



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Washington D.C. 20250



DATE: September 24, 1998

REPLY TO

ATTN OF: 08801-2-Te

SUBJECT: Assistance Agreements With Nonprofit Organizations

TO: Mike Dombeck
Chief
Forest Service

ATTN: Clyde Thompson
Acting Deputy Chief
for Operations

This report presents the results of our evaluation of Forest Service (FS) assistance agreements with nonprofit organizations. FS' written response to the draft report is included as exhibit P, and FS' comments and the Office of Inspector General (OIG) position concerning the written response are set forth in the evaluation findings.

We agree with FS' management decisions for Recommendations Nos. 2a, 2e, 3a, 3b, 5f, and 6. Additional information is needed to reach agreement on the management decisions for Recommendations Nos. 1, 2b, 2c, 2d, 2f, 2g, 3c, 3d, 4a, 4b, 4c, 4d, 4e, 5a, 5b, 5c, 5d, and 5e. The information needed to reach agreement is set forth in the Recommendations sections of the report.

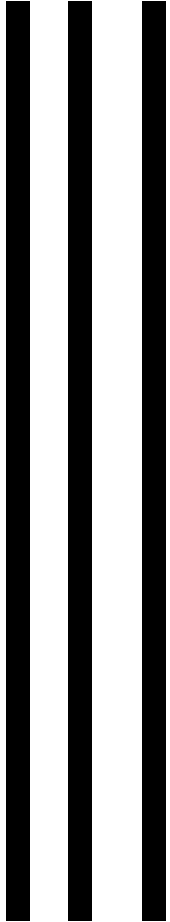
Please furnish the information needed to reach agreement on the management decisions for Recommendations Nos. 1, 2b, 2c, 2d, 2f, 2g, 3c, 3d, 4a, 4b, 4c, 4d, 4e, 5a, 5b, 5c, 5d, and 5e by November 30, 1998. Please note that Departmental Regulation 1720-1 requires a management decision for all recommendations within a maximum of 6 months from the date of report issuance. Follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the cooperation and courtesies provided during the evaluation.

JAMES R. EBBITT
Assistant Inspector General
for Audit



U.S. Department of Agriculture
Office of Inspector General
Audit Report



Forest Service Assistance
Agreements with Nonprofit
Organizations

September 1998



Evaluation No.
08801-2-Te

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ABBREVIATIONS

AC	- Advertising Council
CFDA	- Catalog of Federal Domestic Assistance
CFR	- Code of Federal Regulations
CPA	- Certified Public Accountant
EEDC	- Economic and Employment Development Center
EPA	- Environmental Protection Agency
FCNY	- Fund for the City of New York
FS	- Forest Service
FSA	- Farm Services Agency
FSH	- Forest Service Handbook
FSM	- Forest Service Manual
FY	- Fiscal Year
LAH	- Los Angeles Harvest
NPO	- Nonprofit Organization
OGC	- Office of the General Counsel
OIG	- Office of Inspector General
OMB	- Office of Management and Budget
PIC	- Pinchot Institute for Conservation
PPF	- Parks and People Foundation
SF-424	- Standard Form 424, Application for Federal Assistance
SF-269	- Standard Form 269, Financial Status Report
SF-270	- Standard Form 270, Request for Advance or Reimbursement
SIP	- Stewardship Incentive Program
S&PF	- State and Private Forestry
TP	- TreePeople
TRF	- Texas Reforestation Foundation
URP	- Urban Resources Partnership
U.S.	- United States
USC	- United States Code
USDA	- U.S. Department of Agriculture

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GLOSSARY OF TERMS

Allowable Costs - Allowable costs must meet the following criteria: Be reasonable and allocable for the performance of the award, conform to limitations or exclusions set forth in the award or in Office of Management and Budget Circular A-122, be consistent with policies and procedures that apply uniformly to both Federally financed and other activities of the organization, be accorded consistent treatment, be determined in accordance with generally accepted accounting principles, be adequately documented, and not be included as a cost used to meet cost-sharing or matching requirements of any other Federally financed program in either the current or a prior period.

Award - Financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money by the Federal Government to an eligible recipient.

Cooperative Agreement - A legal document reflecting a relationship between the U.S. Government and a recipient when the principal purpose is to transfer a thing of value to a recipient to carry out a public purpose authorized by law instead of acquiring (by purchase, lease, or barter) property or service for the direct benefit or use of the U.S. Government. Further, substantial involvement is expected between the executive agency and the recipient when carrying out the activity.

Cost-Sharing/Matching - These terms refer to the portion of project or program costs not borne by the Federal Government.

Grant - A grant is the same as a cooperative agreement, except substantial involvement is not expected between the executive agency and the recipient when carrying out the activity.

Prior Approval - The written approval by an authorized official evidencing prior consent.

Subrecipient - The legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided.

EXECUTIVE SUMMARY

Results in Brief

Grants to nonprofit organizations not effectively managed

The Forest Service did not effectively manage grant agreements totaling about \$11.9 million (\$7.8 million in Federal grant funds plus about \$4.1 million in required matching funds) to the eight nonprofit organizations (NPO) that we reviewed. We found that control procedures for the issuance and administration of awards were not always followed by the respective Forest Service offices and that statutory requirements, Office of Management and Budget (OMB) circulars, and U.S. Department of Agriculture (USDA) regulations were not always adhered to when issuing and monitoring assistance agreements. As a result, about \$1.3 million in grant awards to the NPO's was not in compliance with authorizing statutes, about \$4.9 million is subject to recovery because Federal grants were not properly matched by three NPO's, over \$200,000 in interest costs was incurred by the Federal Government because funds were advanced in excess of needs to all eight NPO's, about \$315,000 in unallowable costs was paid to five NPO's, and over \$970,000 in funds was not deobligated after the grant period expired for one NPO.

Three awards for \$1.3 million not in compliance with statutes

The Stewardship Incentive Program was used improperly to provide funds to the Texas Reforestation Foundation, the Fund for the City of New York agreement only required the recipient to provide 3 percent matching funds (in lieu of the 50 percent minimum), and an improper "participating agreement" was created to provide funds to the Pinchot Institute for Conservation (in lieu of a cooperative agreement). As a result, three awards totaling over \$1.3 million were not in compliance with the requisite statutory authority.

Federal funds not matched

The Advertising Council and the Parks and People Foundation did not provide matching funds as required by the grant agreements and \$2,885,228 and \$1,697,290, respectively, are subject to recovery. In addition, the grant agreement with the Fund for the City of New York required only 3 percent matching funds (in lieu of 50 percent) and \$327,074 is subject to recovery from this recipient due to inadequate matching funds.

Excessive funds advanced

The eight NPO's reviewed were advanced more funds than they needed at the time. This increased the costs to the U.S. Treasury of borrowing funds for advances by \$200,795. In addition, \$21,166 in interest earnings received on the advanced funds was not always returned to the Government as required by regulations.

Unallowable costs charged to grants

In addition, five grant recipients (Fund for the City of New York, Pinchot Institute for Conservation, Economic and Employment Development Center, Los Angeles Harvest, and TreePeople) claimed and received reimbursement for \$314,964 in unallowable costs charged to the Forest Service awards.

Funds not deobligated

Also, Federal funds awarded to the Advertising Council in fiscal years (FY) 1992 through 1996 remained obligated in the Forest Service accounting records although the

assistance agreements had expired. Unused funds totaling \$973,130 had not been deobligated.

In summary, Federal funds totaling \$5,924,101 are subject to recovery from the eight NPO's, \$200,795 can be put to better use through management improvements, and \$973,130 should be deobligated and returned to the U.S. Treasury. See exhibit A for a summary of monetary results.

Key Recommendations

Control procedures need to be followed

We recommend the Forest Service develop and implement a strategy for ensuring that grant administration guidelines are followed. We recommend the Forest Service design and implement national procedures to require approving officials to ensure that (1) only properly prepared assistance agreements that are consistent with statutory authority are approved for NPO's, (2) matching fund requirements are met, (3) only funds needed within 30 days are advanced to NPO's, and (4) costs claimed for reimbursement by NPO's are proper and supported. We further recommend that the Forest Service review, and amend as necessary, existing grant agreements to all NPO's to ensure that they comply with the Federal Grants and Cooperative Agreement Act; OMB circulars; and USDA Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

Unallowable costs, excessive advances, and interest on such advances need to be recovered

In addition, we recommend that the overpayments and interest earned with grant funds be recovered from the cited NPO's. We also recommend that the Forest Service review all other existing grant and cooperative agreements with NPO's and recover any advance funds not needed within 30 days and recover all interest earned by NPO's with grant funds. We also recommend the recovery of the cited unallowable costs paid to the NPO's.

Also, we recommend that the Forest Service determine the extent of interest cost to the U.S. Treasury as a result of excessive advance funds to NPO's and refer the amount and circumstances to the USDA Office of the Chief Financial Officer for a determination of whether the amount should be referred to the Secretary of the Treasury for collection from Forest Service administrative funds. We also recommend that unused funds be deobligated.

Agency Response

The Deputy Chief for Business Operations' written response to the draft report (see exhibit P) stated that the reader of this report might reasonably conclude that the findings resulting in recommendations to recover funds would have gone undetected but for the audit. The Deputy Chief said this conclusion must be couched in the context that to the degree the FS internal audit efforts are limited by available resources, there is the potential for these situations to go undetected; however, the FS has been successful in identifying situations where fund recovery is appropriate. The Deputy Chief said the FS will take immediate action to increase controls and make this a higher priority in the agency. A national meeting with all program managers will be held in October 1998 to address this issue.

In addition, the Deputy Chief stated that many of the actions recommended include development of policy, direction, and control procedures and that much of this is currently in place, but may need to be made more explicit and visible for the intended audience. The Deputy Chief said the FS will review this material to ensure clarity and understanding and ensure appropriate controls are in place or, where lacking, immediately put in place. The Deputy Chief stated that in conjunction with this, the FS will put in place clear statements of roles and responsibilities so that the various program and business operations personnel know their role in administering the agreements.

The Deputy Chief did not agree with the finding and recommendation regarding the use of participating agreements. The Deputy Chief said the use of the document was discussed with and had the concurrence of the Office of the General Counsel (OGC). The Deputy Chief also disagreed with the amount of monetary findings cited in exhibit A. As the agency conducts a review of the specific agreements cited and the associated accounting documentation, the Deputy Chief is confident the total amount will be much smaller.

OIG Position

We disagree with the implication that FS would have addressed the reported conditions in the normal course of operations. The agency did not identify or correct the cited problems. The fact that about 7 months have elapsed since the FS was formally notified of these issues and the agency still had not determined the dollar value to be recovered lends further support to our position that the process in place is not effective.

We agree that internal control efforts are limited by available resources and, as a result, there is the potential for improper situations to go undetected. We agree that immediate action is needed to increase controls and make this a higher priority in the agency. We also agree that policy, direction, and control procedures need to be more explicit and visible for FS personnel. As shown in this evaluation, adequate procedures and controls were documented in the regulations and FS manuals; however, the procedures and controls were not always followed by FS personnel. A clear statement of roles and responsibilities for employees will help alleviate this situation.

We continue to question the use of participating agreements in lieu of procurement contracts, grants, or cooperative agreements in dealing with non-Federal entities. We recommend the FS obtain an OGC opinion to resolve this issue. Regarding the questioned and unsupported costs and savings amounts cited in exhibit A, we understand that the final amounts to be recovered may decrease based on the documentation obtained by the FS in resolving the recommendations.

In addition, we generally agree with the FS' planned corrective actions for the report recommendations; however, additional information is needed to reach agreement on the planned corrective actions for most of the recommendations. The information needed to reach agreement on the management decisions is set forth in the Recommendations sections of

the report. We will continue to work closely with FS officials to reach agreement on the management decisions.

INTRODUCTION

Background

Regulations, procedures, and authorities for awarding financial assistance

Awards of financial assistance to nonprofit organizations (NPO) are administered in accordance with the U.S. Department of Agriculture (USDA), Title 7, Code of Federal Regulations (CFR), part 3015, Uniform Federal Assistance Regulations, and Title 7, CFR, part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations. Office of Management and Budget (OMB) Circular A-122, Cost Principles for Nonprofit Organizations, establishes principles for determining costs applicable to assistance agreements. The total project cost of an award may be borne either by USDA or the award may be contingent upon the recipient providing matching costs.

The primary authority for awards is the statute which authorizes the transfer of funds from the Government to an NPO. In order to administer these awards, OMB, with the authority granted it in the Federal Grant and Cooperative Agreements Act of 1978, published OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations. USDA codified Circular A-110 at Title 7, CFR, part 3015, on November 10, 1981, which applied to institutions of higher education and hospitals, as well as NPO's. On August 24, 1995, USDA published in the Federal Register part 3019 for NPO's. This part removed NPO's from part 3015 and established a unique set of Federal regulations for NPO's. Part 3019 made some modifications to the regulations previously established in part 3015, but the regulations essentially remained the same. Both parts 3015 and 3019 stated that they take precedence over any agency (such as Forest Service) regulations.

The Forest Service regulations for awards is stated in Forest Service Manual (FSM) Chapter 1580, Grants, Cooperative Agreements, and Other Agreements. Further policy direction is given in Forest Service Handbook (FSH) 1509.11, Grants, Cooperative Agreements, and Other Agreements Handbook.

Grant agreements stipulate costs and matching requirements

When a Federal agency enters into an assistance agreement with an eligible recipient, an entire project or program is approved. Where a local share is required, this agreement includes an estimate of the total costs; that is, a total which will exceed the amount to be borne by the Federal Government. The additional contribution which is needed to supply full support for the anticipated costs is the local or non-Federal matching share. Once the agreement is accepted, the recipient is committed to provide the non-Federal share if it wishes to continue with the grant.¹ Failure to meet this commitment may result in the disallowance of all or part of otherwise allowable Federal share costs. Also, a grantee may match only a portion of

¹Comptroller General B-130515, dated July 23, 1973.

the funds potentially available to it and, thereby, receive a corresponding smaller grant.²

Between FY's 1992 and 1996, the Forest Service entered into 940 assistance agreements with 543 NPO's totaling \$90.7 million.

Objectives

The evaluation objectives were to evaluate Forest Service controls over the issuance of funds (advances and reimbursements) to NPO's and Forest Service monitoring of the use of those funds. We determined whether (1) funds were properly disbursed to NPO's, (2) interest earned by recipients on Federal funds was returned to the United States (U.S.) Treasury, and (3) costs charged to awards were allowable.

Scope

Larger grants judgmentally selected

During FY's 1995 and 1996, the Forest Service had 690 active agreements with 432 NPO's totaling \$64.7 million. These 690 agreements may include FY amendments to agreements existing prior to FY 1995. From this universe we selected NPO's whose combined total project costs (for all agreements) were equal to or greater than \$300,000 in 1 FY (OMB Circular A-133 definition of major Federal assistance). This resulted in the selection of 25 NPO's with 46 agreements totaling \$21.4 million (33 percent). We applied a profile to each agreement to determine the potential for problems with each agreement based on previous audit experience. See exhibit B for an explanation of the profile used. We judgmentally selected eight NPO's for review based on the results of the profile and to obtain organizational and geographical diversity. The agreements selected for review covered all or portions of FY's 1992 through 1998. See exhibit C for the Forest Service and NPO sites visited.

Evaluation coverage included the activities of the Forest Service related to administering agreements with NPO's that were active in FY's 1995 or 1996. However, if the agreements were multi-year; i.e., active prior to FY 1995 or subsequent to FY 1996, the entire period of the agreement was evaluated. See exhibit D for the agreements reviewed for the eight NPO's selected for review.

This evaluation was performed in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency. Accordingly, the evaluation included such tests of program and accounting records as considered necessary to meet the evaluation objectives.

Methodology

At the Forest Service offices, we reviewed available records relating to the administration of awards with emphasis on financial reports. We also interviewed the staff responsible for the administration of the awards to determine the administrative and accounting controls over

²16 Comptroller General 512 (1936).

the awards. At the NPO's, we interviewed the staff responsible for the awards to determine the administrative and accounting controls over the awards. We also analyzed the accounting records to determine if they supported the financial reports submitted to the Forest Service.

**CHAPTER 1 - ISSUING OFFICE CONTROLS
NEED IMPROVEMENT**

Grants to NPO's not effectively managed

The Forest Service did not effectively manage grant awards to NPO's. Control procedures for the issuance and administration of awards provided for in the Forest Service manuals and handbooks were adequate as described; however, the procedures were not always implemented by the respective Forest Service offices. As a result, Federal funds totaling \$5,924,101 are subject to recovery from the eight NPO's reviewed, \$200,795 can be put to better use through management improvements, and \$973,130 should be deobligated and returned to the U.S. Treasury. See exhibit A for a summary of monetary results.

Controls key to effective management

Internal controls are intended to provide reasonable assurance that program goals and objectives are met, resources are adequately safeguarded and efficiently utilized, and laws and regulations are complied with. The Federal Managers' Financial Integrity Act of 1982 requires that internal control systems reasonably ensure that the following objectives are obtained: Obligations and costs comply with applicable law; all assets are safeguarded against waste, loss, unauthorized use, and misappropriation; and revenues and expenditures applicable to operations are recorded and accounted for properly.

Control procedures prescribed, but not followed

Prescribed control procedures to ensure that grant awards were properly prepared and reflected the authorizing statutes were not always followed. The grant agreements for Texas Reforestation Foundation, Fund for the City of New York, and Pinchot Institute for Conservation did not conform to the statutes under which the assistance agreements were authorized. As a result, awards totaling over \$1.3 million to these three recipients were not in compliance with the requisite statutory authority for assistance agreements to NPO's. (See Finding No. 2 for a detail discussion of this problem.)

Required matching not provided

In addition, prescribed control procedures to ensure grant recipients provided their proper matching share of the grants were not always followed. The Advertising Council, Parks and People Foundation, and Fund for the City of New York were not required to provide required matching funds. As a result, the Advertising Council and the Parks and People Foundation did not provide required matching funds of \$912,426 and \$1,720,050, respectively, and Federal funds totaling \$4,582,518 are subject to recovery. Also, the Fund for the City of New York did not provide the required matching funds and Federal funds totaling \$327,074 is subject to recovery. (See Finding No. 3 for a detailed discussion of this problem.)

Excessive funds advanced

Further, prescribed control procedures over advancing grant funds to NPO's were not followed for any of the eight grant recipients reviewed. As a result, the NPO's earned interest on advanced funds totaling \$21,166 which was not returned to the Government. These excessive advances resulted in excessive interest costs to the U.S. Treasury totaling over \$200,000. (See Finding No. 4 for additional details.)

**Effective oversight
lacking**

We attributed these problems to Forest Service officials giving high priority to ensuring grant recipients received grant funds and providing little oversight regarding the use of those funds and claims for reimbursement. Financial reports were not used to manage funds or evaluate the recipients' use of funds.

**Recommendation
No. 1**

Develop and implement a strategy for ensuring that Forest Service staff comply with grant administration guidelines. The plan should include specific goals and milestones, to include periodic assessments of the agency process. Ensure that the strategy addresses actions to support and raise the skill levels of personnel who administer grants on a daily basis. The strategy should also incorporate feedback mechanisms so that management action can be timely when mandatory control procedures are not followed.

FS Response

The FS Deputy Chief for Business Operations' September 9, 1998, written response to the draft report, a copy of which is attached as exhibit P, stated that the FS will develop a statement of roles and responsibilities regarding grant administration to be given to administrative officials and program specialists designated as the principle FS contact for each grant and cooperative agreement. Also, the FS will develop training requirements for administrative officials and program specialists who administer grants and cooperative agreements. In addition, agreement coordinators will review files periodically for completeness. The statement of roles and responsibilities and training requirements will be accomplished by June 30, 1999.

The Deputy Chief also stated that State and Private Forestry agreement coordinators will meet in October 1998 to discuss and develop strategies for training internally and externally, authorities used for each program, program/fiscal reviews of grants, and getting management agreement for following administrative and fiscal requirements. Following the October 1998 meeting, a 2-day grants management training session will be held for the agreement coordinators.

OIG Position

The proposed corrective action is positive, but does not include a feedback mechanism so that management will be aware of noncompliance and will be able to take appropriate, timely action to obtain compliance when mandatory control procedures are not followed.

To reach agreement on the management decision for Recommendation No. 1, we need documentation showing the specific corrective action to be taken and the timeframe within which the corrective action will be completed.

**CHAPTER 2 - GRANTS DID NOT
ALWAYS CONFORM TO
AUTHORIZING STATUTES**

Grant agreements did not always conform to authorizing statutes

The grant agreements for three of the eight NPO's reviewed did not conform to the statutes under which the assistance agreements were authorized. The Stewardship Incentive Program was used improperly to provide funds to the Texas Reforestation Foundation. The Fund for the City of New York agreement only required the recipient to provide 3 percent matching funds (in lieu of the 50 percent minimum). An improper "participating agreement" was created to provide funds to the Pinchot Institute for Conservation (in lieu of a cooperative agreement). As a result, three awards totaling over \$1.3 million were not in compliance with the requisite statutory authority for assistance agreements to NPO's.

Grant funds can be used only for authorized purposes

A Federal agency may provide financial assistance to the extent authorized by law and available appropriations.³ Further, the appropriations may be used only for the purpose(s) for which the appropriations was made.⁴ This fundamental proposition manifests itself in the grant context by the principle that grant funds may be obligated and expended only for authorized grant purposes. An authorized grant purpose is determined by examining the relevant program legislation, legislative history, and appropriation acts.⁵ Also, the Federal Grant and Cooperative Agreement Act⁶ established standards that agencies are to use in selecting the most appropriate funding vehicle; i.e., a procurement contract, a grant, or a cooperative agreement. Further, where the authorizing statute specifies the Federal share of an approved program as a specific percentage of the total cost, the Federal agency is required to make awards to the extent specified and has no discretion to provide a greater amount.⁷

Control procedures were prescribed

The Forest Service Handbook (FSH) requires that a project narrative in an application be compared to the authorizing statute to ensure the application meets the provisions of the statute under which the grant will be issued. Further, the Forest Service Manual (FSM) requires that the statute be checked for any matching or cost-sharing requirements to ensure the proper contributions are reflected on the application. FSM Chapter 1580 provides a brief synopsis of each Forest Service statute, including matching or

³U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriations Law, second edition, volume II, chapter 10, paragraph C.1.c., dated December 1992.

⁴31 United States Code (USC) 1301(a), dated September 13, 1982.

⁵U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriations Law, second edition, volume II, chapter 10, paragraph C.1.c.(1), dated December 1992.

⁶31 USC 6301-6308, dated February 3, 1978.

⁷*Manatee County v. Train*, 583 F.2d 179, 183 (5th Cir. 1978). As cited in the U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriations Law, second edition, volume II, chapter 10, paragraph E.5.a.(1), dated December 1992.

cost-sharing requirements, in order to make this comparison.

As part of our evaluation of the NPO grant agreements, we reviewed the Application for Federal Assistance, Standard Form (SF) 424, which is ultimately included as part of the award. This form cites the authorizing public law (although not always the specific section authorizing the award), the type of award (a grant or cooperative agreement), and the amount of funding to be provided by the Government and the recipient. This information was used to determine if the activities of the recipient were consistent with the authorizing statute, if the proper contractual assistance agreement form was used, and if the Forest Service and recipient were properly sharing in the costs of the award.

TEXAS REFORESTATION FOUNDATION (TRF)

State and private forestry funds improperly used as grant funds

Funds (\$300,000) appropriated for the National Forest System were transferred to the State and Private Forestry (S&PF) Stewardship Incentive Program (SIP). These funds in turn were used in the form of a grant to TRF without the requisite statutory authority. As a result, the Forest Service disbursed \$300,000 in Federal funds without proper authority.

No authorizing statute for grant to TRF

There was no statutory authority to make grants to TRF under the SIP. The SIP, which is funded from the S&PF appropriation, is required to be administered by the States in accordance with the SIP authorizing statute,⁸ rules published in the CFR⁹, and the SIP Handbook¹⁰ which was issued jointly by the Farm Services Agency (FSA) and the Forest Service. See exhibit H for details regarding how the Forest Service worked out an agreement to provide grant funds to TRF.

Grant award was post-approved 6 months

After the Forest Service made arrangements to locate funds for the TRF, the Forest Service Southern Regional Office informed TRF that \$300,000 was available and requested TRF to submit an application. The application was submitted on March 25, 1996, and the grant was approved on April 5, 1996. The starting date was approved beginning October 1, 1995, and the grant period ended September 30, 1997. The award letter contained no references to the SIP.

The \$300,000 grant to TRF in FY 1996 was the single largest amount distributed under the SIP. The next largest amount went to the State of Georgia (\$103,000).

Entire amount advanced to recipient

On July 30, 1996, the entire grant amount of \$300,000 was advanced to TRF even though the USDA Uniform Federal Assistance Regulations limit advances to a recipient's need for 30 days. Forest Service Southern Regional Office officials explained that an advance was made to TRF to conform to their (TRF) policy of having cash on hand for their commitments. (See Finding No. 4 for additional

⁸ 16 USC 2103b, Stewardship Incentive Program, dated November 28, 1990.

⁹ Title 16, CFR, part 230, Stewardship Incentive Program, dated July 1, 1993.

¹⁰ Handbook 1-SIP, dated June 28, 1994.

information regarding inadequate Forest Service controls over fund advances.)

Officials agree grant inappropriate

Forest Service Southern Regional Office officials agreed that the award to TRF under the SIP statute was not appropriate. The Acting Deputy Chief for Operations stated that the Forest Service agreed that the FY 1996 reprogramming of National Forest System dollars to SIP administrative funds and subsequent granting of said funds to the TRF was inappropriate. The Acting Deputy Chief also agreed that the TRF's tree planting program was not in complete compliance with the SIP statute. See exhibit H for additional information regarding the TRF award.

FUND FOR THE CITY OF NEW YORK (FCNY)

FCNY not required to meet statutory matching

Forest Service Northeastern Area State and Private Forestry officials did not require FCNY to match at least 50 percent of the Federal grant award amount. The Federal award to FCNY was \$500,000; however, FCNY was required to provide only \$15,000 (3 percent). Federal law prohibits the Forest Service from providing more than 50 percent of the cost of a grant award for urban and community forestry assistance. Award costs are to be shared with the recipient on a matching basis.¹¹

Majority of funds provided to FCNY subject to recovery

The Forest Service disbursed \$336,886 in Federal funds to FCNY and FCNY provided \$9,812 in matching funds. Therefore, a maximum of \$9,812 was allowable for disbursement to FCNY. As a result, \$327,074 is subject to recovery from FCNY (\$336,886 disbursed - \$9,812 matched) because the funds were expended without the requisite statutory authority. (See Finding No. 5 for additional information regarding unallowable costs claimed by FCNY.)

The Northeastern Area State and Private Forestry Area Director concurred that the matching requirement was not met. See exhibit I for additional information regarding FCNY.

PINCHOT INSTITUTE FOR CONSERVATION (PIC)

Policy substituted for statutory authority

Forest Service Northeastern Area State and Private Forestry officials substituted policy for statutory requirements in preparing the PIC agreement and, in addition, the award purpose and the statutory authority conflicted. The total award amount was \$564,297.

Improper agreement used to provide grant funds to PIC

Participating Agreement Substituted for Cooperative Agreement. Although the Federal Grants and Cooperative Agreements Act and Departmental regulations provide specific guidance for contractual agreements with nonprofit organizations, the Forest Service developed a policy for executing another type of instrument, a "participating agreement."¹² Participating agreements were a creation of the Forest Service and did not conform to the Federal Grants and Cooperative Agreements Act or to OMB and Departmental regulations. The use of such unauthorized agreements transfers funds from the U.S. Treasury without

¹¹Title 16, USC, section 2105, dated November 28, 1990.

¹²Forest Service Handbook, section 1587.03, dated April 21, 1995.

adequate contractual assurance that the recipient will use the funds for the intended purposes and without the provisions necessary to oversee the award by the Forest Service.

The Federal Grant and Cooperative Agreements Act of 1978 stipulates the contractual form (i.e., cooperative agreement) that is to be used in transferring funds to a recipient when substantial involvement is expected between the recipient and the Federal agency in carrying out the contemplated activity.¹³

Departmental regulations, which take precedence over agency policies, require that cooperative agreements between USDA agencies and nonprofit organizations contain certain general provisions.¹⁴ These general conditions require, as a condition of the cooperative agreement, that the recipient assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, which are to be incorporated in an agreement by reference, and such other statutory provisions as are specifically set forth in the agreement. See exhibit G for the statutory requirements that were not included in the participating agreement.

Participating agreement used in lieu of cooperative agreement

In its issuance of an award to PIC, the Forest Service chose to use a "participating agreement" instead of a cooperative agreement. As stated above, the statutory requirement was to use a cooperative agreement which conforms to OMB and Departmental regulations. See exhibit J for additional information regarding the PIC participating agreement.

The executive director of PIC concurred with this finding and stated that all future agreements would comply with USDA and Forest Service regulations and contain the required assurances and certifications.

Officials agree that improper award instrument used for grant

The Northeastern Area State and Private Forestry Area Director concurred that the instrument used should have been a cooperative agreement instead of a participating agreement. The area director also said that future agreements with PIC will be via either a grant or cooperative agreement, whichever is appropriate.

Award purposes did not agree with statutory authority purposes

Award Purpose and the Statutory Authority Conflicted. The statute¹⁵ authorized the Forest Service to enter into cooperative agreements for the following purposes:

1. To construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems,
2. to engage in cooperative manpower and job training and development programs,

¹³ Title 31, USC, Section 6305, dated February 3, 1978.

¹⁴ Title 7, Code of Federal Regulations (CFR), Part 3015, dated November 10, 1986.

¹⁵Title 16, USC, section 565a-1, dated December 12, 1975.

3. to develop and publish cooperative environmental education and forest history materials, and
4. to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

Fund purposes and fund uses were different

On December 22, 1992, the Forest Service entered into participating agreement No. 42-725 with PIC. The purpose of the participating agreement was for "* * * preserving and restoring Grey Towers National Historic Landmark and the promotion of the conservation of natural resources throughout the world." The PIC accounting system did not track costs by award. Annual reports for 1995 and 1996 identified the primary accomplishments of PIC as convening and facilitating national conferences and workshops for other entities (including the Forest Service). Since the award costs identified by PIC were primarily general and administrative expenses, we concluded that these costs were used to support conferences and workshops. We also found that award funds were used to support a senior fellow who provided transition consulting to the new Chief of the Forest Service. (See Finding No. 5 for additional information regarding the senior fellow.)

We could not identify in the accounting records the use of award funds to the four purposes cited in the statute. See exhibit J for additional information regarding the statutory authority for the PIC award.

Area director disagrees that award purpose and statute conflict

The Northeastern Area State and Private Forestry Area Director did not concur that the award purpose and statutory authority conflicted. The area director stated that PIC works in partnership with universities, conservation groups, industry, and other Federal agencies as a catalyst for conservation thought and policy development, and promotes the discussion of current and emerging natural resources issues. He said this is accomplished by initiating and facilitating meetings, coordinating and sponsoring conferences, providing grants and partnerships, and publishing proceedings.

Accounting records did not support stated award purposes

Forest Service regulations¹⁶ state that the use of purpose No. 2 is appropriate only where the other party has a specific job training program currently in place and the parties for the agreement share in the costs. Further, the regulation requires that a cooperator (PIC) contribute all or a portion of their administrative expenses and the trainees' and supervisors' salaries and benefits. We found neither a specific job training program in place nor expenses of the award being shared by PIC.

Forest Service regulations contained an example of purpose No. 3. The example was the development and dissemination of brochures describing the various types of trees in a national forest and management techniques used to sustain them. We found nothing in the accounting records or in PIC's annual reports to indicate the accomplishment of this purpose. As a result, we concluded that the purpose of the participating agreement with PIC was inconsistent with the authorizing statute.

¹⁶FSM 1587.11b, dated April 21, 1995.

**Recommendation
No. 2a**

Design and implement national procedures to require approving officials to ensure that grant awards are consistent with the statutory authority for assistance agreements.

FS Response

The Deputy Chief for Business Operations' written response to the draft report (see exhibit P) stated that all awards are to be reviewed by an agreement coordinator for legal and fiscal propriety. The response said the roles and responsibilities statement will clarify and explain this responsibility. [The roles and responsibility statement is discussed under Recommendation No. 1 above and is to be completed by June 30, 1999.]

OIG Position

We accept the management decision for this recommendation.

**Recommendation
No. 2b**

Review, and amend as necessary, existing grant agreements to ensure that they comply with the Federal Grants and Cooperative Agreement Act; OMB circulars; and USDA Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

FS Response

The written response to the draft report (see exhibit P) stated that the FS acquisition management staff has a 3-year review cycle and the S&PF staff has a 5-year review cycle in place; these reviews will continue and the results of the reviews will be documented and followed up.

OIG Position

The FS response describes a process already in place. This process has allowed the reported problems to persist and, therefore, is not an adequate remedy. Departmental Regulation 1720-1 requires final action on management decisions to be completed within 1 year of the management decision. The 3-year and 5-year cycle reviews do not meet this requirement. To reach agreement on the management decision for Recommendation No. 2b, we need documentation showing the specific corrective action to be taken and that the action will be completed within 1 year.

**Recommendation
No. 2c**

Recover the \$300,000 in Federal funds issued to TRF without statutory authority.

FS Response

The written response to the draft report (see exhibit P) stated that the TRF forest management plan, while written primarily for tree planting and timber stand improvement, also addressed water quality, soil erosion, wildlife habitat, cultural forest heritage, and other multiple resource concerns. The response said the TRF program had a number of eligibility requirements and program delivery mechanisms that, for the most part, mirror the SIP. In addition, the response stated that the TRF program was not in complete compliance with all of the provisions of the SIP; however, the FS believes the intent and end result of the TRF program met the objectives of the SIP.

In addition, the response stated that the Office of the General Counsel (OGC) concurred that using SIP funds to make a grant direct to the TRF was improper (June 4, 1998, letter). The response said the FS Southern Region terminated the grant with TRF and included the balance of

the grant funds (\$120,934.75) in a revised FY 1998 SIP grant to the Texas Forest Service. Under the proposal, the Texas Forest Service will distribute the funds to the TRF on a reimbursement basis. The response also stated that it was the opinion of OGC (June 18, 1998, letter) that these revisions comply with the statutory provisions of the SIP.

OIG Position

We agree that SIP funds are to be administered by State Foresters (e.g., Texas Forest Service). According to the OGC June 4 and June 18, 1998, letters, the regulations and the FS Handbook do not allow direct assistance to individuals or organizations. In addition, SIP regulations state that (1) the SIP is for nonindustrial private forest landowners, (2) to be eligible to receive cost-share SIP funds, landowners shall not own more than 1,000 acres of nonindustrial private forest land (except where the State Forester and the FS Regional Forester concur that significant public benefits would accrue from approval of a landowner owning not more than 5,000 acres), (3) landowners must agree to manage the land under a landowner forest stewardship plan approved by the State Forester, and (4) landowners must agree to maintain program practices for at least 10 years, and (5) payments will be disbursed to landowners after a program service representative certifies that the agreed-to land practice has been completed.

The SIP regulations state that "Landowner means any private individual, group, association, corporation, Indian tribe or other native group, or other private legal entity, excluding corporations whose stocks are publicly traded or legal entities principally engaged in the production of wood products." Therefore, TRF would be eligible to participate in the SIP as a landowner; however, it appears that TRF would not be eligible to participate in the SIP as a nonprofit organization obtaining funds for individual landowners.

In addition, the SIP regulations state that the Chief of the Forest Service shall annually distribute SIP cost-share funds among the States after giving consideration to total acreage of nonindustrial private forest land in each State, the potential productivity of such land, the number of landowners eligible for cost-sharing in each State, the need for reforestation in each State, the opportunities to enhance nontimber resources on such forest lands, and the anticipated demand for timber and nontimber resources in each State. In making the fund distributions, the Chief is to consult with a group of not less than five State Foresters selected by a majority of the State Foresters.

Before the FS Southern Regional Office completes the proposed transfer of remaining TRF funds to the Texas Forest Service, the FS National Office should obtain a formal OGC opinion regarding the eligibility of TRF to participate in the SIP as a nonprofit organization that obtains SIP funds for individual landowners. In particular, OGC should be asked to comment on the propriety of adding an additional layer of overhead cost to a program already in existence. If the OGC determines that TRF is not eligible to participate in the SIP in this manner, the FS will need to revise its management decision for Recommendation No. 2c to recover the remaining funds (\$179,065.25) improperly provided to TRF.

In addition, the Chief should consult with a group of not less than five State Foresters selected by a majority of the State Foresters to determine the appropriateness of the proposed fund distribution to the Texas Forest Service.

To reach a management decision for Recommendation No. 2c, we need documentation showing the OGC determination as to the eligibility of TRF to participate in the SIP. If the OGC determines that TRF is not eligible to participate in the SIP, we need documentation showing (1) the specific corrective action to be taken, (2) the timeframe within which the corrective action will be completed, (3) TRF has been notified of the amount owed to the Government, and (4) that the amount owed to the Government has been established as a receivable on FS' accounting records.

**Recommendation
No. 2d**

Require FCNY to provide \$327,074 in matching funds or recover the \$327,074 in Federal funds.

FS Response

The written response stated that the FS Northeastern Area Office will request a revised grant application and supporting documentation showing the appropriate match of funds. The response said the match was from subgrantees and was inadvertently omitted from the initial application and the grant subsequently approved without being corrected. A letter will be sent to FCNY requesting the revision and supporting documents. The revised grant application and supporting matching of funds documentation will be reviewed to determine allowability of matching funds.

OIG Position

We agree with the planned corrective action; however, to reach agreement on the management decision for Recommendation No. 2d, we need the timeframe within which the corrective action will be completed and the results of FS' determination of the allowability of matching funds. In addition, if it is determined that matching funds are not allowable, we need documentation that FCNY has been notified of the amount owed to the Government and documentation that the amount owed to the Government has been established as a receivable on FS' accounting records.

**Recommendation
No. 2e**

Review the accomplishments of PIC during the period of the award and specifically identify the accomplishments and associated costs that meet the purposes of the authorizing statute. Recover any funds not associated with the identified purposes.

FS Response

The written response concurred that the incorrect instrument was used in preparing the agreement with PIC. However, the response did not concur that the award purpose did not meet the purposes of the statute. The response said PIC now uses a cooperative agreement instead of a participating agreement. FS Northeastern Area State and Private Forestry Office officials reviewed the accomplishment reports from the now closed participating agreement and determined that the funds expended were for the identified purpose of the authorizing statute. The response also said that while reviewing the forms SF-269 and SF-270, it appeared that \$2,742 was overbilled and that the apparent overbilling will be reviewed with PIC in October 1998 and recovered, if applicable.

OIG Position

We accept the management decision for this recommendation. Also, if it is determined that funds are to be recovered from PIC, please provide documentation showing that PIC has been notified of the amount owed to the Government and documentation that the amount owed to the Government has been established as a receivable on FS' accounting records.

**Recommendation
No. 2f**

Instruct Forest Service officials to stop using participating agreements. In addition, amend the Forest Service Handbook to eliminate references to any agreements that are not consistent with the Federal Grants and Cooperative Agreement Act.

**Recommendation
No. 2g**

Review all existing participating agreements and determine whether they meet the requirements of the Federal Grant and Cooperative Agreement Act. For those participating agreements that do not meet the requirements of the act, modify the agreements to meet those requirements or reissue as cooperative agreements.

FS Response

The written response did not concur with Recommendation No. 2f. The response stated that the FS created the participating agreement instrument under the Cooperative Funds and Deposit Act. The relationship involves a project where both parties (FS and partner) benefit and make a substantial contribution to the common effort. The primary criteria for creating a participating agreement is mutual benefit to the participating parties. This relationship does not fall within the definition of procurement, grant, or cooperative agreement as defined in the Federal Grant and Cooperative Agreement Act. The response said the FS will seek an OGC opinion on the appropriateness of participating agreements by October 1, 1998.

Regarding Recommendation No. 2g, the response stated that the FS is withholding its position until receipt of the OGC opinion on participating agreements.

OIG Position

The Federal Grant and Cooperative Agreement Act of 1977 established standards that Federal agencies are to use in selecting the most appropriate funding vehicle; i.e., a procurement contract, a grant, or a cooperative agreement. Once the program authority is identified, the legal instrument (contract, grant, or cooperative agreement) that fits the arrangement is to be used. We continue to believe that the FS should use procurement contracts, grants, and/or cooperative agreements in the administration of its programs. We agree that the FS should seek an OGC opinion on the appropriateness of the use of participating agreements.

To reach a management decision for Recommendations Nos. 2f and 2g, we need documentation showing the OGC determination regarding the appropriateness of participating agreements, the specific corrective action planned for each recommendation, and the timeframe(s) within which the corrective action(s) will be completed.

**CHAPTER 3 - PRESCRIBED
CONTROLS OVER MATCHING
REQUIREMENTS NOT IMPLEMENTED**

***Prescribed control
procedures were not
followed - \$2.6 million
in Federal funds not
matched***

Procedures prescribed by the Forest Service to ensure Federal funds were properly matched had not been implemented at the Fire and Aviation Maintenance Division of the Deputy Chief for State and Private Forestry and at the Northeastern Area State and Private Forestry offices. Forest Service officials did not ensure that grant matching requirements were met. We attributed this to inadequate Forest Service management of and control over matching requirements. As a result, two NPO's did not provide required matching funds of \$912,426 and \$1,720,050, respectively, and Federal funds totaling \$4,582,518 are subject to recovery from the NPO's. In addition, as reported in Finding No. 2 above, Forest Service officials did not require another NPO to provide the required matching funds.

***Procedures provide
for controls over
matching fund
requirements***

OMB, USDA, and Forest Service controls to ensure recipients meet their matching requirements are part of the basic controls over the payment of advances and reimbursements. (See Finding No. 4 for a discussion of prescribed procedures for advances that were not implemented.) Also, a review of the interim and final financial status reports will reveal if recipients are meeting the matching requirements. Properly conducted audits under OMB Circular A-133 should also detect shortages in the matching of Federal funds.

Where the authorizing statute specifies the Federal share of an approved program as a specific percentage of the total cost, the Federal agency is required to make awards to the extent specified and has no discretion to provide a greater amount.¹⁷ The FSM requires that the statute be checked for any matching or cost-sharing requirements to ensure the proper contributions are reflected on the application. FSM Chapter 1580 provides a brief synopsis of each Forest Service statute, including matching or cost-sharing requirements, in order to make this comparison.

The failure to meet matching requirements fell into two categories. The first category included recipients who did not provide matching funds or did not record matching funds. The second category included recipients who claimed unallowable matching costs. The first category is covered in this finding while the second category is covered in Finding No. 5.

¹⁷Manatee County v. Train, 583 F.2d 179, 183 (5th Cir. 1978). As cited in the U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriations Law, second edition, volume II, chapter 10, paragraph E.5.a.(1), dated December 1992.

Matching funds not provided and/or recorded by grant recipients

Two grant agreements fell into the category of matching funds not provided and/or recorded: The Advertising Council and the Parks and People Foundation. In addition, as discussed in Finding No. 2 above, the grant agreement for the Fund for the City of New York required only 3 percent matching funds in lieu of the 50 percent minimum.

ADVERTISING COUNCIL

The Advertising Council was awarded a Federal grant on July 24, 1992, by the office of the Deputy Chief for State and Private Forestry. The grant award and amendments through September 30, 1996, totaled \$5,331,843. Amendments were made annually, and the amendments of FY's 1993, 1994, 1995, and 1996 required the Advertising Council to provide matching funds.

Over \$900,000 not matched

After the initial year of the award in FY 1992, all subsequent FY's (1993 through 1996) required the Advertising Council to match a proportionate share of the Federal funds awarded. Based on the amount of Federal funds disbursed during FY's 1993 through 1996 (\$3,231,713), the Advertising Council was required to provide approximately \$1,016,492 in matching funds. However, the accounting records revealed that only \$104,066 charged to the award had not been claimed for reimbursement from the Forest Service and, therefore, provided as matching funds. As a result, \$912,426 (\$1,016,492 - \$104,066) in matching funds was not provided and \$2,885,228 in Federal funds is subject to recovery. See exhibit E for the extent of required matching for each FY and the computation of the amount of funds subject to recovery due to the lack of matching funds provided for the grant agreement.

Lack of matching not detected in Circular A-133 audits

The deficit in matching costs should have been detected during the audits conducted in accordance with OMB Circular A-133; however, although these audits were required to determine if the matching requirements had been met, they did not address matching funds. Thus, Forest Service and Advertising Council officials accepted incomplete Circular A-133 audit reports and received no information regarding matching fund requirements. A representative of the certified public accountant (CPA) firm that conducted the OMB Circular A-133 audit stated that they reviewed the grant and determined that there were no matching requirements. We disagree with the CPA representative and will request additional information from the CPA firm.

Council subsequently provided schedule of \$891,676 in unverified/unaudited costs

Advertising Council modifications 1 through 6 to the original award requested additional Federal funding. In those applications for additional funding, the council stated that a portion of the total cost would be provided by in-kind contributions of labor by volunteer advertising agencies. The Forest Service approved the applications and included them as part of the modifications to the award. Therefore, the Advertising Council was required to match Federal funds. After completion of our fieldwork, the council subsequently provided a schedule showing \$725,275 for in-kind contribution of labor, \$104,067 in direct labor costs (we had already reviewed these), and \$166,401 in indirect labor costs. However, before these costs can be allowed, the Forest Service will need to assure the claimed matching costs are audited and then approved or

disapproved. See exhibit K for additional information regarding the Advertising Council award.

PARKS AND PEOPLE FOUNDATION (PPF)

Underreported matching by recipient not detected

The Northeastern Area State and Private Forestry Office awarded PPF a Federal grant of \$479,400 which was to be matched with \$500,000 by PPF (Award No. NA-94-0011). The final financial status report submitted by PPF on July 28, 1995, reported that its matching expenditures were \$452,814, or \$47,186 less than the \$500,000 required by the grant. Forest Service officials stated that because the financial status report was marked final it was not reviewed and the grant was closed out. We concluded that if the financial status report had been reviewed and the matching amount questioned, it may have prevented similar matching problems on subsequent grants to PPF.

Inadequate documentation for \$1.7 million reported matching costs

We reviewed PPF's supporting documentation and determined that none of the claimed matching amounts were supported by adequate documentation. Also, we determined that the matching costs had not been captured in PPF's accounting records and subjected to an independent audit conducted under OMB Circular A-133. Moreover, based on the results of our evaluation of this grant, we expanded the coverage to include four subsequent grants to PPF (see table below). The review revealed that the matching amounts were neither accumulated in the accounting records nor subjected to independent audit under Circular A-133. As a result, \$1,720,050 in matching costs were undocumented and Federal funds totaling \$1,697,290 are subject to recovery. See exhibit L for additional information regarding PPF matching.

Federal and Matching Funds for Parks and People Foundation			
Award No.	Award Period	Federal Funds	Matching Funds
NA-94-0011	10/01/93-09/30/95	\$479,400	\$500,000
NA-95-0010	10/01/94-09/30/96	494,000	500,000
NA-96-0006	10/01/95-09/30/97	390,000	403,860
NA-97-0021	10/01/96-09/30/98	300,000	300,000
NA-97-0284	07/17/96-05/31/99	15,890	16,190
Totals		\$1,697,290	\$1,720,050

Officials agree to review supporting documentation for claimed matches

The Northeastern Area State and Private Forestry Area Director stated that the PPF agreement required a 50/50 match although the Forest Service provided no specific direction to the recipient when the grant was awarded. The area director said the PPF had informed the Forest Service that PPF overmatched the grant and can provide supporting documentation. The area director said the Forest Service has requested PPF to provide the supporting documentation. As of May 29, 1998, the information had not been provided.

Controls implemented

In addition, the area director stated that the Northeastern Area Office had implemented controls to avoid a recurrence of this situation. Each grant is checked for accuracy and completeness and the form SF-269 is reviewed to ensure that

each Federal dollar spent is matched by a non-Federal dollar. The director said that if the total outlays of a recipient reflect only Federal dollars, the form SF-269 is returned with a letter explaining that the total outlays must include the recipient's actual expenditures, not just the Forest Service's share.

FUND FOR THE CITY OF NEW YORK (FCNY)

Recipient not required to meet matching requirements

As discussed in Finding No. 2 above, the Forest Service did not require FCNY to match the Federal portion of the grant. The Federal award to FCNY was \$500,000; however, FCNY was required to provide only \$15,000 (3 percent). Federal law prohibits the Forest Service from providing more than 50 percent of the cost of a grant award for urban and community forestry assistance. Award costs are to be shared with the recipient on a matching basis.¹⁸ A recommendation to either match or recover the Federal funds was made in Finding No. 2.

Recommendation No. 3a

Design and implement national procedures to require approving officials to ensure that controls over matching funds are adhered to by all Forest Service offices authorized to approve assistance agreements to NPO's.

FS Response

The written response to the draft report (see exhibit P) stated that the FS will include a section in the statement of roles and responsibilities for administrative officials on reviewing matching fund requirements when processing applications and payment requests. The statement will be completed by June 30, 1999.

OIG Position

We accept the management decision for this recommendation.

Recommendation No. 3b

Instruct Forest Service staff to ensure that matching requirements are covered in all OMB Circular A-133 audits. (For example, matching requirements can be

emphasized in the Forest Service award letter to the recipient.)

FS Response

The written response to the draft report stated that the FS will include information regarding allowable costs and matching requirements in the FS award letter to the recipient. The guide award letter will be rewritten by January 1, 1999.

OIG Position

We accept the management decision for this recommendation.

Recommendation No. 3c

Require the Advertising Council to provide \$912,426 in audited matching costs or recover the proportionate share of the unmatched funds which

currently stands at \$2,885,228.

FS Response

The written response to the draft report stated that the Advertising Council presented documentation to cover most of the \$912,426 matching costs. The response stated that a complete audit of the records will be completed within

¹⁸Title 16, USC, section 2105, dated November 28, 1990.

180 days. The response also stated that any outstanding portion of the matching will be billed to the Advertising Council at the proportional rate after it is reviewed by the Department for possible dismissal. The response said the review is based on the fact that the original agreement that controlled the 5-year period stated that all services of the Advertising Council were pro-bono, or at no charge. The response said the benefits received by the FS exceeded \$100 million in fire prevention program promotion.

OIG Position

We agree that a complete audit should be performed of the claimed matching costs to determine if the costs are allowable and that the council should be billed at the proportional rate for any unmatched amounts. However, we do not agree that provisions of the 1992 grant agreement with the Advertising Council (which did not require matching) can be used to override the subsequent 1993, 1994, 1995, and 1996 agreements (which required matching).

To reach agreement on the management decision for Recommendation No. 3c, we need the results of the audit of the matching costs. In addition, if the audit of matching costs determines that the matching requirements for 1993 through 1996 were not met, we need documentation showing that the Advertising Council has been informed of the amount owed to the Government and documentation that the amount owed has been established as a receivable on FS' accounting records.

**Recommendation
No. 3d**

Require the Parks and People Foundation (PPF) to provide \$1,720,050 in audited matching funds. If this cannot be provided, recover the proportionate share of the unmatched funds which currently stand at \$1,697,290.

FS Response

The written response stated that PPF has records for matching funds, FS Northeastern Area Office officials will visit PPF to review the matching fund documentation and bill PPF for any proportionate share of unmatched funds. This will be completed in October 1998.

OIG Position

We continue to believe the PPF should provide audited matching records to the FS to ensure the claimed matching costs are allowable. To reach agreement on the management decision for Recommendation No. 3d, we need the results of the audit of matching records and the FS review. In addition, if it is determined that the matching requirement was not met, we need documentation showing that PPF has been informed of the amount owed to the Government and documentation that the amount owed has been established as a receivable on FS' accounting records.

CHAPTER 4 - PRESCRIBED CONTROLS OVER ADVANCES NOT IMPLEMENTED

Grant funds advanced to recipients before needed

Procedures prescribed to ensure Federal funds are properly advanced had not been implemented at the Fire and Aviation Maintenance Division of State and Private Forestry Washington Office, the Northeastern Area State and Private Forestry Office, or the Southern and Pacific Southwest Regional Offices. We attributed this to the high priority placed on ensuring that recipients received Federal funds and the relatively low priority of ensuring advances were needed at the time requested. The increased costs to the U.S. Treasury of borrowing funds for advances and the earnings of interest on advanced funds was not considered in the cost of the grant awards. As a result, the NPO's earned interest on advanced funds totaling \$21,166 which was not returned to the Government. The excessive advances resulted in excessive interest costs to the U.S. Treasury totaling over \$200,000.

Advances to be limited to monthly needs

OMB and USDA controls require that recipients, in order to receive advances, have written procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and its disbursement by recipients. Cash advances are to be limited to monthly requests.¹⁹ These same controls also require that any interest earned on advances be returned to the U.S. Treasury.^{20 21}

Increased costs to the Treasury as a result of excessive fund advances may be collected from agency appropriations

The Cash Management Improvement Act of 1990 required executive agencies to provide for the "timely disbursement" of Federal funds. If an agency's failure to comply with the act results in an increased cost to the U.S. Treasury (for example, increased interest expenses resulting from increased borrowing needs), the Secretary of the Treasury may collect the amount from the offending agency. The act requires that this increased cost be collected from the agency's administrative rather than program appropriations.²²

Prescribed controls over advances

Prescribed Forest Service controls over cash advances prior to April 21, 1995, were to follow the USDA Uniform Federal Assistance Regulations. Subsequent to April 21, 1995, prescribed controls over advances were definitively stated in Forest Service regulations. These controls provided additional procedures for reviewing requests for advances.

¹⁹Title 7, CFR, Part 3019.22, dated August 24, 1995.

²⁰Title 7, CFR, Part 3015.46, dated November 10, 1981.

²¹Subsequent to August 24, 1995, recipients may retain up to \$250 per year in earned interest for administrative grant purposes. Title 7, CFR, Part 3019.22, dated August 24, 1995.

²²When money is drawn from the U.S. Treasury before it is needed, or in excess of current needs, the Government loses the use of the money. This principle has been stated by the Comptroller General as follows: When Federal receipts are insufficient to meet expenditures, the difference is obtained through borrowings; when receipts exceed expenditures, outstanding debt can be reduced. Thus, advancing funds to organizations outside the Government before they are needed either unnecessarily increases borrowings or decreases the opportunity to reduce the debt level and thereby increases interest costs to the Federal Government. Comptroller General decision B-146285, dated October 2, 1973.

The procedures included such items as ensuring that total outlays are reported (not just the Federal share), that Federal and non-Federal shares are calculated properly, and that the timing and amount of cash advances are kept as close as possible to the recipient's disbursement of funds. Additionally, a control was prescribed to compare the unobligated balance of Federal funds on Financial Status Reports, Form SF-269, with the amount of advance funds requested on the Request for Advance or Reimbursement, Form SF-270, and included instructions to adjust the advance payment as necessary.

**Premature advances
increase cost over
\$200,000**

The table below shows the additional cost to the Government of not implementing the prescribed controls over grant advances. The table shows that the award amounts are not the full cost of a grant award. For the grant awards reviewed, we determined that award costs were increased \$200,795 as a result of excessive advances provided to grant recipients.

Additional Cost To The Government Of Not Implementing Controls Over Advances			
Recipient	Award Funds Disbursed to Recipient	Interest Earned by Recipient	Interest Cost to the Treasury
Parks and People Foundation (PPF)	\$479,400	\$10,293	\$13,349
Fund for the City of New York (FCNY)	336,886	3,573	8,234
Pinchot Institute for Conservation (PIC)	560,131	421	1,954
Economic and Employment Development Center (EEDC)	144,946	-0-	4,259
Los Angeles Harvest (LAH)	265,000	1,934	3,555
Texas Reforestation Foundation (TRF)	300,000	4,945	24,072
TreePeople (TP)	84,230	<u>A/</u>	6,129
Advertising Council (AC)	3,231,713	<u>A/</u>	139,243
Totals	\$5,402,306	\$21,166	\$200,795
<u>A/</u> Not determined. Recipient did not track funds since they were considered a reimbursement.			

**Advances exceeded
monthly needs**

Controls over excessive advances fell into two categories: Advances exceeding the needs for 1 month and advances for more than the Federal share. The first category is self-explanatory. The second category occurs when a recipient submits a request for reimbursement (instead of an advance) and the reimbursement is more than the Federal share. In this instance "reimbursement" constitutes an advance of the recipient's share of the award.

The grants to the Parks and People Foundation, Texas Reforestation Foundation, Economic and Employment Development Center, Los Angeles Harvest, and Fund for the

City of New York are examples of additional costs that can occur when advances exceed 1 month's needs. The grant awards to the Advertising Council and TreePeople are examples of advances for more than the Federal share. See exhibits H through O for specific information regarding interest earned and interest cost to the Government for each NPO reviewed.

**Recommendation
No. 4a**

Design and implement national procedures that require approving officials to ensure that advances are consistent with OMB, USDA, and Forest Service regulations.

FS Response

The written response to the draft report (see exhibit P) stated that the procedures are in place and will be re-emphasized to administrating officials.

OIG Position

We agree that FS procedures require approving officials to ensure that fund advances are consistent with regulations; however, as noted during this evaluation, the procedures were not being followed. We continue to believe that the FS needs a strategy to ensure compliance with fund advances. To reach agreement on the management decision for Recommendation No. 4a, we need documentation showing the management control(s) to be implemented to ensure that procedures are followed and the timeframe within which the control(s) will be completed.

**Recommendation
No. 4b**

Recover \$21,166 in interest earned by the NPO's reviewed (\$10,293 from PPF (exhibit L), \$3,573 from FCNY (exhibit I), \$421 from PIC (exhibit J), \$1,934 from LAH (exhibit N), and \$4,945 from TRF (exhibit H)).

FS Response

The written response concurred with the recommendation and stated that the FS Northeastern Area Office will bill PPF, FCNY, and PIC for the interest earned on advances and FS Region 5 will pursue recovery of the interest earned from LAH. FS Region 8 collected the interest earned from TRF.

OIG Position

We agree with the planned corrective action for Recommendation No. 4b. To reach agreement on the management decision for this recommendation, we need documentation showing that PPF, FCNY, PIC, and LAH have been informed of the amounts owed to the Government and documentation that the amounts owed have been established as receivables on FS' accounting records.

**Recommendation
No. 4c**

Review all other existing assistance agreements and recover any excessive funds held by recipients.

**Recommendation
No. 4d**

Review all other existing assistance agreements for excessive advance funds and recover any interest earned on the funds.

**Recommendation
No. 4e**

Determine the extent of interest cost to the U.S. Treasury as a result of excessive advance funds determined in Recommendation No. 4c plus the \$200,795 identified in this finding. Refer the sum and circumstances to the USDA Chief Financial Officer for a determination of whether the amount should be referred to the Secretary of the Treasury for collection from the Forest Service administrative funds.

FS Response

The written response to the draft report did not address Recommendations Nos. 4c, 4d, and 4e.

OIG Position

To reach agreement on the management decisions for Recommendation Nos. 4c, 4d, and 4e, we need documentation showing the specific corrective action to be taken and the timeframe within which the corrective action will be completed. In addition, if it is determined that excessive funds, excessive advance funds, and/or interest earned on the funds is to be recovered, we need documentation showing that the NPO's have been notified of the amounts owed to the Government and documentation showing that the amounts owed have been established as receivables on FS' accounting records.

**CHAPTER 5 - UNALLOWABLE
COSTS CLAIMED BY RECIPIENTS**

***Grant recipients
reimbursed over
\$300,000 in
unallowable costs***

Recipients claimed and received reimbursement for unallowable costs charged to Forest Service grant awards. Forest Service officials had not implemented prescribed controls designed to ensure that charges to grants are allowable. As a result, five grant recipients were reimbursed \$314,964 for unallowable costs claimed for reimbursement.

Grant recipients are required to develop and utilize written procedures to determine the allowability, allocability, and reasonableness of costs charged to grants. Federal regulations²³ state that a recipient's financial management system shall provide for records that adequately identify information pertaining to Federal awards, outlays, income, and interest. It shall also provide for accounting records, including cost accounting records that are supported by source documentation.

***Prescribed procedures
not followed***

The Forest Service had prescribed procedures for officials to ensure these requirements were met. Forest Service officials were required to obtain information on accounting system policies and procedures of applicants for grants and use this information to assure the applicant's ability to track separate project costs on a grant-by-grant basis and to ensure that indirect costs have been approved.

***Recipients did not
have written
procedures to ensure
costs were allowable***

However, we found that the prescribed procedures had not been implemented by the Forest Service. We found that none of the grant recipients visited had written procedures to ensure that costs charged to grants were allowable, allocable, and reasonable.

FUND FOR THE CITY OF NEW YORK (FCNY)

Multi-agency project

The award to FCNY was made under the auspices of the Urban Resources Partnership (URP). The URP's stated purpose was to bring together six key Federal agencies in a partnership for natural resource projects in urban areas. Under this initiative, the Federal agencies are to work collaboratively with local and State governments, community organizations, and private and nonprofit organizations to protect, improve, and rehabilitate critical urban environments. The six agencies participating in the URP included USDA's Forest Service, Extension Service, and Natural Resource Conservation Service; the U.S. Department of Interior's Fish and Wildlife Service and the National Park Service; and the Environmental Protection Agency.

The URP program did not have its own statutory authority, but instead utilized existing statutory authorities within the participating agencies. For example, in order to fund the \$500,000 Federal portion of the award to the FCNY, \$250,000 from the Natural Resource Conservation Service appropriations was transferred to the Forest Service. The

²³Title 7, CFR 3019.21(b)(2) and (7), dated August 24, 1995.

Forest Service then added \$250,000 of its own funds and issued the award under the Urban and Community Forestry section of the Cooperative Forestry Act.

Steering committee administered award

The URP award in New York was administered by an URP steering committee which consisted of members of the Forest Service, Extension Service, Natural Resource Conservation Service, National Park Service, Environmental Protection Agency, Housing and Urban Development, and the New York Department of Environmental Conservation. The steering committee used an employee of the Cooperative Extension Service of Cornell University as the program coordinator. Since the URP steering committee consisted of Federal and State employees, it arranged with the Forest Service for FCNY to be its "fiscal agent" for the award.

The URP steering committee identified nonprofit organizations in the New York City area, solicited and approved proposals for awards, made awards, and administered the subsequent awards. Of 16 awards made by the URP steering committee, 9 were either fully or partially completed prior to FCNY's application for the Forest Service award. The 16 awards by the URP steering committee were subsequently deemed subawards by FCNY and funded with the Forest Service award. Three months after the Forest Service award was made to FCNY, the URP steering committee directed the FCNY to make a subaward to Cornell University to reimburse it for some of the expenses of the URP steering committee's coordinator for the FCNY.

About \$174,000 in unallowable costs

Federal regulations²⁴ require award recipients to establish procedures to determine the reasonableness, allowability, and allocability of costs in accordance with OMB Circular A-122, Cost Principles for Nonprofit Organizations. As noted above, an entity (URP steering committee) other than the award recipient (FCNY) administered this award, including the determination of the allowability of costs allocated to the award. FCNY disbursed the Federal funds at the direction of the URP steering committee which managed the award. We determined that \$173,901 of the \$336,886 allocated to the award and reimbursed with Federal funds was unallowable costs under OMB Circular A-122, Cost Principles for Nonprofit Organizations, leaving \$162,984 in allowable costs. Exhibit F shows the effect of these unallowable costs on the total amount of Federal funds provided to FCNY. However, as discussed in Finding No. 2 above, FCNY was eligible for only \$9,812 of the \$336,886 provided (overreimbursement of \$327,074) because FCNY was not required to match Federal funds. See exhibit I for additional information regarding unallowable costs claimed by FCNY.

PINCHOT INSTITUTE FOR CONSERVATION (PIC)

Costs claimed not supported by financial records

The amounts reported by PIC on their Financial Status Report (Form SF-269) and Request for Advance or Reimbursement (Form SF-270) were not supported by the accounting records. This occurred because of mathematical and accounting errors in the recording of expenditures allocable to the award.

²⁴Title 7, CFR 3015.61(f), Financial Management Standards, dated November 10, 1981.

We compared the forms SF-269 and SF-270 submitted by PIC to the Forest Service for the period December 1992 through June 30, 1997. We found that forms SF-269 and SF-270 prepared with the same "as of" date reported different total award outlays. We also found that the accounting records did not always support the information reported on the forms SF-269 and SF-270. We determined that as of June 30, 1997, PIC was reimbursed \$5,612 more than the expenditures recorded in their accounting records.

During our test of costs allocated to the Forest Service award, we reviewed a \$1,250 charge for transition costs by a senior fellow (a retired Deputy Chief of the Forest Service). We concluded the charge was questionable and, therefore, expanded our scope to review all charges by the senior fellow. We were provided with documents showing \$10,275 in charges by the senior fellow, \$4,582 of which were for transition costs. We also found that \$2,982 of these transition costs were allocated to a private grant while \$1,600 of the costs were allocated to the Forest Service award. According to the executive director, the costs were allocated to the Forest Service award because the private grant was insufficient to cover the \$1,600. The executive director said charges are often allocated to the Forest Service award pending reimbursement from other sources.

**Over \$12,000 in costs
unallowable**

Allocating expenses to the Forest Service award because PIC had no other source of reimbursement is improper. Therefore, we questioned the \$1,600 charged to the Forest Service award for transition costs. We also determined that \$4,805 in entertainment, fund raising, contingency, and miscellaneous expenses were allocated to the award and reimbursed with Federal funds. As a result, \$12,017 in unallowable costs are subject to recovery (\$5,612 + \$4,805 + \$1,600). See exhibit J for additional information regarding the unallowable costs claimed by PIC.

The Northeastern Area State and Private Forestry Area Director concurred that the PIC forms SF-269 contained errors and that the Northeastern Area office is working with PIC to correct the forms SF-269.

ECONOMIC EMPLOYMENT AND DEVELOPMENT CENTER (EEDC)

**Over \$56,000 in
matching costs
unallowable**

This grant required EEDC to match Federal funds on a dollar-for-dollar basis. We determined that during the period of the grant, EEDC received \$144,946 in Federal funds. Our review of EEDC's accounting records showed that it recorded matching funds of \$144,027. However, we determined that \$56,229 of the \$144,027 in claimed matching costs was unallowable (\$42,108 as a result of no timesheets to support salary costs, \$13,809 for unallowable indirect costs, and \$312 for entertainment); therefore, \$56,229 in Federal funds is subject to recovery. See exhibit M for additional information regarding unallowable costs claimed by EEDC.

LOS ANGELES HARVEST (LAH)

The grant award required LAH to match, dollar for dollar, all Federal funds received under the award. The final Request for Advance or Reimbursement, Form SF-270, reported to the Forest Service that \$261,407.43 of the required

Reported matching cost short by about \$4,000

\$265,000 had been matched. According to the form SF-270 documentation for the remaining match amount, \$3,952.57 was still pending. Since the form SF-270 was final (i.e., the recipient had received all Federal funds under the grant), the only manner in which the remaining \$3,952.57 could be accounted for was through the final Financial Status Report, Form SF-269, due by January 31, 1996. However, a final form SF-269 was not submitted and the Forest Service did not ask LAH to submit a final form SF-269 or account for the remaining matching funds.

No documentation for \$71,000 matching costs

We determined that not only was there no accounting for the \$3,952.57, but there was no documentation supporting any matching amounts for calendar year 1995. Matching funds through December 31, 1994, amounting to \$193,920 had been verified by independent audit. However, there was no documentation supporting the additional required matching amount of \$71,080 (\$265,000 - \$193,920). Furthermore, the independent audit required by OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions, had not been completed for 1995. Therefore, the entire matching amount is questionable and Federal funds of \$71,080 are subject to recovery.

In addition, although LAH reported the expenditure of \$265,000 in Federal funds on their final form SF-270, the available records (a computer printout) indicated that only \$258,451.59 had been expended. We determined that in closing out the bank account of LAH, \$7,358.71 had been transferred to another bank account. We concluded that \$6,548.41 (\$265,000 Federal funds - \$258,451.59 actual expenditures) of this fund transfer represented Federal funds received by LAH.

The available records also disclosed that in 1995, \$4,372.44 in Federal funds for overhead costs was charged to the award. LAH had neither requested nor received an approved indirect cost rate for allocating overhead charges. An indirect cost rate must be established with the cognizant agency according to OMB Circular A-122. Therefore, these costs are not allowable. As a result, \$71,080 in funds is subject to recovery. See exhibit N for additional information regarding unallowable costs claimed by LAH.

TREEPEOPLE

Salary charged to award exceeded amount paid

TreePeople had a matching requirement of \$4.97 for each \$1 in Federal funds. We found that in 1995, the salary of the President of TreePeople, Inc., was charged to the award at the rate of \$50 per hour. In 1996 and 1997, the president's salary was charged to the award at \$100 per hour. However, the actual rate for 1995, 1996, and 1997 was \$42.26 per hour. TreePeople officials said that \$7.74 difference for 1995 and the \$57.74 difference for 1996 and 1997 was an allocation of home office expenses to the grant based on the percentage of hours charged to the grant by the president.

Not approved for indirect costs

TreePeople officials also stated that for 1996 and 1997, the \$100 rate was based upon the City of Los Angeles' billable rate to the award. However, TreePeople was not approved to claim indirect costs and did not have an approved indirect cost rate. Therefore, indirect costs

charged to the award were not allowable for reimbursement. Only the actual salary costs of the president at \$42.26 per hour were allocable to the award. As a result, TreePeople claimed unallowable costs of \$4,088 for the president's salary for 1995 and 1996.

In addition, a subrecipient included an indirect cost rate of 7 percent for general administrative expenses in its charges of \$1,860 to TreePeople in 1995. As noted above, TreePeople was not approved to claim indirect costs and did not have an approved indirect cost rate. Therefore, indirect costs of subrecipients are not allowable as a match for Federal funds.

Claimed salary not supported by timesheets

Also, a portion of the salary (\$2,686) of an assistant to the president was included in the total outlays claimed for 1995. The assistant's salary was allocated to the award based on the percentage of time the president charged to the award. Timesheets for the assistant were not kept. Federal regulations²⁵ require that salary expenses be supported by timesheets in order to be allowable. As a result, TreePeople was overpaid \$1,737 (\$4,088 + \$1,860 + \$2,686 divided by \$4.97).

As of the time of this evaluation, TreePeople had not submitted a request for reimbursement for 1997. However, the accounting records for 1997 showed \$17,755 in unallowable salary costs charged to the award.

The Vice President of Finance and Operations for TreePeople concurred that their match was overstated by these amounts (i.e., president's salary in excess of the \$42.26 per hour, indirect costs for general administrative expenses, and the portion of the salary of the assistant to the president allocated to the award). See exhibit O for additional information regarding unallowable costs claimed by TreePeople.

Recommendation No. 5a

Design and implement national procedures to require approving officials to ensure that controls over allowable costs are adhered to by all Forest Service offices authorized to approve grant recipient advances and claims for reimbursement.

FS Response

The written response to the draft report (see exhibit P) stated that the procedures are in place and will be re-emphasized to the administering officials.

OIG Position

We agree that FS procedures require approving officials to ensure that fund advances and claims for reimbursement are allowable; however, as noted during this evaluation, the procedures were not being followed. We continue to believe that the FS needs a strategy to ensure compliance with controls over allowable costs. To reach agreement on the management decision for Recommendation No. 5a, we need documentation showing the management control(s) to be implemented to ensure that procedures are followed and the timeframe within which the control(s) will be completed.

²⁵ OMB Circular A-122, attachment B, paragraph 6, Compensation for Personal Services, dated June 27, 1980.

**Recommendation
No. 5b**

Recover from the Pinchot Institute for Conservation \$12,017 in unallowable costs (exhibit J).

FS Response

The written response stated that the FS reviewed the files on hand and determined that only \$2,742 of the questioned costs should be recovered. The remaining \$9,275 was originally charged against the agreement in error by PIC who later adjusted its records. According to PIC, the unallowable costs were covered by private sources, not the FS grant. FS Northeastern Area Office officials will visit PIC to review the documentation for the matching funds. FS will bill PIC for any unsupported or unallowable costs.

OIG Position

To reach agreement with the management decision for this recommendation, we need the results of the FS site visit and review of PIC documentation. For the amount determined to be recovered, we also need documentation showing that PIC has been notified of the amount owed to the Government and documentation showing that the amount owed has been established as a receivable on FS' accounting records.

**Recommendation
No. 5c**

Recover from the Economic Employment and Development Center \$56,229 in unallowable costs (exhibit M).

FS Response

The written response did not concur with the total amount to be recovered. The FS concurred that indirect costs (\$13,809) and entertainment costs (\$312) should be recovered and will pursue recovery of the \$14,121 and will issue a bill for collection to EEDC within 30 days. However, the FS did not agree to recover personnel compensation costs of \$42,108. The response said the FS Region 5 has timesheets from EEDC that support time spent by the project director and the project manager on the grant project. The distribution is in line with the ratio identified in the grant and adequately supports the personnel compensation claimed as in-kind matching costs.

OIG Position

The evaluation revealed, and the EEDC Executive Director agreed, that there were no timesheets to support salaries totaling \$42,108 claimed as matching costs. Before we accept the management decision for Recommendation No. 5c, we need a credible explanation of why there were no timesheets available at the time of our visit and how timesheets are now being provided to the FS. FS Region 5 officials need to ensure that the documentation being provided by EEDC supports the number of hours charged to the award for each individual claimed for matching costs. To reach agreement on the management decision for Recommendation No. 5c, we need documentation showing that EEDC has been notified of the amount owed to the Government and documentation showing that the amount owed has been established as a receivable on FS' accounting records.

**Recommendation
No. 5d**

Recover from Los Angeles Harvest (LAH) \$71,080 in unallowable costs (exhibit N).

FS Response

The written response concurred with this recommendation and stated that the FS will pursue recovery of the unallowable costs claimed by LAH. A bill for collection will be issued to LAH by September 30, 1998.

OIG Position

We agree with the planned corrective action for this recommendation. To reach agreement on the management decision for Recommendation No. 5d, we need documentation showing that LAH has been notified of the amount owed to the Government and documentation showing that the amount owed has been established as a receivable on FS' accounting records.

**Recommendation
No. 5e**

Recover from TreePeople \$1,737 in unallowable costs (exhibit O).

FS Response

The written response stated that the FS will pursue recovery of the unallowable costs claimed by TreePeople. A bill for collection will be issued to TreePeople by September 30, 1998.

OIG Position

We agree with the planned corrective action for this recommendation. To reach agreement on the management decision for Recommendation No. 5e, we need documentation showing that TreePeople has been notified of the amount owed to the Government and documentation showing that the amount owed has been established as a receivable on FS' accounting records.

**Recommendation
No. 5f**

Conduct training reviews for NPO's and/or provide information regarding matching requirements, fund advances, and allowable costs.

FS Response

The written response stated that the FS will add a section to the award letter addressing matching requirements, fund advances, and allowable costs. The guide award letter will be rewritten by January 1, 1999. Also, the FS will continue to invite NPO's to training sessions on grants management.

OIG Position

We accept the management decision for this recommendation.

**CHAPTER 6 - UNUSED FUNDS
NOT DEOBLIGATED**

**Over \$970,000 in
funds not used by the
Advertising Council
were not deobligated**

Federal funds awarded to the Advertising Council in FY's 1992 through 1996 remained obligated in the Forest Service accounting records. As shown in the table below, the Advertising Council received \$3,231,713 of the \$4,204,843 awarded for these assistance agreements during FY's 1993 through 1996. Although these assistance agreements have expired, unused funds totaling \$973,130 had not been deobligated. Forest Service officials concurred that the funds had not been deobligated and agreed to deobligate the remaining funds. Therefore, funds totaling \$973,130 are subject to deobligation and return to the U.S. Treasury. The table below shows the breakdown of funds to be deobligated.

Fiscal Year	Award Amount	Amount Paid	Difference
1992	\$444,316	\$0	\$444,316
1993	1,345,684	770,218	575,466
1994	849,068	746,161	102,907
1995	849,550	940,552	-91,002
1996	716,225	774,782	-58,557
Total	\$4,204,843	\$3,231,713	\$973,130

The Acting Deputy Chief for Operations concurred with this condition and stated that the Forest Service will deobligate the appropriate funds remaining under the agreement.

**Recommendation
No. 6**

Deobligate \$973,130 in unused Federal funds that were awarded to the Advertising Council.

FS Response

The written response to the draft report (see exhibit P) stated that the FS has deobligated all outstanding balances to the Advertising Council for FY's 1992 through 1996.

OIG Position

We accept the management decision for this recommendation.

EXHIBIT A - SUMMARY OF MONETARY RESULTS

FINDING NUMBER	DESCRIPTION	AMOUNT	CATEGORY
2	Grant funds issued to the Texas Reforestation Foundation (\$300,000) and the Fund for the City of New York (\$327,074) that did not conform to statutes	\$ 627,074	Questioned Costs, Recovery Recommended
2	Grant funds issued to Pinchot Institute for Conservation that did not meet the purpose of authorizing statute (\$564,297 less \$12,017 recovery in Finding 5 as a result of unallowable costs claimed)	552,280	Unsupported Costs, Recovery Recommended
3	Recovery of Federal funds from the Advertising Council (\$2,885,228) and Parks and People Foundation (\$1,697,290) for not meeting matching requirements	4,582,518	Unsupported Costs, Recovery Recommended
4	Interest earned by NPO's with grant funds	21,166	Questioned Costs, Recovery Recommended
4	Interest cost to the U.S. Treasury resulting from excessive advances to NPO's	200,795	FBPTBU: Management Improvement/Savings
5	Grant funds subject to recovery from NPO's as a result of unallowable costs (\$314,964 less \$173,901 for FCNY already included in Finding No. 2 above)	141,063	Questioned Costs, Recovery Recommended
6	Deobligation of Federal grant funds not used by the Advertising Council	973,130	FBPTBU: Deobligations
TOTAL		\$7,098,026	

FBPTBU = Funds to be put to better use.

EXHIBIT B - PROFILE RISK ANALYSIS ELEMENTS

Risk Element	Maximum Assigned Points
Are current or former USDA employees employed by the recipient? (yes=1, no=0)	1
Were the Financial Status Reports (SF-269) submitted periodically? (yes=0, no=2)	2
Were funds received as an advance? (yes=2, no=0)	2
Was the recipient required to match at a less than 1 to 1 ratio for Federal funds? (yes=1, no=0)	1
Were all final financial and performance reports received? (yes=0, no=1)	1
Was there documentation supporting a Forest Service review of the SF-269 for compliance with the financial terms of the assistance agreement? (yes=0, no=2)	2
Was the grant made to an NPO out of area/region for area/regional offices? (yes=1, no=0)	1
Maximum (Assistance agreements from other than Washington Office maximum is 10. Assistance agreements from Washington Office maximum is 9)	9/10

The above risk elements were identified based on previous audit experience. Each risk element was assigned either 0, 1, or 2 points, with a larger number denoting greater risk. An overall risk factor was assigned to NPO assistance agreements. From this information, we judgmentally selected specific agreements to evaluate in greater detail. Geographic spread of Forest Service offices was also considered in selecting NPO's for review.

EXHIBIT C - AUDIT SITES VISITED

Site	Location
Deputy Chief, State and Private Forestry	Washington, D.C.
The Advertising Council	New York, NY
Northeastern Area State and Private Forestry	Radnor, PA
Pinchot Institute for Conservation	Washington, D.C.
Parks and People Foundation	Baltimore, MD
Fund for the City of New York	New York, NY
Pacific Southwest Region	San Francisco, CA
Los Angeles Harvest	Los Angeles, CA
Economic and Employment Development Center	Los Angeles, CA
TreePeople	Beverly Hills, CA
Southern Region	Atlanta, GA
Texas Reforestation Foundation	Lufkin, TX

EXHIBIT D - AGREEMENTS REVIEWED AT SELECTED NONPROFIT ORGANIZATIONS

Recipient	Award No.	Award Period	Federal Funds	Matching Funds
Parks and People Foundation	NA-94-0011	10/01/93-09/30/95	\$479,400	\$500,000
	NA-95-0010	10/01/94-09/30/96	494,000	500,000
	NA-96-0006	10/01/95-09/30/97	390,000	403,860
	NA-97-0021	10/01/96-09/30/98	300,000	300,000
	NA-97-0284	07/17/96-05/31/99	15,890	16,190
Advertising Council	92-CA-149	10/01/91-09/30/92	444,316	0
	Amendment	10/01/92-09/30/93	1,345,684	302,000
	Amendment	10/01/93-09/30/94	849,068	275,000
	Amendment	10/01/94-09/30/95	849,550	275,000
	Amendment	10/01/95-09/30/96	716,225	275,000
Fund for the City of New York	NA-94-0329	01/01/94-12/31/95	500,000	15,000
Pinchot Institute for Conservation	42-725	12/92-12/97	560,131	0
Los Angeles Harvest	92-LA-02	09/01/92-10/31/95	265,000	265,000
TreePeople	G-5-95-20-107	08/01/95-08/31/98	150,000	800,654

EXHIBIT D - AGREEMENTS REVIEWED AT SELECTED NONPROFIT ORGANIZATIONS

Recipient	Award No.	Award Period	Federal Funds	Matching Funds
Economic Employment and Development Center	92-LA-8	09/16/92-12/31/95	150,000	150,000
Texas Reforestation Foundation	08-96-50-G-03	10/01/95-09/30/97	300,000	0
Totals			\$7,809,264	\$4,077,704

NOTE: The review of PPF award Nos. NA-95-0010, NA-96-0006, NA-97-0021, and NA-97-0284 only included whether the matching amounts were supported by books and records from which the basic financial statements had been prepared and whether the matching amounts had been subjected to audit procedures required under OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.

EXHIBIT E - FUNDS SUBJECT TO RECOVERY FROM THE ADVERTISING COUNCIL

(1) CATEGORY	(2) FY 1993	(3) FY 1994	(4) FY 1995	(5) FY 1996	(6) Total <u>A/</u>
1. Federal Portion	\$1,345,684	\$849,068	\$849,550	\$716,225	\$3,760,527
2. Recipient Portion (Matching)	302,000	275,000	275,000	275,000	1,127,000
3. Total Award (1+2)	\$1,647,684	\$1,124,068	\$1,124,550	\$991,225	\$4,887,527
4. Match Required For Each Federal Dollar (2/1)	\$0.2244	\$0.3239	\$0.3237	\$0.3840	
5. Federal Funds Disbursed	\$770,218	\$746,161	\$940,552	\$774,782	\$3,231,713
6. Matching Funds Required (5x4)	\$172,837	\$241,682	\$304,457	\$297,516	\$1,016,492
7. Matching Funds Provided	\$27,697	\$26,987	\$22,964	\$26,418	\$104,066
8. Deficit (6-7)	\$145,140	\$214,695	\$281,493	\$271,098	\$912,426
9. Federal Funds Subject To Recovery (5-(7/4))	\$646,791	\$662,842	\$869,610	\$705,985	\$2,885,228
<u>A/</u> Sum of columns 2, 3, 4, and 5.					

**EXHIBIT F - FUNDS SUBJECT TO RECOVERY FROM THE FUND FOR THE CITY OF
NEW YORK AS A RESULT OF UNALLOWABLE COSTS CLAIMED**

1. Federal Funds Disbursed	\$336,886.00
2. Less Unallowable Costs	173,901.41
3. Allowable Federal Funds Disbursed	\$162,984.59
4. Required Matching for the Amount of Allowable Funds Disbursed (3 x 50 percent) (See Note 1)	\$ 81,492.30

NOTE 1: FCNY provided only \$9,812 in matching funds (see Finding No. 2). In addition, the FCNY award was provided without the required statutory authority that required a minimum of 50 percent matching funds. Therefore, this exhibit shows the effect of the unallowable costs claimed if the required matching had been provided (i.e., an overpayment of \$173,901).

EXHIBIT G - GENERAL PROVISIONS FOR COOPERATIVE AGREEMENTS

The general provisions for cooperative agreements include compliance with the following.

- Civil Rights Act of 1964.
- Requirement to establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- Requirements of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794. Section 504 provides that no otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- The right to give USDA, the awarding agency or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award.
- Requirements imposed by the awarding agency concerning special requirements of law, program requirements, and other administrative requirements.
- Age Discrimination Act of 1975, 42 U.S.C. 6101-6107, which prohibits unreasonable discrimination, based on age, in programs or activities receiving Federal financial assistance.
- Requirement to establish safeguards to ensure that USDA funds are properly spent. In particular, except nonprofit organizations which are subject to the lobbying provisions of paragraph B.21. of OMB Circular A-122, it will assure that funds are not used for partisan or political activity purposes.
- Requirement to assist the awarding agency in its compliance with Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470, Executive Order 11593, and the Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 496a-1, et. seq.
- Requirement that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of violating facilities and that it will notify the awarding agency of the receipt of any communication from the Director of the EPA, Office of Federal Activities, indicating that a facility to be utilized in the project is under consideration for listing by the EPA.

EXHIBIT G - GENERAL PROVISIONS FOR COOPERATIVE AGREEMENTS

- The flood insurance purchase requirements of the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001-4127. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.
- Requirements of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et. seq., which prohibits discrimination on the basis of sex in Federally assisted education programs.
- Clean Air Act of 1970, 42 U.S.C. 7401 et seq., which requires Federally assisted activities to be in conformance with State (Clean Air) Implementation Plan.
- Rights and welfare of human subjects.
- Animal Welfare Act.
- National Institute of Health Guidelines for Recombinant DNA Research.
- International Air Transportation Fair Competitive Practices Act.

EXHIBIT H - REVIEW OF TEXAS REFORESTATION FOUNDATION (TRF)

GRANT DID NOT MEET REQUIREMENT OF AUTHORIZING STATUTE

Funds (\$300,000) appropriated for the National Forest System were transferred to the State and Private Forestry (S&PF) Stewardship Incentive Program (SIP). These funds in turn were used in the form of a grant to TRF without the requisite statutory authority. As a result, the Forest Service disbursed \$300,000 in Federal funds without proper authority.

There was no statutory authority to make grants to TRF under the SIP. The SIP, which is funded from the S&PF appropriation, is required to be administered by the States in accordance with the SIP authorizing statute,²⁶ rules published in the CFR,²⁷ and the SIP Handbook²⁸ which was issued jointly by the Farm Services Agency (FSA) and the Forest Service.

The SIP statute requires the Secretary of Agriculture, in consultation with State foresters or equivalent State officials, to establish the SIP within the Forest Service. This statute established eligibility requirements for the SIP which included the following:

- The development of a multi-resources stewardship plan,
- an agreement to implement the plan within a 10-year period,
- participating landowners cannot own more than 1,000 acres of nonindustrial private forest land, except with approval of the Secretary, and
- participating landowners cannot own more than 5,000 acres of nonindustrial private forest land.

Further, cost-sharing can be provided to a landowner only under the following circumstances:

- The landowner has agreed to place the land in the SIP;
- cost-share rates have been determined in consultation with a State forester, or equivalent State official; and
- the cost-share cannot exceed 75 percent of the total cost of the project.

The Secretary is also required to recapture payments made to a landowner in the event that the landowner fails to implement any approved activity specified in the forest stewardship plan for which the owner received cost-share payments. Finally, the statute requires the Secretary to distribute funds among the States.

To implement this statute, the Forest Service informed the public, in accordance with the Administrative Procedures Act, of the regulations that would be used to administer the SIP. These regulations were published at Title 16, CFR, part 230, dated July 1, 1993. Further, to administer the program, Handbook 1-SIP was jointly published by the Forest Service and FSA. This handbook provided the day-to-day details of operating the program, including recapture, maximum payments, inspections, and payments, which are made through the FSA.

In the FY 1994 Department of Interior and Related Agencies Appropriations Act, Congress instructed the National Tree Trust to grant \$2.5 million to TRF from the \$20 million previously received from the Forest Service. The Forest Service, with advice from the Office of the General Counsel (OGC), declined to direct the National Tree Trust to grant the funds to TRF. Forest Service officials stated that a member of Congress, in whose congressional district the TRF was located,

²⁶ 16 USC 2103b, Stewardship Incentive Program, dated November 28, 1990.

²⁷ Title 16, CFR, part 230, Stewardship Incentive Program, dated July 1, 1993.

²⁸ Handbook 1-SIP, dated June 28, 1994.

EXHIBIT H - REVIEW OF TEXAS REFORESTATION FOUNDATION (TRF)

had been instrumental in inserting the above provision in the Department of Interior and Related Agencies Appropriations Act.

Forest Service officials stated that a congressional staff member subsequently contacted the Office of the Under Secretary for Natural Resources and Environment and requested that the Forest Service "find" some funds for TRF. In late 1994, the Forest Service staff discussed the issue with the Under Secretary and informed him that such action could set a bad precedent and that there were no funds available to legally meet the request.

Documentation showed that in March 1995, a member of the Under Secretary's staff informed the Deputy Chief for State and Private Forestry that the member of Congress was still pursuing a grant of "\$2 million or whatever" based on a General Accounting Office report stating that the Forest Service had carryover funds.

Documentation showed that on March 24, 1995, the Assistant Director of Cooperative Forestry met with representatives of legislative affairs, budget, and fiscal staffs in response to a call from the Under Secretary's office to "find" \$750,000 for TRF. This group explored options in providing the funding, including Secretarial reprogramming for Emergency Pest Funds, Timber Salvage Sale funds, Forest Legacy, Urban and Community Forestry, and the pulling back of 1995 SIP funds from States and counties. The group decided to provide a grant of \$750,000 to TRF from FY 1996 SIP funds. This approach was cleared with the confidential assistant to the Under Secretary for Natural Resources and Environment.

Documentation also showed that on March 24, 1995, the Assistant Director of Cooperative Forestry met with a member of the congressperson's staff. At this meeting, the assistant director conveyed the offer of \$750,000 of 1996 SIP funds, contingent upon the Forest Service receiving a SIP appropriation in 1996. The assistant director said the offer was made based on the Forest Service's understanding of an earlier conversation between the Under Secretary and the member of Congress. A staff member of the congressperson said that the member of Congress and the Under Secretary had discussed a grant, but an exact amount was not discussed.

The documentation showed that on March 29, 1995, a staff member of the congressperson called the Assistant Director of Cooperative Forestry and informed him that the member of Congress accepted the Forest Service's offer of a \$750,000 grant to TRF.

On March 31, 1995, the Deputy Chief for State and Private Forestry informed the Under Secretary for Natural Resources and Environment that "Per your direction, we have committed \$750 thousand to the Texas Reforestation Foundation from FY 1996 Stewardship Incentive Program (SIP) funding."

On May 8, 1995, the Deputy Chief of State and Private Forestry informed the Under Secretary, through the Chief of the Forest Service, that "In response to your request, you asked the Forest Service to find \$750,000 in support of the Texas Reforestation Foundation. This memorandum describes the logic pursued in determining the source of funding."

The Assistant Director for Cooperative Forestry later prepared a "Memo to File on Texas Reforestation" on February 5, 1998. This memorandum stated that subsequent to the Forest Service decision to grant \$750,000 to TRF, the SIP appropriation was cut to \$4.5 million. After discussions with the staff of the congressperson, it was agreed that the amount of the grant would be \$300,000. Also, the memorandum stated that the reduction in SIP funds would be covered by other Forest Service accounts. We were subsequently informed that funds appropriated for the National Forest System were transferred to the SIP.

EXHIBIT H - REVIEW OF TEXAS REFORESTATION FOUNDATION (TRF)

Because of the \$300,000 award commitment to TRF, the States in the Forest Service Southern Region had received a reduction of 23 percent (\$300,000/\$1,284,000) in the SIP funds available to them for FY 1996. To alleviate this reduction, the Secretary, on September 29, 1995, informed Congress that he was reprogramming \$500,000 from the FY 1995 National Forest System appropriation to the State and Private Forestry appropriation for "Priority Projects." The award to TRF was not specifically mentioned; however, \$300,000 of the \$500,000 went to replace the funds that would be awarded to TRF. On September 30, 1995, the reprogramming of funds was accomplished.

On March 15, 1996, the Forest Service Southern Regional Office informed TRF that \$300,000 was available and requested TRF to submit an application. The application was submitted on March 25, 1996, and the grant was approved on April 5, 1996. The starting date was approved beginning October 1, 1995, and the grant period ended September 30, 1997. The award letter contained no references to the SIP as published in Title 16, CFR, part 230, or to Handbook 1-SIP. The TRF application for Federal assistance requested 100 percent funding and was approved by the Forest Service even though the statutory requirement was for a maximum of 75 percent cost-sharing.

In FY 1996 the \$300,000 grant to TRF was the single largest amount distributed under the SIP. The next largest amount went to the State of Georgia (\$103,000).

On July 30, 1996, the entire grant amount of \$300,000 was advanced to TRF even though the USDA Uniform Federal Assistance Regulations limit advances to a recipient's need for 30 days. Forest Service Southern Regional Office officials explained that an advance was made to TRF to conform to their (TRF) policy of having cash on hand for their commitments. (See Finding No. 4 for additional information regarding the TRF award.)

On February 12, 1998, Forest Service Southern Regional Office officials agreed that the award to TRF under the SIP statute was not appropriate. The officials also agreed that a bill for collection should have been issued in September 1997. The officials said they were working on establishing the appropriate authority for the award to TRF.

The Acting Deputy Chief for Operations stated that the Forest Service agreed that the FY 1996 reprogramming of National Forest System dollars to SIP administrative funds and subsequent granting of said funds to the TRF was inappropriate. The official stated that the Cooperative Forestry Assistance Act, the interim SIP rule published in the CFR, and Handbook 1-SIP, provided direction and guidance regarding the purpose and use of SIP cost-share funding, but are silent on the use of appropriated funds for national administrative purposes. Further, the official said that historically 10 to 20 percent of the SIP appropriation has been retained for transfer to the Farm Service Agency, other administrative functions, and support of other national priorities. According to the official, it was in this environment that the Washington office made SIP administrative funds available to the Southern Region to support the TRF's tree planting program as SIP appeared at the time to be the most likely match among the Forest Service programs available.

The Acting Deputy Chief for Operations also agreed that the TRF's tree planting program is not in complete compliance with the SIP statute. However, the official stated that the normal SIP was not compromised and the use of the reprogrammed funds appears consistent with the legislative intent of the Cooperative Forestry Assistance Act to conserve soil and water, protect and restore the environment, improve forests, and provide wildlife habitat. In hindsight, the official said it would have been more appropriate if the reprogramming of funds had been to one of the Forest Stewardship programs.

EXHIBIT H - REVIEW OF TEXAS REFORESTATION FOUNDATION (TRF)

We disagree that a grant for tree planting, the largest single grant of funds under the SIP in FY 1996, can reasonably be considered an administrative expense. Further, two of the three authorities cited by the Deputy Chief for Operations as being silent on the use of administrative funds (CFR and Handbook 1-SIP) were prepared by the Forest Service. The third and controlling authority cited (Cooperative Forestry Assistance Act (codified at Title 16 USC, Chapter 41)) is not silent on the use of administrative funds. Title 16, USC, section 2109(c), Consultation Requirement for Implementing Programs, requires that the administrative expenses in connection with activities and programs, and the amount to be expended, are to be determined in consultation with a committee of not less than five State foresters or equivalent State officers from States participating in Cooperative Forestry Assistance Act programs. Only in an emergency is the committee not to be considered in the expenditure of funds. Nowhere in the documentation or explanations provided by the Forest Service in the grant of SIP funds to TRF was there a reference to a consultation with the committee.

We concluded that the grant of funds to TRF was not an administrative use of SIP funds. Also, as noted earlier, this grant to TRF resulted in a material reduction (i.e., 23 percent) in the funds available to the Southern Region. The circumstances surrounding the selection of TRF to receive a grant, the lack of statutory authority to make the grant, and the subsequent rationalizing of the grant as an administrative expense, led us to conclude that the grant to TRF was made to satisfy the request of a member of Congress and only afterwards was an attempt made to justify the grant.

EXCESSIVE FUND ADVANCES

On April 5, 1996, TRF was awarded a grant of \$300,000 that required no matching funds to be provided by the TRF. (See Finding No. 2 for additional information regarding the grant award to TRF.) The grant was to be accomplished over the 2-year period October 1, 1995, to September 30, 1997. On July 16, 1996, TRF requested that the entire award of \$300,000 be advanced. On July 30, 1996, the advance was approved. Forest Service officials stated they were aware of the requirement to advance a maximum of 1 month's anticipated expenses; however, they explained the entire amount was advanced to conform to TRF's policy of having cash on hand for their commitments.

We became aware of the advance of funds in March 1997. Because of our inquiries, TRF was required to submit a financial status report which disclosed excess Federal funds on hand.

On April 8, 1997, we issued a management alert to the Forest Service noting the excessive advance of Federal funds. On July 8, 1997, the Forest Service agreed to collect the balance of funds from TRF. On November 25, 1997, the Forest Service informed us they were going to recover the funds since the grant had expired on September 30, 1997. However, during our visit to the Forest Service during the week of February 2, 1998, we found that no action had been taken to recover the funds. After contacting TRF, we determined that as of December 1997, TRF had over \$169,000 of the grant funds on hand. (See table below.) On February 11, 1998, the Forest Service issued a bill for collection for \$169,001.53 to the TRF. On March 13, 1998, TRF returned \$120,934.75 to the Forest Service, retaining a \$30,000 advance. The \$18,066.78 difference represents expenditures by the TRF.

EXHIBIT H - REVIEW OF TEXAS REFORESTATION FOUNDATION (TRF)

Excess Funds Held By The Texas Reforestation Foundation			
Date	Funds Expended	Excess Funds	Elapsed Months
July 30, 1996	\$0	\$300,000	0
March 10, 1997	5,885	294,115	7
December 31, 1997	130,635	169,365	19

Forest Service officials said that after the July 8, 1997, agreement to collect the balance of funds, they gave TRF the benefit of the doubt that it was going to utilize and disburse the award funds; however, in hindsight, the officials agreed that a bill of collection should have been issued in September 1997.

At the time of this evaluation, TRF had earned \$4,945 in interest on the advanced funds and had not returned it to the U.S. Treasury. Subsequently, \$4,945 was returned to the U.S. Treasury. Further, the Government incurred increased interest costs to the U.S. Treasury totaling \$24,072 as of March 13, 1998, for the advance of funds.

EXHIBIT I - REVIEW OF THE FUND FOR THE CITY OF NEW YORK (FCNY)

GRANT DID NOT MEET REQUIREMENT OF AUTHORIZING STATUTE

Forest Service Northeastern Area State and Private Forestry officials did not require FCNY to match at least 50 percent of the Federal grant award amount. The Federal award to FCNY was \$500,000; however, FCNY was required to provide only \$15,000 (3 percent). Federal law prohibits the Forest Service from providing more than 50 percent of the cost of a grant award for urban and community forestry assistance. Award costs are to be shared with the recipient on a matching basis.²⁹ For example, a total grant award of \$515,000 would require the recipient to match \$257,500 of Federal funds with at least an equal amount (\$257,500).

On September 21, 1994, Forest Service officials issued an award to FCNY for \$515,000. Federal funds of \$500,000 were to be provided with a match of \$15,000 provided by FCNY. The FCNY application, which was incorporated as part of the award, stated that FCNY would be making subawards which would require matching funds. However, the budget provided by FCNY did not incorporate these matching funds into its planned expenditures and the terms of the award did not require any matching funds other than the \$15,000.

Awards by FCNY to subrecipients are not enforceable by the Forest Service because the contractual grant agreement existed only between the Forest Service and FCNY.³⁰ However, FCNY remained responsible to the Forest Service for ensuring that Federal funds disbursed to subrecipients were expended in accordance with Federal regulations. Also, any funds improperly expended by subrecipients would not be an allowable cost to the award by FCNY.³¹

If FCNY had been required to properly match the Federal funds, all of the matching costs provided by subrecipients would have been subject to procedures under the audit required of FCNY by OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions.³² However, because these matching costs were not required by the award, they were not part of the OMB Circular A-133 audit of FCNY.

As a result, the Forest Service made an improper award to FCNY in that FCNY was not required to match at least 50 percent of the Federal funds provided. The Forest Service disbursed \$336,886 in Federal funds to FCNY and FCNY provided \$9,812 in matching funds. Therefore, a maximum of \$9,812 was allowable for disbursement to FCNY. As a result, \$327,074 is subject to recovery from FCNY (\$336,886 disbursed - \$9,812 matched) because the funds were expended without the requisite statutory authority. (See Finding No. 5 for additional information regarding unallowable costs claimed by FCNY.)

The Northeastern Area State and Private Forestry Area Director concurred that the matching requirement was not met; however, since the Northeastern staff did not process the grant, they were unaware that the 50/50 matching requirement was not satisfied until brought to their attention during this evaluation.

²⁹Title 16, USC, section 2105, dated November 28, 1990.

³⁰U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriation Law, second edition, volume II, December 1992, chapter 10, paragraph C3a.

³¹U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriation Law, second edition, volume II, December 1992, chapter 10, paragraph C2.

³²OMB Circular A-133, Audits of Institutions of Higher Education and Other Non-Profit Institutions, dated March 16, 1990, attachment, paragraph 13c.

EXHIBIT I - REVIEW OF THE FUND FOR THE CITY OF NEW YORK (FCNY)

EXCESSIVE FUNDS ADVANCED

On November 9, 1994, FCNY requested and received an advance of \$200,000. The advanced funds were commingled with other funds in an FCNY money market account that earned interest at varying rates. Ultimately the advanced funds earned \$3,573 in interest. The balance in the money market account occasionally dropped below the amount of the remaining advance funds, thereby indicating that the Federal funds were temporarily used by FCNY for purposes other than the award. During the period February through July 1995, the amount of Federal funds used for purposes other than the award ranged from about \$3,700 to \$29,000.

FCNY submitted a Financial Status Report (Form SF-269) on June 13, 1995, which showed that as of December 31, 1994, \$185,245 of the advanced funds remained on hand. The form SF-269 submitted on August 2, 1995, showed that as of June 30, 1995, \$102,523 of Federal funds remained on hand. FCNY accounting records showed that the advance was not fully expended until January 1996. The borrowing cost to the Government for these excessive advances totaled \$8,234.

The Northeastern Area State and Private Forestry Area Director stated that FCNY will be requested to return all interest earned on the advance.

UNALLOWABLE COSTS CLAIMED

The award to FCNY was made under the auspices of the Urban Resources Partnership (URP). The URP's stated purpose was to bring together six key Federal agencies in a partnership for natural resource projects in urban areas. Under this initiative, the Federal agencies are to work collaboratively with local and State governments, community organizations, and private and nonprofit organizations to protect, improve, and rehabilitate critical urban environments. The six agencies participating in the URP included USDA's Forest Service, Extension Service, and Natural Resource Conservation Service; the U.S. Department of Interior's Fish and Wildlife Service and the National Park Service; and the Environmental Protection Agency.

The URP program did not have its own statutory authority, but instead utilized existing statutory authorities within the participating agencies. For example, in order to fund the \$500,000 Federal portion of the award to the FCNY, \$250,000 from the Natural Resource Conservation Service appropriations was transferred to the Forest Service. The Forest Service then added \$250,000 of its own funds and issued the award under the Urban and Community Forestry section of the Cooperative Forestry Act.

The URP award in New York was administered by an URP steering committee which consisted of members of the Forest Service, Extension Service, Natural Resource Conservation Service, National Park Service, Environmental Protection Agency, Housing and Urban Development, and the New York Department of Environmental Conservation. The steering committee used an employee of the Cooperative Extension Service of Cornell University as the program coordinator.

The URP steering committee identified nonprofit organizations in the New York City area, solicited and approved proposals for awards, made awards, and administered the subsequent awards. Of 16 awards made by the URP steering committee, 9 were either fully or partially completed prior to FCNY's application for the Forest Service award. The 16 awards by the URP steering committee were subsequently deemed subawards by FCNY and were funded with the Forest Service award. Three months after the Forest Service award was made to FCNY, the URP steering committee directed the FCNY to make a subaward to Cornell University to reimburse it for some of the expenses of the URP steering committee's coordinator for the FCNY.

EXHIBIT I - REVIEW OF THE FUND FOR THE CITY OF NEW YORK (FCNY)

Although the Federal award was from the Forest Service to FCNY, it was actually controlled by the URP steering committee. Since the URP steering committee consisted of Federal and State employees, it arranged with the Forest Service for FCNY to be its "fiscal agent" for the award. The URP steering committee issued 16 awards to nonprofit organizations and later directed the FCNY to make the award payments after it received the Forest Service award.

Title 31, USC 6301-6308, dated September 13, 1982, requires that a grant or cooperative agreement be the legal instrument when the U.S. Government transfers funds to a nongovernmental body. However, in this instance, the transfer of control of funds was not to a nongovernmental body but to Federal agency representatives (i.e., the URP steering committee) with the FCNY as a "fiscal agent." A grant is to be used when little involvement by the Federal funding agency is expected in accomplishing the award. A cooperative agreement is to be used when substantial involvement by the Federal funding agency is expected.

OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations; and Title 7, CFR 3015, USDA Uniform Federal Assistance Regulations, states that a recipient (in this case FCNY) is vested with administering the award and remains accountable for the accomplishment of its objectives. These Federal regulations were circumvented and Federal agency representatives administered the award and accomplished the objectives making it unclear why an award to the FCNY was required. Moreover, this arrangement resulted in material unallowable costs and left FCNY responsible for the recovery of Federal funds in which it had little or no disbursement control.

Federal regulations³³ require award recipients to establish procedures to determine the reasonableness, allowability, and allocability of costs in accordance with OMB Circular A-122, Cost Principles for Nonprofit Organizations. As noted above, an entity (URP steering committee) other than the award recipient (FCNY) administered this award, including the determination of the allowability of costs allocated to the award. FCNY disbursed the Federal funds at the direction of the URP steering committee which managed the award. We determined that \$173,901 of the \$336,886 allocated to the award and reimbursed with Federal funds was unallowable costs under OMB Circular A-122, Cost Principles for Nonprofit Organizations, leaving \$162,984 in allowable costs. The unallowable costs are shown in the table below. Exhibit F shows the effect of these unallowable costs on the total amount of Federal funds provided to FCNY. However, as discussed in Finding No. 2 above, FCNY was eligible for only \$9,812 of the \$336,886 provided (overreimbursement of \$327,074) because FCNY was not required to match 50 percent of the Federal funds.

³³Title 7, CFR 3015.61(f), Financial Management Standards, dated November 10, 1981.

EXHIBIT I - REVIEW OF THE FUND FOR THE CITY OF NEW YORK (FCNY)

Category	Amount
Costs incurred prior to the award	\$83,910.80
Capital expenditures	46,220.39
Overhead	7,966.00
Entertainment	4,103.59
Printing	7,050.46
Interest	375.00
Materials/Supplies	786.30
Undocumented, subject to other Federal reimbursement	23,488.87
Total	\$173,901.41

The Northeastern Area State and Private Forestry Area Director provided the following information regarding the URP: The URP initiative was a new effort to make Government more effective and responsive to the environmental needs of urban communities. The Federal agencies worked collaboratively with local and State governments, community organizations, and private and nonprofit organizations on this initiative. The FCNY was selected to administer the award because of their neutrality and expertise in small grant management. The FCNY also was awarded the grant because it was late in the Federal FY and Federal funds had to be obligated by September 30. There was no guarantee that these funds would be available in the following FY. The funds for the URP projects were not an earmark, but were taken off the top of the agency's Urban and Community Forestry allocation. The URP steering committee was charged to find projects for the URP dollars. The steering committee was newly formed and was not knowledgeable in grant administration for the Federal regulations for grant management. Although the steering committee had substantial involvement in monitoring the grants to the subrecipients, they were not substantially involved in the implementation or performance of the activities. In addition, the area director said the FCNY and the URP coordinator advised the Forest Service that all costs incurred were allowable and could be supported by documentation and that FCNY was asked to provide the documentation to the Forest Service.

EXHIBIT J - REVIEW OF PINCHOT INSTITUTE FOR CONSERVATION (PIC)

GRANT DID NOT MEET REQUIREMENT OF AUTHORIZING STATUTE

Forest Service Northeastern Area State and Private Forestry officials substituted policy for statutory requirements in preparing the PIC agreement and, in addition, the award purpose and the statutory authority conflicted. The total award amount was \$564,297.

Participating Agreement Substituted for Cooperative Agreement. The Federal Grant and Cooperative Agreements Act of 1978 stipulates the contractual form (i.e., cooperative agreement) that is to be used in transferring funds to a recipient when substantial involvement is expected between the recipient and the Federal agency in carrying out the contemplated activity.³⁴

Departmental regulations, which take precedence over agency policies, require that cooperative agreements between USDA agencies and nonprofit organizations contain certain general provisions.³⁵ These general conditions require, as a condition of the cooperative agreement, that the recipient assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, which are to be incorporated in an agreement by reference, and such other statutory provisions as are specifically set forth in the agreement. See exhibit G for the requirements to be incorporated into cooperative agreements.

Although the Federal Grants and Cooperative Agreements Act and Departmental regulations provide specific guidance for contractual agreements with nonprofit organizations, the Forest Service developed a policy for executing another type of instrument, a "participating agreement."³⁶ Participating agreements were a creation of the Forest Service and did not conform to the Federal Grants and Cooperative Agreements Act or to OMB and Departmental regulations. The use of such unauthorized agreements transfers funds from the U.S. Treasury without adequate contractual assurance that the recipient will use the funds for the intended purposes and without the provisions necessary to oversee the award by the Forest Service.

The Forest Service has authority to enter into cooperative agreements (specified in the statute) for specific purposes.³⁷ However, in its issuance of an award to PIC under this authority, the Forest Service chose to use a "participating agreement" instead of a cooperative agreement. The statutory requirement was to use a cooperative agreement which conforms to OMB and Departmental regulations. The Forest Service did not have the authority to issue the participating agreement. In the event of disagreements between the Forest Service and PIC regarding the terms of the award, the interests of the U.S. Government would not be protected.

The executive director of PIC concurred with this finding and stated that all future agreements would comply with USDA and Forest Service regulations and contain the required assurances and certifications. Further, he said that participating agreement No. 42-725 is closed and no disagreements between PIC and the Forest Service are expected. Therefore, he believed that the interests of the Government are not in jeopardy.

³⁴Title 31, USC, Section 6305, dated February 3, 1978.

³⁵Title 7, CFR, Part 3015, dated November 10, 1986.

³⁶Forest Service Handbook, section 1587.03, dated April 21, 1995.

³⁷Title 16, USC, section 565a-1, dated December 12, 1975.

EXHIBIT J - REVIEW OF PINCHOT INSTITUTE FOR CONSERVATION (PIC)

The Northeastern Area State and Private Forestry Area Director concurred that the instrument used should have been a cooperative agreement instead of a participating agreement. The area director also said this agreement is closed and that future agreements with PIC will be via either a grant or cooperative agreement, whichever is appropriate.

Award Purpose and the Statutory Authority Conflicted. Officials of the Forest Service used their interpretation of the "implied broad goal of the statute"³⁸ to help PIC move towards "sustainable approaches to forestry" instead of meeting the purposes of the statute. The statute authorized the Forest Service to enter into cooperative agreements for the following purposes:

1. To construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems,
2. to engage in cooperative manpower and job training and development programs,
3. to develop and publish cooperative environmental education and forest history materials, and
4. to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees.

On December 22, 1992, the Forest Service entered into participating agreement No. 42-725 with PIC. The purpose of the participating agreement was for "* * * preserving and restoring Grey Towers National Historic Landmark and the promotion of the conservation of natural resources throughout the world." However, at the time of this evaluation, award funds were primarily being used to convene and facilitate national conferences and workshops for other entities (including the Forest Service). We also found that award funds were used to support a senior fellow who provided transition consulting to the new Chief of the Forest Service. (See Finding No. 5 for additional information regarding the senior fellow.)

We could not identify in the accounting records the use of award funds to the four purposes cited in the statute.

We asked the Director of Grey Towers National Historic Landmark, a Forest Service employee and the program manager for the award, to relate the stated purpose of the award and the use of funds to the four purposes in the statute. The director's responses were general in nature and often referred to overall Forest Service programs and broad objectives that were not specifically relevant to the authorizing statute. Further, the links he made between the activities of PIC and the statutory purposes under which the award was issued were not well supported. For example, the director stated that purpose No. 4 of the statute allows for forest protection, which the director stated was synonymous with conservation. He further reasoned that the conservation of our own natural resources is important, but that it is equally important to promote such activities in other countries and, therefore, the "conservation of natural resources throughout the world."

Statute purpose No. 4 shows that forest protection envisioned such items as fire protection, timber stand improvement, debris removal, and thinning of trees. Whether such activities as these are synonymous with the promotion of conservation of natural resources through the hosting of national conferences and workshops is questionable.

³⁸Title 16, USC, section 565a-1, dated December 12, 1975.

EXHIBIT J - REVIEW OF PINCHOT INSTITUTE FOR CONSERVATION (PIC)

In another example, the director stated that Grey Towers National Historic Landmark is a unique part of the Forest Service holdings and resource management responsibilities. He said the Forest Service used the management of the landmark as a metaphor for forest protection issues elsewhere. We do not believe that such a relationship to the authorizing statute meets the statutory requirements.

The executive director of PIC maintained that its activities were consistent with purposes 2 and 3 of the authorizing statute.

The Northeastern Area State and Private Forestry Area Director did not concur that the award purpose and statutory authority conflicted. The area director stated that PIC works in partnership with universities, conservation groups, industry, and other Federal agencies as a catalyst for conservation thought and policy development, and promotes the discussion of current and emerging natural resources issues. He said this is accomplished by initiating and facilitating meetings, coordinating and sponsoring conferences, providing grants and partnerships, and publishing proceedings. He stated that these activities are consistent with the statutory authority and grant award purposes and that it may be difficult to readily identify the funds in the accounting records as the four purposes cited in the statute are broad in nature.

Forest Service regulations³⁹ state that the use of purpose No. 2 is appropriate only where the other party has a specific job training program currently in place and the parties for the agreement share in the costs. Further, the regulation requires that a cooperator (PIC) contribute all or a portion of their administrative expenses and the trainees' and supervisors' salaries and benefits. We found neither a specific job training program in place nor expenses of the award being shared by PIC.

Forest Service regulations contained an example of purpose No. 3. The example was the development and dissemination of brochures describing the various types of trees in a national forest and management techniques used to sustain them. We found nothing in the accounting records or in PIC's annual reports to indicate the accomplishment of this purpose. As a result, we concluded that the purpose of the participating agreement with PIC was inconsistent with the authorizing statute.

EXCESSIVE FUND ADVANCES

Between July 1993 and December 1995, PIC received advances from the Forest Service and, until February 1995, the funds were kept in an interest bearing account. Between July 1993 and February 1995, \$421 in interest was earned on the advances. The interest had not been returned to the U.S. Treasury. The borrowing cost to the Government for the advances totaled \$1,954.

The Northeastern Area State and Private Forestry Area Director concurred that PIC had inadequate cash management and stated that PIC will be directed to repay all interest earned on the advanced funds. The area director also said this condition has been corrected as PIC uses the Department of Health and Human Services' payment management system to have their funds transferred into their account electronically. If PIC needs to request funds, the funds are available the next business day, thus eliminating the need for advances or the need to keep funds on hand more than 30 days before they are disbursed.

UNALLOWABLE COSTS CLAIMED

The amounts reported by PIC on their Financial Status Report (Form SF-269) and Request for Advance or Reimbursement (Form SF-270) were not supported by the

³⁹FSM 1587.11b, dated April 21, 1995.

EXHIBIT J - REVIEW OF PINCHOT INSTITUTE FOR CONSERVATION (PIC)

accounting records. This occurred because of mathematical and accounting errors in the recording of expenditures allocable to the award. As a result, PIC received \$5,612 more in reimbursements than was supported by their accounting records.

We compared the forms SF-269 and SF-270 submitted by PIC to the Forest Service for the period December 1992 through June 30, 1997. We found that forms SF-269 and SF-270 prepared with the same "as of" date reported different total award outlays. We also found that the accounting records did not always support the information reported on the forms SF-269 and SF-270. We determined that as of June 30, 1997, PIC was reimbursed \$5,612 more than the expenditures recorded in their accounting records.

PIC also had no written procedures for determining the reasonableness, allocability, and allowability of costs allocated to the award which resulted in unallowable costs totaling \$6,405. The Director of Grey Towers National Historic Landmark stated that transition costs for consulting with the Chief of the Forest Service were covered under the award; however, the PIC Executive Director stated that these costs were covered by a private grant.

During our test of costs allocated to the Forest Service award, we reviewed a \$1,250 charge for transition costs by a senior fellow (a retired Deputy Chief of the Forest Service). We concluded the charge was questionable and, therefore, expanded our scope to review all charges by the senior fellow. We were provided with documents showing \$10,275 in charges by the senior fellow, \$4,582 of which were for transition costs. We also found that \$2,982 of these transition costs was allocated to a private grant while \$1,600 of the costs was allocated to the Forest Service award. According to the executive director, the costs were allocated to the Forest Service award because the private grant was insufficient to cover the \$1,600. The executive director said charges are often allocated to the Forest Service award pending reimbursement from other sources.

Allocating expenses to the Forest Service award because PIC had no other source of reimbursement is improper. Therefore, we questioned the \$1,600 charged to the Forest Service award for transition costs. We also determined that \$4,805 in entertainment, fund raising, contingency, and miscellaneous expenses were allocated to the award and reimbursed with Federal funds. As a result, \$12,017 in unallowable costs is subject to recovery (\$5,612 + \$4,805 + \$1,600).

The Northeastern Area State and Private Forestry Area Director concurred that the PIC forms SF-269 contained errors and that the Northeastern Area office is working with PIC to correct the forms SF-269. He said apparently an early error occurred and was carried forward each time another form SF-269 was prepared. If it is determined that PIC was overpaid, the area director said the Forest Service will request the excess payments.

In addition, the area director stated that if it is determined that unallowable costs were charged to the award, the Forest Service will request PIC to return those funds along with interest. He said the Director of Grey Towers assumed that the Forest Service award covered the transition costs for consultation with the Chief of the Forest Service; however, the PIC Executive Director disagrees. The area director said the PIC Executive Director explained how costs from all grants received were charged against the general support fund and later adjusted and that the accounting system has since been corrected to trace costs charged to the Forest Service grant in accordance with Federal regulations.

The area director also said the PIC Executive Director explained that the \$4,805 questioned as unallowable was actually labeled incorrectly on the invoices or records (i.e., meeting was incorrectly recorded as entertainment). The area director said PIC will be requested to provide a list of the actual expenditures so a determination can be made if they were allowable.

EXHIBIT K - REVIEW OF THE ADVERTISING COUNCIL

MATCHING REQUIREMENT NOT MET

The Advertising Council was awarded a Federal grant on July 24, 1992, by the office of the Deputy Chief for State and Private Forestry. The grant award and amendments through September 30, 1996, totaled \$5,331,843. Amendments were made annually, and the amendments of FY's 1993, 1994, 1995, and 1996 required the Advertising Council to provide matching funds.

After the initial year of the award in FY 1992, all subsequent FY's (1993 through 1996) required the Advertising Council to match a proportionate share of the Federal funds awarded. Based on the amount of Federal funds disbursed during FY's 1993 through 1996 (\$3,231,713), the Advertising Council was required to provide approximately \$1,016,492 in matching funds. However, the accounting records revealed that only \$104,066 charged to the award had not been claimed for reimbursement from the Forest Service and, therefore, provided as matching funds. As a result, \$912,426 (\$1,016,492 - \$104,066) in matching funds was not provided and \$2,885,228 in Federal funds is subject to recovery. See exhibit E for the extent of required matching for each FY and the computation of the amount of funds subject to recovery due to the lack of matching funds provided for the grant agreement.

The deficit in matching costs should have been detected during the audits conducted in accordance with OMB Circular A-133; however, although these audits were required to determine if the matching requirements had been met, they did not address matching funds. Thus, Forest Service and Advertising Council officials accepted incomplete Circular A-133 audit reports and received no information regarding matching fund requirements.

The awards for FY's 1993 through 1996 definitively stated that the total award consisted of Federal funds and matching funds. In fact, the award stated how the matching requirements were to be met by the Advertising Council; i.e., direct labor costs of the Advertising Council and its advertising agencies. Nevertheless, Advertising Council and Forest Service officials stated they were unaware of the matching requirements.

The Executive Vice President for the Advertising Council stated that the original award did not specify a matching requirement and referred to pro bono donations with no amount specified. Further, the official stated that the award did not require that the services of the Advertising Council and the volunteer agencies meet or exceed estimated amounts or designated amounts as matching funds. Moreover, the official stated that the award did not contain a provision to recover funds should the amount of in-kind contributions be less than originally estimated.

In addition, the Acting Deputy Chief for Operations stated that the Forest Service did not concur that the Advertising Council had matching requirements that were not met. The Acting Deputy Chief for Operations stated that it is evident in period one of the cooperative agreement that the intent of the additional work of the Advertising Council was pro bono; the estimated value in the agreement was documented to show the Government how the Advertising Council intended to independently support the Forest Service commitment in this activity; and that in a contractual sense both parties understood the terms and conditions of the additional Advertising Council work to be gratis with no reimbursement of Government funds, not as a requirement for matching funds. The Acting Deputy Chief for Operations also stated that the form SF-424 is an application for Federal assistance and the provisions of the contract are defined in the agreement narrative which indicates that the Advertising Council would enlist support from major associations and communications groups at no cost to the Government or the Advertising Council. The Acting Deputy Chief said the Advertising Council did not comprehensively document donated/volunteer time nor did the Forest Service expect this.

EXHIBIT K - REVIEW OF THE ADVERTISING COUNCIL

In March 1998 (after the completion of our fieldwork at the Advertising Council in October 1997), the Advertising Council Executive Vice President provided a schedule purporting to show in-kind contributions of \$995,743 as follows:

Advertising Council Contributions	FY 1993	FY 1994	FY 1995	FY 1996	Total
Advertising Agency:					
Muse Cordero Chen, Inc.	\$184,300	\$4,925	\$0	\$0	\$189,225
Foote, Cone, and Belding	301,100	98,375	97,275	39,300	536,050
Advertising Council Labor:					
Direct Labor	27,697	26,988	22,964	26,418	104,067
Indirect Labor	54,874	29,266	36,911	45,350	166,401
Total In-Kind Contributions	\$567,971	\$159,554	\$157,150	\$111,068	\$995,743

During our fieldwork, we reviewed the original award to the Advertising Council plus modifications 1 through 6 covering FY's 1993 through 1996. These modifications were not addressed by the Advertising Council or Forest Service officials. We found that the Advertising Council applied for these modifications to the original award and that their applications requested additional Federal funds which were approved by the Forest Service. Further, in each instance, the application stated that the Advertising Council would provide a share of the total cost of the project. The applications were included as part of the award modifications. In each modification, the Advertising Council stated that its share of the total cost would be met by in-kind contributions of labor from two volunteer advertising agencies.

Also during our fieldwork, officials of the Advertising Council, when asked for an accounting of the contributions of the advertising agencies, were unable to provide it. Since the above information was not provided until about 5 months after we left the Advertising Council, the \$725,275 (\$189,225 Muse Cordero Chen, Inc. + \$536,050 Foote, Cone and Belding) claimed as in-kind contributions by the advertising agencies must be evaluated on an FY basis and tested by independent auditors. Further, costs allocable to an FY amendment may not be allocated to another FY amendment to overcome funding deficiencies.⁴⁰

The direct labor costs of \$104,067 claimed by the Advertising Council were previously included in our determination of \$912,426 in required matching for Federal funds (\$1,016,492 required matching - \$104,066 matching funds provided). However, the \$166,401 in indirect labor costs claimed as in-kind contributions represents unrecovered indirect costs. Unrecovered indirect costs are the difference between the amount awarded (17 percent) and the amount which could

⁴⁰OMB Circular A-122, attachment A, paragraph A4b, dated June 27, 1980.

EXHIBIT K - REVIEW OF THE ADVERTISING COUNCIL

have been awarded under the Advertising Council's approved negotiated indirect cost rate (which varied from 24.27 percent to 29.86 percent). Prior to August 24, 1995, unrecovered indirect costs could not be claimed as matching costs. Subsequent to that date, unrecovered indirect costs can be claimed as matching costs only with the prior written approval of the Forest Service (which was not provided). Therefore, the indirect labor costs are not allowable as matching costs.

In summary, Advertising Council modifications 1 through 6 to the original award requested additional Federal funding. In those applications for additional funding, the council stated that a portion of the total cost would be provided by in-kind contributions of labor by volunteer advertising agencies. The Forest Service approved the applications and included them as part of the modifications to the award. Therefore, we continue to believe the Advertising Council was required to match Federal funds.

EXCESSIVE FUND ADVANCES

On July 24, 1992, the Advertising Council was awarded a Federal grant. The grant award and the amendments through September 30, 1996, totaled \$5,331,843. Amendments were made annually and the amendments for FY's 1993, 1994, 1995, and 1996 required the Advertising Council to provide a total of \$1,127,000 in matching funds with the Federal share being \$4,204,843.

During the course of the grant, the Advertising Council never requested advances of Federal funds. However, their reimbursement requests were for full reimbursement of outlays without a reduction for their proportionate share of the outlays.

For example, the FY 1993 amendment totaled \$1,647,684. The Federal share was \$1,345,684 (82 percent) and the Advertising Council share was \$302,000 (18 percent). The reimbursement requests submitted by the Advertising Council for FY 1993 showed total outlays of \$770,218. However, instead of requesting reimbursement for the Federal share of \$631,579 ($\$770,218 \times 82$ percent), they requested and received reimbursement for 100 percent of the outlays. Therefore, the Forest Service paid the Advertising Council its share of the outlays, \$138,639 ($\$770,218 \times 18$ percent), even though the Forest Service only had authority to pay the Federal share of the award. This became more significant because the Advertising Council never provided its full matching share of the grant award. Moreover, if Forest Service officials had properly paid only the Federal share of the reimbursement requests, the issue of matching by the Advertising Council (see Finding No. 3) would have been resolved.

The table below shows the overpayments made by the Forest Service for FY's 1993 through 1996. As a result, the Government incurred increased interest costs to the Treasury of \$139,370. Interest earned on the advances could not be determined because the recipient did not track the Federal funds because they were considered reimbursements.

EXHIBIT K - REVIEW OF THE ADVERTISING COUNCIL

Advances For More Than The Federal Share⁴¹			
FY	Funds Disbursed	Federal Share	Advertising Council Share (Overpayment)
1993	\$770,218	\$631,579 (82%)	\$138,639 (18%)
1994	746,161	567,082 (76%)	179,079 (24%)
1995	940,552	714,820 (76%)	225,732 (24%)
1996	774,782	557,843 (72%)	216,939 (28%)
TOTAL	\$3,231,713	\$2,471,324 (76%)	\$760,389 (24%)

UNUSED FEDERAL FUNDS NOT DEOBLIGATED

Federal funds awarded to the Advertising Council in FY's 1992 through 1996 remained obligated in the Forest Service accounting records. As shown in the table below, the Advertising Council received \$3,231,713 of the \$4,204,843 awarded for these assistance agreements during FY's 1993 through 1996. Although these assistance agreements have expired, unused funds totaling \$973,130 had not been deobligated. Forest Service officials concurred that the funds had not been deobligated and agreed to deobligate the remaining funds. Therefore, funds totaling \$973,130 are subject to deobligation and return to the U.S. Treasury. The table below shows the breakdown of funds to be deobligated.

Fiscal Year	Award Amount	Amount Paid	Difference
1992	\$444,316	\$0	\$444,316
1993	1,345,684	770,218	575,466
1994	849,068	746,161	102,907
1995	849,550	940,552	-91,002
1996	716,225	774,782	-58,557
Total	\$4,204,843	\$3,231,713	\$973,130

The Acting Deputy Chief for Operations concurred with this condition and stated that the Forest Service will deobligate the appropriate funds remaining under the agreement.

⁴¹Percentages determined in accordance with award amounts on Application for Federal Assistance, Form SF-424, and with Forest Service Handbook 1509.11.

EXHIBIT L - REVIEW OF THE PARKS AND PEOPLE FOUNDATION (PPF)

MATCHING REQUIREMENT NOT MET

The Northeastern Area State and Private Forestry Office awarded PPF a Federal grant of \$479,400 which was to be matched with \$500,000 by PPF (Award No. NA-94-0011). The final financial status report submitted by PPF on July 28, 1995, reported that its matching expenditures were \$452,814, or \$47,186 less than the \$500,000 required by the grant. Forest Service officials stated that because the financial status report was marked final it was not reviewed and the grant was closed out. We concluded that if the financial status report had been reviewed and the matching amount questioned, it may have prevented similar matching problems on subsequent grants to PPF.

We reviewed PPF's supporting documentation and determined that none of the claimed matching amounts were supported. Also, we determined that the matching costs had not been captured in PPF's accounting records and subjected to an independent audit conducted under OMB Circular A-133. Moreover, based on the results of our evaluation of this grant, we expanded the coverage to include four subsequent grants to PPF (see table below). The review revealed that the matching amounts were neither accumulated in the accounting records nor subjected to independent audit under Circular A-133. As a result, \$1,720,050 in matching costs were undocumented and Federal funds totaling \$1,697,290 are subject to recovery.

Federal and Matching Funds for Parks and People Foundation			
Award No.	Award Period	Federal Funds	Matching Funds
NA-94-0011	10/01/93-09/30/95	\$479,400	\$500,000
NA-95-0010	10/01/94-09/30/96	494,000	500,000
NA-96-0006	10/01/95-09/30/97	390,000	403,860
NA-97-0021	10/01/96-09/30/98	300,000	300,000
NA-97-0284	07/17/96-05/31/99	15,890	16,190
Totals		\$1,697,290	\$1,720,050

The PPF Executive Director stated that with the exception of award No. NA-97-0284, none of the awards required matching by PPF. This statement was based on the Forest Service award letters which gave the amount of Federal funds that had been awarded. Also, according to the executive director, the Forest Service program manager informed PPF that it was not required to have a match as part of these awards. Finally, the executive director said she relied upon the independent auditors of PPF who determined that the awards did not have matching requirements. A letter from the independent auditor referenced the Catalog of Federal Domestic Assistance (CFDA) as a source for the determination that the awards did not have a matching requirement.

However, we noted that PPF's Applications for Federal Assistance, Form SF-424, for the awards stated the amount of matching funds that PPF would provide if the award of Federal funds was approved. These applications were included as part of the award which, contrary to the opinion of the executive director, does not consist only of the award letter. The statute authorizing the awards required a dollar-for-dollar match. Further, the CFDA sections referenced by the independent auditor in the determination that the awards did not have a matching requirement referenced sections 10.205 and 10.558 which deal with Payments to 1890 Land Grant Colleges and Tuskegee University and the Child and Adult Care Food Program, respectively. The independent auditor did not mention section 10.664, Cooperative Forestry Assistance. This is the section listed in

EXHIBIT L - REVIEW OF THE PARKS AND PEOPLE FOUNDATION (PPF)

PPF's Applications for Federal Assistance. OMB Circular A-133 requires the independent auditors to look at the terms of the grant in order to determine if there are matching requirements.

The Northeastern Area State and Private Forestry Area Director stated that the PPF agreement required a 50/50 match although the Forest Service provided no specific direction to the recipient when the grant was awarded. The area director said the PPF had informed the Forest Service that PPF overmatched the grant and can provide supporting documentation. The area director said the Forest Service has requested PPF to provide the supporting documentation. In addition, the area director stated that the Northeastern Area Office had implemented controls to avoid a recurrence of this situation. Each grant is checked for accuracy and completeness and the form SF-269 is reviewed to ensure that each Federal dollar spent is matched by a non-Federal dollar. The director said that if the total outlays of a recipient reflect only Federal dollars, the form SF-269 is returned with a letter explaining that the total outlays must include the recipient's actual expenditures, not just the Forest Service's share.

EXCESSIVE FUND ADVANCES

On February 15, 1994, PPF was awarded a grant of \$479,400 to be matched by \$500,000 from PPF. This grant was to be accomplished over a 2-year period from October 1, 1993, to September 30, 1995. On February 7, 1994, PPF requested that the entire Federal portion of \$479,400 be advanced. On March 11, 1994, the advance was approved. Forest Service officials explained they believed the funds were needed in advance to pay subcontractors. Therefore, they said no consideration was given to the interest cost to the Government or to interest that might be earned on advances.

PPF subsequently reported to the Forest Service that it had excess Federal funds on hand. (See table below.) According to Forest Service officials, no action was taken to recover the funds because they (Forest Service) did not know the funds should be returned.

Excess Funds Held by the Parks and People Foundation			
Date	Funds Expended	Excess Funds	Elapsed Months
March 11, 1994	\$0	\$479,400	0
July 15, 1994	221,259	258,141	4
January 15, 1995	440,821	38,579	10
July 28, 1995	479,400	0	16

At the time of this evaluation, PPF had earned \$10,293 in interest on the advanced Federal funds and had not returned it to the U.S. Treasury. When this was brought to their attention, PPF returned \$9,797; however, an additional \$496 of earned interest remained to be returned. In addition, the Government incurred increased interest costs to the U.S. Treasury of \$13,349 for the advance of the funds.

The PPF Executive Director stated that they felt it was not necessary to have written procedures for cash management for the subject Forest Service award since a separate bank account had been established for the funds, all disbursements were made from the account, and all funds were deposited in a timely manner as a lump sum. The executive director also stated that the account was established as an interest bearing account and that any interest earned on the account was

EXHIBIT L - REVIEW OF THE PARKS AND PEOPLE FOUNDATION (PPF)

set up as an obligation to the Forest Service. The executive director said the Forest Service provided the forms and procedures to return the interest earned in August 1997, to which PPF promptly responded. The executive director also said written procedures were developed once PPF began to receive award funds electronically, requesting money as PPF spent it on a weekly basis.

The procedures described by the executive director for the Forest Service award relate to the accountability of funds. However, the required written procedures for cash management relate to minimizing the elapsed time between the transfer of funds from the U.S. Treasury and the disbursement by PPF.

The Northeastern Area State and Private Forestry Area Director concurred that PPF did not have adequate controls over fund advances. The area director said the Forest Service will direct PPF to repay all interest earned on the advanced award funds. The area director also said this problem will not occur in the future because adequate controls are now in place to eliminate the need for advances and a grants management official ensures that awards are administered properly.

EXHIBIT M - REVIEW OF THE ECONOMIC AND EMPLOYMENT DEVELOPMENT CENTER (EEDC)

EXCESSIVE FUND ADVANCES

EEDC received advances between November 1992 and October 1995. An advance of \$50,000 was made on November 30, 1992, and was not fully expended until September 1994, almost 2 years later. Although interest was not earned on the advanced funds, between November 17, 1992, and December 13, 1995, the borrowing cost to the Government to improperly advance funds to EEDC totaled \$4,259. The Regional Forester for the Pacific Southwest Region concurred that funds were improperly advanced and stated that steps were being taken to correct this in the future.

UNALLOWABLE COSTS CLAIMED

This grant required EEDC to match Federal funds on a dollar-for-dollar basis. We determined that during the period of the grant, EEDC received \$144,946 in Federal funds. Our review of EEDC's accounting records showed that it recorded matching funds of \$144,027. However, we determined that \$56,229 of the \$144,027 in claimed matching costs was unallowable; therefore, the same amount of Federal funds is subject to recovery. The table below shows the ineligible matching costs claimed by EEDC.

Item	Amount	Reason
Personnel Compensation	\$42,107.80	No timesheets to support salary costs
Indirect costs	13,809.19	Unallowable without an approved indirect cost allocation plan⁴²
Entertainment	312.00	Unallowable cost
Total	\$56,228.99	

The EEDC Executive Director agreed there were no timesheets (personnel activity reports) to support the salaries of \$42,108 claimed as matching costs; however, he described the lack of timesheets as a "technicality" because all personnel worked in an efficient manner on a voluntary basis. Regarding the indirect costs of \$13,809, the executive director stated that since the EEDC reimbursement requests were always approved and paid by the Forest Service, he assumed that all cost allocations had also been approved. As for entertainment costs of \$312, the executive director stated that the funds were for plaques to acknowledge the successful participation by individuals (including Forest Service employees) and institutions in EEDC's project. Also included were refreshments.

OMB Circular A-122 is explicit in the documentation required for salaries. Moreover, this documentation is required whether the salaries are used for matching or claimed for reimbursement. The requirement for timesheets which meet the minimum standards is the only acceptable method of determining the amount of time personnel allocate to an award. Moreover, in addition to missing timesheets, we were unable to locate any records indicating the total number of hours worked each day maintained in conformance with the Fair Labor Standards Act. Therefore, the salaries used for matching are not allowable. In regards

⁴² Independent audits in 1993 and 1994 conducted as required under OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions, dated March 16, 1990, contained audit findings that informed the EEDC that it needed to obtain an approved cost allocation plan in accordance with OMB Circular A-122, Cost Principles for Nonprofit Organizations.

EXHIBIT M - REVIEW OF THE ECONOMIC AND EMPLOYMENT DEVELOPMENT CENTER (EEDC)

to indirect costs, we noted that EEDC's independent auditors had informed them on at least two occasions that an approved cost allocation plan was needed. We concur with the independent auditors. Indirect costs are only allowable with an approved indirect cost plan. As for entertainment costs, it is a broad heading from Circular A-122 which also encompasses ceremonials and costs related thereto, such as meals. Therefore, the cited costs of \$56,228.99 were not allowable.

The Regional Forester for the Pacific Southwest Region stated that additional supporting documentation and timesheets would be requested for review in order to make a final determination on the personnel compensation issue. The Regional Forester stated that the cited indirect costs were eligible because EEDC identified their administrative overhead costs as direct costs which is consistent with OMB Circular A-122. In addition, the Regional Forester stated that the cited entertainment costs were eligible because the costs were associated with on-the-job training and graduation ceremonies for youth and nonmonetary appreciation plaques given to contributors of the youth training program. The Regional Forester said the cited entertainment costs fell in the category of employee morale, health, and welfare costs and credits.

We disagree with Regional Forester's assessment of the cited indirect costs. The allocation of administrative overhead costs as direct costs is an acceptable method under OMB Circular A-122 only if approved by the cognizant Federal agency and provided each joint cost is prorated using a method which accurately measures the benefits provided to each award. The method must be established in accordance with reasonable criteria and be supported by current data. The method used by EEDC was to divide the costs by the number of Federal awards received. Such a methodology does not measure the benefits provided to each award and was not supported by timesheets.

We also disagree with Regional Forester's assessment of the cited entertainment costs. To be allowable, the costs would have to be incurred in accordance with EEDC's established practice for the improvement of working conditions, employer-employee relations, employee morale, and employee performance. Further, to be allowable, such costs are to be equitably apportioned to all activities of the organization. We concluded that these were not costs associated with employees, but as the EEDC Executive Director stated, the costs were incurred to recognize successful participation by individuals (including Forest Service employees). These were ceremonial costs and as such are unallowable according to OMB Circular A-122.

EXHIBIT N - REVIEW OF LOS ANGELES HARVEST (LAH)

EXCESSIVE FUND ADVANCES

The Forest Service advanced excessive funds to LAH during the period November 1992 through March 1994 and LAH earned interest on the advanced funds. The Forest Service did not require LAH to make annual returns of interest as required by Federal regulations. The exact amount of interest earned on advanced funds could not be fully determined due to the commingling of funds; however, we determined that interest earned on Federal funds was at least \$1,934.

Also, in November 1992, the Forest Service advanced \$80,000 to LAH. The advance was intended to cover startup costs. The advance was not entirely disbursed until September 1993. In September 1993, the Forest Service made an additional advance of \$60,000 which was not completely disbursed until March 1994. At the award's expiration, the interest cost to the Government totaled \$3,555.

The Regional Forester for the Pacific Southwest Region concurred that funds were improperly advanced and stated that steps were being taken to correct this in the future. The Regional Forester said the agency would pursue recovery of the interest earned.

UNALLOWABLE COSTS CLAIMED

During our evaluation of the grant to LAH, we determined that \$71,080 in Federal funds are subject to recovery because of missing documentation for matching and unexpended Federal funds.

At the time of our fieldwork in January 1998, LAH was essentially disbanded and had no employees. All records were stored in boxes in a room. Commingled with these records were records of other entities. We were informed that no other records existed. The 1995 records consisted of computer printouts and canceled checks with no other supporting documentation such as invoices or receipts. At our request, the former executive director agreed to obtain bank statements for 1995, which were provided to us in February 1998.

The grant award required LAH to match, dollar for dollar, all Federal funds received under the award. The final Request for Advance or Reimbursement, Form SF-270, reported to the Forest Service that \$261,407.43 of the required \$265,000 had been matched. According to the form SF-270 documentation for the remaining match amount, \$3,952.57 was still pending. Since the form SF-270 was final (i.e., the recipient had received all Federal funds under the grant), the only manner in which the remaining \$3,952.57 could be accounted for was through the final Financial Status Report, Form SF-269, due by January 31, 1996. However, a final form SF-269 was not submitted and the Forest Service did not ask LAH to submit a final form SF-269 or account for the remaining matching funds.

We determined that not only was there no accounting for the \$3,952.57, but there was no documentation supporting any matching amounts for calendar year 1995. Matching funds through December 31, 1994, amounting to \$193,920 had been verified by independent audit. However, there was no documentation supporting the additional required matching amount of \$71,080 (\$265,000 - \$193,920). Furthermore, the independent audit required by OMB Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions, had not been completed for 1995. Therefore, the entire matching amount is questionable and Federal funds of \$71,080 are subject to recovery.

In addition, although LAH reported the expenditure of \$265,000 in Federal funds on their final form SF-270, the available records (a computer printout) indicated that only \$258,451.59 had been expended. We determined that in closing out the bank account of LAH, \$7,358.71 had been transferred to another bank account. We concluded that \$6,548.41 (\$265,000 Federal funds - \$258,451.59 actual expenditures) of this fund transfer represented Federal funds received by LAH.

EXHIBIT N - REVIEW OF LOS ANGELES HARVEST (LAH)

The available records also disclosed that in 1995, \$4,372.44 in Federal funds for overhead costs was charged to the award. LAH had neither requested nor received an approved indirect cost rate for allocating overhead charges. An indirect cost rate must be established with the cognizant agency according to OMB Circular A-122. Therefore, these costs are not allowable. As a result, \$71,080 in funds is subject to recovery.

The Regional Forester for the Pacific Southwest Region stated that LAH had not provided supporting documentation for the \$71,080 and that the agency will pursue recovery of these funds. The Regional Forester also concurred that the Federal funds not expended by LAH for the grant within the approved grant period needs to be recovered. In addition, the Regional Forester concurred that the overhead costs charged to the award should be recovered.

EXHIBIT O - REVIEW OF TREEPEOPLE

EXCESSIVE FUND ADVANCES

TreePeople was awarded a grant totaling \$950,654. The Forest Service was to provide \$150,000 and TreePeople was to provide the balance of \$800,654. The assistance agreement between the Forest Service and TreePeople for \$950,654 specified that the costs of the award would be shared as follows:

	Amount	Percent
Forest Service	\$150,000	16.75
Recipient	745,654 ⁴³	83.25
Total Award	\$895,654	100.00

On February 11, 1996, TreePeople submitted a form SF-270 for the period August 1, 1995, through November 30, 1995, showing the following costs:

	Amount	Percent
Forest Service	\$47,428	52.62
Recipient	42,698	47.38
Period Outlays	\$90,126	100.00

Based upon the assistance agreement, the Forest Service share should have been limited to \$15,096 ($\$90,126 \times 16.75$ percent). However, on February 27, 1996, the Forest Service approved a payment of \$47,428 to the recipient; an overpayment of \$32,332 ($\$47,428$ actual payment - $\$15,096$ allowed payment).

Similarly, on March 31, 1997, TreePeople submitted a form SF-270 for the period December 1, 1995, through December 31, 1996, showing the following costs:

	Amount	Percent
Forest Service	\$36,802	23.62
Recipient	118,990	76.38
Period Outlays	\$155,792	100.00

Based upon the assistance agreement, the Forest Service share should have been limited to \$26,095 ($\$155,792 \times 16.75$ percent). However, on April 30, 1997, the Forest Service approved a payment of \$36,802 to the recipient, an overpayment of \$10,707 ($\$36,802$ actual payment - $\$26,095$ allowed payment).

As a result, the Government had incurred increased interest costs to the U.S. Treasury totaling \$6,129 as of March 31, 1998. Interest earned on the advances could not be determined because the recipient did not track the Federal funds because they were considered reimbursements.

The Vice President of Finance and Operations for TreePeople stated that while it is true that the percentage of reimbursement was not in accordance with percentages of the total award during the initial reimbursement period, it was

⁴³ Total award of \$950,654 included \$55,000 from the Environmental Protection Agency which cannot be used to match Forest Service funds.

EXHIBIT O - REVIEW OF TREEPEOPLE

never the intention of the agency that this should be done. The vice president said the percentage of Forest Service reimbursement to total expenditures has decreased substantially during the subsequent reimbursement requests and overall percentages are on target to meet the 16 percent required by the grant.

The Regional Forester for the Pacific Southwest Region did not concur with the finding because the Forest Service Grants and Agreements Handbook states that the percentages should be maintained on each form SF-270, unless other specific payment terms have been separately identified in the grant or cooperative agreement or modifications thereto. The supplementary budget information provided in the TreePeople grant shows which parts of the grant project the cooperating agencies, including the Forest Service, are covering. The Regional Forester stated that the distribution of these costs was discussed with TreePeople prior to awarding the grant and that the expenditures for the grant and the timeline in which the actions occur do not necessarily follow the percentage distribution outlined in the Forest Service manual. Using the percentage method is contrary to what was agreed to at the time of the award.

We continue to believe that excessive advances were made to TreePeople since the grant agreement does not provide for the distribution of Forest Service costs in excess of 16.75 percent. The discussion of a different distribution of funding prior to the award does not override the documented distribution of Forest Service funds in accordance with the grant agreement.

UNALLOWABLE COSTS CLAIMED

The evaluation revealed that in 1995, the salary of the President of TreePeople, Inc., was charged to the award at the rate of \$50 per hour. In 1996 and 1997, the president's salary was charged to the award at \$100 per hour. However, the actual rate for 1995, 1996, and 1997 was \$42.26 per hour. TreePeople officials said that \$7.74 difference for 1995 and the \$57.74 difference for 1996 and 1997 was an allocation of home office expenses to the grant based on the percentage of hours charged to the grant by the president.

TreePeople officials also stated that for 1996 and 1997, the \$100 rate was based upon the City of Los Angeles' billable rate to the award. However, TreePeople was not approved to claim indirect costs and did not have an approved indirect cost rate. Therefore, indirect costs charged to the award were not allowable for reimbursement. Only the actual salary costs of the president at \$42.26 per hour were allocable to the award. As a result, TreePeople claimed unallowable costs of \$4,088 for the president's salary for 1995 and 1996.

In addition, a subrecipient included an indirect cost rate of 7 percent for general administrative expenses in its charges of \$1,860 to TreePeople in 1995. As noted above, TreePeople was not approved to claim indirect costs and did not have an approved indirect cost rate. Therefore, indirect costs of subrecipients are not allowable as a match for Federal funds.

Also, a portion of the salary (\$2,686) of an assistant to the president was included in the total outlays claimed for 1995. The assistant's salary was allocated to the award based on the percentage of time the president charged to the award. Timesheets for the assistant were not kept. Federal regulations⁴⁴ require that salary expenses be supported by timesheets in order to be allowable.

As of the time of this evaluation, TreePeople had not submitted a request for reimbursement for 1997. However, the accounting records for 1997 showed \$17,755

⁴⁴ OMB Circular A-122, attachment B, paragraph 6, Compensation for Personal Services, dated June 27, 1980.

EXHIBIT O - REVIEW OF TREEPEOPLE

in unallowable salary costs charged to the award. As a result, TreePeople was overpaid \$1,737 ($\$4,088 + \$1,860 + \$2,686$ divided by $\$4.97$).

The Vice President of Finance and Operations for TreePeople concurred that their match was overstated by these amounts (i.e., president's salary in excess of the \$42.26 per hour, indirect costs for general administrative expenses, and the portion of the salary of the assistant to the president allocated to the award). The vice president also said TreePeople calculated the Federal overpayment to be \$7,000 for the period from inception through December 1996 and that this adjustment has been taken for the form SF-270 submitted for work performed during 1997.

The Regional Forester for the Pacific Southwest Region concurred that TreePeople claimed excessive salary for the president and that TreePeople had reduced the compensation to the president and made corresponding adjustments (reductions) in their claimed matching costs.

EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT



United States
Department
of Agriculture

Forest
Service

Washington Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

File Code: 1430

Date: SEP - 9 1998

Route To:

Subject: Audit of Assistance Agreements With Nonprofit
Organizations (Audit #08801-2-Te)

To: James R. Ebbitt
Office Inspector General
Assistant Inspector General for Audit

We have reviewed the official Draft Report documenting the findings and recommendations of your audit and have enclosed our response to each of the recommendations. In reading the Draft Report, one might reasonably conclude that the findings resulting in recommendations to recover funds would have gone undetected but for the audit. This conclusion must be couched in the context that to the degree our internal audit efforts are limited by available resources, there is the potential for these situations to occur and go undetected. However, when we have conducted audits, we have been successful in identifying situations where fund recovery is appropriate and that recovery has occurred. We will take immediate action to increase controls and make this a higher priority in the agency. For example, on October 27, 1998, we will hold a national meeting with all program managers to address this issue.

Many of the actions recommended include development of policy, direction, and control procedures. Much of this is currently in place but may need to be made more explicit and visible for the intended audience. We will review that material to ensure clarity and understanding and ensure appropriate controls are in place or where lacking immediately put in place. In conjunction with this we will put in place clear statements of roles and responsibilities so that the various program and business operations personnel know their role in administering the agreements.

We also take exception to the finding and recommendation concerning the use of the Participating Agreement. Our use of the document, form and substance, and the authority cited were discussed with the Office of General Counsel at the time we developed the Agreement and had the concurrence of that Office. We will, in response to this audit, provide documentation supporting the use of the Agreement.

Finally, we do not agree with the Summary of Monetary Results (Exhibit A in the Draft Report) which indicates a total amount of \$7,098,026. As we conduct a review of the specific agreements cited and associated accounting documentation we are confident the total amount will be much smaller than this figure. At the time of this response we are not able to provide an exact figure but will do so in future documentation.



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EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT

James R. Ebbitt

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We appreciate the resources you committed to this audit and are confident that its findings and recommendations when implemented will serve to strengthen appropriate relationships with our nonprofit partners. If you have any questions concerning this response, contact Ron Hooper, Assistant Director, Acquisition Management at (703) 235-1647.


CLYDE THOMPSON
Deputy Chief for Business Operations

Enclosure

cc: R.Hooper, AQM (w/enclosure)

United States Department of Agriculture

EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT

Forest Service

**Office of Inspector General (OIG)
Forest Service Assistance
Agreements with Nonprofit Organizations
July 23, 1998**

Forest Service (FS) Review Comments

GENERAL COMMENTS CONCERNING THIS REPORT:

OIG RECOMMENDATION NO. 1: "Develop and implement a strategy for ensuring that Forest Service staff comply with grant administration guidelines. The plan should include specific goals and milestones, to include periodic assessments of the agency process. Ensure that the strategy addresses actions to support and raise the skill levels of personnel who administer grants on a daily basis. The strategy should also incorporate feedback mechanisms so that management action can be timely when mandatory control procedures are not followed."

FS RESPONSE TO RECOMMENDATION NO. 1: The FS will develop a statement of roles and responsibility with instructions regarding grant administration to be given to the Administrative Official, Program Specialist designated as the principle Forest Service Contact, for each grant and cooperative agreement. The FS will develop training requirements for the Administrative Officials, Program Specialists, that administer grants and cooperative agreements. The FS Agreement Coordinators will review files periodically for completeness. The statement of roles and responsibilities and Training Requirements will be accomplished by June 30, 1999.

State & Private Forestry (S&PF) Agreement Coordinators are meeting October 27, 1998, to discuss and develop strategies for: 1) training internally and externally; 2) authorities used for each of their programs; 3) program/fiscal reviews of grants; and 4) getting management agreement on following administrative and fiscal requirements. Following the October 27 meeting, a two day Management Concepts Inc., Grants management training session will be held for the Agreement Coordinators.

OIG RECOMMENDATION NO. 2a: "Design and implement national procedures to require approving officials to ensure that grant awards are consistent with the statutory authority for assistance agreements."

FS RESPONSE TO RECOMMENDATION NO. 2a: Currently all awards are to be reviewed by an Agreements Coordinator for legal and fiscal propriety in accordance with Forest Service Manual 1580.4, 5 & 6. The roles and responsibility statement will clarify and explain this responsibility.

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OIG RECOMMENDATION NO. 2b: "Review, and amend as necessary, existing grant agreements to ensure that they comply with the Federal Grants and Cooperative Agreement Act; Office of Management and Budget circulars; and USDA Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations."

FS RESPONSE TO RECOMMENDATION NO. 2b: The FS Acquisition Management staff has a three year review cycle and the S&PF staff has a five year review cycle in place both will continue and results of reviews are documented and followed up.

OIG RECOMMENDATION NO. 2c: "Recover the \$300,000 in Federal funds issued to Texas Reforestation Foundation (TRF) without statutory authority."

FS RESPONSE TO RECOMMENDATION NO. 2c: After the Southern Region's March 31, 1998, response to OIG's Statement of Condition was submitted, they completed further analysis and determined that Stewardship Incentive/Tree Planting Program funds may be used to reimburse the owners of non-industrial private forest lands for the Forest Service's share (not to exceed 75 percent) of the cost of implementing a forest stewardship plan.

The private landowners were required to have an approved forest management plan and own less than 1,000 acres of forestland. The TFR forest management plan, while written primarily for tree planting and timber stand improvement, does address water quality, soil erosion, wildlife habitat, cultural Forest heritage and other multiple resource concerns. Landowners are provided the opportunity to use vendors certified by the Texas Forest Service as knowledgeable about tree planting and timber stand improvement techniques that adhere to Forest Service technical guidelines.

The TRF program has a number of eligibility requirements and program delivery mechanisms that for the most part, mirror the Stewardship Incentive program (SIP). It is noted that there is not complete compliance with all of the provisions of the Stewardship Incentive Program section of the Cooperative Forestry Assistance Act. However, we believe that the intent and end result met the objectives of SIP.

The Office of General Counsel (OGC) has concurred (June 4, 1998 letter) with the determination that using SIP funds to make a grant direct to the TRF was improper. Thus, the Southern Region terminated the grant with the TRF and included the balance of the grant funds, \$120,934.75, in a revised FY 1998 SIP grant to the Texas Forest Service. Under the proposal, the Texas Forest Service will distribute the funds to the TRF on a reimbursement basis. It is the opinion of the OGC (June 18, 1998 letter) that these revisions comply with the statutory provisions of the Stewardship Incentive Program.

OIG RECOMMENDATION NO. 2d: " Require Fund for City of New York (FCNY) to provide \$327,074 in matching funds or recover this amount."

FS RESPONSE TO RECOMMENDATION NO. 2d: The Northeastern Area (NA) will request revised grant application and supporting documentation showing appropriate match. The match was inadvertently omitted from the initial application and the grant subsequently approved without being corrected. The match was from the subgrantees. A letter will be

EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT

sent to FCNY on August 31, 1998, requesting the revision and supporting documents. The revised grant application and supporting matching of funds documentation will be reviewed to determine on allowability of matching funds.

OIG RECOMMENDATION NO. 2e: "Review Pinchot Institute accomplishment and costs that meet purposes of authorizing statute. Recover funds not associated with identified purpose."

FS RESPONSE TO RECOMMENDATION NO. 2e: We concur that the incorrect instrument was used in preparing this agreement. We do not concur with the finding of award purpose and statutory conflict. The Pinchot Institute for Conservation (PIC) now uses a cooperative agreement instead of a participating agreement. The Northeastern Area State & Private Forestry Office reviewed the accomplishment reports from the now closed Participating Agreement and determined that the funds expended were for the identified purpose of the authorizing statute. While reviewing the SF-269's and SF-270's, it appears as if \$2,742 was over billed. We will verify this amount with PIC during scheduled review in October and recover the appropriate amount, if any.

OIG RECOMMENDATION NO. 2f: "Instruct Forest Service officials to stop using Participating Agreements. In addition, amend the Forest Service Handbook to eliminate references to any agreements that are not consistent with the Federal Grants and Cooperative Agreement Act."

FS RESPONSE TO RECOMMENDATION NO. 2f: The FS does not concur with this recommendation. The FS created the "Participating Agreement instrument" under the Cooperative Funds and Deposit Act (P.L. 94-148). The relationship involves a project where both parties (FS and partner) benefit and make a substantial contribution to the common effort. The primary criteria for creating a Participating Agreement is mutual benefit to participating parties. This relationship does not fall within the definition of "procurement," "grant," or "cooperative agreement" as defined in the Federal Grant & Cooperative Agreement Act (FGCA). FS will seek OGC opinion on appropriateness of the "Participating Agreement" by 10/1/98.

OIG RECOMMENDATION NO. 2g: "Review all existing participating agreements and determine whether they meet the requirements of the Federal Grant and Cooperative Agreement Act. For those participative agreements that do not meet the requirements of the act, modify the agreements to meet those requirements or reissue as cooperative agreements."

FS RESPONSE TO RECOMMENDATION NO. 2g: The FS is withholding a position until receipt of OGC opinion on Participating Agreements.

OIG RECOMMENDATION NO. 3a: "Design and implement national procedures to require approving officials to ensure that controls over matching funds are adhered to by all Forest Service offices authorized to approve assistance agreements to Nonprofit Organizations."

EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT

FS RESPONSE TO RECOMMENDATION NO. 3a: The FS will include a section in the Statement of roles and responsibility for "administrative official" on reviewing matching fund requirements when processing applications and payment requests.

OIG RECOMMENDATION NO. 3b: "Instruct Forest Service staff to ensure that matching requirements are covered in all OMB Circular A-133 audits. (For example, matching requirements can be emphasized in the Forest Service award letter to the recipient.)"

FS RESPONSE TO RECOMMENDATION NO. 3b: The FS will include information regarding allowable costs and matching requirements in the Forest Service award letter to the recipient. The guide award letter will be rewritten by January 1, 1999.

OIG RECOMMENDATION NO. 3c: "Require the Advertising Council to provide \$912,426 in audited matching costs or recover the proportionate share of the unmatched funds which currently stands at \$2,885,228."

FS RESPONSE TO RECOMMENDATION NO. 3c: The Advertising Council has presented documentation to cover most of the \$912,426 of matching costs. Within 180 days of this response, a complete audit of those records will be completed. Any outstanding portion of the matching will be billed to the Advertising Council at the proportional rate after it is reviewed by the Department for possible dismissal. This review is based on the facts that the original written agreement that controlled the five year period stated that all services of the Advertising Council was "pro-bono", or at no charge, and the benefits received by the Forest Service exceeded \$100 million in fire prevention program promotion.

OIG RECOMMENDATION NO. 3d: "Require Parks and People Foundation to provide \$1,720,050 in audited matching funds or recover proportionate share of the unmatched funds which currently stand at \$1,697,290."

FS RESPONSE TO RECOMMENDATION NO. 3d: Parks and People Foundation (PPF) has records for matching funds. The Northeastern Area will conduct a site visit to review the documentation for the matching funds. NA will bill for any proportionate share of unmatched funds. The site visit, tentatively scheduled for October 16, will be conducted by a team from the Northeastern Area. Proposed team members are ()

OIG RECOMMENDATION NO. 4a: "Design and implement national procedures that require approving officials to ensure that advances are consistent with OMB, USDA, and Forest Regulations."

FS RESPONSE TO RECOMMENDATION NO. 4a: The procedures are in place and will be re-emphasized to the administrating officials.

EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT

OIG RECOMMENDATION NO. 4b: "Recover \$21,166 in interest earned by the NPO's reviewed (\$10,293 from PPF (exhibit L), \$3,573 from FCNY (exhibit I), \$421 from PIC (exhibit J), \$1,934 from Los Angeles Harvest (LAH) (exhibit N), and \$4,945 from TRF (exhibit H)."

FS RESPONSE TO RECOMMENDATION NO. 4b: The FS concurs with this recommendation.

The Northeastern Area shall bill PPF (\$10,293), FCNY (\$3,573) and PIC (\$421) for interest earned on advances. Bills of collection will be sent along with audit finding letters on August 31.

Region 5 will pursue recovery of the \$1,934 in interest earned on advanced funds from LAH. Region 5 will proceed with issuing a Bill for Collection to LAH within 30 days of this response

Region 8 collected \$4,944.93 from TRF in interest earned on grant funds and deposited them to the General Fund on 9/24/97.

OIG RECOMMENDATION NO. 5a: "Design and implement national procedures to require approving officials to ensure that controls over allowable costs are adhered to by all Forest Service offices authorized to approve grant recipient advances and claims for reimbursement."

FS RESPONSE TO RECOMMENDATION NO. 5a: The procedures are in place in FSH 1509.11 and will be re-emphasized to the administrating officials.

OIG RECOMMENDATION NO. 5b: "Recover from Pinchot Institute \$12,017 in unallowable costs."

FS RESPONSE TO RECOMMENDATION NO. 5b: After reviewing the files we have on hand, we determined that only \$2,742 of the \$12,017 questioned as unallowable costs, may be subject to recovery. The remaining \$9,275 in questioned costs was originally charged against the agreement in error by Pinchot Institute who later adjusted their records. According to PIC, the unallowable costs questioned in the audit were covered by private sources -- not the Forest Service grant. NA will conduct a site visit to review the documentation for the matching funds. NA will bill for any unsupported or unallowable costs. The site visit, tentatively scheduled for October 23, will be conducted by a team from the Northeastern Area. Proposed team members are ().

OIG RECOMMENDATION NO. 5c: "Recover from the Economic Employment and Development Center \$56,229 in unallowable costs (exhibit M)."

EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT

FS RESPONSE TO RECOMMENDATION NO. 5c: The FS does not concur with the total amount subject to recovery in this recommendation (\$56,229). The \$56,229 deemed to be unallowable is comprised of three items: personnel compensation (\$42,108), indirect costs (\$13,809), and entertainment (\$312). The FS position on each of these three items is as follows:

The FS concurs with OIG regarding the indirect costs (\$13,809) and the entertainment costs (\$312) and will pursue recovery of \$14,121 from the Economic Employment and Development Center (EEDC). Region 5 will issue a Bill for Collection to EEDC within 30 days of this response.

The FS does not concur with OIG regarding personnel compensation (\$42,108). Region 5 has timesheets from EEDC that support time spent by the project director () and project manager () on the grant project "Co-Operative Planting and Employment Opportunity (COPEO)". EEDC used the "In-kind Contributions - Donations" forms previously provided to OIG to reflect how costs were distributed to in-kind matching and direct salary charges to the grant. This distribution is in line with the ratio identified in the grant. The FS feels that this adequately supports the personnel compensation claimed and will not seek recovery of this amount.

OIG RECOMMENDATION NO. 5d: "Recover from Los Angeles Harvest \$71,080 in unallowable costs (exhibit N)."

FS RESPONSE TO RECOMMENDATION NO. 5d: The FS concurs with this recommendation. The FS will pursue recovery of \$71,080 in unallowable costs claimed by Los Angeles Harvest. The Pacific Southwest Region will proceed with issuing a Bill for Collection to Los Angeles Harvest by September 30, 1998.

OIG RECOMMENDATION NO. 5e: "Recover from TreePeople \$1,737 in unallowable costs (exhibit O)."

FS RESPONSE TO RECOMMENDATION NO. 5e: The FS concurs with this recommendation. The FS will pursue recovery of \$1,737 in unallowable costs claimed by TreePeople. The Pacific Southwest Region will proceed with issuing a Bill for Collection to TreePeople by September 30, 1998.

OIG RECOMMENDATION NO. 5f: "Conduct training reviews for NPO's and/or provide information regarding matching requirements, fund advances, and allowable costs."

FS RESPONSE TO RECOMMENDATION NO. 5f: The FS will add a section to the award letter addressing matching requirements, fund advances, and allowable costs. The FS will continue to invite NPOs to training sessions on grants management sponsored by the Forest Service.

OIG RECOMMENDATION NO. 6: "Deobligate \$973,130 in unused Federal funds that were awarded to the Advertising Council".

EXHIBIT P - FOREST SERVICE WRITTEN RESPONSE TO THE DRAFT REPORT

FS RESPONSE TO RECOMMENDATION NO. 6: The Forest Service has deobligated all outstanding balances to the Advertising Council for Fiscal Years 92 - 96.