



United States Department of Agriculture
Office of Inspector General





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TO: Dave White
Chief
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ATTN: Lesia Reed
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Strategic Planning and Accountability

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Migratory Bird Habitat Initiative: NRCS' Response to Issues Caused by the
Deepwater Horizon Oil Spill

This report presents the results of the subject audit. Your written response to the official draft report, dated June 28, 2012, is included in its entirety at the end of the report. Excerpts from your response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report.

We accept management decisions on Recommendations 2 and 3. However, we are unable to accept management decision on Recommendations 1, 4, and 5. Documentation and/or actions needed to reach management decisions for these recommendations are described in the applicable OIG Position sections of the report.

In accordance with Department Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementing the recommendations for which a management decision has not yet been reached. Please note that the regulation requires a 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 the Office of the Chief Financial Officer.

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

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Migratory Bird Habitat Initiative: NRCS' Response to Issues Caused by the Deepwater Horizon Oil Spill

Executive Summary

The Natural Resources Conservation Service (NRCS) created the Migratory Bird Habitat Initiative (MBHI) in response to the April 2010 oil spill in the Gulf of Mexico. The initiative financially assisted participants in eight States in the Gulf Coast region to implement conservation practices that create or enhance habitats and food sources for birds migrating to and through the oil spill-affected region.¹ The initiative, which NRCS delivered through three of its existing programs, garnered landowner interest in a time of deteriorated environmental conditions.^{2, 3} In response to landowner interest, NRCS increased its initial \$20 million allocation to \$40 million. NRCS ultimately obligated approximately \$38.6 million in financial assistance through over 1,900 contracts by September 30, 2010. Participants enrolled over 470,000 acres of private agricultural lands and existing conservation easements in the initiative.

The Office of Inspector General (OIG) assessed whether agency controls were adequate to ensure contracted practices were properly established, and evaluated the performance measures the agency used to determine MBHI's overall effectiveness. Through our review of MBHI in three of the eight participating States, we determined that controls were generally adequate to ensure that contracted practices were properly established, with the exception of the following three issues:

- NRCS does not have internal controls in place to ensure it maximizes the efficiency and effectiveness of MBHI conservation efforts, as NRCS' payments for those efforts are currently allowed to duplicate efforts and payments from other non-Federal sources in excess of their average cost to implement.⁴ For 19 of 20 conservation practices that both NRCS and its partner in conservation, Ducks Unlimited, reimbursed landowners to implement in two States, we found that landowners received payments of as much as 228 percent of the average costs. The partners in conservation were not required to avoid participating in reimbursing participants for more than their costs. However, if NRCS had reduced the financial assistance it paid participants to avoid providing duplicative financial assistance, it could have applied more than \$900,000 in program funds more

¹ The initiative was made available in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, and Texas.

² MBHI included the Environmental Quality Incentives Program (EQIP), Wildlife Habitat Incentives Program (WHIP), and Wetlands Reserve Program (WRP).

³ Although MBHI was initially created in response to the oil spill, at the time the initiative was announced, drought conditions in the Gulf region combined with decades of wetland losses had resulted in fewer food resources and habitats compared with previous years.

⁴ NRCS establishes average costs within yearly Statewide Average Costs Lists. Average costs represent the full (100 percent) estimated cost per acre to implement a conservation practice and are the basis for NRCS' calculation of its cost-share payments. For purposes of this report we refer to the full (100 percent) estimated cost associated with the implementation of a conservation practice as the "average cost."

widely and conserved an estimated 13,940 additional acres through the initiative. (See exhibit A.)

- NRCS does not have an effective control to detect if the payment schedule used to develop a contract is inconsistent with the eligibility status stated on a participant's application. We found that NRCS applied improper payment schedules to 42 of 49 contracts in Acadia Parish, Louisiana, and NRCS' second-level review process is not designed to identify such errors. Because personnel used a higher payment schedule intended for historically underserved groups to develop all contracts in the parish, NRCS obligated to pay the participants higher payments than they were eligible to receive.⁵ NRCS improperly paid \$61,699 on the contracts and would have continued to issue as much as \$157,000 in estimated additional improper payments if the error remained undetected. (See exhibit A.)
- NRCS did not always perform required site visits to certify that participants had completed conservation activities before it issued payments. We found that in Tensas Parish, Louisiana, NRCS had not performed required site visits on any of the 38 active MBHI contracts that had payments as of the date of our review. NRCS district personnel mistakenly accepted the participants' self-certifications of practice completion as sufficient. As a result of our findings, NRCS subsequently conducted the required site visits, identified that six of the contracts were not in compliance, and determined that \$25,061 of the payments made on the six contracts were improper. (See exhibit A.)

Through our work to accomplish our second audit objective—evaluation of MBHI performance measures—we noted that NRCS did not develop any new performance measures or goals specific to MBHI.⁶ Instead, NRCS and Mississippi State University have an agreement that the university will perform a 3-year study that NRCS will use to determine the overall effectiveness of MBHI. The study will document migratory bird benefits achieved through the initiative, answer questions regarding public benefits gained through the initiative, and assist in identifying MBHI conservation practices best suited to benefit wildlife. We do not take exception to NRCS' use of the study to determine the overall effectiveness of the initiative and determined that the study, although not yet complete, should provide adequate documentation of the results of MBHI.⁷

⁵ "Historically underserved" refers to beginning farmers and ranchers, limited resource farmers or ranchers, or socially disadvantaged producers.

⁶ NRCS used the existing performance measures for each of the three programs it used to deliver the initiative, which measures performance in relation to the number of acres to which conservation practices are applied. These performance measures are reported within the NRCS Annual Performance Plan for each of the three programs (EQIP, WHIP, and WRP); however, as MBHI is an initiative and not a program, the Annual Performance Plan does not specifically address those acres enrolled under MBHI.

⁷ We based this determination on a review of interim Quarterly Reports that Mississippi State University provided to NRCS, starting January 31, 2011.

Recommendation Summary

NRCS needs to better leverage limited resources and provide greater impact with future program funding by implementing controls to avoid NRCS' participation in payments that result in total reimbursements that exceed the average costs of conservation practices. Further, NRCS needs to implement a control to detect the use of a historically underserved payment schedule that does not correspond to a participant's eligibility. Finally, in Acadia Parish, Louisiana, NRCS should recover \$61,699 in improper payments made to participants, and modify those participants' contracts to avoid the \$157,000 in estimated future improper payments. In Tensas Parish, Louisiana, NRCS should recover \$25,061 in improper payments made for noncompliant practices.

Agency Response

In its written response to the official draft, NRCS agreed with four of the five OIG recommendations; NRCS stated statutory and policy reasons for its disagreement with the recommendation that NRCS implement controls for future programs to ensure NRCS does not participate in providing payments totaling more than the cost of implementing a conservation practice. Excerpts from the response and OIG's position have been incorporated into the relevant sections of the report. The written response is included in its entirety at the end of the report.

OIG Position

We accept NRCS' management decisions on Recommendations 2 and 3. The actions needed to reach management decisions on Recommendations 1, 4, and 5 are provided in the OIG Position sections after these recommendations.

Background and Objectives

Background

Within the Department of Agriculture (USDA), the Natural Resources Conservation Service (NRCS) provides technical and financial assistance related to agriculture or natural resource management.⁸ To uphold its mission of “Helping people help the land,” NRCS operates programs such as the Environmental Quality Incentives Program (EQIP), Wildlife Habitat Incentives Program (WHIP), and Wetlands Reserve Program (WRP). NRCS also utilizes these conservation programs to create initiatives that address specific resource concerns if, for example, an area, species, or habitat has been impacted by a natural disaster and would benefit from a tailored or rapid response. NRCS delivered the Migratory Bird Habitat Initiative (MBHI) to participants through contracts under EQIP, WHIP, and WRP.

NRCS announced MBHI on June 25, 2010, in response to potential environmental issues that may have resulted from the *Deepwater Horizon* oil rig explosion that occurred in the Gulf of Mexico on April 20, 2010. Oil resulting from the explosion was found washing onto the shores of Louisiana as early as April 30, 2010. The objective of MBHI was to minimize potential injuries from oil to birds migrating to the Gulf Coast region and through the region’s marshes and shorelines. More than 50 million birds migrate south, toward the Gulf Coast region, each year. Additionally, about 40 percent of all North American migratory birds utilize habitats along North American “flyways” during their annual migration to and through the Gulf region.⁹ NRCS enrolled over 470,000 acres in MBHI to create and enhance migratory bird habitats in the eight participating States surrounding these flyways.¹⁰ Specifically, the initiative provided financial assistance to private landowners to perform conservation practices to provide healthy food and resting areas to birds.

Although NRCS initially created MBHI to respond to the oil spill, it also addressed food and habitat concerns at a critical time. Drought conditions in the Gulf Coast region and decades of wetland losses have resulted in fewer food resources and habitat lands than in previous years. After landowners expressed strong interest in the program, NRCS increased funding from \$20 million to \$40 million. As of September 30, 2010, NRCS obligated approximately \$38.6 million to enroll more than 470,000 acres through over 1,900 contracts with participants.

MBHI’s signup period ran from June 28 through August 1, 2010. Landowners applied for enrollment at local USDA service centers, which also administered the conservation contract process. NRCS confirmed that applicants met eligibility requirements, and ranked and scored each application. NRCS then worked with participants to develop conservation plans that included the acreage enrolled and the conservation practice(s) to be implemented and developed

⁸ *The Soil Conservation and Domestic Allotment Act of 1935* created NRCS, formerly known as the Soil Conservation Service. The Act declared that soil erosion was a menace to national welfare and authorized the new agency to address the problem. Public Law 74-46 (April 27, 1935).

⁹ MBHI conservation efforts addressed the primary North American migratory routes of the Central and Mississippi flyways.

¹⁰ The initiative was made available in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, and Texas.

contracts for the participants. NRCS was to make payments to participants based on the contracted number of acres enrolled, after verifying through site visits that participants successfully implemented the contracted conservation practices.

Other organizations similarly recognized and assisted in addressing migratory bird habitat issues in response to the oil spill. For example, Ducks Unlimited, a nonprofit, private waterfowl and wetlands conservation organization, provided additional financial assistance to MBHI participants in Louisiana and Texas. The organization, which NRCS calls its “partner in conservation,” received a \$2.5 million grant from the National Fish and Wildlife Foundation’s Recovered Oil Fund for Wildlife.¹¹ Like MBHI, the grant’s primary purpose was to provide additional habitat to waterfowl and other birds migrating to the Gulf Coast region after the oil spill. In two States, Louisiana and Texas, Ducks Unlimited provided payments to participants on a first-come-first-served basis. The organization made its assistance contingent upon participation in NRCS’ initiative.¹² Ducks Unlimited made payments subsequent to NRCS’ certifications of practice completion.

Objectives

The audit objectives were to determine whether NRCS’ controls were adequate to ensure contracted practices were properly established and to evaluate performance measures used by the agency to determine overall effectiveness of MBHI.

¹¹ The National Fish and Wildlife Foundation is a nonprofit organization with a longstanding conservation partnership—over 15 years—with NRCS. Although the Foundation is not an agency or establishment of the United States, it was created by Congress. A primary purpose of the organization is to undertake and conduct activities that will further the conservation and management of the fish, wildlife, and plant resources of the United States. Although the Foundation reports that \$21 million in NRCS Federal funds have been leveraged into more than \$86 million in on-the-ground conservation through previous partnership efforts with NRCS, the Foundation’s \$2.5 million grant to Ducks Unlimited was not comprised of Federal funding.

¹² The Ducks Unlimited payments were contingent on Ducks Unlimited’s receipt of the landowner’s Form NRCS-CPA-1245, *Practice Approval and Payment Application*, which is certified by NRCS and signed by the landowner.

Section 1: NRCS Needs to Strengthen Internal Controls Over Conservation Efforts and Payments

Finding 1: NRCS Needs to Coordinate With Its Partners in Conservation to Better Leverage NRCS' Financial Assistance

We found that, for 19 of 20 MBHI conservation practices that both NRCS and its partner in conservation, Ducks Unlimited, reimbursed landowners to implement, landowners received total payments that exceeded NRCS' set per-acre average cost rates—payments of as much as 228 percent of costs. This occurred because both partners in conservation financially assisted landowners to implement conservation practices without coordinating to proportionately reduce total assistance payments in relation to the average costs. The partners in conservation were not required to avoid providing duplicative financial assistance to participants during the initiative. However, if NRCS had coordinated with its partner in conservation and limited the financial assistance, NRCS would have been able to apply more than \$900,000 in program funds more widely and conserve an estimated 13,940 additional acres through the initiative.¹³

Departmental policy and guidelines provide that controls reasonably ensure that programs and resources are protected, and ensure the Department's mission, policies, and procedures are achieved efficiently and effectively.¹⁴ Furthermore, existing Office of Management and Budget (OMB) guidance identifies effectiveness and efficiency of operations as an objective of internal controls.¹⁵ Additionally, the current Administration and the Government Accountability Office (GAO) have emphasized the importance of efforts to operate the Government more efficiently and effectively.¹⁶

In response to the *Deepwater Horizon* oil spill in the Gulf of Mexico, NRCS developed MBHI to create or enhance habitat for migratory birds likely to be impacted by conditions in the Gulf. NRCS provided funding to participants who implemented conservation practices, and Ducks Unlimited collaborated to provide additional funding to participants in Louisiana and Texas. Specifically, for a total of 20 conservation practices, NRCS offered to pay 75 percent of

¹³ We based this estimate on combined MBHI-EQIP and MBHI-WHIP payments that exceeded the Statewide cost rate (\$809,700 in Louisiana, and \$91,600 in Texas) and average contract costs per acre (\$62.10 per acre in Louisiana, and \$101.67 per acre in Texas). \$809,700 divided by \$62.10 per acre equals 13,039 acres in Louisiana, and \$91,600 divided by \$101.67 per acre equals 901 acres in Texas.

¹⁴ Departmental Manual 1110-002, *USDA Management Control Manual* (November 29, 2002).

¹⁵ OMB Circular A-123, *Management's Responsibility for Internal Control* (December 21, 2004).

¹⁶ Executive Order (EO) 13520, *Reducing Improper Payments and Eliminating Waste in Federal Programs* (November 23, 2009); EO 13576, *Delivering an Efficient, Effective, and Accountable Government* (June 13, 2011); and GAO Report GAO-11-318SP, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue* (March 1, 2011).

participants' costs, and Ducks Unlimited offered additional incentives to participants.¹⁷ Ultimately, for over 58,850 (or 33 percent) of the MBHI acres enrolled in Louisiana and over 12,800 (nearly 35 percent) of the MBHI acres enrolled in Texas, NRCS and Ducks Unlimited participated in paying landowners more than 100 percent of the average costs to implement the contracted MBHI conservation practices.¹⁸ We determined that both NRCS and Ducks Unlimited paid the participants for the same conservation practices on the same acres without coordinating to maximize the efficiency and effectiveness of their efforts.

For example, to provide habitat to migratory birds such as waterfowl, NRCS contracted to reimburse participants in Louisiana \$4.38 per acre to hold winter flood water on enrolled acres through the spring. Specifically, NRCS reimbursed participants 75 percent of the set average cost rate (\$5.84 per acre) to implement that conservation practice in that State.¹⁹ Subsequently, Ducks Unlimited contracted to pay the same participants \$8.96 per acre to implement the same practice. In this way, landowners in Louisiana received \$13.34 per acre in that State to hold winter flood water on their acres, or up to 228 percent of the average costs. Similarly, landowners in Texas received up to 119 percent of the average costs to implement conservation practices in that State.²⁰

Acting individually to reimburse participants in these States for costs, the conservation partners subsequently obligated to pay a total of over \$3.7 million for conservation practices that OIG estimated to cost about \$2.8 million to implement (based on NRCS' average costs).²¹ They overlapped their financial assistance such that participants received total payments of over \$900,000 more than the average costs to implement the conservation practices on participants' properties.

NRCS was not required to avoid duplicating its partner in conservation, Ducks Unlimited's, conservation and financial assistance efforts, or correspondingly reduce its (NRCS) MBHI payments. NRCS also did not enter into an agreement with Ducks Unlimited to provide

¹⁷ NRCS sets an average per-acre cost to implement conservation practices each year. In Louisiana, Ducks Unlimited offered participants a payment based on two components: (1) a 25-percent cost-share payment, which was based on the average costs for each conservation practice in the State, and, when combined with NRCS' 75-percent (MBHI) cost-share payments, allowed Louisiana participants to be made whole at the average cost of the conservation practice per acre, and (2) an additional per-acre incentive rate which varied based on the conservation practice implemented. In Texas, Ducks Unlimited provided a flat \$25.00 per-acre payment for each of the conservation practices on which it made payments.

¹⁸ We identified over 100 participants in Louisiana with payments of more than 100 percent of the average costs. Due to limitations in the Texas data provided by Ducks Unlimited, we are unable to determine the total number of Texas participants with obligations for payments from NRCS and Ducks Unlimited of more than 100 percent of the average costs.

¹⁹ NRCS publishes Statewide average costs each year through its online *Field Office Technical Guide*.

²⁰ This percentage was calculated using NRCS' average cost rates and general Ducks Unlimited payment data for different conservation practices. OIG was not able to identify the subtype (e.g., Canal Water, Well Water, etc.) of the practices, due to limitations in data provided by Ducks Unlimited. Any calculations in this report assume the payment rates that resulted in the most conservative (lowest) OIG estimates of NRCS and Ducks Unlimited payments in excess of the average cost rate.

²¹ Specifically, NRCS and Ducks Unlimited had payments totaling nearly \$2.7 million for conservation practices in Louisiana, with average costs of about \$1.9 million to implement, and payments totaling over \$1 million for conservation practices in Texas, with average costs of about \$915,000 to implement.

migratory bird habitat in response to the oil spill. However, NRCS was aware that the nonprofit organization made enrollment in NRCS' MBHI a requirement for financial assistance from Ducks Unlimited. In fact, NRCS informed MBHI participants that Ducks Unlimited was also providing financial assistance.

During interviews with OIG, NRCS officials acknowledged that some MBHI participants in Louisiana and Texas received payments from NRCS and Ducks Unlimited for the same conservation practices and acreage and acknowledged OIG's concerns that such payments were in excess of the average cost of the conservation practices. However, even though NRCS and Ducks Unlimited often work together as partners in conservation, NRCS did not enter into an agreement to operate this initiative with Ducks Unlimited, which would have required more coordination to avoid duplicating conservation and financial assistance efforts. Nor did NRCS see the need to create controls more restrictive than statutes and regulations require in order to preclude total payments in excess of the average cost to implement the conservation practices under MBHI.

NRCS officials emphasized that NRCS acted within program statutes and regulations when it did not prohibit duplicate payments that resulted in payments for conservation practices that exceeded the average cost of implementation (as set by NRCS). However, OIG found the statutes and regulations for the MBHI programs that received additional funding from Ducks Unlimited—EQIP and WHIP—were ambiguous with regard to reductions for payments from other non-Federal sources. Specifically, we found that the WHIP statute²² and regulations²³ are silent regarding payments from other non-Federal sources. Also, while the EQIP regulations state that “payments to a participant will be reduced ... to the extent that total financial contributions for a conservation practice from other sources exceed 100 percent of the estimated costs incurred for implementing or performing the conservation practice,”²⁴ the EQIP statute provides that “any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the [EQIP] payments provided to the producer,” except that a producer “shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subchapter.”^{25, 26}

NRCS officials additionally stated that efforts to coordinate with Ducks Unlimited would have required additional time, defeating the purpose of the expeditious development and implementation of MBHI. However, we pointed out that spending limited program funds on duplicative efforts may have prevented NRCS from enrolling more applicants and acres in the initiative, reducing MBHI's effectiveness. Specifically, due to limited funding, NRCS was able

²² Title 16, United States Code (U.S.C.), section 3839bb-1(b).

²³ Title 7, *Code of Federal Regulations* (CFR), section 636.7(a)(1), as promulgated at volume 74, *Federal Register* (FR), page 2797 (January 16, 2009).

²⁴ 7 CFR 1466.23(c)(3) (2010 edition).

²⁵ Other programs under the subchapter include the Comprehensive Conservation Enhancement Program, Conservation Security and Farmland Protection, Environmental Easement Program, Wildlife Habitat Incentive Program, Grassroots Source Water Protection Program, Great Lakes Basin Program, Chesapeake Bay Watershed Program, and Voluntary Public Access and Habitat Incentive Program.

²⁶ 16 U.S.C. 3839aa-2(d)(5) and (6).

to approve contracts for only approximately 30 percent of MBHI applicants in Louisiana, and approximately 28 percent of applicants in Texas. We identified nearly 237,000 unfunded MBHI acres in Louisiana and nearly 83,000 unfunded MBHI acres in Texas. Although nearly 70 percent of the applications in these States were not approved due to funding limitations, some approved applications ultimately received excessive funding. Based on the average implementation costs in Louisiana and Texas, if NRCS had reduced its MBHI payments such that participants were made no more than whole and used the savings to fund additional applicants, we estimate NRCS could have enrolled 13,940 additional acres in the initiative.²⁷ Additionally, since Ducks Unlimited made enrollment in NRCS' program a requirement to receive funding from Ducks Unlimited, if NRCS had funded more applicants, Ducks Unlimited may have likewise distributed funding more widely.

If NRCS had internal controls in place to prevent its participation in paying a limited number of participants more than the average cost of establishing conservation practices, NRCS could have better operated the initiative to its maximum effect. By acting upon opportunities to share costs with partners such as Ducks Unlimited rather than duplicating partnership efforts, NRCS could address concerns of the Department, OMB, GAO, and the current Administration regarding the importance of reducing waste and increasing efficiency and effectiveness. Utilizing existing means of identifying payments from other sources, and strengthening internal controls to prohibit payments in excess of the average costs to implement conservation practices, would help NRCS to avoid undertaking duplicative efforts with its conservation partners and better leverage limited resources to provide greater impact with its funds.²⁸

Recommendation 1

To better leverage financial assistance, for future NRCS programs determine whether partners in conservation are offering payments or other benefits for the same practice on the same land. If so, implement controls to reduce NRCS program payments to an amount such that the total financial assistance to the participant from NRCS and its partner in conservation does not exceed 100 percent of the average cost of the practice.

Agency Response

NRCS does not concur with the OIG recommendation. In its written response to the official draft, NRCS states the statutory and policy reasons why it believes it cannot change its current policy. Specifically, NRCS indicated that reducing payments to producers to the extent producers receive financial assistance from non-Federal sources is both contrary to statutory

²⁷ We calculated the average cost per acre using NRCS data in order to determine the additional benefits that could have been provided to MBHI applicants. Specifically, we calculated how many acres could have been enrolled at the average cost per acre had NRCS precluded the \$901,300 in payments for conservation practices that exceeded the average costs and provided the funding to additional MBHI applicants.

²⁸ NRCS' *Conservation Program Application* (Form NRCS-CPA-1200) requires that participants disclose whether the land under the application is enrolled in any other conservation program. NRCS' *Practice Approval and Payment Application* (Form NRCS-CPA-1245) requires that participants certify that payments are not a duplicate of any other USDA program payments, and that any payment that has been or will be received from other sources has been disclosed to the NRCS approving official before payment.

authority requirements (Section 1240B(d)(5) of the Food Security Act of 1985) and introduces unnecessary administrative complexity. Section 1240B(d)(5) clearly identified that any non-Federal source is “in addition” to EQIP payments, and thus should not impact the level of financial assistance a producer receives for EQIP participation. NRCS also provided that MBHI was an emergency measure to offset significant environmental damage resulting from the Deepwater Horizon Oil Spill disaster and the program’s success was related to the ability of the agency to quickly mobilize its programmatic resources to analyze and address urgent conservation matters. Also, NRCS provided that neither the agency nor its conservation partners knew the extent to which producers would respond to the availability of conservation assistance or what level of assistance would provide sufficient incentive for producers to participate. The agency’s written response is included in its entirety at the end of this report.

OIG Position

We are unable to accept NRCS’ management decision for this recommendation. This recommendation addresses future programs and is intended for NRCS to look forward and consider how the agency might efficiently operate a similar program where partners are also providing incentive payments to the same participants that NRCS is funding. Many of the NRCS-cited barriers to policy changes are specific to MBHI and the circumstances of that initiative. Moreover, the statute cited by NRCS in its response (Section 1240B(d)(5) of the Food Security Act of 1985), as well as NRCS’ and the Department’s position stated upon publication of the previous EQIP regulations in May 2003, generally provides, for EQIP, that “any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.” However, NRCS’ Section-by-Section Comments on promulgation of the 2003 EQIP final rule state, “It is not the intent of the Department to restrict additional cost-shares that a participant may receive from non-USDA sources but to achieve cost-effectiveness, USDA will reduce EQIP assistance when non-USDA assistance together with USDA assistance for a practice exceeds 100 percent. The Department does not support providing maximum cost-share to a participant when other source [sic] of assistance bring the total to more than 100 percent of the cost of installing a structural conservation practice.”²⁹ For MBHI, NRCS did not reduce assistance when non-USDA assistance together with USDA assistance for a practice exceeded 100 percent. Furthermore, we believe that the section of the Act does not prohibit NRCS from reducing USDA’s assistance if non-USDA assistance together with USDA-assistance for a practice could exceed 100 percent.

To achieve management decision, NRCS needs to implement controls for future programs to ensure combined financial contributions (at least NRCS and its partners in conservation) for a conservation practice will not exceed 100 percent or provide documentation to support the Departmental approval of nonreduction of cost-share to a participant when other sources of assistance bring the total to more than 100 percent of the cost of the practice.

²⁹ 68 FR 32347 (May 30, 2003).

Section 2: NRCS Needs to Strengthen Controls to Prevent Improper Payments

Finding 2: NRCS Needs to Ensure the Use of Correct Payment Schedules

We found that NRCS applied improper payment schedules to 42 of 49 MBHI-EQIP and MBHI-WHIP contracts in Acadia Parish, Louisiana, essentially contracting with nonhistorically underserved participants to share 90 percent of costs, rather than the 75 percent for which they were eligible. This occurred because the NRCS district personnel believed that a higher payment schedule (90 percent) intended for historically underserved groups applied to all participants in the area because NRCS designated it high priority for the initiative, and NRCS' reviews did not identify the error. Due to the participants receiving higher payments than they were eligible to receive, NRCS improperly paid \$61,699 and would have continued to issue as much as \$157,000 in additional improper payments if the error remained unidentified.

To be designated a historically underserved producer eligible to receive 90 percent of costs, a producer must be a beginning farmer or rancher, have limited resources, or be a socially disadvantaged producer.³⁰ Unless the participant meets the requirements for the historically underserved producer designation, EQIP and WHIP payments must not exceed 75 percent of the costs incurred to implement the conservation practice.³¹

During our review of MBHI payments made in Acadia Parish, we found that NRCS personnel in that parish applied the historically underserved payment schedule to all contracts. Along with the initiative's announcement, the NRCS national office designated priority areas, including Acadia Parish, to assist States in prioritizing MBHI applications for enrollment. The Acadia Parish district personnel—in consideration of the location's high priority status—erroneously applied the higher, historically underserved payment schedule to all contracts when prepared. Since NRCS had started to make payments on these contracts before the error was discovered, by July 14, 2011, NRCS made \$61,699 of the parish's \$327,792 total MBHI payments to that date improperly.³²

When OIG alerted NRCS to this issue, the Louisiana State NRCS Office acknowledged the error and took action to assess and correct it. The Louisiana State Conservationist required reviews of all MBHI contracts in Acadia Parish to determine the total improper payments. Additionally, the Louisiana State NRCS Office reviewed a sample of MBHI contracts at area offices to determine if staff used the correct payment schedules when developing and obligating contracts, and if erroneous payments were made. NRCS subsequently informed OIG that no additional issues were noted during the reviews performed outside Acadia Parish, and OIG likewise did not identify the issue on any other contracts reviewed during our audit of three States.³³ NRCS has

³⁰ 7 CFR 1466.3 (2010 edition), and 7 CFR 636.3, as promulgated at 74 FR 2795 (January 16, 2009).

³¹ 7 CFR 1466.23(c) (1) (i) and (2) (2010 edition), and 7 CFR 636.7(a) (1) and (2), as promulgated at 74 FR 2797-2798 (January 16, 2009).

³² NRCS calculated these improper payment totals.

³³ OIG also reviewed four "regular" (non-MBHI) EQIP contracts in Acadia Parish and noted no issues related to their payment schedules.

started the process of recovering the overpayments and modifying affected contracts to reflect the correct payments.³⁴ Modifying the contracts allows NRCS to avoid as much as \$157,000 in additional improper payments over the remaining lifecycle of the Acadia Parish contracts.³⁵

We observed that NRCS does not have an effective control before a payment is made to detect an improper use of a historically underserved payment schedule. While NRCS performs second-level reviews of contracts before making payments, the Louisiana State NRCS Office indicated that reviewers do not verify whether the payment schedule is consistent with the eligibility status designated on a participant's application. We note that NRCS' *Conservation Program Contract Manual* does not explicitly direct second-level reviewers to verify that the payment schedule corresponds with participant eligibility.³⁶ Requiring reviewers to take additional steps to identify inconsistencies between the payment schedules used to develop contracts and the participants' eligibility for the payment schedules would improve the second-level review process. By taking steps to strengthen the effectiveness of its second-level review process, NRCS would improve its ability to prevent improper payments in EQIP and WHIP.

Recommendation 2

Recover overpayments totaling \$61,699.

Agency Response

NRCS concurs with OIG's recommendation and has taken the necessary administrative actions to recover overpayments totaling \$61,699.

OIG Position

We accept NRCS' management decision on this recommendation.

Recommendation 3

Modify MBHI-EQIP and MBHI-WHIP conservation contracts to reflect the correct payment schedule to avoid future overpayments (estimated to total \$157,000).

Agency Response

NRCS concurs with OIG's recommendation and has taken the necessary administrative actions to modify the applicable conservation contracts to reflect the correct payment schedule.

³⁴ NRCS provided notice to overpayment recipients that funds need to be returned to the USDA National Finance Center.

³⁵ OIG estimated future improper payments for Acadia Parish MBHI-EQIP and MBHI-WHIP contracts, and the Louisiana NRCS State Conservationist concurred with OIG's estimation.

³⁶ Title 440 – Programs – Part 512 – *Conservation Program Contracting Manual* (December 2009).

OIG Position

We accept NRCS' management decision on this recommendation.

Recommendation 4

Include in the second-level review process a control to detect the use of a historically underserved payment schedule that does not correspond with the participant's eligibility.

Agency Response

NRCS will issue policy in its contracting manual requiring States to use clear language to preface each item in the payment schedule which has incorporated the higher payment rates applicable to historically underserved producers. In this manner, a second-level reviewer can easily identify whether the participant's contract has the correct cost items in their payment schedule.

OIG Position

We are unable to accept NRCS' management decision on this recommendation. NRCS' proposal to issue a policy requiring the use of clear language does not address our recommendation that NRCS implement a control within the current second-level review process. To achieve management decision, NRCS should include a control to ensure second-level reviewers specifically verify the participant's payment schedule is consistent with the participant's historically underserved eligibility, and provide an estimated completion date for implementation of the control.

Finding 3: NRCS Needs to Complete Required Site Visits Prior to Payment Issuance

At the time of our review, NRCS had issued more than \$147,000 in payments on 38 MBHI-WRP contracts in Tensas Parish, Louisiana, before the contracted conservation practices were verified as complete. This occurred because NRCS personnel did not perform site visits to verify that participants had completed conservation activities, as the district office staff responsible for conducting site visits erroneously considered MBHI participants to be “approved partners” and, therefore, accepted participants’ self-certifications in lieu of site visits. As a result, NRCS did not identify that six wetland project sites were not in full compliance before it issued more than \$42,000 in payments on those contracts. NRCS subsequently performed the required site visits and determined that nearly 60 percent (\$25,061) of the payments made on the six noncompliant contracts were improper.

Cost-share payments may be made only upon a determination by NRCS that an eligible conservation practice or component of the conservation practice has been implemented in compliance with appropriate NRCS standards and specifications.³⁷ NRCS’ guidance requires district conservationists or local NRCS representatives to carry out required reviews of projects, complete status reviews until conservation practices are established, and certify that conservation practices are completed before making payments to participants.³⁸ Supplemental MBHI guidance from the Louisiana State NRCS Office required site visits to be “completed by either NRCS or approved partner personnel” within certain timeframes.³⁹ The guidance also states that, “Partners may assist in conducting the field verification or practice implementation. However, NRCS employees will be responsible for final certification documentation and completion of the ... Practice Approval and Payment Information Form.”

When we visited the Tensas Parish NRCS Office in March 2011, we found that district personnel had not performed any site visits to verify the installation of MBHI conservation practices before issuing payments.⁴⁰ NRCS district office staff stated during interviews that MBHI participants were considered to be approved partners and accepted the participants’ self-certification as sufficient documentation of practice completion when making payments. District personnel stated during interviews that they misunderstood State office guidance. The Louisiana Assistant State Conservationist agreed that site visits should have been performed and spoke with district personnel about not completing the required site visits. Subsequently, site visits were conducted and six contracts were found not in full compliance.⁴¹

NRCS determined that it issued improper payments totaling \$25,061 in relation to the six contracts. NRCS has started the process of collecting the cost share payments that the

³⁷ 7 CFR 1467.10 (2010 edition).

³⁸ NRCS Manuals – Title 440 – Programs – Part 514.02 WRP, *NRCS Responsibilities* (November 2006); NRCS Manuals – Title 440 – Programs – Part 514.43 WRP, *Payments for Restoration Cost-Share Agreements* (November 2006).

³⁹ NRCS Louisiana State Office Bulletin No: 190-10-10 (August 31, 2010).

⁴⁰ All MBHI contracts in Tensas Parish were MBHI-WRP contracts.

⁴¹ At the time of NRCS’ review, there were 39 MBHI-WRP contracts with payments; however, the 6 contracts out of compliance were part of the 38 contracts with payments at the time of OIG’s review.

participants received for practices that were not completed. Additionally, the Louisiana State NRCS Office issued a bulletin that clarified the provisions for conducting reviews prior to payment.⁴² In August 2011, the Louisiana Assistant State Conservationist stated that the Louisiana State NRCS Office is pursuing cost recovery for overpayments, but is not pursuing liquidated damages or civil action. We are not making a recommendation for NRCS to improve its controls over the certification and payment process related to this finding because (1) we identified this issue only in Tensas Parish, (2) the Louisiana State NRCS Office promptly provided area offices with additional guidance clarifying the provisions for conducting reviews prior to payment, and (3) a scheduled NRCS area office review that commenced subsequent to our review included steps that would have identified this issue.⁴³

Recommendation 5

Recover the overpayments totaling \$25,061.

Agency Response

NRCS concurs with OIG's recommendation and has taken the necessary administrative actions to recover the overpayments.

OIG Position

We are unable to accept NRCS' management decision on this recommendation. In order to achieve management decision, NRCS needs to provide support that the amounts have been entered as receivables on the agency's accounting records. NRCS has provided OIG with collection letters for the overpayments.

⁴² NRCS Louisiana State Office Bulletin No: 300-11-39 (April 21, 2011).

⁴³ The area conservationist responsible for the staffing and conduct of the reviews informed OIG that many of the reviews had been performed as of May 31, 2011, and, although formal reports had not been submitted at that time, the reviewers indicated no findings of significance.

Scope and Methodology

We audited NRCS' operation of MBHI, NRCS' fiscal year 2010 response to potential environmental issues that may have resulted from the *Deepwater Horizon* oil rig explosion that occurred in the Gulf of Mexico on April 20, 2010.

From the eight States that participated in the initiative, OIG judgmentally selected a sample of three States—Arkansas, Louisiana, and Mississippi—for review, and later expanded our scope to include data related to Ducks Unlimited payments in Texas.⁴⁴ We selected Arkansas, Louisiana, and Mississippi because they comprised a large portion of the initiative's program activity, and each offered contracts under all three of the programs NRCS used to deliver the initiative.⁴⁵ As of September 30, 2010, the obligated contract costs for these 3 States totaled \$27.2 million (70 percent of the \$38.6 million for the entire initiative), and contract acres totaled 333,964 (nearly 71 percent of the 470,646 acres for the entire initiative). Within these States, we judgmentally selected 17 counties and parishes for review based on their relatively large numbers of contracts, large amounts of total obligations, and large numbers and amounts of payments on the contracts as of the date NRCS provided OIG with the data in comparison to other counties or parishes in the State.

In order to expedite fieldwork and reduce travel expenses incurred by the audit team, following completion of our audit work in 6 Louisiana parishes, OIG implemented a stop-or-go approach for the 11 remaining counties—6 Arkansas and 5 Mississippi counties—selected for review.⁴⁶ Under this approach, in each of these two States, we initially limited our fieldwork to one of the three counties previously selected for MBHI-EQIP and MBHI-WHIP contract reviews and one of the three selected for MBHI-WRP contract reviews. Additional fieldwork was contingent upon potential issues noted by the audit team, and subsequent discussions between the audit control point and OIG Headquarters. Ultimately, we assessed the adequacy of NRCS' controls to ensure contracted conservation practices were properly established through fieldwork in 13 of the 17 counties and parishes originally selected for review.

⁴⁴ Although the scope of OIG's MBHI audit did not originally include Texas, a limited amount of review was performed based on Texas MBHI participants' receipt of additional incentives provided by Ducks Unlimited. We limited our review of Texas NRCS data to include only the payment schedules for conservation practices on which Ducks Unlimited also made payments to MBHI participants.

⁴⁵ Alabama, Arkansas, Louisiana, Mississippi, and Missouri offered EQIP, WHIP, and WRP contracts, whereas Florida, Georgia, and Texas offered only EQIP and WHIP contracts under the initiative.

⁴⁶ We selected 9 locations for MBHI-EQIP and MBHI-WHIP contract reviews and 9 locations for MBHI-WRP contract reviews. One location—Humphreys, Mississippi—overlapped between site selections for MBHI EQIP and WHIP contracts and MBHI-WRP contracts; therefore, there were a total of 17 locations. Site visits and contract reviews for EQIP and WHIP were performed concurrently because of similarities in the programs and collocation of the programs' contract data.

The following table lists the 3 State offices and 13 counties and parishes in which OIG conducted contract reviews, by State and program(s):

State	Eight Counties and Parishes Selected for EQIP and WHIP Reviews	Five Counties and Parishes Selected for WRP Reviews
Arkansas	Clay, Lawrence, Monroe	St. Francis
Louisiana	Acadia, St. Landry, Vermillion	Catahoula, Richland, Tensas
Mississippi	Leflore, Tallahatchie	Humphreys

Generally, for each of the 8 counties and parishes in which OIG conducted MBHI-EQIP and MBHI-WHIP contract reviews, we judgmentally selected 10 contracts—5 MBHI-EQIP contracts and 5 MBHI-WHIP contracts—for a total of 78 contracts.⁴⁷ For each of the 5 counties and parishes selected for MBHI-WRP contract reviews, we judgmentally selected 5 MBHI contracts for a total of 25 MBHI-WRP contracts. Generally, we based our selection of the 103 MBHI contracts on the large number and amount of the payments made on the contracts as of the date NRCS provided OIG with the data.^{48, 49}

The following table lists the 103 MBHI contracts reviewed by OIG, by State and program type, including the number of contracts and amount of payments on those contracts:

Program	Arkansas		Louisiana		Mississippi	
	Contracts	Payments	Contracts	Payments	Contracts	Payments
EQIP	10	\$65,513	18	\$231,006	10	\$110,752
WHIP	15	\$138,643	15	\$154,376	10	\$136,956
WRP	5	\$41,434	15	\$290,006	5	\$149,375
TOTAL	30	\$245,590	48	\$675,388	25	\$397,083

Our sample of 103 MBHI contracts comprised nearly 7.5 percent of the total 1,381 MBHI contracts in the 3 States selected—a segment which represents nearly 71 percent of all 1,946 MBHI contracts.⁵⁰

⁴⁷ In some counties and parishes five contracts in one program (e.g., EQIP) were not available for review; however, the county or parish was selected based on the abundance of other MBHI contracts (e.g., WHIP). In some cases, we obtained additional contracts for review. In total, 78 MBHI-EQIP and -WHIP contracts were obtained and reviewed.

⁴⁸ Other factors affecting contract selection and/or review included participation in other NRCS programs, participation in other NRCS MBHI contracts, and, in one case, NRCS employee participation in MBHI.

⁴⁹ NRCS provided MBHI data by State—and in some cases by program—throughout March 2010.

⁵⁰ Figures based on the number of contracts reviewed by OIG and NRCS Headquarters, fiscal year 2010 MBHI data for each of the programs.

To accomplish our objectives, we:

- Interviewed agency officials and personnel;
- Obtained and reviewed program statutes, regulations, handbooks, bulletins, and other documents;
- Obtained and reviewed NRCS Headquarters and State office data including MBHI obligations and payment amounts;
- Obtained and reviewed producers' contract case files—including NRCS' technical assistance notes, pictures of established conservation practices, participants' practice certifications, and Global Positioning System data supporting acreage enrolled and reviewed after practice certification—at NRCS State offices and local service centers;
- Conducted site visits when possible to observe practice implementation and/or completion;⁵¹
- Interviewed officials from the National Fish and Wildlife Foundation and Ducks Unlimited regarding their respective roles pertaining to NRCS' MBHI;
- Obtained and reviewed Ducks Unlimited data supporting additional payments made to NRCS' MBHI participants in Louisiana and Texas;
- Obtained and reviewed documents supporting NRCS performance measures for each of the conservation practices under the initiative; and
- Interviewed Mississippi State University staff and reviewed the university's quarterly and summary reports regarding its study of the effectiveness of MBHI.

We conducted this performance audit from December 2010 to March 2012, 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.

⁵¹ Site visits were not always possible due to inclement weather such as flooding and the inability to access the flooded fields.

Abbreviations

CFR.....	<i>Code of Federal Regulations</i>
EO	Executive Order
EQIP.....	Environmental Quality Incentives Program
FR.....	<i>Federal Register</i>
GAO.....	Government Accountability Office
MBHI.....	Migratory Bird Habitat Initiative
NRCS	Natural Resources Conservation Service
OIG	Office of Inspector General
OMB	Office of Management and Budget
U.S.C.....	United States Code
USDA.....	Department of Agriculture
WHIP	Wildlife Habitat Incentives Program
WRP	Wetlands Reserve Program

Exhibit A: Summary of Monetary Results

The following table records the monetary results from our audit, including a reference to the specific finding and recommendation.

Finding Number	Recommendation Number	Description	Amount	Category
1	1	MBHI participants in Texas and Louisiana received payments in excess of NRCS' Statewide Cost Rate	\$901,300	Funds To Be Put To Better Use – Management or Operating Improvements/Savings
2	2	Acadia Parish, Louisiana, EQIP and WHIP historically underserved payment schedule rate improperly applied to contracts	\$61,699	Questioned Costs and Loans, Recovery Recommended
2	3	Acadia Parish, Louisiana, EQIP and WHIP historically underserved payment schedule rate improperly applied to contracts	\$157,000	Funds To Be Put To Better Use – Deobligations
3	5	Tensas Parish, Louisiana, WRP participant certifications in lieu of NRCS verifications resulted in payments on noncompliant contracts	\$25,061	Questioned Costs and Loans, Recovery Recommended
Total			\$1,145,060	

**USDA'S
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 28, 2012

SUBJECT: Natural Resources Conservation Service (NRCS) Response to the Office of Inspector General Report – Migratory Bird Habitat Initiative: NRCS Response to Issues Caused by the Deepwater Horizon Oil Spill (Audit # 10704-0001-32)

TO: Gil H. Harden File Code: 340
Assistant Inspector General for Audit
Office of Inspector General

This memorandum is in response to the Office of the Inspector General (OIG) Audit Report # 10704-0001-32. OIG's audit report shows several findings and recommendations regarding the NRCS implementation of the Migratory Bird Habitat Initiative in response to the 2010 Deepwater Horizon Oil Spill.

Attached are responses to your recommendations for action. The responses address the actions taken and planned for each audit recommendation. NRCS concurs with four of the five OIG recommendations. Due to statutory and policy reasons state herein, NRCS does not concur with the first recommendation.

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

/s/ Leonard Jordan, Acting for

Dave White
Chief

Attachments

Page 2

cc: (w/attachment)

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

Anthony J. Kramer, Deputy Chief for Programs, 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,
USDA, Washington, D.C.

**Response to the office of Inspector General Report – Migratory Bird Habitat Initiative
(MBHI): NRCS’ Response to Issues Caused by the Deepwater Horizon Oil Spill
(Audit # 10704-0001-32)**

Recommendation 1

To better leverage financial assistance for future NRCS programs to determine whether partners in conservation are offering payments or other benefits for the same practice on the same land. If so, implement controls to reduce NRCS program payments to an amount such that the total financial assistance to the participant from NRCS and its partner in conservation does not exceed 100 percent of the average cost of the practice.

NRCS Response

NRCS does not concur with OIG recommendation, and for the reasons stated herein, cannot change its current policy in response:

- OIG’s recommendation for NRCS to reduce its Environmental Quality Incentive Program (EQIP) payments to producers to the extent the producer receives financial assistance from non-Federal sources is both contrary to statutory requirements and introduces unnecessary administrative complexity. Section 1240B(d)(5) of the Food Security Act of 1985 provides the following requirements related to payments made under (EQIP): (5) FINANCIAL ASSISTANCE FROM OTHER SOURCES. Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.” Section 1240B(d)(5) clearly identifies that any non-Federal sources is “in addition” to EQIP payments, and thus should not impact the level of financial assistance a producer receives for EQIP participation. Since third party payments are, by statute, considered to be in addition to EQIP payments, they are not considered when determining EQIP payment rates.
- NRCS established and implemented MBHI as an emergency measure to offset significant environmental damages resulting from the Deepwater Horizon Oil Spill disaster, and therefore representations that NRCS should have provided reduced assistance or coordinated its payments with other conservation organizations is based upon hindsight and speculation without due consideration of conditions as they existed at the time of implementation.
- While NRCS works with Ducks Unlimited (DU) and other conservation partners on several important initiatives through cooperative agreements and contribution agreements, MBHI’s success is related to the ability of NRCS to quickly mobilize its programmatic resources to analyze and address an urgent conservation matter as rapidly and efficiently as possible.
- Neither NRCS nor any of its partners knew the extent to which producers would respond to the availability of conservation assistance for this effort, or what level of assistance would provide sufficient incentive for producers to participate. Further, the level of demand generated by the available assistance from NRCS and DU cannot be presumed to be the level of demand that would have been generated had NRCS or DU reduced its payment amounts in response to each other’s efforts.

- OIG asserts that DU's initiative as a private conservation organization demonstrates NRCS lack of controls. In actuality, NRCS did not have any authority to take such efforts into consideration when determining which payments EQIP participants were eligible to receive when it first rolled out MBHI.
- It is administratively easier for State, local, and private organizations to identify directly in their own policies how they want to coordinate their assistance with a widely-known national program than for NRCS to evaluate the nature of each of these programs, determine whether such program's assistance to EQIP participants should result in lower EQIP programmatic assistance, and monitor the participant's utilization of other organizations' assistance.
- Most importantly, MBHI, like all NRCS conservation programs and initiatives, relies on voluntary adoption of practices and activities by agricultural producers who are not under any requirement to do so. NRCS works with conservation partners to provide sufficient incentives to encourage voluntary adoptions of environmentally-beneficial measures.

Recommendation 2

Recover overpayments totaling \$61,699.

Agency Response

NRCS concurs with OIG's recommendation and has taken the necessary administrative actions to recover overpayments totaling \$61,699.

Recommendation 3

Modify MBHI-EQIP and MBHI-WHIP conservation contracts to reflect the correct payment schedule to avoid future overpayments (estimated to total \$157,000).

Agency Response

NRCS concurs with OIG's recommendation and has taken the necessary administrative actions to modify the applicable conservation contracts to reflect the correct payment schedule.

Recommendation 4

Include in the second-level review process a control to detect the use of a historically underserved payment schedule that does not correspond with the participant's eligibility.

Agency Response:

NRCS will issue policy in its contracting manual requiring States to use clear language to preface each item in the payment schedule which has incorporated the higher payment rates applicable to historically underserved producers. In this manner, a second-level reviewer can easily identify whether the participant's contract has the correct cost items in their payment schedule.

Recommendation 5

Recover the overpayments totaling \$25,061.

Agency Response:

NRCS concurs with OIG's recommendation and has taken the necessary administrative actions to recover the overpayments.

Informational copies of this report have been distributed to:

Chief, Natural Resources Conservation Service

Attn: Agency Liaison Officer (5)

Government Accountability Office (1)

Office of Management and Budget (1)

Office of the Chief Financial Officer

Attn: Director, Planning and Accountability Division (1)

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