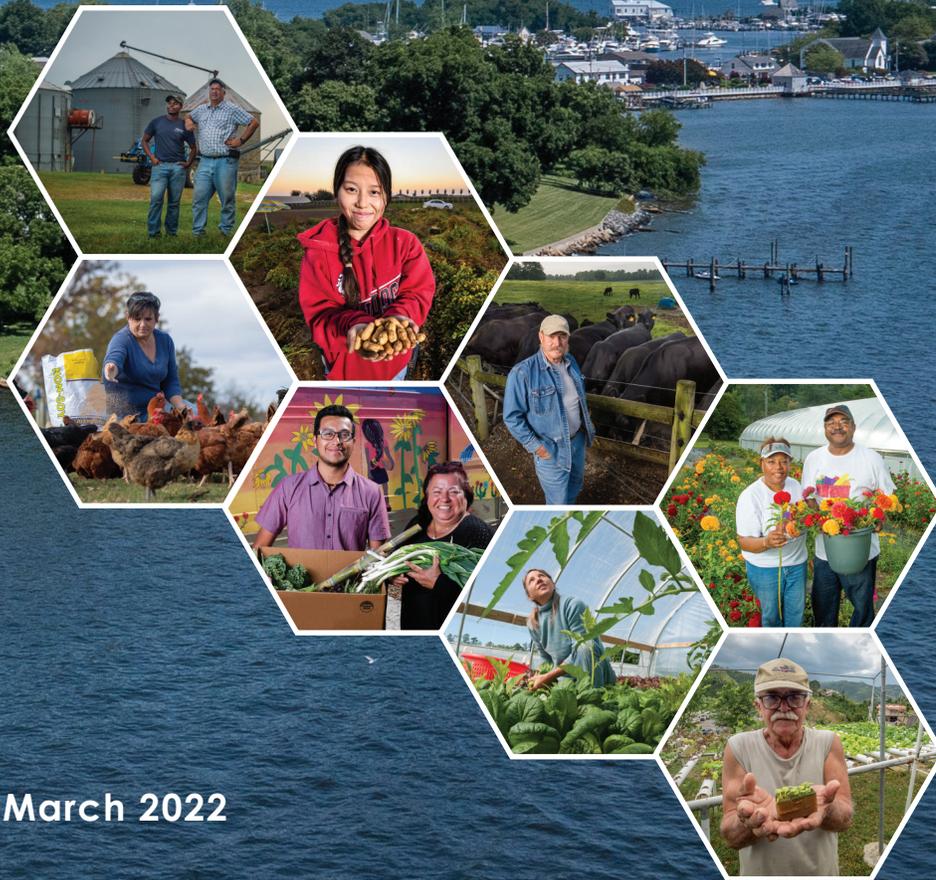




Prior OIG Audits Relevant to FS' Infrastructure Funding



March 2022



OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



DATE: March 8, 2022

TO: Robert Bonnie Under Secretary Farm Production and Conservation
Randy Moore Chief Forest Service

ATTN: Robert Velasco Chief Financial Officer Forest Service

FROM: Gil H. Harden Assistant Inspector General for Audit

SUBJECT: Prior OIG Audits Relevant to FS' Infrastructure Funding

As you are aware, the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Act), signed on November 15, 2021, provided the United States Department of Agriculture (USDA) more than \$8.3 billion in funding. Of this amount, the Act provided the Forest Service (FS) more than \$5.4 billion for the following activities and programs.

- State and Private Forestry: more than \$1.5 billion
- National Forest System (NFS): more than \$2.8 billion
- Capital Improvement and Maintenance: \$360 million
- Wildland Fire Management: more than \$690 million

As part of the Office of Inspector General's (OIG) oversight responsibility, one of our first tasks was to review¹ the results of prior OIG engagements (i.e., audits, inspections, and a non-audit service) that were relevant to the FS funding provided by the Act. Based on our review, we identified findings that FS should consider to ensure activities and programs continue to operate with the proper control environment in order to remain effective and operationally efficient. According to information maintained by the Office of the Chief Financial Officer (OCFO), the recommendations associated with these prior engagements have been implemented.² OIG grouped the findings into the following six areas.

¹ We performed this review as a non-audit service. A non-audit service, also known as a consulting service, is a service other than an audit, attestation engagement, inspection, evaluation, or investigation. A non-audit service consists of tasks or services consistent with auditors' skills and expertise that do not create a threat to auditor independence. Therefore, the data and information provided were not verified or analyzed, and no audit procedures were performed on them. The information in this report was compiled from previously published OIG reports.

² We based this determination on information reported in OCFO's Audit Follow-up Tracking and Reporting System as of February 24, 2022. As noted in the details of this document, OIG issued final action verification (FAV) reports for three prior audit reports on FS activities. FAV reports determine whether the final action documentation that FS provided to OCFO supports the management decision FS reached with OIG. The FAV reports determine whether the documentation FS provided to OCFO was sufficient to close the recommendations.

- **Firefighting Resources:** firefighting succession planning, contract labor, firefighting safety, cost share agreements, and initiatives to address workplace misconduct.
- **Wildland Fire Management:** the selection and review of projects intended to reduce the risk of wildland fires and wildland fire response plans.
- **Ecosystem Management:** invasive species, the Forest Legacy Program, ownership of land easements, watershed management, FS' plan to address climate change, and drug enforcement on NFS lands.
- **Contract Administration:** contract approval, Recovery Act³ awards, information technology, stewardship contracting, air tanker contract awards, and service contracts.
- **Grants Management:** Recovery Act grants, grants through the 2018 disaster supplemental appropriations,⁴ and a grant for roadless area management.
- **Program Performance and Oversight:** Recovery Act reporting, compliance activities, and deferred maintenance.

Firefighting Resources

- **Firefighting Succession Planning Process⁵**

In 2010, we reported that FS faced a significant number of retirements during the next 5–10 years like most Federal agencies. In 2009, approximately 26 percent of its critical firefighting personnel were eligible to retire, increasing to 64 percent by 2014. In assessing FS plans for recruiting, training, developing, and retaining those personnel who fill critical fire management positions, we found that FS had not taken the necessary steps to ensure that it had a sufficient number of qualified staff to meet its future wildland fire management responsibilities.

Specifically, FS did not have a national workforce plan or firefighter training program that ensured the continued availability of qualified personnel to meet its firefighting needs. With an average age of 45 and suboptimal training progress, many trainees would have been almost eligible to retire by the time they qualified for the critical positions for which they were training. Furthermore, 40 percent of employees who took fire training never followed through to qualify for a firefighter position, a potential waste of \$12 million annually. FS' ability to effectively suppress wildfires was also challenged by a lack of participation from its firefighters because it did not require them to actually participate during wildfire events or reward them for doing so. In 2008, only 9 percent of FS' qualified firefighters actually took part in suppressing the agency's largest, costliest wildfires while the vast majority remained at home.

³ The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5.

⁴ Further Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2018, Pub. L. No. 115-123.

⁵ Audit Report 08601-54-SF, *Forest Service's Firefighting Succession Planning Process*, Mar. 2010.

We also found that FS' ability to fight fires may be compromised if it continued to classify certain members of its fire management staff under a job series for natural resources management and biological sciences (GS-401). The series makes academic course work a precondition for employment. Although intended to increase safety by upgrading certain fire management staff's educational requirements, classifying these staff under the GS-401 series would likely have had the opposite effect.

- **Contract Labor Crews⁶**

We identified inefficiencies in how FS managed its contracted firefighting labor crews. We found that they did not have an annual pre-fire process to analyze data from previous fire seasons and identify trends on how firefighting labor crews were utilized in conjunction with other resources. We also found that FS lacked reliable estimates for its firefighting crew costs. Without seasonal trend analysis and reliable firefighting estimates, FS management was limited in determining the most efficient and effective variations of firefighting resources, which could ultimately affect the agency's ability to fight fires. In addition, FS should have identified all direct and indirect costs associated with the different types of firefighting crews. By establishing annual pre-fire season analysis and capturing important cost data, FS could better estimate the suitable number and type of available contracted labor crews needed to maintain adequate firefighting capacity.

We also found that FS lacked a process to determine whether contractors were properly verifying that contract firefighters were legally authorized to work in the United States. Per our review, we determined that at least 49 of the 60 contract employees, hired by three separate contractors, had questionable employment status that had not been properly verified.

- **Prior Recommendations Regarding Firefighting Safety⁷**

We followed up on two previous FS audits that identified 9 issues and made 18 recommendations to enhance firefighter safety and strengthen FS' controls over contract crews (*Firefighting Safety Program* (September 2004) and *Firefighting Contract Crews* (March 2006)). FS took significant steps towards implementing all but four recommendations, which were to: (1) develop a consolidated tracking system that included all wildfire Accident Prevention and Hazard Abatement Plan action items; (2) order administrative investigations for wildfire incidents when there is evidence of firefighter misconduct or serious safety violations; (3) establish procedures to ensure the adequate review of contract crew firefighter qualification records; and (4) modify contractor associations' agreements to restrict access to electronic training records. FS did not follow through on these recommendations due to insufficient controls, planning, and oversight.

⁶ Audit Report 08001-2-At, *Forest Service Contract Labor Crews*, Mar. 2010.

⁷ Audit Report 08601-58-SF, *Forest Service Firefighting Safety Followup*, Sept. 2010.

- **Cost Share Agreements with Non-Federal Entities⁸**

Along with local and State authorities, FS is responsible for helping protect forests nationwide from wildfire. Since 1991, FS' average annual fire suppression costs have doubled from an average of about \$580 million (FYs 1991–2000) to \$1.2 billion (FYs 2001–2010). In California, FS has taken responsibility for protecting almost 2.8 million acres of private land, exchanging land that is inexpensive to protect for land that is more difficult to protect and, therefore, more expensive to protect (such as residential areas near forests). In the process, FS' costs and responsibilities have multiplied. OIG found that FS had not comprehensively reviewed fire protection boundaries to determine if such exchanges distributed costs equitably to all parties, and if any lands exchanged shared similar risks and costs to protect, as mandated by the fire protection agreement. FS began taking corrective action during our audit.

OIG also found that local cooperators (local firefighters) used indirect cost rates for firefighting activities that may have been excessive and unreasonable. FS did not safeguard its assets by establishing policies and procedures to review indirect cost rates charged by local cooperators. As a result, we questioned over \$4.5 million in administrative costs paid to nine cooperators in California. In addition, FS overpaid \$6.5 million to Colorado State University for unallowable administrative costs during a 4-year period.

- **Regional Forester Authorities for Cost Share Agreements⁹**

FS protects natural resources on NFS lands and adjacent State and private lands. FS' collaboration with Federal, State, and local governments is essential to effectively control fires. When a fire impacts multiple jurisdictions, those jurisdictions may enter into a cost share agreement (CSA). Each fire generally has its own CSA that establishes the share of the overall fire suppression costs that FS, along with other entities, pays, and is based on the commitment, support, and coordination framework established in the corresponding Cooperative Fire Protection Agreements (CFPA).

In 2020, the Office of Management and Budget (OMB) restricted funds to FS' Pacific Southwest Region (Region 5) until the duties and responsibilities of Region 5 personnel were adequately segregated from initiating, approving, or executing reimbursable agreements or CSAs. Prior to the OMB restriction, FS' Washington Office revised its standard operating procedures (SOP) for administering CFPAs and reimbursable agreements. We found that, while FS had established adequate controls surrounding CFPAs, the agency did not establish adequate controls surrounding CSAs, which are instrumental in establishing the actual share of the overall fire suppression cost FS pays. Without controls to ensure CSAs were consistent with their corresponding CFPAs, there was no assurance that the costs FS paid for fire suppression were fair and equitable.

⁸ Audit Report 08601-0002-41, *FS Firefighting Cost Share Agreements with Non-Federal Entities*, Dec. 2015.

⁹ Inspection Report 08801-0001-41, *Regional Forester Authorities for Cost Share Agreements—Inspection*, Oct. 2021.

We also found that the FS Washington Office had not established a formal process for reviewing and approving regions' supplemental SOPs for administering CFPAs and reimbursable agreements. Without this process, FS had reduced assurance that regions will timely submit supplemental SOPs to the Washington Office for review and approval. Finally, FS did not adequately address the Washington Office SOP in its directives system, specifically the handbook. As a result, FS risked that the Washington Office SOP may not be fully implemented as intended.

- **Initiatives to Address Workplace Misconduct¹⁰**

In response to a request from Members of Congress, OIG provided oversight for Region 5 as it addressed concerns about sexual harassment or retaliation against employees who alleged mistreatment. In February 2019, we issued our final audit report, which evaluated whether the actions FS took in response to complaints of sexual misconduct and sexual harassment: (1) were effectively implemented as outlined in the joint agreement with USDA; and (2) sufficiently addressed workplace concerns.

Regarding our first objective, we had no reportable findings. Although some were still ongoing, FS had generally implemented all of the action items outlined in the joint agreement with the Office of the General Counsel and the Office of the Assistant Secretary for Civil Rights. With respect to the second objective, we reviewed 11 cases where sexual harassment and sexual misconduct were substantiated in FS' Region 5 and found two cases, and likely a third, in which former supervisors did not inform FS hiring officials about employees' prior histories. This occurred because hiring officials relied on reference checks with the employees' former supervisors, who did not disclose the misconduct.

We also reviewed intake forms for 125 complaints of sexual harassment and sexual misconduct in Region 5 for FYs 2014–2017, and we found that 18 of these cases were not reported by FS managers and supervisors within the required 24-hour timeframe. In addition, we found that, in 13 of these 18 cases, FS took no action against management officials who did not timely report these allegations. This occurred because FS supervisors and managers did not appear to fully understand the 24-hour reporting requirement and FS lacked specific guidelines on disciplinary actions to take when addressing untimely reporting. Lastly, we found that, for 4 of the 11 cases we reviewed where the allegations of sexual harassment and sexual misconduct were substantiated, the decided action was less than the corresponding penalty listed in the USDA Guide for Disciplinary Penalties. Though deviating from recommended penalties is allowed, in three of the cases, FS officials did not adequately document their justification for deviating from the penalty outlined in the guide.

¹⁰ Audit Report 08601-0008-41, *FS Initiatives to Address Workplace Misconduct*, Feb. 2019. OIG completed a FAV of the recommendations in Audit Report 08601-0008-41. In a memorandum dated January 21, 2020, OCFO reported to FS that it closed all of the recommendations, and we concurred with this decision. (Report 08026-0001-41, *FAV—FS Initiatives to Address Workplace Misconduct*, Jun. 2020.)

Wildland Fire Management

- **Selection and Review of Projects Intended to Reduce the Risk of Wildland Fires¹¹**

OIG reviewed FS' processes for selecting projects and reporting accomplishments for hazardous fuels reduction treatments. OIG found that FS lacked a consistent, cross-agency process for selecting its highest priority hazardous fuels reduction projects for completion. FS units did not use scientifically based risk assessments to select projects, nor did they document the process used for selecting projects. Furthermore, the national office did not review project decisions made at the regional and district levels. FS' methodology for tracking accomplishments lead to inadequate data. For example, during the scope of our review, FS reported to Congress that it treated 3,703,848 acres for hazardous fuels reduction when it actually treated 3,600,389 acres—an overstatement of 103,459 acres (approximately 2.8 percent). Also, despite guidance directing that time should be documented only for "actual work performed," FS units charged work hours to the Hazardous Fuels Reduction budget line item for work that may not have supported those activities. In response to our 2006 audit, FS developed the Hazardous Fuels Priority Allocation System (HFPAS) to identify and prioritize fuels reduction projects. However, HFPAS only assists in determining project funding and does not assign priority to actual projects. Therefore, HFPAS did not fully address our earlier recommendations.

Without formal selection and review processes, FS may not apply its limited hazardous fuels reduction resources—which totaled approximately \$600 million during the scope of our review—to areas most in need of treatment. These areas may be at increased risk of catastrophic wildland fire. Inaccurate reporting and accounting could result in FS not correctly reporting what it spent on hazardous fuels reduction-related work.

- **COVID-19—FS' Wildland Fire Response Plans¹²**

OIG conducted a non-audit service to provide OIG comments on the Wildland Fire Response Plans (WFRP) that were developed in order to more safely and effectively combat wildland fires during the coronavirus (COVID-19) pandemic. The WFRPs were developed under the direction of the National Multi-Agency Coordinating Group, which includes FS as well as other Federal, State, and local wildland fire agencies. The impacts of the COVID-19 pandemic will likely cause wildland firefighting challenges across the wildland fire community, potentially causing the 2020 wildfire season to be one of the most dangerous in years.

We identified certain processes and procedures that, if uniformly followed throughout all of the geographic areas, could enhance not only FS' ability to more safely and effectively combat wildland fires during the COVID-19 pandemic, but also other Federal, State, and

¹¹ Audit Report 08601-0004-41, *FS Wildland Fire Activities—Hazardous Fuels Reduction*, Jul. 2016. OIG completed a FAV of the recommendations in Audit Report 08601-0004-41. In a memorandum dated September 6, 2017, OCFO reported to FS that it closed all of the recommendations, and we concurred with this decision. (Report 08026-0001-31, *FAV for Audit of FS Wildland Fire Activities—Hazardous Fuels Reduction*, Sept. 2019.)

¹² Report 08025-0001-41, *COVID-19: FS' Wildland Fire Response Plans*, Aug. 2020.

local wildland fire agencies utilizing the WFRPs. For example, FS should require personnel assigned to a fire be tested for COVID-19 and develop a contingency plan should there be a COVID-19 outbreak within the fire camp. Included in the CARES Act funding was \$7 million for Wildland Fire Management to prevent, prepare for, and respond to COVID-19, including for personal protective equipment and baseline health testing for first responders.

As part of our oversight of FS' CARES Act activities, we reviewed the WFRPs completed in May 2020 for all 10 geographic areas. In reviewing these plans, OIG also considered guidance issued by various health organizations, including the Centers for Disease Control and Prevention, the Occupational Safety and Health Administration, and the World Health Organization. Additionally, while frameworks for reopening facilities may not have a direct correlation because of the nature of fire operations and first responders, we also considered publicly available information from both the USDA Reopening Playbook and the USDA COVID-19 Playbook to determine if fundamentals prescribed in the guidance would enhance the protocols for wildfire response during the COVID-19 pandemic.

Ecosystem Management

- **Invasive Species Program¹³**

The FS' Invasive Species Program lacked many of the internal controls ordinarily associated with the effective stewardship of Federal funds, such as a proper control environment; an overall assessment of the risks posed by invasive species; effective control activities; effective communication of relevant information within the agency; and adequate monitoring of the program's performance. These internal control problems occurred because FS relied on functional areas and field units that operate independently of each other and multiple funding sources tied to 17 different budget line items. Consequently, FS could neither accurately gauge the effectiveness of its attempts to control invasive species, nor state with accuracy how much money it spent on the program overall or for a given species.

- **Forest Legacy Program¹⁴**

FS' Forest Legacy Program supports States' efforts to protect environmentally important forests by assisting States in purchasing conservation easements or lands. Since the inception of the program in 1990, FS had provided over \$595 million to conserve private forests and has protected nearly 2 million acres in 43 States and territories. Although FS made efforts to improve its management and oversight of the Forest Legacy Program after a 2002 review by the U.S. House of Representatives Committee on Appropriations, OIG found that FS needed to take additional steps to improve the program by strengthening oversight over how easements are appraised, by ensuring that States monitor the easements and verify that the landowner abides by the terms of the agreements, and by standardizing conservation easement agreements.

¹³ Audit Report 08601-7- At, *Forest Service Invasive Species*, Sept. 2010.

¹⁴ Audit Report 08601-0056-SF, *Forest Service Forest Legacy Program*, Apr. 2011.

- **Ownership of Easements in National Forests¹⁵**

Because FS and timber companies often share roads on national forest lands, the Forest Roads and Trails Act (FRTA) gave the agency the authority to formalize agreements with timber companies on the maintenance and use of these shared roads. OIG reviewed how FS was exercising this authority and found that, while agency personnel were properly granting and acquiring easements, they were not prepared to effectively address the issues arising from the sale of private forest land with FRTA easements for residential development and commercial use. While FS cannot stop development on private land or restrict access to FRTA roads, it should have assessed risks, developed strategies to lessen the impacts of changing land use, and incorporated appropriate changes into the agency's planning rule and strategic plan. Further, to avoid confusion and dispute, FS should have attempted to implement a FRTA easement amendment, which would clarify rights and responsibilities before successor landowners come into possession of lands containing these easements, and provide sufficient guidance to local field staff on how to address landowner disputes once the land has been sold.

- **Watershed Management¹⁶**

FS issued the Watershed Condition Framework in 2011 to create a cohesive strategy for prioritizing and performing restoration work on watersheds throughout the agency's forests and grasslands. However, staff in Washington, D.C., did not develop and implement management controls to adequately oversee developed and executed plans for restoration activities. Washington Office staff did not ensure those decisions were reviewed and approved appropriately, and they did not develop an official means for storing plans and approvals. In addition, Washington Office staff did not develop methods to track activities and costs for completion or accuracy. Without sufficient management controls, FS could not demonstrate that the framework was implemented as intended. FS, therefore, did not have an appropriate level of assurance that the watersheds managed by the agency were efficiently maintained or improved.

Additionally, FS' methodology for measuring and reporting its performance towards watershed restoration in its annual performance reports did not accurately portray the number of watersheds that actually moved into an improved condition class. Rather, FS counted the number of watersheds in which all restoration projects were completed. However, using this methodology did not communicate accurate data to stakeholders.

- **Plan for Addressing Climate Change¹⁷**

FS reported that the agency is meeting USDA's strategic goals for developing forests and grasslands that are more resilient to climate change. However, we found that the performance measure FS used to reach that conclusion did not adequately demonstrate

¹⁵ Audit Report 08601-0001-Ch, *Forest Service—Evaluation of Forest Service's Processes to Obtain and Grant Rights-of-Way and Easements*, Mar. 2012.

¹⁶ Audit Report 08001-0001-21, *Forest Service Watershed Management*, Jul. 2017.

¹⁷ Audit Report 08601-0005-41, *FS' Plan for Addressing Climate Change*, Aug. 2017.

accomplishments toward climate change adaptation and mitigation in agency-managed lands. The measure was output-based and only quantified FS compliance with its own strategy because the data and resources needed to assess outcomes were not readily available. The agency's reporting tool (the Climate Change Performance Scorecard) did not dependably reflect FS progress because responders did not provide sufficient supplementary information that described the agency's accomplishments. FS did not issue clear guidance and direction to the national forests for completing the scorecard, and regional offices did not adequately verify the national forests' answers when reviewing the scorecards. National forests inconsistently documented considerations for addressing climate change when planning projects because guidance did not provide specific instructions on when those considerations should be documented.

Without outcome-based performance measures and adequate documentation, FS lacked transparency and accountability, limiting assurance that national forests were implementing climate change actions as the agency expects. Consequently, FS risked not taking actions necessary to achieve its goals and the Department's goals of making the Nation's forests and grasslands more resilient to climate change. Due to the findings discussed in this report, we were unable to determine whether FS actually met the Department's strategic goals for climate change.

- **Drug Enforcement on NFS Lands¹⁸**

OIG evaluated the effectiveness of controls over the detection and eradication of marijuana grown on NFS lands and reviewed the effectiveness of site rehabilitation methods. We found that FS officials conducted effective actions to detect and eradicate marijuana grown on NFS lands. However, we found that FS did not always reclaim and rehabilitate marijuana grow sites after plants were eradicated, and FS was unaware of the overall impact these marijuana grow sites pose to the forest ecosystems. This occurred because of a lack of FS resources and expertise, as well as a lack of communication and coordination between FS' Law Enforcement and Investigations and NFS staff. As a result, trash and chemicals, such as pesticides and fertilizers, were still present on these grow sites, thereby putting the public, wildlife, and the environment at risk of contamination. In addition, FS had not conducted an overall assessment of the effect that marijuana cultivation had on the forest ecosystems. As a result, FS did not have adequate information needed to prioritize its limited resources to reduce the risk to the public and the environment.

Also, FS did not track the status of reclamation and rehabilitation activities at grow sites or consistently document marijuana plants eradicated from or hazardous materials found at these sites. Without these data, FS was unable to determine the presence, types, and locations of hazardous materials left in the national forests. Consequently, it could not prioritize grow sites for reclamation and rehabilitation efforts to minimize the sites' risk to the public and wildlife.

¹⁸ Audit Report 08003-0001-22, *Drug Enforcement on National Forest System Lands*, Mar. 2018.

Contract Administration

- **Contract Approval¹⁹**

In response to a hotline complaint alleging that FS' Rocky Mountain Research Station mismanaged a \$7 million contract to develop computer software modeling the behavior, effect, and chemistry of fire, OIG did not find evidence that FS staff or contractor employees engaged in fraud. However, during the administration of this contract, a FS employee violated various Federal acquisition regulation requirements. For example, the employee chose a contract typically used to procure information technology equipment and software to procure fire model research and development services, and was able to make improper contracting decisions without detection because management was not properly overseeing the work. Due to the mistakes, FS did not award the contract in the best interest of the Government and did not have reasonable assurance that the services were procured in the most cost-effective manner.

- **Recovery Act Awards**

As part of the Recovery Act, Congress provided FS with \$1.2 billion in Recovery Act funding; generally, these funds were to be used to promote economic recovery in areas of high unemployment. Based on our review of FS' internal controls for spending these funds, we found that FS funded 225 of 705 work projects (32 percent) in geographic areas that agency officials had classified as not significantly impacted by the recession in terms of unemployment—\$280 million of Recovery Act funding went to these areas. Additionally, in this report, we responded to 17 instances of suspicious activity involving FS contracts that were referred to OIG by the Recovery Board. While we did not find any criminal instances of fraud, waste, or abuse, we did find numerous instances where FS officials had not complied with various provisions of the Recovery Act, such as not including required clauses in contracts or not reporting aspects of a contract on the FedBizOpps.gov web site.²⁰

As part of the Recovery Act, FS was awarded \$272 million for road maintenance and decommissioning, bridge maintenance and decommissioning, and related watershed restoration and ecosystem enhancement. Based on our statistical sample of project contracts, we found that FS generally complied with Recovery Act requirements and effectively completed the projects we reviewed, with three exceptions. We determined that 148 of 795 contracts (19 percent) did not fully comply with procurement requirements. Because contracting officers or procurement templates did not always adhere to updated requirements, there was increased risk that contractors who received contracts worth almost \$63 million may not have completed them to Recovery Act specifications. We also determined that four employees erroneously charged administrative costs of \$21,458 to Recovery Act job codes while working on unrelated projects. Finally, we found that FS inaccurately reported accomplishments for 11 of the 96 contracts and agreements because personnel made

¹⁹ Audit Report 08017-5-Hy, *Review of Forest Service's Contract for Fire Modeling Programs*, Mar. 2011.

²⁰ Audit Report 08703-0001-Hy, *Oversight and Control of Forest Service American Recovery and Reinvestment Act Activities*, Sept. 2011.

inadvertent errors, such as transcription and data entry errors. As a result, FS did not fully meet the transparency objective of the Recovery Act.²¹

The Recovery Act authorized \$22.7 million for FS to remediate abandoned mines on NFS land. Based on reviews of 12 of the 16 total abandoned mine remediation projects, OIG determined that laws and regulations pertaining to Recovery Act funding were not always complied with. While the agency established four specialized operation centers to execute and manage FS' Recovery Act awards in a consistent manner, FS did not always include required Recovery Act provisions in the contracts it used because the agency did not have a standard template specific to Recovery Act contracts. Also, in a prior Fast Report, we reported that personnel were not performing reviews of 10 percent of their contracts, as required.²² After our Fast Report was issued, FS disbanded the specialized operation centers and shifted the responsibility to conduct quality assurance reviews to the regions. However, we found that the standardized template regions used did not contain any guidance on how regions were to conduct quality assurance reviews for the Recovery Act contracts.²³

The Recovery Act provided FS with \$246 million for facility projects. OIG conducted an audit to determine whether FS complied with laws and regulations pertaining to the Recovery Act, selected facility projects that met eligibility and program requirements, completed facility projects timely and effectively, and supported the information it reported to measure program performance. We found that FS did not have adequate controls in place to ensure contracts met Recovery Act and other Federal laws and regulations, which we also noted in prior reports. For example, FS contracting officials did not adequately review contractors' payrolls and materials on some projects before issuing payments. Due to control deficiencies, several projects violated Federal requirements, two cardholders made purchases exceeding the \$3,000 micro-purchase threshold, and contractors were not informed of their contractual requirements for the 17 facility contracts, totaling \$2.9 million.²⁴

- **Acquiring Information Technology²⁵**

FS invests in information technology (IT) to support the agency's mission of sustaining the Nation's forests and grasslands. With thousands of locations to interconnect (e.g., regional offices, national forests, and ranger stations) and extensive data elements to collect and process for reporting and decision making (e.g., land management, recreation, research, and operational analysis), FS reported it spent \$670 million for IT projects from FY 2007 through 2009. However, OIG found that FS needed to ensure that these acquisitions were compatible and aligned with broader Departmental and Federal requirements and priorities. Specifically, FS could improve how it selected IT projects for acquisition, complied with the

²¹ Audit Report 08703-0003-SF, *Recovery Act—Forest Service Capital Improvement and Maintenance Projects Roads, Bridges, and Related Watersheds*, Mar. 2012.

²² Audit Report 08703-0006-SF(2), *The Recovery Act—Forest Service Abandoned Mine Remediation* Jun. 2010.

²³ Audit Report 08703-0006-SF, *Forest Service—American Recovery and Reinvestment Act Forest Service Capital Improvement and Maintenance Projects Abandoned Mine Remediation*, May 2012.

²⁴ Audit Report 08703- 0002-SF, *American Recovery and Reinvestment Act—Forest Service Capital Improvement and Maintenance Projects—Facility Improvement, Maintenance, and Rehabilitation*, Jul. 2012.

²⁵ Audit Report 08501- 0001-Te, *Forest Service Acquisition of Information Technology Software/Hardware*, Feb. 2012.

Department's acquisition approval requirements, enhanced the integrity of cost and performance data submitted for oversight review, and ensured that it accurately reported the performance of its IT acquisitions.

- **Stewardship Contracting**²⁶

FS' mission is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. The Agricultural Act of 2014 authorized FS to enter into stewardship projects, via contracts or agreements, with private persons or other public or private entities to perform services to achieve land management goals for the national forests and public lands that meet local and rural community needs. OIG found that FS did not always comply with Federal procurement requirements when entering into stewardship contracts and agreements. Agency officials did not clearly define or rate the evaluation factors (on requests for proposals to obtain bids for stewardship contracts) to determine the best value for the Government. Additionally, the agency interpreted language in the authorizing statute (16 U.S.C. §6591c) to exempt it from complying with those procurement requirements. As a result, actions taken by FS to exercise its stewardship authority may have subjected it to challenges by unsuccessful bidders. Furthermore, we found that stewardship project data reports may not have been complete or accurate. The agency used multiple information systems, which did not interface with each other, to record all aspects of the stewardship contracting process. Lastly, FS did not adequately document ethical determinations concerning stewardship projects received from Departmental ethics officials because the agency did not have a policy to retain written ethical determinations specific to stewardship contracts and agreements.

- **Air Tanker Contract Awards**²⁷

FS contracts with companies to supply the aircraft it needs to fight forest fires. OIG reviewed how FS' Acquisition Management issued these contracts. We found that the contracts issued against basic ordering agreements for "call when needed" air tanker services were not being placed by the designated FS contracting officer, but were instead placed by National Interagency Coordination Center (NICC) dispatchers who did not possess a contract warrant. Additionally, we could not determine how or whether FS properly competed the contracts because FS could not provide evidence to support the competition of the contract, or that the contract files contained the appropriate documentation as required by the Federal Acquisition Regulation. With NICC dispatchers issuing contracts against these agreements,

²⁶ Audit Report 08601-0003-31, *Forest Service: Controls over the Stewardship Contracting Process for Land Management of National Forests*, Sept. 2015.

²⁷ Audit Report 08099-0001-12, *Audit of Forest Service's Next Generation and Legacy Air Tanker Contract Awards*, Jul. 2017. OIG completed a FAV of the recommendations in Audit Report 08099-0001-12. In a memorandum dated May 24, 2018, OCFO reported to FS that it closed all recommendations. We concurred with OCFO's determination that corrective actions for Recommendations 2, 3, and 4 were adequate and sufficient to support final action. However, we did not concur with this decision for Recommendations 1 and 5. OCFO agreed to reopen Recommendations 1 and 5. (Report 08026-0001-24, FS – FAV—Audit of FS' Next Generation and Legacy Air Tanker Contract Awards, Dec. 2019.) As previously noted, according to information maintained by OCFO, these recommendations have been implemented.

unwarranted individuals bound the government to the contracts and could have authorized the contractor to operate outside the bounds of the contract.

We also found that FS entered incorrect data into the Federal Procurement Data System (FPDS). Specifically, FS entered the actual amounts paid to the vendors into FPDS, rather than the amounts obligated by the contract action as required. As a result, Congress and Executive Branch agencies did not have reliable FPDS obligation data concerning FS air tanker contracts. Finally, we found that FS did not include flight rate costs in its contracts because the agency did not know the actual flight hours that would be covered by the period of the contract. As a result, FS did not establish a flight rate cost obligation to properly budget for the projected costs and was at risk of violating the Antideficiency Act should the costs have exceeded the available funds.

- **Service Contracts²⁸**

OIG reviewed FS' controls to ensure service contracts were awarded competitively and the agency was obtaining the best value for the Government. OIG found that FS overpaid for certain types of service contracts. Specifically, FS did not provide for competition for two different types of contracts. First, FS did not take advantage of an existing national contract that would have allowed it to save on one of its leadership training courses. Likewise, OIG found that FS did not compete 14 contracts that were awarded to small disadvantaged businesses (also known as Section 8(a) contracts). FS had the option to request approval from the Small Business Administration to compete the Section 8(a) contracts, but did not do so because it was either unaware they could be competed or it was not required. As a result, FS overpaid for these service contracts and reduced the healthy competition that creates higher contractor performance standards.

In addition, we found that the FS national oversight of the contracting process was lacking at both the regional and forest levels. FS also did not conduct supervisory reviews of its service contracts prior to award at four of the six sites we visited. As a result, FS lacked assurance that its contracting process complied with agency policies, laws, and regulations intended to safeguard against fraud, waste, and abuse. Finally, we found that 92 percent of FS' contract files we reviewed were missing at least one piece of key documentation.

Grants Management

- **Recovery Act Grants**

Of the \$650 million the Recovery Act provided FS for its capital improvement and maintenance fund, FS allocated \$99 million to trail projects. We reviewed 24 of the 90 total trail projects and determined that FS needed to take corrective action to address issues related to compliance with laws and regulations, as we previously reported to agency officials. Specifically, FS awarded a \$9 million youth employment grant with funds from three FS programs without specifying to the grantee the conditions associated with the use of each program's funds. As a result, we found that subgrants, totaling \$317,741, included activities

²⁸ Audit Report 08601-0007-41, *FS Controls Over Service Contracts*, Dec. 2017.

unrelated to the three FS programs. FS also arbitrarily allocated over \$1.65 million of grant expenditures because the grantee was not required to track the expenditures to the three FS programs separately. We also found that FS program managers at two national forests did not adequately review payment requests from program recipients to ensure that project expenses claimed were for actual and allowable costs. Instead, program managers relied on the recipients to submit accurate claims. As a result, FS overpaid \$64,096 in labor costs to one recipient, and reimbursed another \$24,697 in questionable costs.²⁹

The Recovery Act awarded FS \$50 million for wood-to-energy projects that promote increased utilization of biomass from Federal, State, and private lands. Based on a statistical sample of 9 of the 21 wood-to-energy projects FS funded, we found that the selected projects met eligibility and program requirements and that reporting requirements were met. However, the agency did not ensure that funds were used properly. FS accepted and approved payments to grant recipients without obtaining and reviewing documentation to support the use of Recovery Act funds or ensuring work was completed per the terms of the grant agreement. Based on the results from our sample, we statistically projected unsupported costs of about \$9 million. Since FS used the same controls to monitor Recovery Act and non-Recovery Act grants, our findings applied to both Recovery Act and non-Recovery Act grants.³⁰

To fund program activities on Federal lands, such as hazardous fuels reduction, forest health protection, and woody biomass utilization, the Recovery Act provided FS' Wildland Fire Management (WFM) Program with an additional \$250 million. Through reviews of the four largest dollar national projects with 52 associated contracts, agreements, and grants—including biomass utilization grants—we determined that FS needed to improve its field-level control systems for monitoring contractor and grantee compliance with requirements. Grantees need to verify that their employees are legally authorized to work in the United States, inform and pay workers mandated wages and benefits, and accurately track and monitor the use of grant funds. Without effective procedures to ensure compliance and oversee grantees, FS increased its risk that contractors may have employed unauthorized workers on Federal contracts. FS also did not discern wage problems that existed, such as underpayments to employees, as well as whether one company used \$2.5 million grant funds for the intended purpose.³¹

FS allocated Recovery Act grants for WFM activities, such as hazardous fuels reduction, forest health, and ecosystem improvements. Overall, we found that FS lacked the necessary controls to ensure that the grant funds were both properly accounted for and used for their intended purpose—not just for Recovery Act grants, but for the entire grant program. We also found that FS did not enhance its existing controls, despite the Recovery Act's requirements for greater transparency and accountability. As a result, the grant recipients we reviewed charged a total of \$92 million in unallowable and questionable costs to both

²⁹ Audit Report 08703-0004-SF, *American Recovery and Reinvestment Act—Forest Service Capital Improvement and Maintenance Projects—Trail Maintenance and Decommissioning*, Jul. 2012.

³⁰ Audit Report 08703-0001-SF, *American Recovery and Reinvestment Act—Forest Service—Wildland Fire Management—Wood-to-Energy Projects*, Jun. 2012.

³¹ Audit Report 08703-0001-At, *Forest Service's Use of Recovery Act Funds for Wildland Fire Management on Federal Lands*, Sept. 2012.

Recovery Act and non-Recovery Act grants. We also found that FS staff did not take the necessary steps to ensure that it met the Recovery Act's overall objective of maximizing job creation and retention in the most cost effective manner possible.³²

- **2018 Disaster Supplemental Appropriations³³**

In response to hurricanes, wildfires, and other natural disasters, the 2018 disaster supplemental appropriations provided \$84.3 billion in emergency supplemental appropriations. FS received approximately \$119.8 million of the \$84.3 billion to conduct restoration and repair activities, ongoing assessments, and mitigation work on public and private lands. FS allocated these funds among six of its geographic regions and the International Institute of Tropical Forestry.

OIG reviewed FS' controls over its 2018 disaster supplemental appropriations disbursed in FYs 2018 and 2019. Our review did not identify any instance where FS improperly used its supplemental disaster funds to identify damage caused by the 2017 hurricanes and fires. However, we found that Regions 5 and 8 inconsistently applied FS' direction on OMB's requirement for grantees to expend all obligated funds within 24 months. Specifically, Region 5 concluded that OMB's requirement did not apply to interagency agreements, while Region 8 determined that it did. This occurred because FS did not clarify to its regions whether the requirement was applicable to all agreements. As a result, unless FS clarified its guidance or obtained a waiver from OMB, important disaster relief projects based on interagency agreements could be interrupted or delayed, as the recipients may have been required to return unspent disaster relief funds at the end of 24 months—regardless of whether their disaster relief projects were complete.

- **Grant for Roadless Area Management in the State of Alaska³⁴**

In 2001, FS published the Roadless Rule in an effort to sustain the health, diversity, and productivity of the Nation's forests and grasslands. The Roadless Rule prohibited certain activities, including the construction of roads in inventoried roadless areas on NFS lands. In response to a Congressional request, we determined: (1) if FS had the proper authority and followed Federal regulations when awarding a \$2 million grant to the State of Alaska; (2) if the funds were used for allowable purposes; (3) if other stakeholders were aware that Federal funding was available for the purpose of the grant; and (4) what considerations, factors, or decisions led FS to award the \$2 million grant.

We found that FS had authority under the National Environmental Policy Act to provide funding to facilitate Alaska's participation in the State specific rulemaking. However, we determined that the processes FS used to award the \$2 million grant to Alaska did not comply with Federal laws and regulations related to competition for discretionary program funding. Specifically, FS awarded the \$2 million grant by modifying an existing Cooperative Forestry

³² Audit Report 08703-0005-SF, *Recovery Act—Forest Service Hazardous Fuels Reduction and Ecosystem Restoration Projects on Non-Federal Lands*, Mar. 2013.

³³ Audit Report 08702-0001-41, *FS' Controls Over its 2018 Supplemental Disaster Appropriations*, Sept. 2019.

³⁴ Inspection Report 08801-0001-24, *Forest Service Grant for Roadless Area Management in the State of Alaska*, Dec. 2020.

Assistance Act of 1978 grant between FS and Alaska. Because FS awarded the \$2 million to Alaska by modifying an already-existing grant, there was no public notice of the grant, and stakeholders were unaware that Federal funding was available.

Program Performance and Oversight

- **Recovery Act Reporting³⁵**

FS implemented performance measures that generally met the goals of the Recovery Act; however, we found FS field staff did not timely or accurately report the agency's Recovery Act accomplishments by the final cutoff date for six of the seven key performance measures selected for our review. This occurred because some field staff had competing priorities that superseded entering the accomplishment data into the tracking systems. Some field staff also made inadvertent data entry errors. As a result, FS misreported its accomplishments for 68 of 122 contracts and agreements we reviewed and, therefore, did not fully meet the Recovery Act's transparency objective.

- **Compliance Activities³⁶**

Our review of the various oversight and program compliance activities within FS found that the agency could have better integrated and coordinated its efforts to build a more effective program compliance structure where oversight activities translate consistently into program gains. For example, we found that FS regional offices and research stations did not always provide formal review reports to the Washington, D.C., officials who effect policy changes. Without the review results, management officials did not conduct analyses, such as trending, to determine if policy changes were needed for their programs or if issues were systemic. Further, OIG found that the agency's directive system was outdated and not synchronized with the program compliance activities actually performed. Since an agency's management control systems were designed to provide assurance that the agency is fulfilling its mission, objectives, and statutory responsibilities, problems with internal control increase the likelihood that FS may not achieve its objective of sustaining the health, diversity, and productivity of the Nation's forests and grasslands.

- **Deferred Maintenance³⁷**

While FS implemented corrective actions from prior OIG audits to address its deferred maintenance backlog, we found that FS had not been able to reduce its longstanding deferred maintenance backlog below \$5 billion and lacked an overall strategy to overcome its resource limitations. Deferred maintenance is defined as repairs that were not performed when they should have been or were delayed until a future period. OIG reviewed whether FS' controls over its deferred maintenance were adequate to mitigate threats to public health and safety. We found that \$195 million of FS' deferred maintenance related to a backlog of over 3,000 buildings that FS planned to decommission, but the associated impediments had

³⁵ Audit Report 08703-0001-41, *Forest Service Performance Measures for Recovery Act Projects*, Mar. 2013.

³⁶ Audit Report 08601-0001-31, *Forest Service Oversight and Compliance Activities*, Mar. 2015.

³⁷ Audit Report 08601-0004-31, *Forest Service Deferred Maintenance*, May 2017.

not been addressed. In addition, FS did not develop and implement effective alternative methods for addressing these areas. During our fieldwork, we found buildings with deferred maintenance that had structural issues, mold growth, widespread rodent droppings, or other issues, including 20 buildings with health and safety concerns that necessitated their closure. Likewise, we found that FS continued to lack an effective control structure for validating that required plans were maintained for dams and that necessary inspections of dams were regularly performed to identify any deficiencies affecting their safety. Finally, we determined that FS did not report its deferred maintenance accurately and consistently because written guidance and training was not available for the responsible agency officials.

This memorandum contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.

cc:

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