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Office of Inspector General



Oversight and Control of Forest Service American Recovery and Reinvestment Act Activities

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TO: Tom Tidwell
Chief
Forest Service

ATTN: Donna M. Carmical
Chief Financial Officer
Forest Service

FROM: Gil H. Harden /s/
Assistant Inspector General
for Audit

SUBJECT: Oversight and Control of Forest Service American Recovery and Reinvestment
Act Activities

This report presents the results of our audit of the oversight and control of Forest Service's American Recovery and Reinvestment Act activities. Your written response to the official draft report, dated August 22, 2011, is included in its entirety at the end of this report. Excerpts from your response and the Office of Inspector General's position are incorporated into the relevant sections of the report. Based on your response, we accept management decision on Recommendations 1, 2, 3, 4, 5, 7, 9 and 10. Please follow your agency's internal procedures in forwarding documentation for final action to the Office of the Chief Financial Officer.

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 Recommendations 6 and 8. 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

Executive Summary	1
Background & Objectives	5
Background.....	5
Objectives.....	8
Section 1: Project Selection and Acquisition Process Control Deficiencies	9
Finding 1: Recovery Funds Not Always Used in the Most Economically Distressed Areas.....	9
Recommendation 1.....	12
Recommendation 2.....	13
Finding 2: Contract Information Not Reported Accurately and Timely to the Public.....	13
Recommendation 3.....	15
Recommendation 4.....	16
Finding 3: Insufficient Review of Contractors’ Past Performance....	16
Recommendation 5.....	18
Section 2: Monitoring and Reporting Control Deficiencies.....	19
Finding 4: FS Needs to Establish Adequate Monitoring and Oversight Controls Over Grants Funded by the Recovery Act	19
Recommendation 6.....	21
Recommendation 7.....	21
Recommendation 8.....	22
Finding 5: FS Needs to Improve How It Identifies Work Projects Not Entered Into the Performance Measure Reporting System.....	22
Recommendation 9.....	24
Finding 6: Inadequate Disclosure of Accomplishment Reporting Policy.....	24
Recommendation 10.....	24
Scope and Methodology.....	26

Abbreviations	28
Exhibit A - Contracts Referred by the Board for Review	30
Agency Response	31

Oversight and Control of Forest Service American Recovery and Reinvestment Act Activities

Executive Summary

The American Recovery and Reinvestment Act (Recovery Act) was enacted by Congress on February 17, 2009, to stimulate the nation's economy and to create or save jobs across the country. The Recovery Act awarded the Forest Service (FS) \$1.15 billion in funds to implement projects that would directly accomplish its mission. This included (1) \$650 million for Capital Improvement and Maintenance (CIM) projects for priority road, bridge, and trail maintenance and decommissioning; (2) \$500 million for Wildland Fire Management (WFM) projects, of which \$250 million was for hazardous fuel reduction, forest health protection, rehabilitation, and hazard mitigation activities on Federal lands, and the remaining \$250 million was for State and private forestry activities, including hazardous fuels reduction, forest health, and ecosystem improvement activities on State and private lands; and (3) up to \$50 million of the total WFM funds was to be used to promote increased utilization of biomass from Federal, State, and private lands.¹ FS' stated goal for Recovery Act funding was to create thousands of private sector jobs in economically distressed areas that supported its mission of sustaining the health, diversity, and productivity of the nation's forests and grasslands.

Congress, in enacting the Recovery Act, emphasized the need for accountability and transparency in the expenditure of these funds. Therefore, we conducted this audit to determine whether FS implemented an adequate system of internal controls to ensure that the agency was accountable for the efficient and effective disbursement of Recovery Act funds. This audit assessed the existence and design efficiency of FS' internal controls related to: (1) the prioritization and selection of projects, (2) disbursement of funds, (3) acquisition and procurement of goods and services, (4) compliance with the Recovery Act, (5) management monitoring and oversight, and (6) the agency's accountability and Recovery Act performance reporting. We performed additional audits that tested the operating efficiency of internal controls for the specific FS programs that received Recovery Act funding. The results of those audits will be reported separately.

We found that FS had adequately implemented its existing controls over disbursement activities and had taken strides to ensure that the agency was accountable for the efficient and effective disbursement of Recovery Act funds. For example, FS created the Economic Recovery Team (ERT) charged with developing program functions, project selection methodology, and accountability procedures; and established four Economic Recovery Operating Centers (EROCs) to execute all Recovery Act contracts, grants, and agreements. However, FS needs to improve its review of information that is reported to the public to ensure the transparency and accuracy of its project selection, procurement activities, and performance accomplishments. In addition, FS needs to improve disclosure of its accomplishment reporting practices. Moreover, FS needs to improve how it evaluates the past performance of contractors and improve the monitoring and oversight of non-Federal partners.

¹ Biomass, a renewable energy source, is biological material from living, or recently living organisms, such as wood, waste, (hydrogen) gas, and alcohol fuels.

Audit Results

To ensure the successful implementation of the Recovery Act, FS established an ERT to centralize the management and oversight of the Recovery Act work. In addition, FS enhanced existing procedures and created new ones to manage activities funded by the Recovery Act.

We reported the three issues in Section 1 previously to agency officials through Fast Reports. We issued those reports in December 2009 and April 2010. Through those reports, we recommended changes to the agency's policies and procedures and reached agreement with agency officials on suitable corrective action. These issues are included in this report for completeness in compiling our audit results. In Section 2 of this report, we included three internal control deficiencies that have not been reported previously to FS. FS can strengthen controls as follows:

- FS needs to report to the public the amount of Recovery Act funds approved for work projects in areas without high distressed scores and explain the reasons for approving those projects. We found that FS funded 225 work projects (32 percent of all projects) in geographic areas that agency officials had classified as not significantly impacted by the recession in terms of unemployment. Agency officials stated that they did not always select projects in economically distressed areas because some projects in those areas were not ready to begin at that time and others would not provide a long term benefit, which was another important criterion of the Recovery Act. However, the officials did not provide documentation to support their statements, nor did they disclose to the public that projects were selected in areas not significantly impacted by the recession. As a result, \$280 million of Recovery Act funding was not used to create and preserve jobs in areas of high unemployment. This condition was reported in Fast Report 08703-01-Hy (2), dated April 12, 2010.
- FS needs to develop and implement a process to ensure that contract information is reported accurately and timely to the public. We found that contracts were not always accurately and timely posted on the Federal Business Opportunities (FBO) website. We attributed these conditions to inadequate internal controls over the entry of data into the system. The agency did not require supervisors to verify the accuracy of data input, did not require a second party review of data input, and did not require the reconciliation of data input to FBO to original documents or information in FS data systems. Further, the agency had no procedures to monitor the timeliness of data input into the system. Consequently, the agency had not provided to the public the level of transparency required regarding the work projects and companies that received Recovery Act funds. We issued five reports to FS that included examples of this condition (see exhibit A).²
- FS needs to require contracting officials to verify the contractors' past performance prior to awarding contracts. We found that FS awarded a contract funded by the Recovery Act to a company with a history of poor performance. This occurred because agency contracting officials were not using the National Institutes of Health Contract Procurement System (NIHCPS), as instructed by departmental regulation, to verify contractors' past performance prior to awarding a contract. Use of the NIHCPS was not a

² We issued five reports related to contracts that were referred to us by the Recovery Accountability and Transparency Board.

requirement of FS' pre-award checklist even though it was a departmental requirement. These officials informed us that they used the General Services Administration's (GSA) Excluded Parties List System (EPLS) to verify whether the contractors had been debarred or suspended. Thus, contracts funded by the Recovery Act were vulnerable to substandard work by contractors with past performance deficiencies. This condition was reported in Fast Report 08703-01-Hy (1), dated December 31, 2009.³

- FS needs to improve its oversight of grant recipients. FS oversight and monitoring controls were not adequately designed to prevent or detect the misuse of Recovery Act funds awarded to grant recipients. FS required its grant recipient reviewers to use existing policy and procedures, which did not include an independent confirmation that grant funds were used appropriately and in accordance with regulations. Further, we found that grant specialists were not verifying the completeness and accuracy of field and regional staff reviews. Consequently, FS grants funded by the Recovery Act were vulnerable to misuse by recipients.
- FS needs to revise the current process to ensure accomplishments are reported in accordance with its policy. We found FS had not established suitable controls to ensure that field and regional staff entered all work project accomplishments into the agency's performance measure reporting systems.⁴ For instance, National Office (Washington Office) officials did not reconcile information in the agency's data tracking and acquisition systems to information in the performance measure reporting systems. Thus, they did not identify missing work projects. This increased the risk that accomplishments related to work projects funded by the Recovery Act were understated in the agency's performance accomplishment and financial reports.
- FS needs to disclose to the public when it recognizes work as accomplished. We found FS had not disclosed in the agency's financial and performance accomplishment reports that it recognizes accomplishments (e.g., the construction of a road) when a contract is awarded, rather than after a work project (the road) is actually complete. The FS officials responsible for compiling performance measure data mistakenly thought the agency's policy had been disclosed in the financial and performance accomplishment reports. Consequently, the users of the financial and performance reports were misinformed about accomplishments funded by the Recovery Act and were unaware that work on some stated accomplishments had not actually begun.

Recommendations Summary

FS should establish a supervisory review and reconciliation process to ensure the accuracy, consistency, and timeliness of information posted into acquisition and procurement systems. FS should verify contractors' past performance, and develop and implement more detailed and specific internal controls for guiding program managers and grant specialists to ensure adequate monitoring

³ We identified this issue based on concerns related to an FS contract that were brought to our attention by the Recovery Accountability and Transparency Board.

⁴ The FS uses the following database systems to track performance measures: WorkPlan, Forest Activity Tracking System, Forest Health Database, and National Fire Plan Operations and Reporting System.

is provided while executing grants and agreements. Lastly, FS should ensure that project selection methodology and accomplishment reporting practices are transparent to the public.

Agency Response

In its response dated August 22, 2011, FS generally agreed with all of the Findings and Recommendations in the report. We have incorporated excerpts of the response, along with our position, in the applicable sections of this report. FS' response to the official draft report is included in its entirety at the end of this report.

OIG Position

Based on FS' response, we have accepted management decision on Recommendations 1, 2, 3, 4, 5, 7, 9, and 10 in this report. We can reach management decision on Recommendations 6 and 8 once FS has provided us with the additional information outlined in the report sections, OIG Position.

Background & Objectives

Background

The American Recovery and Reinvestment Act (Recovery Act) was enacted by Congress on February 17, 2009, to stimulate the nation's economy and to create or save jobs across the country. The Office of Inspector General's (OIG) role, as mandated by the Recovery Act, was to oversee agency activities and to ensure funds were expended in a manner that minimized the risk of improper use.

Congress provided FS with \$1.15 billion in Recovery Act funding. Specifically, \$650 million was provided for Capital Improvement and Maintenance (CIM) projects; \$250 million was provided for Wildland Fire Management (WFM) projects for Federal lands; another \$250 million was provided for WFM projects for non-Federal lands; and up to \$50 million of the total WFM funds were made available for biomass projects. FS' stated goal for Recovery Act funding was to create thousands of private sector jobs in economically distressed areas that supported its mission of sustaining the health, diversity, and productivity of the nation's forests and grasslands.

The Office of Management and Budget (OMB) issued guidance on February 18, 2009, that required Federal agencies to establish rigorous internal controls, oversight mechanisms, and other approaches, in order to meet the accountability and transparency objectives of the Recovery Act.⁵ In response, FS formed the Economic Recovery Team (ERT) and charged it with the responsibility for coordinating the processes designed to ensure agency compliance with the accountability and transparency requirements of the Recovery Act, as well as OMB guidelines. The ERT led the development of the agency's Program Direction, which was a document created to help units manage Recovery Act funds received. In addition, the agency decided to rely on its current financial systems and procedures to process Recovery Act-funded transactions.

In accordance with standards issued by the Government Accountability Office (GAO), FS was to establish a system of internal controls that would help the agency achieve: effectiveness and efficiency of operations; reliability of financial reporting; and compliance with laws and regulations.⁶ This audit assessed the existence and design efficiency of FS' internal controls related to: (1) the prioritization and selection of projects, (2) disbursement of funds, (3) acquisition and procurement of goods and services, (4) compliance with the Recovery Act, (5) management monitoring and oversight, and (6) the agency's accountability and Recovery Act performance reporting. We performed additional audits that tested the operating efficiency of internal controls for the specific FS programs that received Recovery Act funding. The results of those audits will be reported separately.

⁵ OMB issued "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009" on April 3, 2009.

⁶ GAO "Standards for Internal Control in the Federal Government" (GAO/AIMD-00-21.3.1), dated November 1999.

FS executed projects in three major areas to accomplish the Recovery Act goal of creating and saving jobs: CIM, WFM, and biomass. The CIM projects had an array of functions, which included road, facility, and trail or bridge improvements. In the WFM area, hazardous fuel removal projects focused on both creating treatments and expanding those already in use to mitigate the risk of damage or loss to private and public property due to wildfires. Biomass projects consisted of treatments that included a variety of labor-intensive tasks, such as hazardous fuels reduction, pre-commercial thinning, pruning, piling underbrush, burning piles of underbrush, and roadside fuels reduction. In order to execute these projects, FS awarded contracts, grants, and agreements to individuals, small businesses, State and local governments, tribes, and non-profit organizations.

FS local units and non-Federal partners proposed more than 2,700 projects, totaling almost \$4 billion for potential funding, based on the criteria described by the Chief's letter, dated February 12, 2009.⁷ FS' Executive Leadership Team (ELT) selected and approved 695 of these projects to be funded with Recovery Act funds.⁸ The projects were reviewed by four different groups before final selection and approval was completed.

- The ERT conducted a Primary Requirement Review to ensure that the proposed projects would benefit an economically distressed county and that work could be started within 120 days.
- A Point of Contact (POC) for each major program area (National Forest System (NFS), State and Private Forestry (S&PF), and Research and Development (R&D)) conducted a Technical Review in which they reviewed the projects for technical merit. Projects that met the primary requirements were further evaluated against criteria consistent with the Recovery Act. Then, approved projects were recommended to Staff Directors.
- Staff Directors conducted the Director Level Review to review those projects that were recommended by technical teams. This review considered FS' mission, goals of the Recovery Act, and the application of criteria used to guide project selection.
- The ERT conducted the Recovery Team Review to review the Director's recommendations for consistency with the Recovery Act priorities and overall balance. The ERT then provided recommendations to the ELT. The ELT conducted the ELT Final Selection, in which they made the final decisions on project portfolio.

⁷ The Chief's letter states Regions/Stations/Areas (RIS/A) must ensure that projects submitted for Recovery Act funding meet as many of these criteria as possible: (1) create or retain jobs in economically distressed areas; (2) create or retain sustainable jobs; (3) create or retain jobs that help sustain the health, diversity and productivity of the Nation's forests and grasslands; (4) leverage other resources to create more jobs; (5) create jobs that invest in or leverage the investments of partners, in wood-to-energy or biomass projects, or other Administration initiatives intended to help transform urban and rural economies; and (6) create jobs that contribute to sustainable operations, including reducing the environmental impact of infrastructure and/or greener operations of administrative and recreation sites, roads, trails, fire and other facilities.

⁸ The ELT consists of the Chief, the Deputy Chiefs, the Chief Financial Officer, and representatives from International Programs, External Affairs, and Civil Rights.

Agency officials routinely combined small work projects from an entire State and, in some cases, several States, into larger proposals. The "bundled" projects generally had similar descriptions and were for less than \$100,000 each from the following categories: roads, trails, abandoned mines, facilities, ecosystems and watersheds, hazardous fuels, forest health, ecosystem management, fuel and ecosystem restoration, and wood to energy.

FS approved and funded projects in three phases. The first phase, involving 10 percent of Recovery Act funds (approximately \$100 million), was approved on March 5, 2009. These funds were used for projects in both construction and maintenance of facilities, roads, trails, and abandoned mine mitigation and WFM that were ready for implementation within 30 days of the Recovery Act being enacted.

The second phase, which included 80 percent of the agency's allocated Recovery Act funds (approximately \$920 million), included projects that were selected and approved by FS management on March 23, 2009. These projects were reported to the public after the Secretary of Agriculture concurred with the agency's project selection, which was done in installments, beginning in May 2009 through September 2009. The funds were used to execute projects in all three major program areas and were located in 26 States and U.S. territories on Federal, State, private, and tribal lands.

The third phase of project approval occurred in January 2010 and consisted of the ERT completing two tasks: (1) reviewing previously funded projects to determine if additional funding was needed, and (2) distributing the remaining Recovery Act funds to new projects. This resulted in 18 new projects being approved and 8 projects being discontinued, as they could not be initiated before funds expired on September 30, 2010.

Although selection and funding of Recovery Act projects was performed by the agency's ERT reporting to the Washington Office, the agency followed its regular disbursement process to administer Recovery Act funds. Recovery Act financial transactions were processed through the Foundation Financial Information System (FFIS), which is the financial system used to process non-Recovery Act financial transactions. The Albuquerque Service Center (ASC) is responsible for entering and monitoring FFIS data for both Recovery Act and non-Recovery Act financial activities.

To expedite the acquisition of goods and services using Recovery Act funds and manage the additional workload, FS created four Economic Recovery Operating Centers (EROCs) to handle all Recovery Act contracts, grants, and agreements. The EROCs were required to perform contractual duties in accordance with Federal Acquisition Regulations (FAR). Program managers and contracting officer's representatives (COR) were responsible for monitoring and providing oversight for all Recovery Act grants and contracts, respectively. The EROCs were staffed with a mix of Government and contract personnel, including term reemployed annuitants,⁹ which provided FS with the flexibility to expand or decrease personnel, based on the volume of acquisition activities being processed at individual EROCs. The EROCs were located

⁹ Reemployed annuitants are retired Government professionals who are reemployed as Government employees on a short-term basis.

in four areas: Intermountain, located in Denver, Colorado; Southwest, located in Vallejo, California; Northwest, located in Sandy, Oregon; and East, located in Atlanta, Georgia.

The agency reported accomplishments for 12 performance measures. FS established 4 of the 12 performance measures specifically to track Recovery Act-funded activities. The other eight measures were already used by FS for non-Recovery Act activities. FS used the Performance Accountability System (PAS) to track and report accomplishments to the public. These measures included:

- Miles of system roads receiving maintenance;
- Miles of roads decommissioned;
- Miles of system trails maintained or improved to standard;
- Abandoned mine land sites mitigated;
- Acres of water or soil resources protected, maintained, or improved to achieve desired watershed conditions;
- Expected annual energy savings as a result of Recovery Act facility investments, as estimated by the awarded contractor, or as estimated using a reputable energy savings calculator;
- Expected annual operation and maintenance cost increase or decrease, as a result of Recovery Act facility investments;
- Acres of forest vegetation established or improved;
- Number of priority acres treated annually for invasive species or native pests;
- Number of hazardous fuels reduction or mitigation projects conducted on non-Federal lands through Recovery Act funding;
- Number of acres treated to reduce the risk of catastrophic wildland fire; and
- Green tons of biomass removed through Recovery Act grant funding to produce energy.

Objectives

The overall audit objective was to determine if FS implemented an adequate system of internal controls to ensure the efficient and effective disbursement of Recovery Act funds. Specifically, we evaluated the existence and design efficiency of controls related to: (1) the prioritization and selection of projects, (2) disbursement of funds, (3) acquisition and procurement of goods and services, (4) compliance with the Recovery Act, (5) management monitoring and oversight, and (6) the agency's accountability and Recovery Act performance reporting.

Section 1: Project Selection and Acquisition Process Control Deficiencies

This section includes issues we reported to agency officials through Fast Reports issued in December 2009 and April 2010. The issues included deficiencies related to the effectiveness of the controls FS established to select projects to be completed with Recovery Act funds and to handle its acquisition process. In the Fast Reports, we recommended changes to the agency's policies and procedures and reached agreement with agency officials on suitable corrective actions.

Finding 1: Recovery Funds Not Always Used in the Most Economically Distressed Areas

FS funded 225 of 705¹⁰ work projects (32 percent) in geographic areas that agency officials had classified as not significantly impacted by the recession in terms of unemployment.¹¹ Agency officials stated that they did not always select projects in economically distressed areas because some projects in those areas were not ready to begin at that time and others would not provide a resource benefit, which was another important criterion of the Recovery Act. However, the officials did not provide documentation to support their statements, nor did they disclose to the public that projects were selected in areas not significantly impacted by the recession. As a result, \$280 million of Recovery Act funding was not used to create and preserve jobs in areas of high unemployment.

Congress enacted the Recovery Act as a direct response to the recent economic crisis. Through enactment of this legislation, Congress directed FS to use \$1.15 billion to preserve and create jobs in areas most impacted by the recession.¹² The funds generally were to be used to promote economic recovery in areas of high unemployment. OMB Guidance states that agencies were to develop transparent, merit-based selection criteria that will guide their available discretion in committing, obligating, or expending funds under the Recovery Act for grants and other forms of Federal financial assistance.¹³ FS, in meeting this mandate, established a scoring system to identify the most suitable areas to fund work projects.

The agency's scoring system was based on four measures of unemployment obtained from the Department of Labor's Bureau of Labor Statistics. Those measures included the: (1) net change in the unemployment rate during the 2007 and 2008 time period, (2) change in unemployment figures from 2007 to 2008, (3) overall 2008 unemployment rate, and (4) change in

¹⁰ The 705 work projects consisted of 695 projects the ELT selected during the first and second phase of project releases from projects proposed by FS local units and non-Federal partners based on the Chief's letter, dated February 12, 2009, and 10 projects ultimately selected in the third phase in January 2010 (18 projects were initially selected, but 8 of these projects were subsequently cancelled and funds were re-assigned to new projects because they could not be initiated before funds expired on September 30, 2010).

¹¹ The 225 work projects consist of 113 projects funded in areas with low distressed scores and 112 projects funded in areas with medium distressed scores.

¹² The American Recovery and Reinvestment Act of 2009, H.R.1-2 Section 3(a) (2).

¹³ OMB Initial Implementing Guidance dated April 3, 2009.

unemployment from 2000 to 2008.¹⁴ The agency assigned a score of 10 (highest distress) to 0 (lowest distress) for each county in the nation.¹⁵ We evaluated the scoring system and concluded that it had properly identified and classified economically distressed areas.

We also reviewed the instructions in the letter the FS Chief issued on February 12, 2009, to determine what instructions were provided to the units on how to propose projects. We found this letter asked all regions¹⁶ to submit project proposals to respond to the request for a spending plan within 30 days of the Recovery Act being enacted, and it emphasized that the main purpose of the Recovery Act was to create jobs and promote economic recovery.¹⁷ The letter stated that units should ensure that projects met as many of the following criteria as possible when deciding which projects to submit for funding considerations:

- Create or retain jobs in economically distressed areas based on the composite distress score.
- Create or retain sustainable jobs.
- Create or retain jobs that help sustain the health, diversity, and productivity of the Nation's forests and grasslands.
- Leverage other resources to create more jobs.
- Create jobs that invest in or leverage the investments of partners, biomass projects, or other Administration initiatives, intended to help transform urban and rural economies.
- Create jobs that contribute to sustainable operations, including reducing the environmental impact of infrastructure, such as greenhouse gases, and/or greener operations of administrative and recreation sites, roads, trails, fire, and other facilities.

Our review of FS documentation disclosed that the regions collected project proposals from their units and non-Federal partners, evaluated whether the proposals met the Chief's criteria, and submitted the list of projects to be considered for funding to the Washington Office within 8 days of receiving the Chief's letter.¹⁸ The Washington Office received over 2,700 projects for consideration, some of which included smaller projects that were combined into larger projects. The Washington Office applied an economic composite score for each project proposed.

The proposed projects went through four levels of review before they were reviewed and approved by the agency's ELT. Each level of review evaluated the project proposal to ensure it met the Chief's criteria and the intent of the Recovery Act. On March 23, 2009, FS submitted 695 proposed projects to the Secretary of Agriculture for concurrence.

¹⁴ Each time period began and ended in November for the years provided.

¹⁵ The system assigned a rank to each area as follows: a score of 8 to 10 was high to very high distress; a score of 7 was medium/high distress; a score of 5 to 6 was medium distress; and a score of 0 to 4 was low distress.

¹⁶ For report purposes, "regions" will be used to describe regions, research stations, and area offices.

¹⁷ The House and Senate Committees on Appropriations required FS to submit this spending plan.

¹⁸ Units are the FS' local forest units, which are responsible for executing the approved projects. The forest units report to a respective regional office.

We found from discussions with staff at the local, regional, and Washington Office levels, that, when considering which projects to propose, criteria other than the scoring system were introduced in the decision process by agency officials. The other criteria applied included the capacity of the unit to complete the work on time, the project readiness, and the resource management benefits that would be derived from completing the project. For example, some units considered whether they had sufficient staff to oversee the project implementation, others did not.

Although FS planned to select and approve projects that were located in counties with a distress score of five or higher, our analysis of the projects show these other criteria influenced the selection process. As a result, \$105 million of Recovery Act funds were diverted to 113 projects in counties the agency had defined as low distressed.¹⁹ Thus, jobs were not being preserved in the areas most impacted by the recession. In addition, we found that FS expended another \$175 million for 112 projects in counties that received a medium distress score. While the scoring system determined that the counties had some economic distress and unemployment, we question whether the expenditures met the Recovery Act's goal of creating and preserving jobs in areas "most impacted" by the recession. In our view, FS should have strived to spend all Recovery Act funds in counties that received a composite score of seven and above, as, according to their scoring system, these were the counties most impacted by the economic recession.

FS officials stated that they were aware that funds would be disbursed in low economic distressed areas because they were trying to meet the resource management mandates in the law and ensure proper implementation of projects in the field. For example, they did not want to approve projects only in very high or high distressed counties because the units responsible for implementing or monitoring would not have enough personnel to handle the extra workload. They also approved projects in some medium to low distressed locations because they met the resource benefits required by the Recovery Act, such as watershed restoration and ecosystem enhancement. We determined that the criteria were reasonable, if applied consistently.²⁰ However, when we asked for documentation to evaluate how FS applied these other criteria, we found the agency had not documented these changes, nor had it established some type of scoring system to ensure these new criteria were applied consistently among the 2,700 projects evaluated.

Agency officials also routinely bundled small projects from an entire State, and, in some cases several States, into larger proposals. These combined projects included work proposals with both high and low distress scores. The projects generally had similar descriptions, were for less than \$100,000 each, and were from the following categories: roads, trails, abandoned mines, facilities, ecosystems and watersheds, hazardous fuels, forest health, ecosystem management, fuel and ecosystem restoration, and biomass. According to agency officials, they performed this action to improve the chance that projects would be selected and approved for completion. We

¹⁹ FS had a sufficient number of potential but unselected work projects in high distressed areas to use the funds that were otherwise allocated to the 113 projects located in low distressed areas. However, FS did not maintain sufficient information regarding each project in high distressed areas to verify that all were practical and feasible to complete, compared to projects in low distressed areas.

²⁰ The other criteria consist of those other factors listed in the Chief's letter that influenced project selection other than creating and preserving jobs in economically distressed areas based on their composite score.

conclude that assigning an economic score to these projects proved difficult for the agency, as the projects were located in counties with different composite scores. Therefore, the agency had to average the counties' scores.

While FS took immediate action and released funds to help stimulate the economy within 30 days of enactment of the Recovery Act, as requested, the agency needed to focus its selection process in meeting the main intent of the Recovery Act to create and retain jobs in areas most impacted by the recession. When other criteria started influencing the decision process, FS should have disclosed to the public that the other criteria used would result in the selection of projects in areas not significantly impacted by the recession. In addition, FS should have provided supporting documentation to justify why projects in highly distressed areas could not be selected due to other criteria applied. We recommended FS disclose to the public the amount of Recovery Act funds approved for work projects in areas without high distressed scores and explain the reasons for approving those projects.

In Fast Report 08703-01-Hy (2), *Work Projects Funded in Counties with Low Distress Scores*, dated April 12, 2010, we recommended that FS determine whether projects approved in low scoring counties have been started, and, for those projects not started, divert unobligated funds to counties with economic scores of seven or higher. In a response, dated May 4, 2010, FS officials did not concur with our recommendation, stating that it was not applicable. In their response, FS officials stated they were meeting the resource management requirements of the law. Thus, because all projects have started, funds were already committed and could not be redistributed. In a subsequent discussion with FS officials on June 2, 2010, they explained that diverting funds to new projects would require those projects to be submitted to the Chief and Secretary of Agriculture; and that this was a lengthy process. Thus, the time available would not be sufficient for approval and acquisition processing to occur before the appropriation expired on September 30, 2010, which would cause the agency to lose the funds.²¹

Recommendation 1

Determine if work has begun on projects with low distress scores. For projects not started, divert unobligated funds to projects with higher distress scores (seven or higher).

Agency Response

In response to our Fast Report, dated May 4, 2010, FS officials did not concur with our recommendation, stating it that it was not applicable. In the response, FS officials stated they were meeting the resource management requirements of the law. Further, officials added that because all projects have started, funds were already committed and could not be redistributed.

²¹ There were only four months left in the fiscal year, and three of those months would be needed to process the contracts. FS did not believe one month would suffice to obtain all the approvals needed for the selection of projects.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Report to the public the amount of Recovery Act funds approved for work projects in areas without high distressed scores and explain the reasons for approving those projects.

Agency Response

In their May 4, 2010, response to our Fast Report, FS officials concurred with this recommendation and stated corrective action had been implemented. The agency updated the website to contain the information concerning the results of the selection process.

OIG Position

We accept management decision for this recommendation.

Finding 2: Contract Information Not Reported Accurately and Timely to the Public

Required information related to Recovery Act-funded contracts was not always accurately and timely posted on the Federal Business Opportunities (FBO) website.²² We attributed these conditions to inadequate internal controls over the input of data in the FBO system. FS did not require supervisors or a second party to verify the accuracy of data input and did not require the reconciliation of data input in FBO to its original documents or information in FS data systems. Further, the agency did not have procedures to monitor the timeliness of data input into the system. Consequently, the agency had not provided to the public the level of transparency required regarding the work projects and companies that received Recovery Act funds.

We conducted a review of 14 Recovery Act-funded contracts and found discrepancies in the contract award notifications reported to the public on the FBO website in 8 instances. Specifically, we found that (1) the contractor's name was incorrect or incomplete, (2) the contractor's address was incorrect or missing, (3) the contract award date was incorrect, (4) the contract award amount was incorrect, and (5) the location where work was completed was not included in the synopsis section of the website. The Recovery Act required Federal agencies to provide detailed information on the use of funds provided for contracts and grants and the companies that received those funds.²³ OMB guidance states that information posted on the FBO website be reported so that it is clear and unambiguous, to support public transparency and understanding of the procurement.²⁴

²² FBO is a public website where contracting staff is required to report on contract supplies and services.

²³ The American Recovery and Reinvestment Act of 2009, H.R.1-179, Section 1526(c) (7).

²⁴ OMB Initial Implementing Guidance, Section 6.2 of "Contracts."

When we compared the date the contracts were awarded to the date that the award notification was posted on the FBO website, we found that the contracting staff did not post two contracts on the website within 30 days of the award. For example, a contract that had been awarded on March 16, 2009, was not entered in the FBO website by contract staff until June 25, 2009, more than three months later. According to the Federal Funding Accountability and Transparency Act of 2006 (the Transparency Act), for every Federal contract the agency must include on a public website: the name of the entity receiving the contract; the amount of the contract; and information on the contract, including transaction type, funding agency, the North American Industry Classification System (NAICS) code, the location of the entity receiving the contract, and the primary location of performance under the contract. It also states that the public website should be updated no later than 30 days after the award of any Federal contract.²⁵

After speaking with contracting officials, we concluded that the primary reason for the errors and inaccuracies not being detected was that FS officials did not require supervisors to verify the accuracy of data input; did not require a second party review of data input; and did not require the reconciliation of FBO data to original documents or information in FS data systems, such as the Integrated Acquisition System (IAS) and the Federal Procurement Data System (FPDS).²⁶

Further, the agency had no procedures to monitor the timeliness of data input into the systems. Specifically, on September 1, 2009, we discussed with Washington Office Acquisition Management (AQM) the central weaknesses that caused the discrepancies noted by the Recovery Accountability and Transparency Board (the Board), such as inconsistent and incomplete information being posted on the FBO website.²⁷ Through this discussion, we found that EROC supervisors were not reviewing entries made by their staff, nor was the Washington Office spot-checking entries on the FBO website because they had not realized the importance of performing a reconciliation or second party review to ensure the accuracy of the information posted on the FBO website. FS did not recognize the importance of this, since this information does not affect the validity of the contract.

Our initial review of contracts included 8 of 42 contracts judgmentally selected from the first 10 percent of Recovery Act funds used, totaling over \$3.5 million.²⁸ We added to our review six contracts the Board referred to us during their regular monitoring of Recovery Act activities. We found that the contracting staff executed, awarded, and closed out contract activity through IAS, transmitted contract information into FPDS, and manually posted contract award notifications into FBO, as required. However, we found discrepancies for eight of the contracts reviewed.

²⁵ NAICS was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the United States.

²⁶ All Recovery Act contract delivery orders and purchase orders shall be executed, awarded, and closed out in IAS. Data entered into IAS feeds other systems, such as FBO and FPDS, that will be used as official sources for reporting Recovery Act-funded actions and expenditures. Information will be reported to USASpending.gov through FPDS, keying primarily off of the unique, Recovery Act-only Treasury Accounting Symbol (TAS) entered into the description field in IAS.

²⁷ The Recovery Act established the Board to coordinate and conduct oversight of Recovery Act funds to prevent waste, fraud and abuse.

²⁸ The Board referred nine contracts to OIG for review, which included three we had already selected during our judgmental sample. In addition, the Board referred another four contracts for review that were evaluated by OIG investigators. Exhibit A provides a list of all the contracts the Board referred.

The contracting staff manually posted information into FBO without adequate supervisory review over the input of data, which led to the Board's concerns that Recovery Act funds were being misspent, which included: (1) the possible duplication of a Recovery Act contract by a prior contract awarded by FS, (2) a contract that was de-obligated and re-issued for the same amount, (3) a contract posted on the FBO website with a NAICS code that was different than the code in the Central Contractor Registration (CCR) system, (4) the lack of FS officials' consideration of a contractor's past performance when vetting a contract, (5) contract information that was not timely entered on the FBO website, and (6) inconsistent and incomplete contract information posted on the FBO website.²⁹

The discrepancies found in our review of contracts have reduced the assurance that information posted on the FBO website is accurate and transparent to the public, OMB, and Congress. Thus, FS must establish a process to ensure that contracting staff report accurate, consistent, and timely information on the FBO website. The accuracy of information posted on the FBO website is important, as this system is used as a means to communicate Recovery Act project and contractor information to the public.

In Fast Report 08703-01-Hy (1), *Recovery Accountability and Transparency Board Contract Referrals*, dated December 31, 2009, we formally notified agency officials about the inaccuracies related to the reporting of 8 of the 13 contracts referred by the Board.³⁰ In addition, OIG Investigations notified the agency of the results of their review through four reports (see exhibit A).

FS officials agreed with our conclusions presented in the December 31, 2009, Fast Report and, as part of their corrective action, proposed that contract staff be required to conduct a second-level review of publicizing actions to ensure compliance with regulations, conduct spot-checks of the FBO website to verify the accuracy of information, and ensure compliance with the timeliness of FBO reporting.

Recommendation 3

Require contracting officials to reconcile information posted on the FBO website to contract information in IAS and FPDS for all contracts awarded since March 2009, and require supervisory contracting officials to review the accuracy of contract information posted on the FBO website. Establish procedures for contracting officials to conduct reconciliations and reviews.

Agency Response

In its January 19, 2010, response to our Fast Report, FS concurred with our recommendation and, as a corrective action, proposed adding to the Internal Process Plan (IPP) a requirement that

²⁹ CCR is the primary registrant database for the Federal Government. Prospective vendors must be registered in CCR prior to the award of a contract, basic agreement, basic ordering agreement, or blanket purchase agreement.

³⁰ The eight contracts referred by the Board that we identified as having inaccuracies included three of the contracts that were included in our initial review. One contract referred by the Board did not have inaccuracies.

a second level review of compliance with regulations for publicizing actions be conducted and spot checks be performed of the FBO website to verify the accuracy of the posted information.³¹

FS stated that they have completed corrective action by updating IPP (February 23, 2011) to include enhanced detailed review guidance for peer reviews and second level reviews for publicizing actions. In addition, FS stated that they have enhanced Chapter 5 of the FS ARRA Program Guidance (October 2010) to emphasize the Contracting Officer shall ensure the information from IAS transfers to FPDS on any action (including modifications) funded by ARRA.

OIG Position

We accept management decision for this recommendation.

Recommendation 4

Establish procedures to ensure that contracting officials are posting contract award notification on FBO within 30 days after the contract has been awarded

Agency Response

In its January 19, 2010, response to our Fast Report, FS concurred with our recommendation and, as a corrective action, will provide direction to all contracting officers to ensure compliance with the timeliness of FBO reporting. FS stated that they have updated Chapter 5 of the FS ARRA Program Guidance on pages 5 through 10 (January 2010) by providing explicit direction to all contracting officials of FBO reporting requirements. Updates made to the EROC AQM IPP (January 23, 2011) also includes direction for compliance with FBO reporting requirements.

OIG Position

We accept management decision for this recommendation.

Finding 3: Insufficient Review of Contractors' Past Performance

FS awarded a contract funded by the Recovery Act to a company with a history of poor performance. This occurred because agency contracting officials did not verify contractors' past performance in the National Institutes of Health Contract Procurement System (NIHCPS) prior to awarding contracts, as required by Departmental Regulations. Thus, contracts funded by the Recovery Act may be vulnerable to substandard work by contractors with past performance deficiencies.

The FAR requires the use of contractors who have a history of successful performance or have recently demonstrated a superior ability to perform work in a specific area.³² In addition,

³¹ The IPP is a document that shows how the EROCs will implement acquisition activities and how the WO AQM Director will evaluate the EROCs compliance.

³² FAR, dated March 2005, Section 1.102-2.

Departmental Regulation, Agriculture Acquisition Regulation Advisory Number 88 requires agency contracting officials to use the NIHCPS to evaluate the past performance of contractors.³³

In performing Recovery Act oversight, the Board identified a FS contract where the agency did not appear to have considered the contractor's past performance when awarding the contract. Our review of the contract documentation disclosed that the contract was awarded to a contractor who had been previously charged with negligence for a surveying error. This contract was awarded on June 25, 2009, in the amount of \$65,035, for boundary line surveys on the Frances Marion National Forest, located in Columbia, South Carolina. The Board questioned whether FS considered a prior performance problem by this contractor when awarding this contract.

We questioned the contracting officer responsible for this contract about the actions taken to determine the past performance of the contractor. The contracting officer stated that a review of the contractor's past performance was limited to checking the General Services Administration's Excluded Parties List System (EPLS).³⁴ Our examination of EPLS disclosed that its function is to list contractors who have been debarred, suspended, or otherwise made ineligible, from doing business with the Federal government. It does not provide the names of contractors with past performance deficiencies that are still able to enter into a contractual relationship with the Federal government, which is the information contained in the NIHCPS. Thus, we concluded that the contracting officer's actions were insufficient to determine that the contractor had a history of unsuccessful performance.

Further discussions with FS Washington Office staff disclosed that this occurred because FS officials did not require the use of the NIHCPS to review contractors' past performance in their pre-award checklist, even though the use of this system is a USDA requirement. Moreover, Washington officials stated they did not monitor contracting staff's use of the NIHCPS when awarding contracts. Therefore, they were unaware contracting staff were not following the departmental requirement.

FS officials agreed that it was important for the contracting staff to complete such reviews, but stressed that, according to the FAR, it was not required for all types of contracts. Also, they stated that finding poor performance would not preclude the agency from awarding the contract to the questioned contractor, as they can perform additional procedures to verify whether the issues have been corrected. We agree that a questioned contractor could improve its performance and deserve the contract award. However, if the agency does not review the past performance as part of the contracting evaluation process, as required by the Department, they can neither confirm nor verify whether the contractor addressed prior contracting issues.

³³ Departmental Regulation, Agriculture Acquisition Regulation Advisory Number 88, dated December 16, 2008, requires the use of NIHCPS. The NIHCPS is the single USDA-wide system used to collect, maintain, and disseminate contractor performance evaluations. According to the NIHCPS website, past performance data includes information on the quality of products and services, cost control, timeliness of performance, business relations, subcontracts/socioeconomic goals, key personnel, and customer satisfaction.

³⁴ The EPLS includes information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible for receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits.

In Fast Report 08703-01-Hy (1), *Recovery Accountability and Transparency Board Contract Referrals*, dated December 31, 2009, we notified agency officials of this issue. FS officials concurred with our recommendation and stated that they will remind all contracting officers that they are required by the Department to use NIHCPS when required by the FAR.

Recommendation 5

Require contracting officials to verify the contractor's past performance prior to awarding contracts.

Agency Response

In their January 19, 2010, response to our Fast Report, FS officials concurred with our recommendation and stated that they would remind all contracting officers that they are required by the Department to use NIHCPS when required by the FAR. FS officials added that the FAR does not generally require use of NIHCPS for the lowest price, technically acceptable selection process: Parts 8, 13, 14, and 16. FS officials also stated that not all contractors will have a past performance history and stressed that the FAR allows contracting officers latitude in evaluating past performance, as long as the evaluation is documented.

On September 17, 2010, NIHCPS was replaced by the Contractor Performance Assessment Reporting System (CPARS). CPARS is now the single USDA-wide system used to collect, maintain, and disseminate contract performance evaluations to the Past Performance Information Retrieval System. On October 8, 2010, FS issued a letter with the announcement of the new system for past performance evaluation and specific guidance on the use of the system.

OIG Position

We accept management decision for this recommendation.

Section 2: Monitoring and Reporting Control Deficiencies

This section of the report includes internal control deficiencies that have not been reported previously to the FS. Findings 4 and 5 relate to implementation and effectiveness of the controls designed to monitor grant activities and to report performance accomplishments. Finding 6 relates to the FS' disclosure policy, regarding the recognition of performance accomplishments.

Finding 4: FS Needs to Establish Adequate Monitoring and Oversight Controls Over Grants Funded by the Recovery Act

FS had not adequately designed management controls to monitor the activities of grant recipients. The Washington Office instructed its field staff to use existing policy and procedures, which did not include an independent confirmation that grant funds were used appropriately and in accordance with regulations. We also determined that FS had not implemented oversight controls, requiring the grant specialists to certify their verification of the completeness and accuracy of field and regional staff reviews. Consequently, FS grants funded by the Recovery Act were vulnerable to misuse by recipients.

Congress provided \$1.15 billion to FS through the Recovery Act to use for work projects that further its mission of sustaining the nation's forest and grasslands. FS disbursed over \$200 million of those funds through grants to State and local government entities, as well as universities, to perform work on non-Forest Service land. The primary emphasis of the grants was to reduce hazardous fuels, such as brush, within those forest lands. OMB required Federal agencies to initiate oversight measures over and above normal procedures, if necessary, to prevent the misuse of Recovery Act funds.³⁵

The Government Accountability Office (GAO) states that internal controls should be designed to assure that monitoring occurs continually in the course of normal operations. This includes regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties.³⁶ In June 2009, FS instructed its field and regional staff to use existing agency policy and procedures to monitor the activities of grant recipients who received funds through the Recovery Act. The agency's grant recipient monitoring policy included optional procedures, such as site visits to work projects; the examination of documents related to the use of funds; and interviews of recipients, which could be performed telephonically. The procedures were the agency's primary internal controls to verify that (1) the project was completed in accordance with agency requirements and provisions in the grants, and (2) the recipients used the funds only for authorized purposes. FS also initiated requirements to suspend recipients that failed to comply with conditions of a grant funded by the Recovery Act.³⁷

³⁵ OMB "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," dated April 3, 2009, Section 5.4 "Grants and Cooperative Agreements."

³⁶ GAO "Standards for Internal Control in the Federal Government" (GAO/AIMD-00-21.3.1), dated November 1999.

³⁷ FS Directive, "My Administrative Process," dated August 2, 2009.

We had several concerns with the agency's design of its grant recipient monitoring policy and procedures. Our concern with the design of the control is that field and regional staff had the option to select any oversight procedure to perform. There was no requirement to perform a specific procedure, or series of procedures, to ensure that recipients were in compliance with agency regulations and grant provisions. Moreover, there was no requirement to justify or approve the monitoring procedure selected. For example, field and regional staff had the option of performing only a desk review of financial and progress reports and telephonic interviews with recipients to discuss activities related to their grants. Our discussions with field and regional staff disclosed that this was the most prevalent method used to verify compliance. We question the agency's ability to identify incorrect or improper recipient activities using only this procedure. In our opinion, agency officials would need to obtain independent evidence to support statements in financial and progress reports, and they would need to visit the site to verify that work was completed correctly.

We discussed this issue with Washington Office officials, who stated that it was too costly for field and regional staff to visit every work site to ensure compliance with grant provisions. We do not dispute the cost associated with visits to all work sites. However, there are alternative measures the agency could implement that would provide adequate oversight of recipient activities. For instance, the agency could require recipients to provide additional documentation, including photographs, to support the completion of work. Plus, the agency could visit a few randomly selected work sites, either monthly or quarterly. This would be more cost effective and act as a deterrent to potential abuse of grant funds.

Our concerns regarding the agency's procedures focused on the adequacy of performing desk reviews of financial and progress reports submitted by grant recipients and then interviewing them telephonically to discuss the progress of work and the use of funds. These procedures would not detect errors or misrepresentations made by recipients, especially if the grant recipient's statements in the financial and progress reports were too broad. Agency field and regional staff need to review evidence and documents (such as invoices, cancelled checks, receipts, etc.) that support expenditures reported by grant recipients.

During this audit, we performed limited tests designed to uncover errors or misrepresentations that were the result of the inadequate procedures. However, OIG is currently performing several other audits with a primary objective of evaluating the operational effectiveness of the agency's internal controls. Those ongoing audits have reported that grant recipients used Recovery Act funds approved specifically to reduce hazardous fuels on non-FS land for other types of work projects. One recipient used grant funds approved for the reduction of hazardous fuels on non-FS land to renovate and paint a school. The same recipient also used grant funds to purchase mobile phones and promotional shirts, but was unable to justify that the purchases were related to the hazardous fuel reduction work project.³⁸

³⁸ Fast Report 08703-1-SF (2), dated April 2, 2010; Fast Report 08703-4-SF (1), dated July 7, 2010; Fast Report 08703-1-SF (1), dated July 23, 2010; Fast Report 08703-5-SF (2), dated September 1, 2010; Fast Report 08703-1-SF (3), dated September 14, 2010; and Fast Report 08703-5-SF (3), dated March 18, 2011.

We also discovered that FS does not have a control in place to confirm the adequacy of the monitoring of grant recipients conducted by its field and regional staff. One regional program manager stated that he had curtailed the monitoring procedures, due to inadequate resources. This decision was not verified or questioned. According to Washington Office officials, EROC grant specialists confirm during the grant payment process that regional program managers have marked in the system that reviews were performed. However, we found the FS manual does not require the EROC grant specialists to question and document the validity or accuracy of the program manager review.³⁹ We discussed the issues in this finding on several occasions with Washington Office officials. They agreed that agency oversight policies and procedures needed improvement. We recommend that they implement the measures to strengthen agency oversight policies and procedures

Recommendation 6

Strengthen the design of existing controls to require program managers to justify and obtain approval for the type of monitoring selected to oversee grant recipients.

Agency Response

FS generally agreed with this recommendation. FS stated that current agency policy does not require program managers to justify and obtain approval for the type of monitoring selected, and implementation of this recommendation would result in a significant change in the grants and agreements business model. The FS AQM Branch will work with State and Private Forestry, NFS, and the Research Branches to form a team to analyze ways to improve program accountability to address this issue.

OIG Position

We do not accept management decision for this recommendation. FS has not provided an adequate corrective action to ensure that grant funds are not misused by recipients. To reach management decision, FS needs to require program managers to justify and obtain approval for the selected type of monitoring.

Recommendation 7

Strengthen the design of existing controls to require field staff to examine supporting documentation, such as receipts, invoices, cancelled checks, and photographs, to verify the legitimacy of expenditures reported by grant recipients.

Agency Response

FS generally agreed with this recommendation. Current agency policy already requires that prior to approving a payment, the program manager must review recipient/cooperator performance to determine whether the recipient/cooperator achieved the outputs and outcomes contained in the grant

³⁹ FS Manual Section 1580.41 f and g, dated October 10, 2009, "Grants & Agreement Specialists and Program Managers Responsibilities."

or agreement. When a request for payment is made by the grantee, the program manager is required to review it in detail. If there is a cost element that appears too high or questionable, the program manager will immediately contact the recipient/cooperator for additional supporting documentation which may consist of further clarification of accomplishments by the recipient/cooperator, or receipts, invoices, etc. Upon receipt of supporting documentation, the program manager reviews it and makes a determination whether to approve or deny the payment request.

OIG Position

We accept management decision for this recommendation.

Recommendation 8

Require grants and agreements specialists to certify, when processing grant recipient payments, that they have verified the completeness and accuracy of field and regional staff reviews.

Agency Response

FS generally agreed with this recommendation. FS stated that requiring grants and agreements specialist to certify payments would be a significant change to current policy. The FS AQM Branch will work with State and Private Forestry, NFS, and the Research Branches to form a team to analyze options available to implement a second level of payment certifications to address this issue.

OIG Position

We do not accept management decision for this recommendation. To reach management decision, FS needs to implement a second level review of grant recipient payments.

Finding 5: FS Needs to Improve How It Identifies Work Projects Not Entered Into the Performance Measure Reporting System

FS field and regional staff had not entered all work project accomplishments into the agency's tracking systems,⁴⁰ which were used to compile and report results associated with the agency's performance measures. Washington Office officials had not designed suitable controls, such as a reconciliation of information in its various systems, to verify that work projects were accurately entered into its four data tracking systems. This increased the risk that accomplishments related to work projects funded by the Recovery Act were understated in the agency's performance accomplishment and financial reports.

⁴⁰ FS uses the following database systems to track performance measures: WorkPlan, Forest Activity Tracking System (FACTS), Forest Health Database, and National Fire Plan Operations and Reporting System (NFPORS).

GAO standards require program managers to establish controls to monitor the accuracy of performance measures reported by agencies. FS requires its field and regional staff to enter accomplishments into agency tracking systems when a contract is awarded to perform the work.⁴¹ In this way, the agency will recognize all work projects as accomplishments in the current year performance measure and financial reports. We selected 10 work projects awarded to independent contractors to verify that FS field and regional officials were complying with this requirement. Our examination disclosed that for 3 of 10 work projects, field officials had not entered the information into the tracking systems when the contract was awarded, as required by the agency.

The three contracts were for work projects awarded in March 2009. However, as of July 2009 the time of our initial analysis, and September 30, 2009, the cutoff date for reporting accomplishments in the agency's financial and performance accomplishment reports, field officials had not entered the work projects into the tracking systems. Thus, when this information was used to prepare the agency's 2009 financial and performance reports, it did not include all accomplishments associated with its performance measures, such as miles of system trail improved to standard.

We questioned Washington Office officials about the procedures they used to monitor field and regional office compliance with the requirement, and to ensure the accuracy of accomplishment data presented in the agency's financial and performance accomplishment reports. Washington Office officials stated that they used reports generated from the Performance Accountability System (PAS) to review and verify information entered into the system by field and regional officials. The PAS compiles data on agency accomplishments from the four data systems used by field and regional staff to enter work project information. However, our examination disclosed that PAS reports merely listed the work projects that had been compiled from the database systems. There was no way to identify missing work projects by reviewing the reports. Washington Office officials acknowledged that they did not reconcile information between the four database systems and the agency's acquisition systems, to ensure that all work project accomplishments were accounted for by the agency.

In January 2010, Washington Office officials developed a PAS report that identified contracts awarded to individual and companies, but with no corresponding accomplishments reported in a database system for the work projects. Our examination of the PAS report disclosed that it was incomplete because it included only contracts for work projects entered into one data system (WorkPlan). It did not include contracts from the other database systems (FACTS, Forest Health Database, and NFPORS). FS used these data systems to track 4 of the agency's 12 Recovery Act performance measures. Washington Office officials stated that they were unable to compile a complete report using information from all four database systems that reconciles with information in the PAS. However, the agency needs to develop a process, manual if necessary, to reconcile the contracts awarded for work projects to the accomplishments recognized in the PAS

⁴¹ FS Washington Office officials stated that they implemented this policy because contractors are legally bound to complete the work.

Recommendation 9

Strengthen the design of existing controls to reconcile and verify that all work projects are recognized as accomplishments in the agency's financial and performance reports.

Agency Response

FS concurs with this recommendation. The Performance Management Branch will work with AQM to establish an internal control procedure to ensure all accomplishments are reported in the systems of record for all national performance measures. This action will be completed by February 29, 2012.

OIG Position

We accept management decision for this recommendation.

Finding 6: Inadequate Disclosure of Accomplishment Reporting Policy

FS had not disclosed in the financial and performance reports that it recognizes accomplishments (e.g., the construction of a road) when a contract is awarded, rather than after a work project (the road) is actually complete. The FS officials responsible for compiling performance measure data mistakenly thought the agency's policy had been disclosed in the reports. Consequently, the users of the financial and performance reports were misinformed about accomplishments funded by the Recovery Act.

Congress, in enacting the Recovery Act, required transparency in the use of funds and in reporting the accomplishments achieved by those funds. We examined the agency's Management Discussion and Analysis section of the fiscal year 2009 Financial Statements and the 2009 Summary of Financial and Performance Report to determine if FS met the transparency requirement for reporting its performance measure accomplishments. Our examination did not find a statement in either report that disclosed agency policy to recognize accomplishments when a contract is awarded for the work project.

We concluded that the agency's lack of disclosure regarding its policy did not meet the transparency objectives of the Recovery Act. When we questioned Washington Office officials about this matter, they initially stated that agency policy was disclosed in the financial and performance report. However, after further study, they acknowledged that the policy was not included in the reports. They also agreed that the policy should have been in the reports and will be in the future.

Recommendation 10

Disclose the agency's performance measure accomplishment policy in future financial and performance reports.

Agency Response

The FS concurs with this recommendation. The Performance Management Branch will include a statement regarding FS accomplishments when awarded instead of completed in applicable future public reports. This action will be completed by February 29, 2012.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

We conducted our audit of the Oversight and Controls over Recovery Act Activities at FS' Washington Office and three FS Regional offices in Atlanta, Georgia (Southern Region); Portland, Oregon (Pacific Northwest Region); Denver, Colorado (Rocky Mountain Region); and the Northeastern Area in Newtown Square, Pennsylvania. In addition, we visited projects in the National Forests in Cadiz, Kentucky; Bend, Oregon; and Fort Collins, Colorado. We also visited three of the four EROCs located in Atlanta, Georgia; Sandy, Oregon; and Fort Collins, Colorado, to evaluate the acquisition and procurement contracts.

We performed audit fieldwork from April 2009 through March 2011. Our objective was to determine the adequacy of internal controls over Recovery Act funding encompassed in the \$1.15 billion appropriated as follows: CIM-\$650 million; WFM- Federal Lands, \$250 million; WFM- Non-Federal Lands, \$250 million; and biomass- up to \$50 million of WFM funds. We specifically evaluated management controls related to the following activities: prioritization and project selection; disbursement of funds; acquisition and procurement of goods and services; compliance with the Recovery Act; management monitoring and oversight; and the agency's accountability and Recovery Act performance reporting. To accomplish our objectives we:

- Interviewed appropriate FS officials at each level (Washington Office, regional, and local) involved in the prioritization and selection of projects, disbursement of funds, acquisition and procurement of contracts and grants, compliance with the Recovery Act, monitoring and oversight, and accountability and performance reporting.
- Assessed the agency's policies and procedures, implementation of OMB Guidance, and FS' FY 2009 Program Direction for Recovery Act activities.
- Reviewed and assessed the agency's risk assessment.
- Reviewed project proposals, project Work Plans, expenditure reports, status of funds reported, performance reports, project contracts, and all relevant contract documents.
- Reviewed grant policies and guidance.
- Reviewed the Certified Public Accountant audit documentation to determine FS' internal controls for financial reporting, transaction processing, and reporting performance accomplishments.
- Evaluated and assessed the economic data and criteria FS used to prioritize and select projects that received Recovery Act funding.
- Visited a total of six projects, totaling \$17.5 million, at four national forests, to verify whether controls established by the Washington Office and the regional offices had been implemented and were functioning properly.⁴²

⁴² We visited 2 CIM projects and 4 WFM projects.

We judgmentally selected the projects from the first 10 percent of Recovery Act funds approved in March 2009, based on the largest dollar amount estimated, for the projects within each region selected.⁴³ We reviewed two WFM projects within a bundle approved at one national forest in the Rocky Mountain Region, two WFM projects within a bundle that spanned multiple national forests in the Pacific Northwest Region, and two CIM projects approved at one national forest in the Southern Region.⁴⁴ We selected the projects within the bundles to visit based on highest dollar amount. We did not visit a project in the Northeastern Area, as grants had been recently awarded and work had not started on the ground. We interviewed the forest supervisor, budget personnel, FS officials responsible for project selection, and the COR assigned to the projects we selected. We observed the work performed at the project site to ensure that it met the contract requirements.

FS was using the same Information Technology (IT) systems it uses to process, track, and report its normal business activities. We, therefore, did not review, analyze, or verify the controls or oversight of the IT systems and make no representation of the adequacy of the systems or the information generated from them.

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

⁴³ The first 10 percent of funds included 10 WFM projects and 32 CIM projects; this group did not include any biomass projects.

⁴⁴ We visited two national forests for the WFM project that spanned multiple national forests in the Pacific Northwest Region.

Abbreviations

AQM	Acquisition Management
ASC	Albuquerque Service Center
CPARS	Contractor Performance Assessment Reporting System
CCR	Central Contractor Registration
CIM	Capital Improvement and Maintenance
COR	Contracting Officer's Representative
DR	Departmental Regulations
ELT	Executive Leadership Team
EPLS	Excluded Parties List System
EROC	Economic Recovery Operating Center
ERT	Economic Recovery Team
FACTS	Forest Activity Tracking System
FAR	Federal Acquisition Regulations
FBO	Federal Business Opportunities
FFIS	Foundation Financial Information System
FPDS	Federal Procurement Data System
FS	Forest Service
GAO	Government Accountability Office
GSA	General Services Administration
IAS	Integrated Acquisition System
IPP	Internal Process Plan
IT	Information Technology
MAP	My Administrative Process
NAICS	North American Industry Classification System
NFS	National Forest System
NFPORS	National Fire Plan Operations and Reporting System
NIHCPS	National Institutes of Health Contract Procurement System
OIG	Office of Inspector General
OMB	Office of Management and Budget

Abbreviations

PAR	Performance Accomplishment Report
PAS	Performance Accountability System
POC	Point of Contact
R&D	Research and Development
Recovery Act	American Recovery and Reinvestment Act
S&PF	State and Private Forestry
The Board	Recovery Accountability and Transparency Board
WFM	Wildland Fire Management
WO	Washington Office

Exhibit A - Contracts Referred by the Board for Review

This exhibit lists all the contracts we reviewed upon request by the Board. In addition, it lists the report number and date when issues were reported to FS.

Contract No.	Referral Report No.	Issued by	Date Issued
AG-55N9-C-09-0002	HY-0813-0002	OIG Investigations	September 25, 2009
AG-4419-C-09-0001	HY-0813-0003	OIG Investigations	September 25, 2009
AG-0489-C-09-0002	HY-0813-0004	OIG Investigations	September 25, 2009
AG-53-7512-06-01	HY-0813-0006	OIG Investigations	November 12, 2009
AG-0489-D-09-0015	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0003	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0004	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0013	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0014	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0015	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0016	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0017	08703-01-HY(1)	OIG Audit	December 31, 2009
AG-4419-D-09-0018 ⁴⁵	08703-01-HY(1)	OIG Audit	December 31, 2009

⁴⁵ This contract was reported correctly in FBO; however, the contracting officer did not verify the contractor's past performance prior to awarding the contract (see Finding 3).

USDA'S

FOREST SERVICE

RESPONSE TO AUDIT REPORT



Forest
Service

Washington
Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 1430

Date: August 22, 2011

Route To:

Subject: Response to OIG Draft Report No. 08703-01-HY, "Oversight and Control of Forest Service American Recovery and Reinvestment Act Activities," dated July 29, 2011

To: Gil Harden, Assistant Inspector General for Audit, Office of Inspector General, USDA

Thank you for the opportunity to review and comment on the OIG draft audit report titled, "Oversight and Control of Forest Service American Recovery and Reinvestment Act Activities," dated July 29, 2011. The Forest Service generally concurs with the report's findings and recommendations. The agency's comments regarding the status of recommendation numbers 1 through 5, and our plans to implement recommendation numbers 6 through 10 are enclosed.

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

/s/ Mary Wagner (for)
THOMAS L. TIDWELL
Chief

Enclosures

cc: Erica Y Banegas
Dianna Capshaw
Janet M Roder
Kathleen A Clemens
Raymond S Thompson
Jaelith H Rivera
Cindy Johnson
Willis S Mitchell
Melissa Dyniec
Ronald Wester



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USDA Forest Service (FS)

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Office of Inspector General (OIG) Draft Audit Report No. 08703-01-HY
Oversight and Control of FS ARRA Activities

Status Update and Closure

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OIG Recommendation #1: Determine if work has begun on projects with low distress scores. For projects not started, divert unobligated funds to projects with higher distress scores (seven or higher).

FS Response: As stated in the FS' response of May 4, 2010 to the OIG Fast Report dated April 12, 2010, the agency does not concur with the recommendation. The recommendation is not applicable. The agency is meeting the resource management requirements of the law. All projects have begun. Funds are already committed and cannot be redistributed. The funds expired on September 30, 2010 and the FS does not have any remaining funds to obligate. Therefore, the FS is requesting closure of this recommendation.

Completion Date: May 30, 2010.

OIG Recommendation 2: Report to the public the amount of Recovery Act funds approved for work projects in areas without high distressed scores and explain the reasons for approving those projects.

FS Response: As stated in the FS' response of May 4, 2010 to the OIG Fast Report dated April 12, 2010, the agency concurs with this recommendation and corrective action has been implemented. Therefore, the FS requests closure of this recommendation. The FS completed corrective action by updating the website to contain the information concerning the selection and review process, *Enclosure A*. The Agency also developed a document containing rigorous measures of economic distress used by the FS among other criteria in selecting ARRA projects. The paper describes the unemployment data and the sensitivity analysis of different composite indexes of unemployment that were used to rank counties according to levels of economic distress, *Enclosure B*.

Completion Date: May 30, 2010.

OIG Recommendation 3: Require contracting officials to reconcile information posted on the FedBizOpps (FBO) website to contract information in Integrated Acquisition System (IAS) and Federal Procurement Data System (FPDS) for all contracts awarded since March 2009, and require supervisory contracting officials to review the accuracy of contract information posted on the FBO website. Establish procedures for contracting officials to conduct reconciliations and reviews.

FS Response: As stated in the FS' response of January 19, 2010 to the OIG Fast Report dated December 31, 2009, the agency concurs with the recommendation and will augment the Internal Process Plan (IPP) to require a second level review of compliance with the regulations for publicizing actions and performing spot checks of the FBO website, to verify the accuracy of the posted information. The 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, *Enclosure C*. FS also enhanced Chapter 5 of the FS ARRA Program Guidance (October 2010) to emphasize the Contracting Officer shall ensure the information from IAS transfers to FPDS on any action (including modifications) funded by ARRA, *Enclosure D*.

Completion Date: February 23, 2011

OIG Recommendation 4: Establish procedures to ensure that contracting officials are posting contract award notification on FBO within 30 days after the contract has been awarded.

FS Response: As stated in the FS' response of January 19, 2010 to the OIG Fast Report dated December 31, 2009, the agency concurs with the recommendation and as a corrective action will provide direction to all contracting officers to ensure compliance with the timeliness of FBO reporting. The FS requests closure of this recommendation. The FS completed corrective action by updating the Chapter 5 FS ARRA Program Guidance on pages 5 through 10 (January 2010) by providing explicit direction to all contracting officials of FBO reporting requirements, *Enclosure D & E*. Updates made to the EROC AQM IPP (January 23, 2011) also includes direction for compliance with FBO reporting requirements, *Enclosure C*.

Completion Date: February 23, 2011

OIG Recommendation 5: Require contracting officials to verify the contractor's past performance prior to awarding contracts.

FS Response: As stated in the FS' response of January 19, 2010 to the OIG Fast Report dated December 31, 2009, the agency concurs with the recommendation and 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. The FAR does not generally require use of NIH CPS for the lowest price, technically acceptable selection process: Part 8, 13, 14, and 16. 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.

The 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, *Enclosure I*. On September 30, 2010 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), *Enclosure F*. 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, 2010, FS issued a letter with the announcement of the new system for past performance evaluation and specific guidance, *Enclosure H*. An excerpt of training provided on contractor past performance review process is also attached, *Enclosure G*.

Completion Date: October 8, 2010

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USDA Forest Service (FS)

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Office of Inspector General (OIG) Draft Audit Report No. 08703-01-HY
Oversight and Control of FS ARRA Activities

Management Decision

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OIG Recommendation 6: Strengthen the design of existing controls to require Program Managers to justify and obtain approval for the type of monitoring selected to oversee grant recipients.

FS Response: The Forest Service generally agrees with this recommendation. The FS has recently issued guidance for monitoring activities, which may include, but are not limited to: site visits to the cooperator/recipient facility or the performance site, review of cooperator/recipient reports or publications or telephone or meeting discussions with the cooperator/recipient to determine the status of on-going activities under the scope of work of the agreement, *Enclosure J & K*.

In accordance with FSH 1509.11.15.6 Project Monitoring and FSM 1580.41g Program Managers, Program Managers regularly conduct monitoring of grant recipients, *Enclosure L & M*.

FSH 1509.11.15.6 requires Program Managers to maintain an ongoing, periodic assessment of current and cumulative project activities for all of their grants, cooperative agreements, and other agreements, which includes:

1. Evaluating the degree of project progress over time related to milestones established within the instrument (for example, by site visits or desk monitoring);
2. Reviewing and ensuring financial compliance with the terms of the instrument and Federal law, which, in part, includes: accruals, invoicing, payments, and de-obligation;
3. Comparing performance progress and financial documents with project data reported by the recipient/cooperator; and
4. For agreements where the Forest Service is the performing agency, Program Managers shall monitor job codes assigned to ensure the correct costs are recorded and are not in excess of authorized amounts.

As noted in FSH 1509.11.15.6, the purpose of monitoring is to ensure that the recipient/cooperator meets their programmatic and financial requirements of the award and there are several types of grant/agreement monitoring functions. These could include telephone calls, desk reviews, on-site reviews, performance reports, financial and legal reviews, or other tools. Current agency internal controls require that monitoring activities performed by the Program Manager be documented in I-Web so they may be monitored regularly.

FSM 1580.41g also specifies that Program Managers are required to conduct monitoring activities to ensure that cooperator/recipient performance is monitored and fully accomplished under the instrument. This Section of the FSM also specifies that, where necessary, the Program Manager should collaborate with the G&A specialist to determine the need for site visits and/or meetings, *Enclosure K*.

Current agency policy does not require Program Managers to justify and obtain approval for the type of monitoring selected. Implementation of this recommendation would result in a significant change in the grants and agreements business model. The Forest Service AQM Branch will work with State and Private Forestry, NFS, and the Research Branches to form a team to analyze ways to improve Program accountability to address this issue.

Estimated Completion Date: May 31, 2012

OIG Recommendation 7: Strengthen the design of existing controls to require field staff to examine supporting documentation, such as receipts, invoices, cancelled checks, and photographs, to verify the legitimacy of expenditures reported by grant recipients.

FS Response: The FS generally agrees with this recommendation. Current agency policy already requires that prior to approving a payment, the Program Manager must review recipient/cooperator performance to determine whether the recipient/cooperator achieved the outputs and outcomes contained in the grant or agreement, *Enclosure N & O*. When a request for payment is made by the grantee, the Program Manager is required to review it in detail. If there is a cost element that appears too high or questionable, the Program Manager will immediately contact the recipient/cooperator for additional supporting documentation which may consist of further clarification of accomplishments by the recipient/cooperator, or receipts, invoices, etc. Upon receipt of supporting documentation, the Program Manager reviews it and makes a determination whether to approve or deny the payment request. In addition, FS grantees are informed at the initiation of the grant that they need to maintain such documentation as outlined in Recommendation 6 and be ready to supply it at any time to the Program Manager.

The steps that must be undertaken when reviewing and approving requests for payments were reiterated in a letter and guidance document sent to Regions, Stations and the Northeast Area on June 2, 2011, *Enclosure J & K*.

If management decision is accepted, the FS requests closure of this audit recommendation based on the documentation provided with the response.

Estimated Completion Date: Completed June 2, 2011, requesting closure for this recommendation.

OIG Recommendation 8: Require grants and agreements specialists to certify, when processing grant recipient payments, that they are verifying the completeness and accuracy of field and regional staff reviews.

FS Response: The Forest Service generally agrees with this recommendation. Current policy requires the Program Manager to certify recipient payments in the I-Web database. Program Manager certifications are based on their monitoring results. The most current Forest Service Handbook on Grants, Cooperative Agreements, and Other Agreements, dated 10/20/2009 (FSH 1509.11.15.6) requires that monitoring activities be performed by the program manager named in the grant or agreement and evidence supporting reviews be documented in I-Web, *Enclosure L*. The grant or cooperative agreement award letter determines the frequency of performance reports required for each grant. The grants and agreements specialists are required to ensure that performance reports are submitted at least annually, but no more than quarterly. Each performance report should include at a minimum a statement of progress, including the results to date and a comparison of actual accomplishments with proposed goals for the period, any current problems or unusual developments or delays, and work to be performed during the succeeding period. Some of these issues may require action on the part of Forest Service personnel which may include obtaining additional information, withholding payments, or suspending the grant or cooperative agreement.

Specific to the Cooperative Forestry Assistance Act, FSM Ch. 1460 also provides guidance for reviews, *Enclosure M*. Cooperative Management Reviews, where top line officers of the State forestry organization and the Forest Service jointly evaluate the organizational and administrative environment in which the cooperative forestry assistance programs operate, must be conducted every 5 years in each State. Line officers are responsible to ensure that final cooperative management review reports and conferences are completed within 90 days after initiated.

Requiring grants and agreements specialist to certify payments would be a significant change to current policy. The Forest Service AQM Branch will work with State and Private Forestry, NFS, and the Research Branches to form a team to analyze options available to implement a second level of payment certifications to address this issue.

Estimated Completion Date: May 31, 2012

OIG Recommendation 9: Strengthen the design of existing controls to reconcile and verify that all work projects are recognized as accomplishments in the agency's financial and performance reports.

FS Response: The Forest Service concurs with this recommendation. The Performance Management Branch will work with AQM to establish an internal control procedure to ensure all accomplishments are reported in the systems of record for all national performance measures.

Estimated Completion Date: February 29, 2012

OIG Recommendation 10: Disclose the agency's performance measure accomplishment policy in future financial and performance reports.

FS Response: The Forest Service concurs with this recommendation. The Performance Management Branch will include a statement regarding FS accomplishments when awarded instead of completed in applicable future public reports.

Estimated Completion Date: February 29, 2012