompliance include:

- Six employees were paid the third quarter meal allowance a total of 20 times when their travel status did not extend at least one hour into the quarter being claimed. According to OMB policy, in order to be able to claim the third quarter meal allowance, employees must be in travel status one hour before the start of the quarter being claimed and travel status must extend at least one hour into the quarter being claimed.
- An employee was paid the meal allowance in three instances when the employee did not appear to be in travel status. The employee's detailed activity log identified non-travel related hours worked at their normal working and living residence and the same hours were claimed as travel status hours on their travel expense voucher. NDCC Section 44-08-04 allows reimbursement of employee

Employees received payments they were not entitled to.

Chapter 3

Use of Funds

expenses for meals and lodging while engaged in the discharge of a public duty away from their normal working and living residence.

- Three employees were paid meal allowances when the meals claimed were included as part of the registration fee of the conference, seminar, or meeting attended. NDCC Section 44-08-04 states employees are not allowed to claim reimbursement for meals included in registration fees.
- Two employees used their vehicles for personal convenience to travel to out-of-state conferences. One of these employees was paid meal allowances and lodging three days before the start of their conference. The other employee was paid meal allowances and lodging two days before and after their conference. OMB policy states if a personal vehicle is used in lieu of airfare, for the employee's convenience, meals and motel expenses will be allowed for a maximum of one day each way. We also identified G&F maintained no documentation to support whether each employee's mileage reimbursement was limited to the lesser of (1) airplane and taxi fares or (2) mileage (OMB policy requires the reimbursement to be the lesser of). In addition, the mileage reimbursement was incorrectly calculated for one of the employees.

Recommendation 3-2

We recommend the Game and Fish Department ensure payments to employees comply with applicable laws, rules, and policies.

Management's Response

The Department agrees with the recommendation. We will ensure payments to employees comply with applicable laws, rules, and policies through routine staff training.

Game Warden's Normal Place of Employment

G&F assigns duty stations and patrol districts to each Game Warden. Game Wardens are required to reside in their assigned duty station. According to G&F policy, while on patrol a Game Warden is to stay within their district except for certain circumstances (i.e. emergencies, requested assistance, etc.). Game Wardens claimed meal allowances when they were on routine patrol within their district. For example, in October 2011, a Game Warden was reimbursed \$528 for taxable meals when it appeared 18 out of the 21 days worked were spent solely patrolling within their district.

NDCC Section 44-08-04 allows employees to make claims for meals and lodging while engaged in the discharge of a public duty away from the claimant's normal working and living residence for all or any part of any quarter of a day. The section also states "reimbursement is allowed only for overnight travel or other travel, away from the normal place of employment, for four hours or more." If the Game Warden's assigned patrol district would be determined to be their normal place of employment, G&F would be in noncompliance with state law. In addition, the amount of meals being eligible to be claimed would be significantly reduced. In our audit time period, Game Wardens and

Chapter 3 Use of Funds

Warden Supervisors were reimbursed approximately \$180,000 for meals when no overnight stay was involved (meals taxable).

Recommendation 3-3

We recommend the Game and Fish Department obtain legal advice to determine whether a Game Warden's district constitutes their normal place of employment in the context of North Dakota Century Code Section 44-08-04 and establish in policy when Game Wardens are considered to be in travel status.

Management's Response

The Department agrees with the recommendation. We will obtain legal advice to establish policy and definitions with regard to North Dakota Century Code 44-08-04.

Establishing Working Arrangements

During our test of payments to employees, we identified a temporary employee hired to collect samples in the Devils Lake area claimed to be in travel status the entire month reviewed. The employee was reimbursed for lodging all 31 days in the month including 2 nights when in Bismarck. G&F did not document the employee's working arrangements. However, G&F indicated the employee's normal place of employment was Bismarck. The employee was also reimbursed for breakfast, lunch, and supper 29 out of 31 days, including 7 days when no hours were worked and on days when the employee was in Bismarck.

Recommendation 3-4

We recommend the Game and Fish Department document the working arrangements for temporary/seasonal employees upfront. At a minimum, the arrangements should:

- a) List the employee's normal place of employment.
- b) Describe any lodging accommodations provided.
- c) Identify when meals can/cannot be claimed, including days off, for employees with unique working arrangements.

Management's Response

The Department agrees with the recommendation. This temporary employee was for a unique project which had unusual working arrangements that were not clearly identified. The Department will document the working arrangements of temporary/seasonal employees as specified in the audit recommendation.

Complying with Policies for Providing Employee Meals

In review of selected expenditures, we identified G&F employees appeared to receive meals paid for by the Department in lieu of being reimbursed. For example, G&F paid the cost of the annual volunteer recognition banquet and employees were in attendance at the banquet. G&F is in noncompliance with OMB Policy 217 when meals are provided to employees in this manner.

Recommendation 3-5

We recommend the Game and Fish Department comply with Office of Management and Budget Policy 217 in regards to allowing employees to participate in meals provided by the Department.

Chapter 3 Use of Funds

Management's Response

The Department agrees with the recommendation. We are working with OMB in order to comply with the policy.

Ensuring Itemized Receipts and Lists of Attendees are Obtained

The P-Card Manual states, "Original receipts are required for all transactions. The receipts should include merchant name, transaction amount, date and itemized description of item(s) purchased." Itemized receipts should be obtained to justify the appropriateness of expenditures. Also, expenses incurred by an entity should be adequately supported to show they are in compliance and are reasonable. G&F was not obtaining itemized receipts for certain purchases so there was no assurance if the items purchased were appropriate. In addition, G&F was not obtaining and maintaining lists of attendees at trainings, workshops, and banquets paid for in whole or in part by the Department. Without lists of attendees, there was no assurance the expenses were reasonable.

Recommendation 3-6

We recommend the Game and Fish Department acquire and maintain adequate supporting documentation for expenditures. At a minimum, the Department should:

- a) Obtain itemized receipts.
- b) Retain complete listings of those in attendance at trainings, workshops, and banquets in which the Department is paying for food, beverages, and related items.

Management's Response

The Department agrees with the recommendation. We will continually remind staff about the types of supporting documentation that needs to be acquired and maintained.

Being Good Stewards of Public Funds

In reviews performed on selected expenditure transactions, we identified concerns with a number of areas regarding the use of public funds. Examples include:

- G&F entered into an agreement with a nonprofit organization which was involuntarily dissolved and ceased to exist in 2003. However, G&F continues to enter into biennial agreements and provide public funds to the entity. In addition, the agreement requires G&F to provide staff to assist in the administration and operations of the organization. A G&F employee is the secretary/treasurer of this organization and performs such responsibilities on state time, using state resources. Based on information included in an April 2000 Attorney General's Opinion, it appears providing such services would result in noncompliance with the state's Constitution.
- As part of the volunteer education instructor program, G&F provides years of service awards. A volunteer who met a certain number of years of service could notify G&F in writing of an organization the volunteer would like G&F to make a donation to on their behalf. G&F would send a check to the organization. We identified 10 payments for a total of \$4,750 made in our audit time period. Organizations

Public funds were used for inappropriate purposes.

Chapter 3 Use of Funds

receiving these donations would include local sportsmen's clubs, shooting clubs, etc.

- An employee used their P-Card to purchase cold weather gear (items to wear underneath clothing to stay warm). This purchase is considered to be unallowable.

In addition to these expenditures, we identified other areas in which G&F was not following the principles of proper stewardship of public funds. These areas are further addressed in Chapters 2 through 5 of this report. Examples include:

- G&F provided meal reimbursements to employees who were not eligible to receive such payments.
- G&F inappropriately provided annual and sick leave to a temporary employee.
- G&F provided "grants" to various organizations and entities even though no grant program had been established. These expenditures included sponsorships or donations being made in an attempt to further the G&F mission. While G&F appears to have legal authority for such expenditures, we concluded G&F did not adequately safeguard public funds. G&F had limited assurance funds were used as intended and not used for inappropriate purposes.
- G&F provided legislative general salary increases in noncompliance with Session Law requirements.
- G&F has not adequately safeguarded sensitive information. This increases risk to the State which could result in additional costs.
- G&F charged unallowable costs to federal programs.
- G&F was in noncompliance with procurement laws and policies.
- G&F had not entered into contracts to document applicable terms and conditions. This increases risk to the State which could result in additional costs.

Recommendation 3-7

We recommend the Game and Fish Department make improvements with the use of public funds. At a minimum, the Department should:

- a) Ensure public funds are used in an appropriate manner.
- b) Enhance the organizational culture of accountability and proper stewardship of public funds.

Management's Response

The Department agrees that it should be a good steward of public funds. While the Department strives to comply with laws, rules and policies, we acknowledge the instances identified in the audit report did not meet our own expectations. We will strengthen our policies and procedures to improve and enhance accountability of public funds and review them with employees on a routine basis to strengthen compliance.

Ensuring Approvers Comply with Responsibilities

NDCC Section 44-08-05.1 states any public officer or employee who has the power to approve a payment for travel expenses or any other expenditure of public funds shall determine before approving the payment:

Chapter 3 Use of Funds

- The expenditure for travel or other expenditures were for lawful and official purposes.
- If for employee travel reimbursement, the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
- If the payment is for expenditure other than travel expense, that the expenditure is lawful and that the payment contains no false claims.

We concluded there was noncompliance with the state law requirements related to approval as unallowable expenditures had been approved. Examples of these expenditures were included in this chapter of the report.

Recommendation 3-8

We recommend the Game and Fish Department ensure employees who are responsible for approving payments for travel expenses or other expenditures of public funds comply with North Dakota Century Code Section 44-08-05.1 and determine before approving the payments that the expenditures were for lawful and official purposes, actually due the individuals, and that the payments contain no false claims.

Management's Response

The Department agrees with the recommendation. The Department will strengthen our process for approving payments of public funds and enhance staff training to ensure compliance with North Dakota Century Code 44-08-05.1.

Human Resource Related Issues

Introduction

Significant improvements needed by G&F related to human resource areas are included in this chapter. Improvements of less significance were communicated in a separate letter to management of G&F. To conduct a review of human resource areas, we:

- Reviewed applicable laws and policies.
- Reviewed a selection of hires, promotions, and transfers.
- Reviewed salary administration areas.
- Reviewed training provided to employees.
- Interviewed selected personnel.

Complying with Leave Requirements

G&F attempted to treat a temporary position as an FTE and inappropriately provided annual and sick leave.

In our review of selected hiring information, we identified G&F hired an individual into a temporary biologist position. Based on a review of information and discussions with G&F representatives, G&F attempted to treat this temporary position as an FTE position. G&F had no legislative authorization for this FTE position. The temporary employee inappropriately received annual leave and sick leave. The individual was required to track their annual and sick leave off of ConnectND as temporary employees are excluded from being granted such leave on the state's system. Based on information provided by G&F, the employee received 70 hours of annual leave and 48 hours of sick leave. While no sick leave appeared to have been taken by the employee, 31 hours of annual leave were taken and the remaining 39 hours were converted to compensatory time when the individual was hired into an FTE position. G&F representatives stated the individual hired into the vacated temporary position was also provided annual and sick leave. NDAC Article 4-07 states an agency may not grant annual leave hours to a temporary employee and a temporary employee may not be credited with any accrued sick leave hours.

Recommendation 4-1

We recommend the Game and Fish Department comply with North Dakota Administrative Code requirements related to annual and sick leave and ensure temporary employees are not granted such leave.

Management's Response

The Department agrees with the recommendation and it has been implemented. The Department has discontinued allowing annual and sick leave for this position.

Making Improvements with the Hiring Process

Improving the Applicant Screening Process

As part of this performance audit, we made a selection of recently hired employees to determine compliance with applicable laws, rules, and policies. We selected 10 FTE employees and 5 temporary employees to review.

As part of the applicant screening process, applications are reviewed and points are assigned to determine who will be eligible to receive an interview. In our review of the screening process, we identified points were inappropriately assigned due to the following two reasons:

Chapter 4

Human Resource Related Issues

In the screening of applicant information, G&F assigned points in an inappropriate and inconsistent manner.

- Inappropriate screening criteria: G&F awarded points for certain experiences or skills when no information related to these areas was included in the job announcement. For example, G&F established a 100 point scale to assign points in the evaluation of the skills and experiences of the applicants. G&F awarded up to 20 points for applicants with experience conducting wildlife surveys and experience with wildlife depredation. The job announcement did not identify this experience as either a minimum or preferred qualification. This same screening process also included up to 10 points for applicants with experience operating certain equipment (ATV's, tractors, etc.). Again, the job announcement did not identify this experience as either a minimum or preferred qualification. Criteria used to screen application information should be clearly communicated to applicants to ensure all applicants have an opportunity to provide the necessary information.
- Inconsistencies in awarding points: similar information provided by applicants was assigned different points by G&F. For example, 15 points were available for "General Knowledge/participation of Hunting and Fishing." One applicant received 5 points for stating "Active participation in hunting and fishing in ND and knowledgeable of regulations." Another applicant received 15 points for stating "I am an avid outdoorsman and like spending much of my time enjoying all that North Dakota has to offer." Points assigned in the screening process should be done in a consistent manner.

Recommendation 4-2

We recommend the Game and Fish Department ensure a consistent and reasonable screening process is used to evaluate job applicants. At a minimum, the Department should:

- a) Evaluate applicant information only on criteria clearly identified in job announcements.
- b) Assign points in the screening process in a consistent and reasonable manner.

Management's Response

The Department agrees with the recommendation and will make improvements to the screening process. Effective February 2014, the new online state's recruiting module has helped us make improvements to the process by assigning points to the criteria in a consistent manner.

Ensuring Adequate Documentation is being Maintained

Records management retention schedules require records related to the hiring/recruitment process be maintained for six years. In review of information related to the hiring process of 10 FTE, we identified information was not maintained for 5 of the hires. We identified a lack of screening sheets (2 hires) and interview documentation (3 hires) being maintained. In addition to being in noncompliance with records management requirements, a lack of documentation increases risks related to noncompliance with state laws and potential preferential treatment in the hiring of employees.

Chapter 4 Human Resource Related Issues

Recommendation 4-3

We recommend the Game and Fish Department ensure compliance with records management requirements and ensure applicable documentation related to the hiring process is maintained for the required time period.

Management's Response

The Department agrees with the recommendation. The Department will be using the new online state's recruiting module to help ensure applicable documentation is maintained.

Ensuring Compliance with Veterans Preference Requirements

NDCC Chapter 37-19.1 establishes requirements to provide a preference to veterans in the hiring process. Of the 10 FTE hiring processes reviewed, 6 included veterans applying for the positions. Of these 6 hiring processes, we identified 2 were in noncompliance with veterans' preference requirements (both were related to one division in G&F). G&F used a point scale to screen applicants inconsistent with the requirements in state law. In addition, we identified noncompliance with requirements related to letters being sent to veteran applicants not selected for positions.

Recommendation 4-4

We recommend the Game and Fish Department comply with North Dakota Century Code Chapter 37-19.1. At a minimum, the Department should:

- a) Award appropriate veterans' preference points to qualifying applicants.
- b) Send letters of nonselection to veteran applicants via certified mail.
- c) Include required information in the letters of nonselection sent to veteran applicants.

Management's Response

The Department agrees with the recommendation. The division did assign points for veterans' preference; however, the points were incorrectly calculated. The Department has already implemented procedures to ensure the division is in compliance with part (b) and (c) of the recommendation.

Ensuring Compliance with Session Law Requirements

Chapter 15 of the 2009 Session Laws stated compensation adjustments for regular state employees were to vary based on documented performance and equity and were not necessarily to be 5% annual increases for all employees. We concluded G&F was in noncompliance with Session Law requirements. In a review of 10 employees receiving a general legislative salary increase in July 2010, we identified 3 employees did not have a documented performance evaluation as required. Also, we identified approximately 97% of G&F employees received the maximum general salary increase of 5%.

G&F is in noncompliance with general legislative salary increase requirements.

Chapter 41 of the 2011 Session Laws stated compensation adjustments for regular state employees were to be based on documented performance and equity. We concluded G&F was in noncompliance with Session Law requirements. In a review of 10 employees receiving a

Chapter 4 Human Resource Related Issues

general legislative salary increase in July 2011, we identified 9 did not have a documented performance evaluation as required. In review of 10 employees receiving a general legislative salary increase in July 2012, we identified 5 did not have a documented performance evaluation as required.

Recommendation 4-5

We recommend the Game & Fish Department ensure compliance with Session Law requirements related to salary increases.

Management's Response

The Department agrees with the recommendation and has implemented it. The Department completed performance evaluations on all staff by June 2013 which were used to determine salary increases in compliance with Session Law requirements related to July 1, 2013 raises.

Ensuring Minimum Qualifications are Met

During a review of information related to hiring, we identified G&F was promoting Game Wardens while they were still on a probationary status. G&F hires individuals into a Game Warden I job class. Following certain training, G&F was promoting wardens into a Game Warden II job class and providing a promotional salary increase. The minimum qualifications of the Game Warden II job class required completion of training and a six-month probationary period. The promoted Game Wardens had not completed their probationary period. NDAC requires individuals being employed, promoted, reinstated, or transferred to at least meet the minimum qualifications for the job class.

Recommendation 4-6

We recommend the Game and Fish Department comply with North Dakota Administrative Code Section 4-07-05-03 and ensure individuals employed, promoted, reinstated, or transferred meet at least the minimum qualifications of the job class.

Management's Response

The Department agrees with the recommendation. Once the auditors brought this to our attention, we implemented the appropriate changes for promotional steps effective January 2014. The Department is currently working with state HRMS to update the minimum qualifications for a Game Warden II.

Making Improvements with Performance Evaluations

NDAC requires employees to receive annual performance evaluations. In a review of performance evaluation information for 30 G&F employees, 25 had not received evaluations on an annual basis during the audit time period. Also, a performance evaluation score was changed after being signed by the employee. This did not appear to be communicated to the employee. In addition, we identified changes being made to agreed upon job responsibilities and performance evaluation criteria to be used in subsequent evaluations. These changes did not appear to be consistently communicated to employees.

Chapter 4

Human Resource Related Issues

Recommendation 4-7

We recommend the Game and Fish Department make improvements to its performance evaluation process. At a minimum, the Department should:

- a) Comply with North Dakota Administrative Code Chapter 4-07-10 related to employee performance evaluations.
- b) Ensure any changes made to an employee's performance evaluation after signing are communicated.
- c) Ensure consistency in the communication of employee expectations regarding job responsibilities and performance evaluations.

Management's Response

The Department agrees with the recommendation. The Department had also identified that performance evaluations had not been completed annually on all employees. By June 2013, the Department had completed performance evaluations on all staff which were used to determine July 1, 2013 raises. The auditors brought to our attention the errors noted in (b) & (c) and we will implement procedures to ensure these are corrected for the 2014 employee evaluations.

Additional Areas Requiring Improvement

Introduction

In addition to areas addressed in Chapters 2 through 4, we also identified significant improvements are needed by G&F related to other areas of operations. Improvements of less significance were communicated in a separate letter to management of G&F.

Safeguarding of Sensitive Information

Improvements are needed to adequately safeguard sensitive information.

We reviewed hiring information to determine whether G&F was having background checks conducted of new employees who had access to social security numbers and/or other sensitive information. In our review, we identified 3 of 8 hires which should have had a background check had no background check completed. All three individuals had access to social security numbers and other personal information. For example, one of the employees was hired in the licensing division to process gratis tag applications.

Sensitive information should be adequately stored and secured to safeguard against unauthorized acquisition, use, or disposition. We identified other concerns related to access and storage of sensitive information. Sensitive information stored electronically was accessible by employees who had no business related purpose to access such information. In addition, G&F had not adequately safeguarded previous years' documents containing sensitive information.

Recommendation 5-1

We recommend the Game and Fish Department adequately safeguard sensitive information obtained and maintained by the Department. At a minimum, the Department should:

- a) Identify sensitive information obtained and maintained.
- b) Conduct background checks of all newly hired employees who will have access to sensitive information.
- c) Limit access to sensitive information to those employees who require the information to perform essential duties.

Management's Response

The Department agrees with the recommendation. We are committed to and will implement procedures to enhance security of sensitive information. Part (a), we have identified sensitive information. Part (b), we have implemented procedures to perform background checks on newly hired employees and will also do background checks on current employees that have access to sensitive information. Part (c), we have limited the access to sensitive information to only employees that require the information to perform their essential job functions.

Making Improvements to the Volunteer Education Instructor Program

G&F administers a volunteer education instructor program. According to the Department's website, the purpose of the program is:

To build a dedicated group of volunteer instructors for conservation education projects who will help reach teachers, youth and adults of all ages with information about wildlife, habitat conservation and safety so that individuals are better able to enjoy the outdoors and make informed decisions about conservation issues.

Chapter 5 Additional Areas Requiring Improvement

Hunting, aquatic, and conservation education is taught by volunteers through various classes and events.

Establishing Policies and Procedures for the Volunteer Education Instructors

In a review of selected expenditures, we identified various expenses related to the volunteer education instructor program. Examples include years of service awards (approximately \$27,000), banquet and hotel room charges (approximately \$25,000), and guns for hunter education (over \$7,000). Based on a review of information, we concluded there was a lack of documented policies and procedures to guide employee actions and enhance consistency with program operations. The lack of documented policies and procedures could result in inconsistencies in the program operations and have a negative impact on the effectiveness and efficiency of the program if turnover were to occur.

Recommendation 5-2

We recommend the Game and Fish Department establish formal policies and procedures in relation to the volunteer education instructor program.

Management's Response

The Department agrees with the recommendation. The Department will establish policies and procedures to enhance continuity, consistent implementation, and effectiveness of the volunteer instructor program.

Establishing Policies and Procedures for Hunter Education Guns

G&F provides functioning guns to volunteer hunter education instructors to be used as training aids for teaching hunter education classes throughout the state. The instructors are not required to sign an agreement for use of the guns or acknowledging receipt. While G&F is required to take an annual inventory of these guns, we identified no documentation these guns were ever inventoried. Based on information from G&F, it appears to have been at least 8 years since a complete inventory of the guns may have occurred. Also, another G&F representative stated the location and security of all the guns was not known. We identified guns kept in the G&F Bismarck location were accessible by individuals who should not have access to them. In review of the G&F inventory listing, there were over 100 guns for the hunter education program.

Recommendation 5-3

We recommend the Game and Fish Department establish formal policies and procedures related to guns used for hunter education. At a minimum, the Department should:

- a) Ensure the guns are secured and used as intended.
- b) Ensure the guns are appropriately inventoried.
- c) Reduce risks to the state.

Management's Response

The Department agrees with the recommendation. New administrators of the hunter education program identified and reported past deficiencies in the security and annual accounting of guns provided to instructors as educational training aids throughout the state. The Department is developing policies and procedures to remedy these deficiencies.

Chapter 5 Additional Areas Requiring Improvement

Performing Periodic Checks of the Sex Offender Registry for Volunteer Instructors

According to information provided by G&F, there were approximately 810 active volunteer instructors as of January 22, 2014. While G&F requires background checks of new volunteer instructors, it appears this requirement was implemented after July 1998. In review of volunteer information, approximately 330 of the volunteers were never subjected to a background check. In addition, no subsequent check or review was completed on a volunteer after they were certified. Approximately 660 volunteer instructors have had no background check or subsequent follow-up review performed within the last 5 years.

We identified other organizations having employees working with or having direct contact with children used the state's sex offender list. For example, a representative of a school district stated the district employee listing is periodically cross-checked with the sex offender registry.

Recommendation 5-4

We recommend the Game and Fish Department periodically check the state's sex offender registry for all volunteer instructors.

Management's Response

The Department agrees and will implement the recommendation.

Ensuring Only Allowable Costs are Charged to Federal Grants

G&F organizes and conducts an annual recognition banquet for volunteer aquatic and hunter education instructors. G&F uses federal funds to pay the banquet costs and one night of lodging for volunteers and guests. In 2013, the cost of the banquet was over \$15,000 and lodging exceeded \$10,000.

We reviewed the grant application submitted by G&F for the volunteer aquatic education program. We concluded the costs of the banquet and lodging for volunteers and guests were unallowable.

We reviewed the grant application submitted by G&F for the volunteer hunter education program. We concluded the costs of the guests' meals and lodging were unallowable (room charges were higher when guests stayed with a volunteer). In addition, due to the fact hunter education volunteers could have attended the banquet without attending training the day of the banquet, the volunteer meals and lodging costs may also be unallowable.

Recommendation 5-5

We recommend the Game and Fish Department ensure only allowable costs are charged to federal grant programs.

Management's Response

The Department agrees with the recommendation. The Department believed these expenditures were allowable per the grant approved by the federal granting agency. The Department will work with the federal grantor to confirm the required language is included in the grant application and workplans and ensure allowable costs are charged to federal grant programs.

Chapter 5 Additional Areas Requiring Improvement

Establishing Requirements for Operating Equipment

Through observations and other knowledge gained during the audit, we identified employees may operate off-highway vehicles, snowmobiles, and watercraft in the performance of their job duties. We concluded there was a lack of policies and procedures established related to training requirements for employees prior to the use of the equipment. In addition, there was a lack of policies and procedures established requiring the use of safety gear such as helmets and life jackets by employees when using the equipment.

Recommendation 5-6

We recommend the Game and Fish Department establish formal requirements to promote and increase the safety of employees operating off-highway vehicles, snowmobiles, and watercraft. At a minimum, the Department should establish requirements related to:

- a) Use of helmets while operating off-highway vehicles and snowmobiles.
- b) Use of life jackets while operating or riding in a watercraft.
- c) Training requirements employees must fulfill prior to the operation of off-highway vehicles, snowmobiles, and watercraft.

Management's Response

The Department agrees and will implement the recommendation.

Establishing Policies and Procedures for Promotional Items

G&F is an OMB approved promotional agency. In a review of expenditures, we identified various promotional purchases. One example was the purchase of 6,000 plastic stow away containers used as mini tackle boxes apparently provided to individuals attending fishing camps/events. Another example was a purchase of 500 t-shirts for volunteers. These two purchases totaled approximately \$23,500. We concluded there was a lack of policies and procedures established related to promotional items.

Recommendation 5-7

We recommend the Game and Fish Department establish policies and procedures related to promotional items. At a minimum, the Department should:

- a) Clearly define promotional items.
- b) Identify when it is appropriate to provide promotional items.
- c) Establish a method for monitoring and tracking promotional items.

Management's Response

The Department agrees and will implement the recommendation.

Improving the Uniform Policy

In review of expenditure information, we identified purchases related to clothing items for employees. For example, G&F had purchased 81 pairs of jeans for employees in 2012 and purchased 119 pairs of jeans the following year. In addition, we identified a purchase of 11 belts for the jeans (non-work belt). We identified various other clothing purchases for employees including polo shirts, vests, and boots. It appears the official G&F logo is placed on the polo shirts and vests.

Chapter 5 Additional Areas Requiring Improvement

Changes are needed with clothing provided to employees.

G&F has established a uniform policy for employees. In 2011, our office made an informal recommendation as part of the G&F biennial audit. This recommendation stated G&F should revise their uniform policy with OMB guidance. While G&F drafted a new policy, three years later the policy was still in a draft format.

Within G&F's uniform policy, two separate policies exist related to uniforms – one for Game Wardens and one for other employees. While we identified no concerns with the uniform policy for law enforcement, we did identify concerns with providing employees every day clothing items. In an attempt to establish what constituted a "uniform," we reviewed guidance provided by the Internal Revenue Service. Under this guidance, work clothes and uniforms are considered items which must be worn as a condition of employment and the clothes are not suitable for everyday wear. We concluded certain clothing items provided by G&F did not constitute a uniform.

Recommendation 5-8

We recommend the Game and Fish Department make improvements with the policies and procedures related to clothing provided to employees. At a minimum, the Department should:

- a) Modify policies to ensure a uniform policy is applicable to Game Wardens only.
- b) Ensure clothing is provided only for the performance of essential and directly related job duties of the position and clothing is not suitable for everyday wear.
- c) Establish appropriate tracking and monitoring procedures to prevent abuse.

Management's Response

The Department agrees to make improvements with the policies and procedures related to clothing provided to employees. We will modify and finalize our policy on Department issued clothing. Regarding part (a), the Department does not agree that a uniform policy should apply only to game wardens. For decades, Department employees, not just game wardens, have worn uniforms in field work and assigned public settings. It's important that all employees are visible, identifiable, accountable and professional when they are on assignment outside their primary office. For example, having Department staff in uniform when conducting game surveys and other biological activities on Wildlife Management Areas and public and private land is essential. Landowners and other public would be concerned and suspicious with unidentifiable individuals in places doing things that normally the general public should not be doing. Regarding part (b), we will review our practice of issuing clothing to ensure the appropriate articles are issued to appropriate personnel. Regarding part (c), we will develop a process to track and monitor clothing to prevent abuse and everyday wear.

State Auditor's Concluding Remarks

Based on G&F's response and our observations during the audit, there appears to be a culture in which management believes employees are entitled to clothing items even though the clothing provided may not be

Chapter 5 Additional Areas Requiring Improvement

necessary or warranted. G&F states it is important to have employees visible and identifiable in certain situations. However, there are other ways to identify individuals instead of providing clothing which can be worn as everyday attire. The belts, jeans, and boots G&F provides to employees (excluding Game Wardens) have no impact on the employee being more visible or identifiable. Also, clothing items should not have to be required in order for employees to be accountable and professional.

Establishing Policies for Inventory

NDCC Section 44-04-07 states each agency shall maintain a complete and current inventory record of all property of sufficient value and permanence as to render such inventory record practical. Also, OMB Policy 205 states, "Each year, every agency and institution is to do a physical inventory (an actual verification of the inventory records via a physical observance of each item) and certify said inventory." We concluded there was a lack of documented policies established related to inventory. G&F representatives stated an annual review of inventory is to be completed by two employees. One of these employees is the employee who the item is assigned to and the other is usually another employee from the Division. No independent review of inventory is completed.

To determine whether G&F completed an annual review of inventory, we selected eight inventory listings for review. We identified one was not completed. Also, while reviewing additional inventory documents, we identified two listings were not signed by two employees. Our review identified the inventory listing was not current.

Recommendation 5-9

We recommend the Game and Fish Department make improvements with inventory processes. At a minimum, the Department should:

- a) Ensure the annual verification of inventory is appropriately completed.
- b) Ensure the inventory records are complete and current.
- c) Perform an independent verification of inventory periodically by someone in the Department.

Management's Response

The Department agrees with the recommendation to make improvements with inventory processes. Regarding part (a), we will remind staff of the procedures for performing the annual inventory to ensure it is appropriately completed. Regarding part (b), accounting staff will ensure the inventory records are complete and accurate. Regarding part (c), we will perform an independent verification of inventory periodically and during that specific year, the second employee will not verify the inventory.

Chapter 5 Additional Areas Requiring Improvement

Making Improvements with Confiscated and Seized Items

To ensure accountability of confiscated and seized items, changes are needed.

Game Wardens, through the course of performing their job duties, may seize property belonging to individuals. This property is maintained by G&F as possible evidence for court. The seized items will be returned to the individual, disposed of (i.e. illegal drugs), or confiscated. If the court determines the property will be confiscated (not returned to the individual), it is to be held by G&F and turned over to the North Dakota Wildlife Federation to be sold at auction as required by state law.

In our review of information related to evidence handling policies and procedures of confiscated and seized items, we identified areas in need of improvement. In a comparison with other law enforcement policies related to the handling of evidence, we identified G&F's policy needs modification to clearly communicate requirements and enhance consistency in the handling of evidence. Also, we identified evidence which should have been disposed of pursuant to policy had yet to be disposed of.

In our review of information related to access of confiscated and seized items, we identified areas in need of improvement. G&F had not assigned the responsibility for control and access of confiscated and seized items to a specific individual. We identified seized items maintained in a safe in the G&F Bismarck location had no access logs and there was no log in/out form. At least three employees know the combination to the safe. In addition, we identified confiscated items are being maintained in the Accounting Section's storage room. While this room was locked, the key to gain access to the room appears to be known by at least all Accounting Section employees. If confiscated or seized items were to go missing, there appears to be limited information to determine responsibility for the missing items. We concluded there was a lack of accountability for the confiscated and seized items.

Recommendation 5-10

We recommend the Game and Fish Department make improvements to policies and procedures related to confiscated and seized items. At a minimum, the Department should:

- a) Establish appropriate policies and procedures for properly maintaining and accessing confiscated and seized items.
- b) Comply with policies and procedures.
- c) Ensure items are adequately secured at all times.

Management's Response

The Department agrees with the recommendation. We are in the process of updating policies and procedures related to seized and confiscated items.

Audit and G&F Background Information

Purpose and Authority of the Audit

The performance audit of the North Dakota Game and Fish Department was conducted by the Office of the State Auditor pursuant to authority within North Dakota Century Code Chapter 54-10.

Performance audits are defined as engagements that provide assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria, such as specific requirements, measures, or defined business practices. Performance audits provide objective analysis so management and those charged with governance and oversight can use the information to improve performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability. The purpose of this report is to provide our analysis, findings, and recommendations regarding our limited review of whether G&F is in compliance with laws, rules, and policies related to human resources and use of resource and whether the Private Land Program is operating effectively.

Background Information

A five member Game and Fish Board of Control was established in 1909 to provide enforcement of game laws in North Dakota. In 1930, voters approved a measure for the Commissioner of Game and Fish to take over the duties of the board. This created the Game and Fish Department which was a continuation of efforts to preserve fish and game species in the state. Since then, various changes to laws have occurred clarifying G&F's responsibilities related to fish and game. The mission of G&F is "to protect, conserve and enhance fish and wildlife populations and their habitat for sustained public consumptive and nonconsumptive use."

The Director of G&F is appointed by the Governor. G&F's budget for the 2011-2013 biennium was approximately \$65.5 million with 157 FTE authorized. The budget included a \$300,000 general fund appropriation to be provided to the Agriculture Commissioner for the State Board of Animal Health and the Wildlife Services program. However, other than this general fund appropriation, license and other fees, plus federal aid dollars from Pittman-Robertson, Dingell-Johnson, and other sources, entirely fund G&F. No state general tax dollars are used to fund G&F activities.

Objective of the Audit

The objectives of this performance audit were:

"Is the Private Land Program operating effectively?"

"Is the Game and Fish Department in compliance with laws, rules, and policies related to human resources and use of resources?"

Chapter 6 Audit and G&F Background Information

“Are the mission and plans of the Game and Fish Department developed, implemented, and evaluated effectively?”

Chapter 1 of this report includes information related to the Private Land Program objective. Chapters 2 through 5 include information related to the resources objective. Due to turnover in our office and other factors, we performed no work on the objective related to missions and plans.

Scope and Methodology

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

Audit field work was conducted from the end of May 2013 to the middle of April 2014. The audit time period was July 1, 2010 to April 30, 2013. In certain instances, additional information was reviewed. This was done, in part, to review updated information related to the Private Land Program as well as to review agreements entered into prior to the audit time period. At the beginning of this audit, we conducted a survey of selected G&F employees. Of the 162 employees surveyed, 147 completed the survey.

As part of this audit, we evaluated controls surrounding compliance with significant laws and policies. We gained an understanding of internal control surrounding these areas. Deficiencies identified with internal controls determined to be significant are addressed in Chapters 1 through 5 of this audit report. Deficiencies of less significance were communicated in a separate letter to management of G&F.

As part of completing the Private Land Program objective, we selected information from four of the nine programs to review how tracts of land are enrolled (see Appendix B for additional information on the programs selected). We selected the following number of agreements to review (total numbers reflect the population of items identified in the audit time period):

- 25 CRP agreements (2,133 total)
- 10 Habitat PLOT agreements (583 total)
- 5 WRP agreements (59 total)

We also reviewed 15 Working Lands agreements (709 total) and 17 Habitat Plot agreements to compare information between districts. In addition, we were provided access to G&F's PLOTS database. We reviewed applicable information in the database as well as other information related to PLOTS. In relation to the Depredation Assistance Program, we selected 15 individuals from the PLOTS database (519

Chapter 6

Audit and G&F Background Information

individuals) and selected 10 payments from accounts payable data (189 payments) to review deprecation actions taken by G&F.

As part of completing the resources objective, we selected the following various transactions to review (total numbers reflect the population of items identified in the audit time period):

- 15 newly hired employees of which 10 were FTE positions and 5 were temporary positions (122 total)
- 30 general legislative salary increases, 10 each from three years (454 total)
- 20 procurement related accounts payable expenditures (6,320 total)
- 20 payments to employees (4,804 total)
- 45 P-Card transactions (16,748 total)
- 30 accounts payable expenditures not including P-Card transactions, payments to employees, and Private Land Program payments (6,320 total)

In review of expenditure information, additional transactions may have been reviewed to obtain an understanding of processes and procedures, identify trend information, and for other purposes. Also, contracts identified in review of expenditure information were reviewed.

List of Recommendations and Management Responses

	<u>Recommendation</u>	<u>Agree</u>	<u>Not Agree</u>	<u>Mixed</u>
1-1	We recommend the Game and Fish Department obtain input from stakeholders of PLOTS to identify expectations of the program and use such information in establishing an appropriate goal to measure the effectiveness of the program.	<u>X</u>	<u> </u>	<u> </u>
1-2	We recommend the Game and Fish Department establish adequate policies and procedures to improve the operations and effectiveness of PLOTS.	<u>X</u>	<u> </u>	<u> </u>
1-3	We recommend the Game and Fish Department comply with policies and procedures related to PLOTS.	<u>X</u>	<u> </u>	<u> </u>
1-4	We recommend the Game and Fish Department ensure compliance with terms/conditions included in PLOTS agreements. At a minimum, the Department should: <ul style="list-style-type: none"> a) Establish guidelines for frequency of reviews. b) Document reviews performed and actions taken if noncompliance issues are identified. 	<u>X</u>	<u> </u>	<u> </u>
1-5	We recommend the Game and Fish Department ensure the operations of the PLOTS programs are adequately monitored. At a minimum, the Department should: <ul style="list-style-type: none"> a) Generate reports to monitor the effectiveness of the PLOTS programs. b) Conduct reviews of land evaluations and agreements to ensure compliance with requirements and to identify areas for improvement. 	<u>X</u>	<u> </u>	<u> </u>
1-6	We recommend the Game and Fish Department ensure PLOTS agreements are signed by both parties prior to the agreements effective date.	<u>X</u>	<u> </u>	<u> </u>
1-7	We recommend the Game and Fish Department make improvements related to district priority incentive areas. At a minimum, the Department should: <ul style="list-style-type: none"> a) Document approval of district priority areas. b) Require documentation of the reasons for incentive payments. c) Ensure district priority maps are maintained. 	<u>X</u>	<u> </u>	<u> </u>
1-8	We recommend the Game and Fish Department make improvements related to ownership of land included in PLOTS agreements. At a minimum, the Department should: <ul style="list-style-type: none"> a) Obtain assurance of the legal land owner. b) Recoup moneys from individuals inappropriately paid for land which was not owned by them. 	<u>X</u>	<u> </u>	<u> </u>

Appendix A
List of Recommendations and Management Responses

<u>Recommendation</u>	<u>Agree</u>	<u>Not Agree</u>	<u>Mixed</u>
1-9 We recommend the Game and Fish Department ensure adequate information is readily available to hunters in regards to PLOTS.	<u>X</u>	<u> </u>	<u> </u>
1-10 We recommend the Game and Fish Department ensure the information made available to landowners in regards to PLOTS is up-to-date and user friendly.	<u>X</u>	<u> </u>	<u> </u>
1-11 We recommend the Game and Fish Department establish adequate policies and procedures to improve the operations and effectiveness of the Depredation Assistance Program.	<u>X</u>	<u> </u>	<u> </u>
1-12 We recommend the Game and Fish Department comply with policies and procedures related to the Depredation Assistance Program.	<u>X</u>	<u> </u>	<u> </u>
1-13 We recommend the Game and Fish Department establish a monitoring process for the Depredation Assistance Program. At a minimum, the Department should: a) Generate reports to monitor the program's effectiveness. b) Conduct reviews of the actions taken to ensure compliance with requirements and to identify areas for improvement.	<u>X</u>	<u> </u>	<u> </u>
1-14 We recommend the Game and Fish Department meet with the Risk Management Division of the Office of Management and Budget to address the risks associated with providing state owned property to private individuals as part of the Depredation Assistance Program.	<u>X</u>	<u> </u>	<u> </u>
2-1 We recommend the Game and Fish Department comply with procurement laws, rules, and policies.	<u>X</u>	<u> </u>	<u> </u>
2-2 We recommend the Game and Fish Department meet with representatives of the State Procurement Office to: a) Receive guidance on determining the required procurement process to use for goods being purchased for apparent public improvement purposes. b) Review various relationships and agreements established through memorandums of understanding, cooperative agreements, etc. to determine the appropriate procurement requirements.	<u>X</u>	<u> </u>	<u> </u>
2-3 We recommend the Game and Fish Department comply with requirements of the P-Card Manual and ensure only the authorized person is allowed to use the P-Card.	<u>X</u>	<u> </u>	<u> </u>

Appendix A
List of Recommendations and Management Responses

<u>Recommendation</u>	<u>Agree</u>	<u>Not Agree</u>	<u>Mixed</u>
<p>2-4 We recommend the Game and Fish Department make improvements with contracts and agreements entered into for services. At a minimum, the Department should:</p> <p>a) Ensure payments for services are made pursuant to a written contract or agreement.</p> <p>b) Include applicable terms and conditions within contracts and agreements as recommended by the Office of the Attorney General.</p> <p>c) Ensure appropriate reviews are performed by legal counsel.</p>	X		
<p>2-5 We recommend the Game and Fish Department make improvements with contract administration. At a minimum, the Department should:</p> <p>a) Ensure compliance with contracts and agreements.</p> <p>b) Periodically review contracts and agreements for changes in relationships between parties or for changes in law.</p> <p>c) Establish a central repository and/or database to actively manage contracts and agreements.</p>	X		
<p>3-1 We recommend the Game and Fish Department ensure an appropriate grant program is established when the Department is to provide public funds for sponsorships and similar payments. At a minimum, the Department should:</p> <p>a) Ensure grant programs have appropriate legislative authority to be administered.</p> <p>b) Establish appropriate policies and procedures related to grant applications and grant agreement terms and conditions.</p> <p>c) Monitor the use of grant funds awarded to ensure such moneys are expended appropriately.</p>	X		
<p>3-2 We recommend the Game and Fish Department ensure payments to employees comply with applicable laws, rules, and policies.</p>	X		
<p>3-3 We recommend the Game and Fish Department obtain legal advice to determine whether a Game Warden's district constitutes their normal place of employment in the context of North Dakota Century Code Section 44-08-04 and establish in policy when Game Wardens are considered to be in travel status.</p>	X		
<p>3-4 We recommend the Game and Fish Department document the working arrangements for temporary/seasonal employees upfront. At a minimum, the arrangements should:</p> <p>a) List the employee's normal place of employment.</p> <p>b) Describe any lodging accommodations provided.</p> <p>c) Identify when meals can/cannot be claimed, including days off, for employees with unique working arrangements.</p>	X		

Appendix A
List of Recommendations and Management Responses

<u>Recommendation</u>	<u>Agree</u>	<u>Not Agree</u>	<u>Mixed</u>
3-5 We recommend the Game and Fish Department comply with Office of Management and Budget Policy 217 in regards to allowing employees to participate in meals provided by the Department.	X		
3-6 We recommend the Game and Fish Department acquire and maintain adequate supporting documentation for expenditures. At a minimum, the Department should: a) Obtain itemized receipts. b) Retain complete listings of those in attendance at trainings, workshops, and banquets in which the Department is paying for food, beverages, and related items.	X		
3-7 We recommend the Game and Fish Department make improvements with the use of public funds. At a minimum, the Department should: a) Ensure public funds are used in an appropriate manner. b) Enhance the organizational culture of accountability and proper stewardship of public funds.	X		
3-8 We recommend the Game and Fish Department ensure employees who are responsible for approving payments for travel expenses or other expenditures of public funds comply with North Dakota Century Code Section 44-08-05.1 and determine before approving the payments that the expenditures were for lawful and official purposes, actually due the individuals, and that the payments contain no false claims.	X		
4-1 We recommend the Game and Fish Department comply with North Dakota Administrative Code requirements related to annual and sick leave and ensure temporary employees are not granted such leave.	X		
4-2 We recommend the Game and Fish Department ensure a consistent and reasonable screening process is used to evaluate job applicants. At a minimum, the Department should: a) Evaluate applicant information only on criteria clearly identified in job announcements. b) Assign points in the screening process in a consistent and reasonable manner.	X		
4-3 We recommend the Game and Fish Department ensure compliance with records management requirements and ensure applicable documentation related to the hiring process is maintained for the required time period.	X		

Appendix A
List of Recommendations and Management Responses

<u>Recommendation</u>	<u>Agree</u>	<u>Not Agree</u>	<u>Mixed</u>
<p>4-4 We recommend the Game and Fish Department comply with North Dakota Century Code Chapter 37-19.1. At a minimum, the Department should:</p> <ul style="list-style-type: none"> a) Award appropriate veterans' preference points to qualifying applicants. b) Send letters of nonselection to veteran applicants via certified mail. c) Include required information in the letters of nonselection sent to veteran applicants. 	X		
<p>4-5 We recommend the Game & Fish Department ensure compliance with Session Law requirements related to salary increases.</p>	X		
<p>4-6 We recommend the Game and Fish Department comply with North Dakota Administrative Code Section 4-07-05-03 and ensure individuals employed, promoted, reinstated, or transferred meet at least the minimum qualifications of the job class.</p>	X		
<p>4-7 We recommend the Game and Fish Department make improvements to its performance evaluation process. At a minimum, the Department should:</p> <ul style="list-style-type: none"> a) Comply with North Dakota Administrative Code Chapter 4-07-10 related to employee performance evaluations. b) Ensure any changes made to an employee's performance evaluation after signing are communicated. c) Ensure consistency in the communication of employee expectations regarding job responsibilities and performance evaluations. 	X		
<p>5-1 We recommend the Game and Fish Department adequately safeguard sensitive information obtained and maintained by the Department. At a minimum, the Department should:</p> <ul style="list-style-type: none"> a) Identify sensitive information obtained and maintained. b) Conduct background checks of all newly hired employees who will have access to sensitive information. c) Limit access to sensitive information to those employees who require the information to perform essential duties. 	X		
<p>5-2 We recommend the Game and Fish Department establish formal policies and procedures in relation to the volunteer education instructor program.</p>	X		
<p>5-3 We recommend the Game and Fish Department establish formal policies and procedures related to guns used for hunter education. At a minimum, the Department should:</p> <ul style="list-style-type: none"> a) Ensure the guns are secured and used as intended. b) Ensure the guns are appropriately inventoried. c) Reduce risks to the state. 	X		

Appendix A
List of Recommendations and Management Responses

<u>Recommendation</u>	<u>Agree</u>	<u>Not Agree</u>	<u>Mixed</u>
5-4 We recommend the Game and Fish Department periodically check the state's sex offender registry for all volunteer instructors.	<u>X</u>	<u> </u>	<u> </u>
5-5 We recommend the Game and Fish Department ensure only allowable costs are charged to federal grant programs.	<u>X</u>	<u> </u>	<u> </u>
5-6 We recommend the Game and Fish Department establish formal requirements to promote and increase the safety of employees operating off-highway vehicles, snowmobiles, and watercraft. At a minimum, the Department should establish requirements related to:			
a) Use of helmets while operating off-highway vehicles and snowmobiles.	<u>X</u>	<u> </u>	<u> </u>
b) Use of life jackets while operating or riding in a watercraft.			
c) Training requirements employees must fulfill prior to the operation of off-highway vehicles, snowmobiles, and watercraft.			
5-7 We recommend the Game and Fish Department establish policies and procedures related to promotional items. At a minimum, the Department should:			
a) Clearly define promotional items.	<u>X</u>	<u> </u>	<u> </u>
b) Identify when it is appropriate to provide promotional items.			
c) Establish a method for monitoring and tracking promotional items.			
5-8 We recommend the Game and Fish Department make improvements with the policies and procedures related to clothing provided to employees. At a minimum, the Department should:			
a) Modify policies to ensure a uniform policy is applicable to Game Wardens only.			
b) Ensure clothing is provided only for the performance of essential and directly related job duties of the position and clothing is not suitable for everyday wear.	<u> </u>	<u> </u>	<u>X</u>
c) Establish appropriate tracking and monitoring procedures to prevent abuse.			
5-9 We recommend the Game and Fish Department make improvements with inventory processes. At a minimum, the Department should:			
a) Ensure the annual verification of inventory is appropriately completed.	<u>X</u>	<u> </u>	<u> </u>
b) Ensure the inventory records are complete and current.			
c) Perform an independent verification of inventory periodically by someone in the Department.			

Appendix A
List of Recommendations and Management Responses

<u>Recommendation</u>	<u>Agree</u>	<u>Not Agree</u>	<u>Mixed</u>
5-10 We recommend the Game and Fish Department make improvements to policies and procedures related to confiscated and seized items. At a minimum, the Department should:			
a) Establish appropriate policies and procedures for properly maintaining and accessing confiscated and seized items.	<u> X </u>	<u> </u>	<u> </u>
b) Comply with policies and procedures.			
c) Ensure items are adequately secured at all times.			
Total	<u> 43 </u>	<u> 0 </u>	<u> 1 </u>

Private Lands Open to Sportsmen Program

G&F administers the Private Land Program (formerly known as the Private Lands Initiative) for the purpose of conserving, protecting and developing fish and wildlife habitat as well as providing the public with access to private land for hunting and fishing. According to the G&F website, the Private Land Program is the Department's overall mechanism to apply its mission to the private landscape. As part of this audit, we reviewed aspects of the Private Land Program which is composed of two major components – PLOTS and the Depredation Assistance Program.

G&F uses various sources of special revenue and federal funding to make payments for PLOTS agreements. For example, NDCC requires \$5 from the sale of each nonresident waterfowl hunting license, nonresident big game hunting license, and resident and nonresident Habitat Restoration Stamp be used for PLOTS. Federal funding sources include Pittman-Robertson and State Wildlife Grant.

The following PLOTS acreage information was provided by G&F to the Game and Fish Advisory Board in June 2013 (data represents the number of PLOTS acres available for the fall hunting season):

- 2008 – 1,121,507
- 2009 – 1,098,500
- 2010 – 983,438
- 2011 – 970,438
- 2012 – 835,550

As of June 2013, G&F offered the following nine individual programs to landowners as part of PLOTS:

- Habitat Plot Program
- Working Lands Program
- CRP Cost-Sharing Access Program
- Wetland Reserve Program Incentive
- Food Plot Program
- Tree Planting Cost Share Program
- Private Forest Conservation Program
- Beginning Farmer/Rancher Program
- CoverLocks

We selected four of the above nine programs to review a selection of agreements. Based on our review of information, it appears the four programs selected comprise a significant portion of the PLOTS acres. Additional information related to the four programs follows:

Habitat Plot Program

The minimum term for Habitat Plot Program agreements is three years (longer term options available). The rental payments for this program are based on soil classification and regional location. The plot/tract can be newly established habitat, existing habitat, or a combination. Whether or not the land was existing habitat or newly established also factors into the amount of the rental payment. For a new habitat establishment, G&F will provide cost-share to establish herbaceous cover on cropland and work with the landowner to determine seed mix. In addition, landowners may receive an additional incentive payment if the land is located within a designated priority area.

Working Lands Program

This program recognizes and rewards landowners for activities and resources having a positive impact on wildlife habitat and providing public access, without requiring land retirement (i.e. land can be actively farmed or ranched). The rental payments for this program are based on land

Appendix B

Private Lands Open to Sportsmen Program

evaluations completed by biologists who assign values to features such as habitat quality, conservation and management practices, size and location of the tract, etc. These evaluations are used to rank the land and determine its overall value for the purpose of wildlife habitat and hunting. The minimum term for Working Lands Program agreements is two years. Landowners may receive additional incentive payments if the land is located within a designated priority area. The landowner may also receive cost-share for implementing new conservation practices or developing habitat.

Wetland Reserve Program Incentive

This is a partnership program between the United States Department of Agriculture (USDA) and G&F which provides additional incentives to producers who enroll land in the Wetlands Reserve Program. The primary purpose of the Wetland Reserve Program Incentive is to restore, protect, or enhance wetlands on private property as well as provide public access. G&F provides a one-time payment equal to 15 percent of the USDA Geographical Area Rate Cap Wetlands Reserve Program county easement value for a 30-year WRP agreement. Shorter term agreements are also available and the payment will be prorated to match the agreement term. The one-time upfront portion of the payment landowners receive from G&F is intended to open the land to walk-in hunting.

CRP Cost-Sharing Access Program

This program provides assistance to landowners establishing wildlife habitat on USDA acres already enrolled in the federal Conservation Reserve Program in exchange for public access. The term of CRP Cost-Sharing Access Program agreements varies depending on the length of the federal CRP agreements (G&F agreements are for same term as the federal agreements). The one-time upfront rental payment for walk-in hunting access varies based on where the tract of land is located within the state. The program also has multiple cost sharing options. For example, G&F provides cost sharing assistance on grass seed for selected CRP grass plantings (newly established and renovation). Also, G&F will provide an annual establishment payment for the planting of agricultural crops left unharvested for a wildlife food source on CRP acres statewide.

As part of the CRP Cost-Sharing Access Program and Wetland Reserve Program Incentive, G&F is entering into agreements and providing one-time upfront payments to obtain access to the acres already enrolled in the respective federal conservation program. In other programs such as the Working Lands Program and Habitat Plot Program, G&F is entering into agreements and providing rental payments based on land evaluations performed by Department biologists. For these types of programs, G&F is providing payments for public hunting access and also for habitat conservation, enhanced land/habitat management, and farming practices. For all PLOTS programs, priority is given to tracts of land greater than 80 acres.

As part of PLOTS agreements, landowners agree to certain terms and conditions. For example, all landowners agree to allow G&F to sign and publicize the tracts are open to walk-in-hunting (signs are placed by G&F). In addition, certain agreements contain restrictions on haying and/or grazing, farming practices, noxious weed control, etc. For example, landowners enrolling land into the Habitat Plot Program must agree to a land management plan developed by G&F biologists.

G&F annually publishes a PLOTS guide (provided to the public free of charge) which identifies PLOTS tracts within the state. In addition, G&F's website includes an interactive PLOTS map providing real time information.