



United States Department of Agriculture
Office of Inspector General





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



DATE: July 24, 2012

REPLY TO
ATTN OF: 10703-0004-KC

TO: Dave White
Chief
Natural Resources Conservation Service

ATTN: Lesia Reed
Deputy Chief
Strategic Planning and Accountability

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: American Recovery and Reinvestment Act – Watershed Protection and Flood Prevention
Operations Program – Field Confirmations

This report presents the results of the subject audit. Your written response to the official draft report, dated May 7, 2012, is included in its entirety at the end of the report. Excerpts from your response and the Office of Inspector General's position are incorporated into the relevant sections of the report. We accept management decisions for Recommendations 1, 2, 3, and 5. However, we are unable to accept management decision on Recommendation 4. Documentation and/or action needed to reach management decision for this recommendation is described in the relevant OIG Position section of the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken or planned, and timeframes for implementing the recommendation for which management decision has not been reached. Please note that the regulation requires management decision to be reached on all recommendations within 6 months from report issuance, and final action to be taken within 1 year of each management decision to prevent being listed in the Department's annual Performance and Accountability Report. Please follow your internal agency procedures in forwarding final action correspondence to OCFO.

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 – Watershed Protection and Flood Prevention Operations Program – Field Confirmations

Executive Summary

The American Recovery and Reinvestment Act of 2009 (Recovery Act) was enacted to preserve and create jobs, promote economic recovery, and assist those affected most by the recession.¹ The Recovery Act provided \$145 million to the Department of Agriculture’s (USDA) Natural Resources Conservation Service (NRCS) for its Watershed Protection and Flood Prevention Operations Program (Watershed Operations). With this program, NRCS enters into agreements with State and local agencies that sponsor projects in watershed areas to improve soil conservation and to provide other environmental benefits. When administering this program with Recovery Act funds, NRCS received 219 requests from NRCS State offices, and awarded funds to 88 projects totaling \$124 million in obligations.² As part of a series of audits assessing NRCS’ use of Recovery Act funds for Watershed Operations and controls over the program, we conducted field confirmations to assess NRCS’ implementation of 21 projects totaling approximately \$51 million in obligations.

Congress’ enactment of the Recovery Act emphasized the need for accountability and transparency in expending funds. The Office of Inspector General’s (OIG) role is to oversee the agency’s activities and to ensure that Departmental agencies expend funds in a manner that minimizes the risk of improper use. To accomplish this oversight role, we statistically selected a sample of projects and examined the related contracts and project agreements that NRCS awarded to project sponsors to determine whether award agreements were fair, reasonable, complete, and distributed appropriately.³ We determined that the sampled Watershed Operations projects provided benefits to local residents, businesses, or farms, and that NRCS was adequately monitoring the progress of the projects reviewed. However, we noted some issues related to project agreements that require NRCS’ attention and corrective action.

Specifically, NRCS did not include necessary Recovery Act award terms in 31 of the 47 award agreements we reviewed.⁴ Of the 31 agreements in question, the majority (27) were grant agreements and locally-led contracts. NRCS’ national office did not issue timely, formal guidance regarding required Recovery Act provisions for grants and locally-led contracts and instead relied, in large part, upon a “frequently asked questions” section of an internal website to

¹ Public Law (P.L.) 111-5 (February 17, 2009), Sections 3(a)(1) and (2).

² NRCS allocated \$21 million of the \$145 million to administrative expenses.

³ We statistically selected 21 projects in 7 States for our review. The selected projects represented approximately \$50.7 million of the \$145 million appropriated by the Recovery Act for this program (35 percent).

⁴ We reviewed 47 award agreements related to our sample of 21 projects, including 19 grant agreements issued to sponsors and landowners. Grant agreements are financial arrangements between NRCS and the local project sponsor. These agreements obligate the funds and outline the work to be accomplished. We also reviewed 8 locally-led contracts, which are financial arrangements between sponsors and local contractors, and 20 Federal contracts between NRCS and contractors. All grant agreements and locally-led contracts we reviewed were missing required award terms while 4 of the 20 Federal contracts we reviewed did not include all required award terms.

convey grant information. Without specific guidance, contracting officers in some NRCS State offices overlooked the information and did not include all required provisions or clauses in award agreements. We reported this issue in an earlier Fast Report.⁵ On July 12, 2011, NRCS responded to that report and stated that it would issue additional national policies for Recovery Act-funded grants and agreements to require the inclusion of the required award terms.

Our review also found one instance in which NRCS did not require the local sponsors to pay their agreed-upon share of the project costs. As a result of NRCS' inadequate oversight, NRCS overspent nearly \$1.3 million in limited Recovery Act money.⁶

Recommendation Summary

NRCS needs to issue guidance specifying all required award terms and required contract clauses to be included in award agreements. Also, NRCS needs to ensure active grant agreements include all required award terms. In addition, NRCS should collect from the local sponsors their share of costs previously paid by NRCS for one of the projects reviewed.

Agency Response

In NRCS' June 12, 2012, response to the official draft report, the agency agreed with all findings and recommendations in the report. NRCS' response to the official draft report is included in its entirety at the end of this report.

OIG Position

We accept NRCS' management decisions for Recommendations 1, 2, 3, and 5. However, NRCS did not provide sufficient detail regarding its planned corrective actions for Recommendation 4. We have provided our comments and what actions are needed to reach management decision for this recommendation in the OIG Position section of the report.

⁵ Audit Report 10703-4-KC (1), *American Recovery and Reinvestment Act – Watershed Protection and Flood Prevention Operations Program – Grants and Locally Led Contracts Do Not Include All Required Recovery Act Award Terms* (July 1, 2011).

⁶ See exhibit A for a summary of monetary results.

Background and Objectives

Background

The President signed the American Recovery and Reinvestment Act (Recovery Act) on February 17, 2009. The purposes of this Act include the following:

1. to preserve and create jobs and promote economic recovery;
2. to assist those most impacted by the recession;
3. to invest in environmental protection that will provide long-term economic benefits; and
4. to commence expenditures and activities as quickly as possible consistent with prudent management.

The Recovery Act stated that funds were to be allocated to projects that could be fully funded and completed with Recovery Act funds, and that they should go to activities that can commence promptly following the enactment of the Recovery Act. It also mandated certain restrictions. For instance, all Federal contracts and grant agreements funded by the Recovery Act must contain certain contract clauses or award terms to ensure that recipients use Recovery Act funding properly.

As part of the Recovery Act, NRCS received \$145 million for the Watershed Operations Program. The Watershed Protection and Flood Prevention Act authorized NRCS to cooperate with States and local agencies to perform work for soil conservation and for other purposes including flood prevention; conservation, development, utilization and disposal of water; and conservation and proper utilization of land (works of improvement).⁷

Watershed Operations is a voluntary program which provides assistance to sponsoring local organizations of authorized watersheds.⁸ NRCS provides technical and financial assistance to States, local governments, and Tribes (project sponsors) to implement authorized watershed project plans for purposes including: watershed protection; flood mitigation; water quality improvements; soil erosion reduction; rural, municipal and industrial water supply; irrigation water management; sediment control; fish and wildlife enhancement; and wetlands and wetland function creation and restoration.

There are over 1,500 active or completed watershed projects.

The program is locally-led. Installing conservation practices and project measures normally takes place over multiple years. Once watershed project plans are approved, NRCS assists local sponsors in installing these works of improvement by, for instance, building flood control structures and providing technical assistance. Sponsoring local organizations and participating

⁷ P.L. 83-566 (August 4, 1954), as amended.

⁸ Authorized through P.L. 83-566 and the Flood Control Act of 1944 (P.L. 78-534). P.L. 78-534 authorized the Secretary of Agriculture to install watershed improvement measures in 11 designated watersheds.

individuals own and operate all works of improvement, including floodwater retarding dams and reservoirs. Eligibility criteria for authorized watershed projects include:

- public sponsorship;
- watershed project footprints of up to 250,000 acres; and
- benefits that are directly related to agriculture, including rural communities, that account for at least 20 percent of the total benefits of the project.

Watershed Operations provides technical and financial assistance in authorized watershed projects which have public sponsors who:

- conduct public meetings to assure local involvement;
- obtain all land and water rights and permits required for installing works of improvement;
- provide a local share of funds to install works of improvement; and
- operate and maintain works of improvement.

Any Watershed Operations funds that may be available for watershed projects are subject to the following:

- annual Congressional appropriations;
- State and national resource priorities;
- acquisition of land and water rights permits;
- local funding established for specific project measures;
- completion of structural, agronomic, and vegetative designs for project measures; and
- NRCS' and the project sponsor's approval of an Operation and Maintenance Agreement involving the measures to be installed.

Objectives

The overall objective of our review was to test the key controls over Recovery Act funding of approved watershed projects identified in our prior audit.⁹ Specifically, we determined whether:

1. sponsors and program participants met eligibility guidelines;
2. award and distribution of funds was fair and reasonable;
3. contracts and project agreements were complete and awarded fairly; and
4. State and field level oversight of projects was adequate.

⁹ Audit Report 10703-2-KC, *American Recovery and Reinvestment Act –Watershed Protection and Flood Prevention Operations Program – Phase I* (September 2010).

Section 1: NRCS Did Not Always Implement Watershed Operations Projects Adequately

Finding 1: Award Agreements Do Not Include All Required Recovery Act Award Terms

We found that 31 of 47 award agreements – including 19 grant agreements,¹⁰ 8 locally-led contracts,¹¹ and 4 Federal contracts¹² – lacked required provisions or clauses. This occurred because the NRCS national office did not issue timely formal guidance regarding required Recovery Act provisions for grants and locally-led contracts and instead relied, in large part, upon a “frequently asked questions” section of an internal website to convey grant information. Without specific guidance, contracting officers in some NRCS State offices overlooked the information and did not include all required provisions or clauses in award agreements. In addition, one contracting official viewed the Federal Acquisition Regulation (FAR) guidance for Federal contracts as adequate and included the appropriate clauses in three Federal contracts but overlooked these clauses in the other four Federal contracts entered.¹³ As a result, grant agreements and locally-led contracts in our sample totaling over \$36.2 million and Federal contracts totaling over \$2.1 million may not be properly implemented.¹⁴

According to the Recovery Act, the Office of Management and Budget (OMB), the Code of Federal Regulations (CFR), and the FAR, recipients of Recovery Act funding for watershed work have certain responsibilities, based on whether the agreement is a grant agreement, a locally-led contract, or a Federal contract.¹⁵ The following table indicates whether various provisions apply to each type of award agreement:

¹⁰ Grant agreements are between NRCS and the local project sponsor. These agreements obligate the funds and outline the work to be accomplished.

¹¹ Locally-led contracts are between project sponsors and local contractors, to which NRCS is not a party.

¹² Federal contracts are between NRCS and local contractors. These agreements obligate the funds and outline the work to be accomplished.

¹³ The FAR is the primary regulation for use by all Federal executive agencies in their acquisition of supplies and services.

¹⁴ See exhibit B for a list of award agreements that were missing award terms and contract clauses required by the Recovery Act.

¹⁵ OMB M-09-15 (April 3, 2009); 2 CFR Part 176 (April 23, 2009); FAR 52.2, Text of Provisions and Clauses (March 2009).

Recovery Act Provision	Applies to Federal Contracts	Applies to Grant Agreements	Applies to Locally-Led Contracts
Recipient Reporting ¹⁶	X	X	
Buy American Construction Materials ¹⁷	X	X	X
Davis-Bacon Wage Rates ¹⁸	X	X	X
Government Accountability Office (GAO)/Inspector General (IG) Access ¹⁹	X	X	X
Whistleblower Protection ²⁰	X	X	X

NRCS’ national office did not take a proactive role in providing guidance to ensure consistency in implementing Recovery Act provisions. This is most evident with its guidance regarding grant agreements and locally-led contracts. Within the first 10 weeks of the Recovery Act being signed, the Federal Government issued guidance on three separate occasions involving grant agreements.²¹ NRCS was not timely in formalizing this guidance and providing it to its State offices.²² For instance,

- Concerning grant agreements, NRCS did not issue guidance to States regarding buy American provisions until approximately 9 months after OMB issuance.²³ This guidance reiterated previously issued OMB guidance. OMB had not specifically provided agencies with award terms for GAO/IG access or whistleblower protection. However, OMB stated its “guidance does not cover all award terms that may be needed on financial assistance awards funded directly or assisted by the Federal government under the Recovery Act.” Despite this warning from OMB, NRCS did not address the GAO/IG access or whistleblower protection provisions specifically outlined in the Recovery Act.
- NRCS did not provide any guidance regarding required provisions for locally-led contracts.

¹⁶ Recovery Act (February 17, 2009), Section 1512.

¹⁷ Recovery Act (February 17, 2009), Section 1605.

¹⁸ Recovery Act (February 17, 2009), Section 1606.

¹⁹ Recovery Act (February 17, 2009), Section 1514, Section 902, and Section 1515.

²⁰ Recovery Act (February 17, 2009), Section 1553.

²¹ OMB Memorandums M-09-10 (February 18, 2009) and M-09-15 (April 3, 2009), and 2 CFR Part 176 (April 23, 2009).

²² NRCS only issued sufficient guidance regarding recipient reporting in a timely manner – Chapter 5, Grants, Agreements and Contracts (May 4, 2009), posted on NRCS’ intranet SharePoint website.

²³ *User Guide for Projects Funded by the American Recovery and Reinvestment Act of 2009* (January 22, 2010).

During the period in which NRCS began approving Recovery Act projects, NRCS distributed informal guidance through its internal SharePoint website.²⁴ Between March 20 and May 4, 2009, NRCS posted nine documents concerning required award terms to this internal agency website. Although projects were expected to commence within 4 months, States were not provided sufficient formal guidance regarding required Recovery Act award terms during the time period. The following table exhibits how NRCS provided either untimely or no guidance concerning grants and locally-led contracts to the NRCS State offices:

Award Terms	Authority	Guidance Regarding Grant Agreements - Untimely	Guidance Regarding Grant Agreements – Not Provided	Guidance Regarding Locally-Led Contracts – Not Provided
Recipient Reporting ²⁵	2 CFR Part 176.50			N/A
Buy American	2 CFR Part 176.140 through Part 176.170	X		X
Wage Rate Requirements ²⁶	2 CFR Part 176.190			X
GAO/IG Access	OMB M-09-15; Section 5.9		X	X
Whistleblower Protection	OMB M-09-15; Section 5.9		X	X

See exhibit B for a more detailed listing of which award terms were missing for each grant agreement or locally-led contract.

Officials in two NRCS State offices stated the guidance they received from the national office regarding grant agreements was lacking. An official in one NRCS State office further noted they had no choice but to interpret the Recovery Act requirements themselves. This led to an inconsistent application of the requirements from State to State. For instance, the required “notice of buy American” provisions was absent from over 60 percent of the applicable grant agreements and locally-led contracts we reviewed, and the Davis-Bacon wage rate requirements were absent from 40 percent.

Further, none of the 27 grant agreements and locally-led contracts addressed whistleblower protection or GAO/IG access. When we spoke to officials with the NRCS national office about

²⁴ NRCS issues formal guidance and policies through National Bulletins, Handbooks, Manuals, and User Guides.

²⁵ While the guidance was issued almost 3 months after the Recovery Act was signed, NRCS issued this guidance roughly 5 months before the recipients were required to commence reporting on October 1, 2009.

²⁶ This guidance was issued on March 20, 2009, and we considered it timely.

this problem, they acknowledged the guidance was lacking and stated they would issue revised guidance to the State offices.

For Federal contracts, our review also identified that the NRCS contracting officer in one State office included all required Recovery Act provisions in three Federal contracts, but overlooked some of these provisions in the other four Federal contracts. The FAR outlines the requirements contracting officers must follow when entering into Federal contracts. The Recovery Act also outlined specific changes contracting officers must follow when using Recovery Act monies. The contracting officer agreed that the clauses were incorrect or lacking in all four cases we cited. See exhibit B for a detailed listing of which clauses were missing for each Federal contract.

We issued a Fast Report regarding grant agreements and locally-led contracts on July 1, 2011. While NRCS agreed to issue additional guidance to cover the award terms that were missing, as of June 1, 2012, the guidance had not been issued.

Recommendation 1

Issue guidance for Recovery Act grant agreements and locally-led contracts to specify all required award terms for each agreement type.

Agency Response

NRCS addressed the requirements on a video teleconference with all States on May 3, 2012, and issued a memorandum on May 11, 2012. This memorandum requires States to take action to include all mandatory award terms in agreements, grants, and contracts for ARRA projects.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Amend existing active grant agreements and locally-led contracts to include all award terms required by the Recovery Act and OMB.

Agency Response

Guidance issued under Recommendation 1 requires States to review current active ARRA project grants, agreements, and contracts and amend the instruments to include the appropriate required award terms.

OIG Position

We accept management decision for this recommendation.

Recommendation 3

Require contracting officers verify that appropriate clauses are present in locally-led contracts before any funds are dispersed to sponsors.

Agency Response

NRCS is requiring States to certify completion of the amendments to include the mandated award terms in ARRA grants, agreements, and contracts within 30 days of the action taken.

OIG Position

We accept management decision for this recommendation.

Recommendation 4

Develop a procedure that will ensure the NRCS national office communicates all requirements regarding award terms to the State NRCS offices within 30 days of receipt of the funding for all future watershed operations appropriations.

Agency Response

In the event that new award terms are mandated for future watershed operations program funding, NRCS will issue appropriate guidance within 30 days of the receipt of the final policies and mandated language.

OIG Position

We are unable to accept NRCS' proposed management decision. In order to reach management decision, NRCS needs to issue a written instruction or memorandum to the program or program leadership and staff, stating that in the event that new award terms are mandated for future watershed operations program funding, NRCS will issue appropriate guidance within 30 days of the receipt of the final policies and mandated language.

Finding 2: NRCS Overlooked Agreed-Upon Cost Share Arrangement

NRCS did not require the local sponsors for one watershed project to put forth their share of the agreed-upon construction costs, and instead funded the entire project with Recovery Act funds. This occurred because the NRCS officials in charge of determining cost shares were not aware that the sponsors were required to put forth a portion of the project costs for the sites being treated. The original Watershed Plan was signed in 2002, 7 years before the project received

funding. As a result of NRCS' inadequate oversight, it overspent nearly \$1.3 million in limited Recovery Act money that it could have used for other authorized watershed projects.

When enacting the Watershed Protection and Flood Prevention Act, Congress determined that the Federal Government should cooperate with States and their political subdivisions (local sponsoring organizations) to install works of improvement to accomplish the environmental goals for the designated watersheds.²⁷ The NRCS State Conservationist and the local sponsoring organizations in one State signed a Watershed Plan in 2002 and outlined 13 sites to be treated for acid mine drainage. Large-scale coal mining at the turn of the twentieth century had contributed to acid mine drainage and degradation of the water quality in one creek. The signed plan states that "cost allocation will be based on total project costs rather than by individual treatment sites. For construction costs, the percentages of NRCS/Sponsor costs will be 50/50."

When supplying NRCS' national office with acceptable Recovery Act projects, the NRCS State office determined it could treat 4 of the 13 sites within the time constraints placed on the Recovery Act funds. Although the overarching Watershed Plan established in 2002 calls for each partner to split costs 50/50, the individual project agreements NRCS enacted when Recovery Act funds became available in 2009 for these four sites call for NRCS to bear 100 percent of the construction costs.

Thus, for the four projects, NRCS agreed to provide 100 percent of the estimated total \$2,570,000 cost of constructing the works of improvement. According to the overarching agreement, NRCS' share should have been limited to \$1,285,000.²⁸ A fundamental principle of the Recovery Act is to use prudent management when spending the funds.²⁹

NRCS State office officials stated they were unaware the breakdown from the Watershed Plan had not been updated to show the allocation of costs utilized. These officials indicated that if additional funds become available in the future, they would work with the sponsors and amend the Watershed Plan to show a new breakdown of costs that would ultimately divide the total costs for all 13 sites in the plan on a 50/50 basis with the sponsors even though NRCS has paid 100 percent of the costs associated with the first 4 project sites.

Recommendation 5

Collect from the sponsors their share of costs previously overpaid by NRCS for the completed project sites.

Agency Response

NRCS has amended the applicable Watershed Plan to provide clarity over future payment obligations. In short, NRCS will work with the sponsors to ensure the costs associated with the

²⁷ P.L. 83-566 defines this as "any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement."

²⁸ See exhibit A for the Summary of Monetary Results.

²⁹ P.L. 111-5, Sec. 3(b) (February 17, 2009).

remaining nine project sites are divided so that the total cost associated with the Watershed Plan are ultimately shared with NRCS on a 50/50 basis.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

We conducted our audit of the Watershed Operations program at NRCS' national office in Washington, D.C., and the Office of the General Counsel in Washington, D.C. We performed fieldwork from August 2010 through June 2011, including field visits at 7 NRCS State offices, 10 NRCS field offices, 4 sponsors' offices, and 4 contractors' offices. See exhibit C for the sites selected for visits.

Our audit covered Recovery Act funding for the Watershed Operations program through September 30, 2010. NRCS initially allocated \$141.5 million to the program. As of September 30, 2010, NRCS obligated about \$124 million of the \$145 million appropriation to 88 projects.³⁰

To accomplish our objectives, we selected a statistical sample of projects to review for program compliance. We reviewed the program's policies and procedures, the design of its internal controls, and management controls that ensure compliance with Recovery Act policies as established by OMB during Phase 1 of this review, and used that information to develop a list of attributes to review for each statistically selected project. We interviewed NRCS' national office officials and program directors, State office officials and program managers, field office personnel, sponsors, and program participants to obtain their comments on the current operation and resources of the Watershed Operations program.

Our statistical sample was designed by OIG statisticians, and included a sample of 21 projects to review in 7 States. Of the \$145 million allocated to the Watershed Operations program, our review encompassed 47 award agreements totaling \$50,724,393.54 or 34.9 percent.³¹ See exhibit D for the description and methodology used for the sampling plan.

In order to evaluate NRCS' effectiveness in meeting the purposes of the Recovery Act, we evaluated the accuracy of milestone data for project implementation and determined compliance with recipient reporting requirements.

In the field, we reviewed the project files for all 21 sampled projects including 47 award agreements. In addition, we interviewed applicable State and field office staff including contracting officers, the contracting officers' technical representative, State engineers, State administrative officers, assistant State conservationists, budget officers, environmentalists, program managers, agricultural economists, district conservationists, and field technicians. We also performed a site visit to each of the projects to view the work completed and the work to be completed.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

³⁰ NRCS allocated \$21 million to administrative expenses.

³¹ Our review encompassed a total of \$59,370,101.77; however, \$8,645,708.23 for one project came from Floodplain Easements funding, not Watershed Operations. None of the issues or observations in this report related to this project.

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

CFR.....	Code of Federal Regulations
FAR.....	Federal Acquisition Regulations
GAO.....	Government Accountability Office
NRCS.....	Natural Resources Conservation Service
OIG.....	Office of Inspector General
OMB.....	Office of Management and Budget
P.L.....	Public Law
Recovery Act.....	American Recovery and Reinvestment Act of 2009
Watershed Operations.....	Watershed Protection and Flood Prevention Operations Program
USDA.....	Department of Agriculture

Exhibit A: Summary of Monetary Results

Finding	Recommendation	Description	Amount	Category
2	5	Agreed-upon cost share exceeded	\$1,285,000	Questioned Costs – No Recovery

Exhibit B: Award Terms and Contract Clauses Required by the Recovery Act

Award Type	Award Amount (including amendments and modifications)	Award Terms Not Included							
		Recipient Reporting	Buy American Iron, Steel, Goods-Construction Mats	Buy American Notice of 176.140	Buy American Under Trade Agreements	Buy American Notice of 176.160	Davis-Bacon Wage Rate Requirements	Whistleblower Protection	GAO/IG Access
		2 CFR §176.50 or FAR 52.204-11	2 CFR §176.140 or FAR 52.225-21	2 CFR §176.150 or FAR 52.225-22	2 CFR §176.160 or FAR 52.225-23	2 CFR §176.170 or FAR 52.225-24	2 CFR §176.190 or FAR 52.222-6	OMB M-09-15 or FAR 52.203-15	OMB M-09-15 or FAR 52.214-26/52.215-2
Grant	\$2,000,000.00				N/A 4/	N/A 4/		X	X
Grant	\$20,210,378.00				X	X		X	X
Grant	\$22,949.00	N/A 1/			N/A 4/	N/A 4/		X	X
Grant	\$91,409.84	N/A 1/			N/A 4/	N/A 4/		X	X
Grant	\$84,896.18				N/A 4/	N/A 4/		X	X
Grant	\$650,000.00		N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	X	X	X
Grant	\$2,050,000.00	X	X	X	N/A 4/	N/A 4/	X	X	X
Grant	\$1,500,000.00	X	X	X	N/A 4/	N/A 4/	X	X	X
Grant	\$3,471,344.22			X	N/A 4/	N/A 4/		X	X
Grant	\$132,244.00		N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	N/A 6/	X	X
Grant	\$3,850,000.00		N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	N/A 6/	X	X
Grant	\$1,655,000.00		N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	N/A 6/	X	X
Grant	\$345,000.00				N/A 4/	N/A 4/		X	X
Grant	\$24,343.00	N/A 2/		X	N/A 4/	N/A 4/		X	X
Grant	\$40,920.00	N/A 1/		X	N/A 4/	N/A 4/		X	X
Grant	\$1,979.00	N/A 2/		X	N/A 4/	N/A 4/	N/A 5/	X	X
Grant	\$22,984.00			X	N/A 4/	N/A 4/		X	X
Grant	\$32,253.00			X	N/A 4/	N/A 4/		X	X
Grant	\$45,353.00	N/A 1/		X	N/A 4/	N/A 4/		X	X
Locally-Led Contract	8/	N/A 3/	X	X	N/A 4/	N/A 4/	X	X	X
Locally-Led Contract	8/	N/A 3/	N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	X	X	X
Locally-Led Contract	8/	N/A 3/	N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	X	X	X
Locally-Led Contract	8/	N/A 3/	N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	X	X	X
Locally-Led Contract	8/	N/A 3/	X	X	N/A 4/	N/A 4/	X	X	X
Locally-Led Contract	8/	N/A 3/	N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	N/A 6/	X	X
Locally-Led Contract	8/	N/A 3/	N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	N/A 6/	X	X
Locally-Led Contract	8/	N/A 3/	N/A 7/	N/A 7/	N/A 4/, 7/	N/A 4/, 7/	N/A 6/	X	X
Subtotal	\$36,231,053.24								
Federal Contract	\$1,303,250.11		X	X	N/A 9/	N/A 9/			
Federal Contract	\$371,908.00	X	N/A 7/	N/A 7/	N/A 7/, 9/	N/A 7/, 9/	N/A 6/	X	X
Federal Contract	\$11,590.00	N/A 2/	N/A 7/	N/A 7/	N/A 7/, 9/	N/A 7/, 9/	N/A 6/	X	X
Federal Contract	\$413,592.03		X	X	N/A 9/	N/A 9/			
Subtotal	\$2,100,340.14								
31 Total Agreements/Contracts	\$38,331,393.38	3 of 16	6 of 19	13 of 19	1 of 1	1 of 1	8 of 22	29 of 31	29 of 31

Key to Exhibit B: Award Terms and Contract Clauses Required by the Recovery Act

- 1/ Individuals are not required to report.
- 2/ Projects receiving less than \$25,000 are not required to report.
- 3/ Sub-recipients are not required to report.
- 4/ This award term only applies to agreements in excess of \$7,804,000.
- 5/ This award term only applies to contracts valued at \$2,000 or more.
- 6/ This requirement is for laborers and mechanics. This project involved neither.
- 7/ This requirement is for projects involving construction. This project did not involve construction.
- 8/ The funding associated with this contract is included in the associated grant agreement total listed above.
- 9/ This award term only applies to contracts in excess of \$7,443,000.

Exhibit C: Sites Visited

State	Locations Visited
California	State office, Davis, CA
	Field office, Petaluma, CA
	Sponsor, San Jose, CA
Idaho	State office, Boise, ID
	Field office, Weiser, ID
Indiana	State office, Indianapolis, IN
	Field office, Terre Haute, IN
Nebraska	State office, Lincoln, NE
	Field office, Curtis, NE
	Field office, Scottsbluff, NE
	Sponsor, Curtis, NE
	Sponsor, Scottsbluff, NE
New Mexico	State office, Albuquerque, NM
	Contractors, Albuquerque, NM
Texas	State office, Temple, TX
	Field office, Corsicana, TX
	Field office, Georgetown, TX
	Field office, McKinney, TX
	Field office, Waxahachie, TX
	Contractor, Austin, TX
	Contractor, Gatesville, TX
West Virginia	State office, Morgantown, WV
	Field office, Beckley, WV
	Sponsor, Charleston, WV

Exhibit D: Statistical Sampling Plan

Sampling Methodology and Results for NRCS Watershed Operations Projects

Objective:

The sample was designed to support the audit of whether the NRCS watershed projects funded by the Recovery Act complied with applicable laws and agency procedures. Specifically, the audit team used the sample projects to determine whether NRCS included all required award terms in contracts and grant agreement (awards) funded with Recovery Act funds.

Audit Universe:

Our universe included 88 NRCS watershed operations projects which had 118 subprojects. NRCS allocated a total of \$141.5 million for these 118 subprojects.

Sample Design and Modifications:

NRCS' national office approved funding for Watershed Operations in three officially announced phases. In total, NRCS announced funding for 88 projects in 27 States and 1 territory (28 "States") totaling over \$141 million.³²

We observed that two States had substantially more money allocated to them than did the remaining States. Therefore, we divided the 28 States into 2 strata: Stratum I with the 2 States for which a substantial amount of funding was allocated and Stratum II with the remaining States.

In Stratum I, Texas had 24 approved subprojects totaling \$21,540,000, and California had 2 subprojects totaling \$19,275,000. We subjectively decided to review 10 subprojects in Texas and both subprojects in California. We drew a random number for each of Texas' 24 subprojects.³³ The sample for Texas was the first 10 of those 24 subprojects, based on their chosen random numbers, from lowest to highest.

The universe for Stratum II was the remaining 26 States. We drew a random number for each State in Stratum II and selected the first 10 States, from lowest random number to highest. One of the random selections was a project in Northern Marianas Islands. Due to travel costs, we decided not to review that project and removed it from the audit universe and sample; there were no other territories in the audit universe. The remaining nine States in the Stratum II sample had a total of 15 Recovery Act funded subprojects to review. For Strata I and II, our total planned sample included 11 States and 33 subprojects, with 7 States and 21 subprojects identified for the preliminary sample.

The team conducted the audit review in Texas, California, and the first five of the randomly-selected States. The audit team reviewed all award agreements associated with the 21 subprojects. From our assessment of the initial results, we concluded we would not

³² NRCS approved a project for funding after the initial three phases were announced and after we established the universe and selected our sample. This project was for \$950,000 and located in Nebraska. The resulting random number for this project meant we would need to review it or exclude it from the universe. The audit team opted to exclude it from the universe count and out of the total dollars.

³³ Random numbers were drawn using the Excel "Randbetween" function.

substantially improve our precision if we reviewed the remaining four States already selected. Therefore, we stopped our review after auditing those 21 subprojects.

We found that some subprojects included multiple sites and/or tasks receiving separate award amounts. Some subprojects had multiple awards. Some awards covered more than one project. For the sample of 21 subprojects, we arrived at a total of 50 subsites or tasks and 47 awards, creating a total of 51 project-award combinations. We also noted that two of the awards reviewed in Texas included four subprojects that were not part of the sample; those four subprojects were not fully reviewed and are not included in the summary counts: Chambers Creek 111, Chambers Creek 112, Richland Creek 44 and Richland Creek 26.

The preceding design is summarized in the table below:

	First Stage: Sample		Second Stage: Sample		Third Stage: All	
	Universe of States	Sample of States	Universe of Projects in States Selected	Sample of Subprojects	Number of Awards in Subprojects Selected	Number of Project-Award Combinations in Sampled Subprojects
Stratum I	2	2				
TX			24	10	9	13
CA			2	2	6	6
Stratum II	25	5				
WV			3	3	14	14
NM			2	2	5	5
ID			1	1	6	6
IN			1	1	2	2
NE			2	2	5	5
Total	27	7	35	21	47	51

**NATURAL RESOURCES CONSERVATION
SERVICE
RESPONSE TO AUDIT REPORT**

United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

June 12, 2012

SUBJECT: Natural Resources Conservation Service (NRCS) Response to American Recovery and Reinvestment Act (ARRA) - Watershed Protection and Flood Prevention Operations Program - Field Confirmation (10704-4-KC) Audit

TO: Gil H. Harden
Assistant Inspector General for Audit
Office of Inspector General

File Code: 250-11

Attached are agency responses to the ARRA - Watershed Protection and Flood Prevention Operations Program - Field Confirmation (10704-4-KC) audit.

The responses address actions completed and in process on each audit recommendation, and completed or proposed completion dates.

If you have questions, please contact Leon Brooks, Director, Compliance Division, at (301) 504-2190, or email leon.brooks@wdc.uds.gov.

/s/

Dave White
Chief

Attachment

cc: (w/attachment)

Homer L. Wilkes, Special Assistant to the Chief, NRCS, Washington, D.C.

C. Wayne Honeycutt, Deputy Chief for Science and Technology, NRCS, Washington, D.C.

Ronald Alvarado, Acting Deputy Chief for Management, NRCS, Washington, D.C.

Lesia A. Reed, Deputy Chief for Strategic Planning and Accountability, NRCS, Beltsville, Maryland

Leon Brooks, Director, Compliance Division, NRCS, Beltsville, Maryland

Ava Lee, Director, Planning and Accountability Division, Office of Chief Financial Officer, Washington, D.C.

Attachment

Agency Responses for Audit 10703-0004-KC ARRA – Watershed Protection and Flood Prevention Operations Program – Field Confirmations

Finding 1: Award Agreements Do Not Include All Required Recovery Act Award Terms

Recommendation 1

Issue guidance for ARRA grant agreements and locally led contracts to specify all required award terms for each agreement type.

Agency Response:

NRCS addressed the requirements on a video teleconference with all States on May 3, 2012, and issued a memorandum on May 11, 2012. This memorandum requires States to take action to include all mandatory award terms in agreements, grants, and contracts for ARRA projects.

Estimated Completion Date:

May 11, 2012 – completed.

Recommendation 2

Amend existing active grant agreements and locally led contracts to include all award terms required by the ARRA and OMB

Agency Response:

Guidance issued under Recommendation 1, above, requires States to review current active ARRA project grants, agreements, and contracts and amend the instruments to include the appropriate required award terms.

Estimated Completion Date

June 7, 2012.

Recommendation 3

Require contracting officers to verify that appropriate clauses are present in locally led contracts before any funds are dispersed to sponsors.

Agency Response:

NRCS is requiring States to certify completion of the amendments to include the mandated award terms in ARRA grants, agreements, and contracts within 30 days of the action taken.

Estimated Completion Date:

July 7, 2012.

Recommendation 4

For all future watershed operations appropriations, develop a procedure to ensure that the NRCS national office communicates all requirements regarding award terms to the State NRCS offices within 30 days of receipt of the funding.

Agency Response:

In the event that new award terms are mandated for future watershed operations program funding, NRCS will issue appropriate guidance within 30 days of the receipt of the final policies and mandated language.

Estimated Completion Date:

Within 30 days of receipt of final policies and guidance mandating the inclusion of specific award terms for new watershed operations program appropriations.

Finding 2: NRCS Overlooked Agreed Upon Cost Share Arrangement

Recommendation 5

Collect from the sponsors their share of costs previously overpaid by NRCS for the completed project sites. This recommendation needs to be addressed.

Agency Response:

Paragraph 3 of the watershed plan has been amended as follows to provide clarity over payment obligations.

If additional funds become available in the future, NRCS will work with the sponsor and amend the Watershed Plan to show a new breakdown of costs that will divide the total costs for all 13 sites in the remaining nine plans on a 50/50 basis with the sponsors, even though NRCS has paid 100 percent of the costs associated with the first 4 project sites. The local sponsors will be expected to contribute more than 50 percent of the project funds for each of the remaining 9 sites, so that the final costs of all 13 projects are ultimately shared with NRCS on a 50/50 basis.

Estimated Completion Date

September 30, 2013.

Informational copies of this report have been distributed to:

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Government Accountability Office	(1)
Office of Management and Budget	(1)
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