



United States Department of Agriculture  
Office of Inspector General





## Controls Over the Conservation Stewardship Program (CSP)

Audit Report 10601-0001-32

### What Were OIG's Objectives

Our objectives were to determine whether NRCS actions were adequate on prior audit recommendations applicable to CSP and whether NRCS has adequate controls for CSP eligibility determinations, payment amounts, and contract compliance.

### What OIG Reviewed

We reviewed NRCS' controls over CSP at NRCS headquarters, three State offices, and nine field offices. We reviewed 115 contracts (totaling about \$21.1 million) of 25,372 CSP contracts (totaling over \$2.5 billion) initiated in fiscal years (FY) 2011-2013 and interviewed applicable personnel and participants, conducted site visits, and reviewed relevant documentation.

### What OIG Recommends

We recommend NRCS incorporate specific and ongoing collaboration with other USDA agencies in its compliance strategy, implement controls to ensure CSP applicants' delineations of agricultural operations and CSP payment shares are accurate, and create and implement a control for preventing incompatible enhancements.

## OIG reviewed NRCS' actions on prior audit recommendations applicable to CSP and if controls for CSP eligibility, payments, and contract compliance are adequate.

### What OIG Found

In 2009, the Office of Inspector General (OIG) released an audit report on the Conservation Security Program, the predecessor to the Conservation Stewardship Program (CSP). We reported that the Natural Resources Conservation Service (NRCS) did not have sufficient processes in place to coordinate with and use the data of other Department of Agriculture (USDA) agencies to validate information provided by applicants for Conservation Security Program benefits. Despite NRCS' efforts to correct these issues, our current audit, using Farm Service Agency (FSA) data, identified errors in participant-reported information on 40 of the 59 CSP contracts to which we took exception.

We also found that NRCS did not have adequate controls to detect erroneous participant-reported CSP information affecting eligibility and payment amounts. Specifically, participants inconsistently delineated their agricultural operations—they excluded land under their control, enrolled lands they did not control, and/or enrolled agricultural operations that were not substantially separate from other operations—and were able to manipulate payment shares to avoid payment limitation. We also found that NRCS had inadequate controls over contracting for and documenting implementation of conservation enhancements.

We took exception to a total of 59 contracts and total estimated contract costs of more than \$11.5 million. NRCS generally agreed with our recommendations, but expressed concerns about using additional FSA data to validate CSP applicant information. We reached management decision for 11 of the 26 recommendations.





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



DATE: September 27, 2016

AUDIT  
NUMBER: 10601-0001-32

TO: Jason Weller  
Chief  
Natural Resources Conservation Service

ATTN: Leon Brooks  
Director  
Compliance Division

FROM: Gil H. Harden  
Assistant Inspector General for Audit

SUBJECT: Controls Over the Conservation Stewardship Program

This report presents the results of the subject audit. Your written response, dated July 19, 2016, is included in its entirety at the end of the report. Excerpts from your response and the Office of Inspector General's position are incorporated in the relevant sections of the report. Based on your written response, we are accepting management decision for 11 of the 26 audit recommendations in the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken or planned, and timeframes for implementing the recommendations for which management decisions have not been reached. Please note that the regulation requires management decision to be reached on all recommendations within 6 months from report issuance, and final action to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. However, we agreed to extend final action for Recommendations 6, 13 through 15, 20, and 25 until September 2017. 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

Congress established the Natural Resources Conservation Service (NRCS) in 1935 as the Soil Conservation Service, later renamed NRCS pursuant to Public Law (P.L.) 103-354, the “Department of Agriculture Reorganization Act of 1994” (7 U.S.C. 6962). From the beginning, the agency brought a national focus to the emerging resource issues of the Dust Bowl<sup>1</sup> era: the prevention of wind and water erosion. Over the years, the agency expanded its services to become a conservation leader for all natural resources: soil, water, air, plants, and animals. Now, as NRCS, its primary focus is to ensure that private lands are conserved, restored, and made more resilient in the face of environmental challenges like climate change.

NRCS’ Conservation Stewardship Program (CSP) was authorized by the 2008 Farm Bill,<sup>2</sup> which amended the “Food Security Act of 1985” (P.L. 99-198) to authorize the program in fiscal years (FY) 2009 through 2012. The “American Taxpayer Relief Act of 2012” (P.L. 112-240) extended program authority through FY 2014. The 2014 Farm Bill<sup>3</sup> authorized CSP to continue during FYs 2014 through 2018. Individual producers, legal entities, corporations, and Indian tribes may be eligible for the program. Eligible lands include cropland, grassland, prairie land, improved pastureland, rangeland, nonindustrial private forest land, and agricultural land under the jurisdiction of an Indian tribe. CSP provides opportunities to both recognize excellent stewards and deliver valuable new conservation. The program helps producers identify natural resource problems in their operation and provides technical and financial assistance to solve those problems in an environmentally beneficial and cost-effective manner. CSP addresses seven natural resource concerns (soil quality, soil erosion, water quantity, water quality, air quality, plant resources, and animal resources) as well as energy.

The purpose of CSP is to encourage producers<sup>4</sup> to address resource concerns in a comprehensive manner by undertaking additional conservation activities and improving, maintaining, and managing existing conservation activities.<sup>5</sup> During the period beginning October 1, 2008, and ending September 30, 2017, the 2008 Farm Bill requires that the Secretary of Agriculture is, to the maximum extent practicable, to (1) enroll in the program an additional 12,769,000 acres for each FY; and (2) manage the program to achieve a national average payment rate of \$18 per

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<sup>1</sup> The Dust Bowl was a parched region of the Great Plains, including parts of Oklahoma, Arkansas, and Texas, where a combination of drought and soil erosion created enormous dust storms in the 1930s.

<sup>2</sup> The “Food, Conservation, and Energy Act of 2008” (P.L. 110-246).

<sup>3</sup> The “Agricultural Act of 2014” (P.L. 113-79).

<sup>4</sup> *Producer* means a person, legal entity, joint operation, or Indian tribe who has an interest in the agricultural operation, or who is engaged in agricultural production or forest management. *Agricultural operation* means all agricultural land and other land, as determined by NRCS, whether contiguous or noncontiguous, which is (1) under the effective control of the applicant, and (2) operated by the applicant with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations.

<sup>5</sup> Activities include enhancements. *Enhancements* are conservation activities used to treat natural resources and improve conservation performance.

acre, including the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.<sup>6</sup>

For program eligibility, applicants<sup>7</sup> must (1) be the operator of record in the USDA farm records management system for the eligible land offered for enrollment, (2) have effective control of the land for the term of the proposed contract,<sup>8</sup> (3) include the eligible land in their entire operation as represented for other USDA programs, and (4) be in compliance with the highly erodible land and wetland conservation provisions<sup>9</sup> and adjusted gross income provisions.<sup>10</sup>

CSP is available on a nationwide basis through continuous sign-up, with announced cut-off dates for ranking and funding applications. A self-screening checklist is used to help potential applicants decide whether CSP is the right program for them, and NRCS uses its Program Contracts System (ProTracts) to develop the Conservation Plan and the Conservation Program Contract.<sup>11</sup> To determine eligibility, rank applications, and establish payments, NRCS estimates the level of environmental benefit to be achieved. For sign-ups reviewed under this audit (FYs 2011 through 2013), NRCS used its Conservation Measurement Tool (CMT) to rank applications and to assign performance points, which are a basis to calculate the expected CSP payments.<sup>12</sup> CSP pays participants for conservation performance—the higher the performance, the higher the payment. For a pre-approved applicant (i.e., the application ranks high enough to be considered for funding), NRCS requests the applicant’s conservation activity records and conducts on-site field verification prior to contract approval to ensure that information provided by the applicant was accurate.

Through 5-year contracts, NRCS makes payments as soon as practical after October of each year for contract activities installed and maintained in the previous year. For all contracts, CSP payments to a person or legal entity may not exceed \$40,000 in any year and \$200,000 during any 5-year period. Each CSP contract is limited to \$200,000 over the term of the initial contract period, except that the limits are doubled for a contract for which the applicant is a joint operation (general partnership or joint venture) with an Employer Identification Number.

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<sup>6</sup> The “Agricultural Act of 2014” lowered the acreage limitation to 10,000,000 acres beginning with FY 2014. The national average rate of \$18 per acre has remained unchanged.

<sup>7</sup> *Applicant* means a person, legal entity, joint operation, or Indian tribe that has an interest in an agricultural operation, who has requested in writing to participate in CSP.

<sup>8</sup> *Effective control* means possession of the land by ownership, written lease, or other legal agreement and authority to act as a decision maker for the day-to-day management of the operation both at the time the applicant enters into a stewardship contract and for the required period of the contract.

<sup>9</sup> Unless exemptions apply, a producer must not plant or produce an agricultural commodity on highly erodible land without following an NRCS approved conservation plan or system, not plant or produce an agricultural commodity on a converted wetland, and not convert a wetland which makes the production of an agricultural commodity possible.

<sup>10</sup> Individuals or legal entities that receive benefits cannot have incomes that exceed a certain limit set by law (the “Food Security Act of 1985,” P.L. 99-198, as amended).

<sup>11</sup> ProTracts is a web-enabled application used by NRCS field office personnel to manage NRCS conservation program applications, cost share contracts, and program fund management for conservation programs.

<sup>12</sup> We noted that the 2014 Farm Bill amended CSP to remove all references to CMT. An NRCS national office official stated that CMT is still in use, but is being completely revised for future use.

Beginning in FY 2009, CSP replaced its predecessor, the Conservation Security Program. In June 2009, the Office of Inspector General (OIG) issued an audit report entitled “Natural Resources Conservation Service Conservation Security Program” (Audit Report 10601-0004-KC). This report listed several recommendations for internal controls that could be incorporated into CSP (see Exhibit B). In response to the report, NRCS stated it would address the issues identified in the report as lessons learned and incorporate additional management controls in CSP.

## **Objectives**

Our objectives were to determine whether NRCS actions on prior audit recommendations applicable to CSP (in Audit Report 10601-0004-KC) were adequate to correct the conditions noted in that audit and whether NRCS has adequate controls to ensure that (1) producer eligibility determinations and CSP payment amounts are accurate, and (2) producers operate in compliance with CSP contracts.

## **Section 1: Actions Taken on Prior Audit Recommendations Did Not Prevent Conditions From Recurring**

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### **Finding 1: NRCS Needs to Coordinate More With FSA to Validate Applicant Information and Ensure Data Consistency Across USDA Programs**

In 2009, OIG released an audit report on the Conservation Security Program,<sup>13</sup> the predecessor to the Conservation Stewardship Program (CSP). We reported, in part, that NRCS did not have sufficient processes in place to coordinate with and use the data of other USDA agencies, such as FSA, to validate information provided by applicants for Conservation Security Program benefits. We also reported that NRCS had awarded 23 of 38 questionable contracts to applicants who certified to erroneous information about their operations. The report included 10 recommendations that would affect the successor program, CSP. While NRCS implemented corrective actions for the 10 recommendations, actions taken on 3 of these recommendations did not prevent previously reported conditions from recurring (see Exhibit B). As in the prior audit, we found that NRCS awarded 40 of 59 questionable CSP contracts to applicants whose reported information was inconsistent with FSA data. This occurred because NRCS did not use FSA data to the extent practicable to verify the accuracy of the reported information, which was used to determine CSP eligibility, payment amounts, and participant compliance with contracts. Until NRCS creates a cohesive, integrated system of internal controls that routinely identifies and uses other USDA agency data to verify applicant-supplied information, NRCS cannot effectively ensure the integrity of CSP.

Departmental Regulation requires agencies to implement agreed-upon corrective actions associated with audit recommendations in a timely manner.<sup>14</sup> Office of Management and Budget (OMB) Circular No. A-123<sup>15</sup> states that management has a fundamental responsibility to develop and maintain effective internal control. It requires appropriate internal control to be integrated into each system established by agency management to direct and guide its operations. Deficiencies identified, either through an internal review or an external audit, should be evaluated and corrected. A systematic process should be in place for addressing deficiencies. OMB Circular No. A-123 also provides that management should identify risks that may prevent the organization from meeting its objectives. When identifying risks, management should consider previous findings.

The Government Accountability Office (GAO) established five internal control standards, one of which calls for government agencies to establish a control environment that sets a “positive and supportive attitude toward internal control and conscientious management.”<sup>16</sup> These standards also include assessing risks, establishing control activities (i.e., procedures, techniques, and

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<sup>13</sup> Audit Report 10601-0004-KC, *NRCS Conservation Security Program*, issued June 2009.

<sup>14</sup> Departmental Regulation 1720-001, *Audit Follow-up and Management Decision*, November 2, 2011.

<sup>15</sup> OMB Circular No. A-123, *Management’s Responsibility for Internal Control*, December 21, 2004.

<sup>16</sup> *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1, November 1999. GAO updated these standards in 2014, but we applied the 1999 standards since these would have governed the NRCS controls over CSP during the scope of our audit.

mechanisms) that enforce management’s directions, effectively communicating information, and monitoring a program’s performance over time and promptly resolving problems.

### **Corrective Actions Not Effective —Three Recommendations**

*Recommendation 1 (Audit Report 10601-0004-KC)—“Complete ongoing coordination with USDA agencies, such as FSA, to utilize their existing data to independently verify applicant supplied information for similar programs implemented in the future.”*

In the prior audit, we reported that NRCS awarded 23 of 38 questionable contracts to applicants who certified to erroneous information about their operations when they applied for the Conservation Security Program. NRCS did not have sufficient processes in place to coordinate with and use the data of other USDA agencies to validate information provided by applicants for program benefits. For example, data used in FSA programs contain much of the same information needed to determine Conservation Security Program eligibility (e.g., ownership, operator, land division, etc.), but NRCS did not integrate this information into an independent verification process to ensure consistency between USDA agencies. In response to this recommendation, NRCS stated it required the use of FSA records during the FY 2008 Conservation Security Program sign up, which was held from April 18 through May 30, 2008, and anticipated requiring the use of those records for the new CSP sign up in FY 2009.

In addition, NRCS issued a National Bulletin,<sup>17</sup> which stated in part that “FSA records” will be used to substantiate control of land and agricultural operation delineation<sup>18</sup> for all Conservation Security Program applicants who are participants in other USDA programs that FSA administers. It also stated that “[f]arm records must be consistent across all USDA programs. If a participant wishes to offer an agricultural operation delineation for [the Conservation Security Program] that is different from their current farm operating plan on file with the FSA, the participant will be directed to update their farm records with FSA to meet eligibility criteria.”

For final action,<sup>19</sup> NRCS provided policy citations from its draft CSP manual, which was distributed for use in the first CSP sign up. The citations<sup>20</sup> highlighted the requirement that an eligible applicant generally must be either (1) the operator<sup>21</sup> in the FSA farm

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<sup>17</sup> National Bulletin 300-8-20, LTP – *Conservation Security Program [...] Agricultural Operation Delineation*, dated March 24, 2008.

<sup>18</sup> An applicant must describe its agricultural operation. *Agricultural operation* generally means all the land which is under the effective control of the applicant and which is operated by the applicant with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations.

<sup>19</sup> *Final action* is the completion of all actions that management has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report.

<sup>20</sup> Draft 440-CPM, Part 508, Section 508.52(1).

<sup>21</sup> An *operator* is in general control of the farming operations on the farm for the current year. Each farm has only one operator, but may be composed of multiple tracts having different owners. A *tract* is a unit of contiguous land under one ownership. A tract, in turn, may be composed of multiple *fields* (parts of the farm separated by permanent

records management system for the agricultural operation being offered enrollment in CSP, or (2) a producer, tenant, or owner in the FSA farm records management system who can demonstrate to the satisfaction of NRCS that they will operate and have effective control<sup>22</sup> of the land for the term of the proposed contract. Also highlighted was a provision<sup>23</sup> that NRCS work closely with FSA to ensure access to the Adjusted Gross Income and Highly Erodible Land Conservation/Wetlands Conservation compliance data, as well as access to the Service Center Information Management System (SCIMS).<sup>24</sup> In addition, on August 10, 2009, the NRCS Acting Deputy Chief for Programs issued a memorandum to the NRCS State Conservationists confirming that FSA “will establish and maintain farm records when required for programs administered by NRCS, including CSP.” The memorandum further stated, “NRCS employees will notify CSP applicants of the need to establish or update their USDA farm records at the local FSA office,” so farm records and eligibility files may be entered into the FSA system. Moreover, in March 2010, NRCS entered into a Memorandum of Agreement with FSA to use FSA data in the administration of conservation programs for which NRCS has responsibility.<sup>25</sup>

Despite the actions taken by NRCS to correct these issues, we found similar conditions during our current audit. Using FSA data, we identified errors or inconsistencies in participant-reported information on 40 of 115 CSP contracts we reviewed.<sup>26</sup> These errors involved ineligible participants receiving CSP contracts and eligible participants receiving excessive program payments (see Findings 2 and 3, and Exhibit D). We compared participant-reported CSP information to data shown on FSA Reports of Acreage,<sup>27</sup> Farm Operating Plans, and member information. NRCS policy and procedures did not require the use of these FSA records as employed by OIG to verify

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boundaries) that have different producers who share in the risk of producing crops and who are entitled to share in the crop.

<sup>22</sup> *Effective control* means possession of the land by ownership, written lease, or other legal agreement and authority to act as a decision maker for the day-to-day management of the operation, both at the time the applicant enters into a stewardship contract and for the required period of the contract.

<sup>23</sup> Draft 440-CPM, Part 508, Section 508.10G(xi).

<sup>24</sup> SCIMS is a repository of customer information for the three Service Center Agencies—FSA, NRCS, and Rural Development.

<sup>25</sup> The data included in the *Memorandum of Agreement Between NRCS, FSA, and the Commodity Credit Corporation (CCC) For the Implementation of Common Provisions, Including Payment Eligibility and Payment Limitation Provisions* are the name and address of the participant (SCIMS and farm records); information about the participant’s farming operation (subsidiary files); and information on the participant’s annual income (Adjusted Gross Income files).

<sup>26</sup> We reviewed a total of 115 contracts, in whole or in part (see Scope and Methodology). We took exception to 59 of the 115 contracts reviewed; for 40 of those 59 contracts, the applicants’ reported information was inconsistent with FSA data.

<sup>27</sup> These Reports of Acreage are found in the Crop Acreage Reporting System (CARS). In October 2010—subsequent to our prior audit report—FSA released CARS, a web-based acreage reporting process, to replace its existing acreage reporting system, beginning with the 2011 crop year. CARS provides a secure and reliable source for FSA county offices to collect and verify data relating to reported acreage of crops to ensure that program provisions are being met and crop acres are being accurately reported. The producers report this information to FSA on an annual basis.

participant information. For example, NRCS generally used the “operator” shown on Reports FSA-156EZ, “Abbreviated 156 Farm Record,” in FSA’s farm records to determine applicant eligibility; however, we found the Reports of Acreage in CARS more clearly showed who actually “operated” and had effective control of the land from year to year. As shown in Exhibit D, the 40 contracts included:

- 7 contracts where the participants did not have control of land at the time they entered into the contracts, or lost control of land during the contract period (see Finding 2),
- 5 contracts where the participants did not include all eligible land on the CSP contracts (see Finding 2),
- 5 contracts where the participants improperly entered into contracts for agricultural operations that were not substantially separate from other operations enrolled in CSP (see Finding 2),<sup>28</sup> and
- 29 contracts where participants reported to NRCS payment shares that differed from how the participants represented their member shares within FSA records (see Finding 3).

NRCS policy and procedures did not require use of FSA Reports of Acreage, Farm Operating Plans, and member information to verify the accuracy of the CSP information applicants provided.

In summary, NRCS did not use existing FSA data to the extent practicable to verify CSP participant-reported information, nor to ensure records were consistent between NRCS and FSA programs.

*Recommendation 4 (Audit Report 10601-0004-KC)—“Incorporate into the Conservation Program [sic] Manual the policies and procedures requiring the use of USDA data to determine the operator of a tract of land [and] to delineate farm operations [...] for similar programs implemented in the future.”*

We reported that NRCS’ control weaknesses allowed producers from 6 agricultural operations to misstate their farm delineations to obtain payments under 20 separate Conservation Security Program contracts. NRCS relied on applicant assertions and did not have sufficient policies and procedures in place to require its personnel to verify producers’ agricultural delineations using available USDA data. In response to our recommendation, NRCS agreed to incorporate into the CSP manual (Title 440, *Conservation Programs Manual* (440-CPM), Part 508) policies and procedures for the use of FSA records in determining operators of record and delineating agricultural operations. NRCS also initiated corrective action for the Conservation Security Program

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<sup>28</sup> Some contracts had multiple issues regarding inconsistent delineations (e.g., Contract █ had issues pertaining both to control of land and to all eligible land being enrolled on the CSP contract).

by issuing the aforementioned National Bulletin 300-8-20, which provided revised procedures that tied participants' agricultural operation delineations to information on their current Farm Operating Plans on file with FSA.

For final action, NRCS provided policy citations from the draft CSP manual,<sup>29</sup> which was distributed for use in the first CSP sign up. The citations included the highlighted requirements that a CSP applicant must provide a map, aerial photograph, or overlay that delineates eligible land with associated acreage amounts; and that an eligible applicant generally must be either (1) the operator in the FSA farm records management system for the agricultural operation being offered for enrollment in CSP, or (2) a producer, tenant, or owner in the FSA farm records management system who can demonstrate to the satisfaction of NRCS that it will operate and have effective control of the land for the term of the proposed contract.

Nonetheless, during our current audit, we identified 11 CSP contracts where the applicants' delineations of agricultural operations were inconsistent with information reported to FSA on the FSA Reports of Acreage and Farm Operating Plans<sup>30</sup> (see Finding 2). Specifically, as previously stated, we found FSA Reports of Acreage more clearly showed who actually "operated," and had effective control of, the land than did the "operator" designated in FSA farm records and used by NRCS to determine applicant eligibility. Additionally, NRCS National Bulletin 300-8-20, which was issued in response to our prior audit, required that NRCS use FSA records, specifically including Farm Operating Plans, to substantiate control of land and agriculture operation delineation and to ensure records are consistent across all USDA agencies. However, these requirements were not incorporated into the *Conservation Programs Manual* and NRCS did not require all CSP applicants to complete and file a Farm Operating Plan.<sup>31</sup> FSA uses the Farm Operating Plan information to determine payment eligibility and limitation by direct attribution, and NRCS could use it to determine whether CSP participants' agricultural delineations are accurate (see Finding 2).

*Recommendation 20 (Audit Report 10601-0004-KC)—“Establish adequate control mechanisms, such as second party reviews, to ensure the accuracy of information reported by applicants for conservation programs.”*

We reported, in part, that NRCS field office personnel made incorrect eligibility determinations in six cases because NRCS did not implement compensating controls, such as additional reviews of critical program determinations, to prevent erroneous payments. For five of the six cases, NRCS did not review the producers' crop histories on file with FSA during the application process and approved Conservation Security

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<sup>29</sup> These citations from the draft manual have been incorporated into 440-CPM, Part 508, dated November 2011.

<sup>30</sup> The *Farm Operating Plan* is used to collect farming and other information about the individual or entity that receives program benefits directly, to include information on the sources and contribution levels of certain inputs to the farming operation such as land, capital, equipment, labor, and management.

<sup>31</sup> NRCS requires only that legal entities and joint operations complete and file with FSA either a Form CCC-901, "Member's Information," or a Farm Operating Plan to document members' shares of entities and joint operations.

Program contracts on land that did not meet the program's cropping history requirements.<sup>32</sup> In the sixth case, NRCS improperly approved a Conservation Security Program contract for a producer that did not own or operate nearly half of his contract acres. The land was not included as land in which the producer had a risk on the producer's Report of Acreage and Highly Erodible Land Conservation and Wetland Conservation Certification<sup>33</sup> on file at FSA; only applicants who shared a risk in producing the crops were eligible for the Conservation Security Program. In response to our recommendation, NRCS stated it would require second-party reviews of data entry in CSP to ensure the accuracy of information reported by applicants prior to contract obligation.

For final action, NRCS provided policy from its *Conservation Programs Contracting Manual* and draft policy from its CSP Manual. Highlighted in the policies were requirements that detailed (1) contracting roles and separation of duties, (2) the establishment of Conservation Program Contracts in ProTracts, and (3) CSP on-site field verifications to be conducted by the designated conservationist for each pre-approved CSP application to verify the accuracy of application information before approval and contract obligation.

However, during our current audit, we found that for 3 of the 115 contracts we reviewed, the applicants enrolled land that was not reflected on their FSA Reports of Acreage (see Finding 2).<sup>34</sup> In addition, we found that NRCS did not use FSA Reports of Acreage to verify participants' self-certifications that agricultural land enrolled in CSP met the program's statutory cropping history requirements.<sup>35</sup> NRCS had no prescribed requirement in place to verify asserted compliance with the cropping history requirements, and NRCS field office personnel generally explained that they relied upon personal knowledge to determine whether the land met this provision. In contrast, FSA has a similar cropping history requirement for its Conservation Reserve Program<sup>36</sup> and has implemented extensive policy, procedures, and forms to verify and document cropping history using Reports of Acreage on file for applicable years.<sup>37</sup> We used data from FSA Reports of Acreage to verify land eligibility in compliance with CSP's cropping history requirement for 44 of the 56 sample contracts and did not note any

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<sup>32</sup> To be eligible for the program, land must have been in agricultural production for 4 years between May 13, 1996, and May 13, 2002.

<sup>33</sup> Producers use Form AD-1026, "Highly Erodible Land Conservation (HELCS) and Wetland Conservation (WC) Certification," to certify compliance with the highly erodible land and wetland conservation provisions as a condition of eligibility for certain USDA programs.

<sup>34</sup> Contracts [REDACTED] and [REDACTED]

<sup>35</sup> For the CSP administered under either the 2008 or 2014 Farm Bills, eligible land used for crop production after the date of enactment of the Farm Bill, that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date, generally, is not eligible for payment under CSP.

<sup>36</sup> For Conservation Reserve Program purposes, eligible cropland must have been planted or considered planted to an agricultural commodity during 4 of the 6 years from 2002 to 2007.

<sup>37</sup> See FSA Handbook 2-CRP (Revision 5), *Agricultural Resource Conservation Program*, as amended February 20, 2015, subparagraphs 151 A, 332 A, 332 C, and 35 A, and paragraphs 212 and 333.

exceptions.<sup>38</sup> We noted the CSP field verifications required that NRCS request written records and conduct on-site field verification “to substantiate the accuracy of the conservation activity and production system information the applicant provided during the application process.”<sup>39</sup> However, NRCS did not require the designated conservationists to examine the applicable FSA Reports of Acreage to ensure the enrolled land met the program’s cropping history requirements and that the applicant included the land on the applicant’s Reports of Acreage.

For these three prior audit recommendations, actions taken by NRCS were not effective to prevent recurrence of the conditions found during the previous audit.

We noted the goal of the June 2014 *NRCS Compliance Strategy: 2014-2017* is “to support effective internal controls and compliance procedures that result in: agency compliance with laws and regulations; a reduction in the number of audit deficiencies; and a reduction in improper payments.” The strategy’s performance measures specifically include a reduction in the number of negative audit findings and non-recurrence of audit findings. NRCS stated it tailored its strategy to include goals, objectives, and strategic initiatives to meet NRCS needs, GAO’s internal control standards, and OMB Circular No. A-123. NRCS also stated it used a cross-functional team and “Continuous Process Improvement tools” in the development of this integrated compliance strategy. The methodology was built on three key principles: (1) “The plan must address current and future needs of the Agency,” (2) “Planning is an integrated, iterative and evolving process,” and (3) “Compliance occurs at many levels: Department level, Agency level, State level, etc.” However, absent from the strategy is any specific NRCS initiative to coordinate with other agencies to achieve its goals.

NRCS’ more compulsory and conscientious use of other agencies’ data, such as FSA data, can provide a higher level of assurance that CSP is being carried out as intended, ensure records are consistent across all USDA programs, and create efficiencies in identifying potential improper payments. Recommendations that NRCS use specific FSA records to verify CSP participant-reported agricultural delineations and payment shares are included in Findings 2 and 3.

We discussed with NRCS national office officials NRCS’ need to coordinate more with FSA to validate applicant information and ensure data consistency across USDA programs; however, the agency declined to provide any comments until an audit report was issued.

In its July 19, 2016, response (see Exhibit F), the agency expressed concerns with our finding. Specifically, NRCS does not agree that NRCS has not fully or effectively used FSA data to validate applicant information and ensure consistency across USDA programs. NRCS stated it utilizes extensive data and information collected by FSA in its implementation of the CSP, to include Farm Records information, subsidiary information, and business files. It also stated that “Where NRCS has deemed FSA information reliable and useful for CSP program

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<sup>38</sup> We reviewed the cropping histories for all 38 sample contracts in [REDACTED] and [REDACTED] and for 6 of the 18 sample contracts in [REDACTED]. Because we noted no exceptions in those cases, we did not review the cropping histories for the 12 remaining sample contracts in [REDACTED].

<sup>39</sup> 440-CPM, Part 508, Section 508.76C(1), dated November 2011.

implementation, NRCS has utilized such information.” NRCS believes that OIG’s recommendations appear to represent familiarity and an unwarranted preference for FSA forms and that OIG is fixated upon the detailed nature of the FSA-578 (Report of Acreage). According to NRCS, the FSA-578 is self-certified and not as reliable or valid as the information that NRCS obtains through its current procedures. NRCS stated that most information on the FSA-578 is of no practical use for NRCS purposes and that NRCS will not mandate that CSP applicants file an FSA-578 in order to participate in CSP.

OIG agrees that, since the issuance of our June 2009 Conservation Security Program audit report,<sup>40</sup> NRCS has improved its processes to coordinate with and use the data of FSA to validate information provided by applicants. OIG acknowledges that NRCS uses FSA Farm Records information, subsidiary information, and business files in NRCS’ administration of CSP. However, OIG believes the audit results and findings support that NRCS did not use FSA data to the extent practicable to verify the accuracy of CSP applicant-reported information and ensure consistency across USDA programs. For example, NRCS specifically did not use, and in its response again articulates its reluctance to use, the FSA-578 (Report of Acreage). It is not OIG’s intention to make FSA data the absolute in NRCS’ administration of CSP, but for NRCS to use FSA data to validate and supplement information provided to NRCS by CSP applicants. OIG does not suggest that NRCS should require CSP applicants to file an FSA-578 (Report of Acreage) in order to participate in CSP, but that NRCS use Reports of Acreage already available in FSA’s Crop Acreage Reporting System to validate applicant information.

## **Recommendation 1**

Incorporate in NRCS’ compliance strategy ongoing, specific, and concerted collaboration with other USDA agencies on at least an annual basis to identify common information used by the agencies in the administration of their programs. Also, develop an NRCS compliance strategy that integrates and capitalizes upon such information to improve program efficiency, compliance, and integrity.

## **Agency Response**

In its July 19, 2016, response, NRCS agreed with this recommendation. Specifically, NRCS stated that continued agency collaboration will help NRCS and FSA better serve customers and develop policy to address each agency’s needs. NRCS further stated that its program staff will meet semi-annually with FSA staff on matters of mutual interest in program delivery. Completion of this action is ongoing.

## **OIG Position**

We do not accept management decision for this recommendation. While we agree with NRCS’ planned corrective actions, NRCS did not clearly indicate that it will incorporate the provisions

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<sup>40</sup> Audit Report 10601-0004-KC, *NRCS Conservation Security Program*, issued June 2009.

of Recommendation 1 in its compliance strategy. In order to reach management decision, NRCS needs to provide estimated completion dates along with documentation that the compliance strategy will be updated to include on-going collaboration with other USDA agencies, such as FSA.

## **Recommendation 2**

Update the current and future *Memoranda of Agreement Between NRCS, FSA, and CCC For the Implementation of Common Provisions, Including Payment Eligibility and Payment Limitation Provisions* specifically to provide that FSA will make available and allow secure access by NRCS software applications via web-services to the current data on all program participants, including information recorded in CARS as developed under regulations pertaining to FSA.

## **Agency Response**

In its July 19, 2016, response, NRCS agreed with updating the Memorandum of Agreement if it is outdated. However, NRCS stated that it does not agree with updating the agreement just to request access to MIDAS<sup>41</sup> or information in CARS that is not currently available to NRCS, especially since this information is collected only for FSA programs. NRCS further stated that it does not feel the use of forms such as the FSA-578 is appropriate to make NRCS program eligibility determinations and it outlined several reasons for that position. NRCS also stated that employees have access to farm and producer information contained in the Producer Farm Data Report, Farm Operating Plan for Payment Eligibility, and FSA-156EZ. It did state, however, that in the event discrepancies are found, NRCS will investigate and coordinate with FSA to obtain other information, including the crop acreage report, but only if needed. The estimated completion date is September 30, 2016.

## **OIG Position**

We do not accept management decision for this recommendation. As discussed in Finding 1 and detailed in Finding 2, we believe that the FSA-578s (Reports of Acreage) may be used to verify information reported by CSP participants and that NRCS needs access to the Reports of Acreage information in CARS. In order to reach management decision, NRCS needs to agree to update the current Memorandum of Agreement between NRCS, FSA, and CCC as stated in Recommendation 2 and provide an estimated completion date. This agreement will ensure that NRCS has immediate access to other available participant information as needed.

## **Recommendation 3**

To improve the interoperability of data and ensure that reliable and timely information is obtained, maintained, reported, and used for decision making affecting USDA programs, implement policy and procedures requiring NRCS personnel at all levels to communicate to

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<sup>41</sup> MIDAS is the acronym for FSA's program to Modernize and Innovate the Delivery of Agricultural Systems (MIDAS).

other USDA agencies participant-reported information identified as inconsistent between agencies.

## **Agency Response**

In its July 19, 2016, response, NRCS stated that this recommendation can be addressed as part of its compliance strategy and collaboration with other agencies discussed in Recommendation 1. Completion of this action is ongoing.

## **OIG Position**

We do not accept management decision for this recommendation. While NRCS' response to Recommendation 1 addressed on-going collaboration with FSA, NRCS did not specifically respond to Recommendation 3 as it pertains to NRCS personnel at all levels communicating inconsistent participant-reported information to other agencies. In order to reach management decision, NRCS needs to develop and implement specific policies and procedures requiring its employees at all levels to timely communicate inconsistencies in participant-reported information to other USDA agencies, and not only during semi-annual or annual collaboration meetings. NRCS also needs to provide the date that these policies and procedures will be implemented.

## **Recommendation 4**

Implement a control requiring district conservationists to use FSA Reports of Acreage to verify and document compliance with the program's statutory cropping history requirement.

## **Agency Response**

In its July 19, 2016, response, NRCS stated that it rejects this recommendation for CSP. It also stated that based on the draft audit report, the auditors did not identify any contracts where the cropping-history requirement was not met. It further stated that there may be NRCS participants who do not participate with FSA and would not file an FSA Report of Acreage.

NRCS further stated that the regulations do not require the use of FSA records to determine or document cropping history and NRCS field offices may use other sources of information to make this determination of ineligible land; for example, historical aerial photography, crop records supplied by the applicant, historical knowledge of the farm operation, etc. Requiring a specific FSA form would limit participation to only those applicants who participate in both FSA and NRCS programs.

Therefore, NRCS stated that it will clarify in the CSP policy manual the sources of information available to NRCS field employees to determine and document cropping history, but will not mandate that CSP applicants file an FSA Report for Acreage in order to participate in CSP. The estimated completion date is September 30, 2016.

## **OIG Position**

We do not accept management decision for this recommendation. NRCS disagreed with using the Reports of Acreage and its response does not clearly describe a hierarchy for the use of the alternative sources of information that NRCS proposes to use. In addition, NRCS' response does not clearly state how the policy manual will be revised to require district conservationists to verify and document compliance with the program's statutory cropping history requirement. To reach management decision, NRCS needs to specifically detail the controls it will put in place to verify and document the participants' compliance with the program's statutory cropping history requirement. In addition, NRCS needs to provide the date that these controls will be in place.

## **Section 2: Controls were not Adequate to Detect Erroneous Participant-Reported CSP Information**

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We found that NRCS did not implement adequate internal controls to ensure the accuracy of participant-reported and -certified information. Specifically, data on file with FSA were not used by NRCS to the extent practicable to verify or determine the accuracy of agricultural operation delineations and payment shares reported and certified to NRCS by participants for CSP purposes. Using FSA records, we identified errors or inconsistencies in participant-reported and -certified information on 40 of the 59 contracts to which we took exception.<sup>42</sup> These errors involved ineligible participants receiving CSP contracts and eligible participants receiving excessive program payments.

The following findings discuss these errors and the contributing internal control deficiencies in detail.

### **Finding 2: Agricultural Operations Were Inconsistently Delineated**

We found that applicants' delineations of their agricultural operations were not consistent with FSA records for 11 CSP contracts in two States.<sup>43</sup> Inconsistent delineations of agricultural operations were noted in three scenarios: (1) applicants' reported agricultural operations were not substantially separate from other operations, (2) applicants did not have control of land at the time they entered into the CSP contract or lost control of land during the contract period, and (3) applicants did not include all eligible land on their agricultural operations in the CSP contract. The inconsistent delineations went undetected by NRCS because its policy did not require conservationists to verify the delineations to FSA Reports of Acreage and Farm Operating Plans. We questioned total estimated costs of about \$2.7 million for the 11 contracts with inconsistencies in applicant-reported information (see Exhibit D).

By regulation, agricultural operation means all land under the effective control<sup>44</sup> of the applicant and operated by the applicant with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations.<sup>45</sup> A contract application must include all of the eligible land on an applicant's agricultural operation, except for nonindustrial private forestland.<sup>46</sup> Regulations also require that the participant agrees to notify NRCS within 60 days of the transfer of interest to an eligible transferee who accepts the contract's terms and conditions, or the contract will be terminated.<sup>47</sup>

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<sup>42</sup> We reviewed a total of 115 contracts, in whole or in part (see Scope and Methodology).

<sup>43</sup> Contracts ■ through ■.

<sup>44</sup> *Effective control* is defined as the possession of the land by ownership, written lease, or other legal agreement and authority to act as decision maker for the day-to-day management of the operation both at the time the applicant enters into a stewardship contract and for the required period of the contract.

<sup>45</sup> Title 7, *Code of Federal Regulations*, Part 1470.3 (7 CFR 1470.3) (2011 Edition).

<sup>46</sup> The applicant may submit a separate application for the nonindustrial private forestland component of the operation if they want to offer nonindustrial private forestland for funding consideration.

<sup>47</sup> 7 CFR 1470.25(d)(2)(i) (2011 Edition).

Participants who have erroneously represented any fact affecting a determination, adopted any scheme or device which tends to defeat the contract purpose, or made any fraudulent representation are not entitled to payments or benefits under the contract. Affected participants must refund all payments received, plus interest and liquidated damages. In addition, NRCS is to terminate their interest in all CSP contracts.<sup>48</sup> We reviewed applicants' delineations of agricultural operations on a total of 60 CSP contracts in [REDACTED], and [REDACTED] with 5-year estimated costs of over \$13.9 million. Of these 60 contracts, 56 were our original sample contracts and 4 contracts<sup>49</sup> were subsequently selected for limited review [REDACTED]. We noted inconsistent delineations on 11 of the 60 contracts (see Exhibit D).

As an example that touches on all three scenarios, two family members' CSP contracts in one field office illustrate that the applicants' delineations of their agricultural operations were not consistent with FSA records. Each of the family members [REDACTED]

Our review of FSA records found that the family member [REDACTED]

In fact, FSA Reports of Acreage and Farm Operating Plans show [REDACTED]

During separate interviews, the family members each stated that [REDACTED]. They further stated that the family member [REDACTED]. Based on this information and FSA records, [REDACTED]. We discussed these contracts with NRCS State office personnel. After much discussion, they agreed that, based on the FSA Reports of Acreage and Farm Operating Plans (or lack thereof), the family members [REDACTED]

In this instance, the family members' CSP contracts had 5-year estimated contract costs totaling [REDACTED]. If NRCS had relied upon FSA Reports of Acreage and Farm Operating Plans to delineate the agricultural operation, the family members [REDACTED] with 5-year estimated contract costs not to exceed [REDACTED] less than the two contracts).

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<sup>48</sup> 7 CFR 1470.36 (2011 Edition).

<sup>49</sup> Contracts [REDACTED], and [REDACTED]

<sup>50</sup> Contracts [REDACTED] through [REDACTED].

<sup>51</sup> There were a total of 17 inconsistent delineations on the 11 CSP contracts. Seven contracts contained issues pertaining to control of land, five contracts contained issues as to whether all eligible land was being enrolled on the CSP contract, and five contracts contained issues as to whether reported operations were substantially separate from other agricultural operations.

We found a similar situation involving three family members (Contracts [REDACTED] and [REDACTED]). As with the situation described above, the family members presented themselves as three separate operations. However, based on our review of the FSA Reports of Acreage and Farm Operating Plans and discussions with the applicants, we concluded this was actually one operation. For example, [REDACTED]

[REDACTED] These three contracts had a 5-year estimated cost of [REDACTED] however, if the applicants had been limited to one contract, the contract would have been limited to [REDACTED] for the 5-year contract period, a difference of [REDACTED].<sup>52</sup> NRCS State office personnel agreed that, based on the FSA Reports of Acreage and Farm Operating Plans (or lack thereof), the operations on the three contracts did not appear to be substantially separate. NRCS State office personnel agreed to look into all five of these contracts to determine whether they qualified to be treated as separate contracts, but declined to take action until this audit report was issued.

The remaining six CSP contracts (Contracts [REDACTED], and [REDACTED]) included instances similar to those listed above where the participants' delineations of their agricultural operations were not consistent with FSA records, but touched on only the second and third scenarios. That is, in these six cases the applicants either lost control of the land or did not include all eligible land on their contracts (see Exhibit D for details on the scenario(s) applicable to each of the contracts).

In addition to the issues above, we also noted the following concerns pertaining to delineations of agricultural operations:

- During our entrance conference with the [REDACTED] State NRCS Office, the Assistant State Conservationist for Programs said NRCS recognized it was having issues with loss of control of land in the State. As a result, the State office directed the field offices to review 100 percent of the CSP contracts for FY 2010 and forward, using FSA Reports of Acreage to determine whether applicants had effective control of the land.<sup>53</sup> NRCS' preliminary results<sup>54</sup> in [REDACTED] showed that in the three field offices we selected for review,<sup>55</sup> there were 89 CSP contracts with a loss of control of land.<sup>56</sup> The estimated annual costs of those contracts are approximately \$4.17 million, with total estimated costs of approximately \$20.9 million over the 5-year terms of the contracts.

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<sup>52</sup> In [REDACTED], Contracts [REDACTED] and [REDACTED] were canceled at the participants' requests. The participants' written requests and NRCS Conservation Program Contract Cancellation documentation show [REDACTED], as reasons for the contract cancellations.

<sup>53</sup> Generally, NRCS uses the FSA-156EZ—Abbreviated 156 Farm Record—to review control of land; however, we found that the Report of Acreage provides more detailed information.

<sup>54</sup> These preliminary results were provided to OIG on October 8, 2014.

<sup>55</sup> The [REDACTED], and [REDACTED] County NRCS Field Offices.

<sup>56</sup> NRCS identified 4 of OIG's 20 sample CSP contracts in [REDACTED] as having losses of control of land; however, we determined that 2 of the 4 contracts did not have issues with the loss of control of land. However, we did note one additional contract—not identified by the preliminary results of NRCS' 100 percent review—that involved a loss of control of land. We communicated these instances to the [REDACTED] State Office.

- During the entrance conference at one field office in 2014, the District Conservationist stated that three contracts in the county had loss of control of land. The District Conservationist further stated that the participants—related farming operations—were transferring land between themselves to better suit the farming operations’ practices and, although NRCS could cancel the contracts (for loss of control of land), the District Conservationist did not want to do that. However, the District Conservationist added that, beginning in 2014, NRCS was going to ensure that producers maintained the same land for the entire 5-year contract period and the District Conservationist was not going to approve CSP applications unless the applicants agreed to do so. We noted that, despite having informed OIG that there was a loss of control of land on the selected contracts, the District Conservationist [REDACTED] for each of the selected contracts, that the land was still under the control of the participant. These contracts should have been cancelled in accordance with NRCS policy and the CSP contracts.
- For two contracts with issues related to whether all eligible land was enrolled in the CSP contract (Contracts [REDACTED] and [REDACTED], the producers properly identified the land. However, NRCS erred by not including all the eligible land on the CSP contracts and the producers signed the contracts that excluded eligible land. NRCS agreed that errors were made on these contracts.

In a previous OIG report published in 2013,<sup>57</sup> we recommended that NRCS conduct an in-depth risk assessment of program operations to identify specific areas where NRCS should develop or improve controls. In April 2014, an NRCS contractor completed this assessment.<sup>58</sup> This report identified “land acreage changes” as the number one risk in the CSP. The report stated that NRCS field office staff are required to manually compare FSA records to CSP records in order to detect changes in land acreage. The report assigned an occurrence rating of 9 (“Failure is likely to occur”) and a detection rating of 7 (“Controls may detect the existence of a failure”).<sup>59</sup> The report recommended that NRCS automate the notice of land acreage changes to “save time and greatly improve the ability to detect and prevent risks associated with land acreage changes.”

Based on our review, along with the preliminary results of the [REDACTED] State Office’s internal review (discussed above) and the findings in the risk assessment report, we determined that loss of control of land continues to be a serious issue. In keeping with NRCS’ own internal Risk Assessment Results Report findings and analysis, NRCS must improve its ability to detect changes in land acreage for CSP purposes. Control of land is a key component of the proper delineation of agricultural operations, which in turn is critical to ensure that producers are eligible and that participants are not receiving excessive program payments. NRCS needs to take adequate measures, including the mandatory use of FSA Reports of Acreage and Farm Operating

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<sup>57</sup> Audit Report 10601-0001-22, *Natural Resources Conservation Service’s Oversight and Compliance Activities*, issued February 2013.

<sup>58</sup> USDA NRCS Risk Assessment and Integrated Compliance *Risk Assessment Results Report*, April 29, 2014.

<sup>59</sup> The occurrence rating is a numerical rating on a scale of 1, 3, or 9 that represents how often the failure mode/risk is likely to occur. The detection rating assesses the ability of the control to prevent or detect the failure mode/risk on a scale of 1 through 10, where a 10 means no ability to detect risk, and a 1 means automatic detection of risk.

Plans, to verify or determine the accuracy of information reported and certified to NRCS by participants and to ensure the integrity of the program and prevent the issuance of improper payments.

During the audit, NRCS national office officials generally agreed with the three issues noted above; however, NRCS declined to comment on our planned recommendations.

In its July 19, 2016, response (included in its entirety – see Exhibit F), NRCS expressed concerns with our finding. Specifically, NRCS rejected the proposition that it should mandate the use of particular FSA forms for delineating agricultural operations for NRCS program purposes. NRCS stated that slight differences in FSA’s and NRCS’ terminology for implementation of their programs, and these definitions, based upon their distinct statutory sources, embody the inherent reason why NRCS cannot simply rely upon FSA terminology and forms. In particular, NRCS held forth differences between NRCS’ “agricultural operation” and FSA’s “farming operation”: generally, an agricultural operation as set forth in the CSP statute and regulation is the land controlled and operated by the producer, and a farming operation for FSA program purposes is a business enterprise engaged in agricultural production. Furthermore, according to NRCS, while FSA information may be helpful in identifying lands that should be included in the delineation of an agricultural operation, the information displayed and the terminology used on the FSA-578 (Report of Acreage) are not consistent with the land-use terminology used by NRCS. It also stated that the Report of Acreage simply is not appropriate for program implementation other than providing incidental information that may be consulted.

OIG does not propose that NRCS use FSA forms in lieu of NRCS’ terms, technical resources, forms, and administrative controls. OIG recognizes and acknowledges differences in the agencies’ terminology and definitions, but maintains that such differences often are not insurmountable, may be reconciled, and do not negate the utility of FSA information in the administration of CSP. For instance, using NRCS’ particular example, an NRCS agricultural operation is required to be (1) under the effective control of a producer at the time of enrollment in the program, and (2) operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations. As previously stated in the report, “effective control” means possession of the land by ownership, written lease, or other legal agreement and authority to act as a decision maker for the day-to-day management of the operation both at the time the applicant enters into a stewardship contract and for the required period of the contract. The FSA Farm Operating Plan includes information on the sources and contribution levels of certain inputs to the farming operation, including land, equipment, labor, and management—all elements of NRCS’ agricultural operation delineations. The Farm Operating Plan also describes all land in the farming operation, to include owned land as well as land leased to or leased from other persons or entities. OIG believes much of the information on the Farm Operating Plan lends itself to helping verify the accuracy of a CSP applicant’s agricultural operation delineation.

With regard to NRCS’ concerns about the utility of information on the Report of Acreage, OIG offers that the information may also be used to verify an applicant’s agricultural operation delineation. For example, NRCS’ response to this finding states that the most common circumstances where NRCS State Conservationists may consider a waiver of the Operator-of-

Record requirement are where there are multiple people conducting operations on the same farm; this is because FSA identifies only one person as the Operator of Record at the farm level, even if different people are doing the farming at lower levels, such as the field or tract level. OIG notes that the Report of Acreage for a farm includes field-level information about the crop or land use and producers' shares. OIG believes this information may be used to verify which producer(s) operate the land and share a risk in the crop.

It is not OIG's intent that NRCS should mandate the use of particular FSA forms to delineate agricultural operations for NRCS program purposes. We simply recommend that NRCS utilize existing FSA data to independently verify information reported and certified to NRCS by applicants/participants for CSP purposes. OIG believes the audit results and finding support that NRCS can better utilize data on file with FSA to verify or determine the accuracy of agricultural operation delineations. NRCS itself acknowledged in its response that FSA information may be helpful in identifying lands that should be included in the delineation of an agricultural operation.

## **Recommendation 5**

For the five contracts in which the agricultural operations were not substantially separate from other agricultural operations, require the State Conservationist to (1) coordinate with FSA to determine the proper delineation and (2) determine if the participants engaged in any misrepresentation, scheme, or device for CSP purposes. If the State Conservationist determines the participants engaged in misrepresentation, scheme, or device, terminate the participants' interests in all CSP contracts and determine whether there is cause for consideration of suspension and debarment for the participants. If participants did not engage in misrepresentation, scheme, or device, modify or terminate the contract and deobligate funds, as appropriate.

## **Agency Response**

In its July 19, 2016, NRCS stated that it will review the five contracts identified by OIG and determine whether NRCS correctly delineated the agricultural operation based upon NRCS policies and procedures. If such policies and procedures were not correctly applied, or if misrepresentation by the participants resulted in an incorrect delineation, NRCS will take the appropriate contract administration actions as identified by OIG. The estimated completion date is September 30, 2017.

## **OIG Position**

We do not accept management decision for this recommendation. While we agree with NRCS' proposed actions, NRCS did not specifically agree to coordinate with FSA to determine the proper delineations. In order to reach management decision, NRCS needs to describe how it will coordinate with FSA when determining the proper delineations for these agricultural operations and update its estimated completion date as necessary.

## **Recommendation 6**

For the remaining six contracts in which the agricultural operations were inconsistently delineated, direct the [REDACTED] and [REDACTED] State Conservationists to modify and/or terminate the contracts and to deobligate funds, as appropriate.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that it will review the remaining six contracts identified by OIG and determine whether the agricultural operation was delineated correctly based upon NRCS policies and procedures. If such policies and procedures were not correctly applied, or if misrepresentation by the participants resulted in an incorrect delineation, NRCS will take the appropriate contract administration actions as identified by OIG, including the actions identified under Recommendation 7 if needed. The estimated completion date is September 30, 2017.

### **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 7**

Direct the [REDACTED] and [REDACTED] State Conservationists to recover any overpayments and liquidated damages resulting from the modifications or terminations of the contracts on which the participant(s) inconsistently delineated their agricultural operations.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that it will review the remaining six contracts identified by OIG and determine whether the agricultural operation was delineated correctly based upon NRCS policies and procedures. It also agreed to take appropriate contract administration actions as identified by OIG, if needed. (Also see NRCS' response to Recommendation 6.) The estimated completion date is September 30, 2017.

### **OIG Position**

We do not accept management decision for this recommendation. While we agree with NRCS' planned corrective actions, we are unable to accept management decision for this recommendation until NRCS provides evidence of collection or copies of the bills for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records. For monetary amounts for which NRCS determines recovery will not be made, NRCS needs to provide a justifiable basis for the nonrecovery.

## **Recommendation 8**

Require CSP applicants to complete and file a Farm Operating Plan to collect information about the agricultural operation, to include information on the sources and contribution levels of certain inputs to the operation such as land, capital, equipment, labor, and management.

### **Agency Response**

In its July 19, 2016, response, NRCS stated, in part, that it gets the information it needs from the FSA-156EZ for most situations at the level of detail that is needed to implement NRCS programs. It further stated that only when NRCS is working with “other operator” situations, like in a waiver, would NRCS need to potentially go to the FSA-902, Farm Operating Plan. NRCS also stated that the Farm Operating Plan is only going to be on file for FSA participants and NRCS does not need to require its applicants to file a form that they otherwise would not be required to file.

In addition, NRCS stated that it has incorporated into ProTracts a “Farm Operated” button which links directly to FSA records and identifies the farms where FSA determines the applicant or participant as the operator. It further stated that in response to OIG’s concerns it will develop a user prompt in ProTracts that will remind the user to review operator and land control status prior to contract modifications and payment certifications. The estimated completion date is September 30, 2016.

### **OIG Position**

We do not accept management decision for this recommendation. NRCS stated that the “Farm Operated” button in ProTracts identifies the farms where FSA determines the applicant or participant as operator. However, as stated in the finding, the “operator” shown in FSA’s farm records does not clearly show whether the land was operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations. In order to reach management decision, NRCS needs to explain the controls it will develop and implement to collect information about the agricultural operation, including the sources and contribution levels of inputs to the operation such as equipment, labor, and management. It also needs to explain how this information will be documented and an estimated completion date for these actions.

## **Recommendation 9**

Implement controls requiring the use of FSA Reports of Acreage and Farm Operating Plans to ensure CSP applicants’ delineations of agricultural operations are accurate and consistent across USDA programs. Specifically require use of the Reports of Acreage and Farm Operating Plans to document the total acres in an applicant’s agricultural operation and to document and reconcile acreage differences and omissions between FSA records and CSP contract applications. Also, require the use of the FSA data to verify CSP applicants’ self-certifications regarding control of land at the time they enter into a contract and for the 5-year contract period;

enrollment of all eligible land; and operation of the land with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations.

## **Agency Response**

In its July 19, 2016, response, NRCS stated that it strongly objects to the adoption of this recommendation. It stated that NRCS uses more reliable forms and procedures for delineating agricultural operations for NRCS program purposes, including conducting on-site verification of information on every preapproved application.

Therefore, NRCS stated that it will review its CSP manual and provide clarification about the sources of information that may be available to assist with implementing CSP program requirements, but will not mandate the use of forms that have been determined to be of inconsistent accuracy or utility in CSP implementation. The estimated completion date is September 30, 2016.

## **OIG Position**

We do not accept management decision for this recommendation. NRCS disagreed with the use of the Report of Acreage and Farm Operating Plan to ensure that CSP participants' delineations of agricultural operations are accurate and consistent. NRCS stated that it uses other forms and procedures, including on-site verifications, for delineating agricultural operations. OIG noted that NRCS' on-site verifications are used to substantiate the accuracy of the conservation activity and production system information of the applicant provided during the application process. However, the on-site verifications do not specifically examine each of the elements of agricultural operation delineation (i.e., control of land, enrollment of all eligible land, and substantially separate operation of land). To reach management decision NRCS needs to specifically explain the controls it will put in place and the documents it will review to verify the accuracy and consistency of applicant information across USDA programs. NRCS also needs to explain how it will verify the applicants' self-certification regarding control of land at the time they enter into a contract and for the 5-year period, enrollment of all eligible land, and operation of the land with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations. It also needs to provide a date that these controls will be in place.

## **Recommendation 10**

Implement uniform processes for field offices to conduct second party reviews to ensure NRCS enters into each contract all eligible land in the applicant's agricultural operation.

## **Agency Response**

In its July 19, 2016, response, NRCS disagreed that a second-level review should be required for all agricultural delineations. NRCS field verification resolves many issues regarding agricultural delineations, but a complete second-level review will require significantly greater resources that are not available. Many field offices only have one person. NRCS believes that quality

assurance reviews and proper training will ensure that agricultural delineations are appropriately made.

Therefore, NRCS stated that it will ensure that each State has conducted appropriate field training on the delineation of agricultural operations in conjunction with its rollout of the reinvented CSP, and that quality assurance reviews will include a review of the delineation of the agricultural operation. The estimated completion date is December 31, 2016.

## **OIG Position**

We do not accept management decision for this recommendation. NRCS stated that field verifications resolve many issues regarding agricultural delineations. However, OIG noted that field verifications are used to substantiate the accuracy of the conservation activity and production system information the applicant provided during the application process, but do not specifically include processes to verify that all eligible land of the agricultural operation has been enrolled in the CSP contract. NRCS also stated that it will ensure that each State has conducted appropriate field training on the delineation of agricultural operations in conjunction with its rollout of the reinvented CSP, and that quality assurance reviews will include a review of the delineation of the agricultural operation. OIG notes that NRCS already has procedures in place to document the applicant's agricultural operation as well as land that was not included as part of the operation.

While we agree with NRCS' proposed actions, in order to reach management decision, NRCS specifically needs to include in the quality assurance review procedures a reconciliation of all land in the agricultural operation to the land entered into the contract and to the land determined to be ineligible. This reconciliation will help ensure that NRCS enters into each contract all eligible land in the applicant's agricultural operation. NRCS needs to provide a date for implementing this process.

## **Recommendation 11**

Direct the [REDACTED] State NRCS Office to review NRCS employees' actions on loss of control of land. Take appropriate personnel action to hold NRCS employees accountable who bypassed applicable regulations.

## **Agency Response**

In its July 19, 2016, response, NRCS stated that the NRCS Regional Conservationist will direct the [REDACTED] State Office to review NRCS employees' action on loss of control of land, and take appropriate personnel action to address any intentional violation of applicable regulations. The estimated completion date is December 31, 2016.

## **OIG Position**

We accept management decision for this recommendation.

### **Finding 3: Participants May Manipulate Payment Shares to Avoid Payment Limitation**

Participants claimed CSP contract payment shares that were not consistent with their shares of the agricultural operations shown in FSA records.<sup>60</sup> This occurred because NRCS did not require participants' CSP payment shares to be consistent with the participants' shares of the agricultural operation reported to FSA. As a result, applicants may avoid payment limitation reductions by shifting CSP contract payment shares between multiple participants, thereby unnecessarily increasing the cost of the program. We questioned payment shares on 29 contracts with 5-year estimated costs of more than \$4.4 million (see Exhibit D).

Each CSP contract with a person or legal entity is limited to \$40,000 per fiscal year and \$200,000 over the initial (5-year) contract period. A contract with a joint operation (general partnership or joint venture) with an Employer Identification Number is limited to \$80,000 per fiscal year and \$400,000 over the initial contract period. In addition, a person or legal entity may not receive, directly or indirectly, payments that, in the aggregate, exceed \$40,000 during any fiscal year for all CSP contracts entered into, or \$200,000 for all CSP contracts entered into during any 5 fiscal year period.<sup>61</sup> Provisions for applicant eligibility require that producers provide a list of all members of the legal entity and joint operation, along with the members' percentage of interest (member shares) in the joint operation or legal entity.<sup>62</sup>

Regulations provide that participants who have erroneously represented any fact affecting a determination, adopted any scheme or device which tends to defeat the contract purpose, or made any fraudulent representation are not entitled to payments or benefits under the contract. Affected participants must refund all payments received plus interest and liquidated damages. In addition, NRCS is to terminate their interest in all CSP contracts.<sup>63</sup>

During the audit, we found that some CSP contracts had multiple participants and NRCS did not require participants' payment shares to be commensurate with their percentage interests in the agricultural operations. Using NRCS national office ProTracts data as of October 25, 2013, we identified 63 multi-participant contracts with total estimated costs of nearly \$8.5 million in the 9 sample counties.<sup>64</sup> We reviewed FSA member shares for the applicants on each of the 63 contracts, and found that for 13 of the contracts the applicant was an informal joint venture with zero payment shares and the payment shares for the other participants on the contracts were consistent with their members' shares of the joint ventures.<sup>65</sup> For the remaining 50 contracts,

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<sup>60</sup> FSA member shares are used by FSA to determine the ownership interest of entities for payment limitation purposes. Producer shares shown on FSA Reports of Acreage reflect percentage interests in the crops.

<sup>61</sup> 7 CFR 1470.24(g) and (h) (2011 Edition) and 440-CPM, Part 508, Section 508.96B(2), dated November 2011.

<sup>62</sup> 7 CFR 1470.6(a)(5) (2011 Edition).

<sup>63</sup> 7 CFR 1470.36 (2011 Edition).

<sup>64</sup> These 63 contracts included 8 sample contracts (Contracts [REDACTED], and [REDACTED] and 55 additional contracts. For purposes of this report, a "sample contract" is one of the original selected 56 contracts that were reviewed in whole, not a contract that was reviewed in part.

<sup>65</sup> An *informal joint venture* is a business enterprise that represents itself as a joint operation but does not have an Employer Identification Number. An informal joint venture may be an applicant but may not receive payments.

however, either the payment shares were not consistent with the members' shares of the applicant, the participants were not listed as members of the applicant, or the applicant was an individual. (We considered the applicant to be the "decision maker" recorded in ProTracts for the contract).<sup>66</sup> Although policy allows that a contract may be entered into with one or more participants having control of a land unit for the contract period,<sup>67</sup> NRCS did not require participants to explain the bases for their payment shares. We concluded that, in the absence of any requirement that participants' payment shares be commensurate with their percentage interests in the agricultural operation, participants may manipulate payment shares to avoid payment limitation.

During the audit, we discussed our payment share concerns with NRCS national office officials and presented our preliminary review results of the 63 multi-participant contracts for the 9 sample counties. We generally recommended that for contracts with multiple participants, NRCS document both (1) explanations of the bases for the percentage payment shares, and (2) NRCS' determinations whether each participant's payment share is commensurate with the participant's interest in the agricultural operation. NRCS officials agreed that they would consider OIG's recommendations as NRCS updated its CSP manual (440-CPM, Part 508). Further, for the 63 multi-participant contracts, NRCS determined it would summarize which payment shares were or were not within policy.

NRCS reviewed the 63 contracts with multiple participants and presented a summary that included comments for each of the listed contracts, prefaced with a note that "This review did not include comparison with FSA records for payment share distributions." We found that several of NRCS' comments did not indicate whether the payment shares were "within policy," but reiterated that there were multiple participants on the contracts and annotated that "State [office personnel] can verify FSA records if needed." NRCS also stated that some of the contracts listed "zero" payment shares either for landowners whose signatures on the contract were used to indicate concurrence to apply structural or vegetative practices or for transferors in "contract post transfer modifications."<sup>68</sup>

After reviewing NRCS' summary, we took another look at the 63 contracts and identified 19 contracts in which the applicants claimed 100 percent of the payment shares and the other participants claimed zero payment shares. We concluded that for those 19 contracts, the applicants would have received 100 percent of the payments. Therefore, we did not take exception to the 19 contracts based upon the payment shares. Coupled with the 13 informal joint ventures' contracts for which we previously determined payment shares were consistent with the

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Members are paid directly under their individual identification numbers. See 440-CPM, Part 512 (Conservation Program Contracting), Section 512.21B(1)(iv), dated March 2012.

<sup>66</sup> 7 CFR 1470.3 (2011 Edition) definitions of "agricultural operation" and "effective control" require, in part, that the applicant must have the authority to act as decision maker for the day-to-day management of the operation.

<sup>67</sup> 440-CPM, Part 512, Section 512.22A, dated March 2012.

<sup>68</sup> If all of the land under contract is transferred, the transferee is added as a participant to the new contract and contract shares are adjusted to reflect the correct distribution of remaining payments. This requires the transferor to have a zero payment share. See also 440-CPM, Part 512, Sections 512.54D(i) and (iv), dated March 2012.

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members' shares of the joint ventures, we determined that 32 of the 63 multi-participant contracts required no further review. However, for the 31 remaining contracts, which included sample contracts [REDACTED], and [REDACTED], the participants' CSP payment shares were not consistent with reported members' shares of the agricultural operations. For two of the three sample contracts, Contracts [REDACTED] and [REDACTED], we reviewed the applicants' FSA Reports of Acreage and Farm Operating Plans and determined that the CSP payment shares approximated the participants' shares of the agricultural operations. We therefore took no exception to Contracts [REDACTED] and [REDACTED]. However, for the third sample contract (Contract [REDACTED]), we determined the participants had revised the payment shares in order to avoid CSP payment limitation. Details follow:

One individual, was shown as the applicant on two CSP contracts (Contracts [REDACTED] and [REDACTED]. On Contract [REDACTED], the individual [REDACTED]

[REDACTED] On Contract [REDACTED], the individual [REDACTED]

The FSA Farm Operating Plan showed that the individual [REDACTED]

The District Conservationist stated that NRCS does not review FSA members' shares; it relies on the participants' certifications. The District Conservationist further stated that the participants probably shifted payment shares because the individual had already reached the payment limitation on another contract (Contract [REDACTED]). The individual confirmed that both participants (on Contracts [REDACTED] and [REDACTED] were aware of the payment limitation and had shifted the shares because of this limit.

We spoke with the applicable Assistant State Conservationist for Programs, who stated that CSP provisions do not require participants' CSP payment shares be consistent with member shares reported to FSA—adding that NRCS allows producers to designate the payment shares for the CSP contract during sign-up. We also confirmed this with NRCS officials at the national office.

If NRCS had controls in place to ensure the participants' payment shares on Contract [REDACTED] were consistent with their member shares of the agricultural operation, payments on Contract [REDACTED] would have been limited to 50 percent of the payment.

For the remaining 28 contracts, we determined that additional information, specifically FSA records, was needed to verify whether participants' shares were consistent with their agricultural operations.

As previously reported, consistency between producer reporting to USDA agencies—e.g., FSA and NRCS—is imperative to ensure the integrity of USDA programs. In June 2015, NRCS amended the CSP Manual to state, in part, that:

The State Conservationist must ensure “other producers” included in the contract application meet program eligibility requirements before approving an application for funding or a contract modification to adjust payment shares. Payment share distribution must be consistent with the commensurate shares of the operation. NRCS may deny

program eligibility to such “other producers” if their inclusion for a receipt of a share of the CSP payment is to avoid payment limitations.

While this is a positive step, NRCS still must incorporate into its guidance procedures specifically requiring the use of FSA records—Farm Operating Plans and Reports of Acreage—to ensure CSP payment shares are consistent with the participants’ interests in the agricultural operations.

## **Recommendation 12**

Implement a control requiring NRCS field offices to verify and document that participants’ claimed CSP payment shares are consistent with the participants’ member shares of the agricultural operation.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that it has already addressed the issue of manipulation of payment shares through more recent policy guidance. In particular, the CSP manual now clarifies that other participants (besides the Operator of Record), which are added to a contract must meet applicant eligibility requirements before the application is approved for funding or there is a contract modification adjusting payment shares. This policy specifically requires payment share distribution to be consistent with the commensurate shares of the operation.

Additionally, NRCS will strengthen policy and provide additional training to NRCS personnel for awareness of all the tools and resources available to them to validate payment shares of the agricultural operation. The estimated completion date is September 30, 2016.

### **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 13**

For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, require the State Conservationist to determine if the participants engaged in any misrepresentation, scheme, or device to avoid payment limitation.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that it will investigate the remaining 29 contracts listed on the report. However, additional information is needed to verify whether the participants’ shares were not consistent with their agricultural operations. It will take administrative actions to address misrepresentation, scheme, or device to avoid payment limitations. In addition, the contracts will be adjusted or terminated as needed, and recovery of

funds and liquidated damages may be assessed. The estimated completion date is September 30, 2017.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 14**

For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, if the State Conservationist determines the participants engaged in any misrepresentation, scheme, or device to avoid payment limitation, terminate the participants' interests in all CSP contracts and deobligate funds, as appropriate. Also, determine whether there is cause for consideration of suspension and debarment for the participants.

### **Agency Response**

In its July 19, 2016, response, NRCS agreed with the recommendation and stated that it will investigate the remaining 29 contracts, obtain additional information if necessary to verify whether the participants' shares were not consistent with their agricultural operations, and take appropriate administrative actions (see response to Recommendation 13). The estimated completion date is September 30, 2017.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 15**

For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, if the State Conservationist determines the participants did not engage in any misrepresentation, scheme, or device to avoid payment limitation, make operational adjustments to the contract and deobligate funds, as appropriate.

### **Agency Response**

In its July 19, 2016, response, NRCS agreed with the recommendation and stated that it will investigate the remaining 29 contracts, obtain additional information if necessary to verify whether the participants' shares were not consistent with their agricultural operations, and take appropriate administrative actions (see response to Recommendation 13). The estimated completion date is September 30, 2017.

### **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 16**

For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, recover any overpayments and liquidated damages resulting from operational adjustments to, or termination of, the contracts. For any cases in which the State Conservationist determines the participants engaged in any misrepresentation, scheme, or device, recover any overpayments and liquidated damages resulting from termination of the participants' interests in all other CSP contracts.

### **Agency Response**

In its July 19, 2016, response, NRCS agreed with the recommendation and stated that it will investigate the remaining 29 contracts, obtain additional information if necessary to verify whether the participants' shares were not consistent with their agricultural operations, and take appropriate administrative actions (see response to Recommendation 13). In addition, it stated that contracts will be adjusted or terminated as needed, and recovery of funds and liquidated damages may be assessed. The estimated completion date is September 30, 2017.

### **OIG Position**

We do not accept management decision for this recommendation. While we agree with NRCS' planned corrective actions, we are unable to accept management decision for this recommendation until NRCS provides evidence of collection or copies of the bills for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records. For monetary amounts for which NRCS determines recovery will not be made, NRCS needs to provide a justifiable basis for the nonrecovery.

## Section 3: Inadequate Controls Over Contracting for and Documenting Implementation of Conservation Enhancements

### Finding 4: NRCS Contracted for Incompatible Conservation Enhancements

NRCS officials in ██████ did not use “Enhancements Not Compatible” lists prescribed by NRCS National Bulletins to ensure that incompatible enhancements<sup>69</sup> were not occupying the same space. This occurred because field office personnel were not aware of the requirements and/or chose to rely upon their technical expertise in lieu of adhering to the National Bulletins and there was no control in place to ensure field offices applied the “Enhancements Not Compatible” lists. Therefore, contracts may include incompatible enhancements on the same location, thus creating the potential for overlapping or duplication of (conservation) benefits, the potential for improper payments, and reduced assurance that CSP is being delivered with consistent quality. We identified incompatible practices on 15 contracts and questioned the corresponding 5-year estimated costs totaling over \$4.2 million.

Within program land-use designations, there is potential for contracting overlapping enhancement to enhancement for the same conservation benefit, leading to program internal overlap of payments. To prevent such overlapping, NRCS developed “Enhancements Not Compatible” lists that present matrices of incompatible enhancements. For example, for 2011, Animal Enhancement Activities ANM01, “Drainage water management for seasonal wildlife habitat,” and ANM02, “Defer crop production on temporary and seasonal wetlands,” were listed as not compatible. The following table shows NRCS’ descriptions and benefits of the two enhancements.

	Enhancement ANM01	Enhancement ANM02
Description	This enhancement consists of managing soil and/or surface water levels during the off season in order to provide seasonal wildlife habitat.	Deferring crop production on temporary and/or seasonal wetlands until after spring migratory bird season to promote early successional wetland habitat.
Benefits	This enhancement provides food, cover and resting areas for wildlife, especially waterfowl during their migration.	Undisturbed temporary and seasonal wetlands provide cover and food for waterfowl, shorebirds, and other wetland-dependent wildlife species. Delaying the physical disturbance of temporary and seasonal wetlands allows migratory species to reach nesting grounds in better physical condition and improves hatching success.

<sup>69</sup> *Enhancements* are conservation activities used to treat natural resources and improve conservation performance. Incompatible enhancements, for example, would duplicate enhancements by providing the same benefit on the same land.

NRCS National Bulletins provide the “Enhancements Not Compatible” lists that field offices must use to prevent incompatible enhancements from occupying the same space. States are required to use the lists when processing CSP applications prior to contract obligation.<sup>70</sup>

We found that 15 of the 20 sample contracts in the 3 selected [REDACTED] field offices included, or may have included, incompatible enhancements that occupied the same space. For 8 of the 15 contracts,<sup>71</sup> the producer was required to implement the incompatible enhancements on 100 percent of the enrolled acreage each year of the contract, showing incompatible enhancements that occupied the same space. The other seven contracts contained incompatible enhancements on only portions of the total enrolled acreage, and the contract files did not specify where the enhancements were to be implemented.<sup>72</sup> Since the specific locations of the enhancements were not identified, we were unable to determine whether the incompatible enhancements occupied the same space. Using the previous example, a producer may implement both drainage water management for seasonal wildlife habitat (ANM01) and deferred crop production on temporary and seasonal wetlands (ANM02) under a contract, but on different acres.

An NRCS national office official confirmed our understanding of incompatible practices and how to utilize the “Enhancements Not Compatible” lists during our review. [REDACTED] State Office officials confirmed the issue with the use of incompatible practices as well, adding that they are looking at ways to make sure field staff are following the guidance that is sent out.

During our review of these contracts, we also noted—and NRCS national office officials confirmed—that the use of incompatible practices (that would have otherwise been prohibited) could inflate application ranking scores, and, subsequently, contract payments. Generally, the more conservation enhancements under contract, the higher the ranking score and contract payment.<sup>73</sup>

We did not identify incompatible enhancements on contracts we reviewed in the other two States. Also, NRCS’ Oversight and Evaluation Staff reviewed enhancement compatibility during a review of the second CSP sign-up of FY 2010.<sup>74</sup> During that review, NRCS examined 100 CSP contracts in 5 States—20 in each State, usually no more than 1 per field office—and found potential conflicts in 4 percent of the contracts with multiple enhancements.<sup>75</sup> The States reviewed by NRCS did not include any of the States reviewed by OIG during this audit.

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<sup>70</sup> National Bulletins 300-12-26 and 300-13-02, *Conservation Stewardship Program (CSP 2008) “Enhancements Not Compatible” Lists* and *“Enhancement Linkage to Practices” List*, dated March 13, 2012, and October 22, 2012, respectively. Note: there was no bulletin in FY 2011, only a FY 2011 list.

<sup>71</sup> Contracts [REDACTED], and [REDACTED].

<sup>72</sup> Contracts [REDACTED], and [REDACTED].

<sup>73</sup> The more conservation enhancements under contract, the more performance points are factored into the CSP payment. CSP payments are based on the number of acres, the number of performance points, and the payment rate which is dictated by the type of land use and whether the conservation activity is an existing or additional activity.

<sup>74</sup> The objective of this “10-2 Review” was to determine if CSP management controls were being applied to ensure uniform delivery consistent with program requirements.

<sup>75</sup> Eighty (80) contracts had multiple enhancements. Potential conflicts were identified on 3 of the 80 contracts—1 exception in each of 3 States.

NRCS needs to ensure that field office personnel are aware of and utilize the “Enhancements Not Compatible” lists to reduce the potential for overlapping or duplication of benefits and the potential for improper payments. Conversely, NRCS could implement an automated control to ensure that incompatible enhancements do not occupy the same space. Additionally, NRCS needs to ensure that CSP is delivered with consistent quality and that contracts are in compliance with NRCS National Bulletins to ensure the integrity of CSP.

### **Recommendation 17**

Require national office staff to create and implement an automated control to prevent contracting for incompatible enhancements that occupy the same space.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that ProTracts is an antiquated software system and implementing additional controls within this software program may impact its overall functionality. In addition, NRCS stated it will explore what is possible under the new planning tool under the Conservation Delivery Streamlining Initiative as this appears to be a planning issue. NRCS further stated that if performance evaluation tools under CSP reinvention are automated, checks for incompatible enhancements might be incorporated. However, this may be an instance where good planning and training would be more efficient than automation, since the same activities can be scheduled on different footprints. The estimated completion date is September 30, 2017.

### **OIG Position**

We do not accept management decision for this recommendation. NRCS’ proposed corrective actions are, in part, contingent upon exploration of what is possible under the new planning tool, and its response does not clearly describe what actions NRCS will take to prevent contracting for incompatible enhancements that occupy the same space. We are unable to reach management decision until NRCS formulates a detailed time-phased corrective action plan. To reach management decision, NRCS needs to specifically indicate the actions it will take to prevent contracting for incompatible enhancements that occupy the same space and update its estimated completion date as necessary.

### **Recommendation 18**

Until an automated control is implemented to prevent contracting for incompatible enhancements that occupy the same space, require national office staff to implement a compensating control prior to contract obligation, e.g., a second-party review to identify and eliminate such incompatible enhancements.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that it believes compensating controls are already in place to address this recommendation. In addition, NRCS stated that failure by one State and

limited failures in other offices around the country do not signal a widespread failure on the part of NRCS to ensure that incompatible enhancements are not scheduled on the same footprint in a contract. NRCS will encourage additional quality assurance reviews at the State level to ensure continued adherence to established policy and guidance. The estimated completion date is September 30, 2016.

### **OIG Position**

We do not accept management decision for this recommendation. While there is a control in place to prevent contracting for incompatible enhancements that occupy the same space, OIG believes that the audit results and finding support that this control was not working effectively. To reach management decision, NRCS needs to state the specific control(s) it will implement prior to contract obligation to prevent contracting for incompatible enhancements until an automated control is implemented and provide an estimated completion date for those actions. Conversely, management decision may be reached for this recommendation if, under Recommendation 17, NRCS puts forth a detailed time-phased corrective action plan alternative to the automated control that would correct the causes of the conditions noted in the finding.

### **Recommendation 19**

Require the [REDACTED] State NRCS Office to provide training to Area and Field Office personnel on their responsibilities to perform program activities in compliance with NRCS regulations and policy.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that it agreed with this recommendation and would instruct [REDACTED] accordingly. NRCS also stated that the Financial Assistance Programs Division will work through the [REDACTED] Regional Conservationist's office to coordinate this activity and to ensure adequate recordation of the activity has occurred. The estimated completion date is December 31, 2016.

### **OIG Position**

We accept management decision for this recommendation.

### **Recommendation 20**

Direct the [REDACTED] State NRCS Office to make operational adjustment modifications to, or cancel, as appropriate, each of the 15 contracts identified as containing incompatible enhancements that occupy, or may occupy, the same space. Deobligate funds for the contracts as appropriate.

## Agency Response

In its July 19, 2016, response, NRCS agreed with this recommendation and stated it would direct the [REDACTED] State Office accordingly. NRCS also stated that if contracts have expired, corrective action will be limited to seeking cost recovery of improper payments. NRCS further stated that it would instruct the [REDACTED] State Office to review all active contracts to determine if additional contracts require modification, cancellation, termination, or cost recovery. The estimated completion date is September 30, 2017.

## OIG Position

We accept management decision for this recommendation.

## Recommendation 21

Require the [REDACTED] State NRCS Office to recover any improper payments on each contract NRCS has determined (under Recommendation 20) includes incompatible enhancements that occupy the same space.

## Agency Response

In its July 19, 2016, response, NRCS agreed with this recommendation and referenced back to its response for Recommendation 20 (see above).

## OIG Position

We do not accept management decision for this recommendation. While we agree with NRCS' planned corrective actions, we are unable to accept management decision for this recommendation until NRCS provides evidence of collection or copies of the bills for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records. For monetary amounts for which NRCS determines recovery will not be made, NRCS needs to provide a justifiable basis for the nonrecovery.

## Finding 5: Lack of Documentation to Support Enhancements

For 21 contracts in [REDACTED], and [REDACTED], participants were unable to provide required job sheet<sup>76</sup> documentation to demonstrate effective and timely implementation of conservation enhancements,<sup>77</sup> even though regulations and contract provisions require that the

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<sup>76</sup> Job sheets provide information such as enhancement descriptions, requirements for enhancement adoption, and the documentation requirements detailing what producers are required to maintain for the 5-year life of the contract in order to be in compliance with the program.

<sup>77</sup> See "Finding 5" columns in Exhibit D for detail.

participant maintain such documentation and make it available to NRCS upon request.<sup>78</sup> According to participants, this occurred because they did not maintain the documentation or did not understand the recordkeeping requirements of the program. In one case, the participant started the enhancement before the CSP contract was executed.<sup>79</sup> Also, in 14 of the 21 cases, participants were unable to provide required information for a specific enhancement (ENR01)<sup>80</sup> because NRCS field offices did not work with the participants at the time of sign-up to produce baseline documentation (a record of baseline fuel consumption at the time of application). NRCS officials said they were not aware of the requirement to calculate the baseline. As a result, NRCS lacks assurance that conservation enhancements on 21 contracts (with total estimated costs of over \$5.4 million) were effectively and timely implemented to achieve planned conservation.

In accordance with regulation,<sup>81</sup> the CSP contract incorporates all provisions as required by law or statute, including requirements that the participant will maintain and make available to NRCS upon request, appropriate records documenting applied conservation activity and production system information, and provide evidence of the effective and timely implementation of the conservation stewardship plan and contract. By signing the contract, participants agree that the job sheets (which specify documentation that must be maintained) are incorporated as part of the contract. Additionally, participants agree not to start any new financially assisted conservation activity before the contract is executed.

Although OIG noted instances where the documentation reviewed did not address all of NRCS' job sheet documentation requirements, OIG determined that, generally, conservation enhancements were implemented and maintained. We based this determination on discussions with NRCS field office personnel and producers, reviews of contract files and producer-maintained supporting documentation, and OIG site visits to producers' agricultural operations. However, better record keeping and more sufficient documentation to support producer compliance with all requirements for all years of the contracts are needed. For example, Water Quantity Enhancement Activity WQT07, "Regional weather networks for irrigation scheduling," requires the use of regional weather networks<sup>82</sup> for irrigation scheduling. That enhancement requires documentation showing (1) a subscription to a regional weather network, (2) an irrigation water management plan<sup>83</sup> showing the use of crop data from a weather network, and (3) a record of actual irrigation practices based on the use of the irrigation water management plan. For five contracts, we identified issues with the participants' documentation of enhancement WQT07. For one of the five contracts (Contract ■■■), the participant was not able to

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<sup>78</sup> 7 CFR 1470.21(b)(4)(vi) (2011 Edition) and NRCS-CPA-1202 (Appendix) Section 3(11).

<sup>79</sup> Contract ■■■.

<sup>80</sup> Energy Enhancement Activity ENR01, "Fuel use reduction for field operations," is an enhancement for fuel savings of 20 percent or more achieved by a reduction in field operations when compared to the existing management system.

<sup>81</sup> 7 CFR 1470.21(b)(4)(vi) (2011 Edition).

<sup>82</sup> According to NRCS, information from regional weather networks can significantly improve the accuracy of irrigation timing and application rates.

<sup>83</sup> Irrigation water management plans provide producers with a guide for the proper management and application of irrigation water resources, i.e., to control the volume, frequency, and rate of water for efficient irrigation.

provide any of the three required items. On the other four contracts (Contracts [REDACTED] and [REDACTED]), the participants showed that they had a subscription or access to a weather network, but lacked any documentation of an irrigation water management plan or a record of actual irrigation based on the plan.

Documentation missing from other contracts included photographs documenting implementation of the enhancement (Contract [REDACTED]), maps showing the locations of animal feeding areas that are rotated around fields (Contract [REDACTED]), and documentation showing crop yield goals versus actual measured yields (Contract [REDACTED]). Also, in one case (Contract [REDACTED]), when we reviewed pesticide spraying records, we found the producer documented that spraying occurred well before the contract was executed. By signing the NRCS-CPA-1202 (Appendix), the participant agrees to “[n]ot start any new financially assisted conservation activity before th[e] contract is executed by CCC unless a waiver is approved by NRCS.”<sup>84</sup> There was no waiver in the contract file to support the premature start of the spraying activity. Contracts [REDACTED] and [REDACTED] were lacking items such as soil test results and key planting and/or crop emergence dates.

Moreover, in 12 [REDACTED] and 2 [REDACTED] cases, NRCS did not work with the participants at the time of sign-up to calculate a (prerequisite) baseline fuel consumption using the Revised Universal Soil Loss Equation, version 2 (RUSLE2)<sup>85</sup> required by the Energy Enhancement Activity ENR01.<sup>86</sup> Without the baseline fuel consumption, participants cannot demonstrate that they achieved the enhancement fuel savings of 20 percent or greater. (Note: This was a 100 percent error rate on the 14 contracts we reviewed in whole or in part with ENR01.) At one field office in [REDACTED], the District Conservationist did not remember being instructed to complete the RUSLE2 during sign-up and stated that it was not used on any of the contracts in the office. In the other two field offices, the District Conservationists stated that NRCS has to run the report for the producers and that no producers requested this of NRCS.

At the time of payment, NRCS and the participants complete an NRCS CPA-1245, *Practice Approval and Payment Application*. On this form, NRCS certifies that practice(s) have been performed and meet program requirements. The producer certifies that practices were performed in accordance with the practice specifications and other program requirements. In the 14 (RUSLE2) cases discussed above, both NRCS and the producers should have been aware that the enhancements were not properly documented, and payments should not have been made on those practices. NRCS officials from both of the State offices agreed that the RUSLE2 should have been completed.

NRCS requires the designated conservationist annually to review contract implementation with the participant and record findings in the ProTracts “Contract Review” module and the case file.

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<sup>84</sup> NRCS-CPA-1202 (Appendix) Section 3(2).

<sup>85</sup> RUSLE2 is a software model that estimates soil loss from water erosion on cropland for several alternative combinations of crop system and management practice. One component of RUSLE2 is the calculation of fuel usage based upon management operations/practices.

<sup>86</sup> This enhancement is considered adopted when the baseline fuel consumption for all field operations is calculated at the time of application using RUSLE2, and the comparison of the baseline to the planned reduced field operations, also calculated with RUSLE2, is greater than 20 percent. The official NRCS RUSLE2 database is the only database to be used for official purposes by NRCS field office employees.

There are 11 “elements” the conservationist is to review annually with the participant including, but not limited to, the success of practices and systems completed and the operation and maintenance of practices and systems.<sup>87</sup> However, job sheet documentation is not one of the specific elements to be reviewed.

Maintenance of adequate and complete job sheet documentation for all years of the CSP contract is necessary to ensure that CSP payments are only being made for the proper implementation of NRCS’ conservation enhancements and to ensure program integrity. NRCS needs to ensure participants understand and comply with the documentation requirements of the program. Additionally, NRCS needs to assist producers in obtaining required documentation that is prepared by NRCS at sign-up to ensure that the producers can support the implementation of those practices. An NRCS national office official stated that, while the case files may not contain all of the documentation required by the job sheets, the participants are required to produce the documents if requested.

## **Recommendation 22**

Provide additional outreach to CSP participants to ensure they understand the documentation requirements for enhancements.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that, where not currently available within the current job sheet criteria, NRCS will develop documentation checklists that can be used by CSP participants and NRCS staff alike for each of the enhancements. It also stated that it will ensure that the job sheets are available on the NRCS website so that CSP participants have ready access to them. NRCS further stated that the job sheets for CSP reinvention list the documentation requirements, including a reference to the information requirements, so no separate checklist is needed. The estimated completion date is September 30, 2016.

### **OIG Position**

We do not accept management decision for this recommendation. While we agree with NRCS’ planned corrective actions, we note that the job sheets for the contracts we reviewed already included a specific list of the documentation requirements for the enhancement and were available on the NRCS website. In addition, “all supporting job sheets” were incorporated as part of the CSP contracts by reference. To reach management decision, NRCS needs to clarify how it plans to provide additional outreach to CSP participants to ensure they understand the documentation requirements for enhancements and update its estimated completion date as necessary.

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<sup>87</sup> 440-CPM, Part 512, Section 512.55B and C, dated March 2012.

## **Recommendation 23**

Require the State Conservationists to provide training to Area and Field Office personnel on their responsibilities to calculate baseline fuel consumption for all field operations using RUSLE2 at the time of application for ENR01.

### **Agency Response**

In its July 19, 2016, response, NRCS stated that it would ensure that its area- and field-office staff are provided training about the documentation requirements for the conservation enhancements which such staff certify as completed. The estimated completion date is September 30, 2016.

### **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 24**

Require designated conservationists annually to review participants' job sheet documentation and record whether the participants have maintained the appropriate records.

### **Agency Response**

In its July 19, 2016, response to Finding 5, NRCS agreed that more sufficient documentation is needed to support producer compliance with activity installation; however, it differed with OIG about how this could be accomplished. NRCS stated that it is not always required to have a CSP participant's records for NRCS to confirm that the conservation enhancement has been fully and appropriately implemented. NRCS also stated that it believes it is more appropriate to only require specific CSP participant documentation where confirmation of the enhancement implementation cannot be determined without such documentation, or where a particular contract has been selected for a quality assurance review. NRCS agreed it would provide policy guidance to assist State and local staff on identifying when to request CSP participant documentation and records. The estimated completion date is September 30, 2016.

### **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 25**

For the 21 contracts for which participants were unable to provide required job sheet documentation to demonstrate effective and timely implementation of enhancements, direct the State Conservationists to make operational adjustment modifications to the contracts and/or terminate the contracts and deobligate funds, as appropriate.

## **Agency Response**

In its July 19, 2016, response, NRCS stated that it will direct the State Conservationists according to the recommendation. NRCS also stated that it will work through the Regional Conservationists' office to coordinate this activity and ensure the activity is adequately recorded. NRCS noted that operational adjustments are directly tied with the requirement to recover any improper payments and liquidated damages (Recommendation 26). The estimated completion date is September 30, 2017.

## **OIG Position**

We accept management decision for this recommendation.

## **Recommendation 26**

For the 21 contracts for which participants were unable to provide required job sheet documentation to demonstrate effective and timely implementation of enhancements, direct the State Conservationists to recover any overpayments and liquidated damages resulting from operational adjustment modifications to, or termination of, the contracts.

## **Agency Response**

In its July 19, 2016, response, NRCS referenced back to its response for Recommendation 25 which stated that it will direct the State Conservationists according to the recommendation. NRCS also stated that it will work through the Regional Conservationists' office to coordinate this activity and ensure the activity is adequately recorded. NRCS noted that operational adjustments are directly tied with the requirement to recover any improper payments and liquidated damages. The estimated completion date is September 30, 2017.

## **OIG Position**

We do not accept management decision for this recommendation. While we agree with NRCS' planned corrective actions, we are unable to accept management decision for this recommendation until NRCS provides evidence of collection or copies of the bills for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records. For monetary amounts for which NRCS determines recovery will not be made, NRCS needs to provide a justifiable basis for the nonrecovery.

## Scope and Methodology

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We conducted an audit of NRCS' controls over CSP at NRCS Headquarters in Washington, D.C.; three NRCS State Offices—[REDACTED], and [REDACTED]; and NRCS field offices in nine counties, three in each State (see Exhibit C). We selected the States and counties within the States based on their relatively high numbers of contracts, total treated acres, total estimated contract costs, and average costs per acre.<sup>88,89</sup> Another selection factor included the geography of the sites. Since we began our fieldwork in the States and counties during the winter months, northern States may have had snow and/or fewer conservation practices and enhancements that could be verified at the time of OIG site visits.<sup>90</sup>

A total of 25,372 CSP contracts were initiated in FYs 2011, 2012, and 2013, with total estimated costs of over \$2.5 billion over their 5-year contract periods,<sup>91</sup> covering over 34 million treated acres. From this universe we reviewed, in whole or in part, a total of 115 non-statistically selected contracts with total estimated costs of over \$21 million<sup>92</sup> and covering over 184,000 acres. We initially selected a non-statistical sample of 56 contracts in the 3 States and 9 sample counties. In each county, we selected two contracts initiated for each of the three FYs under review (totaling six contracts per county), and generally included for each year, to the extent practicable, one contract at each of the two contract payment limits—one contract for a person or legal entity which is limited to \$40,000 each year (or \$200,000 for the 5-year contract) and one contract for a joint operation which is limited to \$80,000 each year (or \$400,000 for the 5-year contract). In making our selections, we also considered the average cost per acre and the number of contracted acres. We selected an additional two sample contracts in one county due to concerns about transfers of those contracts noted during a discussion with the District Conservationist. (These 2 contracts are part of the initial sample of 56.)

In addition, we later selected for limited review four contracts<sup>93</sup> in which the participants [REDACTED] [REDACTED]. Our reviews of these four related contracts were limited to agricultural delineations (see Finding 2) and supporting documentation for enhancement ENR01 (for which we had identified issues, see Finding 5).

We also performed a limited review of 55 multi-participant contracts with an estimated cost of over \$1.4 million per year (over \$7.1 million for the 5-year contract).<sup>94</sup> For these 55 contracts, we reviewed payment share data in ProTracts and member information in FSA's subsidiary

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<sup>88</sup> The average cost per acre was computed by OIG.

<sup>89</sup> [REDACTED] was also selected because of CSP issues NRCS had identified in one of its field offices. We did not select that specific field office for review because the State office had already initiated a detailed review. We did, however, select another field office within the same administrative area to determine if the issues were occurring in other field offices within that area.

<sup>90</sup> [REDACTED] and [REDACTED] ranked in the top 7 States for estimated costs, in the top 10 for total acres, and in the top 9 for number of contracts.

<sup>91</sup> The estimated annual cost of the contracts is approximately \$509 million.

<sup>92</sup> The estimated annual cost of the 115 contracts is approximately \$4.2 million.

<sup>93</sup> Contracts [REDACTED], and [REDACTED].

<sup>94</sup> There were a total of 63 multi-participant contracts in the 9 counties; however, 8 of these contracts were already included in our 56 sample contracts.

system to determine whether CSP payment shares were consistent with the participants' reported member shares of the agricultural operations.

To review our sample contracts, we used an OIG-tailored version of NRCS' Review Worksheet that NRCS used during its review of the second sign-up of 2010. The elements of the worksheet pertained to producer eligibility determinations, calculation of CSP payment amounts, and whether producers operated in compliance with CSP contracts.<sup>95</sup>

Our audit fieldwork was conducted from November 2013 to April 2016.

To accomplish our objectives, we:

- Interviewed NRCS officials and personnel at NRCS national, State, and field offices;
- Interviewed FSA officials and personnel regarding FSA records and data that may be used to validate information provided by applicants for CSP purposes;
- Obtained and reviewed program statutes, regulations, handbooks, bulletins, and other documents;
- Obtained and reviewed NRCS national office ProTracts data as of October 25, 2013, for State and field office selections and State office ProTracts data during the course of our fieldwork to make contract selections;<sup>96</sup>
- Obtained and reviewed producers' CSP contract files;
- Obtained and reviewed FSA data that supported producers' CSP contract documentation;<sup>97</sup>
- Conducted site visits when possible to observe existing conservation practices and additional conservation enhancements;<sup>98</sup>
- Reviewed producer documentation supporting conservation enhancement implementation; and
- Obtained and reviewed documentation from the USDA Office of the Chief Financial Officer and NRCS regarding NRCS' final action on prior audit recommendations (Audit Report 10601-0004-KC, *NRCS Conservation Security Program*, issued June 2009).

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<sup>95</sup> We reviewed the cropping histories for all 38 sample contracts in [REDACTED] and [REDACTED] and for 6 of the 18 sample contracts in [REDACTED]. Because we noted no exceptions in those cases, we did not review the cropping histories for the 12 remaining sample contracts in [REDACTED].

<sup>96</sup> We utilized ProTracts data to select NRCS State offices, field offices, and CSP contracts to review. At the selected field offices, we compared ProTracts data to the information in the paper files maintained at the field offices and did not identify any issues.

<sup>97</sup> During the audit, we obtained information from FSA systems about CSP participants' crop acreage and crop shares (CARS) and member information (subsidiary files). We noted that NRCS and FSA entered into an agreement that states, in part, that FSA will maintain and ensure the credibility of information about the participant's farming operation (subsidiary files) for use by NRCS in the administration of conservation programs. We compared the FSA information we obtained to corresponding information reported to NRCS by the participants for CSP purposes and noted no discrepancies other than those disclosed in Findings 2 and 3 of this report. When discrepancies were noted, we discussed them with NRCS officials and with participants, as necessary. Based on the information we reviewed, we determined these data are sufficiently reliable for the purposes of this report.

<sup>98</sup> In some instances we did not perform site visits due to inclement weather, or because there was sufficient documentation provided that the enhancements were implemented and maintained.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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CARS	.....	Crop Acreage Reporting System
CCC	.....	Commodity Credit Corporation
CFR	.....	Code of Federal Regulations
CMT	.....	Conservation Measurement Tool
CPM	.....	Conservation Programs Manual
CSP	.....	Conservation Stewardship Program
FSA	.....	Farm Service Agency
FY	.....	fiscal year
GAO	.....	Government Accountability Office
NRCS	.....	Natural Resources Conservation Service
OIG	.....	Office of Inspector General
OMB	.....	Office of Management and Budget
P.L.	.....	Public Law
ProTracts	.....	Program Contracts System
RUSLE2	.....	Revised Universal Soil Loss Equation, version 2
SCIMS	.....	Service Center Information Management System
U.S.C.	.....	United States Code
USDA	.....	Department of Agriculture

## Exhibit A: Summary of Monetary Results

The table below summarizes the monetary results for our audit report by recommendation.

<b>Finding</b>	<b>Rx</b>	<b>Description</b>	<b>Amount</b>	<b>Category</b>
2	5	Future payments on contracts on which the agricultural operations were not substantially separate from other agricultural operations and may have engaged in misrepresentation, scheme, or device (Contracts ██████ and ██████)	\$240,604	FUNDS TO BE PUT TO BETTER USE, Deobligations
2	6	Future payments on contracts on which applicants inconsistently delineated their agricultural operations (Contracts ██████)	A/ \$720,000	FUNDS TO BE PUT TO BETTER USE, Deobligations
2	7	Payments made on contracts on which applicants inconsistently delineated their agricultural operations (Contracts ██████)	\$1,740,906	UNSUPPORTED COSTS, Recovery Recommended
3	14	Future payments on contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, and engaged in misrepresentation, scheme, or device (Contracts ██████)	\$1,781,950	FUNDS TO BE PUT TO BETTER USE, Deobligations
3	15	Future payments on contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, but did not engage in misrepresentation, scheme, or device (Contracts ██████)	B/ \$0	FUNDS TO BE PUT TO BETTER USE, Deobligations
3	16	Payments made on contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation (Contracts ██████)	\$2,676,920	UNSUPPORTED COSTS, Recovery Recommended
4	20	Future payments on contracts with incompatible enhancements that occupy, or may occupy, the same space (Contracts ██████ and ██████)	C/ \$1,051,055	FUNDS TO BE PUT TO BETTER USE, Deobligations
4	21	Payments made on contracts with incompatible enhancements that occupy, or may occupy, the same space (Contracts ██████ and ██████)	C/ \$1,805,200	UNSUPPORTED COSTS, Recovery Recommended

<b>Finding</b>	<b>Rx</b>	<b>Description</b>	<b>Amount</b>	<b>Category</b>
5	25	Future payments on contracts for which participants lacked documentation for conservation implementation (Contracts [REDACTED], [REDACTED], [REDACTED])	D/ \$395,962	FUNDS TO BE PUT TO BETTER USE, Deobligations
5	26	Payments made on contracts for which participants lacked documentation for conservation implementation (Contracts [REDACTED], [REDACTED])	D/ \$1,093,943	UNSUPPORTED COSTS, Recovery Recommended
		<b>TOTAL</b>	<b>\$11,506,540</b>	

Rx = Recommendation

- A/ There are additional Funds to Be Put to Better Use totaling \$240,604 associated with Recommendation 6 that are included in the monetary amounts for Recommendation 5. See Exhibit D.
- B/ This amount is contingent upon the agency's determinations under Recommendation 14 and is otherwise included in the monetary amount for Recommendation 14.
- C/ There are additional Funds to Be Put to Better Use totaling \$640,000 and Unsupported Costs, Recovery Recommended totaling \$760,000 associated with Finding 4 that are included in the monetary amounts for Finding 2. See Exhibit D.
- D/ There are additional Funds to Be Put to Better Use totaling \$1,359,608 and Unsupported Costs, Recovery Recommended totaling \$2,439,412 associated with Finding 5 that are included in the monetary amounts for Findings 2 and 4. See Exhibit D.

## Exhibit B: Results of Prior Audit Recommendations

This exhibit lists the recommendations from Audit Report 10601-0004-KC, *NRCS Conservation Security Program*, issued June 2009, that we reviewed as part of the follow up work relating to CSP.

There were a total of 23 recommendations made in Audit Report 10601-0004-KC. Of those recommendations, OIG determined that 13 were not applicable to CSP because they specifically recommend actions pertaining only to the Conservation Security Program contracts. While NRCS implemented corrective actions for the 10 recommendations applicable to CSP, actions taken on 3 of the 10 recommendations did not prevent previously reported conditions from recurring.

Recommendation Number	Recommendation	Applicable to CSP?	Corrective Action Effective for CSP Purposes?
1	Complete ongoing coordination with USDA agencies, such as FSA, to utilize their existing data to independently verify applicant supplied information for similar programs implemented in the future.	Yes	No
2	Review all current Conservation Security Program contracts to validate program eligibility and payment accuracy and take appropriate action in accordance with NRCS policy.	No	Not applicable
3	Conduct periodic management reviews of Conservation Security Program and other newly implemented programs to improve program administration and performance.	Yes	Yes
4	Incorporate into the <i>Conservation Programs Manual</i> the policies and procedures requiring the use of USDA data to determine the operator of a tract of land, to delineate farm operations, and reiterate NRCS policy on assignments to all offices for similar programs implemented in the future.	Yes	No
5	Review the agricultural operation delineation determinations on all current Conservation Security Program contracts and take appropriate action in accordance with NRCS policy.	No	Not applicable

Recommendation Number	Recommendation	Applicable to CSP?	Corrective Action Effective for CSP Purposes?
6	Review and determine whether the cited producers adopted a scheme or device on the Conservation Security Program contracts identified and recover Conservation Security Program disbursements of \$697,178 as appropriate, in conjunction with the determinations made on the contracts. These 20 contracts have a remaining expected value of \$1,892,078.	No	Not applicable
7	Establish program controls in future programs, such as spot checks or validations against FSA records, to verify stewardship history for producers to ensure all participants determined eligible have met the conservation and environmental management requirements.	Yes	Yes
8	Review and take the appropriate administrative remedy for Conservation Security Program contracts for samples 36 and 36b and recover Conservation Security Program disbursements of \$45,622, as appropriate. These contracts have a remaining expected value of \$196,864. Determine whether the participants were part of a scheme or device and also assess liquidated damages and interest as applicable.	No	Not applicable
9	Collect all payments made under the contract, assess liquidated damages, and assess interest provided by the contract (sample 36a) as appropriate. This producer was paid \$27,860 in 2006 and 2007 and was expected to receive an additional \$191,728 over the life of the Conservation Security Program contract. Determine whether the contract participant adopted a scheme or device and, as appropriate, terminate the contract and the participant's interest in all conservation stewardship contracts.	No	Not applicable

Recommendation Number	Recommendation	Applicable to CSP?	Corrective Action Effective for CSP Purposes?
10	Consult with the Office of the General Counsel and obtain an understanding of NRCS administrative steps and remedies on Conservation Security Program corrective actions taken or proposed regarding contract termination, transfer and/or any waiving of payment recovery efforts for the specific cases identified, and any other unique situations.	No	Not applicable
11	Require that applicants for future programs identify all parties with a share in agricultural operations when applying for contracts. Specifically, require consent be obtained, in writing, from each identified tenant or sharecropper before excluding them from a contract to ensure that all parties having a share in the agricultural operation receive equitable treatment.	Yes	Yes
12	Consult with the Office of the General Counsel and determine what, if any, corrective action can be taken regarding the eligibility of each identified tenant and any payment remedies.	No	Not applicable
13	Emphasize to State NRCS Offices their duties and responsibilities for properly responding to complaints of inequality and/or impropriety in NRCS programs.	Yes	Yes
14	Direct the Nebraska State NRCS Office to provide additional direction and training to field office employees to prevent the changing of information certified to by the applicant.	Yes	Yes
15	Direct the Nebraska State NRCS Office to review grazing eligibility for all Conservation Security Program contracts, analyze the results, and address whether additional corrective action and clarification of Conservation Security Program procedure is needed.	No	Not applicable
16	Review and take the appropriate administrative remedy for Conservation Security Program contracts for samples 3, 6, and 9 and recover Conservation Security Program disbursements of \$175,614, as appropriate. These three contracts have a remaining expected value of \$555,013.	No	Not applicable

Recommendation Number	Recommendation	Applicable to CSP?	Corrective Action Effective for CSP Purposes?
17	Review and take the appropriate administrative remedy for Conservation Security Program contracts for samples 1 and 29 and recover Conservation Security Program disbursements of \$79,932, as appropriate. The two contracts have a remaining expected value of \$276,514.	No	Not applicable
18	Strengthen and expand site visit requirements to verify key producer certifications regarding land conditions for the agricultural operation prior to issuance of the annual payment.	Yes	Yes
19	Verify periodically after each contract award that conservation requirements are continually being met, including checks that agreed enhancements are in place.	Yes	Yes
20	Establish adequate control mechanisms, such as second party reviews, to ensure the accuracy of information reported by applicants for conservation programs.	Yes	No
21	Review and take the appropriate administrative remedy for Conservation Security Program contracts for samples 10, 35, 37, 38, and 51 and recover Conservation Security Program disbursements of \$65,463, as appropriate. These contracts have a remaining value of \$258,405. Review and correct payment errors and any expected contract payments for samples 2, 8, 12, 19, and 21, as appropriate.	No	Not applicable
22	Obtain from ProTracts a list of participants that are receiving payments on multiple contracts and take corrective action in accordance with NRCS policy.	No	Not applicable
23	Recover the Conservation Security Program funds and correct the 12 cases identified, as appropriate.	No	Not applicable

## Exhibit C: NRCS Office Site Visit Locations

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The table below indicates the NRCS office site visit locations.

NRCS Office	Location
National Office/Headquarters	Washington, DC
██████ State Office	██████████
██████ Service Center (serves ██████████ )	██████████
██████ Service Center (serves ██████████ )	██████████
██████ Service Center (serves ██████████ )	██████████
██████ State Office	██████████
██████ Service Center (serves ██████████ )	██████████
██████ Service Center (serves ██████████ )	██████████
██████ Service Center (serves ██████████ )	██████████
██████ State Office	██████████
██████ Service Center (serves ██████████ )	██████████
██████ Service Center (serves ██████████ )	██████████
██████ Service Center (serves ██████████ )	██████████







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





United States Department of Agriculture

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DATE: July 19, 2016

SUBJECT: Response to the Office of the Inspector General Draft Report 10601-0001-32, the Natural Resources Conservation Service's Controls Over the Conservation Stewardship Program

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

This memorandum is in response to the Office of Inspector General (OIG) memorandum of June 13, 2016, transmitting OIG's official draft report reviewing the Natural Resources Conservation Service's (NRCS) implementation of the Conservation Stewardship Program (CSP). In particular, OIG identifies findings and associated recommendations that NRCS incorporate specific and ongoing collaboration with other U.S. Department of Agriculture agencies in its compliance strategy, implement controls to ensure CSP applicants' delineations of agricultural operations and payment shares are accurate, and create and implement a control for preventing incompatible enhancements.

Attached are NRCS' responses and management actions related to OIG's report finding and recommendations. If you require additional information, please contact Lesia Reed, Deputy Chief for Strategic Planning and Accountability, at (301) 504-0056.

/s/

Thomas W. Christensen Acting for

Jason A. Weller  
Chief

Attachment

## **OIG FINDING 1 AND ASSOCIATED RECOMMENDATIONS 1-4:**

**FINDING 1:** *The Natural Resources Conservation Service (NRCS) needs to coordinate more with the Farm Service Agency (FSA) to validate applicant information and ensure data consistency across U.S. Department of Agriculture (USDA) programs.*

**NRCS RESPONSE:** NRCS does not agree with the finding that NRCS has not fully or effectively used FSA data to validate applicant information and ensure consistency across USDA programs. NRCS utilizes extensive data and information collected by FSA in its implementation of the Conservation Stewardship Program (CSP), as follows:

- NRCS offices have access to a wide array of FSA data, including:
  - Farm Records information, including the Producer Farm Data report and FSA-156EZ;
  - Subsidiary information, including AGI filing and conservation compliance information; and
  - Business files, including the FSA-902 Farm Operating Plan data.
- NRCS uses FSA data to comply with 7 CFR §1470.6 and 440-CPM-Part 508, Section 508.51 that establishes that to apply for CSP, a producer must be the operator of an agricultural operation in the FSA farm record management system and that applicants whose records are not current in the FSA Farm Records system must update the records prior to the close of the evaluation period to be considered eligible.
- The CSP regulation allows exceptions to the operator of record requirement for producers, tenants, landlords, sharecroppers, and owners in the FSA record management system that can demonstrate, to the satisfaction of NRCS, they will operate and have effective control of the land, that they share in the risk of producing a crop and are entitled to share in the crop available for marketing from the farms, and they are part of the daily management, administration, and performance of the operation and share in the risk.
- The program also requires the producer update the following information with FSA prior to the end of the evaluation period:
  - Be in compliance with Highly Erodible Land Conservation and Wetlands Compliance provisions;
  - Be in compliance with AGI provisions; and
  - Provide a list of all members of a legal entity and embedded entities along with tax ID numbers and percentage interest in the entity.
- 440-CPM, Part 508.51(1) (v) identifies that the FSA CCC-902 is available to document the daily management, administration, and performance of the operation and share of the risk.

However, OIG fails to recognize the extensive effort that NRCS uses to confirm the applicant's delineation of their agricultural operation. In particular, NRCS conducts on-site field verification and will request written records substantiate the accuracy of the conservation activity and production system information the applicant provided during the application process. NRCS verifies the land use designation based on evidence of how the land is managed and represented in the FSA record management system, if possible. In the absence of accurate FSA records, other reliable documentation may be used to identify operational

boundaries and non-industrial private forest (NIPF) acres. By requiring an on-site field verification, NRCS goes beyond just looking at FSA records to ensure that the information provided by producers is correct and is not solely relying on self-certification.

Not only does NRCS verify the land management of lands included in the applicant's delineation of their operation, but also requires identification of land shown on FSA records as operated by the applicant that are not included in the CSP contract, because the operator cannot obtain effective control from the landowner for the length of the CSP contract. This land is not required to be included in the contract, but it must be documented in the case file as "ineligible" to indicate why it is not in the contract. For example, FSA designates the producer as operator because they have control for that year through a 1-year lease, but NRCS requires documentation of control for the full 5 years of the CSP contract; therefore, this land is excluded from the CSP contract.

NRCS believes that OIG is fixated upon the detailed nature of the FSA-578, and is assuming that the additional detail for one particular land use represents greater accuracy in such determinations. In actuality, the FSA-578 is self-certified, and is not as reliable or valid as the information that NRCS obtains through its current procedures. Most information on the FSA-578 is of no practical use for NRCS purposes. In essence, OIG's draft report reflects OIG's failure to recognize that NRCS, and not FSA, implements CSP within its agency technical and administrative framework, utilizing terms, technical resources, forms, and administrative controls under which NRCS has the best assurance of meeting its program's goals.

For example, NRCS is the pre-eminent provider of conservation technical assistance, and such technical assistance, including its technical assistance under CSP, is delivered pursuant to its National Planning Procedures Handbook (NPPH). Under NPPH, NRCS routinely delineates land uses to help establish baseline data needed to formulate alternatives and to derive environmental effects resulting from the implementation of conservation measures. Additionally, these land use designations support other NRCS functions such as nationwide resource inventories, watershed-level assessments, program ranking and funding decisions, and modeling and analysis efforts (e.g., the Conservation Effects Assessment Project).

Land use designations are integrated into the Customer Service Toolkit, applicable Application Evaluation and Ranking Tools, and otherwise utilized when NRCS implements its conservation programs. More importantly, NRCS uses these land-use designations to implement CSP.

While the FSA system identifies only 10 different land uses under its classification system, the NRCS planning policy recognizes 15 different land uses, several of which do not match completely with FSA's classification system and additional categories that are encompassed by CSP's definition of eligible lands, such as farmsteads and grazed forestland. Thus, NRCS land-use designations vary slightly from FSA's, and there are additional land-use designations that NRCS must have to implement CSP that are not needed by FSA program participants.

NRCS policy specifically identifies that "NRCS's need for a comprehensive land-use list is markedly different from other aforementioned organizations [such as FSA's]. NRCS associates land use with all facets of conservation planning and modeling."

In summary, NRCS uses the FSA designation of “operator” to determine CSP applicant eligibility, though such use is not required by the CSP statute. This information is available to NRCS through the FSA Farm Records system, and NRCS offices typically use the Producer Farm Data Report and the FSA-156EZ forms to identify the operator for a particular farm.

However, while both FSA and NRCS work with “producers” and NRCS has adopted the use of the FSA identification of “operator,” the focus of each agency’s mission and program authorities differs extensively, which is reflected in the nature, focus, and use of any information collected. Additionally, there are many producers which only work with one or the other agency. For example, NRCS works with NIPF landowners, who either do not participate in FSA programs or who only need to report little information to FSA about their forestry operations.

Therefore, NRCS must always be aware that FSA collects information from producers for the implementation of FSA’s specific authorities and its utility for administering an NRCS program must be critically examined. Where NRCS has deemed FSA information reliable and useful for CSP program implementation, NRCS has utilized such information. However, NRCS believes that OIG’s recommendations appear to represent familiarity and an unwarranted preference for FSA forms.

For example, the information provided on the FSA Report of Acreage (FSA-578) form is specific for FSA programs. This form is used by FSA to collect data relating to crops in order to determine compliance with farm programs and determine producer eligibility for loans and LDP’s. The FSA 578 is certified by one of the following:

- Farm operator;
- Farm owner;
- Person authorized by power of attorney; or
- Tenants and share-croppers, but only for crop acreage for which the person has a share. However, all cropland on the farm must be certified for applicable programs.

Problematically, information documented on the FSA-578 is provided by one of the above-identified individuals and is not typically spot checked or verified by FSA unless there is a disaster. Essentially, OIG is requesting NRCS to use a form that is self-certified by a producer who is not necessarily the operator of record with whom NRCS is or should be working, and for which the self-certification itself is seldom verified by the agency to which it is submitted. NRCS should ensure the consistency of the information submitted on its own form for meeting its own program requirements before it becomes the quality assurance check for a different agency’s programmatic requirements, especially since NRCS already utilizes a form from this very-same agency that has documentation corroborating the information that NRCS does need.

There is no guarantee of the reliability of the information provided on the FSA-578 form as opposed to other information used by NRCS in determining eligibility and program compliance, including FSA-provided information that uses documentary evidence such as is used on the EZ-156. While NRCS understands OIG’s concern about consistency across agencies, NRCS’ primary concern is whether its participants are meeting CSP program requirements and is not to confirm the validity of self-certified information provided by potentially unrelated persons that are used to confirm eligibility for unrelated programs in a different agency. It is FSA’s

responsibility to ensure the consistency of information between the EZ-156 and the FSA-578 for its own programmatic purposes, and thus furthers the validity of NRCS reliance upon the EZ-156.

NRCS has adopted internal controls to use existing data from the FSA Farm Records system in addition to policy requirements to use available FSA records. The applicant information screen and the participant information screen in the NRCS business tool, ProTracts, includes a “Farms Operated” button. This button links directly to FSA records and identifies the farms where FSA determines the applicant or participant as the operator. Additionally, ProTracts documents the total number of “Farms Operated” to the left of the button for easy viewing. Further, in response to OIG concerns, NRCS will develop a user prompt in ProTracts that will remind the user to review operator and land-control status prior to contract modifications and payment certifications. The prompt will contain a message such as: “Prior to completing the contract management action, please verify that the participant is still the Operator of Record and continues to maintain effective control of all land included in the contract. Yes or No.”

While NRCS does agree that additional clarification in policy regarding use of FSA records and verification of applicant and participant information can be improved, it is also known that FSA data is not always accurate or available for all eligible land uses in the program. Therefore, program policy allows flexibility in 440-CPM, Part 508, Sections 508.76C and 508.100 C(iii) to use other reliable documents, such as survey maps, tax parcel data, official land use maps as supporting documentation for NIPF or agricultural delineation in the absence of accurate FSA records identifying operational boundaries and NIPF acres.

When there are perceived inconsistencies between multiple forms managed and controlled by FSA, NRCS cannot control or correct this. It seems that inconsistencies in the information included on these forms should be addressed to FSA and not found to be an issue with how NRCS manages CSP. NRCS fully uses FSA records to the extent possible and as needed to administer CSP in accordance with CSP regulations and policy.

To the extent that OIG raises concerns about consistency between data used by the respective agencies, there are better options than for NRCS to mandate the use of a form that is known to be unreliable for its program purposes. In particular, NRCS has taken the following actions to ensure consistency of information used between the agencies:

- CSP Policy at 440-CPM Section 508.103 was added as a result of the 2009 Conservation Security Program audit findings. This policy requires a random 10% of all CSP contracts be spot checked to ensure that the participant has maintained control of land, is still the Operator of Record, and has complied with all program requirements. This policy requires that NRCS review FSA records and collect participant records to verify compliance. CSP staff at National Headquarters establishes the randomized list of contracts for each State and tracks completion of this required review. New software tools are in development that will incorporate selecting and tracking completion of these required reviews within an automated system.
- At this time ProTracts is an antiquated software system and implementing additional controls within this software program may impact its overall functionality. New software tools are currently under development to replace ProTracts, and NRCS will incorporate automated controls within the new tools to the extent possible in order to

reduce risk and yet maintain allowed program flexibilities in order to ensure that applications and contracts adhere with program requirements.

**Recommendation 1:** *Incorporate in NRCS' compliance strategy ongoing, specific, and concerted collaboration with other USDA agencies on at least an annual basis to identify common information used by the agencies in the administration of their programs. Also, develop an NRCS compliance strategy that integrates and capitalizes upon such information to improve program efficiency, compliance, and integrity.*

**NRCS Response:** NRCS agrees with this recommendation. Specifically, continued agency collaboration will help NRCS and FSA better serve customers and develop policy to address each agency's needs. NRCS programs staff will meet semi-annually with counterpart FSA staff on matters of mutual interest in program delivery. NRCS feels Recommendation 3 can be combined with this recommendation as it also speaks to improved communication between agencies.

Estimated completion date: Ongoing.

**Recommendation 2:** *Update the current and future Memoranda of Agreement between NRCS, FSA, and the Commodity Credit Corporation for the implementation of common provisions, including payment eligibility and payment limitation provisions specifically to provide that FSA will make available and allow secure access by NRCS software applications via web-services to the current data on all program participants, including information recorded in CARS as developed under regulations pertaining to FSA.*

**NRCS Response:** NRCS agrees with updating the Memoranda of Agreement if it is outdated. However, NRCS does not agree updating the agreement just to request access to MIDAS or information in CARS that is not currently available to NRCS, especially since this information is collected only for FSA programs. NRCS does not feel the use of forms such as the FSA-578 form is appropriate to make NRCS program eligibility determinations for the following reasons.

- The form is self-certification only and no longer validated unless for cases when there is a disaster;
- The information on the form is mainly for cropland and hay land; therefore, it is not available for all CSP-eligible land uses;
- The form itself contains extensive information for which NRCS would have no need to utilize for CSP purposes, thus causing NRCS employees to understand a complicated form from a different agency with negligible value;
- NRCS identifies land uses pursuant to its agency-wide planning policies and procedures, consistent with its implementation of the National Resources Inventory and other long-standing NRCS technical framework for implementing its delivery of technical and financial assistance. This NRCS-specific terminology has been incorporated into the CSP delivery framework, and is not based upon land-use criteria used by a different agency for fundamentally different agency purposes;
- The form is completed annually. It is not required and the information is not updated regularly, as is required by CSP requirements. In particular, NRCS requires CSP

participants to notify NRCS about a loss of control of land within 60 days, not just at the end of a fiscal year;

- Not all NRCS participants participate in FSA programs; and
- Only one person can sign the form. Additional forms may be available for other producers listed.

NRCS does not feel this form is adequate to make CSP determinations. In addition, NRCS employees have access to farm and producer information contained in the Producer Farm Data Report, Farm Operating Plan for Payment Eligibility, and FSA-156EZ. In the event discrepancies are found, NRCS will investigate and coordinate with FSA to obtain other information, including the crop acreage report, but only if needed.

Estimated completion date: September 30, 2016

**Recommendation 3:** *To improve the interoperability of data, and ensure that reliable and timely information is obtained, maintained, reported, and used for decision making affecting USDA programs, implement policy and procedures requiring NRCS personnel at all levels to communicate to other USDA agencies participant-reported information identified as inconsistent between agencies.*

**NRCS Response:** NRCS recommends that this recommendation be incorporated in Recommendation 1. This can be part of the NRCS compliance strategy and collaboration with other agencies, and does not need to be identified separately from the other program-specific recommendations made in the draft report.

Estimated completion date: Ongoing.

**Recommendation 4:** *Implement a control requiring District Conservationists to use FSA Reports of Acreage to verify and document compliance with the program's statutory cropping-history requirement.*

**NRCS Response:** NRCS rejects this recommendation for CSP. Based on the draft audit report, the auditor's did not identify any contracts where the cropping-history requirement was not met. Additionally, there may be NRCS participants who do not participate with FSA and would not file an FSA Report of Acreage.

The regulation at 7 CFR §1470.6(c) (6) does not require the use of FSA records to determine or document cropping history. The NRCS field offices may use other sources of information to make this determination of ineligible land; for example, historical aerial photography, crop records supplied by the applicant, historical knowledge of the farm operation, etc. Using the FSA-578 may be one tool to review this information, but it is not the only resource available, nor as explained elsewhere, is it a reliable source of information. Additionally, NRCS has applicants that do not participate with FSA, but may have been cropping the land for many years. Requiring a specific FSA form would limit participation to only those applicants who participate in both FSA and NRCS programs.

Therefore, NRCS will clarify in the CSP policy manual the sources of information available to NRCS field employees to determine and document cropping history, but will not mandate that CSP applicants file an FSA Report for Acreage in order to participate in CSP.

Estimated completion date: September 30, 2016

## **OIG FINDING 2 AND ASSOCIATED RECOMMENDATIONS 5-11:**

**FINDING 2:** *Agricultural operations were inconsistently delineated.*

**NRCS RESPONSE:** NRCS believes that this finding could be consolidated into Finding One, as the concerns expressed and several of the recommendations made under this finding are redundant with the recommendations made under Finding 1; namely, OIG believes NRCS should mandate the use of particular FSA forms to delineate an agricultural operation for NRCS program purposes. For many of the same reasons that have been identified above, NRCS rejects the proposition that it should mandate the use of particular forms, especially forms that are administered by a different agency for the specialized purpose of that agency. NRCS uses more reliable forms and procedures for delineating agricultural operations for NRCS program purposes.

Additionally, OIG failed to notice that the agencies utilize slightly different terminology for implementation of its programs, and these definitions, based upon their distinct statutory sources, embody the inherent reason why NRCS cannot simply rely upon FSA terminology and forms.

In particular, the use of the term “agricultural operation”, and the criteria used for its delineation, are set forth in the CSP statute and regulation. Of particular importance, NRCS defines “agricultural operation” in regulation at 7 CFR 1470.3 as follows:

“*Agricultural operation* means all eligible land, **as determined by NRCS**, whether contiguous or noncontiguous that is:

- (1) Under the effective control of a producer at the time of enrollment in the program;  
and
- (2) Operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations.”  
(Emphasis added)

Conversely, FSA’s determinations all relate to “farm operation” and a producer’s relationship to a “farm operation,” which is defined in 7 CFR part 1400 as follows:

“*Farming operation* means a business enterprise engaged in the production of agricultural products, commodities, or livestock, operated by a person, legal entity, or joint operation that is eligible to receive payments, directly or indirectly, under one or more of the programs specified in § 1400.1. A person or legal entity may have more than one farming operation if such person or legal entity is a member of one or more joint operations.”

In particular, FSA makes determinations about “farm operations,” and their policies tend to encourage more people to be part of the operation given that there are no contract limitations

and the payment limitations are applied only to persons and legal entities. Thus, the more people who are a part of the operation, the greater the amount of funding that operation may potentially receive. Conversely, NRCS adopted a contract limitation by regulation, in addition to the statutory payment limitation, discouraging the proliferation of the identification of producers associated with the “agricultural operation” which NRCS seeks to delineate.

This distinction is an important one. As discussed in Finding 1, NRCS delineates land use in accordance with NPPH, and these land-uses designations permeate all aspects of NRCS’ delivery of conservation assistance, and provide consistency between NRCS activities that allow effective evaluation of the conservation benefits that are obtained from such activities.

The purpose of CSP’s definition of an agricultural operation is to make eligible land determinations based upon the management of the land. While FSA information may be helpful in identifying those lands that should be included in the delineation of an agricultural operation, NRCS must maintain consistency in its utilization of land-use terminology, and the information displayed and the terminology used on the FSA-578 are not consistent with the land-use terminology used by NRCS for all aspects of its program delivery. The form simply is not appropriate for program implementation other than providing incidental information that may be consulted.

There are other reasons why consistency between the agencies, while perhaps desirable, is not appropriate for the effective implementation of CSP. For example, FSA identifies one person as the Operator of Record at the farm level, even if different people are doing the farming at lower levels, such as the field or tract level. Where two people are conducting operations on the same farm, FSA is most likely to identify the person who is farming the cropland as the Operator of Record, and the other person as “other producer.” This situation is the most common circumstances where NRCS State Conservationists may consider a waiver of the Operator-of-Record requirement.

Additionally, FSA’s livestock feed disaster program complicates the issue because the person who owns the cows might not be the operator for that ground. Further, FSA records are not necessarily consistent between themselves. Finally, measurements of acreage can vary due to GPS and related measurement discrepancies.

**Recommendation 5:** *For the five contracts in which the agricultural operations were not substantially separate from other agricultural operations, require the State Conservationist to (1) coordinate with FSA to determine the proper delineation and (2) determine if the participants engaged in any misrepresentation, scheme, or device for CSP purposes. If the State Conservationist determines the participants engaged in misrepresentation, scheme, or device, terminate the participants’ interests in all CSP contracts and determine whether there is cause for consideration of suspension and debarment for the participants. If participants did not engage in misrepresentation, scheme, or device, modify or terminate the contract and deobligate funds, as appropriate.*

**NRCS Response:** NRCS will review the five contracts identified by OIG and determine whether NRCS correctly delineated the agricultural operation based upon NRCS policies and procedures. If such policies and procedures were not correctly applied, or if misrepresentation

by the participants resulted in an incorrect delineation, NRCS will take the appropriate contract administration actions as identified by OIG.

Estimated completion date: September 30, 2017

**Recommendation 6:** *For the remaining six contracts in which the agricultural operations were inconsistently delineated, direct the [REDACTED] and [REDACTED] State Conservationists to modify or terminate the contracts and to deobligate funds, as appropriate.*

**NRCS Response:** NRCS will review the remaining six contracts identified by OIG and determine whether the agricultural operation was delineated correctly based upon NRCS policies and procedures. If such policies and procedures were not correctly applied, or if misrepresentation by the participants resulted in an incorrect delineation, NRCS will take the appropriate contract administration actions as identified by OIG, including the actions identified under Recommendation 7 if needed. Therefore, NRCS believes that this recommendation should be consolidated with Recommendation 7.

Estimated completion date: September 30, 2017

**Recommendation 7:** *Direct the [REDACTED] and [REDACTED] State Conservationists to recover any overpayments and liquidated damages resulting from the modifications or terminations of the contracts on which the participant(s) inconsistently delineated their agricultural operations.*

**NRCS Response:** See NRCS Response to Recommendation 6.

**Recommendation 8:** *Require CSP applicants to complete and file a Farm Operating Plan to collect information about the agricultural operation, to include information on the sources and contribution levels of certain inputs to the operation such as land, capital, equipment, labor, and management.*

**NRCS Response:** NRCS believes that this recommendation is inconsistent with 7 CFR § 1400.1(a)(8) which specifies that the payment eligibility requirements and cash rent tenant provisions, which includes the above-mentioned determinations, do not apply to NRCS conservation programs, including CSP. Additionally, NRCS gets the information it needs from the FSA-156-EZ for most situations at the level of detail that is needed to implement NRCS programs. Only when NRCS is working with “other operator” situations, like in a waiver, would NRCS need to potentially go to the FSA-902. The FSA-902 is only going to be on file for FSA participants. NRCS only needs to review the FSA-902 where the identity of the operator of record is in dispute. NRCS does not need to require its applicants to file a form that they otherwise would not be required to file. NRCS does not need the information contained in the FSA-902 for virtually most of the NRCS applicants. Additionally, the FSA-902 is another self-certification form.

As mentioned above, NRCS has incorporated into ProTracts a “Farms Operated” button which links directly to FSA records and identifies the farms where FSA determines the applicant or participant as the operator. In response to OIG concerns, NRCS will also develop a user

prompt in ProTracts that will remind the user to review operator and land control status prior to contract modifications and payment certifications.

Estimated completion date: September 30, 2016

**Recommendation 9:** *Implement controls requiring the use of FSA Reports of Acreage and Farm Operating Plans to ensure CSP applicants' delineations of agricultural operations are accurate and consistent across USDA programs. Specifically require the use of the Reports of Acreage and Farm Operating Plans to document the total acres in an applicant's agricultural operation, and to document and reconcile acreage differences and omissions between FSA records and CSP contract applications. Also, require the use of FSA data to verify CSP applicants' self-certifications regarding control of land at the time they enter into a contract and for the 5-year contract period, enrollment of all eligible land, and operation of the land with equipment, labor, management, and production or cultivation practices that are substantially separate from other operations.*

**NRCS Response:** For the same reasons identified in NRCS' response to Recommendations 2 and 8, NRCS has strong objections to the adoption of this recommendation. NRCS uses more reliable forms and procedures for delineating agricultural operations for NRCS program purposes, including conducting on-site verification of information on every preapproved application. The inconsistent delineations made in [REDACTED] were made in a single county by one NRCS employee that no longer works for NRCS. Any failure to delineate an agricultural operation correctly was not due to the lack of policy guidance but resulted from a personnel matter.

Therefore, NRCS will review its CSP manual and provide clarification about the sources of information that may be available to assist with implementing CSP program requirements, but will not mandate the use of forms that have been determined to be of inconsistent accuracy or utility in CSP implementation.

Estimated completion date: September 30, 2016

**Recommendation 10:** *Implement uniform processes for field offices to conduct second-party reviews to ensure NRCS enters into each contract all eligible land in the applicant's agricultural operation.*

**NRCS Response:** NRCS disagrees that a second-level review should be required for all agricultural delineations. NRCS field verification resolves many issues regarding agricultural delineations, but a complete second-level review will require significantly greater resources that are not available. Many field offices only have one person. NRCS believes that quality assurance reviews and proper training will ensure that agricultural delineations are appropriately made.

Therefore, NRCS will ensure that each State has conducted appropriate field training on the delineation of agricultural operations in conjunction with its rollout of the reinvented CSP, and that quality assurance reviews will include a review of the delineation of the agricultural operation.

Estimated completion date: December 31, 2016

**Recommendation 11:** *Direct the ██████ State NRCS Office to review NRCS employees' actions on loss of control of land. Take appropriate personnel action to hold NRCS employees accountable who bypassed applicable regulations.*

**NRCS Response:** The NRCS Regional Conservationist will direct the ██████ State Office to review NRCS employees' action on loss of control of land, and take appropriate personnel action to address any intentional violation of applicable regulations.

Estimated completion date: December 31, 2016

**OIG FINDING 3 AND ASSOCIATED RECOMMENDATIONS 12-16:**

**FINDING 3:** *Participants may manipulate payment shares to avoid payment limitation.*

**NRCS RESPONSE:** NRCS has already addressed the issue of manipulation of payment shares through more recent policy guidance. In particular, the CSP manual now clarifies that other participants (besides the Operator of Record), which are added to a contract must meet applicant eligibility requirement before approving an application for funding or a contract modification to adjust payment shares. This policy specifically requires that payment share distribution must be consistent with the commensurate shares of the operation.

NRCS agrees that FSA information may be helpful in ensuring appropriate payment shares, but additional information is needed as FSA documents do not address operational changes that are made mid-year. For example, producers who modify the structure of their farm operations mid-year (such as an individual creating a Limited Liability Corporation) are often advised by FSA to report the current year in the same name as their NAP policy. In some cases FSA is not allowed to make changes to the Operator of Record if certain payments have been issued for the current year, because they use the "Operator of Record" designation to indicate eligible participants for FSA program payments. If FSA were to change the Operator of Record mid-year it would allow for duplicate program payments to be issued. This is the case even when the land has sold and the operation has clearly transferred to the new owner.

In the CSP final rule published March 10, 2016, NRCS clarified its transfer provision that specified NRCS requires participants to provide NRCS with timely written notice regarding any voluntary or involuntary loss of control of any acreage under the CSP contract, which includes changes in a participant's ownership structure or corporate form. NRCS specifies in its contract documents that notice must be provided within 60 days. Therefore, the payment shares identified in FSA records may not correspond to the payment shares that must be specified in the CSP contract.

As described above, NRCS believes that the incentive to manipulate payment shares to avoid payment limitations is tempered by the imposition of the regulatory contract limitation. In its finding, OIG raised the potential for the payment shares to have been manipulated, but did not actually confirm that manipulation had taken place. NRCS believes that Recommendations 13-16 should be consolidated into a single recommendation as they are highly inter-related.

**Recommendation 12:** *Implement a control requiring NRCS field offices to verify and document that participants' claimed CSP payment shares are consistent with the participants' member shares of the agricultural operation.*

**NRCS Response:** NRCS has clarified in its CSP manual at 440-CPM, Part 508, Section 508.51 that other participants added to a contract must meet the applicant eligibility requirement before approving an application for funding or a contract modification to adjust payment shares. NRCS may deny program eligibility to such "other producers" if their inclusion is to avoid payment limitations. This section of the manual also provides for the use of the FSA CCC-902 for daily management, administration, and performance of the operation and share of the risk. NRCS has also added the following contract provisions to the NRCS-CPA-1202-CPC (Appendix): "Other participants with shares greater than zero must have effective control of the land for the contract period, and demonstrate to the satisfaction of NRCS that they are an eligible producer and part of the daily management, administration, and performance of the operation and share in the risk."

NRCS will strengthen policy and provide additional training to NRCS personnel for awareness of all the tools and resources available to them to validate payment shares of the agricultural operation.

Estimated completion date: September 30, 2016

**Recommendation 13:** *For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, require the State Conservationist to determine if the participants engaged in any misrepresentation, scheme, or device to avoid payment limitation.*

**NRCS Response:** NRCS will investigate the remaining 29 contracts listed on the report. However, additional information is needed to verify whether the participant's shares were not consistent with their agricultural operation. Administrative actions will be taken to address misrepresentation, scheme, or device to avoid payment limitations. Contracts will be adjusted or terminated as needed, and recovery of funds and liquidated damages may be assessed.

Estimated completion date: September 30, 2017

**Recommendation 14:** *For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, if the State Conservationist determines the participants engaged in any misrepresentation, scheme, or device to avoid payment limitation, terminate the participants' interests in all CSP contracts and deobligate funds, as appropriate. Also, determine whether there is cause for consideration of suspension and debarment for the participants.*

**NRCS Response:** See response to Recommendation 13.

**Recommendation 15:** *For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, if the State Conservationist determines the participants did not engage in any misrepresentation, scheme,*

*or device to avoid payment limitation, make operational adjustments to the contract and deobligate funds, as appropriate.*

**NRCS Response:** See response to Recommendation 13.

**Recommendation 16:** *For each of the 29 contracts on which the participants claimed payment shares inconsistent with their reported member shares of the operation, recover any overpayments and liquidated damages resulting from operational adjustments to, or termination of, the contracts. For any cases in which the State Conservationist determines the participants engaged in any misrepresentation, scheme, or device, recover any overpayments and liquidated damages resulting from termination of the participants' interests in all other CSP contracts.*

NRCS Response: See response to Recommendation 13.

#### **OIG FINDING 4 AND ASSOCIATED RECOMMENDATIONS 17-21:**

**FINDING 4:** *NRCS contracted for incompatible conservation enhancements.*

**NRCS RESPONSE:** NRCS agrees with Finding 4, but believes that the scope of the finding is very limited. OIG correctly determined that one of the States reviewed had 15 contracts where incompatible enhancements had been scheduled. NRCS has determined that this issue is not widespread, but is isolated primarily to the one State reviewed by OIG. In particular, NRCS has found, through its own previous reviews conducted in other States, that only one contract per State in three States previously reviewed had scheduled incompatible conservation enhancements.

NRCS believes that one State's lack of oversight in adherence to policy requirements does not mean that NRCS lacks controls or must implement additional controls to prevent human error. NRCS provides tools (Enhancements Not Compatible lists) to all States and require their use.

**Recommendation 17:** *Require national office staff to create and implement an automated control to prevent contracting for incompatible enhancements that occupy the same space.*

**NRCS Response:** ProTracts is an antiquated software system and implementing additional controls within this software program may impact its overall functionality. Additionally, automation may not be feasible as it is possible that purportedly incompatible activities can appropriately be scheduled on the same contract but in different locations.

NRCS will explore what is possible under the new planning tool under the Conservation Delivery Streamlining Initiative as this appears to be a planning issue. If performance evaluation tools under CSP reinvention are automated, checks for incompatible enhancements might be incorporated. However, this may be an instance where good planning and training would be more efficient than automation, since the same activities can be scheduled on different footprints.

Estimated completion date: September 30, 2017

**Recommendation 18:** *Until an automated control is implemented to prevent contracting for incompatible enhancements that occupy the same space, require national office staff to implement a compensating control prior to contract obligation, e.g., a second-party review to identify and eliminate such incompatible enhancements.*

**NRCS Response:** NRCS believes compensating controls are already in place to address this recommendation. Failure by one State and limited failures in other offices around the country do not signal a widespread failure on the part of NRCS to ensure that incompatible enhancements are not scheduled on the same footprint in a contract. NRCS will encourage additional quality assurance reviews at the State level to ensure continued adherence to established policy and guidance. Given the inter-related nature of this recommendation and Recommendation 17, NRCS believes these two recommendations should be combined.

Estimated completion date: September 30, 2016

**Recommendation 19:** *Require the [REDACTED] State NRCS office to provide training to area- and field-office personnel on their responsibilities to perform program activities in compliance with NRCS regulations and policy.*

**NRCS Response:** NRCS agrees with this recommendation and will instruct [REDACTED] accordingly. The Financial Assistance Programs Division will work through the [REDACTED] Regional Conservationist's office to coordinate this activity and to ensure adequate recordation of the activity has occurred.

Estimated completion date: December 31, 2016

**Recommendation 20:** *Direct the [REDACTED] State NRCS office to make operational adjustment modifications to, or cancel, as appropriate, each of the 15 contracts identified as containing incompatible enhancements that occupy, or may occupy, the same space. Deobligate funds for the contracts as appropriate.*

**NRCS Response:** NRCS agrees with this recommendation and Recommendation 21 below, and believe the two recommendations should be combined. NRCS will direct the [REDACTED] State office accordingly. Where these contracts have expired, corrective action will be limited to seeking cost recovery of improper payments. Additionally, NRCS will instruct [REDACTED] to review all active contracts to determine if additional contracts require modification, cancellation, termination, or cost recovery. NRCS notes the following:

- Recommendation 21 should be combined with this recommendation as recovery of improper payments is directly tied to completing modifications or cancellations.
- Duplicative enhancements do not necessarily mean the contracts will be cancelled or terminated and all of the remaining funds liquidated or all payments collected. Many of the contracts are limited by the annual payment limit and, therefore, there is a great possibility of no monetary adjustments.
- NRCS did receive conservation benefit from the enhancements if they were completed, so at a minimum, NRCS would need to remove duplicative enhancements and evaluate whether or not the contract would still have been funded based on the adjustments to the evaluation and ranking score.

Estimated completion date: September 30, 2017

**Recommendation 21:** *Require the ██████ State NRCS office to recover any improper payments on each contract NRCS has determined (under Recommendation 20) includes incompatible enhancements that occupy the same space.*

**NRCS Response:** See response to Recommendation 20. These two processes are related and do not need to be broken out into separate recommendations.

#### **OIG FINDING 5 AND ASSOCIATED RECOMMENDATIONS 22-26:**

**FINDING 5:** *Lack of documentation to support enhancements.*

**NRCS RESPONSE:** NRCS agrees that more sufficient documentation is needed to support producer compliance with activity installation; however, NRCS differs with OIG about how this can be accomplished. The CSP reinvention effort will require the development of Implementation Requirement sheets, or equivalent, to be included in the contract and will require the same to be signed by NRCS staff with job approval authority for the conservation activity at the time of completion in order to certify activity installation.

NRCS appreciates the recognition that, in general, conservation enhancements were implemented and maintained; however, NRCS does not believe that the finding merits five separate recommendations and that many of these recommendations should be combined.

**Recommendation 22:** *Provide additional outreach to CSP participants to ensure they understand the documentation requirements for enhancements.*

**NRCS Response:** NRCS recommends that Recommendations 22 and 23 be combined. Where not currently available within the current job sheet criteria, NRCS will develop documentation checklists that can be used by CSP participants and NRCS staff alike for each of the enhancements. NRCS will ensure that the job sheets are available on the NRCS website so that CSP participants have ready access to them. The job sheets for CSP reinvention list the documentation requirements, including a reference to the information requirements, so no separate checklist is needed.

Estimated completion date: September 30, 2016

**Recommendation 23:** *Require the State Conservationists to provide training to area- and field-office personnel on their responsibilities to calculate baseline fuel consumption for all field operations using RUSLE2 at the time of application for ENR01.*

**NRCS Response:** NRCS believes that this recommendation should be combined with Recommendation 22. NRCS will ensure that its area- and field-office staff are provided training about the documentation requirements for the conservation enhancements which such staff certify as completed.

Estimated completion date: September 30, 2016

**Recommendation 24:** *Require designated conservationists to annually review participants' job sheet documentation and record whether the participants have maintained the appropriate records.*

**NRCS Response:** It is not always required to have a CSP participant's records for NRCS to confirm that the conservation enhancement has been fully and appropriately implemented. NRCS believes that it is more appropriate to only require specific CSP participant documentation where confirmation of the enhancement implementation cannot be determined without such documentation, or where a particular contract has been selected for a quality assurance review. NRCS will provide policy guidance to assist State and local staff to identify when to request CSP participant documentation and records. Further, NRCS believes that this recommendation concerning appropriate documentation of job sheet criteria will be substantially addressed by CSP reinvention as described above.

Estimated completion date: September 30, 2016

**Recommendation 25:** *For the 21 contracts for which participants were unable to provide required job sheet documentation to demonstrate effective and timely implementation of enhancements, direct the State Conservationists to make operational adjustment modifications to the contracts, or terminate the contracts and de-obligate funds, as appropriate.*

**NRCS Response:** NRCS will direct the State Conservationists according to the recommendation. NRCS, working through the Regional Conservationists' office, will coordinate this activity and ensure adequate recordation of the activity has occurred. As mentioned for Finding 4, many contracts are limited by the annual payment limit and, thus, the contract modification may result in no net effect on payment amounts. This recommendation and Recommendation 26 should be combined as operational adjustments are directly tied with the requirement to recover any improper payments and liquidated damages.

Estimated time of completion: September 30, 2017

**Recommendation 26:** *For the 21 contracts for which participants were unable to provide required job sheet documentation to demonstrate effective and timely implementation of enhancements, direct the State Conservationists to recover any overpayments and liquidated damages resulting from operational adjustment modifications to, or termination of, the contracts.*

**NRCS Response:** See response to Recommendation 25.

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