



# Texas Boll Weevil Eradication Foundation Cooperative Agreement

## Audit Report 33099-0001-23

OIG evaluated APHIS' cooperative agreement with TBWEF to determine if TBWEF complied with applicable regulations and guidance.

### OBJECTIVE

To evaluate APHIS' cooperative agreement approval and monitoring process for the FYs 2015 and 2016 TBWEF cooperative agreements. We also determined if cooperative agreement funds were expended for eligible purposes and in accordance with applicable regulations and guidance.

### REVIEWED

Our audit examined the policies, procedures, and processes APHIS used to approve and monitor the cooperative agreements with TBWEF and 40 expenses each from FYs 2015 and 2016 to determine if cooperative agreement funds were properly expended.

### RECOMMENDS

APHIS should implement written procedures and provide specific guidance to monitor TBWEF's use of funds and ensure funds are used in accordance with Federal regulations.

### WHAT OIG FOUND

The Animal and Plant Health Inspection Service (APHIS), Texas Boll Weevil Eradication Foundation (TBWEF), and Texas Department of Agriculture (TDA) have shared a long-standing commitment to eradicate the boll weevil from cotton acreage in Texas. Together, these entities have removed the boll weevil from 97 percent of Texas. While APHIS officials generally fulfilled their requirements for approving the cooperative agreement with TBWEF, we identified concerns with APHIS' cooperative agreement monitoring process as well as APHIS' oversight of how TBWEF used Federal funding to pay for expenditures.

Specifically, we identified three weaknesses: (1) APHIS officials did not adequately maintain internal control over the cooperative agreement with TBWEF to ensure Federal funding was properly expended; (2) TBWEF used fiscal year (FY) 2015 Federal funds for expenses it incurred in FY 2014; and (3) APHIS did not establish a conflict of interest policy for the FY 2015 and 2016 cooperative agreements with TBWEF. APHIS needs to address these weaknesses to ensure TBWEF uses Federal funds in the most effective manner to eradicate the boll weevil from Texas.

APHIS generally agreed with our recommendations, and we accepted management decision on all six recommendations.





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



DATE: May 31, 2018

AUDIT  
NUMBER: 33099-0001-23

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Administrator  
Animal and Plant Health Inspection Service

ATTN: Dr. Mark L. Davidson  
Acting Deputy Administrator  
Marketing and Regulatory Programs- Business Services

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Marketing and Regulatory Programs- Business Services

FROM: Gil H. Harden  
Assistant Inspector General for Audit

SUBJECT: Texas Boll Weevil Eradication Foundation Cooperative Agreement

This report presents the results of the subject audit. Your written response to the official draft report, dated May 1, 2018, 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 accept management decision for all six audit recommendations in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of management decision to prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.



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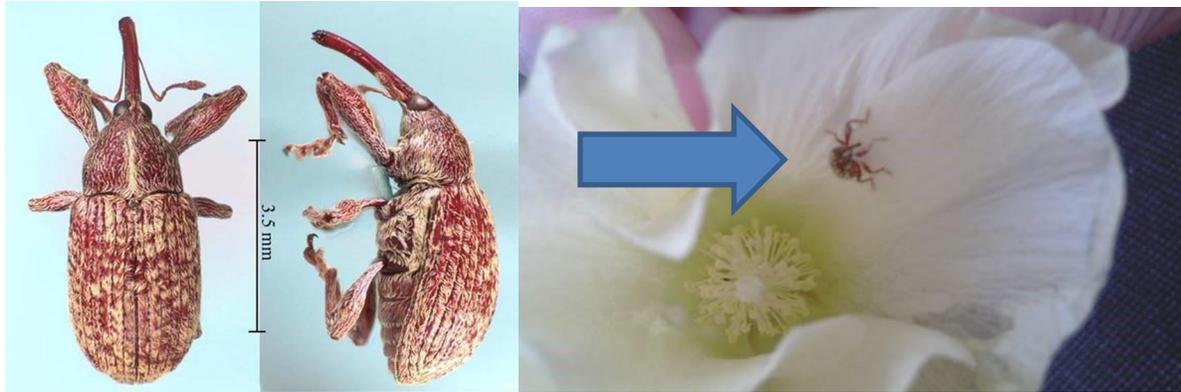


## Background and Objectives

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### Background

The adult boll weevil is a small, grayish or reddish-brown beetle, about one-quarter inch in length.



**Figure 1: The boll weevil (Photos provided by the Texas Boll Weevil Eradication Foundation)**

Boll weevils feed on and lay eggs in the fruit of cotton, which damages the boll on the cotton plant and subsequently diminishes the cotton harvest. Since the boll weevil's arrival into the United States from Mexico in the 1890s, the cotton industry has suffered more than \$23 billion in economic losses. As of May 2013, cotton-producing States have eradicated more than 98 percent of the boll weevil from U.S. cotton acreage due to the launch of an aggressive multiyear eradication program implemented in 1978. The program has nearly eradicated the boll weevil from cotton-producing States, with Texas, specifically Texas' Lower Rio Grande Valley (LRGV), as the only remaining State with boll weevil infestations,<sup>1</sup> mainly due to complications Mexican officials experienced in eradicating the boll weevil along the Mexican border.<sup>2</sup> Efforts to eradicate the boll weevil in LRGV are ongoing. The Animal and Plant Health Inspection Service (APHIS) oversees the Boll Weevil Eradication Program, a cooperative effort between APHIS, State officials, and cotton growers to eradicate the boll weevil from the United States.

The Administrator of APHIS has ultimate responsibility for all cooperative agreements<sup>3</sup> between APHIS and the Texas Boll Weevil Eradication Foundation (TBWEF). Authorized Departmental Officers (ADO) are APHIS agents authorized to enter into and administer cooperative

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<sup>1</sup> LRGV consists of the following 10 counties: Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Maverick, Starr, Webb, Willacy, and Zapata.

<sup>2</sup> U.S. APHIS assists in Mexico's efforts to eradicate the boll weevil through a cooperative agreement with the North American Plant Protection Organization.

<sup>3</sup> A cooperative agreement is a legal instrument of financial assistance between a Federal awarding agency or pass through entity and a non-Federal entity. Cooperative agreements require the Federal awarding agency to be substantially involved in carrying out the activity in the agreement. 2 C.F.R. § 200.24 ("Cooperative Agreement").

agreements. The ADO has an obligation to adhere to all applicable Federal statutes, rules, regulations, policies, and procedures.<sup>4</sup> The ADO must also protect and advance APHIS' interests by taking all authorized actions necessary. The ADO designates in writing, an Authorized Departmental Officer's Designated Representative (ADODR) for each cooperative agreement. The ADODR must review the cooperative agreement, which an Agreement Specialist prepares, to ensure the terms and conditions are consistent with negotiations and intent. The ADODR also monitors and evaluates the recipient's performance and compliance with the terms and conditions of the agreement.

APHIS' Plant Protection and Quarantine (PPQ) Division is responsible for safeguarding agriculture and natural resources from risks associated with the entry, establishment, or spread of pests and noxious weeds. PPQ is the division responsible for issuing and overseeing the cooperative agreement with TBWEF. APHIS' Financial Management Division is responsible for processing all payments made to TBWEF. APHIS' Review and Analysis Branch is responsible for performing internal reviews of the agency to ensure compliance with regulations.

The Texas State Legislature established TBWEF in 1993 to eliminate the boll weevil from Texas cotton in the most efficient, cost-effective, and environmentally sensitive manner possible. The Texas Department of Agriculture (TDA) is responsible for oversight of TBWEF's operations. Assessments paid by cotton producers and crop-sharing landowners pay the majority of TBWEF's expenses.<sup>5</sup> In addition, both the State of Texas and APHIS supplement the funds available to TBWEF to address the costs of eradicating the boll weevil. APHIS has provided over \$312 million to TBWEF since its inception in 1993. Our review focused on Federal funding that APHIS provided to TBWEF through cooperative agreements in fiscal years (FY) 2015 and 2016.

In order to enter into cooperative agreements with APHIS, TBWEF had to submit an application, along with budget information, a work plan<sup>6</sup>, and a financial plan. The cooperative agreements with TBWEF include standard terms and conditions such as those mandated by Federal regulations. A revision to the cooperative agreement is required if the terms and conditions change. The cooperative agreement covers a funding period, which is the period of time when Federal funding is available for obligation by TBWEF.

TBWEF must follow Federal cost principles as outlined in the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly called the *Uniform Guidance*) when using Federal funding to pay for its expenses. *Uniform Guidance* is outlined in Title 2 Code of Federal Regulations (C.F.R.) Part 200 and provides Federal agencies and awardees with application and monitoring requirements for Federal awards. APHIS also maintains an Agreements Management Manual to manage its requirements for APHIS-issued agreements. Section 63 of APHIS' Agreements Management Manual includes two controls for reviewing TBWEF's

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<sup>4</sup> APHIS Agreements Management Manual, Chapter 4: Section 9 (September 2010).

<sup>5</sup> Cotton producers pay for boll weevil eradication in the form of assessments, which are fees the cotton producers pay to TBWEF based on acres grown or cotton bales produced.

<sup>6</sup> The work plan provides details of the proposed activities to be performed in order to carry out the objectives of the cooperative agreement.

compliance with its cooperative agreement with APHIS. First, APHIS' Financial Management Division Review and Analysis Branch (RAB) conducts compliance reviews with Federal award recipients to ensure recipients complied with Federal laws and regulations as well as the terms and conditions within the cooperative agreement. Throughout our audit, RAB was in the process of reviewing TBWEF's FY 2015 cooperative agreement with APHIS to ensure TBWEF used Federal funds as indicated in the work and financial plan and in accordance with applicable laws and regulations. In addition to RAB compliance reviews, APHIS' Agreements Management Manual stated that the ADODR will monitor the progress of work completed under Federal awards and will also spot check financial records and inventory of property, which is maintained by TBWEF.

Maintenance areas are areas that do not have boll weevils present and where only detection activities, such as setting and checking boll weevil traps, are conducted. Active eradication zones are areas where boll weevils are present. TBWEF places traps at a much lower density in maintenance areas than in active eradication areas.<sup>7</sup> Over time, as areas have evolved from active eradication zones to maintenance areas, TBWEF, with approval from TDA, has divided the State of Texas into multiple zones and regions. In TBWEF's work plan for FY 2015, the State of Texas was divided into 16 zones. Of those 16 zones, TBWEF considered 11 zones functionally eradicated,<sup>8</sup> 4 zones suppressed,<sup>9</sup> and 1 zone (LRGV) in active eradication. In January 2015, the State of Texas combined the 11 functionally eradicated zones into the West Texas Maintenance Area (WTMA) also known as a region.<sup>10</sup> In TBWEF's work plan for FY 2016, the State of Texas was divided into one region (WTMA) and five zones. Of the five zones, the TBWEF considered four zones to be functionally eradicated and one zone (LRGV) in active eradication. The State of Texas declared the WTMA region eradicated on January 1, 2016.<sup>11</sup> In November 2016, the State of Texas combined the four zones declared functionally eradicated into the East Texas Maintenance Area (ETMA)<sup>12</sup>. As a result, the State of Texas divided the state into three regions: WTMA, ETMA, and LRGV.<sup>13</sup> WTMA did not capture any boll weevils during calendar years 2015 and 2016 while South Texas/Winter Garden was the only zone in ETMA to capture them. Eradication efforts in the LRGV continue to be affected by the lack of progress being made by Mexico's eradication program.

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<sup>7</sup> Boll weevils are present in active eradication zones, so in addition to setting and checking traps, pesticides are sprayed on cotton producing locations to kill the boll weevils in these zones.

<sup>8</sup> A functionally eradicated zone is an area where the boll weevil population must be equal to or less than an average of 0.001 boll weevils per trap per week for the cotton-growing season as measured by boll weevil pheromone traps operated by TBWEF or other governmental agency. [See 4 Tex. Admin. Code Sec. 20.1]

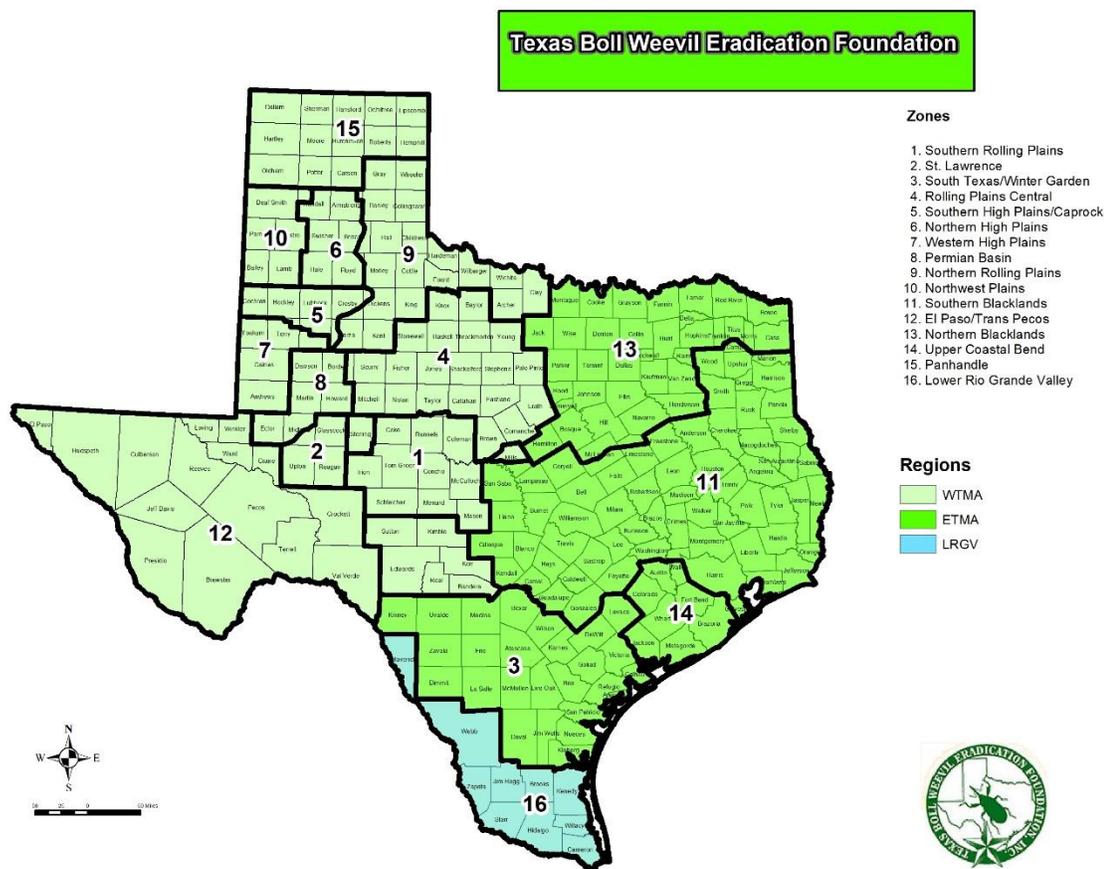
<sup>9</sup> A suppressed area is an area where the boll weevil population must be equal to or less than 0.025 boll weevils per trap per week for the cotton-growing season as measured by boll weevil pheromone traps operated by the TBWEF or other governmental agency. [See 4 Tex. Admin. Code Sec. 20.1]

<sup>10</sup> See 4 Tex. Admin. Code Sec. 3.702.

<sup>11</sup> See 4 Tex. Admin. Code Sec. 20.14.

<sup>12</sup> See 4 Tex. Admin. Code Sec. 3.705.

<sup>13</sup> LRGV is considered both a zone and a region.



**Figure 2: Map of Texas Eradication Zones as of November 2017 (Image provided by the Texas Boll Weevil Eradication Foundation)**

In FYs 2015 and 2016, Congress appropriated \$11.52 million each year, to remain available until expended. Congress designated this funding for the cotton pests program for cost share<sup>14</sup> purposes or for debt retirement<sup>15</sup> for active eradication zones.<sup>16</sup> After APHIS paid the agency’s cotton pests program administrative costs,<sup>17</sup> it made available \$6 million for FY 2015 and \$5.12 million for FY 2016 to TBWEF.

<sup>14</sup> *Cost-share* is the term used to describe the portion of project costs not paid by the Federal government.

<sup>15</sup> APHIS funds were not used in FYs 2015 and 2016 to retire TBWEF debt. APHIS used this funding to pay for its own cotton program expenses and for three cooperative agreements relating to the pink bollworm and one cooperative agreement with TBWEF relating to the boll weevil.

<sup>16</sup> Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, Div. A, Tit. 1 (Dec. 16, 2014); Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, Div. A, Tit. 1 (Dec. 18, 2015).

<sup>17</sup> Administrative costs included, but were not limited to, APHIS salaries, travel expenses, vehicles and equipment, and supplies.

## Objectives

We evaluated APHIS' cooperative agreement approval and monitoring process for the FY 2015 and 2016 TBWEF cooperative agreements. We also determined if TBWEF expended cooperative agreement funding for eligible purposes and in accordance with applicable regulations and guidance.<sup>18</sup>

We found that APHIS officials generally fulfilled their requirement for approving the cooperative agreement with TBWEF. Therefore, our report contains no findings and recommendations associated with this portion of our objectives.

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<sup>18</sup> Finding 3 addresses APHIS' cooperative agreement monitoring process while Findings 1 and 2 address both the monitoring process as well as determining whether TBWEF expended cooperative agreement funding for eligible purposes and in accordance with applicable regulations and guidance.

## Section 1: APHIS' Cooperative Agreement Monitoring Process and Fund Expenditures

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### Finding 1: Monitoring of Cooperative Agreement Funding Needs Improvement

APHIS officials did not maintain adequate internal control over the cooperative agreement with TBWEF to ensure Federal funding was properly expended. This occurred because APHIS officials did not conduct reviews of TBWEF's financial records. As a result, APHIS cannot determine whether TBWEF used Federal funding for achieving the objective of the cooperative agreement in conformance with Federal regulations.

OMB Circular A-123 states that management is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations. The proper stewardship of Federal resources is an essential responsibility of agency managers and staff.<sup>19</sup> APHIS' Agreements Management Manual stated that its RAB will periodically conduct compliance reviews to determine whether a recipient of Federal funds complied with Federal laws and regulations within the terms of the agreement. The manual also stated that the ADODR will monitor the progress of work completed under the award as well as spot check financial records and inventory of property, which are maintained by the recipient. The ADODR can request assistance in conducting these reviews by contacting the ADO to obtain the expertise of appropriate individuals on the ADO's staff.<sup>20</sup>

We found that APHIS officials did not maintain adequate internal control to determine if TBWEF used Federal funding to effectively and efficiently carry out the activities in the work plan<sup>21</sup> for the cooperative agreement. APHIS had internal controls such as RAB's periodic compliance review and the ADODR's spot check of financial records in place. However, we found that these reviews were not always performed as directed by the manual. Therefore, without regular reviews ensuring compliance with guidance, APHIS had reduced assurance that its funding was effectively achieving the objective of the cooperative agreement in conformance with Federal regulations.

When we initiated this audit in February 2017, RAB was in the process of conducting a compliance review of the FY 2015 cooperative agreement between APHIS and TBWEF. RAB sent TBWEF a questionnaire and reviewed TBWEF documentation for financial reporting accuracy. APHIS' internal auditor for this review stated that he reviewed approximately 25 percent of the Federal funding TBWEF used during FY 2015. RAB provided us with a draft copy of its review results as of February 2018; however, RAB had not completed its internal review process. Although the Agreements Management Manual stated that RAB should "periodically" perform compliance reviews, APHIS officials could not find a history of any

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<sup>19</sup> OMB, *Revisions to OMB Circular A-123, Management's Responsibility for Internal Control*, Circular A-123 (Dec. 21, 2004).

<sup>20</sup> APHIS Agreements Management Manual, Section 63 (September 2010).

<sup>21</sup> The work plan provides details of the proposed activities to be performed in order to carry out the objectives of the cooperative agreement.

compliance reviews of TBWEF's cooperative agreements prior to APHIS' review of the FY 2015 agreement, even though APHIS has had agreements with TBWEF for more than 10 years. A RAB official stated that APHIS oversees over a thousand cooperative agreements per year. RAB judgmentally selects cooperative agreements to review based on factors such as dollar amount and risk. The RAB official stated there were currently only five auditors performing cooperative agreement compliance reviews and that it was not possible to review cooperative agreements on a specifically timed basis because RAB does not have enough staffing to do so. However, reviewing this cooperative agreement only once does not provide assurance that funds are being spent appropriately to achieve the objectives of the agreement in accordance with Federal regulations. Since the guidance states these reviews should occur "periodically" and we found that the review of the TBWEF cooperative agreement was not conducted on a regular basis, we recommend that APHIS clearly define how often it performs compliance reviews of ongoing cooperative agreements to ensure awardees are complying with Federal regulations and adjust the manual appropriately.

Since the RAB compliance reviews had not been conducted on a regular basis, we reviewed APHIS' Agreements Management Manual to determine if the agency had any additional internal controls in place to monitor TBWEF's use of Federal funding. According to the manual, the ADODR will perform spot checks of financial records and inventory of property, which is maintained by the recipient. We determined that the ADODR checked TBWEF's inventory of Federal property on an annual basis. However, when we asked the ADODR about the requirement to spot check financial records, he stated that he was not aware of the requirement. He further stated that it was an oversight on his part and agreed that he could improve his monitoring of cooperative agreements with TBWEF by spot-checking financial records. The ADO for this agreement stated that rather than the financial aspect of this agreement, he focuses more on programmatic actions such as progress and if it is consistent with TBWEF's work plan when he reviews cooperative agreement documentation.

Since RAB could not locate any prior compliance reviews of APHIS' cooperative agreement with TBWEF, and APHIS officials did not spot check TBWEF's financial records, there is reduced assurance that TBWEF was effectively achieving the objective of the cooperative agreement. The ADODR agreed that the financial record spot-check requirement was an oversight on his part. Additionally, the ADO agreed that the spot-check requirements should be improved. To ensure APHIS uses officials with the proper expertise to conduct these spot-checks, APHIS should develop procedures to ensure spot-checks are performed on a regular basis and provide training, as necessary.

As part of our audit, we performed a detailed review of TBWEF's financial records to determine if TBWEF expended Federal funds for allowable purposes. To do so, we selected a non-statistical sample of expenses that TBWEF paid using Federal funding during FYs 2015 and 2016.<sup>22</sup> We found that Federal funds were not expended during the period of performance for which they were incurred in our selected sample of transactions (see Finding 2). We did not identify any other issues relating to TBWEF's compliance with Federal financial regulations.

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<sup>22</sup> Our non-statistical sample included 40 out of 8,016 FY 2015 transactions (\$384,193 out of \$6 million) and 40 out of 1,018 FY 2016 expenses (\$969,778 out of \$5.12 million).

We noted that TBWEF has essentially eradicated the boll weevil throughout Texas successfully, and LRGV is the primary area where this cotton pest remains. LRGV captured 95 percent of the boll weevils identified in Texas during calendar years 2015 and 2016. However, we found that during the FY 2015 and FY 2016 cooperative agreement cycles, TBWEF only spent 28 percent (\$3.07 million out of \$11.12 million) of Federal funding in LRGV. We concluded that since nearly all boll weevils were captured in LRGV that most of the Federal funding should be focused in this area. We had multiple discussions with APHIS officials about TBWEF's use of Federal funding throughout Texas, and APHIS officials stated that they considered the entire State to be involved in eradicating the boll weevil. However, conducting regular reviews of the expenses may have allowed APHIS to determine if TBWEF's approach was the most effective and efficient use of Federal funding to eradicate the boll weevil from LRGV. We believe APHIS can improve its oversight of how TBWEF uses Federal funding by improving its controls over the cooperative agreement with TBWEF.

## **Recommendation 1**

Provide guidance to the ADO and ADODR on how to perform spot checks on financial records, as necessary, to ensure efficient and effective operations for the TBWEF cooperative agreement.

## **Agency Response**

In its May 1, 2018, response, APHIS stated that it agrees with this recommendation:

APHIS agrees to provide additional guidance to the ADO and the ADODR in its Agreements Management Manual. This guidance will instruct them on how to monitor and evaluate the recipient's performance and compliance with the terms and conditions of the agreement through the timely submission of accomplishments reports and site visits and how to perform spot-checks, if warranted. The guidance will provide information on how to ensure costs are allowable under 2 C.F.R. 200, and how to document and notify the ADO/Signatory Official of any performance issues/deficiencies or questionable costs and efforts required by the cooperator for correction. The guidance will also include information on how, if deficiencies continue, the ADO/Signatory Official may request the assistance of the APHIS Financial Management Division's Review and Analysis Branch (RAB) for detailed guidance on cost allowability. The Financial Management Division is in the process of making overall changes to the Agreements Management Manual, and RAB will include new guidance on spot-checks in the newly-revised manual.

The estimated completion date is December 31, 2018.

## **OIG Position**

We accept management decision on this recommendation.

## **Recommendation 2**

Adjust guidance in the Agreements Management Manual to more clearly define the frequency APHIS expects its RAB to conduct compliance reviews of cooperative agreements.

### **Agency Response**

In its May 1, 2018, response, APHIS stated that it agreed with this recommendation:

APHIS plans to update the Agreements Management Manual to more clearly define the frequency of when RAB conducts its review of cooperative agreements.

The estimated completion date is September 30, 2018.

### **OIG Position**

We accept management decision on this recommendation.

## **Finding 2: Federal Funds Used in Ineligible Performance Period**

TBWEF used FY 2015 Federal funds for expenses incurred in FY 2014. This occurred because the cooperative agreement did not explicitly state that Federal funds may only be expended on allowable expenses incurred during the period of performance, which led to the unallowable payment of the FY 2014 expenses. In addition, APHIS did not regularly review TBWEF's accounting transactions to ensure they complied with program regulations as stated in the previous finding. As a result, TBWEF used \$1,472 of FY 2015 Federal funding for unallowable expenses. Since we only reviewed 6.5 percent of the \$6 million APHIS provided to TBWEF, there could be additional FY 2014 expenses that TBWEF paid for using FY 2015 funding as well as prior FY expenses and funding.<sup>23</sup>

Federal regulations state that the non-Federal entity may only incur new obligations under the Federal award during the period of performance.<sup>24</sup> The APHIS, Marketing and Regulatory Programs Business Services, Financial Management Division, Financial Services Branch, and Agreements Services Center staff are responsible for developing and updating agency policy relating to cooperative agreements. These staff issue annual guidance relative to any required updates in the cooperative agreements. The Agreements Services Center provides this information to the agreements staff<sup>25</sup> for each APHIS delegated awarding official. The agreements staff will prepare the cooperative agreement based on input from the ADO<sup>26</sup> and the ADODR<sup>27</sup> as well as the content of the work plan, and financial plan.<sup>28</sup>

We found that TBWEF used FY 2015 Federal funds to pay for expenses it incurred in FY 2014. APHIS stipulated in the FY 2015 cooperative agreement that the period of performance was effective from October 1, 2014, through September 30, 2015. Additionally, the FY 2015 cooperative agreement states that any funds not obligated by TBWEF during the funding period will revert to APHIS upon the expiration or termination of the funding period.<sup>29</sup> However, the cooperative agreement did not include language specifying that TBWEF could only use FY 2015 funds for expenses it incurred during FY 2015. For example, in October 2014, TBWEF received an invoice for repair and maintenance services performed in August 2014. Although TBWEF incurred the expense in FY 2014, it did not pay for the expense with FY 2014 funding and used FY 2015 Federal funding to pay the vendor. TBWEF management stated they were not aware of this requirement and that other expenses such as payroll and utility would be difficult to separate into different fiscal years. Based on this information, we reviewed an additional seven expenses focusing on payroll and utilities. Of those seven expenses, TBWEF incurred five

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<sup>23</sup> We did not identify this issue during our review of FY 2016 sample expenses. In FY 2015, TBWEF allocated Federal funding to any expense allowed under Federal cost principles, including utility expenses. Beginning in FY 2016, TBWEF allocated Federal funding only to salary and chemical-related expenses.

<sup>24</sup> 2 C.F.R. § 200.77.

<sup>25</sup> The agreements staff is the staff within the awarding official's office that provides administrative support in the development and administration of agreements.

<sup>26</sup> The ADO is the APHIS official with authority to sign the cooperative agreement.

<sup>27</sup> The ADODR is the APHIS official appointed by the ADO to manage the program covered by the agreement.

<sup>28</sup> APHIS, Agreements Management Manual, Exhibit 4-17 (September 2010).

<sup>29</sup> United States Department of Agriculture (USDA) APHIS Agreement (15-8412-0090-CA) Notice of Cooperative Agreement Award between TBWEF, TDA, and APHIS, Article 22-*Funding Period Obligations and Extensions* (December 2014).

expenses totaling \$1,402 in FY 2014; but paid for them with FY 2015 funding. While the amount of the seven questioned expenses totaled only \$1,472, it is likely that similar situations may exist with TBWEF's use of Federal funding, potentially increasing this amount.

In addition, APHIS could have prevented this by reviewing invoices, receipts, or other supporting documentation to ensure that TBWEF spent Federal funds on expenses incurred in the appropriate fiscal year. APHIS used the SF-270, *Request for Advance or Reimbursement*, to advance<sup>30</sup> or reimburse TBWEF. APHIS officials sent the approved SF-270 through designated channels for payment. Although this process did not require APHIS officials to review invoices, receipts, or other supporting documentation, spot-checks of financial records may be performed to more closely monitor the cooperative agreement expenses (See Finding 1).

APHIS officials agreed that TBWEF should not have used FY 2015 Federal funding to pay for expenses incurred in FY 2014 and informed TBWEF that this practice was not acceptable. Since APHIS did not specify in the cooperative agreement that TBWEF could only expend Federal funding on allowable costs incurred during the period of performance, nor did they review invoices, receipts, or supporting documentation, APHIS has reduced assurance that TBWEF followed Federal regulatory requirements regarding the period of performance. Therefore, we recommend that APHIS develop and implement written procedures that include applicable terms and conditions for the use of Federal funding to ensure all future cooperative agreements, beginning with the FY 2019 agreement, include applicable terms and conditions for the use of Federal funding. In addition, APHIS needs to review TBWEF's expenses for compliance with Federal regulations.

### **Recommendation 3**

Collect the \$1,472 from TBWEF in FY 2015 Federal funding that TBWEF used on expenses incurred in FY 2014.

### **Agency Response**

In its May 1, 2018, response, APHIS stated that it agreed with the recommendation:

APHIS will either collect the \$1,472 from TBWEF or review alternative receipts TBWEF could have submitted for reimbursement for the same period. This approach is consistent with similar findings and collections for items RAB notes during their compliance reviews. RAB will work with the ADODR to perform this collection/review, make a determination, and communicate the results to TBWEF.

The estimated completion date is September 30, 2018.

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<sup>30</sup> Advance payments are those funds received by the cooperator in advance of performing the work and incurring costs.

## OIG Position

We accept management decision on this recommendation.

## Recommendation 4

Clarify the terms and conditions in all future cooperative agreements with TBWEF, including the FY 2019 cooperative agreement, to specify that funds may only be used for expenses incurred within the period of performance stated in the agreement.

## Agency Response

In its May 1, 2018, response, APHIS stated it agreed with the recommendation:

APHIS will add new language in the terms and conditions document under the recipient's responsibilities section. This new language will be included in all future terms and conditions documents, including APHIS agreements with TWBEF as follows:

*h. Submit to APHIS a properly certified Request for Advance or Reimbursement, SF-270, when requesting payment for expenditures. A payment request may be submitted quarterly or more frequently. Funds may only be used for expenses incurred within the period of performance per 2 CFR § 200.309.*

The estimated completion date is December 31, 2018.

## OIG Position

We accept management decision on this recommendation.

## Recommendation 5

Provide guidance to TBWEF officials to ensure that Federal funds are used in the correct period of performance.

## Agency Response

In its May 1, 2018, response, APHIS stated it agreed with the intent of the recommendation:

APHIS believes that TBWEF was adequately informed of the period of performance through the wording of the terms and conditions in Article 24: *Award, Funding/Effective Period, Revisions, and Terminations*. Article 24 states the effective dates of the agreement (period of performance) and that cost overruns will be the sole responsibility of the recipient, unless additional funding is secured from APHIS prior to the expiration of the funding period. This information is also stated in 2 CFR §200.309, Period of Performance, as, "A non-Federal entity may charge to the Federal award only allowable

costs incurred during the period of performance, and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.”

APHIS held a teleconference with TBWEF’s President and Chief Executive Officer, and Chief Financial Officer in March 2018 to remind the officials that only expenses incurred during the period of performance of the cooperative agreement may be charged to the Federal award. By September 30, 2018, APHIS will provide written guidance to TBWEF officials to make sure they are further aware that Federal funds are to be used in the same period as the award.

The estimated completion date is September 30, 2018.

### **OIG Position**

We accept management decision on this recommendation.

### **Finding 3: Conflict of Interest Policy Needed**

We found that APHIS did not establish a conflict of interest policy for the FY 2015 and 2016 cooperative agreements with TBWEF. APHIS officials stated this was an oversight and they did not have procedures in place to ensure this regulatory requirement was implemented. As a result, APHIS had reduced assurance that there were no conflicts of interest in its agreement with TBWEF.

Federal regulations require each USDA awarding agency to establish a conflict of interest policy for its Federal awards.<sup>31</sup> The regulation also requires that non-Federal entities must disclose in writing any potential conflict of interest to the USDA awarding agency and have written standards of conduct covering conflicts of interest. The regulation specifically outlines that no employee, officer or agent may participate in the selection, award or administration of a Federal award if he or she has a real or apparent conflict of interest. The non-Federal entity's written standards of conduct must also govern the performance of employees in the selection, award and administration of Federal awards, and provide for disciplinary actions to be applied for violations of the standards.

We found that the FY 2015 and 2016 cooperative agreements between APHIS and TBWEF did not include a conflict of interest policy as required by Federal regulations. APHIS officials stated that they overlooked the conflict of interest requirement when creating the cooperative agreement, but could not explain why this requirement was overlooked. We did note that TBWEF implemented a conflict of interest policy to protect its own interests. However, the lack of a conflict of interest policy in the cooperative agreement did not ensure that APHIS' interests were protected. We did not identify any conflicts of interest during our audit. However, conflict of interest was not an objective of our audit and we only included a procedure to determine whether APHIS had a conflict of interest policy in place. APHIS officials assured us that all future cooperative agreements would contain a conflict of interest policy. Since this was an oversight by APHIS, a policy or procedure is necessary to ensure this requirement is implemented in the future. Therefore, we are recommending that APHIS implement procedures and ensure the conflict of interest statement is included in all future cooperative agreements with TBWEF, including the FY 2019 agreement.

### **Recommendation 6**

Develop and implement written procedures to ensure all future cooperative agreements include terms and conditions for a conflict of interest policy.

### **Agency Response**

In its May 1, 2018 response, APHIS stated it agreed with the recommendation:

As a result of this OIG review, in October 2017, APHIS added the appropriate conflict of interest policy to the terms and conditions document. The conflict of interest policy is

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<sup>31</sup> 2 C.F.R. § 400.2.

applicable to all cooperative agreements and grants, and APHIS will ensure that it is included in any renewing of awards with TBWEF.

APHIS stated that this action was completed in October 2017.

### **OIG position**

We accept management decision on this recommendation.

## Scope and Methodology

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We conducted our audit at APHIS headquarters in Riverdale, Maryland. We also interviewed TDA officials via telephone and interviewed TBWEF headquarters officials during our visit in Abilene, Texas. In addition, we interviewed TBWEF officials in the WTMA Region 2 office located in Lubbock, Texas, and the LRGV zone office located in Harlingen, Texas. We conducted this audit between February 2017 and December 2017.

We non-statistically selected two of the six TBWEF FY 2016 eradication zones to visit. We selected an office in an active eradication zone and an office in a maintenance area to observe TBWEF operations and obtain reasonable assurance that TBWEF expended Federal funds for eligible purposes. To select an office to visit in the maintenance area, we obtained a listing of employees for WTMA. We selected the Lubbock office because it had the most employees and, therefore, was most likely to have post-eradication activities available for us to observe. We also visited LRGV, at the zone office located in Harlingen, Texas, which is the only zone in active eradication.

We obtained a listing of TBWEF expenses paid for with Federal funding in FYs 2015 (8,016 expenses totaling \$6 million) and 2016 (1,018 expenses totaling \$5.12 million). We selected a non-statistical sample of 40 expenses to review for FY 2015 totaling \$384,193 and 40 expenses from FY 2016 totaling \$969,778. For each fiscal year, we determined the average dollar value of all APHIS-related transactions and selected 20 above average expenses and 20 below average expenses.<sup>32 33</sup>

We reviewed data produced by the TBWEF accounting system to determine if TBWEF expended Federal funding for allowable purposes. Specifically, we obtained a listing of all Federally funded expenses from TBWEF. As previously stated, we performed limited testing on a sample of transactions from this listing to determine if TBWEF spent Federal funds on eligible purposes. During this review, sufficient documentary information was available to review and validate these transactions in relation to our audit objective. No additional testing was performed on the TBWEF accounting system because our review of the source documentation did not identify concerns that would lead us to question the adequacy of the system and system testing was not included within the scope of the audit objectives.

To accomplish our objectives, we:

- Reviewed laws, regulations, policies, procedures, and APHIS handbooks to determine if APHIS complied with cooperative agreement approval and monitoring requirements;

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<sup>32</sup> Once we determined the average transaction amount, we divided the total number of transactions above average by 20, and used the resulting number to make our selections, beginning with the first expense.

<sup>33</sup> TBWEF provided an additional seven expenses totaling \$6,857 incurred during the FY 2014 period of performance to determine if payment was made with FY 2015 funding as noted in Finding 2. We did not review any additional FY 2016 expenses since we did not identify any issues with FY 2016 expenses during our sample review.

- Reviewed documentation from APHIS PPQ and Financial Management Division officials, TDA officials, and TBWEF headquarter personnel to obtain an understanding of the cooperative agreement process and determine if APHIS and TBWEF followed applicable laws and regulations while approving and monitoring these cooperative agreements;
- Interviewed officials in PPQ, Financial Management Division, TDA, and TBWEF to obtain an understanding of each party's involvement in APHIS' cooperative agreement with TBWEF;
- Reviewed cooperative agreement documents, such as the application for Federal assistance, work and financial plan, approved cooperative agreements and subsequent revisions, financial reports, and performance reports for FYs 2015 and 2016 to determine if APHIS and TBWEF followed cooperative agreement approval and monitoring requirements;
- Obtained and reviewed TBWEF documents such as internal policies and procedures, accounting records, receipts, invoices, and payroll documents to determine if TBWEF expended Federal funding for eligible program purposes; and
- Interviewed and accompanied TBWEF field employees to observe activities such as aerial spraying and trap inspections performed in active eradication and post eradication zones.

We conducted our 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Abbreviations

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ADO	Authorized Departmental Officer
ADODR	Authorized Departmental Officer's Designated Representative
APHIS	Animal and Plant Health Inspection Service
C.F.R.	Code of Federal Regulations
ETMA	East Texas Maintenance Area
FY	fiscal year
LRGV	Lower Rio Grande Valley
OIG	Office of Inspector General
OMB	Office of Management and Budget
PPQ	Plant Protection and Quarantine
RAB	Review and Analysis Branch
TBWEF	Texas Boll Weevil Eradication Foundation
TDA	Texas Department of Agriculture
USDA	Department of Agriculture
WTMA	West Texas Maintenance Area

## Exhibit A: Summary of Monetary Results

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

<b>Finding</b>	<b>Recommendation</b>	<b>Description</b>	<b>Amount</b>	<b>Category</b>
2	3	Funds spent on expenses outside of the period of performance	\$1,472	Questioned Costs, Recovery Recommended
<b>Total</b>			<b>\$1,472</b>	



**USDA'S  
ANIMAL AND PLANT HEALTH INSPECTION  
SERVICE  
RESPONSE TO AUDIT REPORT**





Animal and Plant  
Health Inspection  
Service

Office of the  
Administrator

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Voice 202.799.7000  
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TO: Gil H. Harden  
Assistant Inspector General for Audit  
May 1, 2018

FROM: Kevin Shea /S/  
Administrator

SUBJECT: APHIS Response to OIG's Discussion Draft Report, Texas Boll  
Weevil Eradication Foundation Cooperative Agreement  
(33099-01-23)

Thank you for the opportunity for the Animal and Plant Health Inspection Service (APHIS) to comment on your March 30, 2018 official draft report. We have restated each recommendation and provided our planned corrective actions and the timeframes for implementing these actions.

APHIS continues to work cooperatively with the Texas Boll Weevil Eradication Foundation (TX-BWEF) on eradicating the Boll Weevil (BW) from Texas. This successful relationship has existed since 1994, when eradication work began in one zone of Texas but now encompasses the entire state including over seven million acres of cotton to be planted in 2018 in two management areas and the Lower Rio Grande Valley Zone (LRGV). The program is a grower- initiated project with cooperation from the Texas Department of Agriculture who provides oversight to the TX-BWEF and their work. The TX-BWEF conducts the program in the most cost-effective and environmentally sensitive manner possible. The project has eliminated the BW from the majority of the state with an intense eradication effort in the LRGV on 200,000 acres.

**Recommendation 1: Provide guidance to the ADO and ADODR on how to perform spot checks on financial records, as necessary, to ensure efficient and effective operations for the TBWEF cooperative agreement.**

**APHIS Response:** APHIS agrees with this Recommendation. APHIS agrees to provide additional guidance to the ADO and the ADODR in our Agreements Management Manual (AMM). This guidance will instruct them on how to monitor and evaluate the recipient's performance and compliance with the terms and conditions of the agreement through the timely submission of accomplishments reports and site visits and how to perform spot checks, if warranted. The guidance will provide information on how to ensure costs are allowable under 2 CFR Part 200, and how to document and notify the ADO/Signatory Official (SO) of any performance issues/deficiencies or questionable costs and efforts required by the cooperator for correction. The guidance will also include information on how, if deficiencies continue, the ADO/SO may request the assistance of the APHIS Financial Management Division's (FMD) Review Analysis Branch (RAB) for detailed guidance on cost

allowability. FMD is in the process of making overall changes to the AAM, and RAB will include new guidance on spot-checks in the newly-revised AAM. FMD plans to have the AMM updated by December 31, 2018.

**Recommendation 2: Adjust guidance in the Agreements Management Manual to more clearly define the frequency APHIS expects its RAB to conduct compliance reviews of cooperative agreements.**

**APHIS Response:** APHIS agrees with this Recommendation and plans to update the AMM to more clearly define the frequency of when RAB conducts its review of cooperative agreements. APHIS will update the AMM by September 30, 2018.

**Recommendation 3: Collect the \$1,472 from TBWEF in FY 2015 Federal Funding that**

**TBWEF used on expenses incurred in FY 2014.**

**APHIS Response:** APHIS agrees with this Recommendation and will either collect the \$1,472 from TBWEF or review alternate receipts TBWEF could have submitted for reimbursement for that same period. This approach is consistent with similar findings and collections for items that RAB notes during their compliance reviews. RAB will work with the ADODR to perform this collection/review, make a determination, and communicate the results to TBWEF by September 30, 2018.

**Recommendation 4: Clarify the terms and conditions in all future cooperative agreements with TBWEF, including the FY 2019 cooperative agreement, to specify that funds may only be used for expenses incurred within the period of performance stated in the agreement.**

**APHIS Response:** APHIS agrees with this Recommendation and will add new language in the terms and conditions document under the recipient's responsibilities section. This new language will be included in all future terms and conditions documents, including APHIS agreements with the TBWEF as follows:

*h. Submit to APHIS a properly certified Request for Advance or Reimbursement, SF-270, when requesting payment for expenditures. A payment request may be submitted quarterly or more frequently. Funds may only be used for expenses incurred within the period of performance per 2 CFR: § 200.309.*

APHIS will complete the updates to the terms and conditions document by December 31, 2018.

**Recommendation 5: Provide guidance to TBWEF officials to ensure that Federal funds are used in the correct period of performance.**

**APHIS Response:** APHIS agrees with the intent of this Recommendation. APHIS believes that TBWEF was adequately informed of the period of performance through the wording of the terms and conditions in Article 24; Award, Funding/Effective Period, Revisions, and Terminations. Article 24 states the effective dates of the agreement (period of performance) and that cost overruns will be the sole responsibility of the recipient, unless additional funding is secured from APHIS prior to the expiration of the funding period. This information is also stated in 2 CFR: §200.309, Period of performance, as "A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance, and any costs incurred

before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.”

APHIS held a teleconference with TBWEF’s President and Chief Executive Officer, and Chief Financial Officer in March 2018, to remind the officials that only expenses incurred during the period of performance of the cooperative agreement may be charged to the Federal award. By September 30, 2018, APHIS will provide written guidance to TBWEF officials to make sure they are further aware that Federal funds are to be used in the same period as the Award.

**Recommendation 6: Develop and implement written procedures to ensure all future cooperative agreements include terms and conditions for a conflict of interest policy.**

**APHIS Response:** APHIS agrees with this Recommendation. As a result of this OIG review,

in October 2017, APHIS added the appropriate conflict of interest policy to the terms and conditions document. The conflict of interest policy is applicable to all cooperative agreements and grants, and APHIS will ensure that it included in any renewing of awards with the TBWEF.



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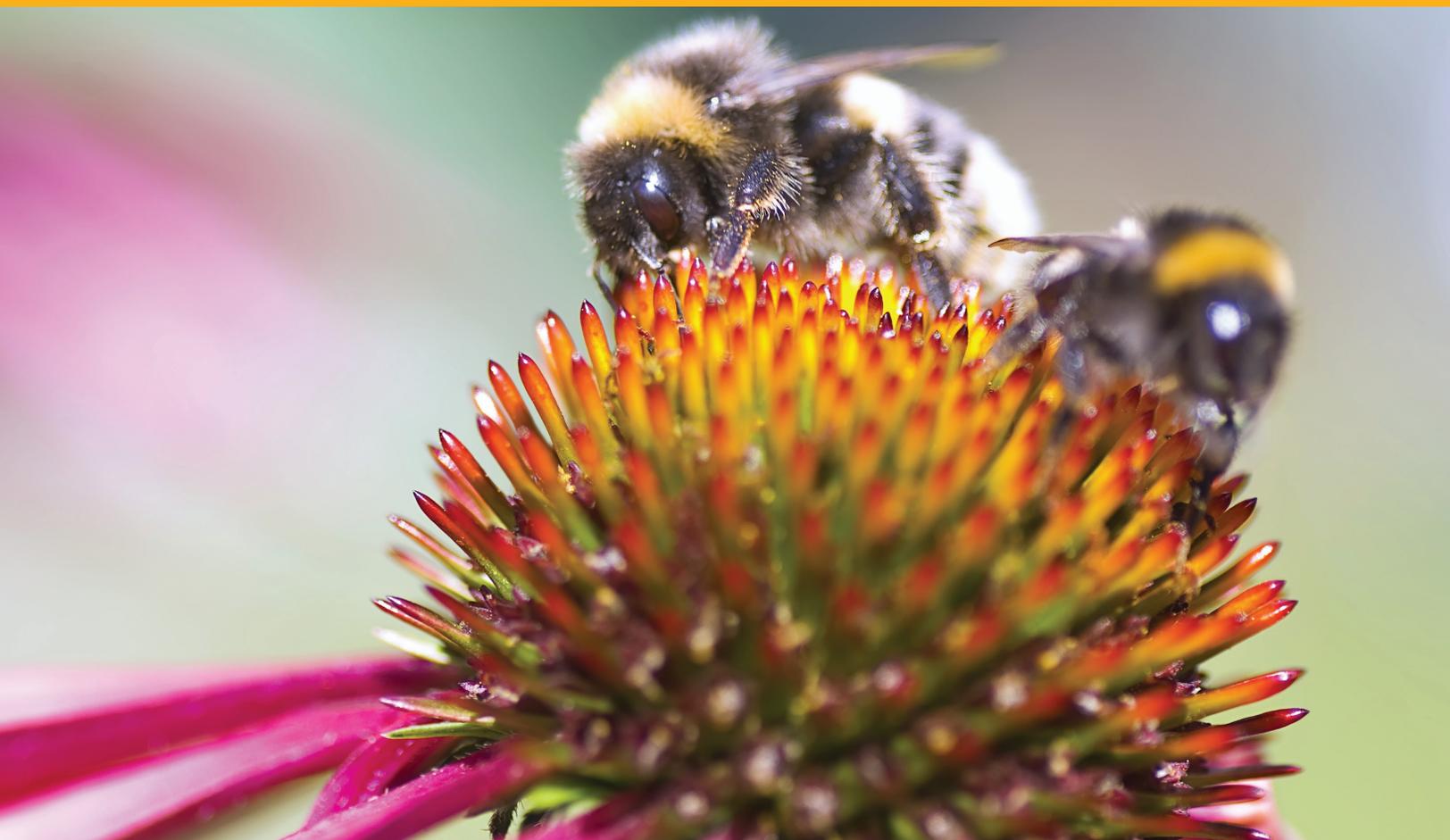
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