



OFFICE OF INSPECTOR GENERAL  
U. S. DEPARTMENT OF AGRICULTURE

# Prior OIG Audits Relevant to NRCs' Infrastructure Funding



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# OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



**DATE:** February 15, 2022

**TO:** Robert Bonnie                                Terry Crosby  
Under Secretary                                Chief  
Farm Production and Conservation    Natural Resources and Conservation Service

**ATTN:** Robert Bradley  
External Audits—Farm Production and Conservation—Business Center, for  
Natural Resources and Conservation Service

**FROM:** Gil H. Harden  
Assistant Inspector General for Audit

**SUBJECT:** Prior OIG Audits Relevant to NRCS' 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 Natural Resources Conservation Service (NRCS) \$918 million in the following activities and programs.

- Watershed and Flood Prevention Operations: \$500 million
- Watershed Rehabilitation Program: \$118 million
- Emergency Watershed Protection Program: \$300 million

As part of the Office of Inspector General's (OIG) oversight responsibility, one of our first tasks was to review<sup>1</sup> the results of prior OIG audits that were relevant to the NRCS watershed funding provided by the Act. This prior work examined funding provided for disaster assistance in response to 2017 hurricanes and to implement provisions of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (Recovery Act). Based on our review, we identified findings and recommendations, which are summarized below, that NRCS should consider in order to ensure activities and programs continue to operate with the proper control environment in order to remain effective and operationally efficient. Of particular note are the recommendations we made in June 2021 regarding the Emergency Watershed Protection (EWP) Program. While NRCS and OIG have reached agreement on the corrective actions needed to

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<sup>1</sup> 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 the previously published OIG reports.

address the concerns identified, the corrective actions have not yet been fully implemented, which heightens risks associated with the use of these funds.<sup>2</sup>

- ***Hurricane Disaster Assistance—Emergency Watershed Protection Program***<sup>3</sup>

The EWP Program offers technical and financial assistance to help local communities mitigate imminent hazards to life and property caused by floods, fires, windstorms, and other natural occurrences that impair a watershed. We evaluated NRCS' controls over the EWP Program relating to hurricane disaster assistance provided for Hurricanes Harvey, Irma, and Maria in 2017. In summary, we found the following.

- NRCS did not establish and maintain a database to accurately track EWP Program projects at the national level. Without a database, NRCS is unable to assess, improve, or report on program effectiveness.
- For 15 of 20 sampled Damage Survey Reports (DSR), sponsors did not provide required eligibility documentation and all three States in our sample did not submit 60-day or final reports for our sampled DSRs. As a result, we question NRCS' oversight of more than \$239.7 million in EWP project funds.
- State officials did not initiate the closeout process or de-obligate unused funds of more than \$9.5 million for 18 signed cooperative agreements in a timely manner. As a result, this could lead to lengthy, unliquidated obligations and potentially prevent the funds from being used on other EWP Program projects.
- NRCS had no performance measures specific to EWP. As a result, NRCS could not assess and report on the EWP Program's effectiveness.

We recommended NRCS establish a national database to track EWP projects; develop and implement a process to ensure States are confirming and documenting applicant eligibility; review all DSRs for Hurricanes Harvey, Irma, and Maria to confirm eligibility; update program guidance; develop and implement controls to ensure States timely and accurately submit 60-day and final reports; develop and implement controls to ensure project closeouts and de-obligations are completed timely; and develop and implement EWP Program performance measures.

NRCS and OIG have reached agreement on the corrective actions needed to address the concerns identified in this report's nine recommendations. However, these corrective actions are not yet fully implemented, which heightens risks associated with the use of infrastructure funds for the EWP Program.

The following summarizes our findings from OIG's audits of NRCS' implementation of the Recovery Act. According to information maintained by OCFO, the recommendations associated with these prior audits have been implemented.

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<sup>2</sup> We based on our determination that the action are not fully implemented based on information reported in the Office of the Chief Financial Officer's (OCFO) Audit Follow-up Tracking and Reporting System as of February 7, 2022.

<sup>3</sup> Audit Report 10702-0001-23, *Hurricane Disaster Assistance—Emergency Watershed Protection Program*, June 2021.

- ***Emergency Watershed Protection Program Floodplain Easements—Phase I***<sup>4</sup>

In June 2009, 289 applications, totaling \$138 million, were approved by NRCS for its watershed and flood protection program. We identified the following internal control issues related to NRCS' purchase of floodplain easements with these funds.

- NRCS needed to develop standard operating procedures for purchasing easements on small parcels with structures and to incorporate these procedures into the agency's program manual.
- NRCS did not determine easements' values using its normal method, but instead used an alternative methodology (the same used for Wetlands Reserve Program easements) due to Recovery Act time constraints. However, the Office of the General Counsel opined that it would be prudent for NRCS to document its decision-making process to support the alternate valuation methodology. Accordingly, we recommended, with NRCS' concurrence, that the agency stop approving easement agreements until it demonstrates that the normal appraisal method is not practicable.

- ***Recovery Act—Watershed Protection and Flood Prevention Operations Program—Phase I***<sup>5</sup>

The Recovery Act provided \$145 million to NRCS' Watershed Protection and Flood Prevention Operations Program to help protect watersheds, mitigate floods, and improve water quality. OIG questioned if NRCS' project funding best met the Recovery Act's overall goal of creating jobs in economically distressed areas. NRCS funded 75 projects (totaling \$59 million) in areas where unemployment rates were less than the national average (8.1 percent) and rejected funding for 45 projects (totaling \$97 million) in areas where the unemployment rate was greater than the national average. NRCS agreed to consider unemployment rates in future funding decisions but maintained that its decisions were based partly on which projects could be started timely and met Recovery Act criteria.

- ***Recovery Act—Emergency Watershed Protection Program Floodplain Easements, Easement Applications on Non-Agricultural Land***<sup>6</sup>

The Recovery Act allocated \$145 million to NRCS' EWP Program, which acquires conservation easements from eligible landowners in order to restore floodplains to their natural condition. Since some States opted to use Recovery Act funds to purchase easements on lands that had houses on them, OIG assessed NRCS' policies and procedures for such acquisitions, and found that they were inadequate. While easement agreements prohibit landowners from diminishing the property's values, NRCS allowed several landowners to strip fixtures, salvage construction materials, or even remove entire buildings in ways that raised questions about whether the removal affected the value of the easements. As a result

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<sup>4</sup> Audit Report 10703-1-KC, *Emergency Watershed Protection Program Floodplain Easements—Phase I*, Sept. 2010.

<sup>5</sup> Audit Report 10703-2-KC, *Recovery Act—Watershed Protection and Flood Prevention Program—Phase I*, Sept. 2010.

<sup>6</sup> Audit Report 10703-0003-KC, *Recovery Act—Emergency Watershed Protection Program Floodplain Easements, Easement Applications on Non-Agricultural Land*, Mar. 2012.

of deficiencies in NRCS' policies, for example, one landowner was allowed to, effectively, sell a \$197,000 house to NRCS, keep it by moving it to another lot, and also receive assistance from NRCS for the house-moving costs. NRCS agreed to develop internal controls over its processes for acquiring easements with buildings.

- ***Recovery and Reinvestment Act—Watershed Protection and Flood Prevention Operations Program—Field Confirmations***<sup>7</sup>

The Recovery Act provided NRCS \$145 million for its Watershed Protection and Flood Prevention Operations Program. Based on a statistically selected sample of 21 projects, we determined that the projects provided benefits to local residents, businesses, and farms, and that NRCS was adequately monitoring the progress of the projects reviewed. We noted, however, that NRCS did not include necessary Recovery Act award terms in approximately two-thirds of award agreements because it did not issue formal guidance regarding required Recovery Act provisions for award agreements. Without specific guidance, contracting officers in some NRCS State offices overlooked the information and did not include all required provisions. Our review also found one instance in which NRCS did not require the local sponsors to pay their agreed-upon share of project costs, totaling nearly \$1.3 million.

- ***Recovery Act—NRCS' Emergency Watershed Protection Program Floodplain Easements Field Confirmations***<sup>8</sup>

In the EWP Program, NRCS acquires easements from owners of floodplain lands to restore and enhance the floodplain's function and values. OIG determined that NRCS needs to target funds to those easements most consistent with program goals, require that documentation supports eligibility determinations, ensure easements are maintained consistent with program goals, and compensate landowners appropriately. Without a clear definition of "natural conditions," however, personnel did not always develop restoration plans adequately and ensure the restoration of floodplain functions and values to the greatest extent practicable. Further, NRCS did not always develop and maintain documents to support its determinations that offered lands were eligible and its decisions to prioritize among applications. Additionally, NRCS did not provide adequate guidance to landowners regarding program rules, such as actions prohibited on easements; as a result, land was not always maintained in a manner consistent with the program's goal of restoring floodplains to a natural condition. Finally, NRCS compensated five landowners in our sample improperly, with errors totaling \$139,474.

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<sup>7</sup> Audit Report 10703-0004-KC, *Recovery Act—Watershed Protection and Flood Prevention Operations Program—Field Confirmations*, July 2012.

<sup>8</sup> Audit Report 10703-0005-KC, *Recovery Act—NRCS' Emergency Watershed Protection Program Floodplain Easements Field Confirmations*, Mar. 2013.

- ***Recovery Act—NRCS’ Emergency Watershed Protection Program Floodplain Easements and Watershed Operations Effectiveness Review***<sup>9</sup>

OIG determined that NRCS needs to establish outcome-oriented performance measures it can use to gauge the effectiveness of its watershed operations and floodplain easements programs. While the agency established output-oriented measures to track progress, these measures did not provide adequate information on how effective the programs were at accomplishing the goals of the Recovery Act, which include creating jobs, assisting those most impacted by the recession, and investing in environmental protection. In addition, NRCS did not allow the use of appraisals to determine the value of properties with buildings it acquired through the floodplain easements program, which led to the purchase of some properties at prices in excess of the established value. In one State we reviewed, NRCS overcompensated the landowners for seven easements with structures.

- ***Recovery Act—Rehabilitation of Flood Control Dams***<sup>10</sup>

As part of the Recovery Act, NRCS selected 27 dam rehabilitation projects to receive \$44.8 million in funding through the Watershed Rehabilitation Program, which assists sponsoring local organizations in rehabilitating high-hazard, aging flood control dams. OIG determined that, while NRCS was generally effective in implementing controls to monitor Recovery Act funds, it did not take necessary steps to inform the Office of Management and Budget (OMB), USDA, or the public of key information regarding the projects or to implement OIG’s recommendations from a prior audit. Specifically, NRCS did not accurately communicate to USDA and OMB the readiness of the selected projects and the impact of Recovery Act requirements on the program, which, by design, is not well suited to meet the accelerated timeframes and unique challenges posed by the Recovery Act. As a result, NRCS spent almost \$943,000 on eight projects that did not meet Recovery Act goals and, therefore, could not be completed. Funds allocated to these projects had to be deobligated or allocated to other projects. Additionally, NRCS did not ensure that websites had complete or accurate information on watershed rehabilitation projects—such as project certifications and updated information about the 27 projects and their funding. Finally, NRCS had not fully corrected deficiencies with its dam inventory and cost monitoring tools that OIG identified in a prior audit.

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:

USDA Infrastructure Implementation Team

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<sup>9</sup> Audit Report 10703-0001-31, *Recovery Act—NRCS’ Emergency Watershed Protection Program Floodplain Easements and Watershed Operations Effectiveness Review*, Mar. 2013.

<sup>10</sup> Audit Report 10703-0001-At, *Recovery Act—Rehabilitation of Flood Control Dams*, Mar. 2013.

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