



United States Department of Agriculture  
Office of Inspector General





## Natural Resources Conservation Service's Administration of Easement Programs in Wyoming

Audit Report 10099-0001-31

### What Were OIG's Objectives

Our objective was to determine whether there was any employee misconduct at the Wyoming State office and the causes for the serious issues noted in NRCS' recent functional review of easement programs.

### What OIG Reviewed

OIG interviewed key Wyoming State office personnel and performed tests of program and accounting records, as considered necessary to meet the review objective.

### What OIG Recommends

The NRCS National Office should increase its oversight over State offices' administration of easement programs through revising its current processes or establishing a process through which State offices have their easement approval and administrative activities periodically reviewed. Additionally, NRCS should take appropriate administrative or disciplinary action and complete corrective action to address the deficiencies identified in the functional review report. Until these actions are completed, the Wyoming State office's easement program and budget authorities should be withheld.

**The OIG performed a review and determined that, while NRCS' State office in Wyoming did not fraudulently process easements, NRCS needs to strengthen its accountability and oversight of easement programs.**

### What OIG Found

In February 2013, after learning that the Wyoming State office disregarded policy requirements, as well as specific written instructions from the Natural Resources Conservation Service (NRCS) National Office and the Office of the General Counsel not to proceed with processing several Wetlands Reserve Program easements, NRCS conducted a functional review of the Wyoming State office's administration of the Farm and Ranch Lands Protection Program, Grassland Reserve Program, and Wetlands Reserve Program. NRCS then requested that the Office of Inspector General (OIG) review the Wyoming State NRCS office's administration of easement programs. Specifically, NRCS expressed concerns over potential employee misconduct and the causes of other serious issues noted in its recent functional review.

While we did not note any indication of fraud or purposeful misconduct, we found that NRCS needs to ensure that its employees are sufficiently knowledgeable to carry out their duties, and to strengthen oversight and accountability of employees' work. Specifically, both the program specialist responsible for processing these easements and the officials responsible for supervising the employee demonstrated a lack of critical program knowledge. We also found that NRCS did not have an adequate system of review in place to ensure that employees were properly reviewed and held accountable. As a result, the Wyoming State office approved at least \$14.1 million in easements that were not correctly processed and did not ensure that the Government's interest in the easements would be served and secured.

NRCS agreed with our finding and we accepted management decision on all seven recommendations.





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



DATE: September 27, 2013

AUDIT  
NUMBER: 10099-0001-31

TO: Jason Weller  
Chief  
Natural Resources Conservation Service

ATTN: Leon Brooks  
Director  
Compliance Division

FROM: Gil H. Harden  
Assistant Inspector General for Audit

SUBJECT: Natural Resources Conservation Service's Administration of Easement Programs  
in Wyoming

This report presents the results of the subject audit. Your written response to the official draft report, dated September 20, 2013, is included, in its entirety, at the end of this report. Your responses and the Office of Inspector General's position are incorporated into the relevant sections of the report. Based on your written responses, we are accepting your management decisions for all audit recommendations in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial 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 our audit fieldwork and subsequent discussions.

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



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## **Background and Objectives**

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### **Background**

In March 2013, the Natural Resources Conservation Service (NRCS) requested that the Office of Inspector General (OIG) review the Wyoming State NRCS office's administration of easement programs. Specifically, NRCS expressed concerns over potential employee misconduct and the causes of other serious issues noted in its recent functional review.

In February 2013, after learning that the Wyoming State office disregarded specific written instructions from the NRCS National Office and the Office of the General Counsel (OGC) not to proceed with processing several Wetlands Reserve Program (WRP) easements, the acting Chief directed NRCS to conduct a functional review of the Wyoming State office's administration of the Farm and Ranch Lands Protection Program (FRPP), Grassland Reserve Program (GRP), and WRP. According to NRCS' functional review, the Wyoming State office enrolled easements, obligated funds, closed transactions, and made payments that were contrary to policy requirements, as well as all applicable internal and external controls, including not always obtaining Preliminary Title Opinions (PTO), not clearing exceptions identified by the PTO prior to closing, not obtaining OGC Final Title Opinions (FTO), and not adequately verifying entity, participant, or land eligibility.

Once it became aware of these problems, the NRCS National Office took swift action to address them. Prior to the functional review, the National Office revoked the Wyoming State office's easement program authority, re-delegated the authority to another NRCS State office, and contacted OIG.

### **Objectives**

Our objective was to determine whether there was any employee misconduct at the Wyoming State office and the causes for the serious issues noted in NRCS' recent functional review of easement programs.

## **Section 1: Administration of Easement Programs in Wyoming**

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### **Finding 1: NRCS Needs to Strengthen Its Oversight and Accountability of Easement Programs**

Although our review did not find any purposeful misconduct by employees in the Wyoming State NRCS office, we found that the office needs to ensure its employees are sufficiently knowledgeable and accountable, and to strengthen its system of reviews and supervision so that easements are processed appropriately.

Office of Management and Budget Circular A-123 states that it is management's responsibility to ensure that personnel possess the proper knowledge and skills to perform their assigned duties, as well as understand the importance of maintaining effective internal control within the organization. Furthermore, the circular states that periodic reviews should be included as part of the regular assigned duties of personnel, with any noted deficiencies being reported to appropriate management, evaluated, and corrected.<sup>1</sup>

However, we found that the Wyoming State NRCS office has processed easements without staff knowledgeable enough about the programs to ensure that the easement agreements were correct and protected the Government's interests. The program specialist responsible for processing these easements demonstrated a lack of critical program knowledge by repeatedly not adhering to established program procedures and regulations, and instructions from OGC. None of the officials responsible for supervising this employee, including the Assistant State Conservationist for Programs, and the State Conservationist, demonstrated the necessary program knowledge to detect and correct the program specialist's errors.

Furthermore, NRCS has not fostered a spirit of accountability among its employees at this State office. The easement program specialist assumed that he had the proper working knowledge to administer the programs, and the former and current Assistant State Conservationist for Programs and former and current State Conservationist all either approved easements or allowed easements to be approved, without proper supervisory reviews. Contrary to policy and the specific instructions in the OGC Preliminary Title Opinions (PTO), the program specialist commenced with closing easements without first receiving written confirmation from the regional OGC attorney that the exceptions noted on the PTO were corrected, and facilitated payments to the landowners prior to obtaining a Final Title Opinion (FTO). Allowing program specialists to facilitate the closing of easements without first obtaining official clearance from OGC that all deficiencies noted in the PTO were satisfactorily addressed, and then allowing program specialists to facilitate the issuance of payments without first obtaining the FTO from OGC, are unacceptable practices that subject the Government to undue risk.

As a result, the Wyoming State office approved at least \$14.1 million in easements that were not correctly processed and did not ensure that the Government's interest in the easements would be served and secured. In one instance, NRCS paid \$1.2 million for a deed containing language absolving the title company of any liability and providing NRCS with no recorded easement or

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<sup>1</sup> OMB Circular A-123, *Management's Responsibility for Internal Control*, Section II, December 21, 2004.

title insurance policy. In another instance, NRCS paid over \$2.1 million for an easement without obtaining the required legal access to the land. Additionally, NRCS' functional review team noted that, given the prevalence and severity of the issues noted in its review, the entire \$62.9 million in open easement obligations in Wyoming may be at risk. As of the conclusion of our fieldwork at the Wyoming State office, NRCS has a remediation team in place reviewing all open and closed easement files in order to identify issues and determine required actions to ensure transactions are compliant with applicable policy.

OIG noted that the program specialist, the current Assistant State Conservationist for Programs, and the current State Conservationist received very favorable performance appraisals during the period when they were processing and approving easements that were not in compliance with program rules and regulations. This fact indicates that the State office fostered an environment where personnel were not being held accountable for the results of their work. Additionally, we found that the quality assurance review process implemented by the State office was focused on the review of work completed at the field office level and did not adequately provide for the effective review of the easement approval actions conducted at the State office.

On November 19, 2012, the NRCS National Office WRP Manager sent an e-mail to the Wyoming State office, informing the program specialist, the Assistant State Conservationist for Programs, and the State Conservationist not to close several WRP easements. The National Office was concerned that the Exhibit Es and the Compatible Use Authorizations (CUA) were not approved, and copies of the Grazing Management Plans for the easements were not in the file.<sup>2</sup> On December 12, 2012, the NRCS National Office and the Wyoming State office discussed the "do not proceed" e-mail.<sup>3</sup> In response to our questions, the program specialist told us that he believed that after the teleconference, the State office could proceed with the closing of the easements, as long as they corrected the issues with the Exhibit Es. He stated that CUAs are usually established after the easement, so he felt that the State office could proceed with the easement and address the CUA issues later. The NRCS National Office stated that it did not grant permission to proceed in this manner and has stated that its concerns regarding the easements extended beyond just the Exhibit Es and CUAs.

We concluded that the program specialist did not intentionally disregard the requirements to record the easements and acquire title insurance. Instead, we attributed these errors to the program specialist not recognizing fundamental distinctions relevant to the programs. This employee's lack of competence was compounded by an evident lack of program knowledge and supervision on the part of State office staff, including the former and current Assistant State Conservationists for Programs, and the former and current State Conservationists. For example, the program specialist's current immediate supervisor, the Assistant State Conservationist for Programs, did not perform in-depth reviews of the easement files prepared by the program specialist to ensure that all required documentation was obtained and all applicable policies and

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<sup>2</sup> Exhibit E authorizes the landowner to reserve grazing rights, provided NRCS determines that doing so is compatible with the land subject to the WRP easement and is consistent with the long-term goals for the easement. In Compatible Use Authorizations, landowners are required to describe compatible use activities, such as grazing, mowing, and periodic vegetation management that are normally prohibited under the terms of the easement.

<sup>3</sup> The conference call included the Assistant State Conservationist for Programs and the program specialist from Wyoming.

procedures were being followed. Instead, since the program specialist was already in his position when the immediate supervisor assumed supervisory responsibility for that employee, the immediate supervisor relied on the perceived expertise of the employee, verbal communications with the employee, and the lack of negative feedback from other staff members as the basis for the employee's evaluation. Additionally, the former and current State Conservationists did not review the contents of easement files (including legal documentation) before signing them. Both the current and former State Conservationists stated that they relied on the competence of their staff to ensure that the documents were correctly completed.

We believe that the NRCS National Office should increase its oversight over State offices' administration of easement programs, whether through revising its current processes or establishing a process through which State offices have their easement approval and administrative activities periodically reviewed. In 2011, NRCS conducted an Oversight and Evaluation review of the Wyoming State office. While the review did note numerous issues regarding documentation deficiencies related to easements, it did not specifically focus on the State office's approval and administration of easements and thus did not identify the full extent and severity of the issues at the State office. Following the review, the State office established a Corrective Action Plan (CAP), listing the steps that it would take to address the issues that were noted during the Oversight and Evaluation review. In 2012, the State office certified that all the steps listed in the CAP had been completed. However, the easement functional review revealed that significant deficiencies noted in the Oversight and Evaluation review had not been corrected. We questioned the author of the CAP, the current Assistant State Conservationist for Programs, regarding how she determined that the CAP items had been completed in 2012, in light of the issues found during the 2013 functional review. The Assistant State Conservationist was unable to provide an objective basis upon which she based her determination. Accordingly, we believe that the NRCS National Office should enhance its oversight of State offices, including requiring more detailed information on how any resulting corrective actions are determined to have been completed.

While we acknowledge that some responsibility for incorrectly processing these easements must be attributed to the program specialist, we maintain that it was the responsibility of his immediate supervisors, the former and current Assistant State Conservationists for Programs, and, ultimately, the former and current State Conservationists, to ensure that a competent and well-trained employee was doing this work. They, too, should bear some of the responsibility for his errors. In a similar case in Michigan, NRCS required that the State Conservationist's approvals be reviewed by the Regional Conservationist until the State Conservationist could demonstrate that the necessary corrective actions had been implemented. We believe that a similar measure would be suitable in this instance, as well.

## **Recommendation 1**

Complete NRCS's remediation efforts on the \$63 million in open easement obligations and take any appropriate corrective actions on the issues identified.

## **Agency Response**

In April 2013, NRCS convened an Easement Assessment and Remediation Team to determine the full scope of invalid obligations, improper payments, and agency liabilities related to non-compliant program and financial management activities in Wyoming, and to take remediation actions to bring the transactions into compliance. NRCS adopted a two-phase plan of work to ensure that all transactions are handled fairly and consistently. Phase one focuses on a review of all pending easement case files to ensure that program requirements are met and the corresponding documentation is in place. Phase two focuses on working with partners and participants on actions necessary to allow an easement transaction to move forward. Phase one is nearly complete, and Phase two will continue until the actions needed to allow the transactions to proceed have been completed, or transactions are cancelled or terminated.

NRCS estimates completing actions required for this recommendation by March 31, 2014.

## **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 2**

Issue guidance emphasizing the responsibility of supervisory employees to ensure employees have the necessary knowledge and training to perform in their positions. Clarify supervisors' responsibility to base performance appraisals of their staff members on a thorough understanding and review of their staff's work products and their adherence to the applicable requirements, standards, and competencies required by that position.

## **Agency Response**

On August 8, 2013, the Chief Financial Officer and Deputy Chief for Programs issued a memorandum reminding State Conservationists of their responsibilities to ensure the appropriate obligation and expenditure of Federal funds, described more fully in the next statement. Additionally, the NRCS National Office will issue a bulletin that requires that newly State-hired easement staff must meet Realty Specialist position description (1170) or certification (job approval authority) requirements. Supervisors of easement staffs will be required to complete successfully a series of program training modules that provide sufficient detail for the supervisors to be able to identify whether their staff work products meet policy requirements and whether the supervisor's approval of such work products is appropriate.

In subsequent correspondence, NRCS stated that actions required for this recommendation will be completed by September 30, 2014.

## **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 3**

Institute effective controls to ensure that instructions contained in OGC title opinions are adhered to, including that all issues identified in PTOs have been satisfactorily addressed prior to closing and obtain FTOs prior to the disbursement of funds.

#### **Agency Response**

NRCS will collaborate with OGC to develop effective internal controls that ensure OGC title requirements have been met prior to disbursement of easement funds. In Wyoming and other States identified with lower program performance, NRCS will specifically require that an FTO be obtained prior to fund disbursement. For easement transactions in States with good program performance, OGC and NRCS have discussed and concurred that disbursement of funds can occur prior to an FTO where there is an escrow arrangement with a bonded and insured professional closing agent who is contractually bound to abide by OGC title specifications prior to the closing and release of funds. In all transactions, NRCS will follow OGC's requirements based upon its delegated authority from the Attorney General to authorize easement payment. Additionally, upon return of easement authority, the Wyoming State office will be required to receive written clearance from the Easement Programs Division (EPD) prior to processing payment for any individual easement transaction. Over time, as the State office demonstrates its adherence to OGC title requirements, EPD may reduce sampling or increase review threshold based on performance.

NRCS estimates completing actions required for this recommendation by March 31, 2014.

#### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 4**

Strengthen National Office reviews of State offices' administration of easement programs or establish a process through which State offices have their easement approval and administration activities periodically reviewed. This includes requiring a detailed description of the specific corrective actions taken to address any noted deficiencies and the basis upon which the State office determined the actions to have been completed. This also includes developing standard procedures by which State offices will be held accountable for performance that does not meet necessary requirements.

#### **Agency Response**

The National Office will develop required certification training modules and requirements based on specialty (Realty, Budget, and Programs). As mentioned in Recommendation 2, the National Office will also develop appropriate training modules for supervisors so that State Conservationists and supervisors of easement staffs understand program requirements and their role to ensure the integrity of Federal funds.

In subsequent correspondence dated September 25, 2013, NRCS further stated that State level reviews of easement program activity will be conducted as part of the compliance strategy, as well as in accordance with increased internal controls. CAPs will be developed, monitored, and managed in accordance with the compliance strategy. CAPs for those States not adhering to policy will require that their easement transactions be reviewed by certified States or the National Office until they are able to demonstrate to the National Office that they have fully implemented the CAP requirements.

NRCS estimates completing actions for this recommendation by September 30, 2014.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 5**

Initiate appropriate administrative or disciplinary action with respect to the State office personnel involved with the deficiencies identified in the functional review report.

### **Agency Response**

The agency is aware of the problem and will take the appropriate administrative or disciplinary actions.

NRCS estimates completing actions for this recommendation by March 31, 2014.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 6**

Issue a directive to all State Conservationists emphasizing their fiduciary responsibilities and accountability when approving and signing conservation easement agreements and closing documents.

### **Agency Response**

On August 8, 2013, the Chief Financial Officer and Deputy Chief for Programs issued a memorandum reminding State Conservationists of their responsibilities to ensure the appropriate obligation and expenditure of Federal funds. In particular, the memorandum emphasized the ramifications of unauthorized commitments and the potential administrative and criminal sanctions that an employee faces for such conduct. State Conservationists were instructed to remind their staffs similarly. Follow-up presentation will be provided to State Program Managers during the next monthly easement teleconference.

NRCS estimates completing actions for this recommendation by September 30, 2013.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 7**

Continue to withhold the Wyoming State office's easement budget authorities until the Chief has verification that the State Conservationist has implemented the necessary corrective actions, including, but not limited to, the recommendations listed above.

### **Agency Response**

NRCS will continue to withhold the Wyoming State office's easement budget authorities until the Chief has verification from the Associate Chief for Conservation and the Associate Chief for Operations that the State Conservationist has implemented all necessary corrective actions and the Regional Conservationist recommends a return of the easement budget authorities.

NRCS estimates completing actions for this recommendation by March 30, 2014.

### **OIG Position**

We accept management decision for this recommendation.

## Scope and Methodology

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In response to NRCS' request for assistance to determine whether there was any potential misconduct at the Wyoming State office, OIG agreed to perform an agreed-upon procedures review by interviewing key Wyoming State office personnel and performing tests of program and accounting records, as considered necessary to meet the review objective. We conducted fieldwork between April and June, 2013. During our review, we did not note any indication of fraud or purposeful misconduct; therefore, we ceased our agreed-upon procedures review.

Our review covered issues identified by NRCS' functional review regarding the approval and administration of FRPP, WRP, and GRP easements by the Wyoming State office for fiscal years 2006 through 2012. Easement acquisition costs for open and closed easements in this time period totaled over \$77.7 million.

To accomplish our objectives, we performed the following procedures:

- Reviewed applicable laws, regulations, and agency procedures concerning the administration of FRPP, GRP, and WRP easement programs.
- Interviewed NRCS officials at the National Office in Washington, D.C., and employees at the Wyoming State office to assess the controls over easements and to gain an understanding of NRCS' expectations of employees who administer easement programs.
- Interviewed OGC personnel responsible for issuing title opinions on easements processed by the Wyoming State office to determine the processes in place for requesting, issuing, and clearing title opinions, as well as determining the title opinion status of easements within the State.
- Reviewed Wyoming State office employee performance appraisals to identify any issues regarding performance related to the approval and administration of easements.
- Reviewed Wyoming State office employee e-mails to identify any potential fraud or purposeful misconduct by employees responsible for administration of the easement programs.
- Examined Wyoming State office employee time and attendance records to address inconsistencies noted during NRCS' functional review.
- Evaluated Wyoming Quality Assurance Review documents to determine if any issues regarding easement approval and administration had been identified.
- Reviewed travel records to determine the level of supervision the Wyoming State office received from the Regional Conservationist.

- Studied the results of NRCS' 2013 functional review of easements and the 2011 Oversight and Evaluation review of the Wyoming State Office to familiarize ourselves with issues noted regarding easement approval and administration.

The above items formed the basis for our conclusions and recommendations.

We conducted this review in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the review 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 review objectives.

## Abbreviations

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CAP .....	Corrective Action Plan
CUA .....	Compatible Use Authorization
FRPP .....	Farm and Ranch Lands Protection Program
FTO .....	Final Title Opinions
GRP .....	Grassland Reserve Program
NRCS .....	Natural Resources Conservation Service
OGC .....	Office of the General Counsel
OIG.....	Office of Inspector General
PTO .....	Preliminary Title Opinions
WRP .....	Wetlands Reserve Program



**USDA'S  
NATURAL RESOURCES CONSERVATION  
SERVICE  
RESPONSE TO AUDIT REPORT**





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

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September 20, 2013

SUBJECT: SPA - Natural Resources Conservation Service (NRCS) Agency Response for  
Audit Report Natural Resources Conservation Service's Administration of  
Easement Programs in Wyoming - 10099-0001-31

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

File Code: 340

This memorandum is in response to the Office of Inspector General (OIG) Official Draft Report 10099-0001-31, Natural Resources Conservation Service (NRCS) Administration of Easement Programs in Wyoming. The responses address the actions taken and planned for each audit recommendation, and their estimated completion dates.

NRCS appreciates the assistance OIG provided with reviewing the Wyoming State office's administration of easement programs to help NRCS identify the causes for the serious issues noted in NRCS' own review of easement programs.

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

/s/

Jason A. Weller  
Chief

Attachment

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cc: (w/attachment)

Thomas W. Christensen, Acting Associate Chief for Operations, NRCS, Washington, D.C.

Leonard Jordan, Associate Chief for Conservation, NRCS, Washington, D.C.

Astor Boozer, Regional Conservationist, West, NRCS, Washington, D.C.

Anthony J. Kramer, Deputy Chief, Programs, NRCS, Washington, D.C.

Leon Brooks, Director, Compliance Division, NRCS, Washington, D.C.

Ernest M. Hayashi, Director, Farm, Trade, Research, and Environment Division, OIG,  
USDA, Washington, D.C.

Attachment

**Finding 1: NRCS Needs to Strengthen Its Oversight and Accountability of Easement Programs**

**Recommendation 1**

Complete NRCS' remediation efforts on the \$63 million in open easement obligations and take appropriate corrective actions on the issues identified.

**NRCS Response:**

In April 2013, NRCS convened an Easement Assessment and Remediation Team (EART) to determine the full scope of invalid obligations, improper payments, and agency liabilities related to non-compliant program and financial management activities in Wyoming, and to take remediation actions to bring the transactions into compliance. NRCS adopted a two-phase plan of work to ensure that all transactions are handled fairly and consistently. Phase One focuses on a review of all pending easement case files to ensure that program requirements are met and the corresponding documentation is in place. Phase Two focuses on working with partners and participants on actions necessary to allow an easement transaction to move forward. Phase One is nearly complete, and Phase Two will continue until the actions needed to allow the transactions to proceed have been completed, or transactions are cancelled or terminated.

**Estimated Completion Date:** March 31, 2014.

**OIG Position:** To be determined by OIG.

**Recommendation 2**

Issue guidance emphasizing the responsibility of supervisory employees to ensure employees have the necessary knowledge and training to perform in their positions. Clarify supervisors' responsibility to base performance appraisals of their staff members on a thorough understanding and review of their staff's work products and their adherence to the applicable requirements, standards, and competencies required by that position.

**NRCS Response:**

On August 8, 2013, the Chief Financial Officer and Deputy Chief for Programs issued a memorandum reminding State Conservationists of their responsibilities to ensure the appropriate obligation and expenditure of Federal funds, described more fully in the next statement. Additionally, the NRCS National office will issue a bulletin that requires that newly State-hired easement staff must meet Realty Specialist position description (1170) or certification (job approval authority) requirements. Supervisors of easement staffs will be required to complete successfully a series of program training modules that provide sufficient detail for the supervisors to be able to identify whether their staff work products meet policy requirements and whether the supervisor's approval of such work products is appropriate.

**Estimated Completion Date:** Ongoing.

**OIG Position: To be determined by OIG.**

### **Recommendation 3**

Institute effective controls to ensure that instructions contained in the Office of the General Counsel (OGC) title opinions are adhered to, including that all issues identified in the PTO have been satisfactorily addressed prior to closing and obtain the Final Title Opinion (FTO) prior to the disbursement of funds.

#### **NRCS Response:**

NRCS will collaborate with OGC to develop effective internal controls that ensure OGC title requirements have been met prior to disbursement of easement funds. In Wyoming and other States identified with lower program performance, NRCS will specifically require that an FTO be obtained prior to fund disbursement. For easement transactions in States with good program performance, OGC and NRCS have discussed and concurred that disbursement of funds can occur prior to an FTO where there is an escrow arrangement with a bonded and insured professional closing agent who is contractually bound to abide by OGC title specifications prior to the closing and release of funds. In all transactions, NRCS will follow OGC's requirements based upon their delegated authority from the Attorney General to authorize easement payment. Additionally, upon return of easement authority, Wyoming will be required to receive written clearance from the Easement Programs Division (EPD) prior to processing payment for any individual easement transaction. Over time, as the State demonstrates their adherence to OGC title requirements, EPD may reduce sampling or increase review threshold based on performance.

**Estimated Completion Date:** March 31, 2014.

**OIG Position: To be determined by OIG.**

### **Recommendation 4**

Strengthen National office reviews of State offices' administration of easement programs or establish a process through which State offices have their easement approval and administration activities periodically reviewed. This process includes requiring a detailed description of the specific corrective actions taken to address noted deficiencies and the basis upon which the State office determined the actions to have been completed. This task also includes developing standard procedures by which State offices will be held accountable for performance that does not meet necessary requirements.

#### **NRCS Response:**

The National office will develop required certification training modules and requirements based on specialty (Realty, Budget, and Programs). As mentioned in Recommendation 2, the National office will also develop appropriate training modules for supervisors so that State Conservationists and supervisors of easement staffs understand program requirements and their role to ensure the integrity of Federal funds. The National office will provide input on State performance and develop a system where States not adhering to policy must have their transactions reviewed by certified States or the National office.

**Estimated Completion Date:** September 30, 2014.

**OIG Position: To be determined by OIG.**

**Recommendation 5**

Initiate appropriate administrative or disciplinary action on the State office personnel involved with the deficiencies identified in the functional review report.

**NRCS Response:**

The agency is aware of the problem and is taking the disciplinary corrective actions.

**Estimated Completion Date: March 2013**

**Recommendation 6**

Issue a directive to all State Conservationists emphasizing their fiduciary responsibilities and accountability when approving and signing conservation easement agreements and closing documents.

**NRCS Response:**

On August 8, 2013, the Chief Financial Officer and Deputy Chief for Programs issued a memorandum reminding State Conservationists of their responsibilities to ensure the appropriate obligation and expenditure of Federal funds. In particular, the memorandum emphasized the ramifications of unauthorized commitments and the potential administrative and criminal sanctions that an employee faces for such conduct. State Conservationists were instructed to remind their staffs similarly. Follow-up presentation will be provided to State Program Managers during the next monthly easement teleconference.

**Estimated Completion Date:** September 30, 2013.

**OIG Position: To be determined by OIG.**

**Recommendation 7**

Continue to withhold the Wyoming State office's easement budget authorities until the Chief has verification that the State Conservationist has implemented the necessary corrective actions, including, but not limited to the recommendations already listed.

**NRCS Response:**

NRCS will continue to withhold the Wyoming State office's easement budget authorities until the Chief has verification from the Associate Chief for Conservation and the Associate Chief for Operations that the State Conservationist has implemented all necessary corrective actions and the Regional Conservationist recommends a return of the easement budget authorities.

**Estimated Completion Date:** TBD [Estimated March 30, 2014]

**OIG Position: To be determined by OIG.**

To learn more about OIG, visit our website at  
[www.usda.gov/oig/index.htm](http://www.usda.gov/oig/index.htm)

### How To Report Suspected Wrongdoing in USDA Programs

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