



United States Department of Agriculture



OFFICE OF INSPECTOR GENERAL



# Forest Service Secure Rural Schools Program

Audit Report 08601-0006-41

## OBJECTIVE

We reviewed the SRS program to determine if (1) FS allocated SRS payments to States in accordance with guidelines, (2) States appropriately allocated funds to counties, and (3) funds disbursed for Titles I, II, and III projects were used as intended. We found no issues with Objectives 1 and 2.

## REVIEWED

We assessed FS' administration of the SRS program and controls over the distribution of program funds for FYs 2013-2015. We performed fieldwork from September 2015 to July 2016, at FS' Washington office, Albuquerque Service Center, two regional offices, and two national forests. In addition, our fieldwork included a review of recipients at two State offices and four county offices.

## RECOMMENDS

If SRS is reauthorized, FS should obtain a legal opinion from the Office of the General Counsel concerning the need to issue SRS program regulations and ensure guidance reflects statutory requirements. FS also needs to work with the Department to streamline the RAC member appointment process and establish procedures to ensure submission of counties' Title III certification reports.

**OIG evaluated Forest Service's administration of the Secure Rural Schools program.**

## WHAT OIG FOUND

The Secure Rural Schools (SRS) program has been in place since 2000, but the Forest Service (FS) has not issued regulations to clarify the program's statutory requirements. FS has been reluctant to draft regulations due to the program's impermanence; however, Congress has repeatedly reauthorized SRS since its inception. Without regulations, program participants may be unaware of their responsibilities or misinterpret appropriate use of SRS funds, therefore leaving funds vulnerable to misuse.

Title II funds are used for projects to benefit national forests based on recommendations from community-based Resource Advisory Committees (RACs). Prospective RAC members must meet several statutory- and Department-mandated requirements to be appointed and then recommend projects; however, we found that 52 of 117 RACs did not have sufficient membership to review projects. FS does not have SRS-specific written procedures or bylaws to account for the unique aspects and complexities of SRS to help streamline the appointment process. If RACs do not have sufficient membership to recommend projects, funds cannot be obligated for those projects. At the end of fiscal year (FY) 2014, over \$9 million of Title II funds were forfeited and unavailable for use.

For calendar years (CY) 2013 and 2014, 60 percent and 71 percent of counties did not submit certifications of Title III expenditures as required. FS lacked procedures to ensure certification reports were submitted and to follow up with counties who had not submitted reports. As a result, FS has limited assurance that Title III funds are used for intended purposes and that any unobligated funds will be returned to the Treasury as required.

FS officials generally concurred with our findings and recommendations, and we accepted management decision on all six recommendations.





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



DATE: August 10, 2017

AUDIT  
NUMBER: 08601-0006-41

TO: Thomas L. Tidwell  
Chief  
Forest Service

ATTN: Antoine Dixon  
Chief Financial Officer

FROM: Gil H. Harden  
Assistant Inspector General for Audit

SUBJECT: Forest Service Secure Rural Schools Program

This report presents the results of the subject audit. Your written response to the official draft report, received on July 25, 2017, is included in its entirety at the end of this report. Your response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on your written response, we are accepting management decision 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. For agencies other than the Office of the Chief Financial Officer (OCFO), please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly 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

The Forest Service (FS) manages more than 193 million acres of National Forest System land. This land is managed for a wide array of uses, including outdoor recreation, range, timber, watershed condition, and wildlife and fish purposes. The presence of this land also affects the adjacent local communities due to unavailable tax revenue, as States and counties cannot collect property taxes or develop Federal lands to generate an additional tax base. However, Federal funds are available to States to offset this loss. For example, the Twenty-Five Percent Fund Act was enacted in 1908 so counties within FS land could maintain county roads and schools without supplementary property taxes.<sup>1</sup> Under the Act, States received 25 percent of gross receipts from timber sales, leases, rentals, and other revenue sources from national forest acres within States.

Timber sales declined during the 1990s,<sup>2</sup> which significantly decreased revenues from national forests managed by FS and from some public lands managed by the Department of Interior's Bureau of Land Management (BLM). To stabilize payments to States, Congress enacted the Secure Rural Schools and Community Self-Determination Act of 2000,<sup>3</sup> as amended (SRS Act). The SRS Act covers all national forest lands, as well as certain BLM lands in western Oregon.<sup>4</sup> Under the SRS Act, payment amounts were no longer based on receipts from timber sales.<sup>5</sup> SRS expired in 2006, but it has been reauthorized and amended several times. Most recently, SRS was reauthorized for an additional 2 years on April 16, 2015, in Public Law 114-10. In making the payments for calendar years (CYs) 2013-2015, FS distributed approximately \$870 million in SRS funding to benefit 41 States and the Commonwealth of Puerto Rico.

Under SRS, eligible counties elected to (1) continue receiving a proportionate share of the State's 25 percent payment,<sup>6</sup> or (2) receive a proportionate share of the State's stabilized payment.<sup>7</sup> Counties that elect to continue receiving a proportionate share of the 25 percent payment must use the funds for public schools and public roads. However, counties that elect to

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<sup>1</sup> Act of May 23, 1908, Pub. L. No. 60-136, 35 Stat. 251, 260 (1908 Act) (currently codified at 16 U.S.C. § 500).

<sup>2</sup> Total timber sales for the 25 percent payment declined from 1990 to 1999.

<sup>3</sup> Pub. L. No. 106-393, 114 Stat. 1607. The SRS program was reauthorized and the SRS Act amended in 2008. See Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. No. 110-343, div. C, § 601, 122 Stat. 3765, 3893-912.

<sup>4</sup> The Oregon and California Railroad Revested Lands, known as the O&C Lands, lie in a checkerboard pattern through eighteen counties of western Oregon. These lands contain more than 2.4 million acres of forests and are administered by BLM.

<sup>5</sup> The relationship between FS and BLM regarding the SRS program is limited in scope and only involves payment calculations for counties located within O&C Lands. BLM sends the O&C counties' acreage reports to FS who is responsible for calculating the SRS payment amounts. BLM is responsible for making the payments to the O&C counties.

<sup>6</sup> The States' 25 percent payments are based on a 7 year (current and 6 previous years) rolling average of annual national forest receipts.

<sup>7</sup> The States' stabilized payments are based on multiple factors, including acres of Federal land within their eligible counties, the annual average of the State's share of the 3 highest 25 percent payments between 1986 and 1999, and an income adjustment based on the per capita personal income for each county.

receive a share of their State’s stabilized payment must allocate the funds to Titles I, II, or III as required by the counties’ SRS funding level.<sup>8</sup> Title funds can only be used for specific purposes, within specific timeframes, and for allowable costs. Unused funds must be returned to the Department of the Treasury.<sup>9</sup> The purposes of each title are described below:

- Title I mirrors the Twenty-Five Percent Fund Act enacted in 1908. Funds are paid directly to the States and allocated to counties to benefit schools and roads.
- Title II funds are maintained by FS for projects that benefit Federal land. Title II projects are proposed by Resource Advisory Committees (RACs) that typically consist of representatives from the local community, but they can be drawn from within a State.
- Title III funds are paid directly to the States and allocated to counties for (1) activities under the Firewise Communities program,<sup>10</sup> (2) expenses paid for emergency services performed on Federal land, or (3) the development of community wildfire protection plans.

Table 1 outlines counties’ allocation requirements based on their funding level.

**Table 1. Counties’ Allocation Requirements Based on Funding Level**

SRS Provision	County SRS Funding Level		
	\$100,000 or Less	More than \$100,000 but less than \$350,000	\$350,000 or More
<i>Title I: Schools &amp; Roads</i>	May spend 100 percent on Title I projects, or may opt to reserve a combined total of 15-20 percent on Title II and Title III projects (though Title III funds are capped at 7 percent of total funds). The county also may opt to return a portion of, or all funding to the Department of the Treasury.	Must spend 80-85 percent on Title I projects	Must spend 80-85 percent on Title I projects
<i>Title II: Special Projects</i>		May reserve any portion of the balance to carry out Title II, or Title III, or a combination of the two titles, or return funds to the Department of the Treasury.	May spend no more than 15-20 percent on Title II and Title III projects (though Title III funds are capped at 7 percent of total funds), or return funds to the Department of the Treasury.
<i>Title III: County Funds</i>			

<sup>8</sup> 16 U.S.C. § 7111-7113 (Title I); 16 U.S.C. § 7121-7128 (Title II); 16 U.S.C. § 7141-7144 (Title III). The authorizing statute also includes a fourth title, which sets forth miscellaneous provisions that required the Secretaries of Agriculture and Interior to issue regulations, authorized appropriations, and addressed other funding issues. See 16 U.S.C. § 7151-7153.

<sup>9</sup> Unused Title II and Title III funds must be returned to the Treasury. For Title I, States can use funds until expended for authorized uses.

<sup>10</sup> The Firewise Communities program is a non-regulatory program administered by the National Fire Protection Association and is designed to involve homeowners, developers, and others in efforts to protect people, property, and natural resources from the risk of wildland fire.

Recipients used Title I funds for public roads and public schools in their respective counties. During our fieldwork, we determined that counties used the funds to repair and maintain roads and for general operating expenses for schools. For example, counties used the funding to fill and seal cracks in the roads and complete re-pavement projects. In addition, counties used these funds for teachers' salaries, textbooks, and student transportation.

FS relies on RACs to review and recommend implementation of Title II projects. RACs can only recommend Title II projects with a majority vote from their members, so RACs without sufficient membership may not make project recommendations. If RACs cannot recommend Title II projects by the statutory deadline for obligating the Title II funds, the funds are required to be returned to the Treasury.

## **Objectives**

Our objectives were to determine if (1) FS allocated SRS payments to States in accordance with applicable guidelines, (2) States appropriately allocated funds to counties, and (3) SRS funds were disbursed for Title I, II, and III projects, and the payments were used as intended.

Based on our review, we found no evidence to indicate that (1) FS improperly allocated SRS payments to States or (2) States inappropriately allocated funds to counties.

## Section 1: Program Regulations

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### Finding 1: FS Did Not Issue Regulations for the Secure Rural Schools Program

Although the SRS program has been operational since 2000, FS has not issued regulations to clarify the statutory requirements of the program.<sup>11</sup> Further, in the absence of regulations, the guidance that has been developed for the program is limited and unclear about certain provisions of the SRS Act. FS had been reluctant to commit resources necessary to draft regulations due to uncertainty about the program's future. Since FS has not issued regulations, States and counties may be unaware of their responsibilities or misinterpret the appropriate uses of SRS funds, which in turn leaves these funds vulnerable to misuse.

The SRS Act states, in relevant part, "The Secretary of Agriculture and the Secretary of Interior shall issue regulations to carry out the purposes of this Act."<sup>12</sup>

The SRS program consists of three funding categories, and each is authorized for distinct purposes. Title I funds are distributed to States and allocated to counties for public schools and public roads. Title II funds are used for Federal projects that benefit the national forest land that exists within the locale, thereby benefitting both the FS and the adjacent community.<sup>13</sup> Title III funds are distributed by States to be used by counties for activities under the Firewise Communities program, for emergency services such as firefighting, and for the development of community wildfire protection plans. Furthermore, SRS has distinctive requirements for each title that FS and/or the State and participating counties must adhere to for proper administration of the program. For Titles I and III, FS disburses the funds directly to the States. Subsequently, the States pass the funds to participating counties. These counties are responsible for using these funds appropriately. For Title II, FS maintains control of the funds and is responsible for establishing community-based RACs to recommend projects that benefit national forest land.<sup>14</sup>

Despite the complexities described above, this multi-category program does not have regulations that define recipients' responsibilities or the appropriate use of SRS funds. Aside from the SRS Act, available guidance for the program is found on the FS website and in the Catalog of Federal Domestic Assistance (CFDA).<sup>15</sup> Our review found that recipients were unaware of the guidance on the FS website and used their own interpretations of the SRS Act.<sup>16</sup> Furthermore, CFDA

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<sup>11</sup> FS would issue regulations for the SRS program on behalf of the Secretary of Agriculture.

<sup>12</sup> When the SRS program was initially created, the Secretaries of Agriculture and Interior were authorized, but not required, to promulgate regulations. *See* SRS Act, Pub. L. No. 106-393, § 403, 114 Stat. 1623 ("The Secretaries concerned may jointly issue regulations to carry out the purposes of this Act."). When the program was reauthorized in 2008, Congress made promulgating regulations mandatory and deleted the word "jointly" from the Statute Pub. L. No. 110-343, 601(a), 122 Stat. 3910 (revised section 401 of the SRS Act states, "The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.").

<sup>13</sup> These funds may also be used for projects on "non-Federal land where projects would benefit the resources on Federal land." 7 U.S.C. § 7122.

<sup>14</sup> RACs are composed of members of the public who provide recommendations to FS on the development and implementation of special projects that benefit national forest land.

<sup>15</sup> CFDA provides information about Federal programs and their associated requirements at <https://www.cfda.gov/>.

<sup>16</sup> We visited four counties in two States. See the "Scope and Methodology" section of this report.

refers to SRS payments as grants to States and directs recipients to use Federal Cost Principles to account for SRS funds.<sup>17</sup> If SRS was a grant program, a legal instrument outlining each party's responsibilities would be required; however, no grant agreement exists between FS, the States, and/or the counties.<sup>18</sup> Additionally, the application of Federal Cost Principles would require recipients to separately document and account for all SRS expenditures. FS and Office of General Counsel (OGC) officials stated that the CFDA description conflicts with their position on the nature of the funds because both stated that SRS is not a grant program and SRS Title I and III funds are not considered Federal funds. Accordingly, they believed that these funds should be treated as direct payments to States.<sup>19</sup> Without regulations to clarify program requirements, the guidance published in CFDA may cause confusion among recipients. FS needs to work with the appropriate entities to clarify information regarding SRS requirements.

Also, the lack of SRS regulations that could outline procedures to help streamline the RAC member appointment process affected the use of Title II funds. In Finding 2 of this report, we expand on how the current process to appoint RAC members is laborious and resulted in the forfeiture of over \$9 million of expired funds, which otherwise could have been used for projects to benefit national forest land.

Furthermore, in 2012, the U.S. Government Accountability Office (GAO) conducted a review of Federal oversight and the counties' use of Title III funds. GAO found that some counties incorrectly interpreted the proper use of Title III funds, and GAO recommended that FS issue regulations or guidance specifying appropriate uses of Title III funds.<sup>20</sup> In lieu of issuing regulations, FS opted to update the guidance on authorized uses of Title III funds on its website.<sup>21</sup> However, our review disclosed that updating the website information did not remedy the issue because some county administrators (who manage distributed SRS funds) were unaware of the guidance on the FS website. When we questioned one county's SRS Title III expenditures, the county administrator was unaware of guidance on the FS website and said he referred to an outdated version of the statute (dated October 30, 2000) for assistance. In other instances, State and county staff admitted confusion about the different requirements for each Title. The lack of regulations to outline procedures may have contributed to counties not meeting the reporting requirements for Title III funds (see Finding 3).

When we asked why FS did not issue regulations for the SRS program, FS officials responded that they did not want to commit resources to such a project because of the time-consuming

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<sup>17</sup> Federal Cost Principles are set forth in 2 C.F.R. §§ 200.400-475 and establish principles for determining allowable costs incurred by non-Federal entities under Federal awards.

<sup>18</sup> The Federal Grant and Cooperative Agreement Act, 31 U.S.C. § 6301-6308, prescribes the criteria that Federal agencies should use to select an appropriate legal instrument for entering into a relationship with a recipient of Federal funds (e.g., grant agreement).

<sup>19</sup> CFDA defines "Direct Payments for Specified Use" as "Financial assistance from the Federal government provided directly to individuals, private firms, and other private institutions to encourage or subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient." CFDA, *Types of Assistance*, <https://www.cfda.gov/?static=assistance&s=generalinfo&mode=list&tab=list&tabmode=list> (last visited Jan. 10, 2017).

<sup>20</sup> GAO Report GAO-12-775, *Payments to Counties: More Clarity Could Help Ensure County Expenditures Are Consistent with Key Parts of the Secure Rural Schools Act*, July 2012.

<sup>21</sup> In the Department of Interior's response to GAO Report 12-775, officials noted they have not issued any SRS regulations.

process to draft regulations and the sporadic nature of the SRS program (the most recent re-authorizations of the SRS program were for one- or two-year increments). We acknowledge that drafting regulations can be a lengthy process, but we believe it does not excuse FS from these responsibilities, especially when the requirement is clearly stated in the law. Regardless of short time frames for program authorization, this program was initiated in 2000 and has been operating without regulations since. If the SRS program is extended, it would further solidify the need to draft regulations.

We followed up with OGC to determine if the requirements outlined in CFDA were applicable and if FS should issue regulations for the SRS program. OGC officials agreed with FS' position that the CFDA description of SRS as a grant program is inaccurate and is therefore not subject to the requirements for Federal funds (e.g., Federal Cost Principles). In regard to issuing regulations, OGC officials stated this question came up in GAO's 2012 review of SRS Title III funds,<sup>22</sup> but at that time did not think regulations were necessary since the funds were already disbursed and the program had not been reauthorized. GAO's review was specific to Title III funds, but we believe that a review of FS' responsibilities for issuing regulations for the entire SRS program is necessary, especially if the program is reauthorized.

Due to the complexities of the SRS program, regulations would clarify the requirements for each Title, alleviate confusion for recipients, and provide consistency in the administration of the program. In the absence of regulations, counties may misinterpret the requirements or be unaware of their responsibilities and the appropriate uses of funds disbursed for the different titles, putting the funds at risk for misuse. To remedy this issue, FS should obtain a legal opinion from OGC on the requirement to issue regulations for the SRS program and review CFDA's description of SRS to ensure it accurately reflects the nature of the SRS program.

## **Recommendation 1**

Obtain a legal opinion from OGC to determine whether, if SRS is reauthorized, FS is required to issue regulations for the SRS program.

## **Agency Response**

In its July 25, 2017 response, FS generally concurred with this recommendation. If the SRS Act is reauthorized, the agency would request a legal opinion from OGC to determine whether FS is required to issue regulations for the SRS program. The estimated completion date is July 30, 2018, if SRS is reauthorized.

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<sup>22</sup> GAO Report GAO-12-775.

## **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 2**

Review the CFDA description of SRS to ensure it accurately reflects the nature of the SRS program and, if appropriate, contact USDA's Coordinator for the CFDA to update the description for SRS.

## **Agency Response**

In its July 25, 2017 response, FS generally concurred with this recommendation that a review of CFDA descriptions for SRS is needed. The agency noted that SRS is not a grant program, and instead are direct payments to States. If the SRS Act is reauthorized, FS would request that the USDA Coordinator for the CFDA update the description for SRS to reflect FS' and OGC's position that the CFDA description of SRS as a grant program is inaccurate and is therefore not subject to the requirements of Federal funds (e.g., Federal Cost Principles). FS further stated that the authority to change CFDA descriptions ultimately lies with the USDA Coordinator. The estimated completion date is July 30, 2018, if SRS is reauthorized.

## **OIG Position**

We accept management decision for this recommendation.

## **Section 2: Resource Advisory Committee Appointment Process**

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### **Finding 2: FS Needs to Work with the Department to Improve the Resource Advisory Committee Appointment Process**

Title II of the SRS program requires the Secretary of Agriculture (through FS) to establish and maintain community-based RACs whose members review and recommend projects on national forest land. RACs must have sufficient membership to officially meet and perform their duties, otherwise funds cannot be obligated for Title II projects. Prospective RAC members must meet several statutory- and Department-mandated requirements to be appointed; however, we found that 52 of 117 RACs did not have sufficient membership to review and recommend projects.<sup>23</sup> Currently, FS does not have SRS-specific written procedures or bylaws to account for the unique aspects and complexities of SRS to help streamline the RAC appointment process. If Title II funds are not obligated prior to the deadline, funds may be unavailable for use on SRS projects. For example, at the end of FY 2014, over \$9 million of Title II funds expired.

Some purposes of the SRS Act are to make additional investments in and create additional employment opportunities through projects that, among other things, improve the maintenance of existing infrastructure and enjoy broad-based support. Additionally, the SRS Act is intended to improve cooperative relationships among people that use and care for Federal land and agencies that manage the Federal land.<sup>24</sup>

Under the SRS Act, a county may allocate Title II funds for projects that benefit national forest land. To obligate funds, Title II projects must be recommended by a RAC. The SRS Act requires that each RAC be comprised of members that represent the community's interests. A complete RAC consists of 15 persons with specifically defined qualifications and represents each of the following groups: user interests, environmental interests, and the general public.<sup>25</sup> RACs can only recommend Title II projects to FS with a majority vote from members of each of the three groups.<sup>26</sup> Without sufficient membership to vote, RACs cannot review and make required recommendations to FS. Any Title II funds not obligated by the date the funds expire must be returned to the Treasury.<sup>27</sup>

We reviewed membership of RACs nationwide and found that at the end of FY 2015, 52 of the established 117 RACs (44 percent) did not have the required number of members and therefore were unable to review and recommend Title II projects. Although the FY 2015 funding does not expire until FY 2018, these 52 RACs are located in counties that allocated \$6.9 million for Title II projects.<sup>28</sup> If these funds are not obligated by the current authorization's deadline of September 30, 2018, they must be returned to the Treasury.

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<sup>23</sup> FS provided nationwide RAC membership data as of September 17, 2015.

<sup>24</sup> 16 U.S.C. § 7101(2)(A)(i), (B), (C), (3).

<sup>25</sup> 16 U.S.C. § 7125(d).

<sup>26</sup> 16 U.S.C. § 7125(e)(3).

<sup>27</sup> 16 U.S.C. § 7128(b).

<sup>28</sup> The \$6.9 million represents SRS Title II funds that could not be used as of one specific point in time (i.e., September 17, 2015) because complete RACs had not been formed.

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The Department, via the White House Liaison Office's Committee Management Officer (CMO), oversees all USDA advisory committees, including RACs. The Secretary of Agriculture appoints members to RACs unless he delegates his appointment authority. In addition to the SRS statutory requirements, the guidance used to appoint advisory committees is the Federal Advisory Committee Act (FACA),<sup>29</sup> as amended, and USDA Departmental Regulation (DR) 1041-001.<sup>30</sup> The Department provides direction to FS on the appointment process based off their interpretation of the FACA and DR. FS carries out the day-to-day administrative functions of RACs and is also responsible for interpreting and implementing applicable laws, regulations, and policies.

FACA became law in 1972 and is the legal foundation that describes, in broad terms, how Federal advisory committees operate. FACA requires membership of each advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.<sup>31</sup>

The DR has been in place since 1993 and is equally broad, as it provides general advisory committee guidance to the entire Department. The DR complicates the process of appointing RAC members by attempting to ensure that recommendations of each committee, as a whole, "take into account the needs of the diverse groups served by the Department." The DR requires that advisory committee membership "include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities."<sup>32</sup> The DR also requires that prospective RAC members be directly appointed by the Secretary of Agriculture.<sup>33</sup>

In addition to the FACA and DR requirements, the FS Manual, last updated in 2013, provides general direction for all types of FS advisory committees, but is not specific to SRS. It requires FS to submit the names of two potential candidates to fill each advisory committee vacancy.<sup>34</sup>

The process for appointing RAC members contains 14 steps, and it can take more than 15 months to complete. Table 2 describes the process for appointing RAC members, as outlined by an FS official. It provides a timeline with the approximate minimum and maximum days for each step of the process.

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<sup>29</sup> Pub. L. No. 92-463, 86 Stat. 770 (1972) (codified at 5 U.S.C. app.).

<sup>30</sup> DR 1041-001, Advisory Committee Management (Feb. 8, 1993).

<sup>31</sup> 5 U.S.C. app., § 5(b)(2).

<sup>32</sup> DR 1041-001, § 11a (7).

<sup>33</sup> DR 1041-001, § 13a.

<sup>34</sup> FS Manual 1355.1(3)(b), dated March 1, 2013.

**Table 2. Timeline for Appointing RAC Members**

<b>Steps in the RAC Member Nomination Process</b>	<b>Minimum (days)</b>	<b>Maximum (days)</b>
FS outreach to the community	60	90
Review by regional SRS coordinator	5	10
Review by national SRS coordinator	1	5
Iterative revisions recommended by FACA Program Specialist	30	150
Vetting of applicants by the USDA White House Liaison Office	10	120
Review by FACA Program Manager	5	10
Review by Acting Assistant Director, Directives and Regulations	5	10
Review by Director, Office of Regulatory and Management Services	5	10
Review by Deputy Chief, National Forest System	5	10
Review by Associate Deputy Chief, Business Operations	5	10
Review by Forest Service Chief of Staff	5	10
Review by Forest Service Chief	5	10
Review by Under Secretary, National Resources and Environment	5	10
Review by Secretary of Agriculture	5	10
<b>Total days for decision by Secretary</b>	<b>151</b>	<b>465</b>
<b>Months Needed to Fill an SRS RAC Vacancy</b>	<b>5</b>	<b>15.5</b>

FS officials face an additional challenge in that rural communities may have a limited pool of qualified applicants that meet the criteria for RAC membership. Further, positions are unpaid and voluntary. The complexities of navigating the specific legal requirements and the time needed to complete the approval process can cause potential applicants to become discouraged or lose interest in participating.

Attempting to meet the statutory requirements, including all the requirements of FACA, the DR, and the FS Manual, can extend the time needed to locate individuals who are qualified and willing to serve on an RAC, especially in low-populated rural areas of the country. Furthermore, FS officials believed that the requirements and the time needed to complete them discouraged prospective appointees or caused them to drop out. Currently, SRS-specific written procedures or FS bylaws that could describe the application of the stated goals and objectives of the statutory and Departmental requirements to RACs do not exist, resulting in RACs without sufficient membership to review and recommend projects. At the end of FY 2014, over \$9 million of Title II funds expired and was unable to be used (see Exhibit A). If RACs had sufficient membership, the loss of Title II funds could have been prevented.

FS officials agreed that the RAC appointment process is tedious and stated that potential candidates have lost interest due to the length of time required to fill vacancies. They believed, due to its statutory requirements and congressional intent for local collaboration, SRS RACs are unique from other Federal committees and the DR should be updated to reflect this. In February 2016, FS contacted the Department to update the DR to account for the unique aspects of RACs. Although unsuccessful in revising the DR, FS was encouraged by the Department to develop bylaws for advisory committees to account for additional complexities and rules.

If RACs with sufficient membership cannot be established, FS' efforts to achieve the purposes of the SRS program may be diminished. To ensure Title II funds are used to meet the purposes of the program, FS needs to work with the Department to identify methods that help improve the process, reduce timeframes, and establish SRS-specific procedures or bylaws to help streamline the RAC member appointment process.

### **Recommendation 3**

Work with the Department to identify methods that help improve the process and reduce timeframes for appointing RAC members.

#### **Agency Response**

In its July 25, 2017 response, FS concurred with this recommendation. The agency noted that the RAC member appointment process is in part a USDA-directed process that is beyond the authority of FS to streamline, but FS will take steps to work with USDA to reduce timeframes for vetting requests, provide additional outreach resources and training to all SRS RAC points of contact, and provide additional one-on-one consultation to RACs as needed. The estimated completion date is July 30, 2018, if SRS is reauthorized.

#### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 4**

Work with the Department to establish SRS-specific procedures or bylaws to help streamline the RAC member appointment process.

#### **Agency Response**

In its July 25, 2017 response, FS concurred with this recommendation. The agency noted that its FACA office is working with the Department Task Force for the necessary revisions/updates to the Departmental Regulation 1041-001 to identify barriers and provide input to make improvements to policies that have negatively impacted the FACA committee appointments. The estimated completion date is July 30, 2018, if SRS is reauthorized.

#### **OIG Position**

We accept management decision for this recommendation.

## Section 3: Title III Reporting

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### Finding 3: FS Did Not Ensure Title III Certifications Were Received

Counties that expend Title III funds are required to submit reports to FS to certify that these funds were used for authorized purposes. However, we found in CYs 2013 and 2014, 60 percent and 71 percent of counties did not submit these certification reports.<sup>35</sup> This occurred because FS lacked procedures to ensure certification reports were submitted or to follow up with counties who had not submitted certification reports. As a result, FS has limited assurance that Title III funds are used for intended purposes and any unobligated funds are returned to the Treasury as required.

According to the SRS Act, “Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized.” Also, “The Secretary concerned shall review the certifications submitted . . . as the Secretary concerned determines to be appropriate.”<sup>36</sup>

Title III funds are authorized for specific purposes, which include (1) carrying out activities under the Firewise Communities program to provide to homeowners education and assistance, (2) reimbursing counties for search and rescue and other emergency services performed on Federal land and paid for by the participating county, and (3) developing community wildfire protection plans.<sup>37</sup>

Counties that have spent Title III funds during the year must submit an annual certification report (due February 1 of the following calendar year) to FS that shows the expended amounts and describes how they relate to the specific purposes of the program.<sup>38</sup> We reviewed a report from FS that lists the counties that submitted certification reports. Table 3 describes the number of counties receiving Title III Funds for CYs 2013-2014 that did not submit certification reports.

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<sup>35</sup> For CY 2013, Title III certification reports were required to be submitted by February 1, 2014. For CY 2014, Title III certifications were required to be submitted by February 1, 2015.

<sup>36</sup> 16 U.S.C. § 7143.

<sup>37</sup> 16 U.S.C. § 7142(a).

<sup>38</sup> 16 U.S.C. § 7143.

**Table 3: Annual Certification Reports Not Received for CYs 2013-2014**

Title III Total Funding Amount	\$14,075,166	\$13,208,708
Total Number of Counties Receiving Title III Funds	255	244
Number of Counties That Did Not Submit Their Certification Reports <sup>2</sup>	153	174
Percent of Counties That Did Not Submit Annual Certification Reports	60	71
<sup>1</sup> Certification Reports for CY 2015 were not due at the time of our fieldwork.		
<sup>2</sup> These may include counties that have no expenditures for the year.		

We reviewed SRS Title III funds in two States and four counties. We found that counties did not comply with the reporting requirements for various reasons. For example, county officials informed us they did not submit the certification report because (1) it “fell through the cracks,” (2) they were not aware they had to submit an annual certification reports, and (3) FS did not ask them for it.

A FS official stated FS did not follow up with counties that did not submit certification reports because FS does not have any recourse for noncompliance. In addition, he stated that FS does not review the certifications because Title III funds are defined by the SRS Act as county funds. Accordingly, FS believed that county funds could not be withheld to enforce compliance.

Although FS believed that they do not have enforcement authority to withhold Title III funds, the statute states that FS has a responsibility to review the certification reports as it determines to be appropriate. Even without the authority to withhold funds, we believe that a stronger effort from FS to ensure counties submit these certification reports and then follow up with counties that do not submit reports would increase compliance by counties. If FS does not receive a reasonable percentage of these reports, as evidenced by county submittal data for CYs 2013 and 2014, an adequate review cannot occur. Without an adequate review, FS has limited ability to provide assurance that county funds are spent appropriately and any unobligated amounts are properly accounted for.

In 2012, GAO performed a review of Title III funds and found that FS had not reviewed the counties’ annual certification reports to determine whether counties spent funds appropriately. Additionally, the report disclosed that FS had no process in place to contact counties to determine whether the counties spent funds but did not submit a certification. GAO therefore questioned the accuracy of FS’ accounting of the amounts of Title III funds spent and unobligated. GAO then recommended that FS issue regulations or clear guidance specifying the types of allowable county uses of Title III funds.<sup>39</sup>

In response to GAO’s report, FS agreed to provide clarifying guidance.<sup>40</sup> FS subsequently updated the information on its website. However, we found that the issues GAO identified are

<sup>39</sup> GAO Report GAO-12-775.

<sup>40</sup> GAO Report GAO-12-775, app. II (comments from USDA to draft report).

still present and counties were unaware of FS' updated guidance on its website. Consequently, the counties were not meeting reporting requirements because FS did not adequately ensure counties were aware of their responsibilities or attempt to notify counties who did not submit certification reports.

To improve the process, FS needs to establish procedures to ensure counties are aware of their responsibilities and complete their annual certifications as required. FS should then follow up with counties that have not submitted Title III certification reports.

### **Recommendation 5**

Establish procedures to ensure counties are aware of their responsibilities and complete their annual certifications as required.

#### **Agency Response**

In its July 25, 2017 response, FS generally concurred with this recommendation. The agency noted that it will continue to request that counties submit their Title III certifications for funds spent. If SRS is reauthorized, FS will establish procedures for SRS coordinators to request that counties submit their Title III certifications through their communication channels. The estimated completion date is July 30, 2018, if SRS is reauthorized.

#### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 6**

Establish procedures to follow up with counties that have not submitted a certification of Title III funds.

#### **Agency Response**

In its July 25, 2017 response, FS generally concurred with this recommendation. The agency noted that it will continue to request that counties submit their Title III certifications for funds spent. If SRS is reauthorized, FS will establish procedures for SRS coordinators to request that counties submit their Title III certifications through their communication channels. The estimated completion date is July 30, 2018, if SRS is reauthorized.

#### **OIG Position**

We accept management decision for this recommendation.

## Scope and Methodology

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We conducted a review of FS' SRS program, which included assessing FS' controls over distribution of funds to eligible States and counties and its administration of the program. The scope of our audit work covered FYs 2013-2015. We performed fieldwork at the agency's Washington office, Albuquerque Service Center, two regional offices, and two national forests. In addition, our fieldwork included a review of recipients at two State offices and four county offices (for specific locations visited, see Exhibit B). We performed our audit fieldwork from September 2015 to July 2016.

We non-statistically selected two FS regional offices and one State in each of the selected regions. Region 6 was selected, along with the State of Oregon and Lane and Douglas counties, because they received the most SRS funding. Region 8, the State of Arkansas, and Scott and Montgomery counties were selected based on RAC membership, geographical location, and funding levels.

To accomplish our objectives, we performed the following steps and procedures:

At the FS Washington office, we:

- Reviewed pertinent laws, regulations, and guidance applicable to the program;
- Interviewed key personnel to gain an understanding of the program, funding allocation process, establishment of RACs, and Washington office oversight; and
- Reviewed RAC estimated annual operating costs to ensure they were reasonable and in compliance with statutory requirements.

At the FS Albuquerque Service Center, we:

- Interviewed key personnel to determine the calculation of SRS payments, distribution of funds to States and FS regional offices, Title III reporting, and Albuquerque Service Center oversight of funds;
- Reviewed records and documents used to support the calculation of SRS payments; and
- Assessed SRS payment data for our scope period from the All Service Receipts Database and determined the accuracy of the data.

At the FS regional offices, we:

- Reviewed applicable guidance for the program; and
- Interviewed key personnel to gain an understanding about Title I, II, and III funds, establishment of RACs, tracking national forest receipts, and regional office oversight of SRS.

At the selected FS national forests, we:

- Reviewed RAC charters and meeting minutes to determine if RAC representation and participation were in compliance with statutory requirements;
- Interviewed FS key personnel and RAC members to gain an understanding of Title II projects, project selection process, funding sources, tracking and monitoring, RAC member qualification process, and oversight of RACs;
- Reviewed a non-statistical sample of Title II project files to determine if SRS funds were used as intended and in compliance with Federal statutes; and
- Reviewed RAC administrative costs to ensure they were reasonable and in compliance with statutory requirements.

At the selected State offices, we:

- Reviewed pertinent State laws and guidance applicable to SRS;
- Interviewed staff to gain an understanding of SRS fund allocation distribution and State office oversight; and
- Reviewed State's allocation distribution reports for our scope period to ensure each Title portion was appropriately allocated to selected counties.

At the selected county offices, we:

- Reviewed pertinent guidance applicable to SRS;
- Interviewed county staff to gain an understanding of their responsibilities regarding SRS, funding allocation for schools and roads, tracking of funds, road project selection, and Title III reporting; and
- Reviewed transaction records and supporting documentation to determine if SRS funds were used as intended and in compliance with Federal statutes.

We conducted this audit in accordance with generally accepted *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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BLM	Bureau of Land Management
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
DR	Departmental Regulation
FACA	Federal Advisory Committee Act
FS	Forest Service
GAO	Government Accountability Office
O&C Land	The Oregon and California Railroad Revested Lands
OGC	Office of the General Counsel
OIG	Office of Inspector General
RAC	Resource Advisory Committee
SRS	Secure Rural Schools
USC	United States Code
USDA	Department of Agriculture

## **Exhibit A: Summary of Monetary Results**

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Exhibit A summarizes the monetary results for our audit report by finding and recommendation number.

<b>Finding</b>	<b>Recommendation</b>	<b>Description</b>	<b>Amount</b>	<b>Category</b>
2	4	Unobligated balance of Title II funds when the SRS authorization expired at the end of FY 2014	\$9,058,922	Funds To Be Put To Better Use

## Exhibit B: Audit Sites Visited

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This exhibit shows the name and location of all sites visited.

AUDIT SITE	LOCATION
<u>FS Offices</u> Washington Office Albuquerque Service Center Pacific Northwest Regional Office (Region 6) Southern Regional Office (Region 8) Ouachita National Forest Willamette National Forest	Washington, D.C. Albuquerque, NM Portland, OR Atlanta, GA Hot Springs, AR Springfield, OR
<u>State Offices</u> Arkansas State Treasurer's Office Oregon State Department of Goods and Services	Little Rock, AR Salem, OR
<u>County Offices</u> Montgomery County Office Scott County Office Douglas County Office Lane County Office	Mount Ida, AR Waldron, AR Roseburg, OR Eugene, OR



**AGENCY'S  
RESPONSE TO AUDIT REPORT**





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**File Code:** 1430**Date:** July 25, 2017**Route To:****Subject:** Forest Service Response to Reach Management Decision on Office of the Inspector General Report No. 08601-0006-41 Secure Rural Schools Program**To:** Gil H. Harden, Assistant Inspector General for Audit, Office of the Inspector General

Thank you for the opportunity to review and comment on Office of Inspector General (OIG) Draft Report Number 08601-0006-41. The Forest Service generally concurs with the findings and recommendations and appreciates the time and effort that went into the report. The Agency's response to the audit recommendations is enclosed. If you have any questions, please contact Antoine L. Dixon, Chief Financial Officer, at (202) 205-0429, or by email at [aldixon@fs.fed.us](mailto:aldixon@fs.fed.us).

*/s/ Thomas L. Tidwell*  
THOMAS L. TIDWELL  
Chief

Enclosure



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**USDA Forest Service**

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**Office of Inspector General (OIG) Audit Report No. 08601-0006-41  
Secure Rural Schools Program  
Official Draft Issued June 29, 2017**

**Response to the Official Draft Report / Management Decision Request**

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**Recommendation 1:** Obtain a legal opinion from the Office of the General Counsel (OGC) to determine whether, if Secure Rural Schools (SRS) is reauthorized, Forest Service is required to issue regulations for the SRS program.

**Forest Service Response (07/28/2017):** Forest Service generally concurs with this recommendation. If SRS Act is reauthorized, the Agency would request a legal opinion from the Office of General Counsel (OGC) to determine whether Forest Service is required to issue regulations for the Secure Rural Schools (SRS) program.

**Estimated Completion Date:** July 30, 2018, if SRS is reauthorized

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**Recommendation 2:** Review the Catalog of Federal Domestic Assistance (CFDA) description of SRS to ensure it accurately reflects the nature of the SRS program and, if appropriate, contact USDA's Coordinator for the CFDA to update the description for SRS.

**Forest Service Response (07/28/2017):** Forest Service generally concurs with this recommendation that review of CFDA descriptions for SRS is needed. SRS is not a grant program, and instead are direct payments to states. If the SRS Act is reauthorized, Forest Service would request that the USDA Coordinator for the CFDA update the description for SRS to reflect the Forest Service's and OGC's position that the CFDA description of SRS as a grant program is inaccurate and is therefore not subject to the requirements of Federal funds (e.g., Federal Cost Principles). The Forest Service authority to change CFDA descriptions ultimately lies with the USDA Coordinator.

**Estimated Completion Date:** July 30, 2018 if SRS is reauthorized

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**Recommendation 3:** Work with the Department to identify methods that help improve the process and reduce timeframes for appointing Resource Advisory Committee (RAC) members.

**Forest Service Response (07/28/2017):** Forest Service concurs with this recommendation. The RAC member appointment process is in part a USDA-directed process that is beyond the authority of the Forest Service to streamline, but the Forest Service will take steps to work with USDA to reduce timeframe for vetting requests, provide additional outreach resources and training to all SRS RAC points of contact, and provide additional one-on-one consultation to RACs as needed.

**Estimated Completion Date:** July 30, 2018, if SRS is reauthorized

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**Recommendation 4:** Work with the Department to establish SRS-specific procedures or bylaws to help streamline the RAC member appointment process.

**Forest Service Response (07/28/2017):** Forest Service concurs with this recommendation. The Forest Service Federal Advisory Committee Act (FACA) office is working with the Department Task Force for the necessary revisions/updates to the Departmental Regulation 1041-001 to identify barriers and provide input to make improvements to policies that have negatively impacted the Forest Service FACA committee appointments.

**Estimated Completion Date:** July 30, 2018, if SRS is reauthorized

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**Recommendation 5:** Establish procedures to ensure counties are aware of their responsibilities and complete their annual certifications as required.

**Forest Service Response (07/28/2017):** Forest Service generally concurs with this recommendation. The Forest Service will continue to request that counties submit their Title III certifications for funds spent. If SRS is reauthorized, The Forest Service will establish procedures for SRS coordinators to request that counties submit their Title III certifications through their communication channels.

**Estimated Completion Date:** July 30, 2018, if SRS is reauthorized

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**Recommendation 6:** Establish procedures to follow up with counties that have not submitted a certification of Title III funds.

**Forest Service Response (07/28/2017):** Forest Service generally concurs with this recommendation. The Forest Service will continue to request that counties submit their Title III certifications for the funds spent. If SRS is reauthorized, the Forest Service will establish procedures for SRS coordinators to request that counties submit their Title III certifications through their communication channels.

**Estimated Completion Date:** July 30, 2018, if SRS is reauthorized

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