



United States Department of Agriculture  
Office of Inspector General





United States Department of Agriculture  
Office of Inspector General  
Washington, D.C. 20250



DATE: March 12, 2012

AUDIT  
NUMBER: 08703-0003-SF

TO: Thomas L. Tidwell  
Chief  
Forest Service

ATTN: Thelma Strong  
Acting Chief Financial Officer  
Forest Service

FROM: Gil H. Harden  
Assistant Inspector General  
for Audit

SUBJECT: American Recovery and Reinvestment Act – Forest Service  
Capital Improvement and Maintenance Projects  
Roads, Bridges, and Related Watersheds

This report presents the results of the subject review. Your written response to the official draft report, excluding the attachments, is included at the end of the report. Excerpts from the response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on the information in your written response, we have accepted your management decision on Recommendations 1, 2, 3, 4, 5, and 6. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

Based on your written response, management decision has not been reached on Recommendation 7. The information needed to reach management decision on this recommendation is set forth in the OIG Position section after the recommendation.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken or planned, and timeframes for implementing the recommendation for which management decision has not been reached. Please note that the regulation requires management decision to be reached on all recommendations within 6 months from report issuance, and final action to be taken within 1 year of each

management decision to prevent being listed in the Department's annual Performance and Accountability Report.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions.

## **Table of Contents**

<b>Executive Summary .....</b>	<b>1</b>
<b>Background and Objectives .....</b>	<b>4</b>
<b>Background.....</b>	<b>4</b>
<b>Objectives.....</b>	<b>5</b>
<b>Finding 1: FS Did Not Fully Comply with Procurement Requirements in Awarding Recovery Act Contracts and Agreements .....</b>	<b>6</b>
<b>Recommendation 1 .....</b>	<b>9</b>
<b>Recommendation 2 .....</b>	<b>10</b>
<b>Recommendation 3 .....</b>	<b>10</b>
<b>Recommendation 4 .....</b>	<b>11</b>
<b>Finding 2: Four Employees Mischarged Their Time to Recovery Act Job Codes While Working on Unrelated Projects .....</b>	<b>11</b>
<b>Recommendation 5 .....</b>	<b>12</b>
<b>Recommendation 6 .....</b>	<b>12</b>
<b>Finding 3: FS Inaccurately Reported Performance Accomplishments.....</b>	<b>13</b>
<b>Recommendation 7 .....</b>	<b>14</b>
<b>Scope and Methodology.....</b>	<b>15</b>
<b>Abbreviations .....</b>	<b>17</b>
<b>Exhibit A: Summary of Monetary Results.....</b>	<b>18</b>
<b>Exhibit B: Audit Sites .....</b>	<b>19</b>
<b>Exhibit C: Statistical Sampling Methodology and Results.....</b>	<b>21</b>
<b>Exhibit D: Before and After Photos .....</b>	<b>24</b>
<b>Agency’s Response .....</b>	<b>28</b>



# **American Recovery and Reinvestment Act – Forest Service Capital Improvement and Maintenance Projects Roads, Bridges, and Related Watersheds**

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## **Executive Summary**

The American Recovery and Reinvestment Act of 2009 (Recovery Act) was passed by Congress on February 17, 2009, to stimulate the nation’s economy by creating or saving jobs across the nation. As part of this effort, the Forest Service (FS) was awarded \$1.15 billion to implement projects that would directly accomplish its mission. This included \$650 million for Capital Improvement and Maintenance (CIM) projects, of which \$272 million was approved for road maintenance and decommissioning, bridge maintenance and decommissioning, and related watershed restoration and ecosystem enhancement. These funds were awarded through contracts and grants and agreements (G&A) to private businesses, non-profit organizations, local and State governments, tribes, and individuals.<sup>1</sup>

Congress emphasized the need for accountability and transparency in the expenditure of the funds so that the public understands where its tax dollars are going and how they are being spent. To meet these objectives, the Office of Management and Budget (OMB) issued guidance that required Federal agencies to establish rigorous internal controls and oversight mechanisms. The U.S. Department of Agriculture’s Office of Inspector General (OIG) was also mandated by the Recovery Act to oversee agency activities to ensure Recovery Act funds were spent in a manner that minimized the risk of improper use. Consequently, OIG initiated several audits related to FS’ oversight and controls over different project types, such as trails, facilities, and abandoned mines.

This audit focused on FS’ management of road, bridge, and related watershed projects. Our objectives were to determine whether FS: (1) complied with laws and regulations pertaining to the Recovery Act funding; (2) selected Recovery Act road projects that met eligibility and program requirements;<sup>2</sup> (3) timely and effectively completed its Recovery Act road projects; and (4) supported the information it reported for its performance measures for CIM projects.

Our statistical sample primarily consisted of fixed-price contracts, which provided minimum risk for the government and maximum incentives for the contractors to control costs and perform work effectively.<sup>3</sup> We found that FS generally complied with Recovery Act requirements and effectively completed the projects we reviewed. See exhibit D for photographs of road, bridge, and watershed improvements. However, we identified the following issues:

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<sup>1</sup> Generally, the agreements we reviewed were legal documents between FS and another government entity (e.g., a county government), which shared a mutual interest in the work being performed, such as maintaining roads, building bridges, and restoring watersheds. Our review did not contain any grants.

<sup>2</sup> We decided not to report on this objective because it was thoroughly reviewed as part of audit 08703-01-Hy, “Oversight and Control of Forest Service American Recovery and Reinvestment Act Activities,” issued September 30, 2011. See finding 1 on page 9 of the report.

<sup>3</sup> FAR 16.202-1 (October 1, 2010).

- FS did not fully comply with procurement requirements for 25 of the 82 statistically sampled road, bridge, and related watershed contracts and agreements, some of which had multiple errors. Specifically, (1) for 18 contracts, FS did not follow Federal Acquisition Regulation (FAR) requirements in posting pre-award and award notices on the Federal Business Opportunities (FedBizOpps) Web site;<sup>4</sup> (2) FS awarded 5 contracts without evaluating the contractors' past performance; and (3) FS awarded 5 contracts to contractors who were not registered in the Small Business Administration's Online Representations and Certification Application (ORCA) system.

This occurred because (1) contracting officers (CO) either overlooked or misinterpreted the requirements or (2) FS had not updated its standard procurement templates for Recovery Act contracts and agreements. As a result, FS did not always meet the transparency and accountability objectives of the Recovery Act, increasing the risk of recipients not completing contracts and agreements according to specifications. Based on our sample, we project that FS did not fully comply with procurement requirements for 148 of 795 contracts and agreements (19 percent). The estimated value of these 148 contracts and agreements was \$63 million.<sup>5</sup>

- Of the 22 National Forests we reviewed, the Monongahela National Forest had 4 employees who mistakenly charged 83 days to Recovery Act job codes while working on unrelated projects. According to the supervisor, she missed the error due to the workload. As a result, Recovery Act administrative costs were overcharged by \$21,458.
- For fiscal year (FY) 2009, FS inaccurately reported accomplishments for 11 of the 96 contracts and agreements we reviewed.<sup>6</sup> This involved 30 of 89 miles of roads, 2 of 4 bridges, and 2 of 4 aquatic organism passages. This occurred because the contracting officer's representatives (COR) and project managers made inadvertent errors, such as transcription and data entry errors. As a result, FS did not fully meet the transparency objective of the Recovery Act.

## Recommendation Summary

We recommend that the agency remind COs to publicize pre-award and award notices on the FedBizOpps Web site, and verify contractors' past performance prior to contract award. We also recommend the agency ensure that contractors register in ORCA prior to contract award.

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<sup>4</sup> This Web site posts active Federal opportunities.

<sup>5</sup> We are 95 percent confident that between 44 and 253 contracts and agreements had one or more noncompliant items; the total value of these contracts and agreements ranged between \$18 million and \$107 million.

<sup>6</sup> Fourteen of these 96 contracts and agreements were selected judgmentally, outside of the statistical sample of 82 contracts and agreements. We are not projecting the results for the judgmental sample.

In addition, we recommend that the agency direct Monongahela National Forest management to emphasize to employees the importance of charging their time correctly. We also recommend that FS Washington Office ensure the errors in reporting road accomplishments are corrected.

### **Agency Response**

In its written response, dated December 15, 2011, FS concurred with the reported findings and recommendations, except for Recommendation 7. FS' response is included at the end of this report.

### **OIG Position**

We accept FS' management decision on Recommendations 1 through 6. The actions needed to reach management decision on Recommendation 7 are provided in the OIG Position section after the recommendation.



# Background and Objectives

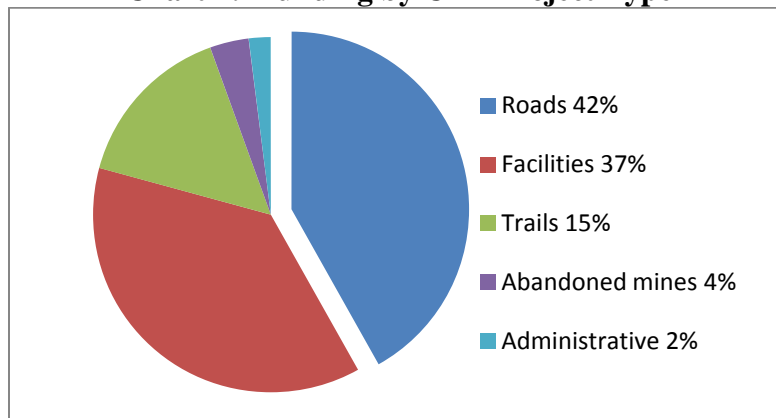
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## Background

On February 17, 2009, Congress enacted the Recovery Act to accelerate the economic recovery of the nation by preserving and creating jobs. Recovery Act funds were invested in transportation, environmental protection, and other infrastructure. FS' appropriation of \$1.15 billion was divided between two major categories: \$650 million for CIM and \$500 million for Wildland Fire Management and Biomass.

FS allocated \$272 million of the CIM funds to road, bridge, and related watershed restoration and ecosystem enhancement projects.<sup>7</sup> Of the remaining \$378 million, \$243 million was used for facility improvements, \$99 million for trail maintenance, \$23 million for the remediation of abandoned mines, and \$13 million for administrative expenses. Chart 1 shows the percentage of funds allocated to each project type within the CIM category.

**Chart 1: Funding by CIM Project Type**



In addition to normal procurement requirements, Congress emphasized accountability for and transparency of funds awarded through the Recovery Act. To meet the accountability objectives, OMB issued guidance in February 2009 that required Federal agencies to establish rigorous internal controls and oversight mechanisms. To satisfy the transparency requirement, FS used the FedBizOpps Web site and the Federal Procurement Data System to publicize information about solicitations, contract awards, and contractors. Recipients of Recovery Act funds were also required to report their expenditures and progress on the Recovery.gov Web site.

To streamline the acquisition management process, FS established four Economic Recovery Operation Centers (EROC) in April 2009: Southwest in Vallejo, California; Northwest in Sandy, Oregon; Intermountain in Golden, Colorado; and East in Atlanta, Georgia. EROCs were staffed with COs and G&A specialists that were a mix of government personnel, re-employed annuitants, and contract employees.

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<sup>7</sup> As of June 15, 2010.

COs were responsible for administering contracts to ensure that they complied with the Recovery Act, OMB guidance, and FAR requirements. The COs were assisted by CORs, who were located in the National Forests near the contract sites. Contracts ranged from \$350, for small supplies, to \$159 million, for major road maintenance and decommissioning. G&A specialists had similar functions to those of the COs. They delegated some of their responsibilities to project managers who managed the grants or agreements at the National Forest level. Agreements ranged from \$3,500 to \$9.9 million.

## **Objectives**

Our objectives were to determine whether FS: (1) complied with laws and regulations pertaining to the Recovery Act funding; (2) selected Recovery Act road projects that met eligibility and program requirements; (3) timely and effectively completed its Recovery Act road projects; and (4) supported the information it reported for its performance measures for CIM projects.

## **Finding 1: FS Did Not Fully Comply with Procurement Requirements in Awarding Recovery Act Contracts and Agreements**

FS did not fully comply with procurement requirements for 25 of the 82 statistically sampled road, bridge, and related watershed contracts and agreements. This occurred because (1) contracting officers (CO) either overlooked or misinterpreted the requirements or (2) FS had not updated its standard procurement templates for Recovery Act contracts and agreements. As a result, FS did not always meet the transparency and accountability objectives of the Recovery Act, increasing the risk of recipients not completing contracts and agreements according to specifications. Projecting on our sample, we estimate that FS did not fully comply with procurement requirements for 148 of 795 contracts and agreements (19 percent error rate). The estimated value of these contracts and agreements was \$63 million.<sup>8</sup>

FS Recovery Act Guidance requires COs to perform all duties in accordance with the Federal Acquisition Regulation (FAR), FS Acquisition Regulation, OMB guidance, FS Acquisition Management Internal Process Plan, and the Program Direction.<sup>9</sup> These regulations and directives include requirements such as publicizing pre-award and award notices, verifying contractors' past performance, and verifying contractors' registration on the Online Representations and Certifications Application (ORCA) system.<sup>10</sup>

To determine if FS complied with Recovery Act, FAR, and other procurement requirements, we statistically sampled 67 contracts and 15 agreements (82 in total) in 13 States, totaling \$34.3 million. We found compliance issues with both contracts and agreements, some of which had multiple errors. Although the issues varied, the effect was consistent: FS did not always meet the transparency and accountability objectives of the Recovery Act. Examples of these compliance issues are:

- Improperly publicized pre-award and award notices. For 18 of 67 sampled contracts, FS did not follow FAR requirements in posting pre-award and award notices on the Federal Business Opportunities (FedBizOpps) Web site. This occurred because the COs either overlooked or misinterpreted FAR requirements.

FAR requires pre-award notices to be posted on FedBizOpps for solicitations and contract modifications estimated above \$25,000.<sup>11</sup> The purpose of the postings is to “enhance transparency to the public.”<sup>12</sup> FAR also requires award notices to be posted on

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<sup>8</sup> We are 95 percent confident that between 44 and 253 contracts and agreements had one or more noncompliant items; the total value of these contracts and agreements ranged between \$18 million and \$107 million.

<sup>9</sup> FS Recovery Act Guidance, Chapter 5-4 (October 1, 2010).

<sup>10</sup> FAR 5.201(b)(1) (December 7, 2007); FAR 5.301(a) (October 10, 2010); FAR 36.602-1 (July 1, 2009); FAR 4.1201(a) (September 29, 2010).

<sup>11</sup> FAR 5.201(b)(1) (December 7, 2007). The FedBizOpps pre-award notices include information on when the solicitation will be open and any restrictions on who may offer bids.

<sup>12</sup> FAR 5.701 (July 16, 2010).

FedBizOpps for contracts valued above \$25,000.<sup>13</sup> The award notices must use clear and concise language to describe the goods and services being contracted.<sup>14</sup>

In December 2010, we issued Fast Report 08703-3-SF(2),<sup>15</sup> which notified FS of its ongoing problem of not publicizing pre-award notices on FedBizOpps. One year earlier, OIG had reported this same issue to FS based on a referral from the Recovery Accountability and Transparency Board (RATB).<sup>16</sup> In response to the RATB referral, FS stated that the four Economic Recovery Operation Centers (EROC) it established would provide guidance to the COs on all FAR and Recovery Act requirements.<sup>17</sup>

However, during our audit we found that COs continued to overlook the posting requirements. We found 18 contracts in our statistical sample where FS did not correctly post pre-award or award notices on FedBizOpps:<sup>18</sup>

- FS did not publicize pre-award notices for 8 contracts; and
- FS did not include a clear description of the goods and services in the award notices for 12 contracts (e.g., road improvements and new bridges). In one case, FS listed the contract number, expiration date, and how the contract was awarded, but did not describe the goods and services being provided.

FS Washington Office representatives told us that they verbally reminded COs to follow FAR and Recovery Act guidance. The FS representatives thought that employee turnover may have contributed to the publicizing errors. Since FAR requires pre-award and award notices for both Recovery Act and non-Recovery Act contracts, we recommend that FS remind COs to publicize required notices on FedBizOpps. FS agreed to send written instructions regarding this matter.

- Unverified contractors' past performance. FS awarded 5 of 67 sampled contracts to architect and engineering (A&E) firms without evaluating their past performance on the National Institute of Health Contract Procurement System.<sup>19</sup> The CO believed the requirement was met by checking the contractors in the Excluded Party List System. Although this system identifies contractors that are debarred from doing business with the Government, it does not show the contractors' performance history.

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<sup>13</sup> FAR 5.301(a) (October 10, 2010).

<sup>14</sup> FAR 5.705(a)(3) (July 16, 2010); FAR 5.201 (December 7, 2007).

<sup>15</sup> "Pre-Solicitation and Modification Notices Not on the FedBizOpps Web site."

<sup>16</sup> The Recovery Act established RATB, which analyzed online databases for potential issues concerning misuse of funds or compliance with additional contract clauses that were required by the Recovery Act. RATB referred instances of potential noncompliance with OMB and FAR requirements to OIG for further review.

<sup>17</sup> Report 08703-2-SF, "Contract Compliance Review – Apache-Sitgreaves National Forest, Arizona," issued November 24, 2009.

<sup>18</sup> Some contracts had multiple errors; therefore, the total errors add to more than 18.

<sup>19</sup> In 08703-01-Hy, "Oversight and Control of Forest Service American Recovery and Reinvestment Act Activities," issued September 30, 2011, OIG also found a case where FS did not verify past performance before awarding the contract.

For A&E service contracts, FAR requires that “agencies shall evaluate each potential contractor in terms of its . . . past performance on contracts with Government agencies and private industry in terms of cost control, quality of work, and compliance with performance schedules.”<sup>20</sup> At the time of contract award, Departmental regulations required the use of the National Institute of Health Contract Procurement System, a system used to collect, maintain, and disseminate contractor performance evaluations.<sup>21</sup> For example, the evaluations would address timeliness and the contractors’ execution of the contract specifications.

In the five cases, FS required the contractors to provide a complete design package by March 1, 2010. However, four of the five contractors missed the deadline by several months; two of the four did not meet the contract specifications. Accordingly, we recommend that FS issue written guidance reminding COs to evaluate future A&E contractors’ past performance prior to award.

- Missing contract clauses or agreement provisions. FS did not include one or more new contract clauses required by FAR and the Recovery Act in 3 of 67 sampled contracts. Also, FS did not include 1 or more new agreement provisions in 5 of 15 sampled agreements. This occurred because FS had not updated its standard procurement templates to include these new requirements. The COs and G&A specialists had to determine which Recovery Act clauses or provisions to include in their contracts and agreements without the aid of such templates.

In 2009, FAR required the addition of several contract clauses to promote the Recovery Act’s goals of transparency and domestic economic recovery. These clauses included a “buy American” requirement,<sup>22</sup> OIG’s right to access contracting records,<sup>23</sup> and penalties for ethics violations.<sup>24</sup> Also, the Recovery Act required the addition of several agreement provisions that are similar to the FAR clauses for contracts. These provisions included whistleblower protection<sup>25</sup> and OIG’s right to access recipients’ records.<sup>26</sup>

Previously, OIG issued two Fast Reports under two other audits that identified required clauses and provisions missing from several contracts and grants.<sup>27</sup> Based on these reports, FS told us that they updated their templates. We reviewed the templates and

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<sup>20</sup> FAR 36.602-1 (July 1, 2009).

<sup>21</sup> Agriculture Acquisition Regulation Advisory No. 88 (December 16, 2008). As of October 1, 2010, the Contractor Performance Assessment Reporting System became the new system used to collect, maintain, and disseminate contractor performance evaluations.

<sup>22</sup> FAR 25.1102(e)(1) (March 31, 2009).

<sup>23</sup> FAR 14.201-7(a)(2)(i) (September 28, 2006) applies to sealed bids. FAR 15.209(b)(1) (September 28, 2006) applies to negotiated procurements. FAR 12.301(b)(4)(ii)(A) (February 17, 2009) applies to acquisition of commercial items.

<sup>24</sup> FAR 3.502-3 (March 31, 2009); FAR 3.104-9 (March 31, 2009); FAR 3.808 (March 31, 2009).

<sup>25</sup> Public Law 111-5, sec. 1553 (February 17, 2009).

<sup>26</sup> Public Law 111-5, sec. 1515 (February 17, 2009).

<sup>27</sup> Fast Report 08703-5-SF(1), “The Recovery Act – Forest Service (FS) Hazardous Fuels Reduction and Ecosystem Restoration on Non-Federal Lands,” issued March 2010; and Fast Report 08703-6-SF(1), “The Recovery Act - Forest Service Abandoned Mine Remediation,” issued June 2010.

confirmed that the missing clauses and provisions had been added. Therefore, we are not making a recommendation for this issue.

- Unregistered contractors. FS awarded 5 of 67 sampled contracts to contractors who were not registered in ORCA, a centralized system that collects contractors' certifications, taxpayer identifications, and other pertinent data. This occurred because the COs overlooked the requirement at the time the contracts were awarded.

FAR requires that "prospective contractors shall complete electronic annual representations and certifications."<sup>28</sup> Prospective contractors shall also "update the representations and certifications submitted to ORCA as necessary, but at least annually, to ensure they are kept current, accurate, and complete."<sup>29</sup>

Prior to ORCA, contractors were required to submit representations and certifications for each individual large purchase contract award. Now, using ORCA, a contractor can enter this information once for use on all Federal contracts. This site not only benefits the contractors by allowing them to maintain accurate and complete records but also the COs as they can view every record within a centralized system.

We recommend that FS remind COs to ensure contractors are registered in ORCA prior to contract award. For the contracts discussed above, FS should require all five contractors to register.

In summary, FS did not fully comply with procurement requirements designed to protect the agency's interests and to inform the public of the use of Recovery Act funds. Therefore, we recommend that the agency remind COs to publicize pre-award and award notices on the FedBizOpps Web site, and verify contractors' past performance prior to contract award. We also recommend that the agency ensure contractors are registered in ORCA prior to contract award, and require the five unregistered contractors to register in ORCA. We discussed these issues with FS Washington Office on July 6, 2011, and FS agreed with our findings and recommendations.

## **Recommendation 1**

Issue written guidance to remind COs to publicize pre-award and award notices as required on the FedBizOpps Web site for proposed contract actions and awards exceeding \$25,000.

## **Agency Response**

FS concurs with this recommendation. In response to a Fast Report issued on January 19, 2010, FS stated that it would augment the Internal Process Plan (IPP) to require a second level review of compliance with regulations for publicizing actions and performing spot checks of the FedBizOpps Web site, to verify the accuracy of the posted information. FS has completed

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<sup>28</sup> FAR 4.1201(a) (September 29, 2010).

<sup>29</sup> FAR 4.1201(b) (September 29, 2010).

corrective action by updating the EROC Acquisition Management IPP (February 23, 2011) to include enhanced detailed review guidance for peer reviews and second level reviews for publicizing actions.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 2**

Issue written guidance to remind COs to verify contractors' past performance prior to contract award for A&E service contracts.

### **Agency Response**

FS concurs with this recommendation. In response to the Fast Report issued on January 19, 2010, FS officials concurred with the recommendation and stated that they will remind all COs that they are required by the Department to use National Institutes of Health Contractor Performance System when required by FAR, now known as Contractor Performance Assessment Reporting System. Not all contractors will have a past performance history and FAR allows COs latitude in evaluating past performance, as long as the evaluation is documented.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 3**

Issue written guidance to remind COs to ensure contractors are registered in ORCA prior to contract award.

### **Agency Response**

FS concurs with this recommendation. On January 31, 2007, FS issued Forest Service Handbook 6309.32 - Federal Acquisition Regulation Part 4G04 – Administrative Matters which includes a checklist for the COs to use when reviewing contracts prior to awarding. FS will issue a letter to remind the COs to use this checklist prior to issuing the contract awards.

### **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 4**

Direct the COs to require all five unregistered contractors to register in ORCA.

### **Agency Response**

FS concurs with this recommendation. Of the five unregistered contractors, three submitted a current certification and two had certifications that expired in September 2011. FS will be issuing a letter to the two contractors without a current certification.

### **OIG Position**

We accept management decision for this recommendation.

## **Finding 2: Four Employees Mischarged Their Time to Recovery Act Job Codes While Working on Unrelated Projects**

Four employees at the Monongahela National Forest in West Virginia mischarged 83 days to Recovery Act job codes while working on unrelated projects. This occurred because the employees mistakenly charged their time; their supervisor stated that the error was missed due to the workload. As a result, Recovery Act administrative costs were overcharged by \$21,458.

FS guidance states that “only employees performing work on [Recovery Act] projects charge their time to [Recovery Act] job codes.”<sup>30</sup> On March 1, 2010, the Monongahela Recovery Act coordinator reiterated this guidance via email to the staff.

In October 2010, we visited the Monongahela National Forest to review a statistically selected road project to determine if the project was completed timely and in accordance with contract requirements. As part of our review, we obtained a FY 2010 employee expenditure summary, which showed time charges for the Recovery Act totaling \$129,327. When we requested supporting documentation for these charges, the forest engineer determined that two employees improperly charged time to Recovery Act projects when they were not actually working on them.

Upon further review, we found that two other employees made the same error. Table 1 shows a breakdown of the time and salaries mischarged to the Recovery Act.

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<sup>30</sup> FS Recovery Act guidance, ch. 4, p. 24 (October 2, 2009). A job code is a unique accounting code established to record costs associated with a specific project.



**Table 1: Time and Salary Mischarges**

Employee	Days Mischarged to Recovery Act	Salaries Mischarged to Recovery Act
A	50	\$13,613
B	5	\$1,357
C	24	\$5,688
D	4	\$800
Total	83	\$21,458

Although the employees were aware of FS guidance regarding time charges, they mistakenly charged their time to Recovery Act projects. Their supervisor told us that the error was not caught due to the workload at the time. The forest engineer stated that the employees have since reversed the improper time charges. To ensure the accurate reporting of employees' time in the future, we recommend that the agency direct Monongahela National Forest management to emphasize the importance of charging time correctly. We discussed this issue with FS Washington Office on July 6, 2011, and FS agreed with our finding and recommendations.

### **Recommendation 5**

Provide documentation that the four employees corrected their improper time charges, totaling \$21,458.

### **Agency Response**

FS concurs with this recommendation. FS completed corrective action by requiring the four employees to adjust their time appropriately.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 6**

Require management at the Monongahela National Forest to emphasize that employees charge their time correctly.

### **Agency Response**

FS concurs with this recommendation. Management at the Monongahela National Forest verbally informed employees that they should record timesheets carefully as appropriate with projects worked. Management also followed-up with an email emphasizing that employees charge their time correctly to job codes in accordance with projects worked.

## OIG Position

We accept management decision for this recommendation.

### Finding 3: FS Inaccurately Reported Performance Accomplishments

For FY 2009, FS inaccurately reported accomplishments for 11 of the 96 contracts and agreements we reviewed.<sup>31</sup> This involved 30 of 89 miles of roads, 2 of 4 bridges, and 2 of 4 aquatic organism passages.<sup>32</sup> This occurred because the contracting officer's representatives (COR) and project managers made inadvertent errors, such as transcription and data entry errors. As a result, FS did not fully meet the transparency objective of the Recovery Act.

One objective of the Recovery Act is that "the public benefits of these funds are reported clearly, accurately, and in a timely manner."<sup>33</sup> FS guidance assigns responsibility to field staffs (i.e., CORs and project managers) for ensuring compliance with data collection protocols and supporting documentation standards as well as providing accurate performance accomplishment data.<sup>34</sup>

Since Recovery Act accomplishments are reported to Congress, OMB, and the public, one of our objectives was to determine if FS could support the information it provided.<sup>35</sup> To do this, we examined the National Forests' Work Plans, which showed the (1) miles of roads improved or maintained, (2) new bridges built, and (3) aquatic organism passages created.<sup>36</sup>

For FY 2009, we found that FS inaccurately reported accomplishments for 11 of the 96 Recovery Act contracts and agreements we reviewed. Table 2 shows a summary of the inaccurate reporting.

**Table 2: Errors in Reporting Accomplishments for the 11 Contracts and Agreements**

Type of Improvements	Accomplishments per Audit	Reported Accomplishments	Overreported	Underreported	Total Errors
Road Improvements	89 miles	71 miles	6 miles	24 miles	30 miles
New Bridges	4	2		2	2
New Aquatic Organism Passages	2	4	2		2

<sup>31</sup> Fourteen of these 96 contracts and agreements were selected judgmentally, outside of the statistical sample of 82 contracts and agreements. We are not projecting the results for the judgmental sample.

<sup>32</sup> An aquatic organism passage is a conduit that allows any animal living in or around the water to pass under the road.

<sup>33</sup> OMB M-09-15, sec. 3.1 (April 3, 2009).

<sup>34</sup> FS Recovery Act guidance, ch. 3, p. 3 (FY 2010).

<sup>35</sup> FS Recovery Act guidance, ch. 3, p. 2 (FY 2010).

<sup>36</sup> National Forests report accomplishments in a system of record (i.e., Work Plan or the Road Accomplishment Report).

The CORs and project managers told us they made inadvertent errors, e.g., transcription and data entry errors. Therefore, we recommend that FS Washington Office ensure the over and underreporting of road accomplishments are corrected. We discussed this issue with FS Washington Office on July 6, 2011, and FS agreed with our finding and recommendation.

## **Recommendation 7**

Correct the over and underreporting of road accomplishments identified in the issue.

## **Agency Response**

In its signed response dated December 15, 2011, FS states that it concurs with the report's findings and recommendations. However, in its management decision attachment, FS does not agree with this recommendation. FS considers that its accomplishment reporting process is in compliance with internal FS policy, and that it accurately reflects the performance of 2009 projects. Adjustments to the reports do not need to be made because FS considers them to be accurate.

## **OIG Position**

We do not accept FS' management decision for this recommendation. OIG is not taking exception to internal FS policy on accomplishment reporting. Rather, we found instances where accomplishments were not reported in accordance with this policy.

We described these instances in detail in an issue paper, which was presented to FS on June 11, 2011. FS agreed to the issue and recommendation for this finding during the stakeholders' meeting on July 6, 2011. For the discussion draft and official draft reports, we condensed the details to make the finding more concise; the recommendation was not changed. To achieve management decision, FS needs to provide us with documentation that it corrected the over and underreporting of road accomplishments identified in the issue.

## Scope and Methodology

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We conducted a nationwide review of FS' road, bridge, and related watershed projects that were funded by the Recovery Act during FYs 2009 through 2010. The 126 projects were awarded through 795 contracts, grants, and agreements to private businesses, non-profit organizations, local and state governments, tribes, and individuals.

We judgmentally selected 14 contracts (totaling \$7.1 million) based on funding and award dates, and statistically selected 82 contracts and agreements (totaling \$34.3 million). See exhibit C for the statistician's sampling methodology. Accordingly, we performed fieldwork at 4 EROCs, 7 regional offices, 22 National Forests, 1 research station, and 1 historical site from August 2009 to April 2011. See exhibit B for a complete list of audit sites.

To accomplish our audit, we:

- *Reviewed criteria.* We reviewed pertinent laws, regulations, policies, and procedures governing CIM projects, including the Recovery Act, OMB guidance, FAR, FS Acquisition Management procedures, and other FS guidance.
- *Interviewed FS personnel.* We interviewed EROC officials to understand the procurement process for contracts and agreements. In addition, we interviewed regional and National Forest officials to understand the process for administering contracts and agreements.
- *Reviewed and analyzed selected contracts and agreements.* We reviewed 14 judgmentally selected contracts and 82 statistically selected contracts and agreements to determine whether the EROCs and National Forests complied with Recovery Act, FAR, and other procurement requirements.
- *Conducted 75 site visits.* Of the 96 sampled contracts and agreements, we conducted site visits for 75.<sup>37</sup> See exhibit D for examples of road, bridge, and watershed improvements.
- *Analyzed contract and agreement expenditures.* We reviewed project Work Plans, invoices, and other supporting documentation to determine if Recovery Act funds were expended properly. We also reviewed administrative and support charges.
- *Analyzed accomplishment reporting.* We reviewed project Work Plans to ensure accomplishments were reported accurately to Congress, OMB, and the public.
- *Analyzed timeliness of award dates.* We compared the actual award dates to FS' target dates to determine if the contracts and agreements were awarded timely.

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<sup>37</sup> We did not conduct site visits for the remaining 21 contracts and agreements because (1) construction had not started, (2) the site was not accessible at the time of our review, or (3) the contracts were A&E or purchase contracts.

- *Addressed RATB referral (RATB-0095).* In August 2009, we received a RATB referral, questioning whether two contractors in Vermont (1) were registered in the Small Business Administration's ORCA system and (2) had the ability to complete the scope of work. Based on our file review, interviews, and site visits, we found that both contractors were registered as small businesses in ORCA, and that they possessed the staff, expertise, and equipment to complete the scope of work.
- *Addressed whistleblower complaint (IG-HQ-2009-957/PS-08990661).* In August 2009, we received a whistleblower complaint, alleging FS' misuse of Recovery Act funds to subsidize commercial logging in the Ocean Boulevard Forest Thinning project in Alaska. Based on FS criteria, our analysis of relevant documents, and discussions with FS personnel, we determined that FS did not misuse Recovery Act funds and that the thinning project did qualify as a "related... ecosystem enhancement" project.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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A&E .....	Architect and Engineering
CIM .....	Capital Maintenance and Improvement
CO .....	Contracting Officer
COR .....	Contracting Officer's Representative
EROC .....	Economic Recovery Operation Center
FAR .....	Federal Acquisition Regulation
FedBizOpps.....	Federal Business Opportunities
FS .....	Forest Service
FY .....	Fiscal Year
G&A.....	Grants and Agreements
IPP .....	Internal Process Plan
OIG .....	Office of Inspector General
OMB .....	Office of Management and Budget
ORCA .....	Online Representations and Certification Application
RATB .....	Recovery Accountability and Transparency Board
USDA.....	Department of Agriculture

## Exhibit A: Summary of Monetary Results

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<b>Finding Number</b>	<b>Recommendation Number</b>	<b>Description</b>	<b>Amount</b>	<b>Category</b>
2	5	Four employees at the Monongahela National Forest mischarged their time to Recovery Act administrative charges.	\$21,458	Other: Accounting Classification Errors
<b>TOTAL MONETARY RESULTS</b>			<b>\$21,458</b>	

## Exhibit B: Audit Sites

Organization	Location
Washington Office  Executive Economic Recovery Team	Washington, DC
EROC  Intermountain Southwest Northwest East	Golden, CO Vallejo, CA Sandy, OR Atlanta, GA
Region 1  Bitterroot National Forest *Idaho Panhandle National Forest Custer National Forest Gallatin National Forest *Helena National Forest Kootenai National Forest	Missoula, MT  Hamilton, MT Coeur d'Alene, ID Billings, MT Bozeman, MT Helena MT Libby, MT
Region 2  San Juan National Forest	Golden, CO  Durango, CO
Region 3  Apache-Sitgreaves National Forest Prescott National Forest	Albuquerque, NM  Springerville, AZ Prescott, AZ
* In these National Forests, we only reviewed judgmentally selected contracts. See the Scope and Methodology section.	



<p>Region 4</p> <p>Caribou-Targhee National Forest          Uinta-Wasatch-Cache National Forest</p>	<p>Ogden, UT</p> <p>Idaho Falls, ID          Provo, UT</p>
<p>Region 6</p> <p>Umpqua National Forest          Wallowa-Whitman National Forest          Mount Hood National Forest          Willamette National Forest          Pacific Northwest Research Station</p>	<p>Portland, OR</p> <p>Roseburg, OR          Baker City, OR          Sandy, OR          Springfield, OR          Portland, OR</p>
<p>Region 9</p> <p>Mark Twain National Forest          Hiawatha National Forest          Allegheny National Forest          *Green Mountain National Forest          Monongahela National Forest          Grey Towers Historical Site</p>	<p>Atlanta, GA</p> <p>Rolla, MO          Escanaba, MI          Warren, PA          Rutland, VT          Elkins, WV          Milford, PA</p>
<p>Region 10</p> <p>Chugach National Forest          Tongass National Forest</p>	<p>Juneau, AK</p> <p>Anchorage, AK          Ketchikan, AK</p>
<p>* In these National Forests, we only reviewed judgmentally selected contracts. See the Scope and Methodology section.</p>	

## **Exhibit C: Statistical Sampling Methodology and Results**

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### Objective:

The sample was designed to support the audit of whether contracts and agreements using Recovery Act funds for FS roads projects complied with applicable laws and agency procedures.

### Audit Universe:

Our universe for this audit was the list of 126 FS projects funded under the Recovery Act. A total of 795 contracts and agreements, with a total value of \$272 million, were relevant to the scope of this analysis.<sup>38</sup>

### Sample Design and Modifications:

We observed that many projects had, as of the beginning of audit fieldwork planning (January 7, 2010), little or no expenditure activity. That meant that many of the planned audit tests could not be performed at the time of the sample selection. Therefore, we divided the 126 projects into two strata: Stratum 1 with the 17 projects for which at least 20 percent of the projects' estimated funds were expended and Stratum 2 with the remaining projects.

Potentially, each project could involve a number of contracts and agreements, which could not be identified until the project records were reviewed. Therefore, we chose to use a two-stage design within both strata, with projects selected at the first stage and contracts<sup>39</sup> selected at the second stage.

We had no information, for either stratum, on which to base a sample size calculation for either the first stage sample of projects or the second stage sample of contracts within projects. Specifically, we did not know whether the variance within projects or the variance between projects would dominate. Therefore, the total sample size of 20 projects, with 10 allocated to each stratum, was subjective. We expected a number of contracts at the second stage, perhaps averaging five per project, from which we expected to obtain sufficient data for projections with reasonable precision.

We drew a random number for each project in the audit universe.<sup>40</sup> The 17 projects assigned to Stratum 1 based on their expenditure ratio were ordered within the stratum based on their chosen random numbers, from lowest to highest; the sample for this stratum was the first 10 of those 17 projects. We used the same approach for Stratum 2, using FS data (project listing) as of June 15, 2010. For the second stratum, we randomly selected another 10 projects for review, i.e., we used the projects with the 10 lowest random numbers in Stratum 2.

During the review of the selected projects, the team obtained a list of contracts related to each of the projects. Within each project, we drew random numbers for each contract to determine the

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<sup>38</sup> For a project selected for audit review, contracts and agreements awarded after a project was reviewed were excluded from the audit universe. Therefore the universe indicated is a subset of a procurement listing dated June 21, 2010, from which the audit team excluded contracts and agreements that were not awarded at the time of review of individual projects.

<sup>39</sup> We use "contracts" to include any type of award procedure, whether contract or agreement.

<sup>40</sup> Random numbers were drawn using the Excel "Randbetween" function.

order of selection at the second stage. The resulting sample design contained a total of 116 contracts for the 20 projects selected; a total of 82 contracts were selected for review.

The preceding design is summarized in the table below:

Stratum	First Stage: Forest Service Projects		Second Stage: Contracts	
	Universe: Projects	Sample of Projects	Contracts in Sample of Projects	Sample of Contracts
Stratum 1	17	10	74	44
Stratum 2	109	10	50	38
Total	126	20	116	82

**Results:**

To support the audit objectives, the audit team reviewed the sample and determined the number of contracts and agreements that were non-compliant with at least one criterion.

In situations where a criterion did not apply to an item tested, such as some contract criteria not applying to agreements, the item tested is considered compliant.

The results below apply to the final (June 21, 2010) audit universe of 795 contracts. The confidence intervals (precision) reported below represent two-sided intervals for a 95 percent confidence level. We include the precision achieved from the sample in two ways: as a percent of the point estimate and as a percent of the audit universe.

**Total number of contracts with at least one non-compliant criterion:**

Based on the sample results, we project there are between 44 and 253 contracts with an exception in at least one category.<sup>41</sup> Our point estimate is that 148 contracts (about 19 percent of the universe of 795 contracts) contain at least one exception. Achieved precision was +/- 70 percent relative to the point estimate of 148 contracts and +/-13 percent relative to the universe of 795 contracts.<sup>42</sup>

**Total value of contracts with at least one non-compliant criterion:**

Based on the sample results, we project the value of contracts with at least one non-compliant item is between \$18 million and \$107 million.<sup>43</sup> Our point estimate is that the value of contracts with at least one non-compliant item totals about \$63 million. Achieved precision was +/- 71 percent relative to the point estimate of about \$63 million and about +/-16.5 percent of the universe of \$272 million.<sup>44</sup>

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<sup>41</sup> The lower bound of 44 contracts represents 5.5 percent of the audit universe; the upper bound of 253 contracts represents 31.8 percent of the audit universe.

<sup>42</sup> Precision calculations:  $(148 - 44) / 148 = 70.48$  percent and  $(148 - 44) / 795 = 13.1$  percent.

<sup>43</sup> The lower bound of \$18 million represents 6.6 percent of the audit universe; the upper bound of \$107 million represents 39.4 percent of the audit universe.

<sup>44</sup> Precision calculations:  $(\$62.6 \text{ million} - \$17.9 \text{ million}) / \$62.6 \text{ million} = 71.4$  percent and  $(\$62.6 \text{ million} - \$17.9 \text{ million}) / \$272 \text{ million} = 16.5$  percent.

The preceding results are summarized in the table below:

Criterion	Projection	Two-sided Interval, 95% Confidence Level		Achieved Precision, Relative to the Projection	Achieved Precision, Fraction of the Universe	Raw Data: Exceptions Observed in Sample
		Lower Bound	Upper Bound			
Contract failed to comply with one or more requirements in awarding Recovery Act projects <sup>a</sup>	148 contracts	44 contracts	253 contracts	70%	+/- 13%	25 contracts
Value of contracts that failed to comply with one or more requirements	\$62.6M	\$17.9M	\$107.2M	71%	+/- 16.5%	\$12.2M
<sup>a</sup> For this summary, “contracts” includes both contracts and agreements. Each category was tested using the rules applicable to the category: contracts were tested for compliance with the rules for contracts, and agreements were tested for compliance with the rules for agreements.						

## Exhibit D: Before and After Photos

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**BEFORE:** Oregon (FS Photo). A section of FS Road 7785 had washed out due to flooding.



**AFTER:** Oregon (OIG Photo). Work involved shifting and raising the roadbed, placing rocks along the hillsides, rebuilding fences along the river side of the road, and replacing culverts and cattle guards. Afterwards, the hillsides were seeded and mulched.



**BEFORE:** Colorado (FS Photo). FS Road 271 provides access to McPhee Marina. Over the past 25 years, the road slowly deteriorated.



**AFTER:** Colorado (OIG Photo). This project involved repaving the road since a chip or crack sealing would not have been effective.





**BEFORE:** Alaska (FS Photo). This bridge was missing several running planks of bridge decking.



**AFTER:** Alaska (OIG Photo). This project included repairs to bridge decking, curbing, and guardrails.



**BEFORE:** Oregon (FS Photo). This 48-inch pipe culvert on a service road off of FS Road 7700 did not allow for fish passage (photo was taken in the spring).



**AFTER:** Oregon (OIG Photo). The pipe culvert was replaced with an “aquatic organism passage” that allows not only fish, but other aquatic and terrestrial creatures to pass through (photo was taken in the fall). The straw on the banks helps to foster growth of the seed FS planted post-construction.





**USDA'S  
FOREST SERVICE  
RESPONSE TO AUDIT REPORT**





Forest  
Service

Washington  
Office

1400 Independence Avenue, SW  
Washington, DC 20250

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**File Code:** 1430

**Date:** December 15, 2011

**Route To:**

**Subject:** Response to Audit Report No. 08703-3-SF “ Forest Service Capital Improvement and Maintenance Projects - Roads, Bridges, and Related Watersheds”

**To:** Gil H. Harden, Assistant Inspector General for Audit

Thank you for the opportunity to review and comment on the OIG draft audit report titled, “Forest Service Capital Improvement and Maintenance Projects - Roads, Bridges, and Related Watersheds”, dated November 29, 2011. The Forest Service concurs with the report’s findings and recommendations. The agency’s management decision regarding recommendations number 1 through 7 and status of corrective action are enclosed.

If you have any questions, please contact Donna Carmical, Chief Financial Officer, at 202-205-1321 or [dcarmical@fs.fed.us](mailto:dcarmical@fs.fed.us).

/s/ Donna M. Carmical  
DONNA M. CARMICAL  
Chief Financial Officer



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**USDA Forest Service (FS)**

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**Office of Inspector General (OIG) Draft Audit Report No. 08703-03-SF  
FS Capital Improvement and Maintenance Projects – Roads, Bridges, and Related  
Watersheds**

**Management Decision**

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**OIG Recommendation 1:** Issue written guidance to remind COs to publicize pre-award and award notices as required on the FedBizOpps website for proposed contract actions and awards exceeding \$25,000.

**FS Response:** In response to a Fast Report issued on January 19, 2010, FS stated that it would augment the Internal Process Plan (IPP) to require a second level review of compliance with regulations for publicizing actions and performing spot checks of the FBO website, to verify the accuracy of the posted information. Forest Service (FS) has completed corrective action by updating the EROC AQM IPP (February 23, 2011) to include enhanced detailed review guidance for peer reviews and second level reviews for publicizing actions.

**Estimated Completion Date:** The FS considers this action closed and has received acceptance of closure through the ARRA Audit Report No. 08703-1-HY “Oversight and Controls Forest Service ARRA Activities” on September 30, 2011.

FS requests closure of this recommendation. The FS completed corrective action by updating the Economic Recovery Operation Center (EROC) Acquisition Management (AQM) Internal Process Plan (IPP) (February 23, 2011) to include enhanced detailed review guidance for peer reviews and second level reviews for publicizing actions (**TAB A**).

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**OIG Recommendation 2:** Issue written guidance to remind COs to verify contractors’ past performance prior to contract award for architect and engineering (A&E) service contracts.

**FS Response:** In response to the Fast Report issued on January 19, 2010, FS officials concurred with the recommendation and stated that they will remind all contracting officers that they are required by the Department to use National Institutes of Health (NIH) Contractor Performance System (CPS) when required by the FAR, now known as Contractor Performance Assessment Reporting System (CPARS). Not all contractors will have a past performance history and the FAR allows contracting officers latitude in evaluating past performance, as long as the evaluation is documented.

**Estimated Completion Date:** The FS considers this action closed and has received acceptance of closure through the ARRA Audit Report No. 08703-1-HY “Oversight and Controls Forest Service ARRA Activities” on September 30, 2011.

FS requests closure of this recommendation. The FS completed corrective action by issuing a reminder to all EROC procurement leads to use NIH CPS during evaluation of past performance as generally required by the FAR and an Agriculture Acquisition Regulation (AGAR) for FAR Part 15 actions over \$100k, (TAB B). On September 30, 2011 CPS was shut down and the AGAR Advisory 96 was issued on September 17, 2010 providing instructions for the use of the replacement Contractor Performance Assessment Reporting System (CPARS), (TAB C). CPARS is now the single USDA-wide system used to collect, maintain, and disseminate contract performance evaluations to the Past Performance Information Retrieval System (PPIRS). On October 8, 2011, FS issued a letter with the announcement of the new system for past performance evaluation and specific guidance, (TAB D). An excerpt of training provided on contractor past performance review process is also attached, (TAB E).

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**OIG Recommendation 3:** Issue written guidance to remind COs to ensure contractors are registered in ORCA prior to contract award.

**FS Response:** On January 31, 2007, FS issued FSH 6309.32 - Federal Acquisition Regulation Part 4G04 (TAB F) – Administrative Matters which includes a checklist for the COs to use when reviewing contracts prior to awarding. (TAB G) The FS will issue a letter to remind the COs to use this checklist prior to issuing the contract awards.

**Estimated Completion Date:** January 31, 2012

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**OIG Recommendation 4:** Direct the COs to require all five unregistered contractors to register in ORCA.

**FS Response:** Of the five unregistered contractors, three have submitted a current certification (TAB H) and two have recently expired in September 2011. (TAB I) FS will be issuing a letter to the two contractors without a current certification.

**Estimated Completion Date:** January 31, 2012

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**OIG Recommendation 5:** Provide documentation that the four employees corrected their improper time charges, totaling \$21,458.

**FS Response:** The FS completed corrective action by requiring the four employees to adjust their time appropriately. (TAB J)

**Estimated Completion Date:** FS requests closure of this recommendation. Timesheet corrections were made in October 2010 and October 2011.

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**OIG Recommendation 6:** Require management at the Monongahela National Forest to emphasize that employees charge their time correctly.

**FS Response:** The management at the Monongahela National Forest verbally informed employees that they should record timesheets carefully as appropriate with projects worked and followed-up with an email (**TAB K**) emphasizing employees charge their time correctly to jobcodes in accordance with projects worked.

**Estimated Completion Date:** FS requests closure of this recommendation. Email was sent to the employees on March 1, 2010.

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**OIG Recommendation 7:** Correct the over and underreporting of road accomplishments identified in the issue.

**FS Response:** FS does not agree with this recommendation. The FS recognizes accomplishments when the work is awarded and obligated to be performed through the contracted service. When funds are obligated and there is an agreement in place, FS considers that the end product will be completed as stated in the agreement. Therefore, FS reports the projected accomplishments in relation to the award/obligation for services to be rendered. The FS accomplishment reporting process is in compliance with internal FS policy.

**Estimated Completion Date:** FS requests closure of this recommendation. FS considers accomplishment reporting accurately reflecting performance of 2009 projects. Adjustments to the reports do not need to be made because they accurately report as required by FS policy.

Informational copies of this report have been distributed to:

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Office of the Chief Financial Officer (1)  
Director, Planning and Accountability Division





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