

**URBAN RESOURCES PARTNERSHIP PROGRAM  
OFFICE OF THE UNDER SECRETARY  
FOR NATURAL RESOURCES AND ENVIRONMENT  
WASHINGTON, DC  
EVALUATION NO. 50801-1-Te**

**NOVEMBER 1999**

**UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL - AUDIT  
SOUTHWEST REGION  
ROOM 324, FEDERAL OFFICE BUILDING  
101 SOUTH MAIN STREET  
TEMPLE, TEXAS 76501**



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



DATE: November 2, 1999

REPLY TO

ATTN OF: 50801-1-Te

SUBJECT: Urban Resources Partnership Program

TO: James R. Lyons  
Under Secretary  
Natural Resources and Environment

This report presents the results of our evaluation of the Urban Resources Partnership (URP) initiative. Your written response to the draft report and the Office of Inspector General's (OIG) comments regarding the response are included at the end of each Finding and summarized in the Executive Summary. A copy your written response is included as exhibit L. The Forest Service's (FS) and Natural Resources Conservation Service's (NRCS) joint response to the draft report and OIG's position regarding the FS/NRCS response are included in the Recommendations sections of the report. A copy of the FS/NRCS written response is included as exhibit M.

The response contended that URP was initiated based on existing statutory and appropriation authorities. However, we found that existing authorities to implement URP were limited and did not encompass the broad range of projects actually funded. The Office of the General Counsel confirmed our conclusions; an opinion dated July 26, 1999, is included as attachment K to the report.

We compared the use of funds spent through URP with the activities and purposes authorized by Congress and found that 131 URP awards in four cities valued at \$3.4 million did not meet the purposes of the statutes from which the awards were funded. As described in our report, for many awards, the statutes cited in award documentation were not the true source of funding. Thus, we compared the activities funded with the actual source of the money. Appropriated funds are to be spent for the purposes designated by Congress regardless of any positive intention behind an administrative decision to use the money in another way.

In addition, we do not agree with the management decisions of FS and NRCS as stated in their joint response to our recommendations. Therefore, additional information as set forth in the Recommendations sections of the report is needed for Recommendations Nos. 1a, 1b, 1c, 2a, 2b, 2c, 3a, and 3b.

Please provide the requested information by December 31, 1999.

ROGER C. VIADERO  
Inspector General

Attachment

cc:  
Pearlie Reed  
Chief, Natural Resources  
Conservation Service

Mike Dombeck  
Chief, Forest Service

# EXECUTIVE SUMMARY

## URBAN RESOURCES PARTNERSHIP PROGRAM OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT WASHINGTON, DC EVALUATION NO. 50801-1-Te

### PURPOSE

This report presents the results of an Office of Inspector General (OIG) evaluation of the U.S. Department of Agriculture Urban Resources Partnership (URP) program. URP was initiated by the

Under Secretary for Natural Resources and Environment in fiscal year (FY) 1994 and funded primarily with USDA appropriations from the Forest Service (FS), Natural Resources Conservation Service (NRCS), and the Cooperative State Research, Education, and Extension Service (CSREES). A previous OIG evaluation (Evaluation No. 08801-2-Te, FS Assistance Agreements with Nonprofit Organizations, issued September 1998) identified URP as having the potential for unallowable costs claimed by award recipients.

During FY's 1994 through 1997, URP expenditures totaled \$16.4 million in 13 cities/areas. An additional \$3.9 million was obligated in FY 1998 for use in FY 1999. We reviewed URP operations in the following 4 cities/areas which received about \$7.9 million in USDA assistance through FY 1997: Atlanta, Georgia; Denver, Colorado; East St. Louis, Illinois; and Los Angeles, California. Our objectives were to determine whether (1) the prescribed process for initiating a Federal financial assistance program was followed, (2) USDA used appropriate statutory authority to operate URP, (3) Federal funds expended for URP were authorized by Congressional appropriation, and (4) the Federal and matching funds expended by award recipients were allowable.

FS and NRCS also conducted joint management reviews of fiscal year (FY) 1998 URP operations in Chicago, Illinois; East St. Louis, Illinois; New York, New York; and Seattle, Washington. On June 7, 1999, the FS and NRCS issued a strategy for implementing the recommendations contained in their January 7, 1999, report.

## RESULTS IN BRIEF

The prescribed process for implementing over \$20 million in Federal financial assistance was not followed for URP. URP was initiated without specific statutory authority or Congressional appropriations. The Under Secretary for Natural Resources and Environment initiated the program in FY 1994 using funds appropriated for existing FS and NRCS programs. FS and NRCS officials implemented URP and issued grant awards to recipients using agency personnel and funds appropriated for FS and NRCS programs. Regulations were not promulgated in the Federal Register to publicize the objectives and requirements of the program.

Further, the Department did not select cities/areas to participate in URP on a competitive basis. The Under Secretary for Natural Resources and Environment selected the initial 4 cities for URP participation while subsequent cities were selected by the Under Secretary based on information provided by the URP National Steering Committee. Criteria used to select URP cities included, but was not limited to, political support, strength of Congressional delegation, diversity of population, Federal agency presence and potential for Federal agency funding from existing programs, active community programs and environmental support, geographic distribution, and city size.

In a July 26, 1999, opinion issued to the FS and NRCS, the Office of the General Counsel (OGC) determined that there was no authorizing legislation for URP. OGC concluded that the FS and NRCS had limited authority to provide assistance under the URP program. OGC stated that the lack of specific authorizing legislation for URP limited NRCS' ability to provide funds to activities involving soil erosion prevention. OGC stated that the FS had broader authority to fund URP projects under the Cooperative Forestry Assistance Act, but such authority was limited to assistance involving trees, forest cover, shrubs, and associated natural resources.

Our review at the local levels disclosed that URP recipients did not always use funds to meet the purposes of the applicable statutes from which the appropriated funds were obtained. Of 156 URP awards reviewed for almost \$4.4 million, we found that 131 awards (84 percent) for \$3.4 million (77 percent) did not meet the purposes of one or more of the statutes from which the awards were funded. The joint FS/NRCS management review also reported that URP projects or components of projects were funded that did not fall within the authorities of FS or NRCS.

In addition to the direct funding of URP recipients, the FS and NRCS provided additional funds through third parties to pay the salaries, benefits, travel, and office expenses of the non-Federal URP coordinators for each URP city. URP coordinators in the four cities reviewed cost the FS and NRCS an additional \$733,708 during FY's 1994 through 1997. In response to whether appropriated funds could be used for these purposes, OGC stated it was impossible to render a general, definitive conclusion without the specific facts applicable to each situation.

In addition, the URP program did not include controls to ensure that award funds were used in accordance with applicable Federal regulations. Members of local steering committees frequently had little or no prior experience in managing Federal programs. As a result, USDA and Office of Management and Budget (OMB) grant regulations were not adhered to and recipients claimed questionable costs totaling over \$1.3 million in the four URP cities reviewed which resulted in \$474,708 subject to recovery. These amounts were identified in our review of 79 awards involving \$6.3 million in total operating costs, including Federal and matching funds.

See exhibit A for a summary of monetary results.

## KEY RECOMMENDATIONS

We recommend a review of all URP grants to determine if there was legal authority for each grant and whether the grants met the purposes of the applicable statutes from which they were funded. We also recommend that a strategy be developed to resolve all grant funds issued without legal authority and/or that do not meet the purposes of the funding statutes. We recommend the Department publish applicable requirements and procedures for the URP program in the Federal Register and that control procedures be established at the Under Secretary level to ensure that all program initiatives are forwarded to OGC for review prior to implementation.

We also recommend that controls be established at FS and NRCS to ensure that grant awards to recipients meet the purposes of the applicable statutes. In addition, we recommend that control procedures be implemented at the Office of the Under Secretary for Natural Resources and Environment and the Offices of the Chiefs of FS and NRCS to assure that USDA and OMB regulations are adhered to for all award programs.

## UNDER SECRETARY'S RESPONSE

In his written response to the draft report, the Under Secretary for Natural Resources and Environment acknowledged that our report raised a number of concerns that he believes can be effectively addressed to ensure that URP operates within existing authorities and continues to serve the purpose for which it was created. He asked the Chiefs of FS and NRCS to respond to the findings and recommendations. He also asked the OGC to take a second look at its July 26, 1999, opinion as he believes the statute provides broader authorities than our report acknowledges.

The Under Secretary noted that when URP was created, NRCS officials informed him that the authority to do so was founded in the Soil and Water Resources Conservation Act of 1977 and that it contained the necessary authorities to carry out URP. He said our analysis that this Act did not materially pertain to URP operations appeared to be flawed. He discusses the language of various reports, appropriations, and hearings to support this contention, and asked us to consider his views in revisiting our findings.

The Under Secretary stressed that his role was to provide leadership for the effort in the interest of advancing good policy, and that at no time did he direct individuals to engage in activities outside the agencies' legal authority. He said that based on what he was told and his understanding of the statute, he has always believed URP activities to be consistent with current authorities. He pointed out that while it is true he initiated URP, the agencies have been responsible for its implementation. As for it being implemented without program rules, he pointed out that it is not a program, but rather an initiative to implement existing programs; therefore, it was neither necessary or appropriate to use the rulemaking process.

The Under Secretary said that the lack of proper accounting and other regulations not being followed were administrative omissions on the part of the agencies. He added that both NRCS and the FS had clear precedence for conducting activities in urban areas and included several examples. He disputed the contention that political motives were the driving force behind the selection of URP cities. He said local support was a critical factor. He said FS and NRCS have conducted internal reviews, additional guidance has been provided locally, that he has directed the agency heads to come into compliance and take all appropriate actions to address the issues we raised.

The complete text of the Under Secretary's response is attached as exhibit L.

## OIG POSITION

The Under Secretary cited sections of the Soil and Water Resources Conservation Act as support for URP operations. However, Congress did not appropriate funds for this Act during FY's 1994 through 1999 (the period of our review). Therefore, we did not change our position that awards could not be funded under the authority of the Act. In general, the Under Secretary's written response to the draft report did not contain any new information of substance that had not already been considered. Therefore, the draft report upon which he commented was not materially changed. A few editorial modifications were made.

Regarding the issue of whether URP is an initiative or a program, we noted that URP was referred to as a program by both the Under Secretary and Congressional representatives during appropriation hearings. The OGC, in its July 26, 1999, opinion (exhibit K), which supports our conclusion that there were no specific statutory or appropriation authorities for URP and that the authorities used were more limited than implemented, also referred to it as a program. We believe that regardless of what it is called, Government policy and sound business practices require that the rulemaking process be used to ensure that such endeavors are authorized by statute and properly implemented. Not doing so increases the likelihood that, as our review found, Government funds will be spent on goods and services that were not authorized by the statutes from which the funds were obtained.

The Under Secretary said he disputed our contention that political motives were the driving force behind the selection of URP cities. We did not state this. We pointed out the documentation provided by the URP National Coordinator showed that various criteria, including, but not limited to, political support, were used for city selections. (See exhibit D.)

In a joint written response to the draft report (see exhibit M for the complete text), the Chief of the NRCS and the Acting Associate Chief of the FS responded to the report recommendations. The FS/NRCS response and OIG's position regarding the response is included in the Recommendation sections of the report after each Finding. Additional action is needed for each recommendation in order to reach agreement with the management decisions.



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### ABBREVIATIONS

CFAA	Cooperative Forestry Assistance Act
CFR	Code of Federal Regulations
CSREES	Cooperative State Research, Education, and Extension Service
EPA	Environmental Protection Agency
FS	Forest Service
FSM	Forest Service Manual
FWS	Fish and Wildlife Service
FY	Fiscal Year
GAO	General Accounting Office
HUD	Housing and Urban Development
NUCFAC	National Urban and Community Forestry Advisory Council
NPS	National Park Service
NRCS	Natural Resources Conservation Service
OGC	Office of the General Counsel
OIG	Office of Inspector General
PL	Public Law
OMB	Office of Management and Budget
URP	Urban Resources Partnership
USC	United States Code
USDA	United States Department of Agriculture

# INTRODUCTION

## BACKGROUND

The Under Secretary for Natural Resources and Environment initiated URP on December 20, 1993, with letters to the Chiefs of FS and Soil Conservation Service (now NRCS). In these letters, the Under Secretary discussed establishing URP to work directly with local people on natural-resource related projects in urban areas. URP was to be structured to consist of key representatives of Federal natural resources management agencies at the local level who would work together to identify local projects they could work on as a team in concert with community participants. This "partnership" would make decisions collaboratively regarding the approval and funding of award recipients.

The Under Secretary proposed four cities to serve as pilots for URP: Seattle, Washington; Chicago, Illinois; Atlanta, Georgia; and New York, New York. From these initial four cities, URP grew to include nine additional cities/areas: Los Angeles, California; Denver, Colorado; East St. Louis, Illinois; San Francisco, California; Las Vegas, Nevada; Philadelphia, Pennsylvania; Boston, Massachusetts; Buffalo, New York; and South Florida (Dade, Broward, Monroe, and Palm Beach Counties).

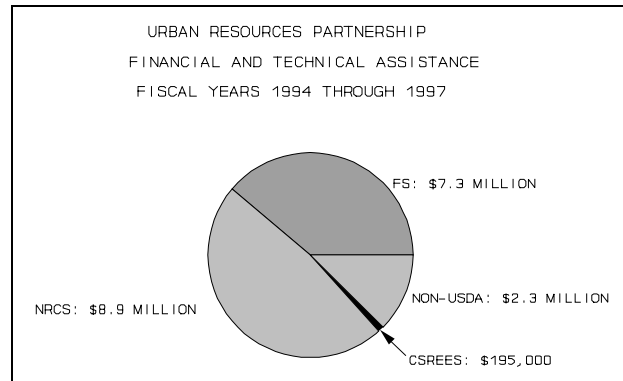
URP was administered as an "initiative" from the Office of the Under Secretary for Natural Resources and Environment. The URP National Guidance Document, dated February 1998, stated that URP was a demonstration project with a 5-year startup phase.

Program direction was provided through a National URP Coordinator who reported to the Under Secretary and a National URP Steering Committee which consisted of agency officials from CSREES, FS, NRCS, Housing and Urban Development (HUD), Fish and Wildlife Service (FWS), National Park Service (NPS), and the Environmental Protection Agency (EPA). Administration of the URP program at the local level was provided by non-Federal URP coordinators who worked with the local FS and/or NRCS officials and local URP steering committees to approve URP award recipients. See exhibit E for a chart illustrating the organizational and funding structure of URP.

Federal funding for URP was primarily provided from State and Private Forestry programs of FS and Conservation Operations programs

of NRCS.<sup>1</sup> During FY's 1994 through 1997, obligations from USDA agencies for URP totalled \$16.4 million.<sup>2</sup> Another \$2.3 million was provided during FY's 1994 through 1997 from non-USDA sources such as HUD, EPA, NPS, and city governments. For FY 1998, USDA agencies (primarily FS and NRCS) provided \$3.9 million for URP. Funding for URP was obligated in one fiscal year for expenditure during the next fiscal year; e.g., FY 1998 funds were obligated in September 1998 for expenditure in FY 1999.

The chart below illustrates that \$16.4 million (88 percent) of the total \$18.7 million expended on URP during FY's 1994 through 1997 came from USDA agencies. See exhibit C for the financial and technical assistance provided during FY's 1994 through 1997.



A Federal financial assistance program requires statutory authority and Congressional appropriations. Before a Federal assistance program is begun, the basic legislation must be studied to determine whether an assistance relationship is authorized and, if so, under what circumstances and conditions.<sup>3</sup> Once a Federal agency has determined that an assistance relationship is authorized, the agency may provide financial assistance to the extent authorized by the available appropriations. Legislation establishing an assistance program defines the program's objectives and allows the

<sup>1</sup>Funding of the FS is provided through appropriations for the Department of Interior. Funding for NRCS is provided through appropriations for the Department of Agriculture.

<sup>2</sup>In the four URP cities reviewed, five awards were also funded with appropriations for NRCS Resource Conservation and Development and NRCS Watershed and Flood Prevention Operations.

<sup>3</sup>United States General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume II, chapter 10, paragraph B 2, dated December 1992.

administering agency to fill in program operating details through regulations.<sup>4</sup>

The fundamental statute dealing with the use of appropriated funds (Title 31, United States Code (USC), section 1301(a)) states that "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." Simply stated, the statute says that public funds may be used only for the purpose(s) for which they were appropriated. The statute prohibits charging authorized items to the wrong appropriation and unauthorized items to any appropriation.<sup>5</sup>

When Congress enacts a program statute, it typically does not prescribe every detail of its implementation, but leaves it to the administering agency to do so by regulations.<sup>6</sup> The key statute governing the issuance of agency regulations is the Administrative Procedures Act.<sup>7</sup> Most agency regulations are the products of informal rulemaking, the notice and comment procedures prescribed by Title 5 USC 553. The first step in this process is the publication of a proposed regulation in the Federal Register. The agency then allows a period of time during which interested parties may participate in the process, usually by submitting written comments. Next, the agency considers and evaluates the comments submitted, and determines the content of the final regulation. The final regulation is published in the Federal Register, generally at least 30 days prior to its effective date.<sup>8</sup> Publication of a document in the Federal Register constitutes legal notice of its contents.<sup>9</sup>

An important statute for Federal assistance programs is the Antideficiency Act (Title 31, USC, section 1341(a)). One of the principal purposes of this legislation was to provide effective control over the use of Congressional appropriations to prevent the incurring of obligations at a rate which would lead to deficiency

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<sup>4</sup>General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume II, chapter 10, paragraphs C (1) (c) and C (1) (d) (1), dated December 1992.

<sup>5</sup>General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume I, chapter 4, paragraph A1, dated July 1991.

<sup>6</sup>General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume I, chapter 3A, dated July 1991.

<sup>7</sup>General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume I, chapter 3A1, dated July 1991.

<sup>8</sup>General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume I, chapter 3A1a, dated July 1991.

<sup>9</sup>Title 44 USC 1507; Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); 63 Comptroller General 293 (1984), as cited in the General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume I, chapter 3A1a, dated July 1991.

(or supplemental) appropriations and to fix responsibility on those Government officials who incur deficiencies or obligate appropriations without proper authority or at an excessive rate.<sup>10</sup> Thus, obligations or expenditures in excess of Congressional appropriations is a violation of the Act.

The Antideficiency Act also applies to obligations or expenditures for purposes which are prohibited or simply unauthorized. When an appropriation act specifies that an agency's appropriation is not available for a designated purpose and the agency has no other funds for that purpose, any officer of the agency who authorizes an obligation or expenditure of agency funds for that purpose violates the Antideficiency Act. Since Congress has not appropriated funds for the designated purpose, the obligation may be viewed either as being in excess of the amount (zero) available for that purpose or as an advance of appropriations made for that purpose. In either case, the Antideficiency Act is violated.<sup>11</sup> Antideficiency Act violations are to be reported to Congress and the President.<sup>12</sup>

Concurrent with the OIG evaluation, FS and NRCS conducted a joint management review of URP operations in Chicago, East St. Louis, New York City, and Seattle. The overall objective of the FS/NRCS management review was to determine whether URP was effective in working to build a lasting capacity to address natural resource issues at the local level. Additional objectives of the management review were to (1) determine whether authorized funds were used in accordance with grant/agreement terms, conditions, and regulations and legislative authorities, (2) assess the extent, effectiveness, and sustainability of URP in addressing natural resources through the support of a broad-based constituency, and (3) determine whether eligible projects were providing benefits.

During the concurrent OIG evaluation and FS/NRCS management review, OIG and FS/NRCS staff continuously shared information to avoid overlapping coverage to the extent possible. East St. Louis was reviewed by both OIG and the FS/NRCS management review team based on alleged problems in the administration of URP. The FS/NRCS management review report was issued in January 1999 and an implementation report of the management review was issued in June 1999.

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<sup>10</sup>Source: Senate Committee on Government Operations, Financial Management in the Federal Government, Senate Document No. 11, 87th Congress, First Session 45-46 (1961). As cited in the United States General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume II, chapter 6, paragraph C1, dated December 1992.

<sup>11</sup>United States General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume II, chapter 6, paragraph C2d, dated December 1992.

<sup>12</sup>Title 31, USC 1351, Reports on Violations, dated January 26, 1998.

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## OBJECTIVES

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**O**ur evaluation objectives were to determine (1) whether the prescribed process for initiating a Federal financial assistance program was followed, (2) if appropriate statutory authority was used to operate URP, (3) whether Federal funds expended for URP were authorized by Congressional appropriation, and (4) if the Federal and matching funds expended by award recipients were allowable.

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## SCOPE

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**D**uring FY's 1994 through 1997, financial assistance awards and technical assistance for URP totaled \$18.7 million in 13 cities/areas (\$16.4 million in USDA funds and \$2.3 million from other Government agencies). (See exhibit C.) From this universe, we selected four cities for review with USDA financial and technical assistance totaling \$7.9 million (48 percent of USDA funding). Los Angeles, East St. Louis, Denver, and Atlanta were judgementally selected for review because they provided geographic diversity and a mixture of FS and NRCS program management. An additional \$3.9 million in USDA funds was obligated in FY 1998 (for a total of \$20.3 million in USDA funds obligated for URP).

For each URP city selected for review, we visited the respective FS Regional Office, NRCS State Office, and the local URP coordinator. Within each selected city, URP award recipients were selected for review based on the cumulative value of award funds received since inception of the program. Generally, those recipients receiving the most funds were selected for review. We visited 15 URP recipients in Atlanta, 6 recipients in Denver, 7 recipients in Los Angeles, and 7 recipients in East St. Louis. See exhibit B for a list of the sites visited/reviewed.

In addition, we compared the cited statutory authorities for the URP program to award recipients' descriptions of the purpose(s) cited in the award proposals to determine if the statutes permitted the described purpose(s) of URP awards. We made this comparison for a judgement sample of 32 of the 81 awards in Atlanta, 16 of the 126 awards in Denver, and 64 of the 77 awards in Los Angeles. We reviewed all 44 of the awards in East St. Louis because of alleged problems with program administration.

Of the 328 awards for \$12.8 million (including matching funds) at the four cities visited, we reviewed 79 awards for \$6.3 million (including matching funds) for allowability of costs claimed or matched under the awards. (See exhibit F for a summary of the awards reviewed and exhibits G through J for a list of the awards reviewed.)

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. Fieldwork was performed during the period June 1998 through July 1999.

## METHODOLOGY

Because of the absence of a statutory authority and regulations for the URP program (which normally provide a bridge between statutes and program operations), we compared the operation of the URP program with the "plain meaning"<sup>13</sup> of the statutes used to fund the programs. The "plain meaning" is the ordinary, everyday meaning rather than some obscure usage.<sup>14</sup> We also used this methodology to evaluate whether the objectives of individual awards met the objectives of the funding statutes.

We reviewed each award in relation to the award objectives agreed upon between FS and/or NRCS and the recipients (regardless of questions regarding the relationship of the award's objectives with the objectives of the funding statutes). Therefore, in some cases, we may have concluded that funds expended were allowable based upon the agreed-to objectives, but that the award itself did not meet the objectives of the funding statute. In addition, for the review of statutory funding authorities, if an award was jointly funded by the FS and NRCS, we reviewed the award twice: Once to determine if it met the purpose of the FS statute and once to determine if it met the purpose of the NRCS statute.

At the FS and NRCS offices, we reviewed available records relating to the administration of URP awards. We emphasized financial reports and interviewed the Federal staff responsible for the administration of the URP awards to determine the administrative and accounting controls over the awards.

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<sup>13</sup>The most important rule of statutory construction is the language of the statute. Mallard v. United States District Court, 490 U.S. 296, 300 (1989). If the meaning is clear from the language of the statute, there is no need to resort to legislative history or any other extraneous source. This is the "plain meaning" rule. If the meaning is "plain," then further interpretation of that meaning is not needed or warranted. Mallard v. District Court, 490 U.S. 296; United States v. Ron Pair Enterprises, Inc., 489 U.S. 235, 241 (1989); Aloha Airlines, Inc., v. Director of Taxation, 464 U.S. 564 U.S. 7, 12 (1983); Griffin v. Oceanic Contractors, Inc., 458 U.S. 564, 570 (1982); TVA v. Hill, 437 U.S. 153, 184 n. 29 (1978); Ex parte Collett, 337 U.S. 55, 61 (1949); Caminetti v. United States, 242 U.S. 470, 485, 490 (1917); 56 Comptroller General 943 (1977); B-230656 dated April 4, 1988, as cited in the United States General Accounting Office, Office of the General Counsel, Principles of Federal Appropriations Law, Second Edition, volume I, chapter 2, paragraph D2, dated July 1991.

<sup>14</sup>Mallard v. United States District Court, 490 U.S. at 301; 38 Comptroller General 812 (1959), as cited in the United States General Accounting Office, OGC, Principles of Federal Appropriations Law, Second Edition, volume I, chapter 2, paragraph D2, dated July 1991.

At the URP recipients, 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 FS and/or NRCS.

# FINDINGS AND RECOMMENDATIONS

## I. IMPROPER USE OF STATUTORY AUTHORITIES AND APPROPRIATIONS

URP was implemented without specific statutory authority, appropriated funds, or issuance of regulations. The Under Secretary for Natural Resources and Environment initiated URP by directing other USDA agencies to implement the "initiative" using funds appropriated for other programs. Approximately \$16.4 million in USDA funds were provided to URP recipients during FY's 1994 through 1997, with an additional \$3.9 million obligated in FY 1998 for use in FY 1999. In addition, \$733,708 in other USDA-appropriated funds were used to fund non-Federal URP coordinator positions. Based on our evaluation and an OGC opinion regarding legal authority for the URP program, there was no statutory authority nor Congressional appropriations for URP. As a result, over \$20 million in USDA funds were improperly expended or obligated for the URP program during FY's 1994 through 1998.

### PRESCRIBED PROCESS FOR FINANCIAL ASSISTANCE PROGRAMS NOT FOLLOWED

#### FINDING NO. 1

program expenditures were made without proper statutory and funding authorities.

#### COMPARISON OF PRESCRIBED PROCESS WITH IMPLEMENTATION OF URP

We compared the prescribed process as described in the background section of this report for implementing a Federal assistance program with the process used to implement URP and found that the prescribed process was not followed.

Proposed URP program regulations were not provided to the OGC for review and cities were not selected for participation in the program on a competitive basis. The general public was not notified of the program through public notice of proposed regulations in the Federal Register. The Under Secretary chose not to follow the normal legislative process to initiate the URP program. As a result, good management practices were not followed in implementing URP and \$20.3 million in

The Under Secretary initiated URP in December 1993 when he asked the FS and NRCS Chiefs to identify available "seed money" from existing FS and NRCS appropriation accounts to immediately launch the URP initiative. The initiating correspondence contained no mention of any underlying legislation that authorized URP. There was no documentation that the question of legislative authority was addressed during the implementation process.

URP program regulations were not developed and published in the Federal Register as required by the Administrative Procedures Act. An October 7, 1994, status report prepared for the Deputy Chief for State and Private Forestry stated that during a steering committee meeting, the Under Secretary said he was not in favor of seeking specific legislation for URP.

The FS did not develop and make available for public comment regulations for the administration of the URP program as required by the Cooperative Forestry Assistance Act (CFAA)<sup>15</sup> and the Administrative Procedures Act<sup>16</sup>. The OGC determined that the CFAA requires USDA to develop regulations for the administration of the CFAA, which includes urban and community forestry assistance. The OGC stated that guidelines regarding the administration of the statute at the Federal and State levels are to be developed, including identifying measures and activities eligible for cost sharing. The OGC stated that the USDA has not developed these regulations and failure to develop such regulations as required by the CFAA could be the basis for a challenge under the Administrative Procedures Act to the administration of the URP program.<sup>17</sup>

Since there were no identified statutory authorities, documentation of available appropriated funds, program regulations, or review of the program by the OGC, we concluded that good management practices were not followed in implementing URP. Good management practices and the GAO Principles of Federal Appropriations Law<sup>18</sup> dictate that prior to implementing a Federal financial assistance program, the applicable statutory authority and appropriated funds are identified and program regulations are published in the Federal Register.

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<sup>15</sup>Title 16, USC 2114, Administration, dated January 26, 1998.

<sup>16</sup>Title 5, USC 552, Public information; agency rules, opinions, orders, records, and proceedings; and 5 USC 553, Rulemaking, dated January 5, 1999.

<sup>17</sup>OGC opinion on the URP Program, dated July 23, 1999.

<sup>18</sup>United States General Accounting Office, Office of the General Counsel, Principles of Federal Appropriation Law, second edition, volume II, chapter 10, dated December 1992.

#### METHODOLOGY USED TO SELECT URP CITIES

The methodology used to select cities for participation in the URP program could expose the Department to charges of favoritism. Availability of the program was not published in the Federal Register. The first four URP cities (Seattle, Washington; Chicago, Illinois; Atlanta, Georgia; and New York, New York) were selected personally by the Under Secretary based on active community conservation programs, organized community projects, and ongoing Federal participation in other natural resources programs. The URP program began in April 1994 with grants in these URP cities.

In FY 1995, four additional cities were selected by the Under Secretary based on analysis and information from the URP National Steering Committee. According to documentation provided, the criteria used for the selections, in part, were political support, strength of Congressional delegation, diversity of population, need for environmental attention, potential for Federal agency funding from existing programs, and city size. The cities selected were Denver, Colorado; East St. Louis, Illinois; Los Angeles, California; and Philadelphia, Pennsylvania. See exhibit D for the pros and cons used to evaluate the cities.

In FY 1996, the URP National Steering Committee accepted proposals from other cities/areas to participate in the program. The locations selected by the Under Secretary for URP participation were San Francisco, California; Las Vegas, Nevada; South Florida; Buffalo, New York; and Boston, Massachusetts. Four other cities were considered, but were not selected (Baltimore, Maryland; Milwaukee, Wisconsin; Pittsburgh, Pennsylvania; and Washington, DC).

#### OGC OPINION

In a July 26, 1999, opinion issued to the Chiefs of the FS and NRCS (see exhibit K), OGC stated that there was no authorizing legislation for URP. OGC stated that the FS authority to provide assistance to the URP program was defined by and limited to the purposes of the urban and community forestry assistance section of the CFAA. OGC said the scope of this authority included the provision of technical, financial, and related assistance to State and local governments, nonprofit organizations, and other members of the public to: Maintain, expand, and preserve forest and tree cover; expand research and education efforts related to trees and forest cover; enhance technical skills and understanding of tree maintenance and practices involving cultivation of trees, shrubs, and complementary ground covers; and implementing a tree planting program to complement urban tree maintenance and open space programs.

OGC's opinion stated that the scope of NRCS' legal authority to provide grants through URP was limited. OGC stated that NRCS' authority to grant funds is through the Soil Conservation and

Domestic Allotment Act. Under this act, OGC stated that NRCS did have authority to engage in activities for the purpose of soil erosion prevention; therefore, only URP projects that have as their main purpose soil erosion prevention are legally authorized. The OGC also stated that the projects NRCS seeks to fund through URP are generally not related to soil erosion prevention; e.g., green spaces, urban gardens, environmental education, composting, recreation equipment, etc.

HOUSE COMMITTEE ON APPROPRIATIONS QUESTIONED URP

In July 1997, the House Committee on Appropriations requested additional information and justification for URP.<sup>19</sup> The committee cited URP (and two other initiatives) as an example of millions of dollars that had been spent on major initiatives that had never been requested from or provided for by Congress. The committee also stated that the agency's budget justification did not mention these projects or their funding levels and requested the agency to present a more detailed budget justification when it submitted its FY 1999 budget request. The committee further stated that the funds for the three cited initiatives (including URP) were not available until justification and reprogram requests are approved.

In December 1997, the Department responded to the committee by providing information about URP, the locations of URP operations, and the extent of NRCS funding for the program (e.g., approximately \$8.9 million of NRCS funds had been allocated to URP from FY 1994 through FY 1997, all of the funds used to date were from the NRCS Conservation Operations account, and NRCS projected that \$2.5 million would be expended for URP activities during FY 1998). However, the response did not address the approximately \$7.3 million of FS funds that had been allocated to URP during FY's 1994 through 1997, as FS funding is handled in connection with Department of Interior appropriations.

In June 1998, the House Committee on Appropriations again stated that funds for URP were not available until justification and reprogram requests are approved. The Committee stated that specific line item requests for URP are to be included in the FY 2000 request under the Conservation Operations account.<sup>20</sup>

In February 1999, the Department responded to the committee by providing general information regarding URP and stating that NRCS funding from the Conservation Operations account is normally matched and that during FY 1999, NRCS expects that \$2 million will be

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<sup>19</sup>House Committee on Appropriations Report No. 105-178, Agriculture, Rural Development, Food and Drug Administration, and Agencies Appropriations Bill for Fiscal Year 1998, dated July 14, 1997.

<sup>20</sup>House Committee on Appropriations Report No. 105-588, Agriculture, Rural Development, Food and Drug Administration, and Agencies Appropriations Bill for Fiscal Year 1999, dated June 19, 1998.

expended for URP activities. The response did not address FS funds expected to be used for URP during FY 1999.

UNDER SECRETARY'S RESPONSE AND OIG COMMENTS

In his October 25, 1999, written response to the draft report, a copy of which is attached as exhibit L, the Under Secretary for Natural Resources and Environment stated that he requested the OGC to take a second look at its July 26, 1999, opinion upon which much of the OIG findings and recommendations are based. The Under Secretary said the additional OGC review is critical in light of what appears to be a strong reliance in the report on an overly narrow interpretation of statute; particularly the interpretation of the authority granted NRCS under Title 16 USC 590a, the Soil Conservation and Domestic Allotment Act of 1935. The Under Secretary said it was his belief that the statute provides broader authorities than the report acknowledges.

The OIG findings and conclusions regarding the applicability of the cited statutes is based on our analysis of the information gathered during the evaluation which occurred prior to the OGC opinion. Our findings and conclusions were further supported by the July 26, 1999, OGC opinion.

The Under Secretary stated that although he initiated URP, the program was not administered by his office. He said the agencies were responsible for its implementation. The Under Secretary said a National Steering Committee provides overall guidance and support, and their role is to advise him on the progress and to seek his guidance when necessary. The URP National Coordinator has always been either an NRCS or a FS employee.

We deleted the statement in the Background that the URP program was administered by the Office of the Under Secretary; however, during the evaluation, we were informed by the coordinator and agency officials that the URP National Coordinator generally reported to and took direction from the Under Secretary regarding URP operations (even though they organizationally reported to FS and/or NRCS officials).

Regarding the concern that URP was implemented without program rules, the Under Secretary stated that URP is not a program, but rather an initiative. He stated that since URP was intended to more efficiently implement existing programs, it did not seem necessary and appropriate to initiate a rulemaking process for URP implementation. The FS and NRCS written response to the draft report (see exhibit M) also took exception to the categorization of URP as a program. The FS and NRCS officials said URP was begun and continues to be implemented as an initiative using existing authorities; thus, there was no need to seek legislation or issue separate regulations.

We noted that URP was referred to as a "program" during appropriation hearings by Congressional representatives and the Under Secretary. The OGC also referred to URP as a program in its July 26, 1999, opinion. Also, since Federal funds were awarded to URP recipients for specific purposes, we used the term "program" when referring to URP. Nevertheless, we concluded that regardless of what URP is called (e.g., program, initiative, partnership, demonstration project), there must be Congressional appropriation and statutory authorities to spend Federal funds. There were no such specific authorities for URP and the authorities used, as supported by the OGC opinion, resulted in URP being expanded beyond what was authorized by the cited statutes.

The Under Secretary stated that he disputes the contention that political motives were the driving force behind the selection of URP cities. The Under Secretary said that without local support the URP effort could not succeed and that gauging whether or not local leaders supported URP was critical and cities were selected partially based on support for the effort. The Under Secretary stated that for OIG to take a memorandum prepared by staff and use it to assert that URP was politically motivated is misleading at best.

The report does not state that political motives were the driving force behind the selection of URP cities. The report does state, however, that documentation showed that various criteria, including political support, were used for city selections. The city selection criteria and a list of pros and cons for the cities reviewed in FY 1995 was provided by the URP National Coordinator and is included as exhibit D.

## **RECOMMENDATION NO. 1a**

Review all URP grants issued during FY's 1994 through 1999 (totaling \$20.3 million) and determine if there was legal authority for each grant. Develop a strategy to resolve all grant funds issued without proper legal authority.

### **FS/NRCS Response**

In their October 25, 1999, written response to the draft report, a copy of which is included as exhibit M, the Chief of the NRCS and the Acting Associate Chief of the FS stated that grants made from 1994 until July 26, 1999, were made with the understanding that both the FS and NRCS had full authority to make these grants. The NRCS staff in 1994 believed NRCS was acting within its full authority to implement the URP initiative.



The response stated that a review of URP FY 1998 and FY 1999 grants was initiated in August 1998 and completed in January 1999 and that additional reviews will be conducted as needed by the State Conservationists in all URP locations that receive agency funds. A National Guidance Document was drafted in 1997 and is currently under final review. A draft white paper entitled "Summary of Authorized Activities Projects" has been developed by the FS and is undergoing final reviews to aid in the interpretation of the Cooperative Forestry Assistance Act of 1978 for local coordinators and other partners.

In addition, the response stated that if a review of FY 1994 through 1999 URP grants determines that certain grants were not within agency authorities, FS and NRCS officials do not believe it would serve the public interest to attempt recovery of those funds. Local URP grants recipients acted in good faith and in the expectation that Federal agencies had full authority to authorize the projects. Any projects still ongoing could be re-examined to bring them into conformance or discontinue the balance of the project.

#### **OIG Position**

We continue to believe that the FS and NRCS need to determine whether there was legal authority for all URP grants issued during FY's 1994 through 1999. Based on the July 26, 1999, OGC opinion, many of the FS and most of the NRCS grants were made without proper legal authority. For those grants issued without proper legal authority, the agencies should either initiate action to recover the funds or waive the improper payments once those amounts have been identified.

To reach a management decision for Recommendation No. 1a, we need the following information: (1) The specific corrective action to be taken, (2) the timeframe within which the corrective action will be completed, (3) documentation that the award recipients have been informed of the evaluation findings and the amounts owed to the Government (if improper payments are to be recovered), (4) documentation that the amounts owed to the Government have been established as a receivable on the agencies' accounting records, and (5) documentation that the improper payments have been waived by the respective agencies (if improper payments are to be waived).

### **RECOMMENDATION NO. 1b**

Publish applicable requirements and procedures for the URP program in the Federal Register. Submit the proposed regulations to OGC for review prior to publishing in the Federal Register.

### **FS/NRCS Response**

The joint FS/NRCS written response stated that because URP is an initiative, there is no need to publish requirements and procedures governing its implementation in the Federal Register. The FS has developed and broadly circulated the Urban and Community Forestry Program guidelines used to govern the program since its inception in 1991. These guidelines were developed in partnership with State and Local governments, and not-for-profit organizations interested in the program. Currently, these guidelines are being revised and will be published in the Federal Register.

### **OIG Position**

We noted that URP was referred to as a "program" during appropriation hearings by Congressional representatives and the Under Secretary. The OGC also referred to URP as a program in its July 26, 1999, opinion. We concluded that regardless of what URP is called (e.g., program, initiative, partnership, demonstration project), there must be Congressional appropriation and statutory authority to spend Federal funds. There was no such specific authority for URP, and expenditures were not limited to those authorized by the authorities used.

OGC concluded that although some URP grants issued by the FS and NRCS may be supported by current authorities, there are generally no statutory and appropriation authorities for the URP program. We continue to believe that if the Department is to continue funding URP, applicable requirements and procedures should be published in the Federal Register. The proposed regulations should also be submitted to the OGC for review prior to publication in the Federal Register. Also, action to be taken by NRCS was not addressed.

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

## **RECOMMENDATION NO. 1c**

Establish controls at the Under Secretary level to ensure that all program "initiatives" are forwarded to OGC for review prior to implementation.

### **FS/NRCS Response**

The FS/NRCS response stated that a review of all policies and regulations pertaining to the URP initiative will be made to ensure that all applicable controls are utilized. All policies, guidelines, and standards will be made available to all necessary

entities. All new policies, guidelines, and standards may be forwarded to OGC for review and concurrence prior to implementation.

**OIG Position**

The response did not address the establishment of controls to ensure that all program initiatives are forwarded to OGC for review prior to implementation. We continue to believe that management controls should be established to ensure that program initiatives are provided to OGC for review to ensure compliance with applicable laws.

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

**IMPROPER USE OF APPROPRIATED FUNDS**

**FINDING NO. 2**

The stated purposes and objectives of 131 URP awards valued at about \$3.4 million did not meet the purposes of one or more of the statutes from which the awards were funded. The URP program was not designed to affix responsibility for determining whether particular assistance was authorized by the statute which funded the assistance. Further, there were no published regulations to

provide guidance in this area. Use of funds for unauthorized purposes can result in violation of the Antideficiency Act discussed in the Background section of this report.

The following table illustrates that most of the awards reviewed in four cities did not meet the purposes of the statutes from which the awards were funded.

Appropriation Account	Statute(s) Funded	URP Awards Reviewed Per Appropriation Account*		Awards Reviewed That Did Not Meet Purpose of Funding Statute*	
		No.	Value	No.	Value
NRCS Conservation Operations	Soil Conservation and Domestic Allotment Act	133	\$2,219,273	116	\$1,950,964
FS State and Private Forestry	Urban and Community Forestry Assistance	130	1,960,037	88	1,333,713
NRCS Resource and Conservation Development	Bankhead-Jones Farm Tenant Act, Soil and Domestic Allotment Act, and Agriculture and Food Act of 1981	3	71,200	3	71,200
NRCS Watershed and Flood Prevention Operations	Watershed Protection and Flood Prevention Act	2	124,000	2	124,000
Totals		268	\$4,374,510	209	\$3,429,877

\*Some awards were funded from both FS and NRCS appropriated funds. Total unduplicated awards reviewed was 156 of which 131 did not meet the purpose of one or more of the funding statutes.

In its July 26, 1999, opinion issued to the Chiefs of the FS and NRCS, the OGC concluded that the FS and NRCS have limited authority to provide assistance under the URP. OGC stated that the lack of specific authorizing legislation for URP limits NRCS' ability to provide funds to URP; and that the FS has broader authority to fund URP projects under the CFAA, but such authority is limited to assistance involving trees, forest cover, shrubs, and associated natural resources.

We compared the stated purpose of each award reviewed to the statute(s) from which the award was funded to determine if the purposes of the award complied with the purposes of the applicable statute(s). Awards that were jointly funded by the FS and NRCS were reviewed twice: Once to determine if it met the purpose of the FS statute and once to determine if it met the purpose of the NRCS statute. We also reviewed any accompanying financial information provided (proposed budgets, actual expenditures, receipts, etc.) in order to verify that materials were purchased to fulfill the stated purposes of the awards. For the purpose of our review, if an award included any aspect of the statute, and there was no other information to indicate otherwise, we counted the award as meeting the statutory purposes, regardless of whether other aspects of the award met the statutory purposes.

Of the 156 awards for about \$4.4 million reviewed, 131 (84 percent) for \$3.4 million (77 percent) did not meet the purpose of one or more of the funding statutes. The following subheadings summarize the results of this comparison for each statute for which funds were used to fund projects in the four URP cities visited.

#### **SOIL AND WATER RESOURCES CONSERVATION ACT**

URP awards made by NRCS cited the Soil and Water Resources Conservation Act as the funding source; however, Congress did not appropriate funds for this act during FY's 1994 through 1999. We determined that NRCS' portion of the award funds were actually funded with appropriations for the Soil Conservation and Domestic Allotment Act, the Watershed Protection and Flood Prevention Act, the Bankhead-Jones Farm Tenant Act, and the Agriculture and Food Act of 1981. This citation of one statute and using funds from another statute did not comply with USC Title 31, section 1301(a), which requires that funds be used for the purposes for which they were appropriated.

NRCS State Office officials said they relied upon direction from the National URP Steering Committee in the issuance of awards and did not independently determine if assistance, as directed by the steering committee, was authorized. NRCS officials accepted an unsigned memorandum from the National URP Steering Committee citing the statutory authority to use in making the awards. Direction on funding of the awards came from the NRCS National Office. Further, NRCS State Office officials stated they neither studied the basic

legislation to determine if financial assistance was authorized nor determined if appropriated funds were available for URP. Also hampering the issuance of awards was the lack of published regulations for the program.

Each year during FY's 1994 through 1997, Congress appropriated funds to the NRCS Conservation Operations account to implement the Soil Conservation and Domestic Allotment Act of 1935 (Title 16, USC 590). However, Congress only funded sections 590a through 590f of the Act, with sections 590g through 590q-3 not funded. Section 590a provided:

"It is recognized that the wastage of soil and moisture resources on farm, grazing, and forest lands of the Nation, resulting from soil erosion, is a menace to the national welfare and that it is declared to be the policy of Congress to provide permanently for the control and prevention of soil erosion and thereby to preserve natural resources, control floods, prevent impairment of reservoirs, and maintain the navigability of rivers and harbors, protect public health, public lands and relieve unemployment, and the Secretary of Agriculture, from now on, shall coordinate and direct all activities with relation to soil erosion\*\*\*"

While section 590a(1) authorized demonstration projects in areas subject to erosion by wind or water, FY's 1994 through 1997 appropriation language prohibited funds from being used for demonstration projects. This language is identical in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Acts for 1994, 1995, 1996, and 1997<sup>21</sup> which state that:

\*\*\* Provided further, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 USC 590 a-f) in demonstration projects \*\*\*."

OGC stated in its July 26, 1999, opinion that NRCS' authority to grant funds is through the Soil Conservation and Domestic Allotment Act for the purpose of soil erosion prevention. According to the OGC, only URP projects that have as their main purpose soil erosion prevention are legally authorized. The OGC opinion further noted that the projects NRCS funded through URP were generally not related to soil erosion prevention (e.g., green spaces, urban gardening, environmental education, composting, recreation equipment, etc.).<sup>22</sup>

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<sup>21</sup>Title II -- Conservation Programs, Public Law (PL) 103-111 dated October 21, 1993, PL 103-330 dated September 30, 1994, PL 104-127 dated April 4, 1996, PL 104-180 dated August 6, 1996.

<sup>22</sup>OGC opinion on NRCS and FS legal authorities to provide grants under URP, dated July 26, 1999.

We found that 116 of the 133 awards funded wholly or in part with NRCS funds were not related to the control and prevention of soil erosion. We also determined that none of these 133 awards were on farm, forest, and grazing lands, but were in urban areas. The following are examples of URP awards funded with NRCS funds:

- o In Atlanta, \$52,500 was granted to the Atlanta Urban Gardening Program to develop and improve established gardens in neighborhood planning units.
- o In Denver, \$25,000 was granted to Denver Urban Gardens to build four urban habitat classrooms. The FS also provided an additional \$25,000 for this grant.
- o In East St. Louis, \$25,878 was granted to Catholic Urban Programs Neighborhood Law Office to bring civil lawsuits against owners of derelict properties to force demolition or rehabilitation of structures. The FS also provided an additional \$25,878 for this grant.
- o In Los Angeles, \$3,500 was granted to the Sierra Club Foundation to fund transportation for outings. The FS also provided an additional \$3,500 for this grant.

#### **URBAN AND COMMUNITY FORESTRY ASSISTANCE**

The FS Urban and Community Forestry Assistance section of the Cooperative Forestry Assistance Act (CFAA) authorized assistance to be provided through State foresters or equivalent State officials.<sup>23</sup> Further, the CFAA required that regulations be developed identifying the measures and activities eligible for cost sharing.<sup>24</sup>

In its July 26, 1999, opinion to the Chiefs of the FS and NRCS, the OGC stated that FS' authority to provide assistance through URP is the urban and community forestry assistance section of the CFAA which is to maintain, expand, and preserve forest and tree cover; expand research and education efforts related to trees and forest cover; enhance technical skills and understanding of tree maintenance and practices involving cultivation of trees, shrubs, and complementary ground covers; and implementing a tree planting program to complement urban tree maintenance and open space programs.

The OGC opinion also stated that the FS is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for forestry programs. The OGC also

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<sup>23</sup>Title 16, USC 2105 (c), General Authority, dated January 26, 1998.

<sup>24</sup>Title 16, USC 2114, Administration, dated January 26, 1998.

determined that the FS is authorized to cooperate directly with units of local governments and others whenever the FS and the affected State forester or equivalent State official agree that direct cooperation would better achieve the purpose of the CFAA.

In addition, the OGC opinion stated that, under the CFAA, the FS shall establish an urban and community challenge cost-share program for which funds are to be provided for urban and community forestry projects on a competitive basis. In addition, the awards to projects shall be made in accordance with criteria developed in consultation with and recommendations from the National Urban and Community Forestry Advisory Council (NUCFAC).<sup>25</sup> (The NUCFAC council is comprised of a broad spectrum of representatives from nonprofit, governmental, professional, and citizen groups and is charged not only with developing criteria for the cost-share program but with developing, implementing, and evaluating a national urban and community forestry action plan.) Each State forester or equivalent State official may make recommendations to the FS for awards under the program for project proposals in their State.

All of the 130 awards funded wholly or in part with Urban and Community Forestry Assistance funds under the CFAA were made without reference to State forester approval or NUCFAC criteria. In addition, we determined that 88 of the 130 awards funded wholly or in part with FS funds did not meet the purposes of the underlying statute. Because no regulations were issued to identify the specific measures and activities eligible for cost sharing, local project managers had no point of reference to know what activities were authorized and, in some cases, grant funds were expended inappropriately and/or unwisely. The following are examples of URP awards made with FS funds:

- o In Atlanta, \$1,700 was granted to the Upper Chattahoochie Riverkeeper Fund, Inc., to conduct a storm drain stenciling education project to promote watershed awareness.
- o In Denver, \$9,250 was granted to Embracing Horses for a year-long integrated environmental/agricultural educational program including classroom and fieldwork with farm animals and large scale dry land farming. NRCS also provided an additional \$9,250 for this grant.
- o In East St. Louis, \$10,000 was granted to Blooming Warriors to develop a 15 acre lot to create a recreation site, including one baseball and one softball field, a large flower and vegetable garden, and a compost area. NRCS also provided an additional \$10,000 for this grant.

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<sup>25</sup>Title 16, USC 2105 (f), Challenge Cost-Share Program, dated January 26, 1998.



- o In Los Angeles, \$25,000 was granted to the Los Angeles Central City Action Committee to plant trees/shrubs, build trails in local parks, create murals, and conduct neighborhood cleanups. NRCS also provided an additional \$25,000 for this grant. About \$4,500 was spent on artist fees to paint murals on residential walls, garages, and concrete structures (see picture 1). An example of the use of funds for authorized purposes is illustrated in picture 2.



Picture 1. Unauthorized purpose: Wall murals



Picture 2. Authorized purpose: Tree planting

**BANKHEAD-JONES FARM TENANT ACT, SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AND AGRICULTURE AND FOOD ACT OF 1981**

Congress appropriated funds to the NRCS Resource and Conservation Development account to implement (1) the Bankhead-Jones Farm Tenant Act, a program of land conservation and land utilization to correct maladjustments in land use, (2) the Soil Conservation and Domestic Allotment Act for the control and prevention of soil erosion on farm, grazing, and forest land, and (3) the Agriculture and Food Act of 1981 to encourage and improve the capability of State and local units of government and local nonprofit organizations in **rural** (emphasis added) areas to plan, develop, and carry out programs for resources conservation and development.

The three URP awards made with funds from this account were in East St. Louis and none of the projects met the purposes of these statutes. For example, a \$50,000 URP award was made to the East St. Louis Park District to construct a nursery and greenhouse.

**WATERSHED PROTECTION AND FLOOD PREVENTION ACT**

Congress appropriated funds to the NRCS Watershed and Flood Prevention Operations account to implement the Act for erosion, floodwater, and sediment damages in the watersheds of the rivers and streams of the United States, which causes loss of life and damage to property, and constitutes a menace to the national welfare.

Neither of the two URP awards made with funds from this account met the purposes of the underlying statute. For example, an award was made to the Los Angeles Conservation Corps for \$98,000 to establish at least 10 new community gardens, ensure success of existing community gardens, and to establish a model community garden to train new gardeners.

**ADDITIONAL FUNDING PROVIDED FOR URP COORDINATORS**

Additional FS and NRCS appropriated funds totaling \$733,708 were provided to third parties to pay for non-Federal URP coordinator positions. The National URP Steering Committee instructed local FS and NRCS officials to pay for the local coordinator positions in this manner. Each URP city hired an URP coordinator to support the local URP steering committee.

The salaries, benefits, travel, and office expenses of the URP coordinators were paid with FS and NRCS appropriated funds. The sources of funds varied depending on the URP city. The following table illustrates the amounts paid and the third parties through which the funds were channelled to pay for the coordinators.

URP CITY	FUNDING SOURCE	FUNDING SOURCE	AMOUNT
Atlanta	Fulton County Soil and Water Conservation District	FS NRCS	\$117,500 178,500
Denver	Colorado State Forest Service and Jefferson County Soil Conservation District	FS NRCS	\$ 26,958 86,250
East St.Louis	Metropolitan Community College	NRCS	\$190,000
Los Angeles	Antelope Valley Soil and Water Conservation District and Santa Monica Soil and Water Conservation District	NRCS	\$134,500
<b>TOTAL</b>			<b>\$733,708</b>

We asked the OGC whether the FS and NRCS may use appropriated funds, via grants to third parties, to pay the salaries, benefits, travel, and office expenses of the URP coordinators. In its July 23, 1999, response, the OGC stated that the variety of ways URP is administered makes it impossible to render a general, definitive conclusion without confronting a specific set of facts in an individual instance. The OGC also stated that those arrangements used by the FS and NRCS to fund URP grants, in light of augmentation and assistance authority principles, potentially may be more problematic than the interagency financing statutes.

#### **JOINT FS/NRCS REVIEW**

A joint FS/NRCS review of URP operations in four cities reported similar findings. The report, issued in January 1999 by the NRCS Deputy Chief for Programs and the FS Deputy Chief for State and Private Forestry, stated that FS and NRCS officials applied a very broad interpretation of FS and NRCS authorities to URP awards without a thorough understanding of the program authorities and limitations. The FS/NRCS review team found that 9 of the 36 URP awards reviewed (25 percent) had components not appropriate to the legislative authority of the funding agencies. The review team determined that some URP steering committees operated under the assumption that NRCS and FS funds could be used for any purpose that fell within the legislative authority of any of the participating agencies (i.e., FS, NRCS, CSREES, HUD, NPS, EPA, and FWS). An implementation report for completing corrective action on the management review was issued in June 1999.

## UNDER SECRETARY'S RESPONSE AND OIG COMMENTS

In his written response to the draft report (see exhibit L), the Under Secretary stated that when URP was created, NRCS officials informed him that the authority to do so was founded in the Soil and Water Resources Conservation Act of 1977 and that the Act contained the necessary authority to carry out URP. The Under Secretary also said the OIG analysis that this Act does not materially pertain to URP operations appears to be flawed. The Under Secretary cited several statements from appropriation hearings and sections of the Act which he believed applied to URP operations and requested OIG to take these items into consideration when revisiting the findings.

Notwithstanding the Under Secretary's extensive quotations of legislative history and debate, the fact remains that Congress did not appropriate funds for the Soil and Water Resources Conservation Act during FY's 1994 through 1999. Therefore, we did not change our position that awards cannot be funded under the authority of the Act.

The Under Secretary stated that the extent of his role in URP was to provide leadership for the effort in the interest of advancing good public policy. The Under Secretary stated that at no time did he direct individuals to engage in activities that, to his knowledge, were outside the agencies' legal authority. Based on what he was told by agency representatives and upon his understanding of statute, the Under Secretary said he always believed that URP activities were consistent with current authorities.

The Under Secretary also stated that there is clear precedence for conducting activities in urban areas in both NRCS and the FS. The Under Secretary listed several examples of NRCS and FS activities in urban areas. OIG does not take exception with the fact that the FS and NRCS have programs in urban areas.

### **RECOMMENDATION NO. 2a**

Review all grants issued by the FS and NRCS and determine if the grants met the purpose(s) of the applicable statutes. Develop a strategy to resolve grant awards that do not meet the purpose(s) of the applicable statutes. Coordinate this review with the determination of legal authorities recommended in Recommendation No. 1a above.

#### **FS/NRCS Response**

In their October 25, 1999, written response to the draft report (see exhibit M), the Chief of the NRCS and the Acting Associate Chief of the FS stated that the agencies will continue to conduct a detailed

program and management review to examine all aspects of program management and implementation, including grants administration. All local coordinators will continue to work directly with their Regional and State offices grant management staff to ensure that all grants are approved and awarded in compliance with all applicable policies and regulations according to the applicable statutes. Working directly with the FS and NRCS grant management staff will eliminate the potential for errors in awarding grants, along with the newly developed National Guidance Document. In addition, State Conservationists through regional and State administrative specialists will review URP grants to ensure compliance with applicable statutes and adherence to management procedures.

#### **OIG Position**

The FS/NRCS response indicates that the FS and NRCS will continue to conduct reviews and that local URP coordinators will continue to work with agency grant management staffs and that this will eliminate the potential for errors in awarding grants to URP recipients. As illustrated by this evaluation, this procedure has not previously resulted in adequate assurance that grants meet the purpose(s) of the applicable statutes. Also, the response did not address how previously issued grants will be reviewed to determine if they meet the purpose(s) of the applicable statutes.

In Recommendation No. 1a, we requested the FS and NRCS to determine if there was legal authority for the URP grants. For those grants in which it is determined that there was legal authority, Recommendation No. 2a requests the agencies to determine if the grants met the purpose(s) of the applicable statutes.

To reach a management decision for Recommendation No. 2a, we need documentation showing the specific corrective action to be taken and the timeframe within which the corrective action will be completed. If it is determined that grants did not meet the purpose(s) of the applicable statutes, we also need documentation that the award recipients have been informed of the evaluation findings and the amounts owed to the Government (if improper payments are to be recovered), documentation that the amounts owed to the Government have been established as a receivable on the agencies' accounting records, and documentation that the improper payments have been waived by the respective agencies (if improper payments are to be waived).

### **RECOMMENDATION NO. 2b**

Review the \$733,708 in FS and NRCS funds used to pay for non-Federal URP coordinator positions and, in coordination with the OGC,

determine the propriety of the use of funds for this purpose. Develop a strategy to recover any funds that were not authorized.

**FS/NRCS Response**

The FS/NRCS response stated that in coordination with OGC, a review of agency authorities will be completed regarding funds used to support URP coordinator positions. Based on this review appropriate measures will be taken. The FS authorities allow the agency to use Federal funds to hire non-Federal employees.

**OIG Position**

To reach a management decision for Recommendation No. 2b, we need the following information: (1) The timeframe within which the review will be completed (2) documentation that the award recipients have been informed of the evaluation findings and the amounts owed to the Government (if improper payments are to be recovered), (3) documentation that the amounts owed to the Government have been established as a receivable on the agencies' accounting records, and (4) documentation that the improper payments have been waived by the respective agencies (if improper payments are to be waived).

**RECOMMENDATION NO. 2c**

Establish controls at FS and NRCS to ensure that grant awards meet the purposes of the applicable statutes.

**FS/NRCS Response**

The response stated that as a result of the 1998 management review, sufficient controls are now in place. The Federal Grants and Cooperative Agreements Handbook was issued to all NRCS Regional and State Office administrative staffs in November 1998. The Handbook outlines all the necessary procedures and requirements to be used in grant administration, including grants issued through the URP initiative. URP coordinators and local steering teams are working with appropriate agency administrative staff to ensure grant administrative requirements are followed.

**OIG Position**

We believe the FS and NRCS need to establish controls to ensure that before grants are issued, responsible agency officials determine that the purpose for the grant is authorized by the underlying statute. To reach a management decision for Recommendation No. 2c, we need documentation showing the specific corrective action to be taken and the timeframe within which the corrective action will be completed.

## II. COMMUNITY GROUPS NOT GUIDED THROUGH FEDERAL REQUIREMENTS

The design of URP did not include important controls to ensure that award funds were used in accordance with applicable Federal grant management regulations. The need for an effective system of control was acute, as members of local steering committees frequently had little or no prior experience in managing Federal assistance awards. Although one objective of the program was to empower local groups to administer their grant awards with little oversight from Federal agencies, regulations, handbooks, or other guidance had not been promulgated to guide local community groups through the maze of often confusing administrative requirements.

The same Government initiative that promised to put Government resources into the service of community-led environmental projects failed to develop a framework to guide and support those local organizations in execution and accountability for Federal assistance. Because the URP program did not provide guidance to the local community groups, an important opportunity to educate the groups about grant administration was forfeited. If the local organizations had been educated about setting up systems to capture and record the data needed for standard reports, they would have been in a far better position to manage future grants from other entities and eventually become self-supporting.

FS and NRCS controls over the administration of URP grant awards were inadequate to detect over \$1.3 million in unallowable and excessive award claims from recipients resulting in \$474,708 in excessive payments subject to recovery. Grant regulations were not adhered to by agency officials.

Awards of financial assistance to nonprofit organizations are to be administered in accordance with Title 7, Code of Federal Regulations (CFR), part 3015, Uniform Federal Assistance Regulations, and Title 7, CFR 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

OMB Circulars A-122, Cost Principles for Nonprofit Organizations; A-87, Cost Principles for State, Local, and Indian Tribal Governments; and A-21, Cost Principles for Educational Institutions, established the principles for determining costs applicable to assistance agreements.

FS regulations for grant awards are stated in Forest Service Manual (FSM), chapter 1580, Grants, Cooperative Agreements, and Other Agreements. Additional policy direction is provided in Forest Service Handbook 1509.11, Grants, Cooperative Agreements, and Other

Agreements Handbook. At the time of our review, NRCS did not have agency directives governing grants and cooperative agreements.

In addition, in its July 26, 1999, opinion, the OGC concluded that financial assistance awarded by the FS and NRCS to qualified recipients for statutorily authorized projects is subject to Departmental regulation and OMB direction governing financial assistance awards. OGC also said both agencies should ensure that URP financial assistance is in compliance with these authorities.

## RECIPIENTS RECEIVED PAYMENTS FOR UNALLOWABLE COSTS

### FINDING NO. 3

FS and NRCS officials did not always require URP award recipients to adhere to applicable grant regulations when reviewing claims for reimbursement. Agency officials and recipients said they were not aware that URP awards were subject to USDA and OMB grant regulations or that this was a matter of concern. As a result, claimed costs totaling over \$1.3 million were questioned in the 4 URP cities reviewed which resulted in \$474,708 subject to recovery.

To determine if the Federal funds expended and the matching costs claimed were allowable, we compared the costs claimed by the award recipients with the purposes and objectives agreed to between FS and/or NRCS and the recipients. We reviewed the Federal and matching costs claimed by award recipients.

Of the 328 awards for about \$12.8 million (includes matching funds) at the four cities visited, we reviewed 79 awards for about \$6.3 million and questioned 39 awards for \$1.3 million with \$474,708 subject to recovery on 28 awards. Exhibit F is a summary of the URP award reviewed and exhibits G, H, I, and J show the URP recipients who received funds subject to recovery as a result of unallowable and excessive costs that were claimed.

For example, one URP award recipient claimed total operating outlays of \$106,779.48; however, we questioned \$40,588.20 because (1) some costs were incurred after the award ended (\$13,793.39), (2) labor costs of middle-school students were valued at \$11.58 per hour even though the minimum wage of \$5.25 was considered to be a reasonable labor rate (\$19,971.14), (3) consultants were paid at their professional rates while actually used for unskilled labor (\$4,623.67), and (5) costs of equipment owned by the school were determined using rental rates instead of depreciation or use allowances (\$2,200). Federal regulations state that volunteer rates should be consistent with those for similar work and skills.<sup>26</sup> Federal regulations also state that costs should be incurred within

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<sup>26</sup>Title 7, CFR 3016.24(c)(1), dated January 1, 1996.



the funding period.<sup>27</sup> OMB Circular A-87 states that depreciation and use allowances are means for allocating costs of owned equipment.<sup>28</sup> As a result of these questioned costs, \$20,204.36 in Federal funds were subject to recovery.

Examples of the reasons for the questioned costs claimed by recipients were unallowable costs per the applicable OMB cost principles, no documented support of claimed costs, and the improper valuation of donated equipment and services.

We issued statements of conditions (in the form of letters) to all recipients who received reimbursements for unallowable costs. The statements of conditions explained the questioned costs identified during our evaluation and the possible impact on their claims for reimbursement. The recipients were requested to respond in writing to the statements of conditions indicating their concurrence or nonconcurrence with the conditions noted. For those conditions in which the officials provided documentation to support some or all of the questioned costs, revised statements of conditions were issued to reflect the final results of our review. Copies of the statements of conditions were sent to the appropriate Regional Forester and/or State Conservationist, the local URP coordinator, and the national URP coordinator. Details of the above questioned costs are contained in the statements of conditions.

The Under Secretary stated in his written response to the draft report (see exhibit L) that proper accounting and other regulations were not followed due to administrative omissions on the part of the agencies. The Under Secretary said the URP National Steering Committee has consistently stressed accountability to the field staff administering the initiative.

## RECOMMENDATION NO. 3a

Design and implement controls for the Office of the Under Secretary for Natural Resources and Environment and the Offices of the Chiefs of FS and NRCS to assure that USDA and OMB regulations are adhered to for all award programs.

### **FS/NRCS Response**

In their October 25, 1999, written response to the draft report (see exhibit M), the Chief of the NRCS and the Acting Associate Chief of the FS stated that it is unnecessary to design and implement

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<sup>27</sup>Title 7, CFR 3016.23(a), dated January 1, 1996.

<sup>28</sup>OMB Circular A-87, Attachment B, paragraph 15, dated August 29, 1997.

controls for the Office of the Under Secretary for Natural Resources and Environment since the Under Secretary does not implement programs or initiatives within either the FS or NRCS. The response also stated that sufficient controls are now in place within the FS and NRCS. The URP National Guidance Document and the NRCS Federal Grants and Cooperative Agreements Handbook provides grant management guidance and a Summary of Authorized Activities/Projects. In conjunction with regional and State administrative specialists, controls are in place to ensure appropriate grants management for the URP initiative.

#### **OIG Position**

While we do not disagree with the FS/NRCS actions to issue guidance and have regional and State specialists ensure grant management, the added control we believe is still needed is for the grant documents to reference applicable USDA and OMB procedures. Also, per Congressional Hearings documents, the Under Secretary also testified to Congress about other initiatives within the Department (e.g., American Heritage Rivers and Northwest Salmon Recovery). Therefore, we continue to believe that controls need to be implemented at the Under Secretary level as well to ensure that USDA and OMB regulations are referenced in grant awards.

To reach a management decision for Recommendation No. 3a, we need documentation showing the specific corrective action to be taken and the timeframe within which the corrective action will be completed. Documentation should include the procedures in place to ensure that all awards incorporate (as appropriate) Title 7, CFR, part 3015, Uniform Federal Assistance Regulations; part 3016, Uniform Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments; part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations; OMB Circular A-122, Cost Principles for Nonprofit Organizations; Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments; and Circular A-21, Cost Principles for Educational Institutions.

### **RECOMMENDATION NO. 3b**

For those URP grants made with proper legal authority (Recommendation No. 1a) and that met the purpose(s) of applicable statutes (Recommendation No. 2a), review the recipients' cost claims and determine allowability of costs. Develop a strategy to resolve any unallowable costs (including waivers).

**FS/NRCS Response**

The response stated that regional and State administrative specialists will continue to review URP grant awards. Part of the review process will be a determination of allowable costs. If it is found that unallowable costs have been paid, regional and State administrative specialists will provide recommendations to appropriate leadership and develop a strategy for correction. The leadership will develop a strategy, on a case-by-case basis, to resolve any outstanding unallowable cost issues in consultation with the agency financial management officials.

**OIG Position**

In Recommendation No. 1a, we requested the FS and NRCS to determine if there was legal authority for the URP grants. In Recommendation No. 2a, we requested the FS and NRCS to determine, for those grants in which it is determined that there was legal authority, if the grants met the purpose(s) of the applicable statutes from which the funds were obtained. For those URP grants made with proper legal authority and that met the purpose(s) of the applicable statutes, Recommendation No. 3b requests the FS and NRCS to review the recipients' cost claims for allowability.

To reach a management decision for Recommendation No. 3b, we need documentation showing the timeframe within which the corrective action will be completed. If it is determined that claims were not eligible, we need documentation that the award recipients have been informed of the evaluation findings and the amounts owed to the Government (if improper payments are to be recovered), documentation that the amounts owed to the Government have been established as a receivable on the agencies' accounting records, and documentation that the improper payments have been waived by the respective agencies (if improper payments are to be waived).

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## EXHIBIT A - SUMMARY OF MONETARY RESULTS

FINDING NUMBER	DESCRIPTION	AMOUNT	CATEGORY
1	Federal financial assistance expended without legal authority during FY's 1994 through 1999 (\$20.3 million less \$474,708 in excessive payments to URP recipients identified in Finding No. 3)	\$19,825,292	Unsupported Costs, Recovery Recommended
2	Salaries, benefits, travel, and office expenses of non-Federal URP coordinators	733,708	Unsupported Costs, Recovery Recommended
3	Excessive payments subject to recovery from URP recipients	474,708	Questioned Costs, Recovery Recommended
<b>TOTAL</b>		<b>\$21,033,708</b>	

## EXHIBIT B - AUDIT SITES VISITED/REVIEWED

SITE	LOCATION
<b>CALIFORNIA</b>	
FS Pacific Southwest Regional Office*	San Francisco
NRCS State Office	Davis
Los Angeles URP Coordinator Office	Los Angeles
Los Angeles Conservation Corps	Los Angeles
Los Angeles Central City Action Committee	Los Angeles
University of California at Los Angeles	Westwood
Los Angeles Board of Public Works	Los Angeles
Los Angeles Department of Parks and Recreation (Zoo)	Los Angeles
Los Angeles Department of Parks and Recreation	Harbor City
Mountains Recreation and Conservation Authority	Santa Monica
<b>COLORADO</b>	
FS Rocky Mountain Regional Office	Golden
NRCS Eastern Regional Office	Lakewood
Embracing Horses	Denver
The Park People	Denver
Denver Urban Gardens	Denver
Eagle Lodge	Denver
Mission Possible	Commerce City
Student Conservation Association	Denver
<b>GEORGIA</b>	
FS Southern Regional Office	Atlanta
NRCS State Office*	Athens
Upper Chattahoochee Riverkeeper Fund, Inc.	Atlanta
Greater Atlanta Community Corps, Inc.	Atlanta
DeKalb Extension Service-4H Club	Atlanta
Fulton County Coop. Extension Service	Atlanta
Rockdale Board of Commissioners	Atlanta
Wonderland Gardens, Inc.	Atlanta
Henry County Parks & Recreation Dept.	Atlanta
Landscape Architecture Foundation	Atlanta
Starlight Civic Association	Atlanta
South Fulton County Public Schools	Atlanta
Georgia Environmental Organization	Atlanta

## EXHIBIT B - AUDIT SITES VISITED/REVIEWED

SITE	LOCATION
American Forests Cool Communities	Atlanta
Park Pride Atlanta	Atlanta
Project Interconnections	Atlanta
Atlanta Urban Gardening Program	Atlanta
<b>ILLINOIS</b>	
NRCS State Office	Champaign
NRCS Field Office	Mascoutah
Emerson Park Development Corporation	Mascoutah
Landsdowne Improvement Association	Mascoutah
Neighborhood Law Office	Mascoutah
Cahokia School District #187	Mascoutah
East St. Louis Park Department	Mascoutah
East St. Louis Police Department	Mascoutah
<b>PENNSYLVANIA</b>	
FS Northeastern Area Office*	Radnor

\*Visit was via telephone

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>LOS ANGELES</b>									
FS	\$0	\$0	\$267,450	\$56,000	\$270,010	\$59,500	\$260,000	\$66,500	\$979,460
NRCS	0	0	290,000	217,000	280,000	287,000	285,000	98,000	1,457,000
CSREES	0	0	0	0	0	0	0	0	0
USDA SUBTOTAL	\$0	\$0	\$557,450	\$273,000	\$550,010	\$346,500	\$545,000	\$164,500	\$2,436,460
NPS	\$0	0	\$15,000	\$8,750	\$15,000	\$14,000	\$14,000	\$15,750	\$82,500
FWS	0	0	0	0	0	0	0	0	0
EPA	0	0	15,000	21,000	30,000	21,000	10,000	17,500	114,500
HUD	0	0	0	7,000	0	5,250	0	0	12,250
STATE	0	0	0	12,250	0	7,875	0	5,250	25,375
CITY	0	0	20,000	5,250	20,000	5,250	45,000	6,125	101,625
OTHER	0	0	0	4,375	0	7,875	0	7,875	20,125
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$607,450</b>	<b>\$331,625</b>	<b>\$615,010</b>	<b>\$407,750</b>	<b>\$614,000</b>	<b>\$217,000</b>	<b>\$2,792,835</b>

## **EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997**

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>DENVER</b>									
FS	\$0	\$0	\$270,000	\$7,000	\$270,000	\$7,000	\$167,000	\$7,000	\$728,000
NRCS	0	0	287,000	7,000	260,000	7,000	267,500	7,000	835,500
CSREES	0	0	0	1,750	0	1,750	0	1,750	5,250
USDA SUBTOTAL	\$0	\$0	\$557,000	\$15,750	\$530,000	\$15,750	\$434,500	\$15,750	\$1,568,750
NPS	\$0	\$0	\$20,000	\$1,750	\$20,000	\$1,750	\$30,000	\$1,750	\$75,250
FWS	0	0	40,000	1,750	0	1,750	0	1,750	45,250
EPA	0	0	0	1,750	5,000	1,750	30,000	1,750	40,250
HUD	0	0	0	1,750	0	1,750	0	1,750	5,250
STATE	0	0	60,000	0	60,000	0	60,000	0	180,000
CITY	0	0	0	0	0	0	0	0	0
OTHER	0	0	15,000	1,750	16,000	1,750	16,000	1,750	52,250
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$692,000</b>	<b>\$24,500</b>	<b>\$631,000</b>	<b>\$24,500</b>	<b>\$570,500</b>	<b>\$24,500</b>	<b>\$1,967,000</b>



## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>ATLANTA</b>									
FS	\$250,000	\$8,400	\$250,000	\$8,400	\$250,000	\$4,200	\$150,000	\$4,200	\$925,200
NRCS	300,000	16,800	260,000	16,800	260,000	8,400	250,000	8,400	1,120,400
CSREES	0	8,400	0	16,800	0	8,400	0	8,400	42,000
USDA SUBTOTAL	\$550,000	\$33,600	\$550,000	\$42,000	\$510,000	\$21,000	\$400,000	\$21,000	\$2,127,600
NPS	\$0	\$240	\$0	\$8,400	\$15,000	\$4,200	\$0	\$4,200	\$32,040
FWS	0	8,400	0	8,400		4,200	0	4,200	25,200
EPA	0	8,400	0	8,400		4,200	0	4,200	25,200
HUD	0	16,800	0	8,400		4,200	10,000	4,200	43,600
STATE	0	15,400	0	7,700	43,000	3,850	28,000	3,410	101,360
CITY	50,099	0	50,099	0	56,752	0	50,099	0	207,049
OTHER	0	0	0	0			0	0	0
<b>TOTAL</b>	<b>\$600,099</b>	<b>\$82,840</b>	<b>\$560,099</b>	<b>\$83,300</b>	<b>\$624,752</b>	<b>\$41,650</b>	<b>\$488,099</b>	<b>\$41,210</b>	<b>\$2,522,049</b>

## **EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997**

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>CHICAGO</b>									
FS	\$250,000	\$8,750	\$250,000	\$8,750	\$262,500	\$8,750	\$250,000	\$8,750	\$1,047,500
NRCS	270,000	19,250	290,000	19,250	270,000	22,750	270,000	22,750	1,184,000
CSREES	0	9,625	0	9,625	0	9,625	0	9,625	38,500
USDA SUBTOTAL	\$520,000	\$37,625	\$520,000	\$37,625	\$532,500	\$41,125	\$520,000	\$41,125	\$2,250,000
NPS	\$0	\$13,125	\$0	\$13,125	\$0	\$13,125	\$9,000	\$13,125	\$61,500
FWS	0	13,125	0	13,125	0	13,125	5,000	13,125	57,500
EPA	30,000	7,875	10,000	7,875	12,000	7,875	0	7,875	83,500
HUD	0	0	0	0	0	0	0	0	0
STATE	0	3,500	0	3,500	0	3,500	15,000	3,500	29,000
CITY	0	2,187	0	2,188	0	2,188	0	2,188	8,750
OTHER	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>\$550,000</b>	<b>\$77,437</b>	<b>\$550,000</b>	<b>\$77,438</b>	<b>\$544,500</b>	<b>\$80,938</b>	<b>\$549,000</b>	<b>\$80,938</b>	<b>\$2,510,250</b>

## **EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997**

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>NEW YORK</b>									
FS	\$250,000	\$3,500	\$250,000	\$3,500	\$250,000	\$3,500	\$150,000	\$3,500	\$914,000
NRCS	315,000	19,495	260,000	58,450	260,000	56,210	250,000	58,625	1,277,780
CSREES	20,297	0	13,334	0	16,921	0	0	0	50,552
USDA SUBTOTAL	\$585,297	\$22,995	\$523,334	\$61,950	\$526,921	\$59,710	\$400,000	\$62,125	\$2,242,332
NPS	\$0	\$3,500	\$0	\$10,500	\$0	\$52,500	\$0	\$52,500	\$119,000
FWS	0	0	0	0	0	0	0	0	0
EPA	0	1,750	0	1,750	0	1,750	0	1,750	7,000
HUD	0	1,750	0	1,750	0	1,750	0	1,750	7,000
STATE	0	0	0	0	0	0	0	0	0
CITY	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>\$585,297</b>	<b>\$29,995</b>	<b>\$523,334</b>	<b>\$75,950</b>	<b>\$526,921</b>	<b>\$115,710</b>	<b>\$400,000</b>	<b>\$118,125</b>	<b>\$2,375,332</b>

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>SEATTLE</b>									
FS	\$250,000	\$0	\$250,000	\$1,155	\$250,000	\$3,500	\$150,000	\$10,500	\$915,155
NRCS	315,000	26,250	260,000	28,000	260,000	35,000	260,000	42,000	1,226,250
CSREES	0	1,750	0	1,750	11,000	3,500	11,000	3,500	32,500
USDA SUBTOTAL	\$565,000	\$28,000	\$510,000	\$30,905	\$521,000	\$42,000	\$421,000	\$56,000	\$2,173,905
NPS	\$3,000	\$0	\$8,000	\$0	\$15,000	\$875	\$13,000	\$12,600	\$52,475
FWS	0	3,640	4,000	3,640	13,000	3,640	10,000	4,060	41,980
EPA	5,500	0	2,500	0	2,500	2,450	0	2,450	15,400
HUD	0	0	0	0	0	0	0	0	0
STATE	12,000	11,672	9,000	11,673	0	1,978	0	6,715	53,037
CITY	38,760	1,523	115,000	17,990	100,500	25,690	66,500	14,140	380,103
OTHER	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>\$624,260</b>	<b>\$44,835</b>	<b>\$648,500</b>	<b>\$64,208</b>	<b>\$652,000</b>	<b>\$76,633</b>	<b>\$510,500</b>	<b>\$95,965</b>	<b>\$2,716,901</b>

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>EAST ST. LOUIS</b>									
FS	\$0	\$0	\$250,000	\$2,625	\$252,400	\$3,360	\$254,537	\$6,370	\$769,292
NRCS	0	0	250,000	10,500	318,300	11,620	336,500	16,100	943,020
CSREES	0	0	0	4,200	3,600	5,040	1,475	2,065	16,380
USDA SUBTOTAL	\$0	\$0	\$500,000	\$17,325	\$574,300	\$20,020	\$592,512	\$24,535	\$1,728,692
NPS	\$0	\$0	\$0	\$1,400	\$10,000	\$2,800	\$8,850	\$1,190	\$24,240
FWS	0	0	0	0	1,275	1,785	0	0	3,060
EPA	0	0	0	1,400	9,150	1,610	900	1,260	14,320
HUD	0	0	0	350	350	490	900	1,260	3,350
STATE	0	0	0	0	5,850	2,015	50	2,293	10,208
CITY	0	0	0	0	6,250	0	1,400	0	7,650
OTHER	0	0	0	0	2,875	10,195	3,150	3,220	19,440
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$500,000</b>	<b>\$20,475</b>	<b>\$610,050</b>	<b>\$38,915</b>	<b>\$607,762</b>	<b>\$33,758</b>	<b>\$1,810,960</b>

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>PHILADELPHIA</b>									
FS	\$0	\$0	\$250,000	\$1,785	\$260,000	\$18,270	\$150,000	\$3,850	\$683,905
NRCS	0	0	250,000	3,220	260,000	26,705	250,000	44,695	834,620
CSREES	0	0	0	770	0	5,075	0	4,095	9,940
USDA SUBTOTAL	\$0	\$0	\$500,000	\$5,775	\$520,000	\$50,050	\$400,000	\$52,640	\$1,528,465
NPS	\$0	\$0	\$0	\$2,275	\$0	\$8,610	\$15,000	\$4,340	\$30,225
FWS	0	0	0	980	0	245	0	1,120	2,345
EPA	0	0	0	1,330	0	14,455	10,000	16,380	42,165
HUD	0	0	0	1,330	0	2,345	0	3,920	7,595
STATE	0	0	0	718	0	683	0	1,698	3,099
CITY	0	0	0	508	0	0	0	333	840
OTHER	0	0	0	5,373	0	12,950	0	16,398	34,720
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$500,000</b>	<b>\$18,288</b>	<b>\$520,000</b>	<b>\$89,338</b>	<b>\$425,000</b>	<b>\$96,828</b>	<b>\$1,649,454</b>

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>SAN FRANCISCO</b>									
FS	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$50,000
NRCS	0	0	0	0	0	0	0	0	0
CSREES	0	0	0	0	0	0	0	0	0
USDA SUBTOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$50,000
NPS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
FWS	0	0	0	0	0	0	0	0	0
EPA	0	0	0	0	0	0	0	0	0
HUD	0	0	0	0	0	0	0	0	0
STATE	0	0	0	0	0	0	0	0	0
CITY	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$50,000</b>

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>SOUTH FLORIDA</b>									
FS	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$50,000
NRCS	0	0	0	0	0	0	0	0	0
CSREES	0	0	0	0	0	0	0	0	0
USDA SUBTOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$50,000
NPS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
FWS	0	0	0	0	0	0	0	0	0
EPA	0	0	0	0	0	0	0	0	0
HUD	0	0	0	0	0	0	0	0	0
STATE	0	0	0	0	0	0	0	0	0
CITY	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$50,000</b>



## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>BOSTON</b>									
FS	\$0	\$0	\$0	\$0	\$0	\$0	\$200,000	\$0	\$200,000
NRCS	0	0	0	0	0	0	0	0	0
CSREES	0	0	0	0	0	0	0	0	0
USDA SUBTOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$200,000	\$0	\$200,000
NPS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
FWS	0	0	0	0	0	0	0	0	0
EPA	0	0	0	0	0	0	0	0	0
HUD	0	0	0	0	0	0	0	0	0
STATE	0	0	0	0	0	0	0	0	0
CITY	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$200,000</b>	<b>\$0</b>	<b>\$200,000</b>

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>LAS VEGAS</b>									
FS	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$50,000
NRCS	0	0	0	0	0	0	0	0	0
CSREES	0	0	0	0	0	0	0	0	0
USDA SUBTOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$50,000
NPS	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FWS	0	0	0	0	0	0	0	0	0
EPA	0	0	0	0	0	0	0	0	0
HUD	0	0	0	0	0	0	0	0	0
STATE	0	0	0	0	0	0	0	0	0
CITY	0	0	0	0	0	0	0	0	0
OTHER	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$50,000</b>

## EXHIBIT C - URP PROGRAM FINANCIAL AND TECHNICAL ASSISTANCE FOR FY'S 1994 - 1997

CITY	FY 1994		FY 1995		FY 1996		FY 1997		TOTAL
	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	FINANCIAL	TECHNICAL	
<b>TOTALS FOR ALL URP CITIES</b>									
FS	\$1,000,000	\$20,650	\$2,037,450	\$89,215	\$2,064,910	\$108,080	\$1,881,537	\$110,670	\$7,312,512
NRCS	1,200,000	81,795	2,147,000	360,220	2,168,300	454,685	2,169,000	297,570	8,878,570
CSREES	20,297	19,775	13,334	34,895	31,521	33,390	12,475	29,435	195,122
USDA SUBTOTAL	\$2,220,297	\$122,220	\$4,197,784	\$484,330	\$4,264,731	\$596,155	\$4,063,012	\$437,675	\$16,386,204
NPS	3,000	16,865	43,000	46,200	75,000	97,860	89,850	105,455	477,230
FWS	0	25,165	44,000	27,895	14,275	24,745	15,000	24,255	175,335
EPA	35,500	18,025	27,500	43,505	58,650	55,090	50,900	53,165	342,335
HUD	0	18,550	0	20,580	350	15,785	10,900	12,880	79,045
STATE	12,000	30,572	69,000	35,840	108,850	19,900	103,050	22,865	402,077
CITY	88,859	3,710	185,099	25,935	183,502	33,128	162,999	22,785	706,017
OTHER	0	0	15,000	11,498	18,875	32,770	19,150	29,243	126,535
SUBTOTAL OTHERS	\$139,359	\$112,887	\$383,599	\$211,453	\$459,502	\$279,278	\$451,849	\$270,648	\$2,308,574
<b>GRAND TOTAL</b>	<b>\$2,359,656</b>	<b>\$235,107</b>	<b>\$4,581,383</b>	<b>\$695,783</b>	<b>\$4,724,233</b>	<b>\$875,433</b>	<b>\$4,514,861</b>	<b>\$708,323</b>	<b>\$18,694,778</b>

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# EXHIBIT D - URP CITY SELECTION CRITERIA FOR FY 1995

## Urban Resources Partnership

National Steering Committee

*Expansion City Considerations:*

### City Selection Criteria for list of Pros and Cons

- Political Support
- Diversity of Population
- Federal Agency Presence
- Active Grassroot Environmental Support
- Geographic Distribution
- Need for Environmental Attention
- Potential for Federal Agency Funding from existing programs
- City Size-consider a smaller city- or one growing rapidly.

### Other Considerations:

- Potential Matching Funds
- Potential for Long-term Commitment

### Select Cities

**Note:** This list of cities should be contacted to determine their interest and support.

The National Steering Committee can fund two expansion cities at the current level.

#### **Recommendations**

Austin, TX  
Denver  
Detroit  
E. St. Louis  
Jackson, Miss.  
Los Angeles  
Philadelphia  
Portland  
San Francisco  
Washington, D.C

#### **Alternates**

Boston  
Cleveland  
Miami  
Minneapolis  
Toledo  
Tulsa

NOTE: Document provided by the URP National Coordinator.

# EXHIBIT D - URP CITY SELECTION CRITERIA FOR FY 1995

## Possible Expansion Cities - Pros and Cons

### Austin

#### Pros

1. Geographic Distribution
2. Large minority population
3. F&WS, NPS field offices
4. Priority for Trust for Public Lands cities initiative
5. Small City
6. Cool Community

#### Cons

1. Weak Congressional delegation

### Denver

#### Pros

1. F&WS, EPA, SCS, NPS, and FS presence
2. Working Trees for Tomorrow Coordinated Effort
3. Strong Congressional Support
4. Commencement 2000 is slated to start
5. Growth Area
6. Geographic location pretty good

#### Cons

1. Not a large minority population

### Detroit

#### Pros

1. Big NPS RTCA project going on
2. Existing innovative inner-city youth environmental programs
3. Large minority population
4. Very needy
5. Strong Congressional Support
6. Communities may be eligible for EPA Non-point 319 funds
7. Severe water quality problems

#### Cons

1. Same EPA region as Chicago (staff time limited)
2. Existing Wetweather Demonstration project may confuse URP presence

### E. St. Louis

#### Pros

1. Wants to become an URP city
2. Extremely needy
3. Heavy minority population
4. Eligible for nonpoint source support
5. Number of the URP agencies have coordinated efforts in environmental
6. Might need environmental justice goals
7. Eligible for EPA 319 Funding
8. Severe water quality problems
9. Likely support of Congressional Black Caucus
10. Supported by National Environmental Minority Association

#### Cons

1. Close to Chicago
2. No NPS, FS present
3. EPA coordinators already busy in Chicago

# EXHIBIT D - URP CITY SELECTION CRITERIA FOR FY 1995

<p style="text-align: center;"><u>Jackson, Miss</u></p> <p><b><u>Pros</u></b></p> <ol style="list-style-type: none"> <li>1. F&amp;WS office there</li> <li>2. Heavy minority population</li> <li>3. Needy</li> <li>4. Geographic distribution good</li> <li>5. Small city</li> </ol>	<p><b><u>Cons</u></b></p> <ol style="list-style-type: none"> <li>1. Congressional delegation very small</li> <li>2. Very little federal presence</li> </ol>
<p style="text-align: center;"><u>Los Angeles</u></p> <p><b><u>Pros</u></b></p> <ol style="list-style-type: none"> <li>1. Movie industry could possibly provide support</li> <li>2. Very diverse population</li> <li>3. Very needy for natural resources - natural disasters</li> <li>4. Commencement 200 slated to start</li> <li>5. Greenlink Program</li> <li>6. F&amp;WS nearby</li> <li>7. SCS strong urban office</li> <li>8. Huge Congressional Support</li> <li>9. Adjacent National Forest</li> <li>10. Metropolitan wide NPS project in FY 1995</li> <li>11. National Estuary Program</li> </ol>	<p><b><u>Cons</u></b></p> <ol style="list-style-type: none"> <li>1. Huge geographic area</li> <li>2. Conflicting interests due to jurisdictional boundaries</li> </ol>
<p style="text-align: center;"><u>Philadelphia</u></p> <p><b><u>Pros</u></b></p> <ol style="list-style-type: none"> <li>1. Social issues to address as well as natural resources</li> <li>2. NMGI presence</li> <li>3. NPS &amp; EPA offices</li> <li>4. Diverse communities</li> <li>5. Active Tree Planting and Community Gardening Program</li> <li>6. Moderate congressional support</li> <li>7. National Estuary Program</li> </ol>	<p><b><u>Cons</u></b></p> <ol style="list-style-type: none"> <li>1. No SCS present</li> <li>2. Close to New York</li> </ol>
<p style="text-align: center;"><u>Portland</u></p> <p><b><u>Pros</u></b></p> <ol style="list-style-type: none"> <li>1. NMGI presence (Urban Streams Council, Friends of Trees)</li> <li>2. F&amp;WS and FS regional offices</li> <li>3. F&amp;WS field office</li> <li>4. SCS NTC and regional office</li> <li>5. Regional government</li> <li>6. Congressional support</li> <li>7. National forest present</li> <li>8. Smaller geographic area and population than current cities ...more impact possible</li> <li>9. Population Growth</li> </ol>	<p><b><u>Cons</u></b></p> <ol style="list-style-type: none"> <li>1. Next to Seattle</li> <li>2. Already strong protective environmental efforts underway.</li> </ol>

# EXHIBIT D - URP CITY SELECTION CRITERIA FOR FY 1995

## San Francisco Bay Area

**Pros**

1. Strong environmental coalition present
2. NMG<sup>1</sup> presence (Greenbelt Alliance)
3. EPA, NPS, FS regional offices exist
4. F&WS National Wildlife Refuge
5. Congressional support
6. Diverse community
7. Golden Gate Nat'l Recreation Area (owns lots of land)
8. Communities may be eligible for EPA Non-point 319 funds
9. National Estuary Program

**Cons**

1. Close to L.A.
2. Can we really make a difference?  
(Extensive efforts already under way)
3. No SCS office

## Washington, D.C.

**Pros**

1. All agencies centered here
2. Diverse Population
3. In need of assistance
4. politically visible
5. High media profile
6. Member of Chesapeake Bay Alliance

**Cons**

1. District and 2 states pose difficulties

## Boston

1. NPS Regional Office
2. SCS Urban Office

1. Close to New York

## Cleveland

1. Political Support
2. SCS Presence
3. Diverse Population
4. natural Resources Problems

## Miami

1. New Region
2. Cultural Diversity
3. Coastal city-many natural resource problems
4. SCS Urban Office

1. Few agencies have a presence

## Minneapolis

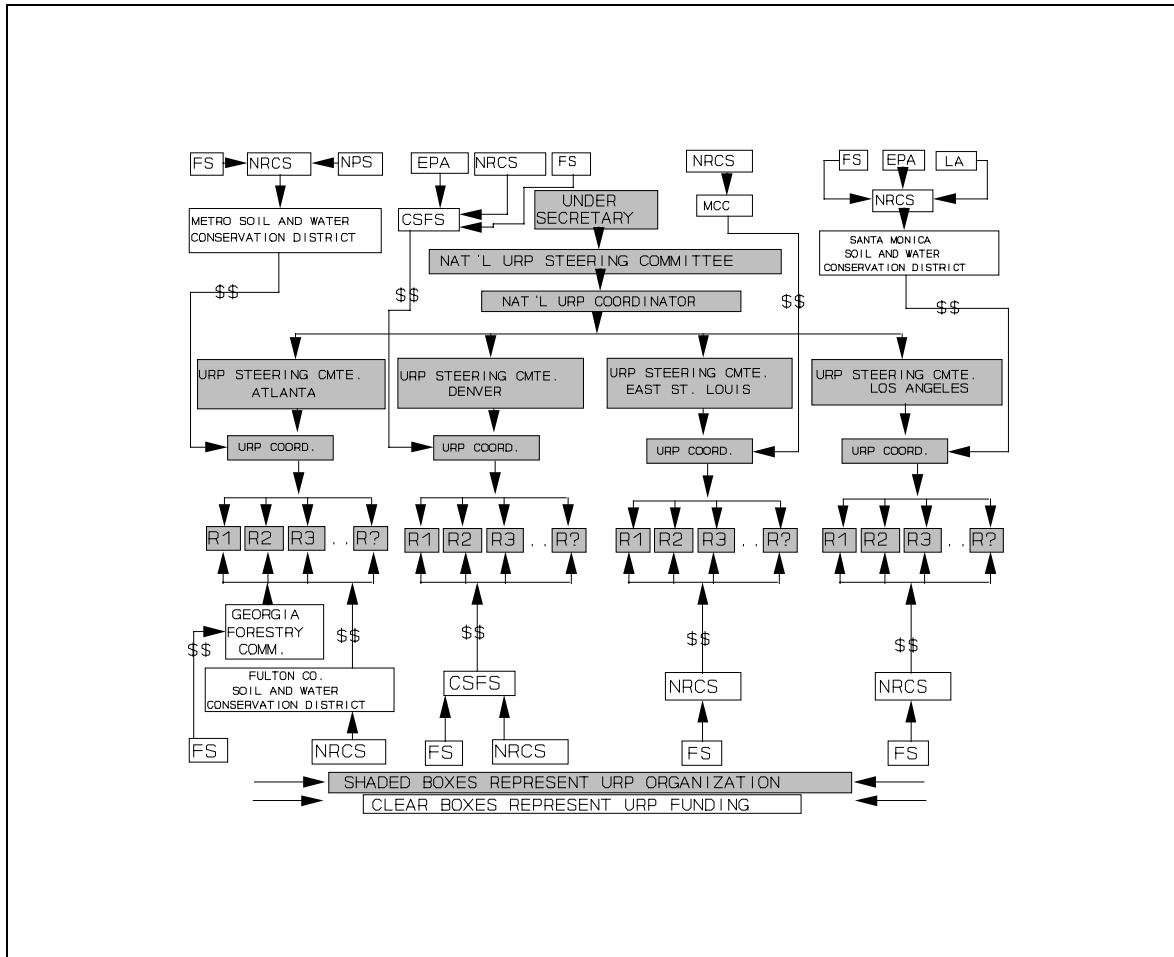
1. Rep. home town

1. Close to Detroit

## Toledo

1. Political Support

# EXHIBIT E - ORGANIZATIONAL AND FUNDING STRUCTURE OF URP



**CSFS** = Colorado State Forest Service  
**EPA** = Environmental Protection Agency  
**FS** = Forest Service  
**LA** = City of Los Angeles, California  
**MCC** = Metropolitan Community College  
**NRCS** = Natural Resources Conservation Service  
**NPS** = National Park Service  
**R1, R2, ...** Recipient 1,2, etc.



## **EXHIBIT F - SUMMARY OF URP AWARDS REVIEWED FOR ALLOWABLE COSTS**

CITY	TOTAL URP AWARDS	FEDERAL AMOUNT	TOTAL AMOUNT	AWARDS REVIEWED	TOTAL AWARD AMOUNT	TOTAL OPERATING COSTS	AMOUNT QUESTIONED	SUBJECT TO RECOVERY
Los Angeles	77	\$1,464,500	\$ 2,929,000	18	\$1,286,540	\$1,032,457	\$304,072	\$122,471
Denver	126	1,537,483	3,014,966	16	998,896	1,587,702	216,698	42,830
Atlanta	81	1,917,192	3,834,384	32	2,224,885	2,434,661	301,300	121,167
East St. Louis	44	1,516,330	2,974,260	13	1,318,368	1,260,090	521,197	188,240
<b>TOTALS</b>	<b>328</b>	<b>\$6,435,505</b>	<b>\$12,752,610</b>	<b>79</b>	<b>\$5,828,689</b>	<b>\$6,314,910</b>	<b>\$1,343,267</b>	<b>\$474,708</b>

## EXHIBIT G - ATLANTA AGREEMENTS REVIEWED

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
Upper Chattahoochee Riverkeeper Fund, Inc.	94-11M	10/15/94-3/31/96	\$50,000	\$25,000	\$27,491	\$52,491	\$32,924	\$15,216
	97-04F	6/12/98-4/1/99	3,400	1,444	18,654	20,098	0	0
	97-02M	8/5/97-12/5/98	10,000	1,630	145,090	146,720	0	0
Greater Atlanta Community Corps, Inc.	95-26M	10/1/95-3/31/97	9,000	4,500	4,725	9,225	0	0
	96-24M	10/1/96-10/1/97	22,194	10,597	19,039	29,636	0	0
	97-03M	8/7/97-8/7/98	20,000	6,782	2,998	9,780	3,784	3,784
	97-07M	10/1/97-3/31/99	32,970	5,769	10,974	16,744	0	0
	97-14F	10/1/97-3/31/99	7,630	2,185	2,468	4,653	0	0
DeKalb Extension Service - 4H Club	96-08	11/15/96-1/31/98	103,850	50,704	53,685	104,389	0	0
	95-70	10/18/95-3/31/97	79,170	37,790	40,730	78,520	0	0

## EXHIBIT G - ATLANTA AGREEMENTS REVIEWED

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
Fulton County Coop. Extension Service	94-07	10/5/94-3/31/96	\$104,700	\$51,808	\$86,103	\$137,911	\$129,264	\$47,484
	94-36	10/5/94-3/31/96	50,000	23,817	23,817	47,634	15,495	7,747
	96-15	10/1/96-12/31/97	98,388	49,114	75,075	124,189	119,833	46,936
Rockdale Board of Commissioners	96-11	10/1/96-10/1/97	106,500	53,250	53,658	106,908	0	0
Wonderland Gardens, Inc.	97-06	10/1/97-3/31/99	178,400	6,474	0	6,474	0	0
Henry County Parks and Recreation Department	96-10	10/1/96-10/1/97	105,000	52,500	73,266	125,766	0	0
	97-08	10/1/97-3/31/99	10,000	5,000	9,293	14,293	0	0
Landscape Architecture Foundation	97-01	10/1/96-9/15/98	160,000	43,743	397,459	441,202	0	0
Starlight Civic Association	95-02	10/1/95-3/31/97	30,000	15,000	15,920	30,920	0	0
	96-03	10/1/96-6/30/98	159,625	79,812	82,614	162,426	0	0

## EXHIBIT G - ATLANTA AGREEMENTS REVIEWED

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
South Fulton County Public Schools	95-13	10/17/95-4/30/97	\$100,000	\$50,000	\$91,880	\$141,880	\$0	\$0
Georgia Environmental Organization	97-12	10/1/97-3/31/99	190,400	0	0	0	0	0
	95-56	10/1/95-3/31/97	107,200	53,600	70,430	124,030	0	0
American Forests Cool Communities	96-13	9/26/96-10/1/97	80,000	36,480	51,800	88,280	0	0
	95-11	10/1/95-3/31/97	15,400	7,700	8,035	15,735	0	0
Park Pride Atlanta	94-08	10/1/94-3/31/96	40,000	19,135	33,934	53,069	0	0
	96-22	10/1/96-11/30/97	82,000	41,000	96,840	137,840	0	0
	97-11	10/1/97-3/31-99	27,670	1,658	5,814	7,472	0	0
	97-10	10/1/97-3/31/99	6,300	3,150	3,866	7,016	0	0
	95-42	10/18/95-3/31/97	20,088	10,044	27,328	37,372	0	0

## EXHIBIT G - ATLANTA AGREEMENTS REVIEWED

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
Project Interconnections, Inc.	96-36	10/15/96-10/1/97	\$110,000	\$55,000	\$96,988	\$151,988	\$0	\$0
Atlanta Urban Gardening Program	97-05	10/1/97-3/31/99	105,000	0	0	0	0	0
<b>TOTALS</b>	<b>32</b>		<b>\$2,224,885</b>	<b>\$804,687</b>	<b>\$1,629,974</b>	<b>\$2,434,661</b>	<b>\$301,300</b>	<b>\$121,167</b>

## EXHIBIT H - DENVER AGREEMENTS REVIEWED

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
The Park People	95-21	11/15/95-9/30/96	\$48,000	\$24,000	\$112,128	\$136,128	\$0	\$0
	96-14	3/7/97-3/30/98	48,000	24,000	117,685	141,685	0	0
	97-02	2/26/98-9/30/98	40,000	20,000	96,530	116,530	0	0
The Student Conservation Association	96-61A	9/9/97-3/31/98	26,400	13,200	29,750	42,950	0	0
	96-61B	3/8/97-3/31/98	150,000	25,000	35,000	60,000	0	0
NIVLA	96-NIVLA	6/16/97-5/31/97	60,000	60,000	0	60,000	40,905	40,905
Embracing Horses	96-44	3/7/97-3/30/98	37,000	18,500	45,840	64,340	0	0
	97-031	1/30/98-9/30/98	100,000	50,000	49,325	99,325	0	0
Commerce City: Mission Possible	95-11	11/14/95-9/30/96	26,652	13,326	20,144	33,470	3,500	0
	96-11	3/8/97-3/31/98	100,000	50,000	204,635	254,635	118,928	0
	97-36	1/30/98-9/30-98	50,000	15,832	27,389	43,221	0	0

## **EXHIBIT H - DENVER AGREEMENTS REVIEWED**

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
Eagle Lodge	96-17	10/26/95-9/30/96	\$ 49,084	\$ 24,542	\$ 55,122	\$ 79,664	\$ 4,925	\$ 0
	96-32	3/7/97-10/31/97	53,760	26,880	60,470	87,350	37,440	1,925
	97-38	1/30/98-9/30/98	26,000	6,500	56,003	62,503	11,000	0
Denver Urban Gardens	95-23	11/15/95-9/30/96	100,000	50,000	214,699	264,699	0	0
	95-Demo	6/1/95-11/30/95	24,000	12,000	29,202	41,202	0	0
<b>TOTALS</b>	<b>16</b>		<b>\$938,896</b>	<b>\$433,780</b>	<b>\$1,153,922</b>	<b>\$1,587,702</b>	<b>\$216,698</b>	<b>\$42,830</b>

## **EXHIBIT I - EAST ST. LOUIS AGREEMENTS REVIEWED**

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHINGFUN DS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
East St. Louis Park District	69-5A12-5-4104	9/13/95-9/30/96	\$100,000	\$50,000	\$50,729	\$100,729	\$20,661	\$9,965
	69-5A12-6-4184	9/10/96-9/30/97	200,000	100,000	115,068	215,068	77,771	31,351
Cahokia School District #187	69-5A12-5-4107	9/13/95-9/30/96	40,000	15,999	17,109	33,108	7,816	3,353
	69-5A12-6-4179	9/10/96-9/30/97	106,600	53,300	53,479	106,779	40,588	20,204
	69-5A12-7-4522	8/17/97-9/30/98	100,000	22,274	24,083	46,358	13,579	5,885
Emerson Park Development Corp.	69-5A12-5-4106	9/13/95-9/30/96	76,258	23,161	44,272	67,433	32,943	5,916
	69-5A12-6-4181	9/10/96-9/30/97	100,000	50,000	57,182	107,182	83,316	38,066
	69-5A12-7-4546	9/17/97-9/30/98	200,000	100,000	141,654	241,654	155,083	56,714
Neighborhood Law Office	69-5A12-7-4198	11/16/96-9/30/97	29,110	14,555	30,000	44,555	4,579	0
	69-5A12-7-7523	8/17/97-9/30/98	74,400	21,377	35,099	56,476	375	0
Landsdowne Improvement Association	69-5A12-5-4102	9/13/95-9/30/96	44,000	21,994	23,995	45,989	8,397	3,198
	69-5A12-6-4176	9/10/96-9/30/97	48,000	23,979	24,423	48,402	3,706	1,631
	69-5A12-7-4525	8/17/97-9/30/98	200,000	48,944	97,413	146,357	72,383	11,957
<b>TOTALS</b>	<b>13</b>		<b>\$1,318,368</b>	<b>\$545,583</b>	<b>\$714,506</b>	<b>\$1,260,090</b>	<b>\$521,197</b>	<b>\$188,240</b>



## EXHIBIT J - LOS ANGELES AGREEMENTS REVIEWED

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
University of California at Los Angeles	68-9104-7-77	9/8/97-9/30/98	\$109,942	\$32,106	\$16,200	\$48,306	\$2,515	\$9,211
Los Angeles Board of Public Works	68-9104-5-21	9/19/95-9/30/96	50,000	16,764	28,412	45,176	38,404	13,378
Los Angeles Department of Parks and Recreation	68-9104-6-56	9/26/96-9/30/97	66,000	27,692	33,649	61,341	23,902	8,972
Gardens for Kids	68-9104-5-13	9/8/95-9/30/96	56,000	23,364	27,039	50,403	3,134	0
	68-9104-6-58	9/27/96-9/30/97	142,600	61,516	62,170	123,686	45,995	22,671
	68-9104-7-78	9/8/97-9/30/98	100,000	9,508	7,200	16,708	864	1,586
Los Angeles Central City Action Committee	68-9104-7-69	9/9/97-9/30/98	100,000	17,282	19,867	37,149	1,429	0
	68-9104-7-70	9/8/97-9/30/98	9,798	3,250	7,980	11,230	829	0
Los Angeles Department of Parks and Recreation	68-9104-5-40	9/22/95-9/30/96	25,000	12,320	15,573	27,893	12,010	4,378
Mountain Recreation and Conservation Authority	68-9104-5-38	9/22/95-9/30/96	50,000	25,000	27,703	52,703	34,518	15,907
	68-9104-6-54	9/26/96-9/30/97	70,000	26,987	35,956	62,943	40,045	15,538
Los Angeles Conservation Corps	68-9104-5-6	9/11/95-9/30-96	60,000	30,000	55,938	85,938	24,529	0

## **EXHIBIT J - LOS ANGELES AGREEMENTS REVIEWED**

RECIPIENT	AWARD NO.	AWARD PERIOD	TOTAL AWARD	FEDERAL FUNDS USED	MATCHING FUNDS USED	TOTAL COSTS	QUESTIONED COSTS	SUBJECT TO RECOVERY
	68-9104-6-44	9/18/96-9/30/97	48,000	21,760	19,929	41,689	6,021	3,926
	68-9104-6-45	9/18/96-9/30/97	196,000	97,857	110,012	207,869	65,965	26,904
	68-9104-7-62	9/18/97-9/30/98	90,000	15,773	32,800	48,573	3,912	0
Los Angeles Board of Public Works	68-9104-7-65	9/8/97-9/30/98	10,000	2,877	0	2,877	0	0
Heal the Bay	68-9104-5-33	9/21/95-9/30/96	4,000	0	0	0	0	0
	68-9104-7-73	9/8/97-9/30/98	99,200	38,965	69,008	107,973	0	0
<b>TOTALS</b>	<b>18</b>		<b>\$1,286,540</b>	<b>\$463,021</b>	<b>\$569,436</b>	<b>\$1,032,457</b>	<b>\$304,072</b>	<b>\$122,471</b>

# EXHIBIT K - OGC'S JULY 26, 1999, OPINION



United States  
Department of  
Agriculture

Office of the  
General  
Counsel

Washington,  
D.C.  
20250-1400

JUL 26 1999

MEMORANDUM FOR PEARLIE REED  
CHIEF, NATURAL RESOURCES CONSERVATION SERVICE

MIKE DOMBECK, CHIEF  
CHIEF, FOREST SERVICE

FROM:

Michael J. Gippert *Michael J. Gippert*  
Acting Associate General Counsel  
Natural Resources Division

SUBJECT:

NRCS and FS Legal Authorities to Provide Grants Under Urban  
Resources Partnership (URP)

## Issue

The Natural Resources Conservation Service and the Forest Service requested an opinion from OGC setting forth each agency's legal authorities to fund projects via grants through the Urban Resources Partnership (URP) on November 16, 1998.<sup>1</sup> Over the past year, OGC has provided oral advice regarding the scope and limits of each agency's authority to fund URP projects. We have reaffirmed this oral advice in our review of the URP handbook. Below, we provide our opinion regarding the agencies' existing authorities to fund URP programs as well as specific advice on grant administration matters.

## Discussion

1. **What is the scope of authority for the Forest Service to provide assistance through the URP Initiative under the Cooperative Forestry Assistance Act of 1978? Are there any other authorities that authorize the FS to provide assistance under the URP Initiative?**

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<sup>1</sup>The URP program was initiated by the FS and NRCS to combine resources from the public and private sectors to address environmental problems and the protection of natural resources in urban areas. FS and NRCS have provided federal funding in grant form from existing appropriations to support projects in several cities since 1994. See attached, Letter from James Lyons, Under Secretary for Natural Resources and Environment, to Galen Bridges, Acting Chief, Soil Conservation Service, December 20, 1993. There is no authorizing legislation for the URP initiative.

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## EXHIBIT K - OGC'S JULY 26, 1999, OPINION

### A. Authorities

FS authority to provide assistance through the URP Initiative is in the urban and community forestry assistance section of the Cooperative Forestry Assistance Act, ("CFAA"), 16 U.S.C. §2105. The purposes of the urban and community forestry assistance section of the CFAA are to -

- (1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;
- (2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;
- (3) provide education program and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying tree species and sites for expanding forest cover;
- (4) provide assistance through competitive matching grants awarded to local units of government, approved organizations . . . or other local community tree volunteer groups, for urban and community forestry projects;
- (5) implement a tree planting program to complement urban and community tree maintenance and open space programs and to reduce carbon dioxide emissions, conserve energy, and improve air quality in addition to providing other environmental benefits;
- (6) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;
- (7) enhance the technical skills and understanding of sound tree maintenance and arboricultural practices including practices involving the cultivation of trees, shrubs and complementary ground covers, of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and
- (8) expand existing research and educational efforts intended to improve understanding of -
  - (A) tree growth and maintenance, tree physiology and morphology, species adaptations, and forest ecology,
  - (B) the value of integrating trees and ground covers,
  - (C) the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments, and
  - (D) the role of urban trees in conserving energy and mitigating the urban heat island.

Under 16 U.S.C. §2105(c) of the CFAA:

The Secretary is authorized to provide financial, technical and related assistance to State foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others that will encourage cooperative efforts to plan urban forestry programs and to plant, protect, and maintain, and utilize wood from, trees in open spaces, greenbelts, roadside screens, parks,

## EXHIBIT K - OGC'S JULY 26, 1999, OPINION

woodlands, curb areas, and residential developments in urban areas. In providing such assistance the Secretary is authorized to cooperate with interested members of the public, including nonprofit private organizations. The Secretary is also authorized to cooperate directly with units of local government and others in implementing this section whenever the Secretary and the affected State forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section.

16 U.S.C. §2105(c):

The Secretary, in cooperation with State foresters and State extension directors or equivalent State officials and interested members of the public, including nonprofit private organizations, shall implement a program of education and technical assistance for urban and community forest resources.

16 U.S.C. §2105(d):

The Secretary shall establish an urban and community challenge cost-share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations from, the National Urban and Community Forestry Advisory Council established under subsection (g) of this section. Each State forester or equivalent State official may make recommendations to the Secretary for awards under the program for project proposals in their State which meet such criteria. Awards shall be consistent with the cost-share requirements of this section.”

16 U.S.C. §2105(f)(1).

The Secretary has delegated this authority to the Chief of the Forest Service. See 7 CFR §2.60(a)(16) and 7 CFR §2.20(a)(2)(xvi).

### **B. Analysis**

Forest Service authority to provide assistance to the URP program is defined by and limited to the purposes of the urban and community forestry assistance section of the CFAA, set forth above.<sup>2</sup> To summarize, the scope of this authority includes the provision of technical,

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<sup>2</sup>There may be limited additional authority for educational assistance for urban forestry purposes under the Cooperative Funds and Deposits Act, (CFDA) 16 U.S.C. §565a-1. Under the CFDA, the Secretary may enter into cooperative agreements with public and private entities to develop and publish cooperative environmental education and forest history materials to facilitate the administration of the programs and activities of the Forest Service. This Act might

## EXHIBIT K - OGC'S JULY 26, 1999, OPINION

financial, and related assistance to state and local governments, non-profits, and other members of the public to: maintain, expand and preserve forest and tree cover; expand research and education efforts related to trees and forest cover; enhance technical skills and understanding of tree maintenance and practices involving cultivation of trees, shrubs and complementary ground covers; and implementing a tree planting program to complement urban tree maintenance and open space programs.

2. **What is the scope of authority for the Natural Resources Conservation Service to provide assistance through the URP initiative?**

**A. Authorities**

16 U.S.C. §590a provides in pertinent part that:

"...the Secretary of Agriculture, from now on, shall coordinate and direct all activities with relation to soil erosion and in order to effectuate this policy is authorized, from time to time—

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive measures needed, to publish the results of any such surveys, investigations, or research, to disseminate information concerning such methods, and to conduct demonstration projects in areas subject to erosion by wind or water;

(2) To carry out preventative measures, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, and changes in the use of land;

(3) To cooperate or enter into agreements with, or to furnish financial or other aid to, any agency, governmental or otherwise, or any person, subject to such conditions as he may deem necessary, for the purposes of this chapter; and

(4) To acquire lands, or rights or interests therein, by purchase, gift, condemnation, or otherwise, whenever necessary for the purposes of this chapter."

**B. Analysis**

The scope of NRCS' legal authority to provide grants through URP is limited. As set forth above, NRCS's main authority to grant funds is through 16 U.S.C. §590a, the Soil

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provide additional authority to the Forest Service in funding the development of environmental education materials under the URP program, although such cooperative activities are limited to those in which the public interest will benefit and there exists a mutual interest other than monetary considerations.

## EXHIBIT K - OGC'S JULY 26, 1999, OPINION

Conservation and Domestic Allotment Assistance Act of 1935. Under 16 U.S.C. §590a, NRCS does have authority to engage in activities for the purpose of soil erosion prevention. Therefore, only URP projects that have as their main purpose soil erosion prevention are legally authorized. In contrast, the projects NRCS seeks to fund through URP are generally not related to soil erosion prevention; e.g, green spaces, urban gardens, environmental education, composting, recreation equipment, etc.

### 3. Do FS and NRCS legal authorities allow assistance for the following activities?

This section discusses whether certain activities may be funded under URP given each agency's existing authorities. It is the responsibility of each agency to ensure that appropriated monies are used in a legally authorized manner.

#### A. Environmental Education<sup>3</sup>

**NRCS:** To the extent that environmental education focuses on the prevention of soil erosion, there is authority under 16 USC §590a-f. Otherwise, there is no authority to fund environmental education.

**FS:** Under 16 U.S.C. §2105(d), the Secretary is authorized to implement a program of educational assistance for urban and community forest resources, in cooperation with State foresters and State extension directors or equivalent State officials and interested members of the public, including non-profit private organizations. Educational assistance may be provided relating to trees, related resources, and open spaces, as well as to increase public understanding of energy conservation, economic, social, environmental, and psychological values of these resources.

In addition, under the Cooperative Funds and Deposits Act, 16 U.S.C. §565a-1, the Secretary may enter into cooperative agreements with public and private entities to develop and publish cooperative environmental education and forest history materials to facilitate the administration of the programs and activities of the Forest Service. The Cooperative Funds and Deposits Act may provide additional authority to the Forest Service in funding the development of environmental education materials under the URP program, provided that the public interest will benefit and there exists a mutual interest other than monetary considerations.

#### B. Composting utilizing urban agricultural waste to improve soil fertility.

**NRCS:** NRCS has no authority to fund this type of project, unless the agency determines that there is a rational link between soil fertility and soil erosion control.

**FS:** There does not appear to be any authority for FS appropriations to be used for this purpose. The purposes of the Urban and Community Forestry Assistance section of CFAA, 16 U.S.C.

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<sup>3</sup>Environmental education may include, but is not limited to, videos, publications, training programs, demonstrations, and seminars.

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## EXHIBIT K - OGC'S JULY 26, 1999, OPINION

§2105(b), include preserving, protecting, and expanding trees and forest cover, as well as shrubs and associated ground covers. None of these purposes include composting of agricultural waste.

### C. Purchasing recreation equipment and benches.

NRCS: NRCS has no authority to fund this type of project.

FS: The FS has no authority to fund this activity.

### D. Tree and vegetation planting in community gardens.

NRCS: NRCS has no authority to fund this type of project.

FS: Under 16 U.S.C. §2105(b) of the CFAA, the purposes include "implement[ing] a tree planting program to complement urban and community tree maintenance and open space programs and to reduce carbon dioxide emissions, conserve energy, and improve air quality in addition to providing other environmental benefits." Tree planting may be funded by the FS under the CFAA. If the vegetation planting in community gardens constitutes "shrubs and complimentary ground covers" these activities would be authorized under the CFAA. It is doubtful, however, that "shrubs and complimentary ground covers" encompasses vegetable gardens, if that is the intended use of these funds.

### E. Installing lighting and fencing to protect vegetation.

NRCS: NRCS has no authority to fund this type of project.

FS: FS does not have authority to fund this type of project independent of a tree planting program. However, the FS could justify expenditures for fencing and lighting if they are necessary for the protection of tree planting and related activities undertaken by the FS under 16 U.S.C. §2105 of the CFAA.

## 4. Grant Administration Issues

### A. Are FS and NRCS funds provided for use by URP grant recipients available to cover administrative or indirect costs associated with URP initiative operations? If so, are there limitations regarding the amount that may be used?

FS and NRCS funds may be used by URP grant recipients to pay for certain administrative and indirect costs associated with URP initiative operations, but there are restrictions regarding use of Federal funds for certain costs. Awards of financial assistance are administered in accordance with the U.S. Department of Agriculture regulations: Title 7 Code of Federal Regulations (CFR), part 3015, Uniform Federal Assistance Regulations; Title 7, CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; and Title 7, CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations. Under 7 CFR 3019.27, there is a set of principles for



## EXHIBIT K - OGC'S JULY 26, 1999, OPINION

determining allowable costs for each kind of recipient. These principles are set forth in Office of Management and Budget (OMB) circulars.<sup>4</sup>

The allowability of costs incurred; by non-profit organizations is determined in accordance with the OMB circular A-122, "Cost Principles for Nonprofit Organizations;"<sup>5</sup> by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A-97, "Cost Principles for State and Local Governments;" by institutions of higher education in accordance with the provisions of OMB Circular A-21, "Cost Principles for Educational Institutions;" and by commercial organizations and those non-profit organizations listed in Attachment C to Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31. The circulars provide instructions and procedures for the calculation of indirect cost rates for recipients. As we advised in a recent memorandum to the Forest Service, the ultimate decisions regarding allowability of costs should be made by agency personnel.<sup>6</sup> Nevertheless, we are available to provide general guidance on interpretation of the cost principles as applied to specific situations.

**B. When FS and NRCS match private contributions under the URP initiative, are grant recipients authorized to include contributions of sub-grantees in matching the grant award?**

Grant recipients may include contributions of sub-grantees in matching the grant award, subject to some qualifications. 7 CFR §3015.51 provides, in pertinent part, that:

A cost sharing or a matching requirement may be satisfied after qualifications and exceptions are met in §3015.52 and by satisfying either or both of the following:

(a) Allowable costs incurred by the recipient or by any subrecipient under the grant or subgrant. This includes allowable costs supported by non-Federal grants or by cash donations from non-Federal third parties. Allowable costs shall be

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<sup>4</sup>A convenient way to access OMB circulars is via the Internet. OMB's Internet address is [www.whitehouse.gov/WH/EOP/OMB/html/ombhome.html](http://www.whitehouse.gov/WH/EOP/OMB/html/ombhome.html).

<sup>5</sup>USDA Office of Inspector General issued a report dated September 1998 entitled "Forest Service Assistance Agreements with Nonprofit Organizations." We strongly recommend that the FS and NRCS carefully review this report because it details shortcomings in the Forest Service's administration of grants to several organizations and in doing so provides important guidance regarding the proper administration of grants. This report is available on the Internet at [www.usda.gov/OIG/](http://www.usda.gov/OIG/) (click on "Audit Reports.")

<sup>6</sup>"Forest Service Payments to the National Forest Foundation ("NFF") - Calculation of In-kind Contributions," November 5, 1998. Memorandum for Phyllis J. Haar, Forest Service Grants and Agreements Branch Chief, from Kenneth E. Cohen and Michael J. Gippert.

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## EXHIBIT K - OGC'S JULY 26, 1999, OPINION

determined in accordance with the cost principles set forth in Subpart T.

(b) The value of third party in-kind contributions applicable to the same period when a cost-sharing or matching requirement applies.<sup>7</sup>

### Summary

The Natural Resources Conservation Service and the Forest Service have limited authority to provide assistance under the Urban Resources Partnership. The lack of specific authorizing legislation for URP limits NRCS's ability to provide funds to the initiative. The Forest Service has broader authority to fund URP projects under the Cooperative Forestry Assistance Act, but such authority is limited to assistance involving trees, forest cover, shrubs, and associated natural resources. Financial assistance awarded by NRCS or the FS to qualified recipients for statutorily authorized projects is subject to Departmental regulation and OMB direction governing financial assistance awards, and both agencies should ensure that URP financial assistance is in compliance with these authorities. We are available to assist the agencies in interpreting the applicability of these authorities in specific award situations.

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<sup>7</sup>See also, 7 CFR §3016.24(a)(2) and 7 CFR §3019.23(a).

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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

October 25, 1999

To: Office of Inspector General

From: James R. Lyons, USDA-Under Secretary, NRE

Re: Departmental Response to OIG's Discussion Draft Evaluation No. 50801-1-Te

Thank you for the opportunity to respond to your draft report (50801-1-Te) regarding the Urban Resources Partnership (URP). Your report raises a number of concerns that I believe can be addressed effectively by both the Forest Service (FS) and the Natural Resources Conservation Service (NRCS) to ensure that URP operates within existing authorities and continues to serve the purpose for which it was created.

Upon receipt of your draft report, I asked the Chiefs of the Forest Service and the Natural Resources Conservation Service to review your findings and key recommendations and to prepare a response. That response is attached. I am also responding to some of the key findings and concerns in the report. I am providing this response to you, in draft, as it is currently in Departmental clearance. If additional comments or modifications to the draft should surface during this review, I will inform you of them as soon as possible.

In addition, you should be aware that I have requested a review of the July 26, 1999 OGC opinion upon which much of the OIG findings and recommendations are based. Given the agencies' analyses regarding their interpretation of the legal authorities under which they operate and, in light of certain inconsistencies in the original OGC opinion, I have asked the General Counsel to take a second look at his July 26<sup>th</sup> opinion. As soon as this information is available, I will also share it with you.

This additional OGC review is critical in light of what appears to be a strong reliance in your report upon an overly narrow interpretation of statute; particularly, your interpretation of the authority granted NRCS under 16 U.S.C. § 590a, the Soil Conservation and Domestic Allotment Act of 1935. My belief is that this statute provides broader authorities than your report acknowledges; a belief that is evidently shared by Congress. Below is an excerpt from the FY 1999 report language accompanying the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriation Bill, 1999 (Calendar Number 409):

**"CONSERVATION OPERATIONS**

Conservation operations are authorized by Public Law 74-46 (16 U.S.C. 590a-590f).

Activities include:

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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

*Conservation technical assistance* - Provides assistance to district cooperators and other land users in the planning and application of conservation treatments to control erosion and improve the quantity and quality of soil resources, improve and conserve water, enhance fish and wildlife habitat, conserve energy, improve woodland, pasture and range conditions, and reduce upstream flooding; all to protect and enhance the natural resource base (page 75).”

Furthermore, the actual appropriations language itself supports a broader interpretation of NRCS authority than does your analysis.

I wish to note for the record that when URP was created, NRCS officials informed me that the authority to do so was founded in the Soil and Water Resources Conservation Act of 1977 (RCA) and that it contained the necessary authority to carry out URP. Your analysis that the RCA does not materially pertain to URP operations appears to be flawed. In the FY 1989 budget, the Soil Conservation Service (the predecessor of NRCS), with the concurrence of Congress, made a conscience decision to fold funding for the RCA into the Conservation Operations account. The FY 1989 budget request from the Soil Conservation Service contains the following statement (pages 8 and 25):

“The FY 1989 budget request reflects the consolidation of funding for Inventory and Monitoring activities, and for resource appraisal and program development into the Conservation Technical Assistance item. Work related to conducting National Resources Inventories and other special inventories, and for meeting the requirements of the Resources Conservation Act would continue to be funded and carried out as a part of the technical assistance item.”

The FY 1989 Hearings before the House Subcommittee on Appropriations recognized this request and the following statement appears in the Conservation Operations section (page 1059):

“The appropriation “Conservation Operations” funds four Soil Conservation Service activities authorized by the Act of April 27, 1935, (16 U.S.C. 590-590f); and the Soil and Water Resources Conservation Act of 1977, (16 U.S.C. 2001-2009). These activities are designed to reduce erosion, solve soil and water management problems, bring about physical adjustments in land use, improve agriculture, and reduce damage caused by floods and sedimentation. Activities include:

1. Technical Assistance:

“This item also funds the inventory and monitoring, resource appraisal and program development activities of the Soil Conservation Service...”

Referring to the FY 1999 appropriations report language referenced above, I wish to draw your attention to the following statement:

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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

“The conservation activities of the Natural Resources Conservation Service are guided by the priorities and objective as set forth in the National Conservation Program (NCP) which was prepared in response to the provisions of the Soil and Water Resources Conservation Act of 1977 [RCA] (Public Law 95-192). The long-term objectives of the program are designed to maintain and improve the soil, water, and related resources of the Nation’s nonpublic lands by: reducing excessive soil erosion, improving irrigation efficiencies, improving water management, reducing upstream flood damages, improving range condition, and improving water quality (page 74).”

The RCA, re-authorized by Congress in the 1996 Farm Bill, is still an active authority under the purview of NRCS.

It is worthwhile at this point to provide you with excerpts from the legislative language contained in the RCA (16 U.S.C 2001):

“Findings

Sec.2. The Congress finds that:

(2) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system for providing **assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization, and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses** (emphasis added).

Definitions

Sec. 3 As used in this Act:

(1) **The term “soil, water, and related resources” means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service** (emphasis added).

Declarations of Policy and Purpose: Promotion Thereof

(b) Recognizing that the arrangements which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation’s basic resources, including the restoration and maintenance of resources damaged by improper use, **it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this Act** (emphasis added) consistent with the roles and responsibilities of the non-Federal agencies, landowners and land users.

Soil and Water Conservation Program

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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

Sec. 6. (a)

(1) **identification and evaluation of alternative methods** (emphasis added) for the conservation, protection, environmental improvement, and enhancement of soil and water resources, in the context of alternative time frames, and a recommendation of the preferred alternatives and the extent to which they are being implemented;"

The National Conservation Plan that was promulgated in accordance with the RCA provides direction to USDA conservation programs. Excerpts from the last NCP - *A National Program for Soil and Water Conservation: The 1988-97 Update, April 1993* - contain several references pertinent to this issue:

"As progress has been made in controlling point sources of pollution, more attention has been given to nonpoint sources such as runoff from natural sources, urban areas, mines, and agricultural and silvicultural lands (page 11).

In implementing its NCP water quality priority, therefore, USDA will not limit its activities to erosion-related sources (Page 13).

**Providing Assistance for State and Local Priorities**

In most States, State priorities correspond to the national priorities of soil erosion reduction and water quality protection. In some States and in some local areas within States, erosion and water pollution are not the problems that are of greatest concern to citizens. USDA will consider both national priorities and State and local priorities in allocating its resources. Where State and local governments are expanding their efforts to identify and address serious resource problems, the Department will devote an appropriate share of its information and education and technical and financial assistance to support their efforts, even where the resource concerns identified as highest priorities differ from national priorities (page 15).

**Fostering Better State and Local Resource Planning**

USDA will encourage Federal-State-local conservation teamwork in planning and implementing programs that supplement Federal programs. Emphasis will be on State and local leadership, volunteerism, and private sector services to accomplish conservation actions (page 21).

**Expanding the Partnership to Include Small-Scale, Limited -Resources, and Minority Producers**

USDA will monitor and modify its programs, policies, and producers, community interests, and client groups. USDA will ensure that equal access and equal opportunity are integral parts of all decisions and processes affecting the conduct of its conservation programs (page 21)."

Please take the above into consideration when revisiting your findings relative to your currently stated position.

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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

Regarding conduct, I wish to stress to you that the extent of my role in URP was to provide leadership for the effort in the interest of advancing good public policy. I have included in the enclosed documentation remarks I made late in 1993 that reflected my interest in and concepts for an Urban Resources Partnership (see Tab 8). I hope that this will help dispel some of the misunderstandings that seem to persist regarding the purposes of this initiative.

While it is possible that some agency staff may have misinterpreted some counsel, at no time did I direct individuals to engage in activities that, to my knowledge, were outside the agencies' legal authority, nor would I have done so. Based upon what I was told by agency representatives and upon my understanding of statute, I have always believed that URP activities were consistent with current authorities.

Your draft report states that "the URP program is administered by the Office of the Under Secretary for Natural Resources and Environment." This is incorrect. While it is true that I initiated the Urban Resources Partnership, the agencies are and have been responsible for its implementation. A National Steering Committee, composed of representatives from the USFS, NRCS, as well as the other federal agencies involved with the initiative, provide overall guidance and support for the initiative. Their role is to advise me on the progress of the initiative and to seek my guidance when necessary. From 1994-1997, the URP National Coordinator was an NRCS career employee who reported to the Director of the Urban and Community Assistance Office. From 1997-the present, the URP National Coordinator has been a career USFS employee reporting to the Deputy Chief for State and Private Forestry. Minutes of the National Steering Committee clearly support this (see Tab 5).

With regard to the concern that URP was implemented without program rules, I should point out that URP is not a program, but rather an initiative. Since it was simply intended to more efficiently implement existing programs, it did not seem necessary and appropriate to initiate a rulemaking process for URP implementation.

Regarding your finding that proper accounting and other regulations were not followed, these are administrative omissions on the part of the agencies. The guidance document sent to the original four cities (Atlanta, Chicago, New York, Seattle) on April 18, 1994 clearly directs the agencies to act within existing authorities (see tab 1, Appendix I, Forest Service and Soil Conservation Service).

Although the Urban Resources Partnership is designed as a locally-driven initiative, the Urban Resources Partnership National Steering Committee has consistently stressed accountability to the field staff administering the initiative. To that end, year-end reports were compiled from 1994-98 to assess how project dollars were allocated (see Tab 7 for an example). An annual report was published in 1996 (see Tab 6).

Regarding work in urban areas, in both NRCS and the FS there is clear precedence for conducting activities in urban areas. Examples from NRCS include:

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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

**1960's - Emphasis of the Kennedy-Johnson Administrations.** The administration of Secretary of Agriculture Orville Freeman emphasized having SCS conservationists assist with the orderly development of the rural-urban interface as cities and towns expanded. As part of this effort they also encouraged the National Association of Conservation Districts (NACD) to take a more active role in off-farm issues. NACD, following the report of its District Outlook Committee, promoted revisions of the state conservation district laws. Among the other actions they recommended that the district program and enabling legislation be changed to make districts responsible for conservation of all renewable resources, not just soil and water, and to broaden representation on the boards to include people from cities and suburban areas, and from industry.

**1962 - Resource Conservation and Development Program (RC&D).** Some RC&D areas encompass urban areas and since its inception some measures undertaken assist urban and small community areas.

**1966 - Soil Surveys in Urban Areas.** The Congress clarifies authorities to make soil surveys in urban areas by stating that surveys could be conducted on non-farm areas "to provide soil surveys to assist States, their political subdivisions, soil and water conservation districts, towns, cities, planning boards and commissions, community development districts, and other public agencies in community planning and resources development" State and local governments, not the Federal Government, make land use decisions. Conservation districts and other units of State and local government in zoning and land management decisions use the soil survey information. A soil survey was published of the District of Columbia, and one is currently being made of New York City.

**1971 - Model Erosion and Sediment Control Laws.** SCS assisted the National Association of Conservation Districts in carrying out their contract with the Environmental Protection Agency to develop a model law and manuals to be used by states, cities, and communities. The model law focused on controlling erosion from industrial and residential development sites in cities and other communities. Earlier, SCS had cooperated in the landmark conference *Soil Water and Suburbia*, which focused on an expanding suburbia.

**1973 - Flood Prone Areas.** At the request of the Department of Housing and Urban Development, SCS undertook a nation-wide study of flood prone areas to be used in development of the flood insurance program. The agency continued to map flood prone areas under reimbursable agreements with the agencies responsible for management of the flood insurance program.

**1976 - Urban Hydrology.** SCS issued Technical Release 55, *Urban Hydrology for Small Watersheds*, which has been adopted and used worldwide by urban areas for planning and implementation of measures to control runoff and flooding in urban areas.



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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

Towns, cities, and communities often stipulate that the hydrology program be used in predicting the impacts of developments. Over 300,000 copies have been distributed.

**1981 - Federal Farmland Protection Policy and 1996, Farmland Protection Program.** These programs have the intent of preserving valuable farmland, but they also benefit urban areas by maintaining open space.

**1992 - Urban Pilot Staffs.** SCS began signing agreements with conservation districts in 1937. One of the primary types of assistance has been for the SCS/NRCS to provide trained conservationists to work with districts and land users. Some of the districts include urban areas, and thus agency personnel worked with those land users and had offices in the district area.

As financial constraints meant closure of offices, the offices in urban areas declined. In response to this development, 10 large pilot cities (Atlanta, Boston, Chicago, Ft. Lauderdale, Los Angeles, Morristown (NJ), Seattle, Northern Virginia, New York City, and Portland) were selected to receive funding to establish a core staff of an engineer, agronomist, soil scientist, and biologist. The establishment of these offices was partly in response to a feeling that service to cities had diminished with staff and budget cutbacks.

**1998 - Backyard Conservation.** NRCS issued this publication along with web site and partnering information to assist homeowners and to bring conservation to the backyard. A couple of decades earlier, SCS had published a series of publications, *Invite Birds to Your Home*, which proved to be quite popular. It advised on plants that provided food and cover. The NRCS plant materials program selects plants that may be of value not only in the rural, but also in urban areas, especially for erosion control, beautification, wildlife planting, and native species plantings.

Your report also mentions that RC&D and Small Watershed funds were used to fund URP projects. While the allocation of funds to URP were purely an agency decision, it is appropriate to note that neither of these programs discriminate against individuals living in urban or suburban areas. In fact, as mentioned above, the RC&D program has had, and continues to have, projects in urban areas. As to the Small Watershed Program, several large projects in the Chicago area serve as excellent examples of the application of this program in an urban environment.

### **USDA-Forest Service**

There is also clear precedence from the USFS regarding urban activities.

**1978 - Cooperative Forestry Assistance Act.** The Urban Resource Partnership is funded as an activity of the Urban and Community Forestry Program as authorized by Section 9, Urban

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## **EXHIBIT L - UNDER SECRETARY'S WRITTEN RESPONSE TO THE DRAFT REPORT**

and Community Forestry Assistance, of the Cooperative Forestry Assistance Act of 1978 as amended, (PL95-313.)

This law authorized the Secretary of Agriculture to provide financial, technical and related assistance of State Foresters or equivalent State officials. The law also states:

In providing such assistance the Secretary is authorized to cooperate with interested members of the public including non-profit organizations. The Secretary is also authorized to cooperate directly with units local government and others in implementing this section whenever the Secretary and the affected State Forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section.

I dispute the contention that political motives were the driving force behind the selection of URP cities. Simply put, without local support the URP effort could not succeed. Gauging whether or not local leaders supported URP was critical and cities were selected partially based on support for the effort. Two of the original four URP coordinators were housed in city offices - one in Chicago and one in Los Angeles. To take a memorandum prepared by staff and use it to assert that the URP was politically motivated is misleading at best.

In 1997, the USFS and NRCS also jointly began an internal review (see Tab 3 for the June 7, 1999 Management Review report issued to USFS and NRCS leadership).

Subsequent reviews have led to additional guidance to bring the program into compliance with all applicable directives and regulations. The draft guidance document included in Tab 2 was drafted in 1997 and originally sent to all coordinators for their input in late February/early March 1997. This is indicative of the URP's efforts to improve accountability and consistency with legal and regulatory requirements. I have directed the agency heads to come into compliance and take all appropriate actions to address the issues you raised.

I appreciate the opportunity to review your draft and hope that my input will assist you in modifying your draft report. Again, once I receive the OGC review of its earlier opinion and this response has cleared Departmental clearance, I will get back to you.

Please contact me if I can be of any further assistance.

# EXHIBIT M - FS/NRCS WRITTEN RESPONSE TO THE DRAFT REPORT

 United States  
Department of  
Agriculture

Natural Resources  
Conservation  
Service

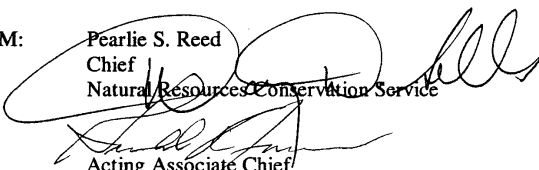
P.O. Box 2890  
Washington, D.C.  
20013

OCT 25 1999

## INFORMATIONAL MEMORANDUM FOR THE UNDER SECRETARY

THROUGH: James R. Lyons  
Under Secretary  
Natural Resources and Environment

FROM: Pearlie S. Reed  
Chief  
Natural Resources Conservation Service

  
Acting Associate Chief  
Forest Service

SUBJECT: Agencies' Response to the Office of Inspector General's (IG)  
Urban Resources Partnership (URP), Evaluation No. 50801-1-Te

### Response to Key Recommendations

See specific responses under each recommendation.

In general, we take exception to the IG's fundamental categorization of URP as a program. It was begun and continues to be implemented as an initiative using existing authorities. Thus, there was no need to seek additional legislation or issue separate regulations. Even the IG's draft report refers to URP as an initiative (e.g. page ii, paragraphs 3) in places without considering this distinction.

Concerning Congressional notification, the Under Secretary submitted budget testimony on proposed agency budgets annually and in most cases specifically mentioned URP. Additionally, NRCS responded to specific URP questions as a part of the congressional appropriations process in several fiscal years (see attached: letter from Secretary Glickman to Congressman Joe Skeen, December 15, 1997; Congressman Skeen's response, January 28, 1998).

Finally the IG's draft report does not acknowledge congressional language accompanying FY98 and 99 appropriations indicating their expectation of the continuance of URP at the same level as prior years (see attached congressional testimony from Under Secretary Lyons).

### **Response to Recommendation No. 1a**

The Natural Resources Conservation Service (NRCS),  
formerly the Soil Conservation Service, is an agency of the  
Department of Agriculture

An Equal Opportunity Employer

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## **EXHIBIT M - FS/NRCS WRITTEN RESPONSE TO THE DRAFT REPORT**

Grants made from 1994 until July 26, 1999 were made with the understanding that both NRCS and the USFS had full authority to make these grants. NRCS staff in 1994 believed NRCS was acting within its full authority to implement the URP initiative.

A review of URP FY 98 and FY 99 grants was initiated in August of 1998 and completed in January of 1999. Regional and state administrative specialists provided staff support that ensured grants stayed within the agencies legislative authorities. A partial review of URP grants from FY 94 through FY 97 has been done in some URP locations including East St. Louis, Chicago, Seattle, and New York. A Program Review is currently in progress in Philadelphia.

Additional reviews will be conducted as needed by the State Conservationists in all URP locations that receive agency funds. All reviews will be documented, highlighting findings, recommendations, commendations and action items.

A draft National Guidance Document was drafted in 1997 and is currently under final review by appropriate partners and staff. A draft white paper entitled; "Summary of Authorized Activities Projects", has been developed by the Forest Service and is undergoing final reviews to aid in the interpretation of the Cooperative Forestry Assistance Act of 1978 for local coordinators and other partners.

If a review of FY 94-99 URP grants determined that certain ones were not within agency authorities, we do not believe it would serve the public interest to attempt recovery of funds. Local URP grants recipients acted in good faith and in the expectation that federal agencies had full authority to authorize projects. Any projects still ongoing could be re-examined to bring them into conformance or discontinue the balance of the project.

### **Response to Recommendation No. 1b**

Because URP is an initiative, there is no need to publish requirements and procedures governing its implementation in the Federal Register. The U.S. Forest Service has developed and broadly circulated the Urban and Community Forestry Program guidelines used to govern the program, since its' inception in 1991. These guidelines were developed in partnership with State and Local government; and not-for-profit organizations interested in the program. Currently, these guidelines are being revised and will be published in the Federal Register.

### **Response to Recommendation No. 1c**

A review of all policies and regulations pertaining to the URP initiative will be made to ensure that all applicable controls are utilized. All policies, guidelines and standards will be made available to all necessary entities. All new policies, guidelines and standards may be forwarded to OGC for review and concurrence prior to implementation.

### **Response to Recommendation No. 2a**

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## **EXHIBIT M - FS/NRCS WRITTEN RESPONSE TO THE DRAFT REPORT**

### **Response to Recommendation No. 2a**

See response 1a.

As stated in response of recommendation 1a: The agencies will continue to conduct a detail program and management review to examine all aspects of program management and implementation, which includes grants administration. All local coordinators will continue to work directly with their Regional and State offices grant management staff to ensure that all grants are approved and awarded in compliance with all applicable policies and regulations according to the applicable statutes. Working directly with FS and NRCS grant management staff will eliminate the potential for errors in awarding grants, along with the newly developed National Guidance Document.

State Conservationists through regional and state administrative specialists will review URP grants to ensure compliance with applicable statutes and adherence to management procedures.

### **Response to Recommendation No. 2b**

In coordination with OGC a review of agency authorities will be completed regarding funds used to support URP coordinator positions. Based on this review appropriate measures will be taken. The Forest Service authorities allow the agency to use federal funds to hire non-federal employees.

### **Response to Recommendation No. 2c**

As a result of the 1998 management review, sufficient controls are now in place. The Federal Grants and Cooperative Agreements Handbook was issued to all NRCS regional and state administrative staff in November of 1998. The Handbook outlines all the necessary procedures and requirements to be used in grant administration, including grants issued through the URP initiative. URP coordinators and local steering teams are working with appropriate agency administrative staff to ensure grant administrative requirements are followed.

### **Response to Recommendation No. 3a**

It is unnecessary to design and implement controls for NRE since the Under Secretary does not implement programs or initiatives within either the Forest Service or the Natural Resources Conservation Service.

Sufficient controls are now in place within the agencies. The URP National Guidance Document and the NRCS Federal Grants and Cooperative Agreements Handbook provides grant management guidance, and the Summary of Authorized Activities/Projects. In conjunction with regional and state administrative specialists, controls are in place to ensure appropriate grants management for the URP initiative.

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## **EXHIBIT M - FS/NRCS WRITTEN RESPONSE TO THE DRAFT REPORT**

### **Recommendation No. 3b**

Regional and state administrative specialists will continue to review URP grant awards. Part of the review process will be a determination of allowable costs. If it is found that unallowable costs have been paid regional and state administrative specialist will provide recommendations to appropriate leadership and develop a strategy for correction. The leadership will develop a strategy, on a case-by-case basis, to resolve and outstanding unallowable cost issues in consultation with the agency financial management officials.