

Specialty License Plate Audit Fish and Wildlife Foundation of Florida, Inc. Wildlife Foundation of Florida Audit Report 201920-30

October 6, 2020

Executive Summary

The purpose of this audit was to determine compliance with applicable laws and policies related to the annual reporting by the Fish and Wildlife Foundation of Florida, Inc., (Foundation) for the Wildlife Foundation of Florida specialty license plate. The Foundation is required to submit a Specialty License Plate Revenue, Expenditure, and Compliance Affidavit, or state single audit, to the Department of Highway Safety and Motor Vehicles (Department) within nine months after the end of the Foundation's fiscal year. The state single audit submitted by the Foundation for the 2019 Fiscal Year ended June 30, 2019, was used for this audit.

For every Wildlife Foundation of Florida specialty license plate sold or renewed, a \$25 annual use fee is charged and distributed, as required by statute, to the Foundation.

During our audit, we determined the Foundation generally complied with applicable laws and policies related to the annual state single audit for the Wildlife Foundation of Florida specialty license plate. However, we noted compliance should be improved by ensuring seventy-five percent of the annual funds are used for program expenditures before incurring and allocating specialty license plate funds to administrative and marketing expenses, as required by Section 320.08058(47), Florida Statutes (F.S.).

Background and Introduction

Specialty license plates are license plates available to the general public with unique designs that promote philanthropic and other causes and require payment of an additional annual use fee. Section 320.08056, F.S., authorizes the issuance of all specialty license plates and specifies the annual use fee for the more than 120 specialty license plates Florida offers.

Section 320.08062, F.S., grants the Department the authority to examine all records relating to the use of specialty license plate funds. The Office of Inspector General included the examination of specialty license plate recipient organizations in its annual work plan.



For every Wildlife Foundation of Florida specialty license plate sold or renewed, a \$25 annual use fee is charged and distributed, as required by statute, to the Foundation. Section 320.08058(47), F.S., specifies annual revenues must be used in the following manner:

- Seventy-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public;
- Twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the foundation; and
- When the provisions of seventy-five percent are met, the twenty-five percent may be used for promotion, marketing, and administrative costs.

The Wildlife Foundation of Florida specialty license plate was established in 1999. There were 13,552 active Wildlife Foundation of Florida specialty license plates as of June 2019. The Foundation reported receipts of \$353,381.12 in specialty license plate fees for the 2019 Fiscal Year.

Results of Audit

During our audit, we determined the Foundation generally complied with applicable laws and policies related to the annual reporting for the Wildlife Foundation of Florida specialty license plate. However, we identified the following issue which requires management attention.

Annual Statutory Allocations for Program, Marketing, and Administrative

Finding 1: The Foundation allocated and incurred administrative and marketing expenditures despite not meeting the statutory requirement of spending seventy-five percent of specialty license plate funds on program expenditures.

Section 320.08058(47), F.S., states seventy-five percent of annual revenue funds must be used for programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public. Once seventy-five percent of annual revenue funds have been used for programs, twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the foundation.



The Foundation's total specialty license plate annual revenue for the 2019 Fiscal Year was \$353,381.12. The Foundation reported total administrative and marketing expenditures of \$89,366.46 and total program expenditures of \$172,218.93.

However, the Foundation needed to spend an additional \$92,816.91 on program expenditures to meet the \$265,035.84 statutory threshold in order to allocate and incur administrative and marketing expenditures.

Therefore, the statutory allocation for administrative and marketing expenditures was exceeded by \$89,366.46.

Recommendation

We recommend the Foundation monitor and ensure program expenditures meet or exceed the required statutory seventy-five percent of annual funds before using and allocating annual specialty license plate funds for promotion, marketing, or administrative expenditures.

Management Response

The Foundation agreed that although they typically encumber seventy-five percent of tag funds on program expenditures in the form of grants each year, program expenditures had not reached that threshold, due to the nature of the cost-reimbursement basis with the grant recipients. In light of the finding, the Foundation has modified its accounting procedures to include a yearly review to determine whether the total programmatic expenditures equal at least seventy-five percent of specialty license plate revenue prior to reimbursing costs for marketing, promotion, and administration expenses.

The Foundation indicated a difference of interpretation of Section 320.08058(47), F.S., specifically subsection (c). The Foundation believes the restriction for using funds toward administrative, marketing, and promotion expenses only after seventy-five percent of funds have been used for program expenses contained in subsection (c) is the result of a legislative oversight when the statute was amended in 2014. However, considering the finding, the Foundation is developing a process to monitor and comply with the statutory requirements in order to allow funds to be used for administrative and marketing expenditures until a legislative change to the statute can be obtained.



Purpose, Scope, and Methodology

The purpose of this audit was to determine the Foundation's compliance with applicable laws and policies related to the annual reporting by the Foundation for the Wildlife Foundation of Florida specialty license plate.

The scope of this audit included specialty license plate revenues and expenditures reported on the Foundation's state single audit for the 2019 Fiscal Year, and specialty license plate revenue and expenditures reported in the Foundation's financial records for the 2019 Fiscal Year.

The methodology for the audit of the Wildlife Foundation of Florida specialty license plate included:

- Reviewing Florida Statutes, Department policies, and Foundation policies;
- Reconciling the Department's distribution of specialty license plate fees to revenues reported in the Foundation's financial records;
- Reconciling the expenditures reported on the state single audit to the Foundation financial records;
- Reviewing the use of funds by the Foundation to ensure there is adequate supporting documentation, and the expenditures are for purposes authorized by statute;
- Reviewing timing, availability, and content of reports such as affidavits, state single audits, or subrecipient monitoring; and
- Comparing expenditures to statutory requirements for annual allocation limits and reviewing reasonableness of balances.



Distribution, Statement of Accordance, and Project Team

Distribution

Terry L. Rhodes, Executive Director

Jennifer Langston, Chief of Staff

Robert Kynoch, Director of Motorist Services

Stephanie Duhart, Chief Administrative Officer, Division of Motorist Services

Andrew Walker, Chief Executive Officer, Fish and Wildlife Foundation of Florida Inc.

Will Bradford, Chief Financial Officer, Fish and Wildlife Foundation of Florida Inc.

Richard Corbett, Board Chair, Fish and Wildlife Foundation of Florida Inc.

Melinda M. Miguel, Chief Inspector General

Sherrill F. Norman, Auditor General

Statement of Accordance

Section 20.055, Florida Statutes, requires the Florida Department of Highway Safety and Motor Vehicles' Inspector General to review, evaluate, and report on policies, plans, procedures, accounting, financial, and other operations of the Department and to recommend improvements. This audit engagement was conducted in accordance with applicable *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors and *Principles and Standards for Offices of Inspector General* published by the Association of Inspectors General. Pursuant to Chapter 119, Florida Statutes, public records held by the Department's Inspector General are available upon request for inspection or copying.

Project Team

Engagement conducted by:

Jill Sittig, Auditor

Under the supervision of:

Erin Mook, Audit Director


Approved by:

A handwritten signature in blue ink that reads "Mike Stacy".

Mike Stacy, Acting Inspector General

ATTACHMENT – Management Response

FISH & WILDLIFE FOUNDATION OF FLORIDA



October 1, 2020

Ms. Erin Mook, Audit Director
Florida Department of Highway Safety and Motor Vehicles
2900 Apalachee Parkway
Tallahassee, FL 32301

Dear Ms. Mook:

We have reviewed your Preliminary and Tentative Finding of the Specialty License Plate Audit for the "Wildlife Foundation of Florida." It's been a pleasure working with you and Jill Sittig during this first-ever audit of this plate. These audits strengthen our confidence in administering these specialty plates appropriately and benefits the entire specialty plate sector, which does so much good across Florida.


As we have discussed, there is an apparent error in the original enabling legislation, the full impact of which was not apparent to us until this audit. Until the legislation can be corrected, we appreciate that your agency – and our organization -- is bound by your obligation to interpret the statute as set into law, not as was perhaps intended by the legislature. Later in this letter we have outlined what we believe to be the origin of the problem, and we will endeavor to have it corrected in the next legislative session.

This audit has also made us aware that we have interpreted the verb, "used," in the following key phrase from the legislation, "seventy-five percent must be used to fund programs and projects..." differently from your agency. Because many of our grants are awarded to small nonprofit organizations run by volunteers, whose ambitions sometimes outstrip their abilities to perform, rather than write checks to these organizations at the announcement of their grant, we require them to submit receipts and progress reports for reimbursement, prior to issuing funds to them.

It's been our practice to assume that encumbering these funds through these legally enforceable grant agreements equated to "used," but we now understand that your agency interprets "used" to mean "spent." I suppose we both want to see the receipts in the name of fiscal prudence!

Thus although we've typically encumbered 75 percent of the tag funds on program expenditures (grants), each year, you are correct that in the 12 months under review, we had not *spent* 75 percent, waiting as we were on a sufficient number of our grantees to complete their work and submit their receipts. In light of your Finding, we will modify our current approach, as outlined in greater detail below in this letter.

Coming back to the 2014 legislation, which was introduced and passed at the 11th hour at the request of the Florida Fish & Wildlife Conservation Commission, we believe the "trigger" for administrative, marketing, and promotional (AMP) use of tag funds contained in Section 320.08058(47)(c), is the result of

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a legislative oversight. In the literal application of subsection (47)(c), the Foundation is required to use 25% of program funds on AMP as soon as the Foundation uses 75% of tag dollars to fund programs. This literal application presents difficulty, both because the Foundation would be *required* to spend 25% of tag dollars on its AMP, whether or not we had effective marketing programs to support each year, and because AMP are generally needed well before 75% of tag funds are actually expended on program costs, in order to promote purchase of the tag and report on its use to the public, etc.

As we've discussed and outlined below, the problematic clause originated in the statute that first granted the license plate to the Sportsmen's National Land Trust (SNLT; aka Florida Sportsmen's Land Trust) to the Wildlife Foundation of Florida in 2014, the Legislature appears to have unintentionally retained **paragraph (c)** of Fla. Stat. § 320.08058(47). A side-by-side comparison of the **2013** and **current** versions of the Statute show:

2013	CURRENT
<p>(47) SPORTSMEN'S NATIONAL LAND TRUST LICENSE PLATES.—</p> <p>(a) The department shall develop a Sportsmen's National Land Trust license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Sportsmen's National Land Trust" must appear at the bottom of the plate.</p> <p>(b) The annual revenues from the sales of the license plate shall be distributed to the Sportsmen's National Land Trust. Such annual revenues must be used by the trust in the following manner:</p> <ol style="list-style-type: none"> 1. Fifty percent may be retained until all startup costs for developing and establishing the plate have been recovered. 2. Twenty-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public. 3. Twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the trust. <p>(c) When the provisions of subparagraph (b)1. are met, those annual revenues shall be used for the purposes of subparagraph (b)2.</p>	<p>(47) WILDLIFE FOUNDATION OF FLORIDA LICENSE PLATES.—</p> <p>(a) The department shall develop a Wildlife Foundation of Florida license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Wildlife Foundation of Florida" must appear at the bottom of the plate.</p> <p>(b) The annual revenues from the sales of the license plate shall be distributed to the Wildlife Foundation of Florida, Inc., a citizen support organization created pursuant to s. 379.223. Such annual revenues must be used in the following manner:</p> <ol style="list-style-type: none"> 1. Seventy-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public. 2. Twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the foundation. <p>(c) When the provisions of subparagraph (b)1. are met, those annual revenues shall be used for the purposes of subparagraph (b)2.</p>

As highlighted above, the inclusion of paragraph (c) in the original tag statute was meaningful, in that once the SNLT recovered its startup costs (subparagraph (b)(1)), then, according to paragraph (c), the remaining revenues must be used for program funding per subparagraph (b)(2).



In 2014, when the Legislature transitioned the tag to the Wildlife Foundation of Florida (now the Fish & Wildlife Foundation of Florida), there was no need to retain the startup cost recovery feature of the statute, and the Legislature deleted the obsolete subparagraph (b)(1), and subparagraphs (b)(2) and (b)(3) became subparagraphs (b)(1) and (b)(2), respectively. At that point, paragraph (c) had no further relevance or purpose. However, the Legislature appears to have unintentionally retained paragraph (c). The result today is that Section 320.08058(47) includes paragraph (c), seemingly compelling the Foundation to use any funds beyond the 75% of plate revenue for promotion, marketing, and administrative costs. This Legislative oversight can be seen from an excerpt in 2014 HB 7005, Sec 21, which shows the Legislature's amendments to Section 320.08058 in 2014. The Bill omits paragraph (c) from the text. Had it been included, the Bill would have likely shown a strike-through of that obsolete paragraph (c) as no longer relevant, just as the Legislature struck the prior subparagraph (b)(1):

Section 21. Paragraphs (a) and (b) of subsection (47) and paragraph (a) of subsection (76) of [Fla. Stat. § 320.08058](#), are amended to read:

320.08058 Specialty license plates.—

(47) WILDLIFE FOUNDATION OF FLORIDA SPORTSMEN'S NATIONAL LAND TRUST LICENSE PLATES.—

(a) The department shall develop a Wildlife Foundation of Florida Sportsmen's National Land Trust license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Wildlife Foundation of Florida Sportsmen's National Land Trust" must appear at the bottom of the plate.

(b) The annual revenues from the sales of the license plate shall be distributed to the Wildlife Foundation of Florida, Inc., a citizen support organization created pursuant to s. 379.223 Sportsmen's National Land Trust. Such annual revenues must be used by the trust in the following manner:

~~1. Fifty percent may be retained until all startup costs for developing and establishing the plate have been recovered.~~

~~1.~~ **2.** Seventy-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.

~~2.~~ **3.** Twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the foundation trust.

No other specialty plate program under Section 320.08058 includes a feature like subsection (47)(c), as it exists today. That unique paragraph (c) was most clearly created for the startup costs of the tag program, as incurred by the SNLT. In each instance where a specialty plate program is allowed to recover startup costs under Section 320.08058, the applicable subsection of the statute features some direction to transition to program use after the startup costs have been reimbursed. For example, the "Protect Florida Springs" specialty plate (another Foundation program) in subsection (61) directs that the Foundation initially retain the first \$60,000 of revenue to reimburse the startup costs, and "Thereafter" directs certain use of the specialty plate funds. **Subsection (47)(c)** of Section 320.08058 is due to be stricken as obsolete, irrelevant and immaterial to the ongoing governance of the Wildlife Foundation of Florida specialty license plate program.

All that said, until we are able to obtain legislative correction of this obsolete subparagraph in the Statute, we are taking action to comply fully with your Finding. Beginning July 1, 2020, we have changed our accounting procedures as outlined below:

- a. When tag revenues are received during the year, they will be recorded to the revenue account and marked with the "WFF Tag – Unallocated" class as per current procedure.



- b. However, we will not move any monies to the "WFF – Administration" class throughout the year. The money will stay in "WFF Tag – Unallocated".
- c. We will deficit-spend from the "WFF – Administration" class using general funds over the course of the year because there are ongoing marketing, promotion, and administrative costs associated with specialty tag programs which occur throughout the year.
- d. "WFF Tag – Unallocated" and funds allocated to "WFF Tag – Issued Grants" monies will be used on programmatic expenses throughout the year as per current procedure.
- e. On June 30 of each year, we will analyze whether the total programmatic expenditures equal at least 75% of the revenue.
- f. If this threshold has been met, we will then move up to 25% of the remaining revenue in "WFF Tag – Unallocated" to "WFF – Administration" in order to reimburse our costs for marketing, promotion, and administration.
- g. As part of the year-end adjusting entry in Step 6, we will also move the corresponding amount of cash from the tag account to the general funds account.
- h. If our analysis indicates we did not spend at least 75% on programmatic expenditures, there will be no reimbursement as outlined in Steps f and g.

We would like to thank you and your staff again for your professionalism and advice and help provided throughout this audit engagement. We ask that you please include this letter as part of your final audit report in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Will Bradford".

Will Bradford
COO