



# Washington State Auditor's Office

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## Whistleblower Investigation Report Department of Fish and Wildlife

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August 27, 2015

Jim Unsworth, Director  
Department of Fish and Wildlife

### Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. WB 15-014 at the Department of Fish and Wildlife.

The State Auditor's Office received an assertion of improper governmental activity at the Agency. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

Questions about this report should be directed to Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

A handwritten signature in blue ink that reads "Jan M. Jutte".

JAN M. JUTTE, CPA, CGFM  
ACTING STATE AUDITOR  
OLYMPIA, WA

cc: Mr. Lee Rolle, Chief Financial Officer  
Governor Jay Inslee  
Kate Reynolds, Executive Director, Executive Ethics Board  
Justin Brackett, Investigator

# WHISTLEBLOWER INVESTIGATION REPORT

## Assertion(s) and results

Our Office received a whistleblower complaint asserting a manager (subject) at the Department of Fish and Wildlife (Department) grossly mismanaged state and federal funds when he directed reimbursements be paid to nonprofit organizations which were contrary to law.

We found no reasonable cause to believe an improper governmental action occurred.

## Background

The Regional Fisheries Enhancement Group Program was created by the Washington Legislature in 1990. The Program authorized a statewide network of privately operated nonprofit Regional Fisheries Enhancement Groups (nonprofits) to receive funding from the Department for the purpose of enhancing salmon habitat in Washington.

The Department receives funding for the nonprofits through appropriations from the Legislature and a grant agreement with the United States Fish and Wildlife Service. The Department is responsible for monitoring these funds and passing them on to the nonprofits. The Department retains a portion of the funds to cover administrative expenses.

For fiscal year 2014, the Department entered into contracts with 15 nonprofits. The contracts stipulated that the Department would reimburse nonprofits for eligible expenses incurred within the contract period and would provide financial oversight. Furthermore, the contracts prohibited advanced payments and required the nonprofits to keep adequate documentation for each expense and make it available to the Department upon request.

## About the Investigation

We gained an understanding of the Department's reimbursement process, reviewed contracts and invoices and conducted interviews.

From August 2013 through December 2014 the Department reimbursed the nonprofits for over \$2.3 million in expenses. We examined 16 months of reimbursement activities and identified concerns with two of the nonprofits (nonprofits A & B).

## Nonprofit A

We found nonprofit A received a \$6,300 reimbursement for grant writing services that was performed outside of the contract's two-year period of performance. After a staff person initially rejected the invoice for payment, the Department received another invoice for what appeared to

be the same service, but with dates within the two-year period. This invoice was also rejected by the staff person who stated he suspected the dates were altered by the nonprofit in order to receive reimbursement.

The subject spoke with nonprofit A's executive director who assured him the dates were not altered. After consulting with his supervisor and the Department's fiscal staff, he authorized the reimbursement.

Staff from the Department's fiscal unit explained that although the dates of service fell outside the contract's two-year period of performance, the federal grant from which the reimbursement was paid had a four-year period of performance, which included the period of time in which nonprofit A received the service. The fiscal staff asserted the Department had no authority to withhold the reimbursement because the money was available and the expense was allowable.

Additionally we found nonprofit A:

- Received advance payments from the Department totaling \$514 for Internet and cell phone services.
- Overbilled and was paid by the Department \$31 on one occasion for Internet services.

We spoke with the subject who said, "It is the responsibility of the Program Coordinator to process invoices, and I do not routinely review them".

## **Nonprofit B**

We found the Department continued to reimburse nonprofit B after an independent audit conducted in November 2013, found the nonprofit was out of compliance with the contract.

Among the problems identified in the audit were: lack of adequate oversight of fiscal activities; failure to retain adequate documentation for salaries; wages and benefits; and personal use of the nonprofit's resources by the executive director.

During an interview, the subject said that after the audit the Department tried to determine how to proceed with the nonprofit. In December 2013, the nonprofit proposed a list of self-imposed corrective actions to the Department which would bring them into compliance. The Department accepted the proposal and agreed to continue processing reimbursements. During this period the Department delayed payments on six reimbursement requests because it believed nonprofit B's payroll documentation was not adequate. According to multiple witnesses, this strained the relationship between the Department and the nonprofit resulting in a communications breakdown.

In February 2014 the subject and a staff person concluded the nonprofit's corrections were not sufficient and the staff person drafted an amendment to the contract with nine new conditions

addressing the audit findings. The amendment was mailed to the nonprofit along with a letter informing it that failure to sign the amendment may result in suspension or termination of the contract. When the nonprofit protested, the subject's supervisor interceded and directed the subject to continue to work with the nonprofit, suspending the conditions outlined in the amendment. After receiving the supervisor's instruction, the subject instructed the staff person to continue processing reimbursements for nonprofit B.

During an interview, the supervisor acknowledged that nonprofit B needed a better understanding of the Department's expectations, but said the Department's primary goal was to help nonprofit B succeed. Because of the communication breakdown, she began communicating directly with the nonprofit instead of the subject or the staff person.

She said nonprofit B explained its progress in addressing the auditor's concerns and its frustrations with the Department for not recognizing its progress. Nonprofit B advised the supervisor that the conditions in the amendment made it appear as if the Department was "out to get them" and that they were "the bad guy". The supervisor said she believed the conditions in the amendment were premature and more evidence was needed before suspending or terminating the contract.

We also found nonprofit B:

- Double billed and was paid \$303 by the Department on one occasion for cell phone services.
- Received advance payments from the Department totaling \$561 for three cell phone service periods.
- Invoiced and was paid \$1,309 for a storage unit six months in advance, rather than on a reimbursement basis.

We spoke with the subject who said, "It is the responsibility of the Program Coordinator to process invoices, and I do not routinely review them".

## **Recommendation**

We recommend the Department:

- More clearly define the period of performance in its contracts with nonprofits and how it relates to federal funding.
- More clearly define in its contracts with nonprofits the Department's role in providing financial oversight.
- Improve monitoring of invoices to ensure only allowable costs are reimbursed.

## WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

2 CFR Part 230 - Cost Principles for Non-Profit Organizations (OMB Circular A-122).

RCW 42.40.020 Definitions.

(4) "Gross mismanagement" means the exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.