



U.S. Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



DATE: June 4, 2010

REPLY TO

ATTN OF: 08703-06-SF (2)

TO: Thomas L. Tidwell
Chief
Forest Service

ATTN: Donna M. Carmical
Chief Financial Officer
Forest Service

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

SUBJECT: The Recovery Act – Forest Service Abandoned Mine Remediation (2)

The American Recovery and Reinvestment Act of 2009 (Recovery Act) included \$1.15 billion in funds for the Forest Service (FS) to implement projects that directly accomplish its mission of sustaining the nation's forests and grasslands, creating jobs, and promoting U.S. economic recovery. In passing the law, Congress emphasized accountability for and transparency of funds spent through the Recovery Act. To accomplish this, the Office of Management and Budget (OMB) issued guidance in February 2009 that requires Federal agencies to establish internal controls, oversight mechanisms, and other approaches to meet the Recovery Act's accountability objectives. The director of FS' Acquisition Management is responsible for implementing processes to ensure the agency complies with the Recovery Act and OMB's related guidance. In general, the Recovery Act requires United States Department of Agriculture's Office of Inspector General to oversee FS' (and other agencies') activities in order to ensure Recovery Act funds are spent in a manner that minimizes the risk of improper use.

The Recovery Act authorized \$650 million for FS to implement Capital Improvement and Maintenance Program projects, of which \$22.7 million was approved for the remediation of abandoned mines on National Forest System land. FS is using contracts to competitively award these funds and has established four Economic Recovery Operations Centers (EROCs) that are responsible for executing and managing the awards in a consistent manner agencywide.¹ In assessing FS' controls over Recovery Act funded abandoned mine projects at the EROCs, we found that the Contracting Lead² at three of the EROCs had not conducted the required quarterly quality assurance reviews of Recovery Act contracts. This occurred because the Contracting

¹ The four EROCs are located in Vallejo, California (Southwestern EROC); Portland, Oregon (Northwestern EROC); Denver, Colorado (Intermountain EROC); and Atlanta, Georgia (Southern EROC).

² The Contracting Lead at the EROC has overall responsibility for administering the Recovery Act contracts. The Contracting Lead is therefore responsible for staffing the EROC and overseeing the work of the contracting officers, contract specialists, and procurement technicians.

Lead at one of the EROCs did not view the reviews as a priority, while the Contracting Leads at the other two EROCs assumed their staffs were already conducting them. The Contracting Leads are currently required to review 10 percent of all contracts administered by their staffs at the EROCs to ensure that the contracts were in compliance with the Recovery Act and OMB guidance. As a result, FS lacked the assurance it needed that the contracts for Recovery Act-related projects administered by the EROCs were compliant with the Recovery Act and OMB guidance. This issue, along with any others identified, will be compiled into a final report at the conclusion of our audit.

According to FS' Recovery Act Program Direction,³ the Director of Acquisition Management (AQM) has responsibility for implementation of processes to ensure proper compliance with Recovery Act and OMB guidance⁴ on awards with Recovery Act funds. To meet the additional oversight requirements, AQM developed an Internal Process Plan for the EROCs to ensure consistent execution of contracts and compliance with Recovery Act and OMB requirements. The Internal Process Plan requires the EROCs' Contracting Lead or a designee to review 10 percent of all contracts, regardless of value, at various stages of their completion to ensure that the Government receives a quality and timely product, and that appropriate contract administration is documented.⁵ At a minimum, the review by the EROCs' Contracting Lead should include a review of the contract payments, evidence of contract administration, and the close-out process. The Internal Process Plan also states that the reviews should be performed quarterly and documented in a separate review file maintained in the office of the EROCs' Contracting Lead. According to the Internal Process Plan, AQM's procurement analysts are required to review the EROCs' internal control processes at least quarterly.⁶

The contracting officers (CO) at the EROCs are responsible for administering the contracts and the Contracting Lead is responsible for reviewing the work performed by the COs to ensure that contracts were properly administered and in compliance with the Recovery Act and OMB requirements. Our review disclosed that only one of the four EROCs had performed the required reviews.

At the Intermountain EROC, the Contracting Lead stated that the quality assurance reviews were not a priority since most of his attention was directed towards resolving staffing issues at the EROC. At the Northwest EROC, the Contracting Lead explained that her COs were conducting the quality assurance reviews on her behalf; however, she could not provide any documentation to show that the reviews had actually been performed. At the Eastern EROC, the Contracting Lead stated that she delegated the review responsibility to a CO; however, it was determined this responsibility was never officially delegated to the CO and the CO, therefore, never conducted the quality assurance reviews. Although AQM's Internal Process Plan allows the EROCs' Contracting Lead to delegate the responsibility for the reviews, it also states that the Contracting Lead needs to ensure that the quality assurance reviews were actually performed and documented. The Contracting Lead attributed the omission to oversight.

³ FY 2009/2010 American Recovery and Reinvestment Act, Chapter 2 – Program-Specific Plan, dated October 2, 2009.

⁴ OMB M-09-10, "Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009," dated February 18, 2009, and OMB M-09-15, "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," dated April 3, 2009.

⁵ EROC – AQM Internal Process Plan, Section C, pgs. 7-8, dated October 1, 2009.

⁶ EROC – AQM Internal Process Plan, Section F, pgs. 11-12, dated October 1, 2009.

We found that the COs at the Southwestern EROC had conducted the reviews.⁷ Although not currently required, the Southwestern EROC had also developed an informal plan for its quality assurance reviews, describing its process for conducting the reviews, including the frequency of the reviews, its methodology for selecting the contracts to review, the specific areas to cover during the reviews, and how the reviews should be documented.

For example, the Southwestern EROC's plan stated that it would determine the contracts to review from the Acquisition Workflow Tracking Database (AWTD).⁸ The contracts in the AWTD would be sorted by award date and by dollar value. The Contracting Lead would then select every tenth contract within a designated time period. The Contracting Lead would also add to his sample selection by judgmentally selecting contracts over \$1 million to ensure high dollar contracts were included in the quality assurance reviews. The other EROCs had not developed a review plan, believing that additional guidance from AQM was needed that more clearly specified how the reviews should be conducted to ensure sufficient and consistent coverage nationwide.

To ensure contract compliance with all Recovery Act requirements and to provide adequate oversight of the contracting process, AQM needs to remind the EROCs' Contracting Leads of their responsibility for the quality assurance reviews and verify that the EROCs' Contracting Leads are performing these reviews during their reviews of the EROCs. According to the FS Washington Office Branch Chief for Acquisition Management, AQM staff recently began conducting reviews of the EROCs, but had not considered the need to check whether the EROCs were conducting their quarterly quality assurance reviews. AQM should also provide additional guidance to the EROCs, specifying how the reviews should be conducted to ensure sufficient and consistent coverage agencywide and require that the EROCs develop a plan for conducting the reviews similar to the one developed by the Southwestern EROC.

On April 28, 2010, we discussed our concerns with the FS Washington Office Branch Chief for Acquisition Management. According to the Branch Chief, their priority has been on awarding the contracts, as opposed to monitoring the administration of the contracts. She explained that the number of contracts awarded to date where the work has already started is relatively small, due to the seasonality of the work. However, according to agency reported data from the Recovery.gov website, \$252 million of the Recovery Act money obligated for contracts has already been awarded and \$58 million (23 percent) of the amount obligated and awarded has already been expended.⁹ Therefore, we believe the level of activity on the contracts has been sufficient to warrant the implementation of the EROCs' quarterly quality assurance review process required by the AQM Internal Process Plan. The Branch Chief did agree that additional guidance was needed from the Washington Office on how the EROCs' quarterly quality assurance reviews should be conducted and that the Washington Office needed to follow up with the EROCs during their performance reviews of the EROCs to ensure that the EROCs were adequately performing their quarterly quality assurance reviews.

⁷ The Contracting Lead at the Southwest EROC delegated the responsibility for the quarterly quality assurance reviews to EROC staff and reviewed their work once it was completed.

⁸ AWTD is a Lotus Notes database that tracks the work status of all contracts. EROCs are required to input and maintain acquisition data in the AWTD.

⁹ USDA Weekly Financial and Activity Report, dated April 23, 2010.

Recommendations:

1. Remind the EROCs' Contracting Leads of their responsibility for the quarterly quality assurance reviews.
2. Provide additional guidance to the EROCs, specifying how the quarterly quality assurance reviews should be conducted to ensure sufficient and consistent coverage agencywide.
3. Require that the EROCs develop a plan for conducting the quarterly quality assurance reviews similar to the one developed by the Southwestern EROC.
4. Check to ensure that the EROCs' Contracting Leads are actually doing the quarterly quality assurance reviews during the AQM's review of the EROCs.

Please provide a written response within 5 days that outlines your corrective action on this matter. If you have any questions, please contact me at (202) 720-6945, or have a member of your staff contact Steve Rickrode, Director, Rural Development and Natural Resources Division, at (202) 690-4483.

USDA'S

FOREST SERVICE'S

RESPONSE TO AUDIT REPORT



File Code: 1430-1

Date: June 17, 2010

Subject: Response to Audit Report No. 08703-06-SF (2) "The Recovery Act - Forest Service Abandoned Mine Remediation (2)"

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

This letter is in response to the Audit Report No. 08703-06-SF (2) "The Recovery Act – Forest Service Abandoned Mine Remediation (2)" received on June 4, 2010 from the US Department of Agriculture Office of the Inspector General. Forest Service concurs with the four recommendations stated on this report, and plans to modify the Internal Process Plan to require a more realistic sample size of contract administration monitoring in future quarters. The response for each recommendation is the following:

OIG Recommendation #1: Remind the EROCs' Contracting Leads of their responsibility for the quarterly quality assurance reviews.

Forest Service Response: The Forest Service will remind the Leads of their responsibility on the upcoming monthly Leads call, and will also send them a reminder via e-mail.

OIG Recommendation #2: Provide additional guidance to the EROCs, specifying how the quarterly quality assurance reviews should be conducted to ensure sufficient and consistent coverage agency wide.

Forest Service Response: The Forest Service will provide additional guidance by June 30, 2010 to the EROCs specifying how the quarterly quality assurance reviews should be conducted.

OIG Recommendation #3: Require that the EROCs develop a plan for conducting the quarterly quality assurance reviews similar to the one developed by the Southwestern EROC.

Forest Service Response: The Forest Service will require the EROCs adopt the Southwestern EROC plan during the upcoming monthly Leads call and through an e-mail communication reminder for conducting the quarterly quality assurance reviews. The EROC review plans will be completed by June 30, 2010.

OIG Recommendation #4: Check to ensure that the EROCs' Contracting Leads are actually doing the quarterly quality assurance reviews during the AQM's review of the EROCs.

Forest Service Response: During our normal monitoring of the IPP, the Forest Service will check to ensure that the Contracting Leads are conducting the quarterly reviews.

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

