

DEPARTMENT OF THE INTERIOR
BIA CROSS-CUTTING SECTION

INTRODUCTION

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

CFDA #	Program Name
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ISDEAA Programs

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

Tribally Controlled Schools Act

15.042	Indian School Equalization Program
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I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

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

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

III. COMPLIANCE REQUIREMENTS

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

B. Allowable Costs/Costs Principles

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

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

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

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

H. Period of Availability of Federal Funds

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

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

N. Special Tests and Provisions

Investment and Deposit of Advance Funds

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

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

Audit Objective - Determine whether Indian tribes, tribal organizations, or consortia are properly investing or depositing advanced ISDEAA or the Tribally Controlled Schools Act funds.

Suggested Audit Procedures

- a. Obtain and review tribal policies and procedures for the investment and deposit of ISDEAA or the Tribally Controlled Schools Act funds and verify that those procedures comply with the investment and deposit requirements.
- b. Review unused/unexpended BIA advance funds and verify that all unused/unexpended funds were properly invested or deposited throughout the audit period.

IV. OTHER INFORMATION

BIA programs in this Supplement that this section applies to are: Consolidated Tribal Government Program (15.021) and Tribal Self-Governance (CFDA 15.022) when Temporary Assistance for Needy Families (TANF) (CFDA 93.558) program, the Native Employment Works (NEW) (CFDA 93.594) program, or Child Care and Development Fund (CCDF) (CFDA 93.575/93.596) funds are received under a Pub. L. No. 102-477 Demonstration Project.

A Tribe engaged in a Pub. L. No. 102-477 demonstration project must report expenditures using the CFDA number of the **funding program** on the Schedule of Expenditures of Federal Awards (SEFA), i.e., TANF—CFDA 93.558, NEW—CFDA 93.594, CCDF—CFDA 93.575/93.596, Consolidated Tribal Government Program—CFDA 15.021, or Tribal Self-Governance—CFDA 15.022.

The recipient must comply with the requirements of the funding program. Accordingly, program funding to Tribes included in a Pub. L. No. 102-477 demonstration project is to be separately audited in accordance with the following parts of this Supplement:

- TANF in accordance with the TANF program supplement in Part 4.
- CCDF in accordance with the CCDF program supplement in Part 4.
- NEW program using Part 7, “Guidance for Auditing Programs Not Included in this Compliance Supplement.”
- Consolidated Tribal Governance program in accordance with this Cross-Cutting section and the program supplement in Part 4.
- Tribal Self-Governance in accordance with this Cross-Cutting section and the program supplement in Part 4.

DEPARTMENT OF THE INTERIOR

CFDA 15.021 CONSOLIDATED TRIBAL GOVERNMENT PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

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

III. COMPLIANCE REQUIREMENTS

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

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

A. Activities Allowed or Unallowed

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

B. Allowable Costs/Costs Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

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

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

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

CFDA 15.022 TRIBAL SELF-GOVERNANCE

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

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

Source of Governing Requirements

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

III. COMPLIANCE REQUIREMENTS

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

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

A. Activities Allowed or Unallowed

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

(c)). Indian tribes and tribal consortia are provided latitude in redesigning programs and activities. However, such redesign is limited to programs covered by the annual funding agreement (25 USC 458cc(b)(3)).

D. Davis-Bacon Act

The requirements of the Davis-Bacon Act are applicable to construction work financed with grants under this program (25 USC 450e).

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

N. Special Tests and Provisions

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

CFDA 15.030 INDIAN LAW ENFORCEMENT

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

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

Availability of Other Program Information

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

III. COMPLIANCE REQUIREMENTS

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

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

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the Federal government otherwise would have provided directly. The specific activities allowed will be indicated in the self-determination contract between the tribal

organization and the Secretary of the Interior (25 USC 450f). While the tribe or tribal organization may propose to redesign the program or activity, such redesign must be approved by the BIA (25 USC 450j(j)).

B. Allowable Costs/Costs Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting

1. Financial Reporting

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

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

CFDA 15.042 INDIAN SCHOOL EQUALIZATION PROGRAM

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

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

III. COMPLIANCE REQUIREMENTS

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

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

A. Activities Allowed or Unallowed

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

B. Allowable Costs/Cost Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting

1. Financial Reporting

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

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

Also see BIA Cross-Cutting Section.

1. Character Investigations by Indian Tribes and Tribal Organizations

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

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

Suggested Audit Procedures

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

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

DEPARTMENT OF THE INTERIOR

CFDA 15.426 COASTAL IMPACT ASSISTANCE PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Coastal Impact Assistance Program (CIAP) program is to mitigate the impacts of Outer Continental Shelf (OCS) oil and gas activities.

II. PROGRAM PROCEDURES

The U.S. Department of the Interior (DOI), Minerals Management Service (MMS), administers the CIAP program through individual noncompetitive grants awarded directly to States and those coastal political subdivisions (CPS) specifically identified in the Act. Grants are administered by a Program Manager and a CIAP Grants Team located at MMS Headquarters in Herndon, Virginia. Other program officials are located in Camarillo, California for those grants in California, Anchorage, Alaska for those grants in Alaska, and New Orleans, Louisiana for grants for the States of Alabama, Mississippi, Louisiana, and Texas.

Funds are distributed to OCS soil- and gas-producing states (which include Alabama, Mississippi, Louisiana, Texas, California, and Alaska), and CPSs (which include specific coastal counties, boroughs, and parishes) within those States in the amount of \$250 million for each of the fiscal years (FY) 2007 through 2010. FY 2007 and FY 2008 funds will be awarded during FY 2008.

The MMS determines CIAP funding allocations using the formulas mandated by Section 31 of the Outer Continental Shelf Lands Act (43 USC 1356a). Funds are allocated to each recipient using qualified OCS revenues received during a specified fiscal year. The Act requires a minimum annual allocation of 1 percent to each State, and provides that 35 percent of each State's share be allocated directly to its CPSs. A State or CPS may not receive less than its allocation unless MMS finds that the proposed uses of funds are inconsistent with the Act, or if a State or CPS chooses to relinquish some or all of its allotted funds.

Source of Governing Requirements

The program is authorized by Section 31 of the Outer Continental Shelf Lands Act (43 USC 1356a).

Availability of Other Program Information

Other program information is available on the CIAP web site at:
<http://www.mms.gov/offshore/CIAPmain.htm>.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. A State or CPS shall use CIAP funds only for one or more of the following activities:
 - a. Conservation, protection, or restoration of coastal areas, including wetlands;
 - b. Mitigation of damage to fish, wildlife, or natural resources;
 - c. Planning and the administrative costs of complying with CIAP (see III.G.3 for limitation on amounts that may be expended for this purpose);
 - d. Implementation of a federally approved marine, coastal, or comprehensive conservation management plan; and
 - e. Mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs (see III.G.3 for limitation on amounts that may be expended for this purpose).
2. The above activities are designed to benefit the coastal zone; however CIAP projects do not need to be undertaken solely within a State's coastal zone (43 USC 1356a(d)(1)).

G. Matching, Level of Effort, Earmarking

1. **Matching** – Not Applicable
2. **Level of Effort** – Not Applicable
3. **Earmarking**

Not more than 23 percent of the amounts received by a State or CPS shall be used for:

- a. Planning assistance and the administrative costs of complying with CIAP; and
- b. Mitigation of the impact of OCS activities through funding of onshore infrastructure projects and public service needs (43 USC 1356a(d)(3)).

I. Procurement and Suspension and Debarment

Buy American – All procurement contracts for equipment or products must comply with DOI Buy -American requirements in 43 CFR part 12, subpart E, *Buy American Requirements for Assistance Programs* (43 CFR part 12, subpart E).

L. Reporting**1. Financial Reporting**

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

2. Performance Reporting - Not Applicable**3. Special Reporting** - Not Applicable

DEPARTMENT OF THE INTERIOR

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

I. PROGRAM OBJECTIVES

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

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

II. PROGRAM PROCEDURES

The U.S. Fish and Wildlife Service (FWS) makes program and project grants to the fish and game agencies of the 50 States, District of Columbia, Commonwealths of Puerto Rico and the Northern Mariana Islands, and territories of Guam, U.S. Virgin Islands, and American Samoa (collectively referred as “State” or “States”) with funds apportioned to each State through a statutory formula. States may submit either a comprehensive plan or project proposal to FWS. When either is approved, the State generally can be paid up to 75 percent of the cost of the work performed.

Source of Governing Requirements

The Sport Fish Restoration Program is authorized by the Sport Fish Restoration (Dingell-Johnson) Act (16 USC 777 through 777l). The Wildlife Restoration program is authorized by the Wildlife Restoration (Pittman-Robertson) Act (16 USC 669 through 669i). Program regulations are at 50 CFR part 80. Program guidance is available in the FWS Manual chapters pertaining to Wildlife and Sport Fish Restoration grants—Chapters 520 FW, 521 FW, 522 FW and 523 FW.

Availability of Other Program Information

Other program information is available on the FWS Grant Information site on the Internet at <http://wsfrprograms.fws.gov/Subpages/GrantPrograms/GrantProgramsIndex.htm>. The FWS Manual is available on the Internet at <http://wsfrprograms.fws.gov/Subpages/ToolkitFiles/toolkit.pdf>.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. *Wildlife Restoration - Allowable Activities*

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

- a. The restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision for public use of and benefits from these resources (50 CFR section 80.5(a)(1)).
- b. Projects having as their purpose the education of hunters and archers in the skills, knowledge, and attitudes necessary to be a responsible hunter or archer (50 CFR section 80.5(a)(2)).

2. *Sport Fish Restoration - Allowable Activities*

Specific allowable projects are specified in the grant agreements. Allowable projects shall have as their purpose the restoration, conservation, management, and enhancement of sport fish, and the provision for public use of and benefits from these resources. Allowable projects include the following:

- a. Aquatic education projects to enhance the public's understanding of water resources and aquatic life forms.
- b. Outreach and communications projects to improve communication with anglers, boaters, and the general public on angling and boating opportunities.
- c. Pumpout stations and waste reception facilities projects to construct, renovate, operate, or maintain pumpout stations and waste reception facilities.
- d. Public boating access projects to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.
(16 USC 777g); 50 CFR section 80.5(b)(1))

3. *Unallowable Activities* - The following activities are unallowable except when necessary for the accomplishment of project purposes and approved by the FWS Regional Director:

- a. Law enforcement activities for enforcement of game and fish laws and regulations (50 CFR section 80.6(a)).
- b. Public relations activities for the purpose of promoting the activities of State fish and wildlife agency (50 CFR section 80.6(b)).

F. Equipment and Real Property Management

Real property acquired or constructed with Wildlife Restoration and Sport Fish Restoration Program funds shall continue to serve the purpose for which acquired or constructed. When property passes from management control of the State fish and wildlife agency, the control shall be fully restored to the State fish and wildlife agency or the real property shall be replaced using non-Federal funds that are not derived from license revenues. When property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities shall cease and adverse effects must be remedied (50 CFR section 80.14).

G. Matching, Level of Effort, Earmarking

1. Matching

- a. Federal participation is limited to 75 percent of eligible costs incurred in the completion of approved work or the Federal share specified in the grant, whichever is less, except that the non-Federal cost sharing for the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa may not exceed 25 percent and may be waived at the discretion of the Regional Director (50 CFR section 80.12).
- b. The State shall not draw down or request Federal funds for nonconstruction work in excess of the proportional Federal share of the project costs. For construction work, the State may exceed the Federal share limit if deemed appropriate by both the Regional Director and the State (16 USC 669f and 777f).

2 Level of Effort - Not Applicable

3. Earmarking

- a. *Indirect Costs Limitation* - The amount of overhead or indirect costs charged to the projects under these programs for State central services provided from outside the State fish and game agency in one year may not exceed three percent of the annual apportionment to the State (50 CFR section 80.15(e)).
- b. *Aquatic Education* - Not more than 15 percent of the annual apportionment to each of the 50 States under the provisions of the Sport Fish Restoration Act may be used for aquatic education projects. The Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa are not limited to the 15-percent cap imposed on the 50 States. Each of these entities may spend more for these purposes with the approval of the Regional Director (50 CFR section 80.15(f)).

- c. *Recreational Boating Access Facilities* - The State must allocate 15 percent of each annual apportionment under the Sport Fish Restoration Act for recreational boating access facilities unless approval is obtained from the Regional Director for a different amount. A broad range of access facilities and associated amenities can qualify for funding under the 15 percent provision, but the State must accommodate power boats with common horsepower ratings, and must make reasonable efforts to accommodate boats with larger horsepower ratings if they would not conflict with aquatic resources management (50 CFR section 80.24).

H. Period of Availability of Federal Funds

Multi-year Financing Exception - States may finance the acquisition of land and the construction of facilities using funding from more than 1 fiscal year as authorized by the Sport Fish Restoration Act (50 CFR section 80.25).

J. Program Income

Wildlife and Sport Fish Restoration Program funds cannot be used for the purpose of producing income. However, income-producing activities incidental to accomplishment of approved purposes are allowable 50 CFR section 80.14(c).

Grant agreements will normally contain specific language that income generated by the grantee outside of the grant period from Wildlife and Sport Fish Restoration Program-supported acquisitions or other activities will either be (1) treated as license revenue and used to support the administration of the State fish and wildlife agency, or, (2) if the State so requests, used as additional funding for purposes consistent with the grant program that generated the income.

L. Reporting

1. Financial Reporting

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

2. Performance Reporting - Not Applicable

3. Special Reporting

Form 3-154A and 3-154B, Paid Hunting and Fishing License Certification (OMB Approval No.1018-0007) - The Director of each State fish and wildlife agency must certify annually the number of paid hunting and fishing license holders in the State. Licenses are counted over a period of 12 consecutive months; the State's fiscal year, or other licensing period, may be used, provided it is consistent from year to year. The data is used for calculating the apportionment of the annual appropriation of funds to all State grantees. Therefore, exaggerating the number of license holders could result in award of additional Federal funds to which the State is not entitled. The State must eliminate multiple counting of single individuals in the certified figures. Sampling and other statistical techniques may be utilized by the certifying officer for this purpose.

For purposes of reporting, the State counts a person who possesses a paid license issued in the licensee's name, which includes or excludes the following, as applicable:

- a. Trapping licenses, commercial licenses, and other licenses that are not for the express purpose of permitting the holder to hunt or fish for sport or recreation cannot be included.
- b. Licenses that do not produce net revenue of at least \$1 returned to the State fish and wildlife agency after deducting costs directly associated with issuance of the license are cannot be included.
- c. The State may count persons possessing a single-year license (one that is legal for less than 2 years) only in the State-specified license certification period in which the license was purchased.
- d. Multiyear license (one that is legal for 2 years or more) may be counted in each of the years for which they are legal if:
 - (1) the net revenue from the license is in close approximation with the number of years in which the license is legal, and
 - (2) the State fish and wildlife agency uses statistical sampling or other techniques approved by the Director to determine whether the licensee remains a license holder.
- e. Combination fishing and hunting licenses (a single license which permits the holder both to hunt and fish) may be included in the determination of both the number of paid hunting license holders and the number of persons holding paid licenses to fish for sport or recreation (50 CFR section 80.10).

N. Special Tests and Provisions

Assent Legislation and Diversion of License Fees

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

License fees paid by hunters and fishermen, include any special license, permits, stamps, tags, or access fees. Also included are revenues from the sale, lease, or rental of, or a fee for access to, an asset or recreational opportunity, product, or commodity derived from an asset purchased with state license fee revenue, as well as the interest or dividends earned on the license revenues (50 CFR section 80.4(a)).

Administration of the State fish and wildlife agency includes only those functions required to manage the fish and wildlife-oriented resources of the State (50 CFR section 80.4(b)).

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

Suggested Audit Procedures

1. Ascertain if there are legislative prohibitions in place to prevent diversion of license revenues.
2. Perform tests to ascertain if hunting and sport fishing license revenue was properly accounted for and restricted for use for the administration of the State fish and wildlife agency.
3. Test expenditures from the license fees paid by hunters and sport fisherman to ascertain if they were used for the administration of the State fish and wildlife agency.
4. Perform procedures to ascertain if there were any transfers from the State fish and wildlife agency that divert license fees paid by hunters and sport fisherman from the administration of the State fish and wildlife agency.

DEPARTMENT OF THE INTERIOR

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

I. PROGRAM OBJECTIVES

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

II. PROGRAM PROCEDURES

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

Source of Governing Requirements

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

Availability of Other Program Information

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

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. *Activities Allowed*

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

2. *Activities Unallowed*

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

F. Equipment and Real Property Management

States must submit documentation (e.g., appraisals and appraisal reviews) to the Fish and Wildlife Service (FWS) Regional Director who must approve it before the State becomes legally obligated for the purchase. States must provide title vesting evidence and summary of land costs upon completion of the acquisition to the FWS Regional Director. Any deed to third parties (e.g., conservation easement or other lien on a third-party property) must include appropriate language to ensure that the lands and/or interests would revert back to the State or Federal Government if the conditions of the grant are no longer being implemented (50 CFR section 84.48(a)(1)).

G. Matching, Level of Effort, Earmarking

1. Matching

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

Compensation, and Liability Act (CERCLA) or the Oil Pollution Act (OPA);

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

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

J. Program Income

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

L. Reporting

1. Financial Reporting

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

2. Performance Reporting - Not Applicable

3. Special Reporting – Not Applicable

N. Special Tests and Provisions

1. Trust Fund

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

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

Suggested Audit Procedures

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

2. Operation and Maintenance of Facilities

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

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

Suggested Audit Procedures

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

DEPARTMENT OF THE INTERIOR

CFDA 15.623 NORTH AMERICAN WETLANDS CONSERVATION FUND

I. PROGRAM OBJECTIVES

The objective of North American Wetlands Conservation Fund program is to encourage public-private partnerships to protect, enhance, restore, and manage wetland ecosystems and habitats to benefit wetland-associated migratory bird populations.

II. PROGRAM PROCEDURES

The U.S. Fish and Wildlife Service (FWS), within the Department of the Interior, makes grants on a competitive basis to organizations or individuals to acquire, restore, enhance, or create wetland and associated upland habitat. Applicants must submit a comprehensive proposal outlining activities to be completed with project funds and describing the participation of all partner organizations involved in the project. A partner in a project is a group, agency, organization, or individual that participates in the project as a recipient, subrecipient, or match provider. Funds provided directly to a Federal entity by FWS are governed by a separate agreement between FWS and the recipient Federal entity.

Source of Governing Requirements

The North American Wetlands Conservation Program is authorized by the North American Wetlands Conservation Act (NAWCA), 16 USC 4401.

Availability of Other Program Information

Other program information is available on the FWS Grant Information site on the Internet at <http://www.fws.gov/grants/>.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

1. *Activities Allowed*

Allowable activities include acquisition, management, restoration (rehabilitating a degraded or non-functioning wetland ecosystem), enhancement (modifying a functioning wetland ecosystem to provide additional long-term wetlands conservation benefits), and establishment or reestablishment of wetland habitat and wetland-associated upland habitat (16 USC 4401(b)).

2. *Activities Unallowed*

Federally required mitigation activity for compliance with the Fish and Wildlife Coordination Act of 1934 or the Water Resources Development Act of 1986 are unallowable, including, but not limited to, the following:

- a. Actions that will put credits into wetlands mitigation banks; and
- b. Mitigation activity required by Federal, State, or local wetland regulations (16 USC 4411(b)).

F. Equipment and Real Property Management

Any real property acquired under a grant that is not included in the National Wildlife System and is conveyed to another public agency or other entity is subject to terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon. All interests in real property shall contain provisions that revert interest to the Federal government if the entity fails to manage the property in accordance with the objectives of NAWCA (16 USC 4405(a)(3)).

G. Matching, Level of Effort, Earmarking

1. Matching

The required matching share varies on a grant-by-grant basis and is set forth in the grant award, but must be at least 50 percent of project costs, except that project activities located on Federal lands and waters can be funded with 100 percent Federal funding (16 USC 4407(b)).

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

L. Reporting

1. Financial Reporting

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

- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PSC-272 series of reports. - Applicable when advance payments are used.
2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

DEPARTMENT OF THE INTERIOR

CFDA 15.635 NEOTROPICAL MIGRATORY BIRD CONSERVATION

I. PROGRAM OBJECTIVES

The objectives of the Neotropical Migratory Bird Conservation Program are to provide financial resources and foster international cooperation to: (1) perpetuate healthy populations of neotropical migratory birds and (2) assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Canada, Latin America, and the Caribbean.

II. PROGRAM PROCEDURES

The U.S. Fish and Wildlife Service (FWS), a component of the Department of the Interior, makes grants on a competitive basis to organizations or individuals to protect and manage neotropical migratory bird populations; maintain, manage, protect, and restore neotropical migratory bird habitat; conduct research and monitoring; support law enforcement; and provide for community outreach and education contributing to neotropical migratory bird conservation. Applicants must submit a proposal outlining activities to be completed with grant and required matching funds. A partner in a project is a group, agency, organization, or individual which participates in the project as a recipient, subrecipient, or match provider. Funds provided to a Federal entity are governed through a separate agreement between FWS and the recipient Federal entity.

Source of Governing Requirements

The Neotropical Migratory Bird Conservation Program is authorized by the Neotropical Migratory Bird Conservation Act, 16 USC 6101 *et seq.*

Availability of Other Program Information

Other program information is available on the FWS Grant Information site on the Internet at <http://www.fws.gov/grants/>.

III. COMPLIANCE REQUIREMENTS

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

A. Activities Allowed or Unallowed

Allowable activities include protection and management of neotropical migratory bird populations; maintenance, management, protection, and restoration of neotropical migratory bird habitat; research and monitoring; law enforcement; and community outreach and education (16 USC 6103(3)).

G. Matching, Level of Effort, Earmarking**1. Matching**

A recipient carrying out grant activities in the U.S. or Canada is required to provide a non-Federal matching share in cash. A recipient carrying out grant activities in geographic areas outside of the U.S. or Canada, including Puerto Rico and the U.S. Virgin Islands, is required to provide a non-Federal matching share, which may be in the form of cash or in-kind contributions. The required matching share varies on a grant-by-grant basis and is set forth in the award document, but is at least 75 percent of the project costs (16 USC 6103(2) and 6104(e)).

2 Level of Effort - Not Applicable**3. Earmarking - Not Applicable****L. Reporting****1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable when advance payments are used. Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PSC-272 series of reports.

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable**