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Office of Inspector General
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TO: Thomas L. Tidwell
Chief
Forest Service

ATTN: Donna M. Carmical
Chief Financial Officer

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

SUBJECT: Recovery Act Grant Recipient Did Not Have Controls in Place to Properly Administer Sub-Awarded Funds and The Recovery Act - Forest Service (FS) Hazardous Fuels Reduction and Ecosystem Restoration on Non-Federal Lands (9)

The American Recovery and Reinvestment Act of 2009 (Recovery Act) provided the Department of Agriculture (USDA) with \$28 billion in funding.¹ Of this amount, \$1.15 billion was specifically allotted to the Forest Service (FS) to implement projects that promote U.S. economic recovery, create jobs, and accomplish its mission of sustaining the Nation's forests and grasslands. Congress, in enacting the Recovery Act, emphasized the need for accountability and transparency in the expenditure of Recovery Act funds. Further, in February 2009, the Office of Management and Budget (OMB) issued initial guidance that required Federal agencies to establish rigorous internal controls, oversight mechanisms, and other approaches to meet the accountability objectives of the Recovery Act.² OMB issued additional guidance in April 2009, to clarify existing requirements and establish additional steps that must be taken to facilitate the accountability and transparency objectives of the Recovery Act. Moreover, OMB emphasized that, due to the unique implementation risks of the Recovery Act, agencies must take steps

¹ Public Law 111-5, February 17, 2009.

² OMB M-09-10, *Initial Implementing Guidance for the Recovery and Reinvestment Act of 2009*, February 18, 2009.

beyond standard practice to initiate the additional oversight mechanisms.³ USDA's Office of Inspector General (OIG) was charged with overseeing FS and other agencies' activities in order to ensure Recovery Act funds are spent in a manner that minimizes the risk of improper use. This report is one in a series of reports pertaining to FS Recovery Act-funded grants to non-Federal entities. The issue discussed in this report, along with any others identified in our field work, will be compiled into a final report at the conclusion of our audit.

The Recovery Act included \$214 million in grant funding for FS to implement wildland fire management (WFM) activities on State, county, and private lands.^{4,5} From May through September 2009, FS approved 152 WFM projects on non-Federal lands. FS field staff at the regional and national Forest levels used grants to award the approved projects to State, local, and Tribal governments, and non-profit organizations. These non-Federal entities applied for Recovery Act funds by submitting grant proposals to FS that described anticipated project work and estimated costs.

One such grant was awarded to the Wyoming State Forestry Division (WSFD). WSFD sub-granted \$550,000 to a county government to fund WFM work. To further the goals of its WFM program, this county government approved a hazardous fuels reduction project that used a private contractor to remove timber and other fuel from a 143-acre private property. In March 2011, we reviewed a hotline allegation that the contractor had a history of inadequate performance and should have been ineligible to receive Recovery Act funds. While our review did not substantiate the allegation, we determined that WSFD did not ensure its county sub-grant recipient followed Federal requirements.

Federal regulations require grant recipients to ensure their sub-grant recipients are not only aware of Federal and State requirements, but also have a process in place to ensure adherence to these requirements. Sub-grant recipients are to select projects that meet WFM program requirements and ensure any related procurements are done in an open and competitive environment. Further, it is the grant recipient's responsibility to monitor the day-to-day operations of its sub-grant recipients to ensure they meet these requirements.⁶ Both grant recipients and sub-grant recipients are required to have financial management systems in place to ensure grant-funded activities and expenditures are reasonable, necessary, and supported.⁷

However, we found that the county sub-grant recipient did not appropriately select or approve projects, or ensure that proposed projects' costs were necessary and reasonable and that

³ OMB M-09-15, *Updated OMB M-09-10, Initial Implementing Guidance for the Recovery and Reinvestment Act of 2009*, April 3, 2009.

⁴ This amount excludes non-Federal wood to energy grants.

⁵ These activities include hazardous fuels reduction, forest health, and ecosystem improvements.

⁶ 7 CFR 3016, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, January 1, 2003.

⁷ 7 CFR 3016, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*; January 1, 2003, and OMB A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, May 10, 2004.

expenditures were supported. Specifically, three contractors who were members of the county committee responsible for proposing WFM projects for Federal grant funding—including Recovery Act funding—controlled the selection process in their favor, resulting in a non-competitive environment. Projects proposed by the three contractors or their private landowner clients were approved by the committee, despite the fact that the costs involved were excessive or unnecessary.⁸ In the Recovery Act project we reviewed, costs approved by the committee were more than twice that of an alternate estimate, with nearly 90 percent of the project expenditures later found to be unsupported.

In general, these weaknesses were due to a lack of oversight by WSFD to ensure that processes and procedures to adequately approve and monitor sub-recipient projects were in place. Without adequate internal controls, FS risks funding projects which may not meet Federal requirements or be the best use of FS grant funds.

We noted that during this time period, the weaknesses in WSFD and the sub-grant recipient's grant selection and administration processes went undetected by FS. However, since we are still conducting our analysis of FS' nationwide oversight controls, we will hold our recommendations regarding this matter for our final report.

Recovery Act Project Not Appropriately Selected or Approved

We found that the county committee approved WFM projects in a non-competitive setting. Private contractors sitting on the local committee were able to propose their own projects without announcing these opportunities to the public. This occurred because WSFD did not ensure that the sub-grant recipient had processes in place to meet Federal and State requirements. As a result, the contractors controlled the projects the county approved and submitted to the State for grant funding.

According to Federal regulations, all procurements need to be conducted in a manner providing full and open competition.⁹ Situations which would impede a competitive environment include organizational conflicts of interest or arbitrary actions in the procurement process. To ensure that Federal standards—such as a competitive environment—are met, grant recipients are required to ensure that sub-grant recipients are aware of Federal and State requirements and to also monitor activity to ensure that sub-grant recipients have a process in place that adheres to these requirements.^{10,11}

⁸ The three contractors informed private landowners about the availability of grant funds for hazardous fuels removal on their properties. If the private landowner was interested, the contractor would then develop a project plan with an estimated project cost and formally propose the project to the local committee. The committee would approve the projects proposed by the contractors on a first-come-first-serve-basis and did not evaluate the importance of the project in terms of overall community wildfire protection or the reasonableness of the contractor's estimated project cost.

⁹ 7 CFR 3016.36, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, Procurement, January 1, 2003.

¹⁰ 7 CFR 3016.37, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and*

In the county we reviewed, the local wildland fire protection committee—consisting of private contractors and representatives from the county, State, and Federal government—was responsible for proposing WFM projects to receive Recovery Act funding. Because three private contractors, including the contractor cited in the complaint, served on this committee, they had an unfair advantage over other contractors and local landowners wishing to participate in the WFM program, and were able to control the selection process in the following manner.

First, WFM grant-funding opportunities were not announced publicly. Instead, the State and Federal staff on the committee only announced the availability of grant funding to the other committee members. This occurred because WSFD and the county did not have formal processes in place to ensure local citizens knew about WFM project opportunities—such as a method to inform local citizens about available grant funding and how to submit projects for approval. As a result, the county committee only selected WFM projects proposed and developed by the contractors or their private landowner clients. Over a 3-year period, all WFM projects approved by this local committee were carried out by the three contractors on the committee.

In addition, WSFD did not maintain sufficient oversight of this sub-grantee. Rather than review the basis for the county's WFM project selection, WSFD allowed the county sub-grant recipient to select and propose grant projects unmonitored. Consequently, WSFD staff were unaware that the three private contractors controlled all the projects the county submitted to the State for grant funding. Additionally, WSFD itself did not have written policies or procedures outlining how sub-grant recipients should evaluate and propose projects for grant funding. Had WSFD had such a process in place, it might have identified that the sub-grant recipients were using a questionable process as the basis of their project selection. Given our findings, WSFD staff agreed that they needed to strengthen controls over how county sub-grant recipients selected and evaluated grant-funded projects and stated their intention of requiring sub-grant recipient counties to incorporate competitive bidding procedures on future sub-grant awards.

State Allowed Sub-Grant Recipients to Incur Costs That Were Unreasonable, Unnecessary, and Unsupported

As the prime recipient of Recovery Act grant funds, WSFD is subject to the requirements of OMB Circular A-87, which cites that a cost is allowable only if it is necessary and reasonable for the proper and efficient performance of the grant. Factors that should be considered include: (1) whether a cost is generally recognized as ordinary and necessary for the work to be performed, and (2) whether the activity is a significant deviation from standard practices that unjustifiably increases the grant's cost.

Local Governments, Subgrants, January 1, 2003.

¹¹ 7 CFR 3016.4, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Applicability, January 1, 2003.*

Furthermore, Federal regulations require that costs be documented in order to ensure funds have not been used in violation of applicable statutes.^{12, 13} Required documents include cancelled checks; paid bills; payrolls; time and attendance records; and contract and sub-grant award documents. Grant and sub-grant recipients must also maintain records showing the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Additionally, FS WFM Recovery Act grant requirements state that invoices must specifically describe and itemize the value of each item.¹⁴

When we looked specifically at the project that was the subject of our hotline allegation, we found that it was approved, despite having unnecessary costs. The contractor's helicopter logging work on the project—at a cost exceeding [REDACTED]—was excessive because less expensive alternative methods, such as land logging, were available and just as effective. Due to its high cost, helicopter logging is generally proposed only when the steepness of the terrain or other ecological factors make land logging infeasible. However, the 143-acre property's terrain had formerly been deemed by county officials as fit for land logging. When asked why he proposed helicopter logging, the private contractor told us that it was the type of work he preferred to perform and that he did not do land logging work. State staff did not agree with our conclusion that the county's helicopter logging project costs were unreasonable, asserting that it was sufficient that project work had been completed in accordance with a State developed plan. However, we maintain that because the hazardous fuel could have been removed for substantially less, the cost was excessive, and, therefore, unallowable.

The helicopter logging project costs charged to the county's Recovery Act grant were also not sufficiently supported or verifiable. The contractor was able to provide itemized invoices for only \$50,000 of the billed \$500,000 project costs—10 percent. The remaining \$450,000 was only supported by a single line invoice from the sub-contracted helicopter company. To verify that the cost was reasonable and necessary, the invoice should have included supporting details of how the \$450,000 total was derived, such as listing the number of hours flown, the hourly rate, the dates the helicopters were used on the project, and records of the helicopter loads carried.

However, we found that there was no documentation to support the hourly rate, and the scope and nature of the work the helicopter company was required to perform. The contractor also had no flight records or any other documents from the helicopter company establishing the number of helicopter hours flown, the number of trees removed, etc. Adequate supporting documents are especially important in this case because the helicopter company performed

¹² According to Federal regulations: (a) Fiscal control and accounting procedures of the State, as well as its sub-grant recipients and cost-type contractors, must be sufficient to—(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes (7 CFR 3016.20, *Standards for Financial Management Systems*, January 1, 2003).

¹³ OMB A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, May 10, 2004.

¹⁴ Catalog of Federal Domestic Assistance 10.688 (FS WFM Recovery Act Grant Solicitation and Award Specifications).

other, non-grant work for this contractor. Without invoice details, it is unclear whether the helicopter company included the contractor's non-grant project work in the \$450,000 invoice. When we spoke with WSFD personnel, they acknowledged that project costs needed to be better supported.

We asked WSFD staff why they had accepted the county's grant-funded project costs at face value rather than evaluating the necessity and reasonableness of the costs and claimed expenses. WSFD staff explained that they assumed the county had thoroughly reviewed the project and its costs before submitting the project to WSFD for grant funding. WSFD staff further stated that they could not direct the county sub-grant recipient to implement specific project cost controls, such as requiring landowners to get competitive bids or contractors to provide verifiable supporting documentation, because landowners participated in the county program on a voluntary basis, and, therefore, had the right to decide how they wanted the WFM project work to be done. Technically, landowners hired and paid the private contractors and were later reimbursed with county grant funds. WSFD staff believed that neither they nor the county could interfere with the WFM project costs landowners were willing to pay.

However, according to Federal regulations, it is ultimately the grant and sub-grant recipients' responsibility to ensure that grant money is spent appropriately and according to Federal and State requirements.¹⁵ For grant and sub-grant recipients to ensure grant-funded project costs meet Federal regulations, they must communicate with landowners and monitor their activities. By informing landowners of Recovery Act and other Federal requirements prior to project selection, and holding them accountable to comply with these requirements, grant and sub-grant recipients can fulfill their responsibilities.

Without proper monitoring and processes in place, neither WSFD nor the county sub-grant recipient can ensure that projects are selected fairly and are an appropriate use of Recovery Act funds. To address the control weaknesses discussed above, we recommend FS take the following actions.

Recommendations

1. Postpone further WSFD grant reimbursements associated with payments to sub-grant recipients until WSFD is able to provide FS with documentation and assurance that it can adequately assess and monitor its sub-grant recipients.
2. Direct WSFD to establish controls over its sub-grant administration that reflect Federal requirements. These controls should be established through written policies and procedures that include, but are not limited to, WSFD's responsibility to manage the day-

¹⁵ 7 CFR 3016, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, January 1, 2003, and OMB A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, May 10, 2004.

to-day operation of its sub-grant recipients' activities to assure that sub-recipients have financial accounting systems and controls that comply with Federal standards, that sub-recipients have competitive project selection and procurement policies, and that applicable Federal cost allowability requirements (e.g., OMB A-87) are met.

3. Direct FS grant and agreement specialists to assess WSFD's documented controls over sub-grant administration to ensure they reflect Federal requirements. During this assessment the grant and agreement specialist should review WSFD's procedures to appropriately select and approve WFM projects. The grant and agreement specialist should also confirm that the procedures ensure costs associated with WFM projects are reasonable, necessary, and in accordance with OMB cost principles.
4. Direct WSFD to provide FS with further documents to substantiate the reasonableness and necessity of \$450,000 of the sub-grant's costs discussed in this report, as well as to provide verifiable support for the project cost amounts. If WSFD cannot provide further documents, FS should disallow the costs and recover the funds.

Please provide a written response within 5 days outlining your proposed corrective action for this issue. If you have any questions, please contact me at (202) 720-6945, or have a member of your staff contact Joseph Mickiewicz, Director, Food, Nutrition, Marketing, and Development Division, at (202) 720-5907.

USDA'S

FOREST SERVICE'S

RESPONSE TO AUDIT REPORT



File Code: 1430

Date: November 16, 2011

Subject: Response to Audit Report No. 08703-5-SF(9) "Recovery Act Grant Recipient Did Not Have Controls in Place to Properly Administer Sub-Awarded Funds and The Recovery Act - Forest Service (FS) Hazardous Fuels Reduction and Ecosystem Restoration on Non-Federal Lands (9)"

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

This letter is in response to Audit Report No. 08703-5-SF (9) "Recovery Act Grant Recipient Did Not Have Controls in Place to Properly Administer Sub-Awarded Funds and The Recovery Act - Forest Service (FS) Hazardous Fuels Reduction and Ecosystem Restoration on Non-Federal Lands (9)" received on November 1, 2011 from the US Department of Agriculture Office of the Inspector General. We appreciate the opportunity to respond to the referenced report. The Forest Service generally concurs with the recommendations and the response for each is as follows:

OIG Recommendation #1: Postpone further Wyoming State Forestry Division (WSFD) grant reimbursements associated with payments to sub-grant recipients until WSFD is able to provide Forest Service with documentation and assurance that it can adequately assess and monitor its sub-grant recipients.

Forest Service Response: The Forest Service agrees with this recommendation. The Forest Service will send a letter to WSFD instructing them to provide documentation to the Forest Service by December 16, 2011 that WSFD can adequately assess and monitor its sub-recipients. The agency will discontinue reimbursing WSFD for payments to sub-recipients until the agency can review the documentation. If any issues are identified, the agency will manage them as applicable by OMB Circulars and federal cost accounting principles. These actions will be completed by January 31, 2012.

OIG Recommendation #2: Direct WSFD to establish controls over its sub-grant administration that reflect Federal requirements. These controls should be established through written policies and procedures that include, but are not limited to, WSFD's responsibility to manage the day-to-day operation of its sub-grant recipients' activities to assure that sub-recipients have financial accounting systems and controls that comply with Federal standards, that sub-recipients have competitive project selection and procurement policies, and that applicable Federal cost allowability requirements (e.g., OMB A-87) are met.

Forest Service Response: The Forest Service agrees with this recommendation. The Forest Service will send a letter to WSFD by November 30, 2011 instructing them to establish internal controls for sub-recipient administration in accordance with applicable OMB Circulars and federal cost accounting principles. WSFD will be instructed to provide copies of these controls to the Forest Service by January 31, 2012.



OIG Recommendation #3: Direct Forest Service grant and agreement specialists to assess WSFD's documented controls over sub-grant administration to ensure they reflect Federal requirements. During this assessment the grant and agreement specialist should review WSFD's procedures to appropriately select and approve WFM projects. The grant and agreement specialist should also confirm that the procedures ensure costs associated with WFM projects are reasonable, necessary, and in accordance with OMB cost principles.

Forest Service Response: Forest Service will conduct a review over the WSFD newly established internal control requirements provided for sub-recipient administration to ensure they are in compliance with applicable OMB Circulars and federal cost accounting principles. These actions will be completed by March 30, 2012.

OIG Recommendation #4: Direct WSFD to provide Forest Service with further documents to substantiate the reasonableness and necessity of \$450,000 of the sub-grant's costs discussed in this report, as well as to provide verifiable support for the project cost amounts. If WSFD cannot provide further documents, Forest Service should disallow the costs and recover the funds.

Forest Service Response: In addition to the request for documentation noted in Recommendation 1, the Forest Service will request documentation from WSFD to verify the reasonableness and necessity of the \$450,000 expenditures reimbursed under this grant. The agency will review the documentation and if any costs are determined to be unallowable, cost recovery efforts will begin immediately. These actions will be completed by January 31, 2012.

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

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