



United States Department of Agriculture
Office of Inspector General





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AUDIT
NUMBER: 08703-0002-SF

TO: Thomas L. Tidwell
Chief
Forest Service

ATTN: Thelma Strong
Acting Chief Financial Officer

FROM: Gil H. Harden
Assistant Inspector General
for Audit

SUBJECT: American Recovery and Reinvestment Act – Forest Service Capital Improvement
and Maintenance Projects -Facility Improvement, Maintenance, and
Rehabilitation

This report presents the results of the subject review. Your written response to the official draft report, excluding the attachments, is included at the end of the report. Excerpts from the response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on the information in your written response, we have accepted your management decision for all of the recommendations.

In accordance with Departmental Regulation 1720-1, please note that final action must be completed within 1 year of each management decision to prevent being listed in the Department's annual Performance and Accountability Report. For agencies other than the Office of the Chief Financial Officer (OCFO), please follow your internal agency procedures in forwarding final action correspondence.

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

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American Recovery and Reinvestment Act – Forest Service Capital Improvement and Maintenance Projects Facility Improvement, Maintenance, and Rehabilitation

Executive Summary

The American Recovery and Reinvestment Act of 2009 (Recovery Act) was passed by Congress on February 17, 2009, to stimulate the Nation’s economy by creating and saving jobs across the Nation.¹ As part of this effort, the Forest Service (FS) was allotted \$1.15 billion to implement projects that would directly accomplish its mission. This included \$650 million for Capital Improvement and Maintenance (CIM) projects, of which \$246 million was awarded for facility projects (including renovation). These funds were awarded through contracts, grants, and agreements to private businesses, non-profit organizations, local and State governments, tribes, and individuals.

In passing the law, Congress emphasized the need for accountability and transparency in the expenditure of the funds. To accomplish this, the Office of Management and Budget (OMB) issued guidance that required Federal agencies to establish rigorous internal controls and oversight mechanisms. The U.S. Department of Agriculture’s (USDA) Office of Inspector General (OIG) was also mandated by the Recovery Act to oversee agency activities to ensure Recovery Act funds were spent in a manner that minimized the risk of improper use. Consequently, OIG initiated several audits related to FS’ oversight and controls over different project types, such as facilities, trails, roads, and abandoned mines.

Our audit focused on FS’ management of Recovery Act-funded facility projects. Specifically, our audit objectives were to determine whether FS complied with laws and regulations pertaining to the Recovery Act, selected projects that met eligibility and program requirements, completed projects timely and effectively, and supported the information it reported for its performance measure for CIM.²

Although our audit did not identify any reportable issues related to the last three objectives, we found the following control deficiencies related to FS’ compliance with Recovery Act laws and regulations. Specifically, FS needed to ensure that contracts meet Federal procurement requirements. For example, FS contracting officials on some projects did not adequately review contractors’ payrolls and materials before issuing payments. In addition, some FS officials did not obtain the necessary supervisory authorization required to use their purchase cards.

¹ Public Law 111-5 (February 2009).

² Regarding the fourth objective, we did not review whether FS reported accomplishments were supportable because we will review FS’ performance measures in a subsequent audit.

We previously reported these contract issues to agency officials through four Fast Reports and a Contract Compliance Review Report.³ In those reports, we reported the following issues:

- For 7 of 26 sampled facility projects (27 percent), FS did not ensure its contractors complied with certain contract provisions. Specifically, FS contracting officials did not adequately review the contractors' payrolls or ensure materials used in the project met contract requirements. According to the FS officials, this occurred because they had an increased workload and were unfamiliar with certain contract provisions. As a result, FS did not identify that nine contractors working on these seven projects violated at least one of the following: the Davis Bacon Act (DBA), the Buy American Act (BAA), and a contract provision requiring product data submittals to be given to FS for review.⁴
- We also found that FS needed to ensure its staff followed controls over purchase card use in order to prevent potential fraud, waste, and abuse. Specifically, we found that two FS cardholders did not obtain the required authorization to use their cards. Although both cardholders took the required purchase card training, they told us that they were unaware of the rules when using their purchase cards. As a result, both cardholders made purchases exceeding the \$3,000 threshold; one of the cardholders also did not comply with additional reporting requirements after making a Recovery Act purchase.
- In addition, we reviewed 73 contracts from our 26 sampled projects and found that FS did not comply with procurement requirements for 17 of these contracts (23 percent), totaling \$2.9 million. Specifically, FS did not correctly publicize pre-solicitation or award notices on the Federal Business Opportunities (FedBizOpps) website and did not include the required Recovery Act clause for these contracts.⁵ According to FS, this occurred because some contract officials were unfamiliar with certain updated OMB, Federal Acquisition Regulation (FAR), and Recovery Act requirements or overlooked the requirements because of their increased workload. As a result, these 17 contracts did not always meet the Recovery Act's transparency objectives and contractors were not informed of their contractual requirements.

³ The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(1) (August 3, 2009); The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(2) (July 7, 2010); Noncompliant Use of Purchase Cards at Hoosier National Forest, Indiana – The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(3) (December 20, 2010); The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(4) (April 14, 2011); and Contract Compliance Review – Apache-Sitgreaves National Forest, Arizona (Hoyer Campground Facility Reconstruction Project) (November 24, 2009).

⁴ DBA requires contractors to pay at least the prevailing wages to laborers on Federally-funded construction projects over \$2,000 (March 3, 1931). BAA requires contractors to use domestic iron, steel, and goods manufactured in the United States (March 3, 1933). Product data includes construction details, materials descriptions, fabrication methods, dimensions of individual components and profiles, hardware, finishes, and operating instructions.

⁵ FedBizOpps is a web-based system that allows Federal officials to publicly post solicitations and other procurement-related documents online. The public then can search the system for information regarding the contract.

Recommendation Summary

To strengthen FS contract administration, FS needs to improve its monitoring of contractors' payrolls and materials and to ensure they follow applicable laws and regulations. Accordingly, we recommend that FS issue specific guidance on how to conduct payroll reviews, handle DBA violations, ensure contractors comply with DBA provisions, and ensure materials used by contractors meet BAA provisions and other contract specifications by obtaining product data submittals.

As noted in the fast report, we also recommended that FS ensure its cardholders follow existing controls over the use of the purchase cards. We recommend FS issue written guidance to remind all cardholders to obtain written authorization from a supervisor or have a signed requisition before making purchases with their cards.

Since the FAR requires pre-award and award notices for both Recovery Act and non-Recovery Act contracts, we recommend that FS issue written guidance to remind contracting officials to publicize pre-solicitation and award notices on the FedBizOpps website.

Agency Response

In its written response dated April 2, 2012, FS concurred with the reported findings and recommendations. FS' response, excluding the attachments, is included at the end of this report.

OIG Position

We accept FS' management decision for Recommendations 1 through 8.

Background and Objectives

Background

On February 17, 2009, Congress passed the American Recovery and Reinvestment Act of 2009 (Recovery Act) to stimulate the Nation's economy by creating or saving jobs across the Nation. Recovery Act funds were invested in transportation, environmental protection, and other infrastructure. FS received \$1.15 billion, which was divided between two major categories: \$650 million for Capital Improvement and Maintenance (CIM) and \$500 million for Wildland Fire Management (WFM).

FS allocated \$246 million of the CIM funds to facility projects (including renovation) and awarded over 700 contracts plus 30 grants and agreements to these projects. These awards were intended to eliminate health and safety risks at FS buildings and recreation sites, and to reduce the amount of deferred maintenance on aging infrastructure. These funds were awarded to private businesses, non-profit organizations, local and State governments, tribes, and individuals.

To satisfy the transparency requirements, FS uses the Federal Business Opportunities (FedBizOpps) website and the Federal Procurement Database System – Next Generation (FPDS-NG) to publicize information about project solicitations, contract awards, and fund recipients. In addition, recipients of Recovery Act funds are required to report their expenditures and progress on the Recovery.gov website.⁶

The Recovery Act also requires the U.S. Department of Agriculture's Office of Inspector General (OIG) to oversee FS' (and other USDA agencies') activities in order to ensure Recovery Act funds are spent in a manner that minimizes the risk of improper use. Consequently, OIG initiated several audits related to FS' oversight and controls over different project types, such as facilities, trails, roads, and abandoned mines.

The Recovery Act established the Recovery Accountability and Transparency Board (RATB), which analyzes online databases for potential issues concerning misuse of funds and compliance with additional contract clauses required by the Recovery Act. RATB also receives referrals from interested stakeholders (e.g., whistleblowers). RATB can refer instances of non-compliance with the Office of Management and Budget (OMB) and Federal Acquisition Regulation requirements to OIG for further review.

In April 2009, FS established four Economic Recovery Operations Centers (EROCs): the Intermountain EROC in Denver, Colorado; the Southwest EROC in Vallejo, California; the Northwest EROC in Sandy, Oregon; and the East EROC in Atlanta, Georgia.⁷ EROCs were staffed with FS specialists who execute and administer contracts, grants, and agreements for

⁶ OMB M-09-15 (April 3, 2009).

⁷ Before EROCs, FS' National forests were responsible for approving and awarding the "first 10 percent [of] projects." The first 10 percent [of] projects were projects that FS awarded in March 2009 with 10 percent of the Recovery Act funds.

Recovery Act projects.⁸ Specifically, Contracting Officers are responsible for awarding and administering contracts to ensure they comply with Recovery Act, OMB guidance, and Federal Acquisition Regulation provisions such as the Davis-Bacon Act and the Buy American Act. Grant and Agreement Specialists are responsible for reviewing and approving new grants and agreements and modifications for Recovery-funded projects.

Objectives

Our audit objectives were to determine whether FS: (1) complied with laws and regulations pertaining to Recovery Act funding; (2) selected Recovery Act-funded facilities projects that met eligibility and program requirements; (3) timely and effectively completed its Recovery Act-funded facilities projects; and (4) can support the accomplishments it reported. For the fourth objective, we did not complete a comprehensive review of FS' reported accomplishments because we will address FS Recovery Act performance measures in a subsequent audit.

⁸ Contracts are mutually binding, legal documents that obligate entities to furnish supplies or services (including construction). FS awards grants to recipients in order to accomplish the public purpose of support or stimulus as authorized by law. For grants, FS does not have substantial involvement with the project. Generally, agreements require FS to be involved in the project.

Finding 1: FS Needs to Improve its Administration of Contracts

FS did not ensure its contractors complied with contract requirements for 7 of 26 sampled facility projects (27 percent). Specifically, FS contracting officials did not adequately review the contractors' payrolls or ensure materials used in the project met requirements in the contracts. According to FS officials, this occurred because they had an increased workload and were unfamiliar with certain contract provisions. As a result, FS did not detect that nine contractors working on these seven projects violated at least one of the following requirements: the Davis-Bacon Act (DBA),⁹ the Buy American Act (BAA),¹⁰ and a contract provision that contractors give FS product data submittals for review.

FS Recovery Act guidance requires contracting officers to perform all duties in accordance with the Federal Acquisition Regulation (FAR), FS acquisition regulations, Office of Management and Budget (OMB) direction, Economic Recovery Operations Centers (EROC) Acquisition Management Internal Process Plan, and program direction.¹¹

According to the FS Contract Administration Handbook, Contracting Officers (COs) are responsible for contract administration and contracting officer representatives (CORs). CORs and inspectors work directly with contractors at project sites to administer contracts. CORs and inspectors' administrative responsibilities include reviewing contractors' payrolls, inspecting contractors' work and materials, recommending payments be made to contractors, and informing COs about work processes.

We found that FS did not properly review the projects. Specifically, we found the following deficiencies:

- *Inadequate reviews of contractors' payrolls.* For five projects within our sample, FS did not ensure contractors' payrolls met DBA's prevailing wage requirements.¹² The DBA prevailing wage is the combination of the basic hourly rate and fringe benefits required to pay various classes of laborers and mechanics employed on construction projects in a specific geographic area. The contracting officials explained that the required reviews were either not conducted or were not adequately completed because of the increased workload due to Recovery Act-funded projects. In addition, the FS Contract Administration Handbook did not provide specific guidance on how to review payrolls. Consequently, FS did not identify that 6 contractors underpaid 15 of 30 laborers by 24 percent, or about \$8,100.

⁹ DBA (Title 40 United States Code (U.S.C.) 3141-3148) established the requirement for paying prevailing wages on all Federal construction contracts over \$2,000; these contracts must include provisions for paying workers on-site no less than the locally prevailing wages and benefits paid on similar projects.

¹⁰ BAA (Title 41 U.S.C. 10 (a-d)) established the requirement for contractors to purchase U.S. made products for projects funded by the Federal government.

¹¹ FS Recovery Act Guidance, Chapter 5-4 (October 1, 2010).

¹² Federal construction contractors and subcontractors are required to submit weekly payrolls to FS. The payrolls contain the name and social security number of each laborer, his or her job classification, and hourly rates of wages paid. Ultimately, contractors are responsible for ensuring subcontractors pay their laborers at least the DBA prevailing wages.

The Recovery Act requires all laborers employed by contractors and subcontractors be paid wages not less than DBA prevailing wages.¹³ FAR states, “The CO shall examine the payrolls and payroll statements to ensure compliance with the contract and any statutory or regulatory requirements.”¹⁴ Compliance checking includes employee interviews, on-site inspections, payroll reviews, and data comparison. These checks help determine whether the contractor issued payroll using correct rates of pay; established proper fringe benefits; fulfilled posting requirements; and submitted payrolls timely, accurately, and consistently. Further, FS’ Contract Administration Handbook states, “[COR] shall receive and audit the weekly payrolls for construction of public works to assure proper job classifications, hours, and rates.”¹⁵

Our review of the payroll records for 6 contractors identified 15 laborers whose hourly wages and fringe benefits were less than the DBA prevailing wages by an average of 24 percent.¹⁶ The contractors underpaid 6 of these 15 laborers by at least 60 percent.

Table 1: Summary of DBA Violations

FS Units	Contractor*	Number of Laborers Not Paid DBA Prevailing Wages	DBA Prevailing Wages	Actual Wages and Fringes Paid	Amount Underpaid	Percent Underpaid
Clearwater NF	A	2	\$1,592	\$563	\$1,029	65%
Northern Research Station Laboratory	B	4	\$7,721	\$3,096	\$4,625	60%
Superior NF	C	1	\$1,499	\$1,027	\$472	32%
Coronado NF	D	2	\$1,389	\$1,260	\$129	9%
Chippewa NF	E	5	\$21,344	\$19,535	\$1,809	9%
Crossett Experimental Forest	F	1	\$135	\$110	\$25	19%
Total		15	\$33,680	\$25,591	\$8,089	24%
*Both contractors C and E worked on the same project. This project was located at the Superior NF, Chippewa NF, and Chequamegon-Nicolet NF.						

Although contracting officials for these projects were aware of their responsibility to review payrolls, some officials told us that they were unsure on how to complete a thorough payroll review because of a lack of specific guidance. To remedy the DBA violations, FS contracting officials notified all 6 contractors to pay the required wages to

¹³ Public Law 111-5, Section 1606 (Wage Rate Requirements) (February 2009).

¹⁴ FAR Subpart 22.406-6(c)(1) (December 7, 2007).

¹⁵ FS’ Contract Administration Handbook 6309.11 Sections 04.4-12 (January 1991).

¹⁶ We found 19 of the 78 payrolls (24 percent) submitted by the 6 contractors showed that at least one laborer was underpaid the DBA prevailing wages.

the 15 underpaid laborers. We later confirmed that two contractors (A and D) repaid their laborers the required wages. Three contractors (B, E, and F) informed FS they will pay their laborers the correct wages. FS referred contractor C to the Department of Labor since it did not respond to FS' request for more payroll information.

We initially reported DBA violations committed by three contractors (A, B, and D) to FS' Chief in a Fast Report dated April 14, 2011.¹⁷ In FS' written response, dated April 21, 2011, FS concurred with our recommendations to issue specific guidance explaining how to conduct payroll reviews and handle DBA violations. FS also will ensure its contracting officials review all payrolls before issuing payment.

- *Inadequate inspection of materials.* For two projects, FS did not ensure that the origin and type of materials used by the contractors were domestic, as required in the contract. FS stated it overlooked this responsibility because of an increased workload. As a result, two contractors violated BAA by purchasing materials made in Canada without obtaining a waiver from FS. Another contractor on a different project did not provide the product data submittals as required by the contract.

FS' Contract Administration Handbook states that the "[COR] shall inspect work and materials as the contract work progresses."¹⁸ The Recovery Act requires contractors to use domestic iron, steel, and manufactured goods that are produced in the United States. It sets forth three circumstances under which BAA requirements can be waived: (1) if applying BAA provisions would be inconsistent with public interest, (2) if the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality, or (3) if the inclusion of the goods would increase the cost of the overall project by more than 25 percent.¹⁹

Angeles National Forest. FS did not detect that two contractors violated BAA by installing non-U.S. manufactured cedar shakes (shingles) on some FS buildings. According to FS, neither contractor obtained a waiver for the shakes because they were unaware of the requirements.

During our visit to two Recovery Act-funded facility projects (historical renovations), we found that FS' contractors bought red cedar shakes (shingles) made in Canada without obtaining a waiver from FS, or advertising their need for that type of shingle in the Federal Register.

We discussed this issue with an FS official who said that purchasing the Canadian shingles was allowed by OMB guidance since Canada is included in the North American Free Trade Agreement. As a member, OMB allows Canadian product exemptions from the Buy American Act.²⁰ However, Recovery Act regulations

¹⁷ The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(4).

¹⁸ FS' Contract Administration Handbook 6309.11, Section 04.4 (January 31, 1991).

¹⁹ Public Law 111-5, Section 1605 (Buy American Act) (February 17, 2009).

²⁰ OMB M-09-15, Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009, Appendix 9 "Interim Final Guidance for Federal Financial Assistance, Supplementary Information" (April 3, 2009).

limit such exemptions only to projects with an estimated value of \$7.4 million or more.²¹ The two Recovery Act-funded renovation projects were valued at \$349,000 and \$175,000 and, therefore, were not exempt.

We reported this issue to FS' Chief in a Fast Report dated August 3, 2009.²² In its written response, FS stated that it will increase training given to contractors and subcontractors to ensure they comply with BAA requirements (August 21, 2009).

Olympia Forestry Science Laboratory. FS did not obtain the required product data (called "submittals") from the contractor to verify whether the 150 new windows installed at a laboratory met contract specifications. For FS to ensure that taxpayer dollars were spent appropriately, FS needed to review these submittals to ensure replacement windows (costing \$250,650) met contract requirements such as performance and warranty requirements.²³

FS contracts require submittals such as "product data, shop drawings, samples for verification, product schedule, qualifications data, product test reports, maintenance data, and warranty." In addition, the FS Contract Administration Handbook states that CORs "shall . . . inspect work and materials as the contract work progresses . . . and provide instructions relating to compliance with contract specifications, plans, and provisions to the contractors or their designated representatives."²⁴

At the project site, we were unable to determine whether the 150 new windows met performance and warranty requirements in the contract.²⁵ FS contracting officials were unable to provide the required submittals for the windows. FS contracting officials stated that this oversight occurred due to the heavy workload during the course of the project. However, FS contracting officials agreed that to properly monitor the project, they needed to review the submittals to ensure the windows complied with the requirements of the contract.

We reported this issue to FS' Chief in a Fast Report dated July 7, 2010.²⁶ In its written response, FS agreed with our recommendation and took corrective actions.

In summary, FS contracting officials did not always ensure contractors were complying with the terms of the facilities contracts. Contract administration is an integral part of the procurement process that ensures FS and the public that taxpayer dollars are spent as intended. Since DBA is

²¹ 2 Code of Federal Regulations pt. 176, subpart B "Buy American Requirement under Section 1605 of the American Recovery and Reinvestment Act of 2009," sec. 176.90 "Non-application to acquisitions covered under international agreement" para. (a) (April 23, 2009).

²² The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(1).

²³ The replacement windows must meet certain specifications such as rate of air leakage, water penetration, etc.

²⁴ FS' Contract Administration Handbook 6309.11 Section 04.4 (January 1991).

²⁵ Without the submittals, we could not determine if the replacement windows met certain specifications such as rate of air leakage, water penetration, etc.

²⁶ The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(2).

required for both Recovery Act and non-Recovery Act contracts, we recommend that FS issue specific guidance on how to conduct payroll reviews, handle DBA violations, and ensure contractors comply with DBA provisions before making payments. In addition, we recommend that FS ensure contractors who violated DBA provisions pay their workers the corrected wages, totaling at least \$8,089.

Recommendation 1

Issue detailed guidance to FS contracting officials that will explain how to conduct payroll reviews and handle DBA violations.

Agency Response

FS concurred with the recommendation. In its April 21, 2011, response to our Fast Report, FS stated that the FS' Contract Administration Handbook 6309.11, 04.4 items 12 and 13 address Contracting Officer Representative responsibilities in regards to contract administration which includes a list of tasks, such as audit of weekly payrolls for construction of public works to assure proper job classifications, hours, and rates. FS noted that they would provide guidance to advise Contracting Officer on action to take in the event wage problems are identified. FS also noted they would issue a letter to the contracting officials to comply [with] this guidance [by June 30, 2012].

OIG Position

We accept FS' management decision for this recommendation.

Recommendation 2

For contracts that are subject to DBA, ensure FS contracting officials review contractors' and subcontractors' payrolls before issuing payment.

Agency Response

FS concurred with the recommendation. In its April 21, 2011, response to our Fast Report, FS noted that in accordance with FAR 22 the Contracting Officer is responsible for management of all aspects of payment. As described in response in recommendation 1, FSH 6309.11 delineates the responsibility to the contracting officer representative to review weekly payrolls. The letter to be issued in response to recommendation 1 would also include the guidance to address this recommendation [by June 30, 2012].

OIG Position

We accept FS' management decision for this recommendation.

Recommendation 3

Ensure the six contractors who violated DBA provisions pay their workers the corrected wages, amounting to at least \$8,089.

Agency Response

FS concurs with this recommendation. The agency's contracting officials notified all 6 contractors to pay the required wages to the 15 underpaid laborers. It was confirmed that two contractors (A and D) repaid their laborers the required wages. Three contractors (B, E, and F) informed FS they will pay their laborers the correct wages. FS referred contractor C to the Department of Labor since they did not respond to FS' request for more payroll information. FS will contact the three remaining contractors to ensure the wages were paid to the underpaid laborers [by May 31, 2012].

OIG Position

We accept FS' management decision for this recommendation.

Recommendation 4

Ensure FS contracting officials verify that materials used by contractors meet BAA provisions and other contract specifications (e.g., product data submittals).

Agency Response

FS concurs with this recommendation. FS issued a letter subject, "Process for BAA Requirements under Section 1605 of the Recovery Act," dated October 16, 2009. The letter further clarified the BAA requirements and the process for contracts.

For future construction contracts, FS contracting officers will reference the provisions of the BAA (FAR 52.225-9), and determine its applicability to the specific requisition. FS contracting officers will verify that materials to be used in the construction project meet BAA provisions when applicable by requesting certification documents, letters of certification, receipts, MSDS sheets or any other evidence that clearly indicate that the construction products were manufactured in the United States.

FS requests closure for this recommendation. FS completed corrective action on by issuing a letter [dated October 16, 2009] regarding the requirements and process for BAA.

OIG Position

We accept FS' management decision for this recommendation.

Finding 2: Hoosier National Forest Did Not Follow Requirements for the Use of Purchase Cards

We found that two FS purchase cardholders at Hoosier NF (HNF) did not follow requirements for the use of their Recovery Act purchase cards. Specifically, they did not obtain the required authorization, and their purchases exceeded the \$3,000 threshold set by the Recovery Act.²⁷ Although both cardholders took the purchase card training, they were unaware of the rules for using their purchase cards. As a result, both cardholders made purchases exceeding the \$3,000 micro-purchase threshold; one of the cardholders also did not comply with additional reporting requirements on the use of the Recovery Act purchase card.

OMB guidance requires Federal agencies to establish controls, oversight mechanisms, and other approaches to meet the Recovery Act's accountability objectives.²⁸ Further, OMB guidance states, "agency personnel requesting a cardholder to acquire an item(s) with a purchase card should provide written requests to the purchase cardholder for the items. If it is not possible for the requester to make the request in writing, the purchase cardholder should document [several items] in their file . . . and obtain prior approval before making self-generated purchases."²⁹

FS Recovery Act guidance states, "field purchase card use is limited to the micro-purchase threshold which is; \$3,000 for supplies, \$2,500 for services, and \$2,000 for construction. . . All needs above these levels must be identified on a requisition . . . and executed by EROC personnel."³⁰

During our audit we found that two HNF cardholders did not follow purchase card procedures. Specifically, one cardholder did not obtain the required authorization from a supervisor for purchases made with a Recovery Act purchase card. The cardholder rented a bobcat mini-track for \$3,060 and a forklift for \$320. FS policy requires that purchases be either authorized in writing by a supervisor or be approved by a requisition.³¹ In addition, a purchase that exceeded the \$3,000 threshold needed to be made by EROC personnel.³² After we informed the cardholder of this issue, he promptly renegotiated the rental agreement to less than \$3,000.

Another HNF cardholder purchased wooden posts totaling \$6,460 with his card. This transaction exceeded the \$3,000 threshold and should have been processed by EROC personnel. Additionally, the cardholder did not comply with other requirements for Recovery Act-funded purchases. Specifically, this cardholder combined Recovery Act and non-Recovery Act-funded

²⁷ An employee with a purchase card can either be an unwarranted or a warranted cardholder. An unwarranted cardholder can make a single purchase under a maximum micro-purchase threshold of \$3,000 with prior approval from his/her supervisor. A warranted cardholder can make a single purchase that exceeds the \$3,000 micro-purchase threshold with a signed requisition. However, for Recovery-funded projects, both unwarranted and warranted cardholders are limited to the same micro-threshold; any single purchase beyond the threshold must be procured by EROC personnel.

²⁸ OMB M-09-10 (February 18, 2009).

²⁹ OMB Circular A-123, Appendix B Revised Section 4.8 (January 15, 2009).

³⁰ FS Recovery Act Guidance, Chapter 5-39 and 5-40 (October 2, 2009).

³¹ FS Federal Acquisition Regulation Handbook 6309.32 Section 4 G13.301-71(g)(2)(v) (February 9, 2009).

³² FS Recovery Act Guidance, Chapter 5-39 (October 2, 2009).

purchases on the same card, did not maintain a log of Recovery Act-funded purchases, and did not report the transaction in the Federal Procurement Database System-Next Generation (FPDS-NG)—all of which are required by FS guidance.³³ FPDS-NG provides transparency by allowing the public access to detailed information about Federal procurements over \$3,000.³⁴

We found no evidence to indicate the FS cardholders used their purchase cards for purposes unrelated to FS Recovery Act-funded work performed at HNF.

We discussed this issue with the acting HNF supervisor and an official at the governing EROC. Both officials agreed that all employees using purchase cards must adhere to FS guidance and Recovery Act requirements. However, they were unable to provide us a reasonable explanation as to why the two employees were unaware of requirements associated with the purchase card.

We reported this issue to the FS Chief in a Fast Report, dated December 20, 2010.³⁵ In its written response dated January 5, 2011, FS concurred with our recommendations to obtain written authorization from a supervisor or have a signed requisition before making purchases with purchase cards; to defer Recovery Act-funded purchases exceeding the limit of \$3,000 to EROC personnel; and to follow all Recovery Act transparency reporting and record keeping requirements.

However, because FS still uses purchase cards in the normal course of business, it is critical for FS cardholders to follow controls over the use of purchase cards to minimize the risk of fraud, waste, and abuse. Therefore, we are recommending that FS direct all cardholders and supervisors to follow procedures when using purchase cards.

Recommendation 5

Issue written guidance to remind all cardholders to obtain written authorization from a supervisor or have a signed requisition before making purchases with their cards.

Agency Response

FS concurred with this recommendation. In its January 5, 2011, response to our Fast Report, FS issued a letter to remind purchase cardholders to comply with FS' Contract Administration Handbook 6309.32, Part 4G13.301-71 [by June 30, 2012].

³³ The FS Recovery Act Guidance Chapter 5-39, 5-40 (October 2, 2009) states “if a purchase card is used for Recovery Act, that card immediately becomes dedicated to only Recovery Act purchases with no exceptions. A log must be maintained for ALL Recovery Act purchase card purchases. This log template is included in the April 1, 2009, letter entitled *Purchase Card Use with ARRA Fund* ... purchases above \$3,000 must be reported in FPDS-NG within 3 days of purchase.”

³⁴ FS Recovery Act Guidance, Chapter 5-40 (October 2, 2009), states, “purchases above \$3,000 must be reported in FPDS-NG within 3 days of purchase.”

³⁵ Noncompliant Use of Purchase Cards at Hoosier National Forest, Indiana - The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF (3).

OIG Position

We accept FS' management decision for this recommendation.

Recommendation 6

Issue written guidance to remind all cardholders to follow all Recovery Act transparency reporting and record-keeping requirements.

Agency Response

FS concurred with this recommendation. In its January 5, 2011 response to our Fast Report, FS stated that Chapter 5 instruction of the FS Recovery Act guidance was revised [on October 1, 2010] to clarify the Recovery Act transparency reporting and record keeping requirements. This document has been a living document and several updates have been made throughout the last 2 years.

OIG Position

We accept FS' management decision for this recommendation.

Finding 3: FS Did Not Comply With Contract Requirements in Awarding Recovery Act Contracts

We reviewed 73 contracts from our 26 sample projects and found that FS did not comply with procurement requirements for 17 of these contracts (23 percent) totaling \$2.9 million. Specifically, FS did not correctly publicize pre-solicitation or award notices on the FedBizOpps website and did not include the required Recovery Act clauses in some contracts.³⁶ This occurred because some FS contract officials were unfamiliar with certain updated OMB, FAR, and Recovery Act requirements or overlooked the requirements because of their increased workload. As a result, for the 17 contracts totaling \$2.9 million, FS did not always meet the Recovery Act's transparency objectives to the public, and contractors were not informed of their contractual requirements.

FS Recovery Act guidance requires contracting officers to perform all duties in accordance with FAR, FS acquisition regulations, OMB direction, the EROC-Acquisition Management Internal Process Plan, and the Program Direction.³⁷

³⁶ FedBizOpps is a web-based system for publicly posting solicitations and other procurement-related documents online. FedBizOpps allows procurement officials to post synopses and other procurement documents and allows vendors to search databases containing information from Federal agencies.

³⁷ FS Recovery Act Guidance, Chapter 5-4 (October 1, 2010).

In June 2009, the RATB developed a contract compliance checklist to help guard against fraud and abuse at the front end of the procurement process.³⁸ The RATB checklist was distributed to Federal, State, and local agencies and included certain OMB and FAR requirements. For example, the checklist required that contract award notices be posted publicly on the FedBizOpps website and contracts must include specific FAR clauses.

Based on the RATB contract compliance checklist, we found that 17 of 73 (23 percent) contracts in our sample did not comply with OMB and FAR requirements. Table 2 below summarizes these noncompliant contracts.

Table 2: Summary of Noncompliant Contracts

Noncompliant Items	No. of Contracts Among “First 10 Percent Projects”	No. of Contracts Issued After “First 10 Percent Projects”	Total
Improperly publicized pre-solicitation and/or award notices	7	4	11
Required contract clauses missing	0	6	6
Total Noncompliant Contracts	7	10	17

The above issues are discussed in further detail below. (See exhibit C for FS’ comments on the noncompliant contracts.)

Improperly publicized pre-solicitation or award notices. FS did not correctly publicize pre-solicitation or award notices for 11 of the 73 sampled contracts (15 percent) on the FedBizOpps website. According to FS, some COs were either unfamiliar with the new Recovery Act requirements or just overlooked the requirements because of their increased workload. As a result, FS did not always meet the Recovery Act’s transparency objectives.

OMB guidance states, “for contract awards, agencies must . . . publish pre-solicitation and award notices of orders under task and delivery order contracts on FedBizOpps.”³⁹ FAR requires pre-solicitation notices to be posted on FedBizOpps for solicitations and contract modifications estimated above \$25,000.⁴⁰ The purpose of the postings is to “enhance transparency to the public.”⁴¹ FAR also requires award notices to be posted on FedBizOpps for contracts valued above \$25,000.⁴² The award notices must use clear and concise language to describe the goods and services being contracted.⁴³

³⁸ Public Law 111-5, Section 1521 (Establishment of the Recovery Accountability and Transparency Board) (February 17, 2009), established the RATB to coordinate and conduct oversight of Recovery Act funds to prevent fraud, waste, and abuse.

³⁹ OMB M-09-10, Section 1.5 (February 18, 2009).

⁴⁰ FAR 5.704(a)(2) (July 16, 2010).

⁴¹ FAR 5.701 (July 16, 2010).

⁴² FAR 5.301(a) (October 10, 2010).

⁴³ FAR 5.705(a)(3) (July 16, 2010).

We reviewed six “first 10 percent projects,” which were projects that FS awarded in March 2009 with 10 percent of the Recovery Act funds.⁴⁴ In this review, we found FS did not post or properly post pre-solicitation notices on the FedBizOpps website for 7 of 13 contracts (54 percent).⁴⁵ Specifically, a CO did not post pre-solicitation notices on the FedBizOpps website and did not provide descriptions in award notices for six of seven contracts. According to the CO, he was unaware of all the new Recovery Act requirements when the contracts were awarded. We later found a seventh contract that did not have the required OMB “informational purposes only” statement in its pre-solicitation announcement.

We reported this issue to FS’ Chief in a Fast Report dated November 24, 2009.⁴⁶ In its written response dated December 23, 2009, FS stated that EROCs will provide guidance to COs on OMB updates related to Federal purchasing laws and applicable Recovery Act legislation. In addition, FS assigned the six contracts to the Southwest EROC to ensure they comply with applicable Recovery Act legislation.

In addition, OIG previously reported in several Contract Compliance Reviews that FS did not comply with requirements for contracts awarded for the “first 10 percent projects.”⁴⁷ The reports identified instances in which FS did not publicize pre-solicitation and award notices on the FedBizOpps website and did not include all the required Recovery Act clauses in some contracts.

After this issue was reported, we statistically reviewed the remaining 20 projects in our sample, which were not “first 10 percent projects.”⁴⁸ We observed a general improvement in FS’ compliance with posting requirements over time. However, not all COs were familiar with the updated OMB, FAR, and Recovery Act requirements. Within our sample, FS overlooked the posting requirement for 4 of 60 contracts (7 percent). Specifically, two contracts did not have the required pre-solicitation or award notice, and two other contracts were not properly posted on FedBizOpps. Since the FAR requires pre-award and award notices for both Recovery Act and non-Recovery Act contracts, we recommend that FS issue reminders to contracting officials to publicize pre-solicitation and award notices on FedBizOpps for project solicitations and awards exceeding \$25,000.

Missing required contract clause. Despite FAR and OMB requirements to do so, FS did not include the “GAO/OIG access to contractors’ records” clause in 6 of the 73 sampled contracts (17 percent).⁴⁹ The clause was omitted due to FS contracting officials’

⁴⁴ These 6 projects contained 13 contracts and 1 agreement totaling \$3.8 million.

⁴⁵ We received a RATB referral (RATB-R-0019) to review a “first 10 percent project.”

⁴⁶ The Recovery Act – Forest Service Facility Improvement, Maintenance and Rehabilitation, 08703-0002-SF(1).

⁴⁷ Contract Compliance Review HY-0813-0003 (September 25, 2009); Contract Compliance Review HY-0813-0007 (October 22, 2009); Contract Compliance Review HY-0813-0008 (November 12, 2009); Contract Compliance Review HY-0813-0009 (November 12, 2009); and Contract Compliance Review 08703-0002-SF (November 24, 2009). OIG conducted these reviews based on referrals from the RATB.

⁴⁸ These 20 projects contained a total of 60 contracts and 1 agreement, amounting to \$18.4 million.

⁴⁹ FAR 52.215-2 Alternate 1(d) (March 2009) and OMB M-09-15, Section 6.4 (April 3, 2009).

oversight. As a result, FS could not ensure contractors were fully aware of the requirement.

Contracting officials responsible for the contracts told us the clause was inadvertently omitted because they were in a rush to make contract awards in a timely manner. Although the clause was not included in these contracts, we were able to access contractors' records as necessary and the projects are substantially completed.

Previously, OIG issued a Fast Report which identified required clauses that were missing from several contracts.⁵⁰ Based on the report, FS stated that it updated its contract template. We confirmed that the required Recovery Act clauses had been added to the template. Therefore, we are not making a recommendation on this issue.

After OIG issued the Fast Reports for facility projects, FS generally improved in complying with OMB, FAR, and Recovery Act requirements. Noncompliance rates decreased from 54 percent for the 7 "first 10 percent projects" to 17 percent for the 20 later projects. To ensure FS continues to improve in meeting the Recovery Act's transparency objectives and complying with OMB, FAR, Recovery Act requirements, we recommend that FS issue written guidance to remind contracting officials to publicize pre-solicitation and award notices on the FedBizOpps website for project solicitations and awards exceeding \$25,000.

Recommendation 7

Issue written guidance to remind contracting officials to publicize pre-solicitation and award notices on the FedBizOpps website for proposed contract actions and awards exceeding \$25,000.

Agency Response

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

FS requests closure of this recommendation. FS completed corrective action by updating the EROC AQM IPP [on February 23, 2011] to include enhanced detailed review guidance for peer reviews and second level reviews for publicizing actions. See Enclosure B.

⁵⁰ Contract Compliance Review – Apache-Sitgreaves National Forest, Arizona (Hoyer Campground Facility Reconstruction Project) (November 24, 2009).

OIG Position

We accept FS' management decision for this recommendation.

Recommendation 8

Ensure the pre-solicitation or award notices for the 11 contracts are properly publicized on the FedBizOpps website.

Agency Response

FS concurs with this recommendation. FS cannot update the FedBizOpps website for the 11 contracts because the time has elapsed. However, as a corrective action, FS added to the IPP a requirement that a second level review of compliance with regulations for publicizing actions is conducted and spot checks be performed of the FedBizOpps website to verify the accuracy of the posted information.

FS contracting officers will reference FAR Subpart 5.704 (a) (2) to ensure future compliance with pre-solicitation and award notice requirements when the contract action exceeds \$25,000.

FS requests closure of this recommendation. FS completed corrective action by updating the EROC AQM IPP [on February 23, 2011] to include second level reviews for publicizing actions. See Enclosure B.

OIG Position

We accept FS' management decision for this recommendation.

Scope and Methodology

The purpose of our review was to determine whether FS complied with laws and regulations pertaining to Recovery Act funding. To accomplish our audit objectives, we selected 26 of 169 facility projects for review.⁵¹ These 26 projects consisted of 73 contracts and 2 agreements totaling \$22.2 million (see exhibit B for details of each project). To familiarize ourselves with FS' acquisition processes, we initially judgmentally reviewed six projects with the highest percentage expended compared to the project's estimated costs.⁵² The remainder of our review pertained to 20 randomly selected projects. (See exhibit E for details about the sampling methodology.)⁵³

To review these 26 projects, we performed fieldwork at 4 EROCs, 2 FS regional offices, 21 National Forests (NFs), 3 research stations, and 2 Forest laboratories. Fieldwork was performed at these sites between April 2009 and July 2011. (See exhibit D for a list of all audit sites.)

In developing the findings in this report, we performed the following steps and procedures:

- Reviewed applicable laws, regulations, policies, and procedures pertinent to the Recovery Act. This included the Recovery Act, OMB guidance, FAR, FS acquisition regulations, and FS guidance.
- Interviewed FS regional officials to understand the project selection, fund disbursement, and accomplishment reporting processes.
- Interviewed EROC and NF officials to understand the award and post-award processes for executing and administering contracts, grants, and agreements.
- Reviewed and analyzed 73 contracts and 2 agreements at EROCs and NFs to determine if FS properly awarded and administered the contracts and agreements.
- Analyzed project work plans, expenditure reports, invoices, and other supporting documentation to determine if Recovery Act funds were expended properly.
- Visited project sites based on site accessibility to observe the work being done.
- Conducted a review based on a RATB referral of a construction project in Arizona to determine whether relevant contract documentation complied with OMB, FAR, and Recovery Act requirements.

⁵¹ FS had approved 169 facility projects as of January 7, 2010.

⁵² These 6 judgmentally selected projects contained 13 contracts and 1 agreement totaling \$3.8 million and were considered "first 10 percent projects." The projects were reviewed between June 2009 and April 2010.

⁵³ These 20 randomly selected projects contained 60 contracts and 1 agreement totaling \$18.4 million. The projects were reviewed between June 2010 and July 2011.

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

Abbreviations

BAA	Buy American Act
CIM	Capital Improvement and Maintenance
CO	Contracting Officer
COR	Contracting Officer Representative
DBA	Davis Bacon Act
EROC	Economic Recovery Operations Center
FAR	Federal Acquisition Regulation
FedBizOpps	Federal Business Opportunities
FPDS-NG	Federal Procurement Database System-Next Generation
FS	Forest Service
GAO	Government Accountability Office
HNF	Hoosier National Forest
OIG	Office of Inspector General
OMB	Office of Management and Budget
NF	National Forest
RATB	Recovery Accountability and Transparency Board
USDA	United States Department of Agriculture

Exhibit A: Summary of Monetary Results

Finding Number	Recommendation Number	Description	Amount	Category
1	3	FS did not identify contractors who underpaid laborers working on Recovery Act construction projects.	\$8,089	Questioned Costs – Recovery Recommended
TOTAL MONETARY RESULTS			\$8,089	

Exhibit B: List of Sampled Recovery-Funded Facility Projects

Region / Station	Project Location	Project Selection	Number of Contracts	Number of Agreements	Contract Amount	Agreement Amount
R 2	Pike-San Isabel NF	Judgmental	2	-	\$596,211	-
R 3	Apache-Sitgreaves NF	Judgmental	6	-	\$1,212,114	-
R 5	Angeles NF and San Bernardino NF	Judgmental	2	1	\$889,018	\$175,000
R 9	Chequamegon-Nicolet NF	Judgmental	1	-	\$198,384	-
	Wayne NF	Judgmental	1	-	\$400,710	-
PNW	Olympia Forestry Sciences Laboratory	Judgmental	1	-	\$250,650	-
R 1	Clearwater NF*	Random	13	-	\$1,893,400	-
	Kootenai NF	Random	2	-	\$69,345	-
	Dakota Prairie Grasslands	Random	2	-	\$207,194	-
	Flathead NF	Random	3	-	\$180,822	-
R 3	Coronado NF	Random	4	-	\$1,113,505	-
	Apache-Sitgreaves NF	Random	1	-	\$773,469	-
	Cibola NF	Random	3	-	\$680,784	-
	Prescott NF	Random	2	-	\$162,222	-
R 6	Carson NF	Random	1	1	\$19,813	\$53,227
R 6	Deschutes NF	Random	2	-	\$6,809,427	-
R 8	Nantahala NF	Random	4	-	\$333,546	-
	Chattahoochee NF	Random	1	-	\$298,010	-
	Carribbean NF	Random	5	-	\$357,425	-
	Chattahoochee NF	Random	2	-	\$286,790	-
R 9	Hoosier NF**	Random	-	-	-	-
	Superior NF, Chippewa NF, and Chequamegon-Nicolet NF	Random	6	-	\$2,926,473	-
FPL	Forest Products Laboratory	Random	1	-	\$382,200	-
NRS	Northern Research Station***	Random	5	-	\$272,321	-
PSWRS	Pacific Southwest Research Station	Random	2	-	\$1,436,958	-
SRS	Southern Research Station	Random	1	-	\$259,830	-
Total:			73	2	\$22,010,621	\$228,227
<p>* We randomly sampled 13 of 44 contracts at the Clearwater NF project.</p> <p>** At the time of our review, two contracts totaling \$15,556 were in the process of being awarded at the Hoosier NF project; thus, we did not review any contracts for this project.</p> <p>*** We randomly sampled 5 of 7 contracts at the Northern Research Station project.</p>						

Exhibit C: FS Comments on Noncompliant Contracts

No.	Contract/Agreement No.	Details	FS Comments*	OIG Position
Improperly Publicized Pre-award and Award Notices				
1.	AG-82BH-S-09-0011 (Pike-San Isabel NF)	FedBizOpps pre-award announcement did not state in the description that “this notice is provided for informational purposes only.”	FS did not comment.	On 5/31/2011, we informed FS officials that we would take exception to this since FS did not provide us any comments.
2.	AG-9702-D-09-0005 (Apache-Sitgreaves NF)	FedBizOpps pre-award notice was not posted.	FS concurred.	—
3.	AG-9702-D-09-0007 (Apache-Sitgreaves NF)	FedBizOpps pre-award notice was not posted.	FS concurred.	—
4.	AG-9702-D-09-0006 (Apache-Sitgreaves NF)	FedBizOpps pre-award notice was not posted.	FS concurred.	—
5.	AG-9702-D-09-0004 (Apache-Sitgreaves NF)	FedBizOpps pre-award notice was not posted.	FS concurred.	—
6.	AG-9702-D-09-0008 (Apache-Sitgreaves NF)	FedBizOpps pre-award notice was not posted.	FS concurred.	—
7.	AG-9702-D-09-0003 (Apache-Sitgreaves NF)	FedBizOpps pre-award notice was not posted.	FS concurred.	—
8.	AG-4419-C-10-0166 (Lake States Historic CCC Facilities)	FedBizOpps award notice was not posted.	FS concurred.	—
*On May 5, 2011, we provided FS a list containing 21 exceptions we took during our contract review and requested FS to comment on each exception. On May 25, 2011, FS officials provided comments on 17 of the 21 exceptions.				

Exhibit C: FS Comments on Noncompliant Contracts

No.	Contract/Agreement No.	Details	FS Comments	OIG Position
9.	AG-82B1-C-10-0367 (Clearwater NF)	FedBizOpps award notice was not accurately posted. FS posted information of a different contract into the FedBizOpps award notice.	FS did not concur. Per FS, "OIG's statement was undoubtedly made because Recovery was not at the beginning of the description. A synopsis was posted, the solicitation was posted and the award notice was posted."	Disagreed. On 12/10/2010, we informed the contracting official that the synopsis on FedBizOpps was inaccurate. On 01/19/2011, a contracting specialist explained that the only way to fix the inaccuracies was to submit an entirely new FedBizOpps post. As a result, the corrected synopsis was posted after OIG informed FS.
10.	AG-4419-C-10-0088 (Southern Research Station - Crossett Experimental Forest Laboratory)	FedBizOpps award notice was not accurately posted. The FedBizOpps award notice indicated that the contract was awarded competitively when in actuality it was awarded sole source.	FS concurred.	—
11.	AG-82B1-D-10-0158 (Flathead NF)	FedBizOpps pre-award notice was not posted.	FS concurred.	—
Missing Required Contract Clauses				
12.	AG-4419-C-10-0464 (Northern Research Station)	FS did not include the provision regarding OIG's right to access recipients' records.	FS concurred.	—

Exhibit C: FS Comments on Noncompliant Contracts

No.	Contract/Agreement No.	Details	FS Comments	OIG Position
13.	AG-4419-C-10-0113 (Northern Research Station)	FS did not include the provision regarding OIG's right to access recipients' records.	FS concurred.	—
14.	AG-4419-C-10-0272 (Northern Research Station)	FS did not include the provision regarding OIG's right to access recipients' records.	FS concurred.	—
15.	AG-4419-C-10-0247 (Northern Research Station)	FS did not include the provision regarding OIG's right to access recipients' records.	FS concurred.	—
16.	AG-4419-C-10-0265 (Northern Research Station)	FS did not include the provision regarding OIG's right to access recipients' records.	FS concurred.	—
17.	AG-82B1-C-10-0051 (Dakota Prairie Grasslands)	FS did not include the provision regarding OIG's right to access recipients' records.	FS concurred.	—

Exhibit D: Audit Sites

Audit Site*	Location
<u>Economic Recovery Operations Centers (EROCs)</u> East EROC Intermountain EROC Northwest EROC Pacific Southwest EROC	Atlanta, Georgia Golden, Colorado Sandy, Oregon Vallejo, California
<u>Regional Offices</u> Pacific Southwest Regional Office Rocky Mountain Regional Office	Vallejo, California Golden, Colorado
<u>National Forests and Grasslands</u> Angeles National Forest Apache-Sitgreaves National Forest Carson National Forest Chattahoochee National Forest Chequamegon-Nicolet National Forest Chippewa National Forest Cibola National Forest Clearwater National Forest Coronado National Forest Dakota Prairie Grasslands Deschutes National Forest El Yunque National Forest Flathead National Forest Hoosier National Forest Kootenai National Forest Nantahala National Forest Pike-San Isabel National Forest Prescott National Forest San Bernardino National Forest Superior National Forest Wayne National Forest	Arcadia, California Springerville, Arizona Taos, New Mexico Gainesville, Georgia Rhinelander, Wisconsin Cass Lake, Minnesota Albuquerque, New Mexico Orofino, Idaho Tucson, Arizona Bismarck, North Dakota Bend, Oregon Rio Grande, Puerto Rico Kalispell, Montana Bedford, Indiana Libby, Montana Asheville, North Carolina Pueblo, Colorado Prescott, Arizona San Bernardino, California Duluth, Minnesota Nelsonville, Ohio
<u>Research Stations</u> Northern Research Station Pacific Southwest Research Station Southern Research Station	Rhinelander, Wisconsin Albany, California Crossett, Arkansas
<u>Laboratories</u> Forest Products Laboratory Olympia Forestry Sciences Laboratory	Madison, Wisconsin Olympia, Washington
<p>* We conducted six desk reviews of facility projects in the following audit locations: (1) Apache-Sitgreaves NF, (2) Chattahoochee NF, (3) El Yunque NF, (4) Forest Products Laboratory, (5) Pacific Southwest Research Station, and (6) Lake States Historic Campgrounds located in the Superior, Chippewa, and Chequamegon-Nicolet NFs. We reviewed two projects each at the Apache-Sitgreaves, Chattahoochee, and the Chequamegon- Nicolet NFs.</p>	

Exhibit E: Sampling Methodology for FS Facilities Projects

Objective:

This sample was designed to support the audit of FS national facilities projects having contracts and agreements funded by the Recovery Act. The sampling objective was to determine whether FS complied with applicable laws and agency procedures in awarding and paying for these contracts and agreements.⁵⁴

Audit Universe:

Our universe for this audit was the list of 169 national projects with a CRFR Program code funded under the Recovery Act. Forest Service representatives verified the list of 169 projects as of January 7, 2010. At the time of the audit fieldwork, no consolidated national listing of contracts was available.

Sample Design:

We observed that many national projects had, as of January 7, 2010, little or no expenditure activity. That meant that many of the planned audit tests could not be performed yet. Therefore, we decided to use a stratified sample design, with a census stratum and a random stratum. Each project was expected to involve multiple contracts, which could not be determined in advance of fieldwork. Therefore, we chose to use a two-stage design within both strata, with projects selected at the first stage and contracts selected at the second stage.

Stratum I, the census stratum, initially contained the five FS national projects having the highest percentages expended compared to the projects' estimated amounts at the start of the audit. One additional project was later judgmentally added to this census stratum, for a total of six projects in both the universe and sample for Stratum I.

Stratum II comprised the remaining 163 projects. For the sample from Stratum II, we randomly selected 20 national projects.⁵⁵ We selected the projects for the second stratum using the Excel® “randbetween” function to draw a random number for each project.

We had no information about likely types or numbers of exceptions on which to base a sample size calculation. In particular, we did not know what aspect of variance might dominate: the variance among the contracts within projects or the variance among the projects. Therefore, the Stratum II sample of 20 projects was arbitrary. However, we expected to be able to review a number of contracts at the second stage, from which we expected to obtain sufficient data for projections with reasonable precision.

During the review of the selected projects, the team obtained a list of contracts related to each of the projects chosen. Within each project, we drew random numbers for each contract to determine the order of selection at the second stage. The resulting sample design contained a

⁵⁴ We use “contracts” in the remainder of this section to include both contracts and agreements.

⁵⁵ One project proved to have no contracts awarded during the audit fieldwork period. We counted it as having no exceptions and left it in the sample and universe because there were, potentially, other universe projects that also had no contracts awarded during the audit timeframe.

total of 92 contracts for the 20 projects selected; a total of 61 contracts were selected for review. In Stratum I, all contracts for all six projects were reviewed, so Stratum I did not contribute to the overall variance.

The preceding design is summarized in the table below:

Stratum	First Stage: Forest Service Projects		Second Stage: Contracts	
	Universe: Projects	Sample of Projects	Contracts in Sample of Projects, Clustered by Project	Sample of Contracts, Clustered by Project
Stratum I	6	6	14	14
Stratum II	163	20	92	61
Total	169	26	106	75

Results

The report shows the number of exceptions observed in the sampled projects and contracts. These are raw data. Percentages presented in the report are the number of observed exceptions divided by sampled projects (26) or contracts (75), as applicable. The percentages should not be interpreted to represent the universe of projects or contracts because no weighting factors associated with the stratified two-stage design have been applied.

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



Forest
Service

Washington
Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 1430

Date: April 2, 2012

Route To:

Subject: Response to OIG Draft Report No. 08703-02-SF , " Forest Service Facility Improvement, Maintenance, and Rehabilitation," dated March 2, 2012

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, "Forest Service Facility Improvement, Maintenance, and Rehabilitation," dated March 2, 2012. The Forest Service concurs with the report's findings and recommendations. The agency's comments regarding the status of recommendation numbers 1, 2, 5 and 6, and our plans to implement recommendation numbers 3, 4, 7 and 8 are enclosed.

If you have any questions, please contact Thelma Strong, Acting Chief Financial Officer, at 202-205-1321 or tstrong@fs.fed.us.

/s/ Thomas L. Tidwell
THOMAS L. TIDWELL
Chief

cc: Dianna Capshaw
Erica Y Banegas
George A Sears
Robert Jaeger
Elizabeth Donnelly



USDA Forest Service (FS)

Office of Inspector General (OIG) Draft Audit Report No. 08703-02-SF
Forest Service Facility Improvement, Maintenance, and Rehabilitation

Status Update and Closure

OIG Recommendation #1: Issue detailed guidance to FS contracting officials that will explain how to conduct payroll reviews and handle DBA violations.

FS Response: In its April 21, 2011 response to our Fast Report, FS concurred with the recommendation and stated that the FS' Contract Administration Handbook 6309.11, 04.4 items 12 and 13 address Contracting Officer Representative responsibilities in regards to contract administration which includes a list of tasks, such as audit of weekly payrolls for construction of public works to assure proper job classifications, hours, and rates. FS noted that they would provide guidance to advise Contracting Officer on action to take in the event wage problems are identified. FS also noted they would issue a letter to the contracting officials to comply this guidance by May 31, 2011.

OIG Position: Based on the response to the Fast Report, we accept management decision for this recommendation.

Estimated Completion Date: June 30, 2012

OIG Recommendation 2: For contracts that are subject to DBA, ensure FS contracting officials review contractors' and subcontractors' payrolls before issuing payment.

FS Response: In its April 21, 2011 response to our Fast Report, FS concurred with this recommendation. FS noted that in accordance with FAR 22 the Contracting Officer is responsible for management of all aspects of payment. As described in response in recommendation 1, FSH 6309.11 delineates the responsibility to the Contracting Officer Representative to review weekly payrolls. The letter to be issued in response to recommendation 1 would also include the guidance to address this recommendation.

OIG Position: Based on the response to the Fast Report, we accept management decision for this recommendation.

Estimated Completion Date: June 30, 2012

OIG Recommendation 5: Issue written guidance to remind all cardholders to obtain written authorization from a supervisor or have a signed requisition before making purchases with their cards.

FS Response: In its January 5, 2011 response to our Fast Report, FS concurred with this recommendation and issued a letter to remind purchase cardholders to comply with FS Handbook 6309.32; Part 4G13.301-71 by February 25, 2011.

OIG Position: Based on the response to the Fast Report, we accept management decision for this recommendation.

Estimated Completion Date: June 30, 2012

OIG Recommendation 6: Issue written guidance to remind all cardholders to follow all Recovery Act transparency reporting and record-keeping requirements.

FS Response: In its January 5, 2011 response to our Fast Report, FS agreed with this recommendation and stated that in June 2010, Chapter 5 instruction of the FS Recovery guidance was revised to clarify the Recovery Act transparency reporting and record keeping requirements. This document has been a living document and several updates have been made throughout the last 2 years.

OIG Position: Based on the response to the Fast Report, we accept management decision for this recommendation.

Estimated Completion Date: October 1, 2010

FS Actions Completed to date: The FS requests closure of this recommendation. The FS completed corrective action by revising Chapter 5 instruction of the FS Recovery guidance. See **Enclosure C**.

USDA Forest Service (FS)

**Office of Inspector General (OIG) Audit Report No. 08703-02-SF
The Recovery Act – FS Facility Improvement, Maintenance, and Rehabilitation**

Management Decision

OIG Recommendation 3: Ensure the six contractors who violated DBA provisions pay their workers the corrected wages, amounting to at least \$8,089.

FS Response: The Forest Service concurs with this recommendation. The agency’s contracting officials notified all 6 contractors to pay the required wages to the 15 underpaid laborers. It was confirmed that two contractors (A and D) repaid their laborers the required wages. Three contractors (B, E, and F) informed FS they will pay their laborers the correct wages. FS referred contractor C to the Department of Labor since they did not respond to FS’s request for more payroll information. FS will contact the three remaining contractors to ensure the wages were paid to the underpaid laborers.

Estimated Completion Date: May 31, 2012

OIG Recommendation 4: Ensure FS contracting officials verify that materials used by contractors meet BAA provisions and other contract specifications (e.g., product data submittals).

FS Response: The Forest Service concurs with this recommendation. The FS issued a letter subject, “Process for Buy American Act Requirements under Section 1605 of American Recovery and Reinvestment Act of 2009”, dated October 16, 2009. The letter further clarified the Buy American Act requirements and the process for contracts.

For future construction contracts the FS contracting officers will reference the provisions of the Buy American Act (FAR 52.225-9), and determine its applicability to the specific requisition. FS contracting officers will verify that materials to be used in the construction project meet BAA provisions when applicable by requesting certification documents, letters of certification, receipts, MSDS sheets or any other evidence that clearly indicate that the construction products were manufactured in the United States.

FS requests closure for this recommendation. The FS completed corrective action on by issuing a letter regarding the requirements and process for the Buy American Act. See **Enclosure A**.

Estimated Completion Date: October 16, 2009

OIG Recommendation 7: Issue written guidance to remind contracting officials to publicize pre-solicitation and award notices on the FedBizOpps website for proposed contract actions and awards exceeding \$25,000.

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

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. See **Enclosure B**.

Estimated Completion Date: February 23, 2011

OIG Recommendation 8: Ensure the pre-solicitation or award notices for the 11 contracts are properly publicized on the FedBizOpps website.

FS Response: The Forest Service concurs with this recommendation. The FS cannot update the FedBizOpps website for the 11 contracts because the time has elapsed. However, as a corrective action, Forest Service added to the Internal Process Plan (IPP) a requirement that a second level review of compliance with regulations for publicizing actions is conducted and spot checks be performed of the FBO website to verify the accuracy of the posted information.

FS contracting officers will reference FAR Subpart 5.704 (a) (2) to ensure future compliance with pre-solicitation and award notice requirements when the contract action exceeds \$25,000.

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) to include second level reviews for publicizing actions. See **Enclosure B**.

Estimated Completion Date: February 23, 2011

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