



United States Department of Agriculture

OFFICE OF INSPECTOR GENERAL





NRCS Controls Over Land Valuations for Conservation Easements

Audit Report 10601-0001-23

What Were OIG's

Objectives

OIG's objective was to evaluate NRCS controls over land valuation for conservation easements.

What OIG Reviewed

We reviewed NRCS' easement valuation process at NRCS' national office in Washington, D.C., and four State offices. These State offices closed 207 of the 1,690 WRP easements, 107 of the 567 FRPP easements, and 59 of the 68 EWP easements nationwide, during Fiscal Years 2012 and 2013. We also reviewed NRCS management's oversight and accountability over these programs.

What OIG Recommends

OIG recommends that NRCS reassess its oversight and evaluation process to cover key program requirements, require State offices to include all supporting documentation in proposals for NRCS funding, develop a system for national review of State office information collected in support of EWP and WRP payments, and emphasize that landowner-obtained appraisals are strictly prohibited in easement valuations.

The Office of Inspector General (OIG) reviewed NRCS' controls over land valuation for conservation easements.

What OIG Found

The Natural Resources Conservation Service (NRCS) provides Federal funds for conservation easement programs to maintain or enhance land to benefit agriculture and the environment. NRCS pays up to 50 percent of the fair market value for conservation easements through its Farm and Ranch Lands Protection Program (FRPP), and up to 100 percent for land under the Emergency Watershed Protection Program (EWP) and Wetlands Reserve Program (WRP). We found that NRCS' control environment for land valuation and payment processes did not meet Government Accountability Office (GAO) standards. For example, NRCS did not require management to ensure its staff's compliance with program requirements related to valuation and payment for conservation easements. As a result, NRCS was unable to prevent program officials from paying for insufficiently supported easements valued at over \$43 million.

About \$42 million of that easement value was for WRP and EWP. We found that, because NRCS relied on its State staff to ensure land was properly valued, it did not use controls sufficient to prevent payments for unsupported land valuations. The remaining \$1 million in easement value we found was due to FRPP's use of landowner-obtained appraisals. We found that, although the landowner-obtained appraisals passed technical reviews, NRCS officials did not ensure that appraisals met the terms of signed cooperative agreements with local governments, which prohibit the landowner from approving the appraiser.

NRCS agreed with our findings and we accepted management decision on 9 of the 10 recommendations.



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



DATE: September 28, 2015

AUDIT
NUMBER: 10601-0001-23

TO: Jason Weller
Chief
Natural Resources Conservation Service

ATTN: Leon Brooks
Director
Compliance Division

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: NRCS' Controls Over Land Valuations for Conservation Easements

This report presents the results of the subject audit. Your written response to the official draft report, dated August 31, 2015, is included in its entirety at the end of this report, with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report.

Based on your written response, we accept your management decision on Recommendations 1, 2, 3, 4, 5, 7, 8, 9, and 10. Management decision has not been reached for Recommendation 6. The actions needed to reach management decision for this recommendation are described under the relevant OIG Position section.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken or planned, and timeframe for implementing the recommendation for which management decision has 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 within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

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

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

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Background and Objectives

Background

The Natural Resources Conservation Service (NRCS) provides Federal funds for conservation easement programs to maintain or enhance land in ways that benefit agriculture or the environment. NRCS has several conservation easement programs which were re-authorized and established by *The Food, Conservation, and Energy Act of 2008*.¹ These programs include the Farm and Ranch Lands Protection Program (FRPP) and Wetlands Reserve Program (WRP).² Another program, the Emergency Watershed Protection Program (EWP), is classified as a financial assistance program and was re-authorized and established by the *Federal Agriculture Improvement and Reform Act*.^{3,4} As a result of the *Agricultural Act of 2014* (hereinafter referred to as the 2014 Farm Bill), a number of conservation programs, including FRPP and WRP, were consolidated into the Agricultural Conservation Easement Program (ACEP).⁵ While the 2014 Farm Bill consolidated the programs, NRCS' management and valuation processes for these programs remain the same.

Through FRPP, NRCS provided matching funds to cooperating entities, which may include a State government, tribal or local governments, or non-governmental organizations, for the entity to acquire conservation easements from landowners to protect agricultural uses. Under FRPP, NRCS provides up to 50 percent of the fair market value (FMV) of the conservation easement. Through WRP, NRCS purchased conservation easements directly from eligible private landowners to protect, restore, and enhance wetlands on their property. Individual landowners or those partnered with a cooperating entity can volunteer to place their land under easement. A conservation easement is secured through a signed agreement with NRCS for either 30 years or in perpetuity, depending on the type of easement program. NRCS provides financial assistance to the cooperating entity or landowner in exchange for the land rights sufficient to limit development and ensure the conservation purposes of the specific program are achievable. The amount of NRCS financial assistance can be up to 50 percent of the FMV of the conservation easement for FRPP and up to 100 percent of the FMV of the land for EWP and WRP.

For EWP and WRP, NRCS will pay the lowest value as compensation for a conservation easement, as determined by one of three methods. The first of these three methods is the fair market value of the land, as determined by an appraisal of a particular piece of land or an area-wide market analysis (AWMA) or survey.⁶ The second method is the geographic area rate cap (GARC), as determined by a NRCS State Conservationist,⁷ and the third method is a landowner offer.⁸

¹ This Act was also known as the 2008 Farm Bill, Public Law 110-234.

² FRPP provides matching funds of up to 50 percent of the FMV of the conservation easement to help purchase development rights to keep productive farm and ranch lands in use for agriculture purposes. WRP is a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property to establish long-term conservation and wildlife practices and protection.

³ EWP undertakes emergency measures, including the purchase of flood plain easements, for runoff retardation and soil erosion prevention to safeguard lives and property from floods, drought, and erosion on any watershed whenever a natural occurrence impairs it.

⁴ *Federal Agriculture Improvement and Reform Act*, Public Law 104-127.

⁵ *Agricultural Act of 2014*, Public Law 113-79.

⁶ An AWMA is similar to an appraisal, but instead of providing a FMV for a parcel of land it provides a price range for land located in a particular area (i.e., county, region, or district). Each NRCS State conservationist determines the areas

For FRPP, NRCS requires the cooperating entity to hire a qualified private appraiser for providing a FMV assessment (appraisal) for a conservation easement. That appraisal is then reviewed by a technical reviewer hired by NRCS to ensure the document meets generally-accepted appraisal standards.⁹ The technical review is NRCS' key control to ensure the appraisal accurately reflects the FMV before payment is made. Prior Office of Inspector General (OIG) reports have cited NRCS' weak oversight of Non-Governmental Organizations and the appraisal process; these reports also cite very little involvement or oversight from NRCS national office.¹⁰

The NRCS Chief in Washington, D.C., provides overall leadership for the agency's activities to help conserve, maintain, and improve the country's natural resources and environment. NRCS national program officials (for FRPP, EWP, and WRP) are responsible for developing policies, procedures, and guidelines for its State offices to follow in implementing easement programs. There are four regional conservationists who provide support for the State conservationists and monitor State office activities to ensure these activities are consistent with NRCS guidance.¹¹ NRCS' National Appraiser monitors all appraisal activities, including reviewing a State's AWMA, as well as all individual appraisals in which NRCS plans to contribute more than \$1 million for an easement.

With the passage of the 2014 Farm Bill and its reduction of Government funds available for conservation easement purchase, the accuracy of the NRCS easement valuation process became even more important. For example, during the 5 years prior to the approval of the 2014 Farm Bill, NRCS spent over \$500 million annually for WRP, but the 2014 Farm Bill repealed WRP, FRPP, and Grassland Reserve Program as individual programs. In their place, the 2014 Farm Bill created a consolidated program called the ACEP, which retains most of the provisions of the other programs, but at a reduced amount of \$332 million for Fiscal Year (FY) 2015. EWP's budget was not altered by the 2014 Farm Bill and continues to be a separate conservation program offered by NRCS. NRCS' risk assessment conducted in 2014 highlighted a need for NRCS to implement and improve its internal control structure, with specific recommendations to integrate data systems for FRPP and WRP.

and provides that information to an independent qualified real-estate professional. The independent qualified real-estate professional determines the land values for the areas and provides NRCS with an AWMA report.

⁷ A GARC represents a reduction in FMV, determined by each NRCS State office, established by an AWMA or appraisal that represents fair compensation for the rights being acquired through the easement. The reduction in FMV to develop the GARC can be based on a number of factors, some examples are: location of the land, real estate market values, agricultural statistics, and historic values accepted or rejected by landowners for program participation.

⁸ The landowners may voluntarily offer to accept less compensation than would be offered by NRCS.

⁹ *Uniform Standards of Professional Appraisal Practices (USPAP)* or the *Uniform Appraisal Standards for Federal Land Acquisition (UASFLA)*.

¹⁰ The prior OIG audit reports were: *Controls Over the Farm and Ranch Lands Protection Program in Michigan*, Audit Report 10099-0003-Ch, September 2011; *Natural Resources Conservation Service FRPP Review of Non-Governmental Organizations*, Audit Report 10099-0006-SF, July 2009; and *Natural Resources Conservation Service FRPP in Alabama*, Audit Report 10099-0005-SF, September 2006.

¹¹ The regional conservationists also provide support for areas that include the U.S. territories and protectorates in the Caribbean and Pacific Islands.

Objectives

The objective of this audit was to evaluate the adequacy of NRCS controls over the land valuation process for conservation easements.

Section 1: Management Accountability and Oversight

Finding 1: NRCS' Control Environment Did Not Ensure Support of Land Valuations Before Payment Was Made

NRCS' control environment did not include a system of management accountability to ensure land values for NRCS' conservation easement programs (EWP, WRP, and FRPP) were properly supported before payments were made. In addition, NRCS did not have the payment data (i.e., how much it paid per easement) available in a format that would allow the agency to adequately monitor program performance, such as ensuring a timely appraisal or tracking final disbursement amounts for specific easements. This occurred because NRCS relied upon State officials to properly perform their duties without implementing adequate controls for ensuring the States were acting in compliance with NRCS program requirements. As a result, NRCS could not prevent State officials from bypassing its policy on timely appraisals or identify that officials had done so, and continued to contribute over \$1.8 million¹² for four FRPP easements with out-of-date appraisals—even though we identified and reported this problem in 2011.¹³ In addition, NRCS did not identify NRCS State offices that paid for conservation easements based on either insufficiently supported valuation methods for WRP and EWP (see Finding 2) or appraisals obtained by the landowners for FRPP (see Finding 3). Thus, NRCS was unable to prevent State offices from making these insufficiently supported payments.

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.”¹⁴ These standards also include assessing risks, establishing control activities (i.e. procedures, techniques, and mechanisms) that enforce management's directions; effectively communicating information, and monitoring a program's performance over time and promptly resolving problems. Based on this and other audits we performed of NRCS' conservation easement programs, we determined that NRCS did not adequately meet GAO's five standards. Some of our key current and previous findings are discussed below.

Control Environment: This standard refers to an agency's approach toward internal controls and conscientious management. Our review found that NRCS established a control environment for EWP, FRPP, and WRP that largely took a “hands-off” approach by allowing State officials to control these programs. During this current audit, we found that State officials issued waivers for program requirements without informing the NRCS national office. They also calculated program payments based on methodologies that were not approved by the NRCS national office. In both instances, NRCS did not implement effective controls to prevent and detect State officials from bypassing established agency policies. The lack of effective controls on land valuations for easements exposes NRCS to

¹² These four easements together were appraised at \$3,951,000.

¹³ *Controls Over the Farm and Ranch Lands Protection Program in Michigan*, Audit Report 10099-0003-Ch, September 2011.

¹⁴ *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 easements during the scope of our audit.

program vulnerabilities, including basing conservation easement payments on unsupported methodologies (see Finding 2) and contributing to easements based on non-compliant appraisals (see Finding 3).

This is not the first time we reported on NRCS' control environment. In 2013, OIG issued a report noting that NRCS had not implemented a comprehensive, integrated compliance strategy designed to verify proper functioning of conservation programs.¹⁵ The report recommended that NRCS strengthen its efforts to improve program compliance and ensure the effectiveness of oversight activities. In other words, NRCS was advised not only to establish program policy, but to also implement adequate controls preventing officials from bypassing that policy. NRCS agreed to improve the integrity of internal controls within the agency and implement a compliance strategy consistent with *OMB Circular A-123*.¹⁶ NRCS finalized and began implementing these controls nationwide on January 5, 2015, after the period of our current review.

Risk Assessment: Based on the results of our current audit, we found that NRCS' land valuation process for easements was a high-risk area. We determined that the land valuation process for over \$40 million in EWP and WRP easements in one State did not always follow the NRCS required land valuation methods (see Finding 2). In another State, we found that the land valuation process was susceptible to simple calculation errors that cost NRCS over \$50,000 in overpayments. In a third State, we found that NRCS officials paid for FRPP conservation easements based on the higher land values shown on landowner-obtained appraisals (see Finding 3).

In a previous OIG report published in 2013 (See footnote 15), 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, a NRCS contractor completed this assessment.¹⁷ However, this risk assessment did not identify land valuation or payment accuracy of WRP or FRPP¹⁸ easements as a high-priority risk area, but instead identified ineligible participants and land owners' rights as risk areas. We agree that ineligible participants and landowner rights are high risk areas, but we also identified land valuation and payment accuracy to be high risk areas as well.

NRCS' National Appraiser maintains that there are guidelines and processes in place to obtain proper and defensible appraisals and AWMA that significantly reduce the valuation risk. However, that official also noted NRCS' method for calculating easement compensation falls outside the controls of the valuation conclusions of an appraisal or an AWMA. We acknowledge that NRCS has initiated steps to ensure that values, as stated in appraisals and market analyses, match the amounts the agency pays for a conservation easement, but there is still a risk that over or underpayments could occur. We conclude that, when NRCS overpays for conservation easements, it reduces the possible number of acres it

¹⁵ *Natural Resources Conservation Service's Oversight and Compliance Activities*, Audit Report 10601-0001-22, February 2013.

¹⁶ *OMB Circular A-123, Management's Responsibility for Internal Control*, December 21, 2004.

¹⁷ United States Department of Agriculture (USDA) *NRCS Risk Assessment and Integrated Compliance, Risk Assessment Results Report*, April 29, 2014.

¹⁸ EWP was not included in the scope of the risk assessment.

can register in easement programs. Conversely, when NRCS underpays for conservation easements, it reduces landowners' incentive to participate in Government conservation programs. For these reasons, properly valuing conservation easements is critical because it ensures NRCS' effective use of limited Federal funding. Therefore, failure to properly value easements poses a significant risk to the three easement programs we reviewed.

Control Activities: Control activities are an agency's actions—such as processes, techniques, or mechanisms—to detect and prevent staff from bypassing requirements. We found that NRCS issued policy, but did not always implement control activities to detect and prevent its State office staff from bypassing that policy. During this current audit, we found that NRCS closed 4 of 107 FRPP easements based on out-of-date appraisals, where the appraisals' effective dates were more than 12 months old at the time the easements closed. In one case, a State official in Kentucky was aware of this 12-month limit, but granted an unauthorized waiver. This contravened NRCS' policy that only the national office has authority to grant waivers of the 12-month limit.¹⁹ In the other three cases identified, NRCS State officials in California and Ohio acknowledged they were not aware that the appraisals were over 12 months old at the time of closing, and they stated there is no control in place to prevent outdated appraisals from being used again.

In 2011, we reported that FRPP in Michigan had used outdated appraisals, and we recommended that NRCS implement a process to prevent the Michigan State office from using appraisals that were more than 12 months old at closing.²⁰ At the start of this current audit, NRCS national officials informed us of their decision to implement the same 12-month limit nationwide. While we found that NRCS re-emphasized its policy in other States, it did not establish the procedures or mechanisms to ensure that policy was followed.

NRCS implemented the National Easement Staging Tool²¹ (NEST) database and is developing a data field for State officials to enter the age of the appraisal at closing. While NRCS could use NEST as a mechanism to identify easements with out-of-date appraisals, NRCS has not deployed this data field for State officials to enter the effective date of the appraisal. NEST does currently have a data field to document the value paid for each easement, but at that time NRCS did not require its staff to enter that information. Once new NEST functionality is deployed, if NRCS requires the State offices to enter the appraisal's effective date and payment information into NEST, NRCS national officials could then review that information before issuing payment to ensure that the effective date of the FRPP appraisal is not more than 12 months old at the time of closing.

Information and Communication: During this current audit, we found that NRCS did not always maintain financial information on disbursements in a readily available format. For example, after our entrance conference, we requested a report showing NRCS' payments for each easement closed during FYs 2012 and 2013. We planned to select our sample from that universe; however, we found that although NRCS tracked its easement obligations as a

¹⁹ FRPP Program Manual, Title 440, Part 519.62, section K, dated September 2010.

²⁰ *Controls Over the Farm and Ranch Lands Protection Program in Michigan*, Audit Report 10099-0003-Ch, September 2011.

²¹ NEST is the official agency database for easement programs, other stewardship conservation easements, and Water Bank Program data.

group, NRCS could not provide a list of disbursements per easement. For example, NRCS maintained a list of disbursements for FRPP easements in its financial management system, but that information grouped payments together into single disbursements. So, while NRCS' payments to a cooperating entity²² were shown in its financial system, Financial Management Modernization Initiative (FMMI), each payment may have been for multiple easements, but only the total disbursement was listed. Similarly, NRCS was unable to provide information on payments made per easement for EWP and WRP.

Furthermore, these data were not compatible with any of NRCS' other systems that documented easement activity, such as NEST. For example, the financial system tracked disbursements, but information on these disbursements could not be linked with the easement information contained in NEST. After several months of discussions, NRCS national officials did provide us with easement payment information from FMMI, but it was not in a format that we could use to identify amounts paid for specific easements by State. In addition, NRCS officials stated they could not guarantee the accuracy of the information and further stated the only way to determine an official number of easement payments would be to review the paper files located in each State office. NRCS national officials stated that contacting the State offices for that information would create an undue burden on State officials. Based on this, we continued to work with NRCS to try and find another way to obtain a universe showing payments made per easement.

Since NRCS was unable to provide us with easement payment data, we tried to select a sample based on NRCS' allocation of funds to the States. However, the NRCS national office was unable to provide documentation showing the process for distributing funds for FRPP, EWP, or WRP. For FRPP, we found, for example, that NRCS allocated nearly a third (\$53 million) of its funds in FY 2011 to just one State. The FRPP program manual²³ states that the allocation of funding is provided to NRCS State offices using an allocation formula based on a number of factors; however, the NRCS FRPP official acknowledged that allocation is not based on a specific formula. NRCS officials explained that their distribution formula is fluid and varies from year-to-year based on a variety of factors, such as: State-by-State need, whether other States have additional applications to process, and agency initiatives such as saving the sage grouse habitat. Rather than following a strict formula, NRCS evaluates State plans, holds discussions among the National leadership, obtains input from the four regional conservationists, and then makes a decision.²⁴

However, NRCS did not provide us with evidence documenting its allocation process for FRPP for the years we reviewed, explaining that its allocation process is more of an art than a science. For the other two easement programs, NRCS national officials did not document the process for fund distribution. We conclude that NRCS needs a more transparent process for allocating program funds that includes the information used to determine these allocations—especially when there are large anomalies, such as the \$53 million allocated to one State.

²² A cooperating entity is a local government or non-government entity that works with NRCS to purchase conservation easements in order to keep selected parcels of land from being developed for non-agricultural purposes such as housing.

²³ FRPP Program Manual, Title 440, Part 519.1, section D, dated September 2010.

²⁴ State proposals are submitted annually and illustrate the demand in a particular State for program funds.

Monitoring: Another critical aspect of an agency’s control environment is its monitoring or internal review process, which should indicate if controls are effective and working as intended. NRCS did implement the Oversight and Evaluation (O&E) process at the national level that periodically reviews selected States. Separately, each State office performs an annual Quality Assurance Review (QAR) that targets specific program areas. We found that neither of those reviews assessed a State office’s methods to establish conservation easement valuations or NRCS’ subsequent payments.

For example, we reviewed the most recent QARs (or internal reviews performed in all four NRCS State offices we reviewed) and found that none of them assessed the State offices’ valuation of easements. NRCS State officials stated that they do not have staff properly trained to conduct reviews of land valuation. NRCS national officials stated that they did not consider easement valuations to be a high risk for the agency, due to the guidelines and processes in place to obtain proper and defensible appraisals and AWMA that significantly reduce the valuation risk. However, we found that NRCS’ instructions for FRPP appraisal reviews were not consistent and contributed to overpayments of two FRPP easements (see Finding 3).

In a previous audit from 2013, we reported on NRCS’ lack of monitoring (with its O&E review process) in several key areas, one of which included conservation easement valuations.²⁵ However, the last O&E reviews of conservation easements were published in 2011, and did not include an assessment of conservation easement valuation controls. When we interviewed the O&E team leader in 2014, he stated that the O&E review team had not been engaged for assessment of conservation easement valuations.

In addition to the findings we disclosed in this report, the recent audit of NRCS’ FY 2014 financial statements found that NRCS made improper payments because various easement program policies or steps in the easement acquisition process were not properly followed.²⁶ For example, that report found that NRCS disbursed easement funds without approval by the agency’s National Appraiser, and for easement appraisals that failed the technical review process. That report also found that NRCS paid the incorrect amount due to a calculation error and in one lump sum, instead of installment payments, as required.

OIG concluded that NRCS’ control environment lacked management accountability; thus, there is reduced assurance that NRCS uses proper land values to structure payments in its easement programs. OIG maintains that NRCS needs to account for the financial disbursements for easements to ensure proper payment. With greater emphasis on oversight and accountability, NRCS could ensure that every dollar it spends maximizes the total acreage conserved by NRCS programs. NRCS needs to emphasize and strengthen controls for conservation easements prior to the issuance of payment because the easements involve the long-term conveyance of rights that NRCS cannot easily recover costs for if it overpays.

²⁵ *Natural Resources Conservation Service’s Oversight and Compliance Activities*, Audit Report 10601-0001-22, February 2013.

²⁶ *Natural Resources Conservation Service’s Financial Statements for Fiscal Year 2014*, Audit Report 10401-0004-1, November 2014.

Recommendation 1

Re-assess the oversight and evaluation process to ensure it covers all key program requirements for the payment of conservation easements and establish procedures to assess the adequacy of easement valuation controls.

Agency Response

In its August 31, 2015, response, NRCS officials stated that this OIG audit reviewed easement transactions completed in 2012 and 2013. Since that time, NRCS has begun implementing oversight and evaluation measures through internal controls that will address this recommendation. It stated that on January 5, 2015, NRCS implemented the Enhanced Easement Internal Controls process that includes a review of the easement payment calculation prior to the issuance of payments. The Internal Controls Team is currently staffed with a series of detailees, and NRCS anticipates staffing the Internal Controls Team with permanent staff by December 31, 2015. The Enhanced Easement Internal Control reviews at the State level are completed on all easement payments and are completed at the national level for payments above certain thresholds.

Further, the Compliance Division's Internal Control section of Strategic Planning and Accountability (SPA) is conducting quality assurance review audits to independently verify if high risk areas under the Conservation Easement Programs are performed in accordance with regulation and policy. To ensure consistency, an Easement Audit Checklist was developed and designed for use during the SPA audit process.

OIG Position

We accept NRCS' management decision for this recommendation.

Recommendation 2

Implement controls to prevent paying for FRPP easements with appraisals that are more than 12 months old at the time of closing.

Agency Response

In its August 31, 2015, response, NRCS stated that the audit reviewed easement transactions closed in fiscal years 2012 and 2013. NRCS also stated that on January 5, 2015, Enhanced Easement Internal Controls were implemented for all easement acquisitions. NRCS further stated that beginning in January 2015, its National Headquarters implemented Internal Control Reviews for all easement and 30-year easement acquisitions.

These Enhanced Easement Internal Control reviews at the State level are completed on all easement payments and are completed at the national level for payments above certain thresholds. NRCS further stated that one of the items reviewed through the internal controls process is the age of the appraisal and applicable waivers. NRCS estimates completion of this action by December 31, 2015.

OIG Position

We accept NRCS' management decision for this recommendation.

Recommendation 3

Before easement payments are made, establish a routine process to select a sample of WRP and EWP easement payments from each State, ensuring that these easement valuation calculations meet program requirements.

Agency Response

In its August 31, 2015, response, NRCS stated that the national easement enhanced Internal Controls guidance (NI 300-300), originally released in December 2014 and updated in July 2015, requires all easement acquisition applications and agreements to undergo a minimum of a first and second-level review prior to the payment/closing of an easement or 30-year contract. Additionally, easement acquisitions that are over an established dollar threshold must undergo a third National level review prior to payment/closing. NRCS also stated that part of the internal control review process for easement payments is a review of the easement valuation calculation based on the final acreages and the per acre easement compensation amount. In addition, NRCS stated that all internal control reviews are documented on a program specific internal controls checklist and saved in NEST.

OIG Position

We accept NRCS' management decision for this recommendation.

Section 2: Valuation of Conservation Easements

Finding 2: NRCS Could Not Support Land Valuation Calculations for EWP and WRP Easements

Two of the four State offices we reviewed paid for EWP and WRP conservation easements based on insufficiently supported land valuations. In Ohio, 6 of the 43 WRP conservation easements closed in FYs 2012 and 2013 were miscalculated by State officials; thus, landowners were paid more per acre than the State's approved GARC (See footnote 7). In Iowa, the NRCS State office used an unsupported GARC methodology to establish easement compensation to landowners. Also, the Iowa State office used three additional easement compensation methods that did not follow agency policy, but NRCS national officials used their authority to approve two of those three methods. In addition, the NRCS Iowa State officials' payment methodologies were insufficiently supported for 113 of the 114²⁷ EWP and WRP conservation easements paid in FYs 2012 and 2013. This occurred because NRCS trusted its State office staff to follow approved methodologies without ensuring the sufficient controls were in place to verify the accuracy and supportability of program payments. In addition, NRCS did not follow up with State offices that provided incomplete²⁸ or inaccurate support for their methodologies, or no support at all. As a result, we question the payments for 119²⁹ EWP and WRP conservation easements with a total value of approximately \$42.1 million.³⁰ (See Exhibit A.)

NRCS requires the easement compensation process to be well-documented, transparent, and capable of withstanding close scrutiny;³¹ in addition, the State office's process is required to receive national office approval before the State office can make an offer and subsequently authorize landowner payments.³² The State office's easement compensation proposal must include seven items (See footnote 28), including an area description showing how the State office arrived at its GARC rates and how it plans to calculate landowner payments.

NRCS policy also requires easement compensation to be based on the lowest of three sources: (1) the FMV of the land determined through an Area-Wide Market Analysis (AWMA) or a Uniform Standards of Professional Appraisal Practices (USPAP) appraisal, (2) a GARC, or (3) the landowner

²⁷ One of the WRP easements in Iowa was based solely on a landowner offer which was lower than the AWMA and GARC. OIG does not question the valuation for that easement. Iowa closed a total of 91 WRP easements and 23 EWP easements in FYs 2012 and 2013.

²⁸ Starting in FY 2011, NRCS required State conservationists to provide (i) the process used to determine the area for each GARC, (ii) the process used to determine the dollar or percent value of each GARC, (iii) the geographic area, development potential, land use, or land productivity categories considered, (iv) the corresponding GARC from adjacent States with an explanation of any significant differences, (v) the source of the data, (vi) the date the proposed GARC values were reviewed with the State Technical Committee, and (vii) for GARCs greater than \$5,000 per acre, an evaluation and justification of the ecological importance of enrolling these high-cost lands.

²⁹ These 119 payments include 90 WRP and 23 EWP easements in Iowa, and 6 WRP easements in Ohio.

³⁰ The approximately \$42.1 million includes easements totaling \$42,092,108 in Iowa and \$51,299 in Ohio. These dollar amounts represent the entire payment for the 119 easements.

³¹ National Bulletin 300-9-4, dated November 3, 2008—LTP—WRP Easement Compensation Procedures. On June 3, 2009, NRCS issued a memo to State offices which advised that the same AWMA and GARC values that were established for WRP in accordance with this national bulletin would also be used to determine the compensation value for [EWP] floodplain easements.

³² State office payment methodologies are submitted to NRCS in a State proposal each year.

offer.³³ The AWMA is an appraisal of acreage across large land tracts (i.e., counties, regions, districts, etc.) and provides an average price per acre for the established types of land in a State (i.e., cropland, pastureland, timberland, etc.). Each fiscal year, the NRCS State conservationist, in consultation with the State Technical Committee, develops a GARC that is a percentage of the total FMV listed in the AWMA. The GARC, usually between 80 and 95 percent of the FMV, represents the amount the NRCS State office plans to offer landowners in order to bring land into the EWP or WRP easement program. The NRCS national office must approve a State office's easement compensation methodologies for EWP and WRP before the State office can offer and authorize payments to landowners.

Unsupported Easement Compensation Methodologies Used in Iowa

Our review found that the NRCS Iowa State office could not support its easement compensation methodologies for landowner payments for FYs 2012 and 2013. While one of the methodologies would have met NRCS' policy (the lowest of three possible methods), NRCS national officials did not question whether the State office could support those numbers before granting approval of its easement compensation proposal. In addition, NRCS did not have controls in place to ensure that prices per acre matched the State office's proposal before making payments to the landowners. As a result, we question 113 of the 114 easement compensation payments, totaling \$42,092,108, during FYs 2012 and 2013.³⁴ While most of the easements included more than one type of land, the NRCS Iowa State office used separate easement compensation methods for cropland (payments totaling about \$36.2 million) and for pasture and timberland combined (payments totaling about \$5.8 million). The issues we identified with the State office's compensation and related methodologies are discussed below:

Cropland

Each year, from FY 2009 through FY 2012, the NRCS Iowa State office submitted its proposal for calculating payments for cropland entered into the EWP and WRP to the NRCS national office.³⁵ To determine the price per acre for cropland, a State office would use the price per acre established by an AWMA, and then multiply that amount by a GARC percentage to arrive at a payment amount per acre. However, in Iowa the AWMA is used to establish a price per corn suitability rate (CSR)³⁶, which was used as the basis to calculate the payment amount per acre. In other words, Iowa's GARC methodology multiplied the CSR point listed in the AWMA by the average CSR point to arrive at a price per acre. The State office then multiplied the price per acre by the GARC percentage to arrive at the landowner payment. Expressed as a formula, this is:

$$\begin{aligned} \text{AWMA CSR point} \times \text{Average CSR} &= \text{Price Per Acre} \\ \text{Price Per Acre} \times \text{GARC Percentage} &= \text{Landowner Payment Per Acre} \end{aligned}$$

³³ EWP Program Manual Title 390 Part 514.30 A (2) (i) (ii) (iii), dated November 2010, and WRP Program Manual Title 440 Part 514.32 A (2) (i) (ii) (iii), dated December 2010.

³⁴ The \$42,092,108 is based on the actual amounts paid as shown on the recorded deeds.

³⁵ We reviewed landowner payments made in FYs 2012 and 2013, but some of those payments would have been based on the NRCS Iowa State office's compensation methodologies submitted between FYs 2009 through 2012.

³⁶ CSR) is an index procedure developed in Iowa to rate the potential row-crop productivity of different types of soil.

This formula would be an acceptable compensation method, but we found it did not always result in the lowest possible payment amount, and the NRCS Iowa State office could not provide documentation to support the Average CSR. NRCS State officials said the Average CSR number was developed by a former NRCS State official who developed the numbers based on his experience. However, current NRCS State officials could not describe or provide support showing the former official's method for calculating the Average CSR. Since Iowa NRCS State officials could not support the numbers used in their formula, we question the \$21.3 million that NRCS paid for cropland it entered into the EWP and WRP programs during FYs 2012 and 2013. While NRCS national officials did approve the State office's formula listed above, one of these officials stated they did not know why the State's proposal had been approved.

We also found that the NRCS Iowa State office used a second formula not included in its approved proposal. As in its previous formula, the State office used the AWMA CSR number, but this time they multiplied it by the landowner's CSR Soil Mapping Unit³⁷ to arrive at a price per acre for the proposed easement. The State office then determined landowner payment based on the lower of this formula (using soil mapping) or the total from the formula stated above. Although this methodology was not disclosed to NRCS national officials, a NRCS Iowa State official stated that, in his opinion, this methodology provided the most accurate easement compensation value because compensation was based on the lower of two established values. However, the NRCS National Appraiser disagreed and stated this method was not acceptable because NRCS approves the GARC, and this method makes payment based on a different value. The NRCS National Appraiser added that, once the GARC is approved by the NRCS national office, the State office should base payment on the approved GARC, as long as it is the lowest of the three approved methodologies. The NRCS Iowa State office paid \$14.9 million for cropland based on this undisclosed formula, and, therefore, we question them.

Pastureland and Timberland

For pasture and timberland, the NRCS Iowa State office used another methodology to determine easement compensation. It selected the lower of two land values: (1) the FMV of the land listed in the AWMA, or (2) the amount published by the Realtors Land Institute (RLI) for each region.³⁸ Instead of State officials multiplying the FMV of the land by a percentage to determine the GARC and making the landowner payment based on the lowest amount per acre, which would have been an approved methodology, they used the lowest of the two land values discussed above as the price per acre to determine easement compensation. An NRCS Iowa State official stated that the RLI land values were used because they met the same criteria the ones used in the AWMA, and they were prepared by real estate professionals. However, the State office's methodology did not match any of the three approved for conservation easement valuation.

³⁷ The CSR Soil Mapping Unit is established by NRCS soil scientists who develop soil rates for each different soil type. The different soil types in the State are used to calculate the quality of land for corn productivity.

³⁸ The RLI surveys its members, which include real estate brokers, appraisers and other specialists in farm and land sales, management and appraisals, to estimate the value of bare, unimproved land with a sales price on a cash basis. These RLI land values are reported on a semi-annual basis.

NRCS' National Appraiser could not explain the reason that NRCS allowed the State office to use the RLI value for pasture and timberland in Iowa, other than to say that a constant turnover of officials reviewing the GARC proposals from FYs 2009 through 2013 prevented consistent program oversight. The person responsible for approving the GARC proposal is no longer in the same position at NRCS and did not provide any comment to explain the decision made. The NRCS National Appraiser agreed with us that the State office staff should not have used the FMV or RLI value. Our analysis showed that the FMV derived from AWMA and RLI values was inflated because it was not reduced by the approved GARC percentage. Therefore, we question the amounts NRCS paid for pasture and timberland, totaling \$2.3 million, based on the FMV in the AWMA, and totaling \$3.5 million, based on the RLI values during FYs 2012 and 2013.

Calculation Errors in Ohio

We reviewed the Ohio NRCS State office's process for determining its GARC amounts (FMV multiplied by the GARC percentage) and found that it overpaid landowners for WRP easements in Ohio. This happened because the State office relied on its WRP program manager without reviewing the manager's calculations, and the NRCS national office did not have an effective review process in place to ensure documentation submitted by the State office was accurate. As a result, NRCS paid \$51,299 more for six WRP easements than what was allowed, based on the approved GARC rates during FYs 2012 and 2013. (See Exhibit A.)

We computed the GARC amounts for the six WRP easements purchased in Ohio in FYs 2012 and 2013 and found that three easements were overpaid by \$1,000 per acre and three easements were overpaid by \$200 per acre. While the GARC for three of the easements should have been \$2,725 per acre in one region, the State office listed the GARC at \$3,725 per acre for the region.³⁹ NRCS State officials agreed with our determination and attributed it to a typographical error. For the remaining three easements, the GARC should have been \$2,425 per acre, but it was listed as \$2,625 per acre. An NRCS Ohio State official explained this as a transposition error when calculating the GARC from the AWMA. As a consequence of the State office overstating the GARC, it exceeded the FMV as stated in the AWMA for three easements. However, NRCS national officials approved the State office's GARCs, even though they did not meet any of the three approved methods⁴⁰ and could not explain why they granted that approval. As a result, we determined that the State office overpaid \$33,959 for three easements. Similarly, the other three easements in Ohio were overpaid by \$17,340, collectively.

While we agree that the errors in Ohio were likely due to the program staff's inadvertent errors, we found that the lack of compensating controls at the State level resulted in higher amounts paid. In addition, we question NRCS' national office review because it did not identify the calculation errors when it compared the price per acre information in the NRCS State office's proposal to supporting documentation.

³⁹ The Ohio NRCS State office rounds the price per acre up or down to the nearest \$25 increment.

⁴⁰ WRP Program Manual 440 Part 514.32 D (1) (ii), dated December 2010.

Documentation and Review of State Offices' Payments

During this audit, OIG identified deficiencies with the easement compensation proposals for two of the four states we reviewed. We reviewed the easement compensation proposals submitted by the NRCS Iowa State office for FYs 2009 through 2012, and the NRCS Ohio State office for FYs 2009 through 2011.⁴¹ Our review found that five of those seven proposals lacked one or more of NRCS' required elements (See footnote 28). For example, the Ohio NRCS State office increased the GARC percentage from 80 percent of the FMV in FY 2010 to 90 percent of the FMV in FY 2011, but did not provide the required rationale for the increase. NRCS also requires State offices to explain significant differences (20 percent or more) between their GARC rates and those of neighboring states.⁴² We found that, although the NRCS Iowa State office compared its rates with the neighboring States, it did not explain why the price per acre in Iowa was more than 20 percent different in three districts in comparison to neighboring States. For example, we found that the price per acre in the South Central and North West districts was 40 percent higher than the price per acre for land just over the border in Missouri and South Dakota, respectively. In addition, in Iowa's South East district, the price per acre was 74 percent lower when compared to the land price in the adjoining state of Illinois.

While NRCS State officials did not always submit the required information, the NRCS national office did not have compensating controls to identify the missing information and require State offices to submit it before approving their easement compensation proposal. In addition, once NRCS approved a State proposal, it did not use it to identify a State office that paid a different amount than approved. For example, if NRCS had reviewed the NRCS Iowa State office's payments, it could have seen that the State was using the FMV price per acre as listed in the AWMA to compute the landowner payment per acre, instead of multiplying that price per acre by the GARC percentage.

For FY 2012, the Iowa NRCS State office submitted a proposal listing a GARC price per acre for pastureland and timberland that was higher than the FMV listed in the AWMA. We copied excerpts from that proposal and included it in the table below showing that the GARC price per acre for pastureland and timberland is more than the FMV price per acre listed in the AWMA.

Crop Reporting District	FMV price per acre from AWMA— Pasture	GARC price per acre (from RLI)—Pasture	FMV price per acre from AWMA— Timber	GARC price per acre (from RLI)— Timber
Central	\$2250	\$2426	\$2169	\$2174
South Central	\$1840	\$1910		
South East	\$1957	\$2033		
North West	\$2249	\$2325		
North East	\$2434	\$2586		
East Central	\$2442	\$2468		
Southwest	\$2205	\$2328		
North Central				
West Central				

⁴¹ Our review looked at WRP and EWP payments made in FY 2012 and FY 2013, which in these States involved easements approved between FY 2009 and FY 2012.

⁴² WRP Program Manual 440 Part 514.32 D (5) (vi), dated December 2010.

This table shows the price per acre for seven of Iowa's nine districts for pastureland and one timberland district (Central). In each instance, the GARC price per acre exceeds the FMV price per acre, as listed in the AWMA. The GARC for pastureland did not exceed FMV in the North Central and West Central districts, and for timberland the GARC did not exceed FMV in eight of the nine districts, as represented by the empty shaded cells in the table above.

Since NRCS acquires only a portion of land rights under EWP and WRP, the GARC should always be less than the FMV determined by the AWMA or individual appraisal. The percentage reduction, therefore, must reflect the proportionate value of the property rights being acquired in the easement transaction.⁴³ However, NRCS national officials did not identify the price levels in the above table as a problem, and they approved the NRCS Iowa State office's proposal even though it did not meet program requirements.

NRCS needs to establish and implement compensating controls over the EWP and WRP easement programs so staff reviewers have consistent standards for treating incomplete or unsupported proposals. Though NRCS met its goal of placing land in the EWP and WRP programs, it did so by depleting Federal funds unnecessarily, diminishing its ability to fund future easements. Conversely, when NRCS underpays for easements, there is less incentive for landowners to offer their land for these programs. Overall, NRCS must implement controls to verify the completeness of State-level easement proposals and certify the accuracy of State office calculations prior to payment. By taking appropriate corrective actions, NRCS can tighten its controls over the land valuation process for conservation easements and improve its stewardship of taxpayer dollars.

Recommendation 4

Require State offices to include all supporting documentation used in their State proposals submitted for approval in order to comply with NRCS policy on calculating easement payments and prevent potential improper payments.

Agency Response

In the agency's response, dated August 31, 2015, NRCS officials stated that NRCS guidance, as well as the national-level review and approval process for easement compensation packages, has improved since 2012 and 2013. NRCS now requires each State that will enroll easements to annually electronically upload their easement compensation proposal package for that fiscal year. Once submitted by the State, the package of materials is now reviewed by a National Program Specialist and the National Appraiser, whereas in 2012 and 2013, not all packages were reviewed by both National reviewers. The required materials are currently listed in the Agricultural Conservation Easement Program policy manual at 440 CPM 528.122. NRCS also stated that it will provide the States a checklist of materials that must be uploaded with the easement compensation proposal package.

⁴³ WRP Program Manual 440 Part 514.32 D (1) (ii), dated December 2010, and EWP Program Manual 390 Part 514.30 D (9) (i), dated November 2010.

OIG Position

We accept NRCS' management decision for this recommendation.

Recommendation 5

Implement a process for NRCS national program officials to use in documenting the review and approval of State proposals, including verifying the completeness and accuracy of State information and certifying the accuracy of State office calculations above a certain dollar threshold prior to the payment of WRP and EWP conservation easements.

Agency Response

In its August 31, 2015, response, NRCS stated that for the review of the annual State easement compensation proposal packages, NRCS will develop and use a National review checklist to ensure the required materials outlined in 440 CPM 528.122 are submitted. The checklist will document the national review teams' review and corrections required. For the calculations of individual payments, NRCS will use the Enhanced Easement Internal Controls process outlined in NI 300-300 that was deployed on January 5, 2015. The agency estimated that it will complete the National review checklist by March 31, 2016.

OIG Position

We accept NRCS' management decision for this recommendation.

Finding 3—NRCS Paid for FRPP Conservation Easements Based on the Higher Values Listed in Landowner-Obtained Appraisals

During FYs 2012 and 2013, NRCS State officials in Kentucky improperly closed two of the eight FRPP conservation easements using landowner-obtained appraisals. These actions were contrary to the cooperative agreement signed by NRCS and the cooperating entity (e.g., local government) prohibiting landowners from approving the appraiser. This happened because the NRCS State office relied on the technical review process and did not take appropriate action when it knew that, contrary to the cooperative agreement, second appraisals containing higher land values were obtained by a landowner. Because landowner-obtained appraisals are not specifically prohibited by the NRCS FRPP program manual, NRCS State officials approved the payments, thus not exercising sufficient stewardship over Federal funds. As a result, NRCS paid approximately \$1.3 million to conservation easements based on higher land values indicated by landowner-obtained appraisals.⁴⁴ (See Exhibit A.)

NRCS' FRPP program manual states that the cooperating entity must "inform the owner of what the cooperating entity believes to be the fair market value of the property, in accordance with a

⁴⁴ OIG questions the entire amount paid for these easements. Since the appraisals obtained by the cooperating entity were not subject to NRCS' technical review process, we cannot rely on those valuations to compute the excess amount paid for the conservation easements.

legitimate appraisal.”⁴⁵ Each FRPP easement is also governed by a legal document, called a cooperative agreement, which is signed by the NRCS State office and the cooperating entity. The cooperative agreement for the two easements we questioned more clearly and strongly stated that “under no circumstances will the [cooperating entity] allow the landowner to approve or disapprove of the appraiser.”^{46, 47} NRCS issued two separate technical review instructions, one of which stated that the cooperating entity is to be the client. However, the technical reviewer for these two easements received the set of instructions that was silent on the matter. Since NRCS is allowed to pay up to 50 percent of the appraised FMV of the conservation easement,⁴⁸ the land appraisal is a key document and must remain unbiased.

During FYs 2012 and 2013, the NRCS State office provided funds to cooperating entities that acquired eight FRPP easements in Kentucky. We reviewed five of the eight easements⁴⁹ and found that NRCS State officials made payments on two of the easements, even though they acknowledged that they knew the supporting appraisals were contracted and paid by the landowner specifically to obtain a higher price-per-acre.⁵⁰ The two landowner-obtained appraisals were 22 percent and 41 percent higher, respectively, than the appraised value determined by the cooperating entity’s appraiser. We also found that landowner-obtained appraisals of these conservation easements were obtained because the cooperating entity has local regulations requiring it to allow landowners to obtain a second appraisal if the landowner believes the land value is too low. While the NRCS program manual does not prohibit the landowner from obtaining an appraisal, that action did contradict the language in the State office’s signed cooperative agreement with the cooperating entity; thus, the second appraisal is inconsistent with the terms of the cooperative agreement.

The documentation we received from the cooperating entity for the first conservation easement showed that it sent a copy of the appraisal to the landowner with a letter advising that the landowner must: (a) signify agreement with the easement value, (b) withdraw his application, or (c) advise that he is securing an independent appraisal at his expense. Prior to NRCS’ approval, the landowner decided to pay for a second appraisal on the same pending conservation easement. The landowner-obtained appraisal valued the easement at \$1,475,000 for the same acreage (or \$4,100 per acre), over 41 percent higher than the cooperating entity’s original appraisal. The landowner-obtained appraisal report stated that the “intended use of the appraisal is to aid the owner of the subject property in an appeal of the value for an offer for a conservation easement on the subject property.” After the cooperating entity received the second appraisal, it reached agreement with the landowner to split the difference and made a final offer to the landowner of \$3,500 per acre, the

⁴⁵ FRPP Program Manual 440, Part 519.12 (B)(2)(ii), dated September 2010. While the manual uses the term “legitimate appraisal,” it does not define it. Since the Manual does not define “legitimate appraisal,” we concluded that NRCS’ use of the term implies an appraisal that meets the requirements of (1) the FRPP Program Manual, (2) USPAP (or UASFLA) standards, and (3) any additional written instructions provided to the appraiser by NRCS.

⁴⁶ NRCS-KY Cooperative Agreement with the Cooperating Entity, dated July 2011.

⁴⁷ The NRCS State offices are not required to submit their cooperative agreements to NRCS-Headquarters.

⁴⁸ FRPP Program Manual 440, Part 519.52(A)(1), dated September 2010.

⁴⁹ Our initial non-statistical sample included five of the eight FRPP easements for which we performed a full review. However, after we found that two of the five easements were supported by appraisals obtained by the landowner, we expanded our scope to include the remaining three easements. Our review of the additional three easements was limited to determining who obtained the appraisal, and we found that the additional easements were not based on landowner-obtained appraisals.

⁵⁰ Based on the landowner-obtained appraisals, these easements were appraised at \$1,475,000 and \$1,215,000, respectively.

average of the two appraisal values. In spite of this compromise, the cooperating entity provided NRCS with only the landowner-obtained appraisal of \$4,100 per acre. NRCS State officials informed us they were aware of both appraisals, but approved the payment based on the higher price per acre because the appraisal passed NRCS' technical review process. The technical reviewer followed NRCS instructions requiring her to review the comparable sales data in the appraisal, but not who obtained the appraisal. As a result, NRCS contributed about \$737,000, or approximately 50 percent of the appraised value. However, if it had used the cooperating entity-obtained appraisal, the agency's share would have been limited to about \$522,000. NRCS' contribution, based on the landowner-obtained appraisals, was \$215,000 higher than would have been allowed had the cooperating entity submitted the appraisal it obtained and had the landowner agreed to sell the conservation easement at the lower price.

The process was the same for the second conservation easement. The entity's initial appraisal valued the 316-acre easement at \$995,350, or about \$3,150 per acre. The landowner's counter appraisal valued the same easement at \$1,215,000, or about \$3,850 per acre, an increase of 22 percent over the appraised value shown by the cooperating entity's appraiser. The same cooperating entity again submitted only the landowner-obtained appraisal with the higher value to NRCS for payment. Once again, NRCS approved the payment based on the higher price per acre because the appraisal passed NRCS' technical review process. This resulted in NRCS contributing over \$607,000—or approximately 50 percent—of the appraised value of the property; this payment would have been limited to about \$498,000 if the entity-obtained appraisal was used and if the landowner had agreed to sell the conservation easement at a lower price, resulting in a difference of about \$109,000. As a result, NRCS contributed approximately \$1.3 million to these two conservation easements based on the higher values found by the landowners' appraiser, instead of approximately \$1 million.

The same technical reviewer contracted by the NRCS State office approved the appraisals for both easements and said the values were supported by the comparable sales listed in the appraisal. The reviewer also stated that NRCS did not submit two appraisals for each easement. The technical reviewer said that if NRCS had done so, it could have led to questions about the higher appraisals if the reviewer saw that the landowners' appraisers had omitted certain lower-priced comparable sales that the entity's appraisers included. The technical reviewer also stated that the NRCS instructions the reviewer received did not explicitly prohibit landowner-obtained appraisals, and they did not know that they were prohibited. Therefore, the technical reviewer had no grounds to reject the appraisals. The technical reviewer further stated that she would have rejected the appraisal if she had instead been provided NRCS' other set of technical review instructions, which showed that the cooperating entity must be identified as the client.

In our discussions with NRCS State office officials, we found that, while the Assistant State Conservationist was aware of both landowner-obtained appraisals, the State Conservationist was not. However, both agreed that because the technical reviewer had approved the appraisals, these appraised values were acceptable for calculating NRCS' payment portion—regardless of who obtained the appraisal. This view was not shared by NRCS' National Appraiser, who stated that using landowner-obtained appraisals is not good business practice. The National Appraiser further stated that, while the FRPP manual did not expressly prohibit landowner-obtained appraisals, in October 2011 he informed all technical reviewers contracted under NRCS' blanket purchasing agreement that: (1) the cooperating entity is to be the client, and (2) that NRCS will not accept

appraisals contracted and paid by the landowner. However, the technical reviewer associated with the two easements in question was not a party to that blanket purchasing agreement and never received those instructions. For technical reviewers not included in the blanket purchasing agreement, the State office provides the reviewers with instructions based on NRCS' program manual, which was not updated to prohibit landowner-obtained appraisals. The National Appraiser stated that NRCS will update the FRPP program manual and technical reviewer instructions to close this loophole, ensuring that landowner-obtained appraisals will not be used in future land valuations.

While we are encouraged by NRCS National Appraiser's proposed actions, the NRCS Kentucky State office needs to implement controls that will ensure that Federal funds will not be paid for FRPP easements that are supported by landowner-obtained appraisals. In addition, the national office needs to monitor the implementation of these corrective actions, review the State office's pending easements, and confirm that the appraisals meet the required standards, prior to closing, until the national office is satisfied that the State office's controls are effective and sufficient.

Recommendation 6

Establish the value of the two questioned easements in Kentucky either by (1) using the cooperating entity's original appraisals, or (2) by obtaining new appraisals for those conservation easements and work with the State Conservationist and cooperating entity to recover the \$1,344,860 in improper payments, if necessary.

Agency Response

In its August 31, 2015, response, NRCS stated that corrected appraisals to replace the landowner appraisals will be obtained and will follow the FRPP appraisal specifications for 2012. The appraisals will have effective dates of value prior to the closing date of the FRPP easements. NRCS also stated that the appraisals will be reviewed by a technical reviewer shown on the National Blanket Purchase Agreement.

NRCS further stated that the National Appraiser will review the appraisals and reviews to determine that they are in compliance with policy and this recommendation. The values from the approved appraisals will be used to determine if the payments were proper. In the event the corrected appraisal does not support the amount provided by NRCS for the easement cost-share amount provided by the agency, NRCS will follow applicable cost recovery procedures. In the event the corrected appraisal supports a higher cost-share amount for the easement, NRCS will not upward adjust the easement cost-share amount. NRCS estimates completing these actions by March 31, 2016.

OIG Position

While we agree with NRCS' planned corrective actions, we do not accept management decision for this recommendation. In order to reach management decision, NRCS needs to provide the values it established for the two questioned easements in Kentucky and the improper payments collected or the total claims and receivables established for the improper payments.

Recommendation 7

Immediately issue a policy memo to all State conservationists emphasizing that FRPP land appraisals must be obtained by the cooperating entity, not the landowner.

Agency Response

In the agency's response, dated August 31, 2015, NRCS officials stated that they will issue a national bulletin (by December 31, 2015) emphasizing that FRPP appraisals must be obtained by the cooperating entity, rather than the landowner.

OIG Position

We accept NRCS' management decision for this recommendation.

Recommendation 8

Require the Kentucky State Conservationist to develop and implement controls to ensure that payments on FRPP easements are not supported by landowner obtained appraisals.

Agency Response

In its August 31, 2015, response, NRCS officials stated that the Kentucky State Conservationist will develop an attachment to go with the enhanced internal controls FRPP checklist to document that the appraisals are properly obtained by the entity. This attachment will be required for each FRPP submitted by Kentucky for national level review as required in Recommendation 9. NRCS estimates completion of this action by December 31, 2015.

OIG Position

We accept NRCS' management decision for this recommendation.

Recommendation 9

Review all FRPP easements in Kentucky prior to closing until NRCS confirms that the State office's review process is sufficient to ensure that appraisals meet the required standards and that any problems are addressed before the State office approves the conservation easements for closing.

Agency Response

In the agency's August 31, 2015, response, NRCS officials stated they will issue instructions to the Kentucky State Conservationist to submit all remaining FRPP transactions for a national level review in addition to the State's first and second level review prior to any payment or closing. NRCS estimates to complete this action by December 31, 2015.

OIG Position

We accept NRCS' management decision for this recommendation.

Recommendation 10

Revise the FRPP program manual and technical review instructions to clearly prohibit landowner-obtained appraisals.

Agency Response

In its August 31, 2015, response, NRCS officials stated that FRPP was repealed by the 2014 Farm Bill. No additions or revisions to the FRPP program manual is appropriate at this time. NRCS will issue a national bulletin (by December 31, 2015) specifying that landowner-obtained appraisals are prohibited for all remaining FRPP transactions.

OIG Position

We accept NRCS' management decision for this recommendation.

Scope and Methodology

Our audit evaluated the NRCS land valuation process for three of its conservation easement programs: FRPP, WRP, and EWP. We initially planned a nationwide review of only NRCS' FRPP, but expanded our scope to include EWP and WRP because of a hotline complaint that questioned NRCS' land valuation process for those two programs.⁵¹ While we found problems with the valuation process for EWP and WRP (see Finding 2), we did not see evidence of the issues alleged in the hotline complaint.

We performed our audit work at NRCS' national office in Washington, D.C., and four (non-statistically selected) State offices: California, Iowa, Kentucky, and Ohio. We also contacted all four NRCS regional conservationists, who provided direction and oversight for those four State offices. Based on the issues we found with two FRPP conservation easements in one State, we also interviewed the officials for one cooperating entity, as well as the technical reviewer who approved land appraisals submitted by that entity. Our audit field work was conducted from October 2013 through March 2015.

Our non-statistical sample of State offices included one in each of NRCS' four regions, with emphasis on the highest number and type of easements closed during FYs 2012 and 2013, as documented in NRCS' NEST system. Based on these data, we determined that NRCS closed 1,690 WRP easements, 567 FRPP easements, and 68 EWP easements. The four NRCS State offices we reviewed closed 207 of the 1,690 (12 percent) WRP easements, 107 of the 567 (19 percent) FRPP easements, and 59 of the 68 (87 percent) EWP easements closed in that time period. Thus, our audit included approximately 16 percent of all NRCS easements during FYs 2012 and 2013. In the four selected States, our non-statistical sample focused on the FRPP easements with the highest appraised price per acre and the WRP and EWP easements with the largest total purchase price paid by NRCS. This sample included: 15 FRPP easements (5 in Kentucky, 5 in California, and 5 in Ohio), 187 WRP easements (18 in Kentucky, 35 in California, 43 in Ohio, and 91 in Iowa) and 44 EWP easements (5 in Kentucky, 16 in Ohio, 23 in Iowa). Due to the issues identified for NRCS' FRPP in Kentucky, we expanded our sample to include all eight FRPP easements to determine if the appraisals were obtained by the landowner. We also reviewed all 107 FRPP easements in the four States to determine whether the appraisals were more than 12 months old on the date that NRCS closed on those easements.

Our sample of easements totaled \$117 million (83 percent) of the \$140 million NRCS paid for all three programs, during FYs 2012 and 2013, in the four States we reviewed. We were unable to determine the exact value paid per easement in the universe because NRCS does not require State offices to enter easement valuations in the NEST database and did not maintain that data in any of its information technology (IT) systems. While we did rely on the NEST data to select which State offices to review, NEST did not include data on valuations or expenditures, and therefore was not significant to meeting our audit objectives. Once at the selected State offices, we compared the data in NEST, such as acreage and closing dates, to the information in the paper files located at the four NRCS State offices and saw only immaterial discrepancies. We did not use NRCS' IT system to

⁵¹ An additional four hotline complaints relating to WRP and EWP were received during the course of our audit fieldwork.

select our sample, but based our sample of easements on the information maintained in the State offices' paper files.

To meet our audit objectives, we:

- Interviewed NRCS national and regional officials on the agency's land valuation policies, procedures, and oversight of EWP, FRPP, and WRP;
- Reviewed NRCS national office policies, procedures, and oversight of EWP, FRPP, and WRP;
- Analyzed the information and reports provided by NRCS national officials taken from its financial and NEST data systems to determine our site visits;
- Interviewed NRCS State officials from California, Iowa, Kentucky, and Ohio to determine the adequacy of the land valuation process and oversight of program officials;
- Interviewed NRCS' National Appraiser, as well as non-governmental appraisal experts to determine the adequacy of the appraisal review process for individual tracts of land and area-wide market analyses;
- Analyzed the information maintained in each easement file to document such items as the program type, acreage, closing date, amount paid, and other data to determine whether a State office's land valuation process was adequately supported; and
- Assessed the adequacy of NRCS' implementation of a prior audit recommendation related to the 12-month requirement in the agency's land valuation process for FRPP.

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

AWMA	Area-Wide Market Analysis
ACEP	Agricultural Conservation Easement Program
CSR	Corn Suitability Rating
EWP	Emergency Watershed Protection Program
FMMI	Financial Management Modernization Initiative
FMV	Fair Market Value
FRPP	Farm and Ranch Lands Protection Program
FY	Fiscal Year
GAO	Government Accountability Office
GARC	Geographic Area Rate Cap
IT	Information Technology
NEST	National Easement Staging Tool
NRCS	Natural Resources Conservation Service
OIG	Office of Inspector General
O&E	Oversight and Evaluation
QAR	Quality Assurance Review
RLI	Realtors Land Institute
SPA	Strategic Planning and Accountability
UASFLA	<i>Uniform Appraisal Standards for Federal Land Acquisition</i>
USDA	United States Department of Agriculture
USPAP	<i>Uniform Standards of Professional Appraisal Practices</i>
WRP	Wetlands Reserve Program

Exhibit A: Summary of Monetary Results

Finding	Recommendation	Description	Amount	Category
2	4	Incorrect calculation of easement payments in Ohio	\$51,299	Questioned Costs, No Recovery
2	4	Unsupported easement compensation methodologies in Iowa	\$42,092,108	Questioned Costs, No Recovery
3	6	NRCS contribution for two easements in Kentucky with questioned valuation practices	\$1,344,860	Unsupported Costs, Recovery Recommended
TOTAL			\$43,488,267	

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



United States Department of Agriculture

August 31, 2015

SUBJECT: SPA - Natural Resources Conservation Service (NRCS)
Responses to the Office of Inspector General (OIG)
Audit Report 10601-0001-23: Natural Resources Conservation Service (NRCS)
Controls Over Land Valuations for Conservation

TO: Gil Harden File Code: 340
Assistant Inspector General for Audit
Office of Inspector General

Attached are NRCS' responses to OIG Recommendations 1-10 contained in Audit Report 10601-0001-23, Conservation Service Controls Over Land Valuations for Conservation.

If you require additional information, please contact Lesia A. Reed, Deputy Chief for Strategic Planning and Accountability, at (301) 504-0056.

/s/

Jason A. Weller
Chief

Attachments

cc: (w/attachments)
Robert Ramsey, National Appraiser, Easement Programs Division
Mark Rose, Acting Deputy Chief, Programs
Kim Berns, Director Easement Programs Division
Leon Brooks, Director, SPA Compliance Division

**Agency Response - Audit Report 10601-0001-23 Natural Resources Conservation Service
Controls Over Land Valuations for Conservation**

Finding 1—NRCS’ Control Environment did not ensure support of Land Valuations before payment was made.

Recommendation 1

Reassess the oversight and evaluation process to ensure it covers all key program requirements for the payment of conservation easements, and establish procedures to assess the adequacy of easement valuation controls.

Agency Response

This OIG audit reviewed easement transactions completed in 2012 and 2013. Since that time, NRCS has begun implementing oversight and evaluation measures through internal controls that will address this recommendation. On January 5, 2015, NRCS implemented the Enhanced Easement Internal Controls process that includes a review of the easement payment calculation prior to the issuance of payments. The Internal Controls Team is currently staffed with a series of detailees; NRCS anticipates staffing the Internal Controls Team with permanent staff by December 31, 2015. Enhanced Easement Internal Control reviews at the State level are completed on all easement payments and are completed at the national level for payments above certain thresholds.

Further, the Compliance Division’s Internal Control section of Strategic Planning and Accountability (SPA) is conducting quality assurance review audits to independently verify if high risk areas under the Conservation Easement Programs are performed in accordance with regulation and policy. To ensure consistency, an Easement Audit Checklist was developed and designed for use during the SPA audit process.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: December 31, 2015

Recommendation 2

Implement controls to prevent paying for the Farm and Ranch Lands Protection Program (FRPP) easements with appraisals that are more than 12 months old at the time of closing.

Agency Response

OIG audit reviewed easement transactions closed in fiscal year (FY) 2012 and FY 2013. Enhanced Easement Internal Controls were implemented for all easement acquisitions on January 5, 2015. Beginning in January 2015, National Headquarters implemented Internal Control Reviews for all easement and 30-year easement acquisitions.

Enhanced Easement Internal Control reviews at the State level are completed on all easement payments and are completed at the national level for payments above certain thresholds. One of the items reviewed through the Internal Controls process is the age of the appraisal and applicable waivers.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: December 31, 2015

Recommendation 3

Before easement payments are made, establish a process routinely to select a sample of the Wetlands Reserve Program (WRP) and the Emergency Watershed Protection Program (EWP) easement payments from each State, ensuring that these easement valuation calculations meet program requirements.

Agency Response

Through the National easement enhanced Internal Controls guidance (NI 300-300), originally released in December 2014, and updated in July 2015, requires all easement acquisition applications and agreements to undergo a minimum of a first and second-level review prior to the payment/closing of an easement or 30-year contract. Additionally, for easement acquisitions that are over identified thresholds must undergo a third National level review prior to payment/closing. Part of the Internal Control review process for easement payments is a review of the easement valuation calculation based on the final acreages and the per acre easement compensation amount. All Internal Control reviews are documented on a program specific Internal Controls checklist and saved in the National Easement Staging Tool (NEST).

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: Completed, agency can provide copies of the Internal Controls guidance.

Finding 2—NRCS could not support and Valuation calculations for EWP and WRP Easements.

Recommendation 4

Require State offices to include all supporting documentation used in their State proposals submitted for approval to comply with NRCS policy on calculating easement payments and prevent potential improper payments.

Agency Response

NRCS guidance, as well as the national-level review and approval process for easement compensation packages has improved since 2012 and 2013. NRCS now requires each State that will enroll easements to annually electronically upload their easement compensation proposal package for that fiscal year. Once submitted by the State, the package of materials is now reviewed by a National Program Specialist and the National Appraiser, whereas in 2012 and 2013, not all packages were reviewed by both National reviewers. The required materials are currently listed in the Agricultural Conservation Easement Program policy manual at 440 CPM 528.122. NRCS will provide the States a checklist of materials that must be uploaded with the easement compensation proposal package.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: December 31, 2015

Recommendation 5

Implement a process for NRCS national program officials to use in documenting the review and approval of State proposals, including verifying the completeness and accuracy of State information and certifying the accuracy of State office calculations above a certain dollar threshold, prior to the payment of WRP and EWP conservation easements.

Agency Response

For the review of the annual State easement compensation proposal packages, NRCS will develop and use a National review checklist to ensure the required materials outlined in 440 CPM 528.122 are submitted. The checklist will document the national review teams' review and corrections required. For the calculations of individual payments, NRCS will use the Enhanced Easement Internal Controls process outlined in NI 300-300 that was deployed on January 5, 2015.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: March 31, 2016

Finding 3—NRCS paid for FRPP Conservation Easements based on the higher values listed in landowner-obtained appraisals

Recommendation 6

Establish the value of the two questioned easements in Kentucky either by (1) using the cooperating entity's original appraisals, or (2) by obtaining new appraisals for those conservation

easements and work with the State Conservationist and cooperating entity to recover the \$1,344,860 in improper payments, if necessary.

Agency Response

Corrected appraisals to replace the landowner appraisals will be obtained and will follow the FRPP appraisal specifications for 2012. The appraisals will have effective dates of value prior to the closing date of the FRPP easements. The appraisals will be reviewed by a technical reviewer on the National Blanket Purchase Agreement.

The National Appraiser will review the appraisals and reviews to determine that they are in compliance with policy and this recommendation. The values from the approved appraisals will be used to determine if the payments were proper. In the event the corrected appraisal does not support the amount provided by NRCS for the easement cost-share amount provided by the agency, NRCS will follow applicable cost recovery procedures. In the event the corrected appraisal supports a higher cost-share amount for the easement, NRCS will not upward adjust the easement cost-share amount.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: March 31, 2016

Recommendation 7

Immediately issue a policy memorandum to all State Conservationists emphasizing that FRPP land appraisals must be obtained by the cooperating entity, not the landowner.

Agency Response

NRCS will issue a national bulletin emphasizing that FRPP appraisals must be obtained by the cooperating entity, rather than the landowner.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: December 31, 2015

Recommendation 8

Require the Kentucky State Conservationist to develop and implement controls to ensure that payments on FRPP easements are not supported by landowner obtained appraisals.

Agency Response

Kentucky State Conservationist will develop an attachment to go with the enhanced internal controls FRPP checklist to document that the appraisals are properly obtained by the entity. This attachment will be required for each FRPP submitted by Kentucky for national level review as required in Recommendation 9.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: December 31, 2015

Recommendation 9

Review all FRPP easements in Kentucky prior to closing until NRCS confirms that the State office's review process is sufficient to ensure that appraisals meet the required standards and that problems are addressed before the State office approves the conservation easements for closing.

Agency Response

NRCS will issue instructions to the Kentucky State Conservationist to submit all remaining FRPP transactions for a national level review in addition to the State's first and second level review prior to any payment or closing.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: December 31, 2015

Recommendation 10

Revise the FRPP program manual and technical review instructions to clearly prohibit landowner-obtained appraisals.

Agency Response

FRPP was repealed by the 2014 Farm Bill. No additions or revisions to the FRPP program manual is appropriate at this time. NRCS will issue a national bulletin specifying that landowner-obtained appraisals are prohibited for all remaining FRPP transactions.

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

ESTIMATED COMPLETION DATE: December 31, 2015

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