


Wayne Waltz/R4/FWS/DOI
05/21/2012 01:15 PM

To Thomas Barnes/AMBS/R9/FWS/DOI@FWS
cc Phil King/NCTC/R9/FWS/DOI@FWS
bcc
Subject Re: Fw: Re: NC equipment ? 

Thank you Tom - Phil and I have been trying to give NC some guidance on equipment use and management. They are proposing a reorganization where they will pool staff, equipment and facilities, some purchased/funded with WR and SFR funds. I have tried to take what you provided below and put it into a concise bullet(s) that we can provide to them. Would you both look it over and see if I captured this correctly. thanks


The grantee must control all assets (including equipment) to ensure that it serves the purpose for which it was acquired (50 CFR 80.90(f)) except as follows:

- o Once the useful life of equipment has been reached a State is then free to use that equipment and/or dispose of it according to State laws and procedures per 43 CFR 12.72(b), however if license revenue was used in the match for the grant that funded acquisition of the equipment, then that equipment becomes license revenue under 50 CFR 80.20(b) and must be treated as such (i.e. remain under the control of the fish and game agency).
- o Once the purpose of the project for which equipment was purchased has been fulfilled or is discontinued, the State is then free to use equipment and/or dispose of it according to State laws and procedures per 43 CFR 12.72(b), however if license revenue was used in the match for the grant that funded acquisition of the equipment, that equipment becomes license revenue under 50 CFR 80.20(b) and must be treated as such (i.e. remain under the control of the fish and game agency).

Wayne Waltz
U.S. Fish and Wildlife Service
Charleston Field Office
176 Croghan Spur Rd, S. 200
Charleston, SC 29407
phone 843 727-4707 ext 225
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Thomas Barnes/AMBS/R9/FWS/DOI

Thomas
Barnes/AMBS/R9/FWS/DOI
05/18/2012 05:24 PM

To Phil King/NCTC/R9/FWS/DOI@FWS, Wayne
Waltz/R4/FWS/DOI@FWS
cc
Subject Re: Fw: Re: NC equipment ? 

Phil/Wayne,

Thomas
Barnes/AMBS/R9/FWS/DOI
05/21/2012 12:25 PM

To Phil King/NCTC/R9/FWS/DOI@FWS
cc
bcc
Subject Fw: NC equipment ?

Phil,

This is just a followup to my May 18 e-mail on equipment and useful life.

We've already discussed with the JTF the need to redefine *capital improvement* during the next rulemaking. Although we were primarily interested in raising the threshold from \$10,000 to \$25,000, this would be an opportunity to resolve the confusion with *capital assets*. It would also be an opportunity to clarify the relationship of 43 CFR 12.72 (b-e), 50 CFR 80.90 (f), and 2 CFR 225, App. B, Item 15. We also need to take a look at the definition of *useful life*.

I think it's likely that we will start another rulemaking on 50 CFR 80 during the next year to address new issues that were raised during the last rulemaking or that have come up since then.

Tom

----- Forwarded by Thomas Barnes/AMBS/R9/FWS/DOI on 05/21/2012 11:52 AM -----

Thomas
Barnes/AMBS/R9/FWS/DOI
05/18/2012 05:24 PM

To Phil King/NCTC/R9/FWS/DOI, Wayne Waltz/R4/FWS/DOI
cc
Subject Re: Fw: Re: NC equipment ?

Phil/Wayne,

The current regulation at 50 CFR 80.90(f) is a restatement of the now obsolete regulation at 50 CFR 80.18(c), which was effective from May 1982 through August 2011.

The regulations in 50 CFR 80 are program regulations, so they take precedence over anything in 43 CFR 12 that's in conflict with them (see 43 CFR 12.46).

According to 50 CFR 80.90(f), the grantee must control all assets (which includes equipment) to ensure that they serve the purpose for which they were acquired.

For example, suppose a State bought a \$10,000 mobile pump-engine unit with a 20-year useful life to manage indefinitely a moist-soil impoundment with a 50-year useful life. Under 50 CFR 80.90(f), the State is obliged to use that equipment for its 20-year useful life unless the State decides to discontinue operation of the moist-impoundment before the 20-year period ends.

If the State decides to discontinue the moist-soil management area before the end of the equipment's 20-year useful life, then according to 43 CFR 12.72(b) the State is free to use the equipment and dispose of it according to State laws and procedures.

However, if license revenue were included in the match for the grant that funded acquisition of the equipment, then the mobile pump-engine unit becomes license revenue under 50 CFR 80.20(b) and must be treated as such.

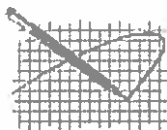
Here's another example. Suppose a State uses a grant to buy a small dozer with a fire-plow and discs. The sole purpose of the grant is to establish and maintain firebreaks on a tract leased for 5 years. Although the dozer with the attachments may have a life expectancy of 30 years, the purpose of the project is limited to 5 years because that's the term of the nonrenewable lease. Under 43 CFR 12.72(b), the State is then free to use the dozer with attachments and dispose of it according to State laws and procedures.

Once again, if license revenue were included in the match for the grant that funded acquisition of the equipment, then the dozer becomes license revenue under 50 CFR 80.20(b) and must be treated as such.

I discussed this with Ord Bargerstock in the Branch of Audits. He agrees with this interpretation.

Tom

Phil King/NCTC/R9/FWS/DOI



Phil
King/NCTC/R9/FWS/DOI
05/18/2012 10:35 AM

To Thomas_Barnes@fws.gov
cc

Subject Fw: Re: NC equipment ?

-----Forwarded by Phil King/NCTC/R9/FWS/DOI on 05/18/2012 10:33AM -----

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To: Wayne Waltz/R4/FWS/DOI@FWS
From: Phil King/NCTC/R9/FWS/DOI
Date: 05/18/2012 09:21 AM
cc: Tom_Barnes@fws.gov
Subject: Re: NC equipment ?
=====

Hey Wayne....TGIF! It's gonna be a beautiful weekend here in the WV mountains

The definition you refer to in 2 CFR 225 is accurate although when applied to 50 CFR 80.90f it causes a conflict with 43CFR 12.72. It is the belief here in the training program that it was an oversight to use the word asset in 50 CFR 80.90 f without defining it more clearly. We believe the intent was to reference real property interests and not personal property for maintaining control throughout useful life. According to 43 CFR 12.72 we could only stipulate that a grantee maintain control of personal property after the award is closed if license revenue was used as match to acquire or maintain it...using diversion as the justification....otherwise grantees follow state procedures. Of course we can always place a condition on the award to maintain control and use for WSFR purposes after the award closes.

Perhaps we should have Tom Barnes from policy weigh in on this since he was the main architect of the revisions to 50 CFR. It is dangerous for me to make assumptions about the intent behind 50 CFR 80.90 f. I'll copy Tom on this response so that he is aware of the need for clarification.

Enjoy another beautiful day in May!

Phil

-----Wayne Waltz/R4/FWS/DOI wrote: -----

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To: Phil King/NCTC/R9/FWS/DOI
From: Wayne Waltz/R4/FWS/DOI
Date: 05/18/2012 08:13 AM
Subject: NC equipment ?
=====

Phil hope all is well. Friday is here. We are still going back and forth with NC on this equipment issue. Now they have asked us what "assets" refers too in 50CFR80.90 (f). the best definition i have found so far is the definition of capital asset used in 2 CFR 225 15 a (1) which would include equipment, buildings and land as the proposed meaning and intent of this section. Does this fit in with your interpretation? thanks

Wayne Waltz
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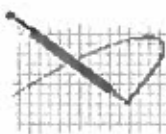
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Phil King/NCTC/R9/FWS/DOI



Phil
King/NCTC/R9/FWS/DOI
05/18/2012 10:35 AM

To Thomas_Barnes@fws.gov
cc
Subject Fw: Re: NC equipment ?



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
12030 Sunrise Valley Drive, Suite 230
Reston, VA 20191

November 3, 2008

Memorandum

To: Director
U.S. Fish and Wildlife Service

From: Christina M. Bruner *Christina M. Bruner*
Regional Manager, Eastern Region

Subject: Management Advisory – Clarification Needed on Disposal of Equipment Acquired with Grant Funds (B-EV-FWS-0013-2008)

Under the Federal Wildlife and Sport Fish Restoration Program (the Program), the U.S. Fish and Wildlife Service (FWS) provides grant funds to each eligible State to conserve and enhance sport fish and wildlife. States can use these funds for the purchase of equipment. We are concerned because of conflicts that exist between federal regulations and statements contained in the FWS Service Manual. The conflicting statements pertain to how States should handle proceeds from the disposal and/or sale of equipment worth more than \$5,000 at the time of disposition. As a result of these conflicting statements, the FWS Regions are providing conflicting guidance to the States.

Specifically, the FWS Service Manual (522 FW 1.16) states, “. . . If equipment with a current market value over \$5,000 is sold, the proceeds must be treated as program income. Costs related to the sale of the equipment may be deducted in the determination of program income.”

However, the Code of Federal Regulations (43 C.F.R. § 12.72(b)) states, “A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures.” If a State does not have its own laws and procedures, 43 C.F.R. § 12.72(c), (d), and (e) impose restrictions on the use and disposition of equipment purchased with grant funds. If the equipment item has a current market value of less than \$5,000 and is no longer needed for the original project or program or another federally-supported program, the State may retain, sell, or otherwise dispose of the item with no further obligation. If the equipment has a fair market value greater than \$5,000 and the State disposes of it, then the awarding agency has a right to the value of its share of the equipment.

The uniform administration requirements for grants to State governments 53 FR 8034, 8077 (March 11, 1988) echoes the C.F.R. It states, “A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.”