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Audit Report

Natural Resources Conservation Service
Conservation Security Program

Report No. 10601-4-KC
June 2009

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20250

June 25, 2009

REPLY TO
ATTN OF: 10601-4-KC

TO: Dave White
Chief
Natural Resources Conservation Service

ATTN: Letitia Toomer
Acting Director
Operations Management and Oversight Division

FROM: Robert W. Young /s/
Assistant Inspector General
for Audit

SUBJECT: Conservation Security Program

This report presents the results of our audit of the Natural Resources Conservation Service's Conservation Security Program. Your June 18, 2009, written response to the official draft report is included as exhibit B with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report.

In its written response to the official draft report, the agency concurred with the findings and recommendations in the report. Based on the information provided in the reply, we were able to accept management decision for Recommendations 1, 2, 3, 4, 5, 7, 10, 11, 12, 13, 14, 15, 20, and 22. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (OCFO). Management decision for Recommendations 6, 8, 9, 16, 17, 18, 19, 21, and 23 can be reached once you have provided us with additional information outlined in the report section, OIG Position.

In accordance with the provisions of Departmental Regulation 1720-1, please furnish a reply within 60 days describing the planned corrective action and timeframe for implementing the recommendations without management decision. Please note that the regulation requires management decision to be reached on all finding and recommendations within 6 months of report issuance.

We appreciate the courtesies and cooperation extended to us by members of your staff during the review.

Executive Summary

Conservation Security Program (Audit Report No. 10601-4-KC)

Results in Brief

The Natural Resources Conservation Service (NRCS) Conservation Security Program (CSP) is a voluntary program that supports ongoing conservation stewardship of private and tribal agricultural lands by assisting producers who maintain and enhance natural resources on their farming or ranching operations. CSP also provides financial and technical assistance to producers who advance conservation and the improvement of soil, water, air, energy, plant and animal life, and other conservation purposes on these lands. For fiscal year (FY) 2006, $259 million in CSP funding was available for prior year contracts, 2006 sign-up and technical assistance. For the 2006 sign-up, NRCS entered into 4,396 contracts which included about $51 million in first year payments. NRCS did not conduct a CSP sign-up in FY 2007 because funding was not made available; a sign-up was conducted for FY 2008 in designated watersheds.

We evaluated NRCS' management controls for the 2006 CSP sign-up to assess whether it properly (1) determined participant and land eligibility; (2) handled the sign-up, application, evaluation, and approval processes; (3) calculated program payments (annual payments and cost-shares); and (4) prevented producers from receiving payments from multiple CSP contracts. Also, we determined that the corrective actions responding to the recommendations in the Government Accountability Office (GAO) audit report[1] that addressed CSP were implemented or in process. In performing our evaluation, we reviewed 75 CSP contracts valued at a total of $11.8 million over a 5-10 year contract period.

Although CSP's goal is to encourage producers to reach "the pinnacle of good land stewardship" by entering into 5-10 year contracts that pay them for maintaining high conservation standards and enhancing existing practices, NRCS did not ensure participation by only those who met the program's standards. We found that NRCS awarded over half the contracts in our sample (38 of 75[2]) to participants who did not qualify for the program or some portion of the conservation payments received, or expected to be received throughout the contract period. When implementing the program, NRCS tried to maximize its restricted resources[3] by limiting program sign-ups to selected priority

[1] "Despite Cost Controls, Improved USDA Management is Needed to Ensure Proper Payments and Reduce Duplications with Other Programs," GAO-06-312, dated April 2006.

[2] Our initial sample selections included 61 contracts. In reviewing these selected contracts, we identified 14 additional contracts that involved these participants' farming operations. Therefore, we also reviewed the delineation of agricultural operations for these contracts.

[3] According to a statutory limitation within the CSP program, NRCS cannot use more than 15 percent of the funds expended in a given fiscal year for CSP technical assistance costs, i.e., administrative program support costs.

watersheds and utilizing unverified information provided by interested producers in their Self-Assessment Workbook[4] to determine eligibility. By doing so, NRCS trusted the applicants to provide accurate information for this complex program. NRCS, however, did not implement sufficient management controls, such as procedures requiring confirmation of key producer supplied information prior to contract approval. Due to the inadequacy of controls that would have helped identify ineligible producers, NRCS has paid about $1.4 million for 38 questionable contracts for 2006 and 2007 and is expected to pay nearly $4.3 million more throughout the contract period. Without adequate controls to establish the eligibility of program participants and the propriety of payments made, NRCS lacks assurance that the $424 million spent since 2004 has been effectively used to reward and encourage excellent conservation, which is CSP's central purpose. Consequently, additional reviews and verification processes, such as ensuring consistent delineation at all USDA agencies, may prevent applicants from gaining an unfair advantage and exceeding the established payment limits. NRCS awarded 23 of the 38 questionable contracts to applicants who certified to erroneous information about their operations. For example:

- 20 applicants either excluded land under their control or enrolled land they did not control in violation of program requirements;

- Two applicants had no previous stewardship history with the land enrolled even though stewardship history was a prerequisite for participation in the program; and

- An applicant was inappropriately allowed to deprive two tenants of their share of program payments.

NRCS did not have sufficient processes in place to coordinate with, and use the data of, other Department of Agriculture (USDA) agencies to validate information provided by applicants for program benefits. NRCS officials designed the program to rely on producer certifications and self-assessments, to reduce administrative costs; this was done to meet the program's statutory limitations of using no more than 15 percent of program funds each year on administrative expenditures.

The Office of Management and Budget periodically works with Executive Branch program agencies to assess and improve program performance so that the Federal government can achieve better results. The assessment matrix is known as the Program Assessment Rating

[4] The Self-Assessment Workbook is completed by applicants, and describes the applicants, their land, and their conservation system, to gauge whether they are eligible for CSP.

Tool (PART). OMB and NRCS jointly completed the initial CSP PART rating in 2006. The 2006 PART rating reported that NRCS directed producers to complete a Self-Assessment Workbook so that CSP applicants could complete much of the application analysis themselves and arrive at preliminary eligibility conclusions independent of NRCS. According to the PART, NRCS calculated a savings of 80,000 hours, or nearly 40 staff years, over the 60 day sign-up conducted in 2005, through the use of self-assessments.

In 15 other cases, NRCS made errors when assessing or determining program eligibility requirements and/or payment amounts. These errors included incorrectly calculating acreage or assigning contracts to the wrong tier level.[5] As a result, NRCS made incorrect determinations that either impacted participant eligibility or the amount of conservation payments to be made.

To strengthen program integrity and to ensure the goals of the program are met, NRCS needs to establish controls over program eligibility and implement a review process to validate compliance with conservation requirements, both prior to contract award and throughout the contract period. During our review, NRCS did not conduct sufficient field visits to verify that land stewardship requirements were met. Also, NRCS does not perform sufficient reviews to verify that critical determinations are accurate before contracts are executed.

We also found that NRCS did not use automated controls in its payment system to identify producers receiving multiple contracts. Because the automated edit was not in place, field staff ran queries within the Program Contracts System (ProTracts) to determine if an applicant already appeared on an existing active contract or had already submitted an application for the current sign-up. They did not always adequately perform this process because we identified 12 producers with multiple contracts who received improper payments totaling $433,687.

Since the program's inception, NRCS has not conducted a thorough management review of CSP to evaluate program performance and to determine whether program goals are being effectively achieved. Until NRCS implements adequate management controls over program integrity and compliance, there is limited assurance that it will receive commensurate stewardship benefits for the $5.7 million in CSP payments associated with the 38 contracts we questioned.

[5] NRCS assigns contracts in one of three tiers based on minimum eligibility and conservation requirements (see Background section).

In our discussion on January 30, 2009, NRCS national office staff stated that NRCS policy was established but was too flexible and inadequately carried out by staff who did not question as much as they should have while assessing applicant information. NRCS stressed that they had a procedure in place to allow verifications. As further explanation, NRCS added that it was hampered by the statute limiting NRCS technical assistance to a percentage of financial assistance spent during the fiscal year. This policy dictated that field verification occur after obligation and payment when the sign-up occurred late in the fiscal year.

NRCS has initiated actions to address some key control weaknesses identified during our review. In 2008, it began using Farm Service Agency (FSA) records to substantiate applicants' control of the land and agricultural operation delineations. NRCS has also required that stewardship benefits be verified for FY 2008 CSP contracts on the ground after contract approval, and before the initial annual payment to producers. Also, NRCS did implement applicant checks within ProTracts for the 2008 sign-up.

NRCS generally agrees with the conclusions we reached on the contracts reviewed and will review all CSP contracts. NRCS is in the process of developing the key components to be reviewed and a checklist to provide detailed direction on review procedures and corrective actions. The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) replaced the Conservation Security Program with the new Conservation Stewardship Program for fiscal years 2009 through 2017. NRCS has indicated they will take the issues identified in this report as lessons learned and incorporate additional management controls in the Conservation Stewardship Program currently under development.

During the audit, we referred participants for 25 of the contracts reviewed to the Office of Inspector General (OIG) Investigations. However, those referrals were declined for investigation due to lack of prosecutorial interest.

Recommendations in Brief

We recommend that the NRCS Chief:

- Complete ongoing coordination with USDA agencies, such as FSA, to utilize their existing data to independently verify applicant supplied information for similar programs implemented in the future.

- Review all current CSP contracts to validate program eligibility and payment accuracy and take appropriate action in accordance with NRCS policy.

- Conduct periodic management reviews of newly implemented programs to identify opportunities for improving program administration and performance.

- Incorporate in the *Conservation Program Manual* policies and procedures requiring the use of USDA data to ensure accurate, consistent determinations regarding the operator of land tracts and the delineation of agricultural operations, and reiterate NRCS policy on assignments to all offices.

- Review the agricultural operation delineation determinations on all current CSP contracts and take appropriate action in accordance with NRCS policy.

- Identify all parties with a share in an agricultural operation, and require consent be obtained in writing from tenants or sharecroppers before excluding them from future conservation programs. Validate that all parties having a share in the agricultural operation receive equitable treatment.

- Emphasize to State NRCS offices their duties and responsibilities when responding to complaints regarding inequality and/or impropriety in NRCS programs.

- Develop a process to strengthen and expand site visits to require field staff to verify key producer certifications regarding land conditions for the agricultural operation prior to issuance of the annual payment and periodically after each contract award.

- Review and take the appropriate administrative remedy, recover the CSP funds, or make a determination as to whether a scheme or device was employed on the cases identified.

- Consult with the Office of the General Counsel and obtain its opinion on CSP corrective actions taken or proposed regarding contract termination or transfer and any waiving of payment recovery efforts.

- Obtain from ProTracts a list of participants that are receiving payments on multiple contracts and take corrective action in accordance with NRCS policy.

NRCS Response

NRCS agreed with the recommendations in the report and is pursuing corrective action for all the cases identified and will review each active CSP contract to validate eligibility, payment accuracy, and take appropriate corrective action per NRCS policy. In addition, NRCS plans to complete their ongoing coordination with USDA agencies to utilize their existing data to independently verify applicant supplied information for similar programs (Conservation Stewardship Program) implemented in the future. We have incorporated NRCS' response into the Findings and Recommendations section of the report. The response to the draft report, dated June 18, 2009, is included as exhibit B. NRCS also commented on total contract expectations amounts included in exhibits A and G for the CSP contracts questioned. NRCS provided that CSP funds are annually obligated and the questioned costs do not reflect the true dollar amounts producers will receive after corrective action has been or will be taken on a case-by-case review.

OIG Position

Based on NRCS' detailed corrective action for each of the recommendations, we were able to reach management decision on 14 of the report's 23 recommendations. We were not able to reach management decision on Recommendations 6, 8, 9, 16, 17, 18, 19, 21, and 23. NRCS will need to provide the additional information outlined in the OIG Position section of the report in order to reach management decision on these recommendations. No changes were made to exhibits A and G regarding total contract expectations as these amounts show the total expected amounts that were to be paid over the life of the contract terms for those cases reviewed.

Abbreviations Used in This Report

AUM	Animal-Unit Month
CCC	Commodity Credit Corporation
C.F.R.	*Code of Federal Regulations*
CPM	*Conservation Programs Manual*
CSP	Conservation Security Program
FSA	Farm Service Agency
FY	Fiscal Year
GAO	Government Accountability Office
NRCS	Natural Resources Conservation Service
OGC	Office of the General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
PART	Program Assessment Rating Tool
ProTracts	Program Contracts System
SCI	Soil Conditioning Index
SCIMS	Service Center Information Management System
STIR	Soil Tillage Intensity Rating
USDA	Department of Agriculture

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Background and Objectives

Background

The Conservation Security Program (CSP) is an environmental improvement program authorized by the Farm Security and Rural Investment Act of 2002 (Public Law 101-171), which amended the Food Security Act of 1985. CSP is a voluntary conservation program that uses the authorities and funds of the Commodity Credit Corporation (CCC) to support ongoing conservation stewardship of private and Tribal agricultural lands by assisting producers who maintain and enhance natural resources on their farming or ranching operations. CSP also provides financial and technical assistance to producers who advance conservation and the improvement of soil, water, air, energy, plant and animal life, and other conservation purposes on these lands.

Natural Resources Conservation Service (NRCS) restricts program sign-ups to selected priority watersheds[6] each year because of limited program funding. In addition, NRCS cannot exceed the statutory limitation within the CSP program of 15 percent of the funds expended in a given fiscal year (FY) for CSP technical assistance costs, i.e., administrative program support costs.

NRCS held the first CSP sign-up in FY 2004. From FY 2004 through FY 2006, NRCS held 3 sign-ups in 280 watersheds (see exhibit C). NRCS planned to rotate CSP through all watersheds nationwide on an approximately 8-year turn-around cycle, depending on the level of program funding. NRCS selects watersheds for participation in the program based upon factors such as potential surface and ground water quality degradation, potential soil and grazing land degradation, State or national conservation and environmental issues, local availability of management tools, and other key natural resource or management information.

A total of 60 eligible watersheds across all 50 States, the Caribbean, and Guam participated in the 2006 CSP sign-up, which NRCS conducted from February 13 to March 31, 2006. About 74,000 farms and ranches nationwide, covering approximately 25.5 million acres, were within the boundaries of the 60 watersheds selected (see exhibit D). For the 2006 CSP, Congress provided $259 million in funding for prior year contracts, 2006 sign-ups and 15 percent technical assistance. NRCS did not conduct a CSP sign-up in FY 2007, because funding was not made available.

[6] NRCS describes a watershed as a geographic area of land, water, and biota within the confines of a drainage divide.

Interested producers in the selected watersheds complete a Self-Assessment Workbook that evaluates conservation activities on their farming and ranching operations. To be eligible to participate in CSP, the producer and the producer's farming and ranching operation must meet basic eligibility requirements. The applicant (1) must be in compliance with the Highly Erodible Land and Wetland provisions in the Food Security Act of 1985, (2) must have an active interest in the agricultural operation, (3) must have control of the land for the life of the contract, (4) must share in the risk of producing any crop or livestock, and (5) must be entitled to a share in the crop or livestock marketed from the operation. In addition, the applicant's land must be privately owned or Tribal land and the majority of it must be located within one of the watersheds selected for CSP.

The Self-Assessment Workbook is a required component of all CSP applications. In order for an application to be considered for funding, the applicant must complete and submit the workbook by the sign-up period's end date. As applicants complete the workbook, they select the assessment items that describe them, their land, and their conservation system, to learn whether they are currently eligible for CSP. In the benchmark inventory section, they are asked to record the existing conservation practices and production system on the land they intend to offer for CSP. This benchmark inventory provides NRCS with information needed to determine CSP eligibility, and serve as the basis for the applicant's stewardship plan.

If, after completing the workbook, applicants believe their operation is eligible for CSP, they schedule an interview with their local NRCS field office personnel to submit the application and review their Self-Assessment Workbook, records, etc. Applicants submit only one application for each CSP sign-up. All applicants who are members of a joint operation, trust, estate, association, partnership, or similar organization (i.e., applicants that are entities) must file a single application for the joint operation or organization. Producers who are already participating in an existing CSP stewardship contract are not eligible to apply for another CSP contract.

Applicants delineate[7] their agricultural operations to include all agricultural lands, whether contiguous or non-contiguous, under the control of the applicants and constituting a cohesive management unit operated with equipment, labor, accounting system, and management that are substantially separate from any other land. In delineating the agricultural operation, Department of Agriculture (USDA) farm boundaries may be used. If farm boundaries are used in the application,

[7] 7 *Code of Federal Regulations* (C.F.R.) § 1469.5(d)(4).

the entire farm area must be included within the delineation to be eligible for the highest payment levels.

An exception may be multi-tract farms where multiple landowner/operator combinations exist and a particular relationship does not allow the applicant to control all of the tracts in the farming operation. In this case, the entire tract not being offered must be removed from the acreage included in the agricultural operation. Separate USDA farms are considered one operating unit and must be included to receive the highest levels of payment, if the applicant is entitled to a share of USDA payments from more than one USDA farm that is operated with the same equipment, labor, accounting system, and management, and the applicant has control of all the USDA farms. For applications encompassing all eligible land uses on the entire agricultural operation, the geographic boundaries of the acreage must include all land and facilities under the applicant's control.

All CSP applicants must also meet the following minimum tier eligibility and contract requirements, plus any additional requirements in the sign-up announcement in order for their applications to be considered:

CSP Tier I—The applicant's benchmark condition inventory[8] demonstrates that the applicant has addressed the nationally significant resource concerns of water quality and soil quality to the minimum level of treatment for any eligible land use on part of the agricultural operation. Only acreage meeting such requirements is eligible for stewardship and existing practice payments in CSP.

CSP Tier II—The applicant must meet Tier I requirements for all eligible land uses on the entire agricultural operation. The applicant must also agree to address another significant resource concern applicable to the applicant's watershed to be started no later than 2 years prior to contract expiration and completed by the end of the contract period. If the applicable resource concern is already addressed or does not pertain to the operation, then this requirement is waived.

CSP Tier III—In addition to meeting all Tier II requirements, the applicant's benchmark condition inventory must demonstrate to the satisfaction of NRCS that the applicant has addressed all of the existing resource concerns listed in Section III of the NRCS *Field Office Technical Guide* with a resource management system meeting the

[8] The benchmark condition inventory measures an applicant's existing level of conservation activities in order to determine program eligibility, to design a conservation stewardship contract, and to measure the change in resource conditions resulting from conservation treatment. The inventory is part of the Self-Assessment Workbook and is completed by the applicant in consultation with NRCS technical assistance.

minimum level of treatment for all eligible land uses on the entire agricultural operation.

NRCS also used a ranking system of enrollment categories and subcategories to select applications based on conservation priorities and available funding. NRCS personnel place applicants into categories based on groups. NRCS determines group placement using criteria established for the applicant's predominant land use, either cropland or grazing land. For cropland, NRCS used the Soil Conditioning Index (SCI),[9] Soil Tillage Intensity Rating (STIR),[10] and conservation practices already implemented for group placement. For grazing land, NRCS used the applicant's grazing management plan and conservation practices already implemented for group placement. (See exhibit E for a description of the categories, groups, and group assignment criteria.)

NRCS places all eligible CSP applications into an enrollment category and subcategory, regardless of available funding. (See exhibit F for the order and listing of the subcategories[11] in 2006.) If NRCS cannot fully fund an enrollment category, it uses subcategories to determine the application funding order within the category. Subcategories account for a variety of factors, such as whether the applicant is a limited resource producer.[12] CSP funds were provided for Tier II and Tier III, plus limited resource producers in Tier I for 2006.

As shown in the table below, NRCS determines participants' CSP contract length and payments based on tier level.

Tier	Contract Length (Years)	Annual Payment Limitation
Tier I	5	$20,000
Tier II	5 to 10	$35,000
Tier III	5 to 10	$45,000

At a minimum, all CSP payments include amounts for stewardship and existing conservation practices. Producers may receive additional amounts for enhancement components and new practice components,

[9] NRCS personnel use the SCI to predict the consequences of cropping systems and tillage practices on the trend of soil organic matter. This index has three main components: (1) the amount of organic matter returned to the soil, (2) the effects of tillage and field operations on organic matter decomposition, and (3) the effect of predicted soil erosion associated with the management system. The index gives an overall rating based on these components. Negative ratings indicate declining soil organic matter, while positive ratings indicate increasing soil organic matter.

[10] The STIR rating is a score that reflects the average annual intensity of tillage operations over the entire crop rotation. Typical values range from 0 to 200+. NRCS personnel obtain the STIR rating using the Revised Universal Soil Loss Equation.

[11] If NRCS could not fully fund a subcategory, they were to offer applicants the FY 2006 CSP contract payment on a prorated basis.

[12] A Limited Resource Producer has the following characteristics:

a. A person with direct or indirect gross farm sales not more than $102,400 in each of the previous 2 years, and
b. Has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income (to be determined annually using Commerce Department data), in each of the previous 2 years.

such as improving water quality as part of their conservation stewardship plan. [13]

For producers selected to participate, NRCS personnel develop a CSP contract[14] and a conservation stewardship plan that reflects current practices already in place, as well as future conservation enhancements the producer plans to implement. Program regulations allow NRCS to periodically inspect CSP participants' conservation practices throughout the life of their contracts.[15] The Designated Conservationist is responsible for annually reviewing contracts and determining whether participants are meeting the terms of their contracts. The Designated Conservationist can also complete a formal contract status review if, for example, the schedule of operations is not being followed.[16] NRCS can terminate a CSP contract if a participant does not timely correct violations identified during these reviews.[17]

In April 2006, the Government Accountability Office (GAO) released a report on CSP.[18] GAO primarily addressed escalating price estimates and reported that some producers received duplicate payments for the same conservation action from CSP and other programs. GAO recommended that NRCS (1) review and field check State NRCS offices' wildlife habitat assessment criteria to ensure that States use consistent criteria to achieve the intended habitat benefits; (2) include a reference to the national guidance for wildlife habitat assessment criteria in its *Conservation Programs Manual*; (3) develop a comprehensive process, such as an automated system, to review CSP contract applications to ensure that payments would not duplicate payments made by other USDA conservation programs; and (4) develop a similar review process to identify and recover duplicate payments made on existing CSP contracts. At the time of our review, NRCS had taken action to address overlap between CSP and other USDA conservation programs. Other corrective actions were in process.

OMB also reviewed CSP using its Program Assessment Rating Tool (PART).[19] A PART review helps identify a program's strengths and

[13] The conservation stewardship plan builds on the inventory of the benchmark condition documenting the conservation practices currently being applied; those practices needing to be maintained; and those practices, treatments, and activities to be supported under the provisions of the conservation stewardship contract.
[14] NRCS uses Form NRCS-CPS-1200, "Conservation Program Application," as its basic contract for CSP and other NRCS programs. However, NRCS utilizes this contract as a cooperative agreement in that CSP is a program that provides financial assistance to improve land rather than an acquisition vehicle. CSP payments are subject to the availability of funds each year. Payments will be made at the rates specified in the contract after an eligible conservation practice or activity has been established in compliance with the conservation plan, and in accordance with appropriate standards and specifications. NRCS made the determination to annually obligate CSP funding..
[15] 7 C.F.R. § 1469.22.
[16] Part 518—Conservation Security Program, Subpart K—"Contract Administration," par. 518.101 b.
[17] 7 C.F.R. § 1469.25.
[18] "Despite Cost Controls, Improved USDA Management is Needed to Ensure Proper Payments and Reduce Duplications with Other Programs," GAO-06-312, dated April 2006.
[19] Program Assessment Rating Tool (PART) - Assessment year 2006 for CSP can be found at: www.whitehouse.gov/omb/expectmore/.

weaknesses to make it more effective. NRCS' PART review (Assessment Year 2006) of CSP showed that NRCS had implemented policies to address GAO's recommendations, including the establishment of payment restrictions to reduce the likelihood of duplicative payments and to reduce the degree of programmatic overlap. PART also suggested that "CSP has not provided evidence that the conservation activities that it subsidizes would not have occurred without the program."

Objectives

The overall objective was to evaluate the adequacy of the management controls established by NRCS to ensure program integrity over CSP. This included evaluating management controls to ensure NRCS properly (1) determined participant and land eligibility; (2) handled the sign-up, application, evaluation, and approval processes; (3) calculated program payments (annual payments and cost-shares) applicable limitations and 2006 expenditures; and (4) implemented corrective actions to address the recommendations in GAO's CSP report.

Findings and Recommendations

Section 1. NRCS Lacked Management Controls to Effectively Administer CSP

Finding 1 NRCS Needs To Strengthen Overall Management Control of CSP

CSP's goal is to encourage applicants to reach "the pinnacle of good land stewardship," by entering into 5-10 year contracts with producers that pay them for maintaining high conservation standards and enhancing existing practices. To achieve this, NRCS needs to restrict participation to only those who meet the program's standards. However, we found that the agency awarded over half the contracts in our sample (38 of 75) to applicants who were not eligible for either the program or the payment. According to NRCS officials, they designed the program to rely on producers' self-certifications so that limited technical assistance funding would not be exceeded (15 percent of funds disbursed). NRCS relied on producers' certified information to establish program eligibility and propriety of payments. NRCS did not establish sufficient management controls to verify the accuracy or propriety of its eligibility determinations in order to reduce costs of administering the program. As a result, NRCS paid over $1.4 million in 2006 and 2007 for 38 questionable contracts and expects to pay nearly $4.3 million more over the contract period. As a result of these control weaknesses, participants who do not qualify for the program or the payments they are collecting will continue to receive CSP benefits for up to 10 years.

In general, OMB Circular A-123 makes agencies responsible for establishing a control structure that manages risks in order to ensure the integrity of programs like CSP. The management control process is not static, but should constitute an ongoing process of program assessment and corresponding improvement. Specifically, "[a]gency managers should continuously monitor and improve the effectiveness of internal controls associated with their programs."

According to NRCS officials, the statute[20] restricting NRCS' technical assistance costs to no more than 15 percent of program funds disbursed per year prompted the agency to rely on applicants' self-certification. Given its cost constraints, NRCS adopted a two-phased approach to maximize resources. First, NRCS only accepted applications for land in eligible watersheds, which reduced the agency's application workload and avoided associated processing costs. Second, NRCS relied on

[20] Public Law 107-171, dated May 13, 2002. Title II-Conservation, Section 1238 C (g) – "Technical Assistance." The Secretary shall provide technical assistance to producers for the development and implementation of CSP contracts in an amount not to exceed 15 percent of amounts expended for the fiscal year.

applicants to assess their own operations by completing the CSP Self-Assessment Workbook, which would help them determine if they were eligible for the program. NRCS' 2006 program assessment noted that the agency had applicants complete a self-assessment to determine if they were eligible for CSP —independent of NRCS—and later certify accordingly. After self-assessment, NRCS' field staff interviewed the applicants, but did not verify the information they provided, and NRCS used, to determine the applicant's eligibility unless there was a question about the data.

When CSP began in 2002, NRCS implemented a staggered sign-up approach that was intended to rotate through every watershed in an 8-year cycle. However, the agency has not established the types of management controls necessary to ensure compliance with the program goals and requirements. Specifically, NRCS did not adequately (1) verify applicant eligibility for program participation and payment, (2) conduct another review of NRCS eligibility determinations before approving contracts, or (3) ensure ongoing contract compliance through monitoring during the contract period. As a result, NRCS approved 38 of the 75 contracts we reviewed (51 percent) for participants who were either ineligible for program participation or for the payments they received.

1. **Eligibility Evaluation**: NRCS awarded 23 contracts to applicants who certified to erroneous information about their operations when they applied for CSP.[21] NRCS, however, accepted the information on its face and did not establish adequate procedures to ensure implementation included confirmation through site visits and reliable, independent sources. For example, USDA data, such as that used in Farm Service Agency's (FSA) programs, holds much of the same information needed to determine CSP eligibility (e.g., ownership, operator, land division, etc.), but NRCS did not integrate this information into an independent verification process to ensure consistency between USDA agencies.

2. **Second Review**: For the remaining 15 contracts, NRCS improperly determined program eligibility and/or payment amounts, making errors such as incorrectly calculating acreage and assigning contracts to the wrong tier. NRCS did not detect the errors because it did not sufficiently review these determinations before the participants' contracts were approved (i.e., a second set of eyes to check determinations for accuracy). The high error rate we found

[21] We found that 4 of the 38 contracts contained both applicant and NRCS errors. We considered those contracts discussed in findings 2 through 4 as applicant certification to erroneous information. We considered the remaining contracts as NRCS errors because, with adequate review, the contract may not have been funded. Thus, we determined that the applicants made 23 of 38 errors and NRCS made 15 of 38 errors.

during the audit demonstrates the risk associated with this lack of control.

3. **Compliance**: NRCS also does not have sufficient procedures to ensure participants' conservation compliance at contract acceptance and throughout the period of the contract. NRCS should strengthen and expand site visit requirements to verify producer certifications prior to the initial payments and throughout the contract period. NRCS lacks adequate assurance that the conservation practices it pays for in the first year continue to be in place during subsequent years.

As a result of these control weaknesses, many participants who either do not qualify for the program or the payments they are collecting will expect to receive CSP benefits for up to 10 years. As of 2007, NRCS has paid over $1.4 million for the 38 questionable contracts and expects to pay nearly $4.3 million more in conservation payments throughout the contract period. Without adequate controls to establish the eligibility of program participants and the propriety of payments made, NRCS lacks assurance that the $424 million spent since 2004 has been effectively used to reward and encourage excellent conservation, which is CSP's central purpose.

As a fairly new program (2002), NRCS should have targeted CSP for management reviews to identify control weaknesses and implement improvements.[22] NRCS' Oversight and Evaluation staff assessed FY 2004 and FY 2005 CSP sign-ups in 2006. This review focused on whether applicants' files contained the required information, not whether the information was accurate, and assessed timeframes for processing applications to minimize technical assistance costs. Further, NRCS cannot guarantee that the program will regularly undergo even these limited file reviews because NRCS may select different programs to examine each year. NRCS conducts quality assurance reviews for CSP; however, in the three States assessed, these reviews were not in depth enough to validate or verify initial eligibility determinations.

During the audit we briefed NRCS program officials on the results of our review and NRCS has acknowledged that CSP's application processes have significant weaknesses. After our discussion, NRCS initiated corrective actions for the FY 2008 program by strengthening guidance in delineating[23] agricultural operations by issuing National Bulletin 300.8.20 in March 2008. For FY 2008, NRCS required that, as

[22] Office of Management and Budget Circular A-123 generally makes agencies responsible for establishing a control structure which manages risks to the integrity of programs.

[23] When describing their agricultural operations, applicants should include all agricultural land under their control and other land, such as farmsteads, feedlots, headquarters, and incidental forest lands. The operation should constitute a cohesive management unit that is operated with equipment, labor, an accounting system, and management that is substantially separate from any other land.

it receives applications, the information to be checked against FSA data, which includes much of the information required to verify CSP participation and payment eligibility. In addition, given the high error rate in our sample, NRCS should review all CSP contracts to assess whether the delineation and payment eligibility has been correctly determined.[24]

Further, before signing CSP contracts, NRCS should also confirm that approved applicants' stewardship complies with program requirements. In this regard, NRCS also provided us directions that will be included in the new Conservation Stewardship Program's policies and procedures, which require that stewardship benefits be verified on the ground before making payments. Since visiting all sites would be unduly burdensome, the agency should conduct a risk assessment to identify those applications at high risk for error.[25] A similar approach will allow NRCS to establish a second-party review for selected applications. After entering into a contract, NRCS should monitor land to ensure that it continues to meet required conservation standards. In addition, NRCS should establish a policy that requires applicants to prove that enhancements have been accomplished (e.g., receipts for material, labor, etc.).

Overall, we concluded that NRCS should strengthen its management control over all phases of CSP from eligibility evaluation to compliance monitoring. Doing so will reduce the percentage of ineligible participants and improper payments, and increase NRCS' assurance that CSP dollars yield the conservation value intended.

Recommendation 1

Complete ongoing coordination with USDA agencies, such as FSA, to utilize their existing data to independently verify applicant supplied information for similar programs implemented in the future.

NRCS Response

NRCS stated in its June 18, 2009, response that NRCS required the use of FSA records during the FY 2008 CSP sign up, which was held from April 18 through May 30, 2008, and anticipates requiring the use of these records for the new Conservation Stewardship Program sign up in FY 2009.

[24] We make specific recommendations to review the 38 ineligible applications and/or payments in the findings that follow.
[25] In FY 2006, NRCS received 8,570 applications for CSP and entered into contracts with 4,396 applicants covering 3.7 million acres.

OIG Position

We accept NRCS' management decision.

Recommendation 2

Review all current CSP contracts to validate program eligibility and payment accuracy and take appropriate action in accordance with NRCS policy.

NRCS Response

NRCS responded that all active CSP contracts will be reviewed by qualified NRCS personnel from outside the contract location to validate program eligibility and payment accuracy by September 30, 2009. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 3

Conduct periodic management reviews of CSP and other newly implemented programs to improve program administration and performance.

NRCS Response

NRCS provided that management reviews have been conducted by appropriate National Headquarters Staff of CSP, and reviews for the new Conservation Stewardship Program will be conducted on an annual basis beginning in FY 2010.

OIG Position

We accept NRCS' management decision.

Section 2. Conservation Security Program Implementation Jeopardized Program Goals

We found that NRCS did not implement adequate management controls, discussed in Finding 1, which resulted in errors for 38 of the 75 contracts we reviewed. These errors involved ineligible participants receiving CSP contracts, as well as eligible participants receiving excessive program payments.

- CSP participants certified to erroneous information about their farming operations for 23 of 38 contracts. For example, NRCS' failure to verify applicant supplied information allowed a participant to utilize an apparent scheme or device enabling his son and son-in-law to receive CSP payments they were not entitled to.

- NRCS improperly determined participants' program eligibility and/or payment accuracy for 15 additional contracts. For example, field office personnel incorrectly determined participants to be eligible even though they did not meet minimum water and soil quality requirements. NRCS' lack of adequate supervisory reviews permitted these errors to go undetected.

We also found that NRCS had not activated an edit check within ProTracts to prevent producers from receiving multiple CSP contracts. Because NRCS chose, instead, to rely on manual checks using ProTracts, personnel did not identify 12 participants with multiple CSP contracts.

The following findings discuss these errors and the contributing management control weaknesses in detail.

Finding 2 Improper Delineation of Agricultural Operations Went Undetected

In the 3 States we reviewed, NRCS control weaknesses allowed producers from 6 agricultural operations to misstate their farm delineations to obtain payments under 20 separate CSP contracts. NRCS relied on applicant assertions and did not have sufficient policies and procedures in place requiring its personnel to verify producers' agricultural delineations using available USDA data. NRCS procedures encouraged, but did not require, consistent delineations at all USDA agencies. As a result, five of the six operations were not subjected to

program payment limitations[26] and maximized their CSP benefits. NRCS incorrectly paid the ineligible producers $697,178 in 2006 and 2007 and is expected to pay an additional $1,892,078 over their remaining contract period.

According to the *Conservation Program Manual* (CPM),[27] CSP applicants must delineate their agricultural operations to include all agricultural lands, whether contiguous or non-contiguous, under the control of the applicant and constituting a cohesive management unit operated with equipment, labor, accounting system, and management that are substantially separate from any other land. In order to be eligible for a Tier II or Tier III contract, the entire farm area must be included. Moreover, the CSP contract will be between USDA and those that have day-to-day management responsibilities for the land.[28]

The CSP contract appendix[29] provides that participants who have erroneously represented any fact affecting a determination, or adopted any scheme or device which tends to defeat the contract purpose, or made any fraudulent representation, are not entitled to payments or benefits under the contract. Affected participants must refund all payments received plus interest and liquidated damages. In addition, NRCS is to terminate their interest in all CSP contracts.

In six cases, applicants erroneously delineated their agricultural operations. In five of these cases, applicants split up existing agricultural operations into separate units to obtain multiple contracts and, as a result, avoided program payment limitations. For example:

- A family partnership (sample 47) failed to include land it operated that enabled four individuals, as well as a corporation, to apply for separate contracts. NRCS approved all six contracts. Five of the contracts were placed in Tier III, while the sixth went unfunded. The family partnership **operated** (emphasis added) all land in the six applications as one cohesive management unit; therefore, only one application and contract should have been approved. The CPM requires all applicants who are members of a joint operation, trust, estate, association, partnership, or similar organization (i.e., applicants that are entities) to file a single application for the joint operation or organization. Because the family partnership did not include all eligible land under its control in its application, it did not meet the requirements for a Tier III CSP contract. The corporation and the individuals (samples 47a through 47d) were also not eligible

[26] The payment limitation for Tier II contracts was $35,000, and $45,000 for Tier III contracts.
[27] CPM part 518.60(c), dated August 2005.
[28] Per the questions and answers to the 2002 Farm Bill.
[29] Appendix to Form CCC-1200, "Conservation Security Program Contract (CCC-1200-CSP)," dated October 2005.

for their CSP contracts because this land should have been enrolled as part of the partnership's contract. NRCS incorrectly paid this one agricultural operation, through 5 separate contracts, $84,638 in 2006, and $78,860 in 2007, or nearly $40,000 over the $45,000 annual statutory payment limit for a Tier III contract.

- An applicant (sample 43) failed to include land from his agricultural operation that enabled four share rent landowners[30] (samples 43a through 43d) to enroll the land in individual CSP contracts. The applicant operates and manages all of the land, including the land enrolled in the additional CSP contracts, as one cohesive management unit. Therefore, only one application and contract should have been approved. The four landowners assigned the applicant a 50 percent share from each of the contracts. Because the applicant did not include all eligible land under his control constituting a cohesive management unit in his application, he did not meet the requirements for a Tier III CSP contract. The share rent landowners were also not eligible for their CSP contracts because this land should have been enrolled as part of one contract and did not constitute a separate cohesive management unit. NRCS incorrectly paid this one agricultural operation, through 5 separate contracts, $62,780 in 2006, and $61,188 in 2007. These payments were in excess of the $45,000 annual statutory payment limit for a Tier III contract.

- Another applicant inappropriately combined three of his farming operations (land he owned, land he owned but did not operate, and land owned by his father but operated by a third party) into one CSP application.

Based on our interviews with NRCS field office staff, they did not question the applicants' certifications or how they delineated their agricultural operations, even though conflicting information existed. For example, one operation in Nebraska applied for other NRCS programs as a joint venture but applied for CSP as individual producers. One District Conservationist stated that NRCS personnel were to use the certified information and were not to question an applicant's certification. Prior to applying for CSP, the six applicants had all delineated their farming operations differently for FSA purposes.

In addition, we identified that Maryland NRCS field offices allowed assignments of payments to other CSP contract holders on CSP contracts when utilizing a share-cropping situation. This allowed contract holders to receive payments from more than one contract and in some cases, a

[30] A share rent landowner rents land, not for cash, but for a share of the proceeds from the planted crop.

contract holder exceeded the payment limits. The Maryland State NRCS office provided direction to its field offices on October 23, 2008, to limit assignments only to financial institutions or creditors unless they obtain State office approval. NRCS should clarify this process to all State offices.

Missouri State NRCS officials said they encouraged field office staff to stay out of agricultural operation delineations because that was part of the producer self-certification.

NRCS field offices have access to USDA data, such as FSA documentation, through the Service Center Information Management System (SCIMS)[31] interface. This documentation includes the FSA-156EZ, Abbreviated 156 Farm Record, which identifies the operator on each tract of land. Had NRCS field office staff reviewed this information during sign-up, they would have identified inconsistencies in the reported data and questioned the applicants' assertions regarding the control of the land. NRCS policy included using FSA records as one method to substantiate producer certifications. However, NRCS guidance did not ensure these FSA records were used to verify producer certifications.

NRCS national office officials agreed that using USDA data would help ensure that the entity with authority to operate the land is the entity enrolled in CSP.

On March 24, 2008, NRCS initiated corrective action for the 2008 CSP sign-up by issuing procedures[32] to State and field-level employees on agricultural operation delineation. This notice was in effect through September 30, 2008. NRCS indicated that "preliminary findings from the CSP review from the Office of Inspector General identified that there have been cases in which NRCS has not effectively substantiated applicants' control of land and/or their agricultural operation delineation. The agricultural operation delineation procedure is revised as follows to address this concern.

> NRCS will substantiate control of land and agricultural operation delineation for all CSP applicants. *Conservation Programs Manual*, 440-CPM, Part 518, Conservation Security Program, Section 518.60B, provides sources available to substantiate control for applicants.
>
> FSA records will be used to substantiate control of land and agriculture operation delineation for all applicants who are

[31] SCIMS is a repository of customer information for FSA.
[32] National Bulletin 300.8.20, LTP – "Conservation Security Program (CSP) Agricultural Operation Delineation."

> participants in other USDA programs administered by FSA. Farm records must be consistent across all USDA programs. If participants wish to offer agricultural operation delineation for CSP that is different from their current farm operating plan on file with FSA, participants will be directed to update their farm records with FSA to meet eligibility criteria."

Missouri and Nebraska State NRCS officials have agreed that their cited applicants were ineligible or need a scheme or device determination. However, Maryland State NRCS officials continue to believe that their cited cases were eligible based on the producer certified information prior to contract approval because the policy at the time of approval did not require verification of the applicants' certified information. In our opinion, Maryland State NRCS officials have an obligation to consider information inconsistent with the original determination that may have resulted in improper payments. NRCS national office believes the Maryland determinations were in error.

Recommendation 4

Incorporate into the *Conservation Program Manual* the policies and procedures requiring the use of USDA data to determine the operator of a tract of land, to delineate farm operations, and reiterate NRCS policy on assignments to all offices for similar programs implemented in the future.

NRCS Response

NRCS will incorporate into the Conservation Programs Manual Part 508 (Conservation Stewardship Program) policy and procedures for the use of FSA records in determining operators of record and delineating agricultural operations. The Agency will also reiterate, during training and teleconferences to the States, that they need to follow policy in Part 512 (Conservation Programs Manual) regarding assignments of payments. These actions will be completed by June 30, 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 5

Review the agricultural operation delineation determinations on all current CSP contracts and take appropriate action in accordance with NRCS policy.

NRCS Response

NRCS will review the agricultural operation delineation determinations on all current CSP contracts by September 30, 2009. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 6

Review and determine whether the cited producers adopted a scheme or device on the CSP contracts identified[33] and recover CSP disbursements of $697,178 as appropriate, in conjunction with the determinations made on the contracts. These 20 contracts have a remaining expected value of $1,892,078.

NRCS Response

NRCS will review the CSP producer contracts for samples 4, 5, 13, 14, 34, 43, 43a, 43b, 43c, 43d, 44, 44a, 44b, 44c, 44d, 47, 47a, 47b, 47c, and 47d listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to provide the decisions made on each case and a copy of the bill for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records or evidence of collection.

[33] Sample numbers 4, 5, 13, 14, 34, 43, 43a-d, 44, 44a-d, 47, and 47a-d.

Finding 3 One Applicant's Actions and Misstatements Led to the Improper Approval of Two Additional CSP Contracts and Jeopardized his Own Contract

One applicant (Soil and Water Conservation District[34] board member) facilitated misstatements that led to the approval of two improper CSP contracts for his son and son-in-law (samples 36 and 36b) who had no previous stewardship history on the land enrolled under their CSP contracts. This applicant's contract (sample 36a) was also in question based on the erroneous information supplied to NRCS that gained a program advantage. This occurred because NRCS relied on certifications by the applicants and did not implement adequate supervisory review procedures to ensure applicants have the necessary stewardship history on land being enrolled. As a result, NRCS improperly awarded to the son and son-in-law CSP contracts totaling $242,486. Together, the son and son-in-law (samples 36 and 36b) received CSP disbursements of $45,622 in 2006 and 2007. The remaining expected value of their contracts totaled $196,864 (see exhibit A). We also concluded that NRCS needs to determine if a scheme or device was used to maximize program benefits by the father and, if so, terminate the father's contract (sample 36a) totaling $219,588. The father received $27,860 in 2006 and 2007. His contract has a remaining expected value of $191,728 (see exhibit A).

The purpose of CSP is to identify and reward those farmers and ranchers meeting the very highest standards of conservation and environmental management on their operations.[35] Federal regulations[36] state that applicants are eligible to participate in CSP only if the benchmark condition inventory demonstrates to the satisfaction of NRCS that **the applicant** (emphasis added) has addressed the nationally significant resource concerns. During the application process, neither the son nor son-in-law met the eligibility requirements because they did not have any records supporting their history of stewardship on the enrolled land or any other lands. However, NRCS procedure did not require NRCS to verify that the applicants had stewardship history.

Because NRCS does not require such verifications, CSP is vulnerable to opportunistic applicants who attempt to maximize their program payments by adopting a scheme or device. Participants who erroneously represent any fact affecting a CSP determination are to have their conservation stewardship contract terminated immediately. They must

[34] Soil and Water Conservation Districts do not have review and approval authority of CSP contracts, but board members of the Soil and Water Conservation District frequently interact and regularly meet with NRCS staff to carryout conservation initiatives for the District.
[35] CPM part 518.0(a), dated August 2005.
[36] Federal Register, Volume 71, No. 25, effective Tuesday, February 7, 2006.

forfeit all rights for future contract payments, refund payments received and pay interest and liquidated damages.[37]

Based on interviews with FSA county office employees, we learned that the father (board member) contacted FSA during the CSP sign-up period to complete farm operator name and address change forms so that his son and son-in-law could be listed as the operators of the land they planned to enroll in CSP. Both the son and son-in-law certified to NRCS the availability of 2 years of written records or documentation used to manage their conservation systems. However, during our review, neither the son nor son-in-law could produce records documenting their stewardship history on this land. During our interviews, they admitted that they did not operate the land identified on their CSP contracts in 2004 or 2005 as required.

The son also stated that, while under CSP contract, the majority of the cattle on the land were his grandfather's and that he only has cattle on that land a few times a year. Also, the father admitted in an interview that his son did not operate the land identified in his CSP contract independently in 2004 or 2005. We reviewed applicable FSA records and found that, while the father did have a prior history of stewardship on the land included in all three contracts, neither the son nor son-in-law did.

When we interviewed the father, he provided documentation showing that a significant portion of the CSP payments his 16-year old son received were transferred to him shortly after they were deposited in the son's bank account. Both the father and son said the transfers were made to reimburse CSP contract expenses paid by the father and to reimburse the father for cattle the son purchased from him. These transfers give the appearance of a scheme or device to avoid program payment limits. We concluded that NRCS improperly awarded CSP contracts totaling $242,486 to the son and son-in-law, and that the father's CSP contract, totaling $219,588, was in jeopardy of termination, pending a scheme or device determination by the State Conservationist.

If NRCS had verified stewardship history using FSA records and documentation from the applicants, the agency could have concluded that the board member's son and son-in-law did not have stewardship history, and were, therefore, ineligible for CSP payments.

The Missouri State NRCS Office has agreed that the son and son-in-law were not eligible. NRCS transferred both contracts to the associated landowners and agreed that a scheme or device determination is needed.

[37] 7 C.F.R. § 1469.36 (a).

However, we question whether the action to transfer the contracts to individuals who did not apply for participation in the CSP is appropriate. We believe NRCS should consult with the Office of the General Counsel on the corrective actions regarding contract termination or transfer and any waiving of payment recovery efforts.

Recommendation 7

Establish program controls in future programs, such as spot checks or validations against FSA records, to verify stewardship history for producers to ensure all participants determined eligible have met the conservation and environmental management requirements.

NRCS Response

NRCS intends to field verify applicant information in the new Conservation Stewardship Program prior to contract obligation to verify producer stewardship. These verifications are tentatively scheduled to take place in August 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 8

Review and take the appropriate administrative remedy for CSP contracts for samples 36 and 36b and recover CSP disbursements of $45,622, as appropriate. These contracts have a remaining expected value of $196,864. Determine whether the participants were part of a scheme or device and also assess liquidated damages and interest as applicable.

NRCS Response

NRCS will review the CSP producer contracts for samples 36 and 36b listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to provide the decisions made on

each case and a copy of the bill for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records or evidence of collection.

Recommendation 9

Collect all payments made under the contract, assess liquidated damages, and assess interest provided by the contract (sample 36a) as appropriate. This producer was paid $27,860 in 2006 and 2007 and was expected to receive an additional $191,728 over the life of the CSP contract. Determine whether the contract participant adopted a scheme or device and, as appropriate, terminate the contract and the participant's interest in all conservation stewardship contracts.

NRCS Response

NRCS will review the CSP producer contract for sample 36a, listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. This review and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to provide the decisions made on the case and a copy of the bill for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records or evidence of collection.

Recommendation 10

Consult with the Office of the General Counsel and obtain an understanding of NRCS administrative steps and remedies on CSP corrective actions taken or proposed regarding contract termination, transfer and/or any waiving of payment recovery efforts for the specific cases indentified, and any other unique situations.

NRCS Response

NRCS will consult with the Office of the General Counsel, as appropriate, on a case-by-case basis, regarding CSP corrective actions related to producer contract samples 36, 36a, and 36b listed in the OIG report by September 30, 2009. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We accept NRCS' management decision.

Finding 4 Tenants Participation Denied

NRCS improperly approved a CSP contract (sample 34) for an applicant who deprived two tenants of their share of program payments.[38] This occurred because the Missouri State NRCS Office did not act on information that the participant was improperly excluding the tenants from the contract. In addition, we noted the CSP application does not require applicants to disclose parties with a share in agricultural operations when applying for participation. As a result, the applicant received $19,522 in improper payments, and the program could be perceived to be unfair to tenants.

The Farm Security and Rural Investment Act of 2002 requires the Secretary to "promulgate regulations that provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing payments, on a fair and equitable basis…" The CSP contract states that no payments will be approved if the landlord or operator has not given the tenants that have an interest in the unit of concern an opportunity to participate in the benefits of the program.[39] In addition, the CSP manual states that NRCS will ensure that potential participants who would have an interest in acreage being offered receive treatment which NRCS deems to be equitable. When questionable cases arise, the designated conservationist should refer them to the contracting officer for determinations.[40] NRCS procedures clearly require a determination by NRCS staff when indications are that a landlord or operator did not give the tenants with an interest in acreage an opportunity to participate in CSP.

An applicant offered 1,507 acres into CSP, of which about 125 acres were pastureland and the remaining acres cropland. This participant, along with his father, owned all the land covered under this CSP contract. The pastureland is located in Missouri and the cropland is located in Kansas. The applicant share rents the cropland acres in Kansas to two different tenants. To facilitate their CSP application, the participant and his father transferred (as allowed by FSA procedure) administration of their land located in Kansas to the adjoining county in Missouri where their pastureland was located.

[38] We concluded that sample 34 was ineligible for CSP in Finding 2. See exhibit A for monetary amounts.
[39] NRCS-CPA-1202-CSP (Appendix) section 6, "Provisions Relating to Tenants and Landlords."
[40] CPM part 518.67.a, dated August 2005.

Both tenants operating the applicant's cropland at the time of CSP sign-up stated that the applicant (landlord who owned the land) did not ask them to share in CSP benefits and that they have not received any payments from their landlord with regards to CSP. The landlord told us that he had offered both tenants an opportunity to be included in CSP, but both declined. The landlord confirmed that he did not share CSP payments with his tenants.

The tenants verbally complained to a district conservationist in Kansas about not being included in CSP. On April 18, 2006, before the contract was approved, the district conservationist sent an email to his area and State offices regarding the tenants' complaints. In response, his State office emailed the Missouri State NRCS Office on April 20, 2006, to describe the potential violation of the "Provisions Relating to Tenants and Landlords." The Kansas State NRCS Office personnel indicated that they did not receive a response from the Missouri State NRCS Office regarding the complaint.

On June 13, 2006, Kansas State NRCS Office personnel received an email from the district conservationist informing them that the participant and his father transferred administration of their land located in Kansas to the adjoining county in Missouri. This prompted the Kansas State NRCS Office to send another email on June 14, 2006, to remind the Missouri State NRCS Office of the applicant's potential violation of tenant and landlord provisions. The Missouri State NRCS Office responded by email stating it would not investigate the complaint unless it was in writing. The Kansas State NRCS Office personnel said that the Missouri State NRCS Office's complaint policy was incorrect, and they believed that a verbal complaint should be acted upon by the Missouri State NRCS Office personnel. NRCS currently provides no guidance requiring its State offices to only address complaints submitted in writing.

The CSP application does not require applicants to provide details about tenants participating in the program. The resource conservationist assigned to the contract stated that he knew the applicant had tenants, but the applicant assured him that the tenants would receive their share of CSP benefits. The resource conservationist documented in the CSP contract file that the Kansas FSA county executive director notified him of concerns that the tenants were not being included in the CSP contract. The resource conservationist stated that he made the CSP team leader and the area office aware of the situation between the tenants and applicant. However, he was not directed by the area or State office to follow up with the tenants to determine if they were being treated fairly by the applicant or to find out if they were receiving their share of the

CSP benefits. The tenants confirmed that the resource conservationist did not contact them. Missouri State NRCS officials stated that they did not receive information from the Kansas State NRCS staff until the later part of the sign-up. They indicated that the information was passed onto the field office but agreed that no follow-up was performed to assure the allegation was assessed and action taken.

Our review also disclosed that new enhancements and benchmark enhancements, such as reducing pesticide spray overlap through guided measured technology, would be carried out by the tenants who are not a party to the CSP contract. The applicant signed up for the new enhancement bi-annual soil testing even though the tenants were already carrying it out at their own expense. As a result, this applicant (the landowner) received 100 percent of the incentive payments for enhancements being carried out by the tenants and deprived them of $19,522 they were entitled to receive for 2006 and 2007. The Missouri State NRCS Office agreed to review the enhancement.

We concluded that NRCS officials did not take steps to ensure the tenants received equitable treatment for CSP. NRCS staff at both the Missouri field and State NRCS Offices had multiple opportunities to address the tenants' concerns brought to them by the FSA county executive director and the Kansas State NRCS Office. However, no office took action.

NRCS needs to establish controls requiring the use of USDA records in determining parties with a share in an agricultural operation. It should also require consent in writing from tenants and sharecroppers who are excluded from a CSP contract. Also, the Missouri State NRCS Office did develop a form for the 2008 CSP to obtain the tenant signature when the tenant is not a contract participant.

Recommendation 11

Require that applicants for future programs identify all parties with a share in agricultural operations when applying for contracts. Specifically, require consent be obtained, in writing, from each identified tenant or sharecropper before excluding them from a contract to ensure that all parties having a share in the agricultural operation receive equitable treatment.

NRCS Response

The Agency will reiterate, during training and teleconferences to the States, that they need to follow policy in Part 512 (Conservation Programs Manual) and the contract appendix regarding fair treatment of

tenants and sharecroppers. These actions will be completed by June 30, 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 12

Consult with the Office of the General Counsel and determine what, if any, corrective action can be taken regarding the eligibility of each identified tenant and any payment remedies.

NRCS Response

NRCS will consult with the Office of the General Counsel to determine in sample 34 of the OIG report if tenants were excluded from the CSP contract by September 30, 2009. This review and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 13

Emphasize to State NRCS Offices their duties and responsibilities for properly responding to complaints of inequality and/or impropriety in NRCS programs.

NRCS Response

NRCS will make it a part of the national training for the new Conservation Stewardship Program that State offices know their duties and responsibilities for properly responding to complaints of inequality and/or impropriety in NRCS programs. This training is tentatively scheduled for July 2009.

OIG Position

We accept NRCS' management decision.

Finding 5 Grazing Information Changed by NRCS Made Applicants Eligible

NRCS personnel in one Nebraska field office improperly modified producer certified grazing information which changed fields from ineligible to eligible. This occurred because the field office believed the grasses were dormant. However, this change allowed three applicants (samples 3, 6, and 9) to enroll ineligible land into CSP contracts. As a result, NRCS improperly paid the 3 producers $175,614 in 2006 and 2007; these producers are expected to receive $555,013 over the remaining life of their CSP contracts.

During the CSP application process, applicants completed grazing worksheets that documented the number of acres, the age and quantity of animals grazing the land, the dates the animals entered and exited the pasture, and the number of days the animals grazed the land annually. Using this data, the producer calculated an Animal-Unit Month (AUM)[41] per acre for each tract. NRCS compared the AUM with established thresholds to determine whether the tracts were eligible for CSP. The CPM[42] states that the program applicant is responsible for providing documentation necessary to support producer and land eligibility determinations to NRCS. However, CSP procedures do not address the modification of producer certified information by NRCS personnel. If changes need to be made, producers must make them and initial them.

NRCS field office personnel believed grasses were dormant before May 15 and after October 1 of each year. They also believed allowing cattle to graze on dormant grasses in the pasture before May 15 or after October 1 did not negatively affect the land. NRCS personnel explained that if a producer certified to a "Date In" (date livestock are turned out to pasture) prior to May 15, personnel changed the date to May 15. In addition, if the producer certified to a "Date Out" (date livestock are removed from the pasture) after October 1, personnel changed the date to October 1. Modifying the date in this way lowered the number of days cattle were on the land and, therefore, lessened their impact on the environment. The modifications lowered the AUM and made the land eligible for CSP. NRCS personnel made these changes so the applicants would not be out of the program on a technicality (a few extra days of grazing).

For example, one applicant certified that cattle grazed 2 fields until December 1, 2005, and another field until November 26, 2005. By using

[41] An AUM is the amount of forage necessary to sustain one Animal Unit for one month. An Animal Unit is defined as a 1,000-pound cow.
[42] CPM part 518.11.a, dated August 2005.

these dates grazed, the AUM for each field was computed as 1.9, 2.0, and 1.8; all over the threshold of 1.5. Because NRCS staff changed the "Date Out" for these fields, the applicant's AUMs were under the allowable threshold.

We recalculated the AUM per acre using the grazing dates certified by all applicants reviewed and concluded that three applicants' had fields that were not eligible for CSP because they were not below the established grazing thresholds. By removing the ineligible land from their CSP contracts, none of the three producers were eligible for Tier II or Tier III contracts and would not have received funding as Tier I participants. As a result, these participants have received $175,614 for which they were not eligible and are expected to receive $555,013 over the remaining life of the CSP contract.

We concluded that the changes made by the field office staff were both inaccurate and inappropriate. Nebraska State NRCS Office personnel agreed that field office staff should not have modified the producer certified grazing information. Because significant problems were identified, the Nebraska State NRCS Office indicated that it planned to review all CSP contracts.

Recommendation 14

Direct the Nebraska State NRCS Office to provide additional direction and training to field office employees to prevent the changing of information certified to by the applicant.

NRCS Response

NRCS will provide guidance by September 30, 2009, to the Nebraska State NRCS Office to inform field office employees that they are not to change information submitted and certified by program applicants.

OIG Position

We accept NRCS' management decision.

Recommendation 15

Direct the Nebraska State NRCS Office to review grazing eligibility for all CSP contracts, analyze the results, and address whether additional corrective action and clarification of CSP procedure is needed.

NRCS Response

NRCS will direct the Nebraska State NRCS Office to review grazing eligibility for all CSP contracts by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 16

Review and take the appropriate administrative remedy for CSP contracts for samples 3, 6, and 9 and recover CSP disbursements of $175,614, as appropriate. These three contracts have a remaining expected value of $555,013.

NRCS Response

NRCS will review the CSP producer contracts for samples 3, 6, and 9 listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to provide the decisions made on each case and a copy of the bill for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records or evidence of collection.

Finding 6 Farm Visits Needed to Confirm Stewardship Practices

We assessed stewardship practices on 61 contracts and found 5 with producer certifications that were not confirmed, resulting in the approval of applications for CSP that were not eligible for either the program or the assigned tier. This occurred because NRCS did not adopt adequate controls, such as field confirmations of land conditions, to ensure that applicants met stewardship eligibility requirements. As a result, NRCS made overpayments of $213,522 in 2006 and 2007 and is expected to disburse additional overpayments of $739,873 for the remaining years of these contracts.

CSP procedures do not require field visits to verify field conditions prior to contract approval. NRCS allows the designated conservationist to determine what information and situations qualify as questionable and, therefore, merit field verification.

Four of the five cases we identified were located in Nebraska. Field office staff in Nebraska only conducted "drive-by" reviews of farms between the time participants received their first and second CSP payments. At the time of our review, NRCS field office personnel in Missouri had conducted site visits on each farm for all Tier III contracts, but did not conduct reviews on Tier II contracts. Similarly, in Maryland, field office personnel conducted site visits for the farms with Tier III contracts, but not until after producers were accepted into CSP and received their first payment.

Accompanied by NRCS personnel, we performed field visits to farms associated with 61 selected contracts. Based on our visits, we found four (about 7 percent) instances of material discrepancies with producer-certified information. Of these four instances, we noted three cases (samples 4, 5, and 29) that impacted program eligibility and one case (sample 9) that impacted tier and payment calculations. In addition, we noted a discrepancy with one producer (sample 1) when we compared producer-certified information in the CSP file with available FSA records. The five instances we identified are described below.

- A producer in Missouri did not have a sufficient number of working fences to rotate the livestock between fields and did not meet the minimum soil quality requirements by having a grazing management plan. Although the producer certified to meeting these requirements, when we talked with him, he blamed the hired hand for the insufficient number of working fences. To be eligible for the program, participants must meet the minimum level of

treatment for soil quality on pastureland and rangelands by following a specific grazing management plan. By not meeting the minimum soil quality requirements on all acres, this producer was not eligible for a Tier II CSP contract and would not have received funding as a Tier I participant. As a result, the producer (sample 29) was overpaid $30,726 in 2006 and 2007 and is expected to be overpaid about $162,530 over the life of the CSP contract.

- A producer in Nebraska did not leave a required 20-foot buffer between cropland and a stream on one tract. The participant certified on his water quality questionnaire that these buffers were in place. After our visit, NRCS personnel changed the producer's water quality eligibility tool to reflect the condition noted on our field visit and concluded that the revised application did not meet the minimum eligibility requirements for CSP. As a result, the producer (sample 5) was overpaid $69,865 in 2006 and 2007 and is expected to be overpaid about $197,963 over the life of the CSP contract. (See OIG Photo 1.)

OIG Photo 1 –Stream in field without required 20-foot buffer

- Another producer in Nebraska performed farming operations through a small stream, which is not permitted. We also noted the presence of ephemeral gully erosion[43] on the farm. After our visit, NRCS personnel made appropriate changes to the producer's water quality eligibility tool and concluded that the application would not have been eligible for CSP. As a result, the producer (sample 4) was overpaid $47,963 in 2006 and 2007 and is expected to be overpaid about $202,348 over the life of the CSP contract. (See OIG Photo 2.)

OIG Photo 2 – Farming operations performed through a small stream

- A producer in Nebraska incorrectly certified that there was not direct runoff from livestock production areas into any flowing stream, intermittent streams or water bodies. Our field visit with NRCS personnel indicated the existence of a stream running through the participant's feedlot. During our visit, NRCS personnel indicated that this made the producer ineligible for a Tier III

[43] Ephemeral Gully Erosion: Small erosion channels formed on crop fields as a result of concentrated flow of runoff water.

contract but still eligible for reduced payments as a Tier II participant. As a result, the producer (sample 9) was overpaid $15,762 in 2006 and 2007 and is expected to be overpaid about $63,048 over the life of the CSP contract.

- A producer in Nebraska had one field that was 13.4 acres, not 17 acres as certified by the producer. This applicant certified that cattle grazed this field from May 1 to October 1, 2005, or 153 days; however, NRCS used 150 days. Using the correct days and acres, the AUM was .9, which exceeded the threshold of .89. These two errors had a significant impact because the field was no longer eligible. Thus, the field had to be removed from the CSP contract. Because of these small errors, the producer was no longer eligible for a Tier II contract and would not have received funding as a Tier I participant. As a result, the producer (sample 1) has received $49,206 for which he was not eligible and is expected to receive $113,984 over the remaining life of the CSP contract.

We concluded that, before entering into CSP contracts, NRCS should strengthen and expand site visit requirements to confirm that approved producers' stewardship practices comply with program requirements. Until it does this, NRCS risks making payments for practices that do not fulfill CSP's conservation goals.

NRCS agreed that a more diligent approach is needed and directed States to conduct on-site self-assessment verifications on 100 percent of the FY 2008 CSP contracts as soon as practical after contract approval and before the initial annual payment.[44]

Recommendation 17

Review and take the appropriate administrative remedy for CSP contracts for samples 1 and 29 and recover CSP disbursements of $79,932, as appropriate.[45] The two contracts have a remaining expected value of $276,514.

NRCS Response

NRCS will review the CSP producer contracts for samples 1 and 9 listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews

[44] National Bulletin 300.8.25, "LTP – Fiscal Year (FY) 2008 Conservation Security Program (CSP) Self-Assessment Verifications."

[45] We concluded that samples 4 and 5 were ineligible for CSP in Finding 2, and that sample 9 was ineligible for CSP in Finding 5. The remainder of the $213,522 in CSP payments for 2006 and 2007 and the $739,873 remaining CSP payments are attributed to these sampled contracts. We did not include the remainder of the amounts ($133,590 and $463,359, respectively) in Recommendation 17 to prevent duplication of amounts to be recovered from these sampled contracts.

and any necessary corrective actions will be completed prior to the FY 2010 annual payments which occur after October 1, 2009.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to provide the decisions made on each case and a copy of the bill for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records or evidence of collection.

Recommendation 18

Strengthen and expand site visit requirements to verify key producer certifications regarding land conditions for the agricultural operation prior to issuance of the annual payment.

NRCS Response

NRCS intends to field verify applicant information in the new Conservation Stewardship Program prior to contract obligation to verify producer information and stewardship. This verification is tentatively scheduled to take place in August 2009.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to also establish provisions for site visits for existing contracts in CSP.

Recommendation 19

Verify periodically after each contract award that conservation requirements are continually being met, including checks that agreed enhancements are in place.

NRCS Response

NRCS will make annual contract reviews in the new Conservation Stewardship Program and conduct status reviews to ensure that new enhancements scheduled in the contract are in place. These reviews will begin in FY 2010 and continue for the life of the 5-year contracts.

OIG Position

We were unable to agree with NRCS' proposed corrective action for

management decision. NRCS needs to also establish provisions for reviews of existing contracts in CSP.

Finding 7 NRCS Lacked Compensating Management Controls

NRCS field office personnel made incorrect determinations impacting 18 cases.[46] In some cases, this occurred because NRCS misinterpreted some of the program's complex procedures. In other cases, NRCS did not implement compensating controls to prevent erroneous payments such as additional reviews of critical program determinations that would be expected to find the types of errors identified in this finding. As a result, NRCS made errors that resulted in overpayments of $118,751 for 2006 and 2007 and is scheduled to make additional overpayments totaling $591,568 over the remaining life of the CSP contracts.

During our review, we identified the following incorrect determinations.

Water Quality

NRCS field office staff erroneously determined that one producer (sample 37) was eligible even though the application indicated that the producer did not meet the minimum water quality requirements on his cropland as required. As a result, this producer was not eligible to receive 2006 and 2007 payments totaling $28,237 and is not eligible to receive the remaining payments on his contract totaling $133,495.

The 2006 CSP sign-up notice required that applicants meet the nationally significant resource concern of water quality to the minimum level of treatment for all eligible land uses on the entire agricultural operation to be eligible for a Tier II contract. For cropland, the minimum thresholds contained in the CSP Water Quality Tool had to be met for resource concerns of nutrients, pesticides, sediment, and salinity.

Field office personnel indicated that the producer only had to meet water quality eligibility requirements on the grazing land. However, the Missouri State NRCS Office stated that all acres eligible for payment must meet the minimum eligibility criteria based on the land use (i.e., cropland must meet the cropland criteria, pasture must meet the pastureland criteria, rangeland must meet the rangeland criteria). Since the producer's cropland did not meet minimum water quality requirements for sediment, this producer was not eligible to receive $28,237 in 2006 and 2007 payments and is not eligible to receive the additional $133,495 in payments expected on the contract.

[46] We concluded that samples 1, 3, 4, 5, 6, 9, 34, and 44 were ineligible for CSP in previous findings. See exhibit A for monetary results.

Soil Quality

NRCS field office staff erroneously determined that one producer (sample 35) was eligible despite not meeting the minimum soil quality requirements for two of his four tracts. As a result, this producer was not eligible to receive $19,706 in 2006 and 2007 payments and is not eligible to receive the additional $31,799 in payments expected to be paid on the contract.

In order to meet the minimum soil quality requirements, producers must have a positive soil conditioning index (SCI) on all cropland acres enrolled. The producer provided the necessary information for all four tracts. However, NRCS based its initial SCI calculations for them on the information related to only one tract. After we pointed out the error, NRCS recalculated the SCIs from information for all four tracts and concluded that two of the tracts did not meet the minimum soil quality requirements.

Category Placement

NRCS made an error and incorrectly placed one application (sample 34) in a higher category than the applicant qualified for, causing the offer to be incorrectly accepted. The applicant qualified for Tier II, Category B, which was unfunded, but was incorrectly placed in Tier II, Category A, which was funded. NRCS did not accept any offers submitted for Tier II, Category B placements nationwide. As a result of the error, the participant has received $27,375 for 2006 and 2007 for which he was not eligible. In addition, the participant is expected to receive at least another $200,092 throughout the remaining years of the CSP contract.[47]

According to the 2006 CSP sign-up notice, applications are placed in the highest category level that all conservation management units being offered meet. In addition, for an application to qualify for a Category 'A' placement, **all** (emphasis added) cropland had to meet the minimum requirements for Group 2. Also, see exhibit E for category and group assignment criteria. The NRCS field office staff determined 963.0 acres met the minimum requirements for Group 2, whereas the remaining 544.0 acres met the minimum requirements for Group 3. Tier II applications meeting the minimum requirements for Group 3 only qualify for placement in Category 'B,' which went unfunded. Therefore, the applicant received payments for a contract that should not have been approved. The district conservationist concurred with our conclusion.

[47] We concluded that sample 34 was ineligible for CSP in Finding 2. See exhibit A.

Tier Placement

In another case, NRCS did not identify through the interview process that an applicant (sample 38) did not possess the required records to support a grazing management plan implemented prior to the CSP signup, and therefore, did not meet the minimum requirements for Tier III placement in CSP. This producer only qualified for a Tier II contract. As a result, the applicant was incorrectly paid $2,600 for 2006 and 2007 payments and is expected to be overpaid $10,400 for the remaining contract years.

According to the Missouri CSP Minimum Levels of Treatment Worksheet,[48] in order to achieve the minimum level of treatment required for grazing land Tier III contracts, the applicant must have a monitoring plan in place that will verify that the grazing management plan meets the CSP water quality standards with documentation that includes as a minimum: records outlining grazing periods and number of animals by grazing unit; assessments such as trend studies, photographs of resource conditions, and documentation of sensitive areas; and target and actual utilization."

Based on our interview with the participant, observations of the agricultural operation, and review of the participant's CSP contract file, we concluded that the participant did not meet the minimum eligibility criteria for Tier III placement in CSP. The applicant did not start maintaining grazing records or have an 8 pasture grazing system[49] in place until after signing up for CSP. Although the form notes there were 12 pastures in existence as support for the 8 pasture grazing system, the applicant confirmed that pastures numbered 1, 2, and 3 were one pasture prior to signing up for CSP. The applicant also confirmed that when cattle are in certain pastures, they may only gain access to water through other pastures. In addition, the participant confirmed that, prior to CSP; he did not follow any established grazing rotation for moving cattle from pasture to pasture but moved cattle when he felt the grass was getting short. The applicant confirmed that he did not rotate cattle as frequently as required by the CSP enhancement (4 to 7 days) prior to signing up for the program.

Benchmark Enhancements

NRCS erroneously allowed three participants to receive benchmark enhancement status for conservation activities that were not being carried out at the time of sign-up. Benchmark enhancement activities are those that are already in place or being performed at the time of sign-up.

[48] Missouri NRCS Worksheet CSP Minimum Levels of Treatment for Tier III Contracts, revised April 4, 2006.
[49] EGM05 requires the participant to maintain a grazing system with a minimum of eight pastures per herd.

Benchmark enhancements receive payments in years 1 through 6 of the contract on a declining scale (120 percent (%), 100%, 80%, 60%, 30%, and 10%) of the payment rate for the benchmark enhancement.

NRCS establishes a list of conservation practices and activities that are eligible for enhancement payments for a given sign-up. State Conservationists, with advice from the State Technical Committees, tailor the list to meet the needs of the selected watersheds and submit it to the NRCS Chief for concurrence.

In the following three cases, NRCS incorrectly awarded benchmark status:

- One participant (sample 34) incorrectly received benchmark enhancement status for enhancement ESM42, Reducing Soil Compaction, by using GPS or other similar guided measure technology. The NRCS resource conservationist did not identify through the interview process, workbook review, and record review that the participant's tenants could not carry out this enhancement based on their equipment capability. As a result, the participant is expected to be overpaid $188 over the life of the CSP contract.[50]

- A second participant (sample 38) did not meet the minimum requirements for benchmark enhancements that require the participant to maintain grazing records[51] and maintain a grazing system with at least eight pastures per herd.[52] These grazing enhancements, which the applicant is currently implementing, should have been scheduled as new enhancements[53] beginning in 2007. This occurred because NRCS personnel incorrectly determined the grazing enhancements as existing benchmarks during the application process. As a result, the participant was overpaid $5,365 in 2006 and 2007 and without contract correction is expected to be underpaid $27,720 for the remaining years of the contract due to the declining payment percentage for existing enhancements.

- The third participant (sample 44) agreed to implement five new enhancements beginning in 2008. NRCS erroneously coded these as benchmark enhancements to be paid on a declining scale. New enhancements should be paid at 100 percent from the year they are implemented for the remaining life of the contract. This occurred

[50] We concluded that sample 34 was ineligible for CSP in Finding 2. See exhibit A.
[51] EGM02, Grazing Management Bundle number 1, requires the participant to maintain grazing records.
[52] EGM05 requires the participant to maintain a grazing system with a minimum of 8 pastures per herd.
[53] Benchmark enhancements receive payments in years 1 through 6 of the contract on a declining scale (120%, 100%, 80%, 60%, 30% and 10%) of the payment rate. New enhancements receive payments starting in year 2 or later and continuing through year 10 of the contract at 100% of the payment rate. Therefore, any payments for benchmark enhancements that truly were new enhancements are an overpayment in year 1; year 2 of the contract has no effect because both new and benchmark enhancement receive 100% of the payment rate; and years 3-10 would be considered underpayments because new enhancements receive 100% of the payment rate throughout the remaining life of the contract.

because NRCS did not require second-party reviews of CSP applications. As a result, the participant is expected to be underpaid $11,631.[54]

New Enhancements

NRCS also allowed two participants to receive new enhancement status for conservation activities already being carried out at the time of sign-up which allowed them to be paid at the full rate rather than a declining payment rate. New enhancement activities are those that will be implemented or performed during the contract period. New enhancements receive payments in later years of the contract at 100 percent of the payment rate. This occurred because the applicant incorrectly completed the workbook and NRCS did not require reviews of producer records during the application process that might have caught the error.

- A participant (sample 34) erroneously received new enhancement status for bi-annual soil testing, an enhancement that was already being implemented. As a result, the participant is expected to be overpaid about $28,351 over the life of the CSP contract.[55]

- Another participant (sample 38) erroneously received new enhancement status for an enhancement requiring the management of legumes and/or forbs[56] on at least 50 percent of the grazing acres,[57] an enhancement that was already being implemented. As a result, the participant is expected to be overpaid $13,864 over the life of the CSP contract.

Cropping History

NRCS approved CSP contracts for five producers (samples 1, 3, 4, 5, and 10) who included land that did not meet the program's cropping history requirements because it did not review the producers' crop histories during the application process. In order to be eligible for the program, land must have been in agricultural production for 4 years between May 13, 1996, and May 13, 2002. We reviewed the producer sodbust[58] requests on file at FSA for the selected producers and found portions of 14 tracts, totaling nearly 250 acres (approximately 9 percent of the land on the 14 tracts), were not eligible for the program because

[54] We concluded that sample 44 was ineligible for CSP in Finding 2. See exhibit A.
[55] We concluded that sample 34 was ineligible for CSP in Finding 2. See exhibit A.
[56] A broad-leafed, herbaceous plant typical of a grassland or meadow; some examples of forbs are clover, common ragweed, prairie coneflower, and smooth aster; grasses are not included in the group of forbs.
[57] EGM10, Grazing Management Bundle number 3, requires the participant to manage inter-seeded non-native legumes, native legumes and/or forbs on at least 50 percent of the grazing acres offered.
[58] Sodbusting is the act of converting native vegetation to annually tilled cropland.

FSA's sodbust record documents the producer's request to begin planting a crop on the land that was not previously cropped. State NRCS office officials agreed that land failing to meet the cropping history requirement should be removed from the program and the producer should not receive a payment on this land. As a result, these 5 producers were overpaid $628 in 2006 and 2007, and they are expected to be overpaid $2,771 over the remaining years of the contracts.[59]

Custom Farmed Acres

NRCS improperly approved a CSP contract for a producer (sample 51) that did not own or operate nearly half of his 1,073 contract acres. For crop year 2006, this producer custom farmed 534.8 of the acres enrolled in the CSP contract. A custom farmer works the land for payment and does not share in the risk of producing the crops. Only applicants who share a risk in producing the crops are eligible for the program. We reviewed the producer's FSA-578, "Report of Acreage," and AD-1026, "Highly Erodible Land Conservation and Wetland Conservation Certification," on file at FSA and found it did not contain the 534.8 acres custom farmed by the participant. FSA informed us that the FSA-578 and AD-1026 only includes land in which the producer has a risk. As a result, this producer was overpaid $10,796 in 2006 and 2007 and is expected to be overpaid $94,166 during the remaining years of his contract.

Insufficient Review for Accuracy

We found that for 11[60] applications field office personnel erroneously entered data into the ProTracts database without a second-party review for accuracy that may have identified simple errors. As a result, a net of $1,278 in erroneous payments were made for years 2006 and 2007 and a net of $1,312 is expected to be paid in the remaining contract periods for the 5 cases (samples 2, 8, 12, 19, and 21) not previously reported. These errors included both overpayments and underpayments. These errors did not affect the producers' eligibility, but did have some impact on the accuracy of payments. For example, these errors included entering the incorrect number of acres or entering the incorrect enhancement activity.

Recommendation 20

Establish adequate control mechanisms, such as second party reviews, to ensure the accuracy of information reported by applicants for conservation programs.

[59] We concluded that sample 4 was ineligible for CSP in Finding 2, sample 3 was ineligible for CSP in Finding 5, and sample 1 was ineligible for CSP in Finding 6. Therefore, we are making no further recommendations for recovery in this finding. See exhibit A.
[60] We found 11 applications with errors; however, 6 were already identified in previous findings.

NRCS Response

NRCS will require second party reviews of data entry in the new Conservation Stewardship Program to ensure the accuracy of information reported by applicants prior to contract obligation. These reviews are tentatively scheduled to begin in July 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 21

Review and take the appropriate administrative remedy for CSP contracts for samples 10, 35, 37, 38, and 51 and recover CSP disbursements of $65,463, as appropriate.[61] These contracts have a remaining value of $258,405. Review and correct payment errors and any expected contract payments for samples 2, 8, 12, 19, and 21, as appropriate.

NRCS Response

NRCS will review the CSP producer contracts for samples 10, 35, 37, 38, and 51 listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payments which occur after October 1, 2009.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to provide the decisions made on each case and a copy of the bill for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records or evidence of collection.

[61] We concluded that samples 4, 34, and 44 were ineligible for CSP in Finding 2; sample 3 was ineligible for CSP in Finding 5; and sample 1 was ineligible for CSP in Finding 6. Therefore, we are making no further recommendations for recovery here. See exhibit A.

Finding 8 ProTracts Does Not Limit Participants to One CSP Contract

NRCS officials did not activate necessary edit checks within ProTracts[62] to identify producers receiving payments from multiple CSP contracts. This occurred because NRCS did not specifically require that an available automated control be activated to identify producers receiving payments on more than one CSP contract. NRCS personnel stated that, although this edit check was installed, it was not activated because NRCS field offices ran manual queries in ProTracts to determine whether a participant had already applied for CSP or appeared on an active CSP contract. As a result, we identified 12 producers with multiple contracts who received improper payments totaling $433,687 (see exhibit H).

According to Federal regulations[63] for fiscal years 2005 and 2006, participants in an existing conservation stewardship contract are not eligible to submit another application, and participants will only receive payments from one conservation stewardship contract. NRCS included an edit check in ProTracts that can automatically determine if applicants were "ineligible" because they appeared on an existing active contract or had already submitted an application for the current sign-up. However, this edit check was not in use at the time of our review.

As part of our review of CSP, we reviewed key internal controls NRCS had built into ProTracts and obtained a snapshot of the database. We performed tests on the integrity of the data, searched for duplicate records, and performed an analysis to identify possible anomalies in the data provided by NRCS. We then tested the controls within ProTracts related to limiting producer payments to established payment caps, verifying FSA eligibility criteria (Highly Erodible Land/Wetland Compliance, Adjusted Gross Income, and Farm/Tract Eligibility), and preventing producers from receiving multiple contracts and/or payments on multiple contracts.

We reviewed contract and producer data from 24,971 contract participants from fiscal years 2004 through 2007[64] and identified 4 producers who received multiple CSP contracts in their own name and 8 producers who shared in the payments from multiple CSP contracts in

[62] ProTracts is an NRCS developed automated system which enables NRCS to create and manage contracts, certify completed practices, and request contract payments. For CSP contracts, NRCS inputs producer certified data regarding existing and new enhancements and land use types (e.g., cropland [irrigated or non], pastureland, or rangeland).

[63] Federal Register, Volume 70, No. 57, Friday, March 25, 2005, and Volume 71, No. 25, Tuesday, February 7, 2006. Also, CPM part 518.41.c, dated August 2005.

[64] Prior to the 2005 CSP sign-up, producers could be a participant on more than one contract and receive payments from all contracts on which they were a participant, but they could not be a primary applicant on more than one contract. We included FY 2004 in our analysis because a producer who received a contract in FY 2004 could not apply for an additional contract in FY 2005. Producers eligible to receive multiple contracts in 2004 are not included in this finding.

fiscal years 2004 through 2007 (see exhibit H). For example, 5 of the 12 producers we identified were from Ohio. At our request, the Ohio State NRCS Office reviewed the five cases we questioned and confirmed that these producers did receive payments from more than one contract that totaled $79,861 and violated program requirements. In addition, the Maryland State NRCS Office reviewed one case for a Maryland producer and confirmed that this producer also received payments from more than one contract.

To effectively identify producers receiving payments from multiple CSP contracts, NRCS should use the installed edit check rather than rely on manual queries to determine eligibility.

NRCS officials indicated that there are no new CSP contracts after September 20, 2008, and that NRCS did implement applicant checks within ProTracts for the 2008 sign-up. They also stated that the Conservation Stewardship Program will not be impacted by this situation. Therefore, a control to address this situation in the Conservation Stewardship Program is not necessary.

Recommendation 22

Obtain from ProTracts a list of participants that are receiving payments on multiple contracts and take corrective action in accordance with NRCS policy.

NRCS Response

A list of participants with multiple CSP contracts is being queried from the Programs Contracting System (ProTracts) database. States will be instructed to review these contracts by September 30, 2009, to determine which ones are valid and take the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payments which occur after October 1, 2009.

OIG Position

We accept NRCS' management decision.

Recommendation 23

Recover the CSP funds and correct the 12 cases identified, as appropriate.

NRCS Response

NRCS has already addressed the 12 cases identified in the OIG report and will follow up with the States by September 30, 2009, to ensure that the appropriate administrative remedy based on case-specific findings were taken.

OIG Position

We were unable to agree with NRCS' proposed corrective action for management decision. NRCS needs to provide the decisions made on each case and a copy of the bill for collection for amounts owed to the Government and support that the amounts have been entered as a receivable on the agency's accounting records or evidence of collection.

Scope and Methodology

Our audit reviewed NRCS' administration of the Conservation Security Program (CSP) in fiscal year (FY) 2006. We began our audit in December 2006 at the NRCS national office in Washington, D.C., to review program requirements and guidance issued by NRCS and to interview NRCS officials regarding the CSP requirements. During the audit, we briefed the national office on the results of the review and provided information on the questionable contracts cited in this report.

We obtained and analyzed FY 2006 contract data for 54 watersheds from the national office. The universe consisted of 4,396 contracts totaling $51,049,813, which had first year payments in 2006. From this data, we judgmentally selected three States for review: Nebraska, Missouri, and Maryland. These States were selected due to the large amount of contract funding they received in 2006, the high number of approved contracts in each State, and the distribution of approved contracts in all three tier levels in both Nebraska and Missouri. We also selected these States because each offered a unique topography with varying environmental concerns. We also performed limited audit work in Iowa and Minnesota in order to evaluate why such a small percentage of CSP applications were approved for participation. In both States, we found that the majority of the applications were properly placed in categories that were determined to be unfunded at the national level.

Within each State selected for review, we performed work at the State office and judgmentally selected for review the top two counties in terms of the number of funded contracts within the watershed. In Missouri[65] we also performed work at the area office that oversaw the work performed in the two counties selected for review. In total, we performed field work at 3 State offices, 6 field offices, and 1 area office, and reviewed 61 contracts totaling $10,976,710, plus an additional 14 contracts that totaled $822,889 associated with the entities identified in the 61 reviewed. These 14 contracts involved farming operations related to the 61 contracts initially selected for review. For these contracts, we reviewed the participants' delineation of their agricultural operations.

We reviewed CSP activities in the Upper Little Blue watershed, the only new watershed approved for FY 2006 in Nebraska. NRCS funded 344 CSP contracts in 9 counties totaling $4,966,498 (prorated[66]) for

[65] Nebraska and Maryland do not have area offices. In Nebraska, a District Conservationist oversees each of the 23 Natural Resources Districts; the Maryland State NRCS Office oversees that State's field offices.
[66] Due to limited funding, NRCS reduced the payment amounts by 30 percent based on the subcategories in exhibit F.

2006 payments. We performed our fieldwork in Nuckolls and Thayer counties which had 97 and 100 funded contracts, respectively, totaling $1,453,314 and $1,375,974. For the contracts awarded in FY 2006, the selected counties accounted for 57.3 percent of the number of contracts in the State and 55.5 percent of the value of the contracts in the State. We judgmentally selected 11 contracts in Nuckolls County and 10 in Thayer County for review based on 2006 costs, tier, and subcategory representation. We selected the contracts of producers who were USDA employees, as well as the contracts of producers who (1) had the largest contracts and (2) had contracts that were in Tiers II and III and subcategories 2 and 4. The FY 2006 value of these contracts was $307,285 for Nuckolls County and $230,892 for Thayer County.

We reviewed CSP activities in the Spring River watershed in Missouri. NRCS funded 361 CSP contracts in 7 counties totaling $3,998,501 (prorated[67]) for 2006 payments. We performed fieldwork in Lawrence and Jasper counties which had 141 and 107 funded contracts, respectively, totaling $1,684,638 and $1,120,471. For contracts awarded in FY 2006, the selected counties accounted for 68.7 percent of the number of contracts in the State and 70.2 percent of the value of the contracts in the State. We judgmentally selected 10 contracts in Lawrence County and 10 in Jasper County[67] for review based on 2006 costs, tier, and subcategory representation. The FY 2006 value of these contracts was $153,517 for Lawrence County and $248,350 for Jasper County.

We reviewed CSP activities in the Choptank watershed in Maryland. NRCS funded 207 CSP contracts in 4 counties totaling $2,677,410 for 2006 payments. We performed fieldwork in Talbot and Caroline counties which had 101 and 78 funded contracts, respectively, totaling $1,239,076 and $1,082,348. For contracts awarded in FY 2006, the selected counties accounted for 86.5 percent of the number of contracts in the State and 85.8 percent of the value of the contracts in the State. We judgmentally selected 10 contracts in Talbot County[68] and 10 in Caroline County for review based on 2006 costs, tier, and subcategory representation. The 2006 value of these contracts was $382,327 for Talbot County and $273,307 for Caroline County.

At the field office level, we reviewed CSP files, FSA records, and NRCS files for other NRCS programs. We also conducted interviews with personnel at each of the three State offices. In each of the three States, we conducted site visits (accompanied by NRCS staff) for every

[67] We performed a full review of 10 contracts and a limited review of agricultural operation delineations for 2 contracts, as they were related to a contract in our sample.
[68] We performed a full review of 10 contracts and a limited review of agricultural operation delineations for 12 contracts, as they were related to contracts in our sample.

one of the 61 sampled contracts and we interviewed producers, as appropriate, to gather clarifying information on the field visit or application.

We reviewed ProTracts' key internal controls and procedures pertaining to CSP administration and payment processing to gain an understanding of the process. We analyzed 24,971 CSP contracts and related automated producer data from FY 2004-FY 2007. Also, we obtained clarification on selected contracts from the Ohio NRCS State Office.

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.

Exhibit A – Summary of Monetary Results

Finding No.	Rx	Description	Amount	Category
2	6	Amounts paid on CSP contracts for samples 4, 5, 13, 14, 34, 43, 43a, 43b, 43c, 43d, 44, 44a, 44b, 44c, 44d, 47, 47a, 47b, 47c, and 47d	$697,178	Questioned Costs/ Recovery Recommended
2	6	Amounts expected to be paid on CSP contracts for samples 4, 5, 13, 14, 34, 43, 43a, 43b, 43c, 43d, 44, 44a, 44b, 44c, 44d, 47, 47a, 47b, 47c, and 47d	$1,892,078	Funds to be Put to Better Use
3	8	Amounts paid on CSP contracts for samples 36 and 36b	$45,622	Questioned Costs/ Recovery Recommended
3	8	Amounts expected to be paid on CSP contracts for samples 36 and 36b	$196,864	Funds to be Put to Better Use
3	9	Possible Scheme or Device determination-sample 36a	$27,860	Questioned Costs/ Recovery Recommended
3	9	Possible Scheme or Device determination-sample 36a	$191,728	Funds to be Put to Better Use
4	12	Landowner received CSP payments that two tenants were entitled to receive[2]	$0	Questioned Costs/ Recovery Recommended
5	16	Amounts paid on contracts for samples 3, 6, and 9	$175,614	Questioned Costs/ Recovery Recommended
5	16	Amounts expected to be paid on CSP contracts for samples 3, 6, and 9	$555,013	Funds to be Put to Better Use
6	17	Amounts paid on contracts for samples 1 and 29 [3]	$79,932	Questioned Costs/ Recovery Recommended
6	17	CSP contracts for samples 1 and 29 [3]	$276,514	Funds to be Put to Better Use
7	21	Amounts paid in error on: Water Quality - sample 37 ($28,237) Soil Quality - sample 35 ($19,706) Category Placement - ($0)[2] Tier Placement - sample 38 ($2,600) Benchmark Enhancements - sample 38 ($5,365) New Enhancements - sample 38 ($2,683) [1] Cropping History - sample 10 ($164)[4] Custom Farmed Acres - sample 51 ($10,796) Second-party Review - samples 2, 8, 12, 19, 21 ($1,278) [6]	$65,463	Questioned Costs/ Recovery Recommended

Exhibit A – *Summary of Monetary Results*

Finding No.	Rx	Description	Amount[1]	Category
7	21	Amounts expected to be paid on : Water Quality - sample 37 ($133,495) Soil Quality - sample 35 ($31,799) Category Placement - ($0)[2] Tier Placement - sample 38 ($10,400) Benchmark Enhancements - sample 38 (<u>$27,720</u>[1])[5] New Enhancements - sample 38 ($13,864)[2] Cropping History - sample 10 ($1,089)[4] Custom Farmed Acres - sample 51 ($94,166) Second-party Review - samples 2, 8, 12, 19, 21 ($1,312)	$258,405	Funds to be Put to Better Use
8	23	Participants on multiple CSP contracts (cases 1-12)	$433,687	Questioned Costs/ Recovery Recommended
		Total	$4,895,958	

1/ The amounts underlined are underpayments. Finding 7 includes two computed underpayments. For sample 38, the overpayments received by the participant exceed the understated amounts.

2/ We concluded that sample 34 was ineligible for CSP in Finding 2.

3/ We concluded that samples 4 and 5 were ineligible for CSP in Finding 2, and that sample 9 was ineligible for CSP in Finding 5.

4/ We concluded that sample 1 was ineligible for CSP in Finding 6, sample 3 was ineligible in Finding 5, and samples 4 and 5 were ineligible in Finding 2.

5/ We are not including amounts related to Benchmark Enhancement errors here as we concluded that samples 34 and 44 were ineligible for CSP in Finding 2.

6/ This finding amount does not include payments related to six other contracts with second-party review issues that were determined ineligible in other findings.

Exhibit B – Agency Response

United States Department of Agriculture

NRCS

Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

JUN 18 2009

SUBJECT: Response to Office of Inspector General OIG-10601-4-KC – Natural Resources Conservation Service's (NRCS) Conservation Security Program (CSP)

TO: Robert W. Young
Assistant Inspector General for Audit
Office of Inspector General

This memorandum transmits the Natural Resources Conservation Service's (NRCS) written response to the OIG Audit Report: OIG-10601-4-KC – Natural Resources Conservation Service's Conservation Security Program.

If you have questions, please contact Letitia Toomer, Acting Director, Operations Management and Oversight Division, at (202) 720-9135.

Virgil L Murphy for
Dave White
Chief

Attachment

Helping People Help the Land

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AUDIT REPORT: OIG-10601-4-KC - NATURAL RESOURCES CONSERVATION SERVICE'S CONSERVATION SECURITY PROGRAM (CSP)

Recommendation 1
Complete ongoing coordination with USDA agencies, such as the Farm Service Agency (FSA), to utilize their existing data to independently verify applicant supplied the information for similar programs implemented in the future.

NRCS Response
NRCS required the use of FSA records during the fiscal year (FY) 2008 CSP signup, which was held from April 18, 2008, through May 30, 2008, and anticipates requiring the use of these records for the new Conservation Stewardship Program signup in FY 2009.

Recommendation 2
Review all current CSP contracts to validate program eligibility, payment accuracy, and take appropriate action in accordance with NRCS policy.

NRCS Response
All active CSP contracts will be reviewed by qualified NRCS personnel from outside the contract location to validate program eligibility and payment accuracy by September 30, 2009. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

Recommendation 3
Conduct periodic management reviews of CSP and other newly implemented programs to improve program administration and performance.

NRCS Response
Management reviews have been conducted by appropriate National Headquarters staff of CSP, and reviews for the new Conservation Stewardship Program will be conducted on an annual basis beginning in FY 2010.

Recommendation 4
Incorporate into the *Conservation Program Manual* the policies and procedures requiring the use of USDA data to determine the operator of a tract of land, to delineate farm operations, and to reiterate NRCS policy on assignments to all offices for similar programs implemented in the future.

NRCS Response
NRCS will incorporate into the Conservation Programs Manual Part 508 (Conservation Stewardship Program) policy and procedures for the use of FSA records in determining operators of record and delineating agricultural operations. The Agency will also reiterate, during training and teleconferences to the States, that they need to follow policy in Part 512 (Conservation Programs Manual) regarding assignments of payments. These actions will be completed by June 30, 2009.

Recommendation 5
Review the agricultural operation delineation determinations on all current CSP contracts and take appropriate action in accordance with NRCS policy.

NRCS Response
NRCS will review the agricultural operation delineation determinations on all current CSP contracts by September 30, 2009. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment, which occurs after October 1, 2009.

Recommendation 6
Review and determine whether the cited producers adopted a scheme or device on the CSP contracts identified and recover CSP disbursements of $697,178 as appropriate, in conjunction with the determinations made on the contracts. These 20 contracts have a remaining expected value of $1,892,078.

NRCS Response
NRCS will review the CSP producer contracts for samples 4, 5, 13, 14, 34, 43, 43a, 43b, 43c, 43d, 44, 44a, 44b, 44c, 44d, 47, 47a, 47b, 47c, and 47d listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment, which occurs after October 1, 2009.

Recommendation 7
Establish program controls in future programs, such as spot checks or validations against FSA records, to verify stewardship history for producers to ensure that all participants determined eligible have met the conservation and environmental management requirements.

NRCS Response
NRCS intends to field verify applicant information in the new Conservation Stewardship Program prior to contract obligation to verify producer stewardship. These verifications are tentatively scheduled to take place in August 2009.

Recommendation 8
Review and take the appropriate administrative remedy for CSP contracts for samples 36 and 36b and recover CSP disbursements of $45,622, as appropriate. These contracts have a remaining expected value of $196,864. Determine whether the participants were part of a scheme or device and also assess liquidated damages and interest as applicable.

NRCS Response
NRCS will review the CSP producer contracts for samples 36 and 36b listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

Recommendation 9
Collect all payments made under the contract, assess liquidated damages, and assess interest provided by the contract (sample 36a) as appropriate. This producer was paid $27,860 in 2006 and 2007, and was expected to receive an additional $191,728 over the life of the CSP contract. Determine whether the contract participant adopted a scheme or device and, as appropriate, terminate the contract and the participant's interest in all conservation stewardship contracts.

NRCS Response
NRCS will review the CSP producer contract for sample 36a listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. This review and any necessary corrective actions will be completed prior to the FY 2010 annual payment, which occurs after October 1, 2009.

Recommendation 10
Consult with the Office of the General Counsel (OGC) and obtain an understanding of NRCS administrative steps and remedies on CSP corrective actions taken or proposed regarding contract termination, transfer and or any waiving of payment recovery efforts for the specific cases indentified, and any other unique situations.

NRCS Response
NRCS will consult with OGC, as appropriate, on a case-by-case basis, regarding CSP corrective actions related to producer contract samples 36, 36a, and 36b listed in the OIG report by September 30, 2009. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment, which occurs after October 1, 2009.

Recommendation 11
Require that applicants for future programs identify all parties with a share in agricultural operations when applying for contracts. Specifically, require consent to be obtained, in writing, from each identified tenant or sharecropper before excluding them from a contract to ensure that all pas having a share in the agricultural operation receive equitable treatment.

NRCS Response
The Agency will reiterate during training and teleconferences to the States that they need to follow policy in Part 512 (Conservation Programs Manual) and the contract appendix regarding fair treatment of tenants and sharecroppers. These actions will be completed by June 30, 2009.

Recommendation 12
Consult with OGC and determine what, if any, corrective action can be taken regarding the eligibility of each identified tenant and any payment remedies.

NRCS Response
NRCS will consult with OGC to determine in sample 34 of the OIG report if tenants were excluded from the CSP contract by September 30, 2009. This review and any necessary corrective actions will be completed prior to the FY 2010 annual payment, which occurs after October 1, 2009.

Recommendation 13
Emphasize to State NRCS offices their duties and responsibilities for properly responding to complaints of inequality and/or impropriety in NRCS programs.

NRCS Response
NRCS will make it a part of our national training for the new Conservation Stewardship Program that State offices know their duties and responsibilities for properly responding to complaints of inequality and/or impropriety in NRCS programs. This training is tentatively scheduled for July 2009.

Recommendation 14
Direct the Nebraska State NRCS office to provide additional direction and training to field office employees to prevent the changing of information certified to by the applicant.

NRCS Response
NRCS will provide guidance by September 30, 2009, to the Nebraska State office to inform field office employees that they are not to change information submitted and certified by program applicants.

Recommendation 15
Direct the Nebraska State NRCS office to review grazing eligibility for all CSP contracts, analyze the results, and address whether additional corrective action and clarification of CSP procedure is needed.

NRCS Response
NRCS will direct the Nebraska State office to review grazing eligibility for all CSP contracts by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment which occurs after October 1, 2009.

Recommendation 16
Review and take the appropriate administrative remedy for CSP contracts for samples 3, 6, and 9 recover CSP disbursements of $175,614, as appropriate. These three contracts have a remaining expected value of $555,013.

NRCS Response
NRCS will review the CSP producer contracts for samples 3, 6, and 9 listed in the OIG report by September 30,2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payment, which occurs after October 1, 2009.

Recommendation 17
Review and take the appropriate administrative remedy for CSP contracts for samples 1 and 29 and recover CSP disbursements of $79,932, as appropriate. The two contracts have a remaining expected value of $276,514.

NRCS Response
NRCS will review the CSP producer contracts for samples 1 and 9 listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payments which occur after October 1, 2009.

Recommendation 18
Strengthen and expand site visit requirements to verify key producer certifications regarding land conditions for the agricultural operation prior to issuance of the annual payment.

NRCS Response
NRCS intends to field verify applicant information in the new Conservation Stewardship Program prior to contract obligation to verify producer information and stewardship. This verification is tentatively scheduled to take place in August 2009.

Recommendation 19
Verify periodically after each contract award that conservation requirements are continually being met, including checks that agreed enhancements are in place.

NRCS Response
NRCS will make annual contract reviews in the new Conservation Stewardship Program and conduct status reviews to ensure that new enhancements scheduled in the contract are in place. These reviews will begin in FY 2010 and continue for the life of the 5-year contracts.

Recommendation 20
Establish adequate control mechanisms, such as second party reviews, to ensure the accuracy of information reported by applicants for conservation programs.

NRCS Response
NRCS will require second party reviews of data entry in the new Conservation Stewardship Program to ensure the accuracy of information reported by applicants prior to contract obligation. These reviews are tentatively scheduled to begin in July 2009.

Recommendation 21
Review and take the appropriate administrative remedy for CSP contracts for samples 10, 35, 37, 38, and 51 and recover CSP disbursements of $65,463, as appropriate. These contracts have a remaining value of $258,405. Review and correct payment errors and any expected contract payments for samples 2, 8, 12, 19, and 21, as appropriate.

NRCS Response
NRCS will review the CSP producer contracts for samples 10, 35, 37, 38, and 51 listed in the OIG report by September 30, 2009, and apply the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payments, which occur after October 1, 2009.

Recommendation 22
Obtain from ProTracts a list of participants that are receiving payments on multiple contracts and take corrective action in accordance with NRCS policy.

NRCS Response
A list of participants with multiple CSP contracts is being queried from the Programs Contracting System (ProTracts) database. States will be instructed to review these contracts by September 30, 2009, to determine which ones are valid and take the appropriate administrative remedy based on case-specific findings. These reviews and any necessary corrective actions will be completed prior to the FY 2010 annual payments, which occur after October 1, 2009.

Recommendation 23
Recover the CSP funds and correct the 12 cases identified, as appropriate.

NRCS Response
NRCS has already addressed the 12 cases identified in the OIG report and will follow up with the States by September 30, 2009, to ensure that the appropriate administrative remedy based on case-specific findings were taken.

Natural Resources Conservation Service Conservation Security Program RESPONSES TO OIG AUDIT EXHIBIT A, EXHIBIT G AND EXHIBITH 10601-4-KC

Exhibit A - Summary of Monetary Results

NRCS Response
The OIG total amount appears inaccurate. CSP funds are annually obligated, and the questioned costs do not reflect the true dollar amounts producers will receive after corrective actions have been or will be taken based on a case-by-case review. The findings from the NRCS contract reviews and any needed corrective actions to be completed by December 31, 2009, will provide an accurate accounting of the CSP funds.

Exhibit G - Results of 61 Contracts Reviewed and 14 Related Contracts

NRCS Response
The OIG total amount of expectations for contracts with errors and total contract expectations amounts appear inaccurate. CSP funds are annually obligated and errors found on the sample number contract number do not reflect the true dollar amounts producers received or will receive. The findings from the NRCS contract reviews and any needed corrective actions to be completed by December 31, 2009, will provide an accurate accounting of the CSP funds.

Exhibit II - Producers Appearing on Multiple Contracts

NRCS Response
State Conservationists in the five States (Arkansas, Iowa, Maryland, Nebraska, and Ohio) where these contracts were found were notified in October 2007 to take the appropriate corrective action in accordance with NRCS policy. NRCS will follow up with the State by May 29, 2009, to ensure that the appropriate administrative remedy based on case-specific findings were taken.

Exhibit C – CSP Watersheds FYs 2004-2006

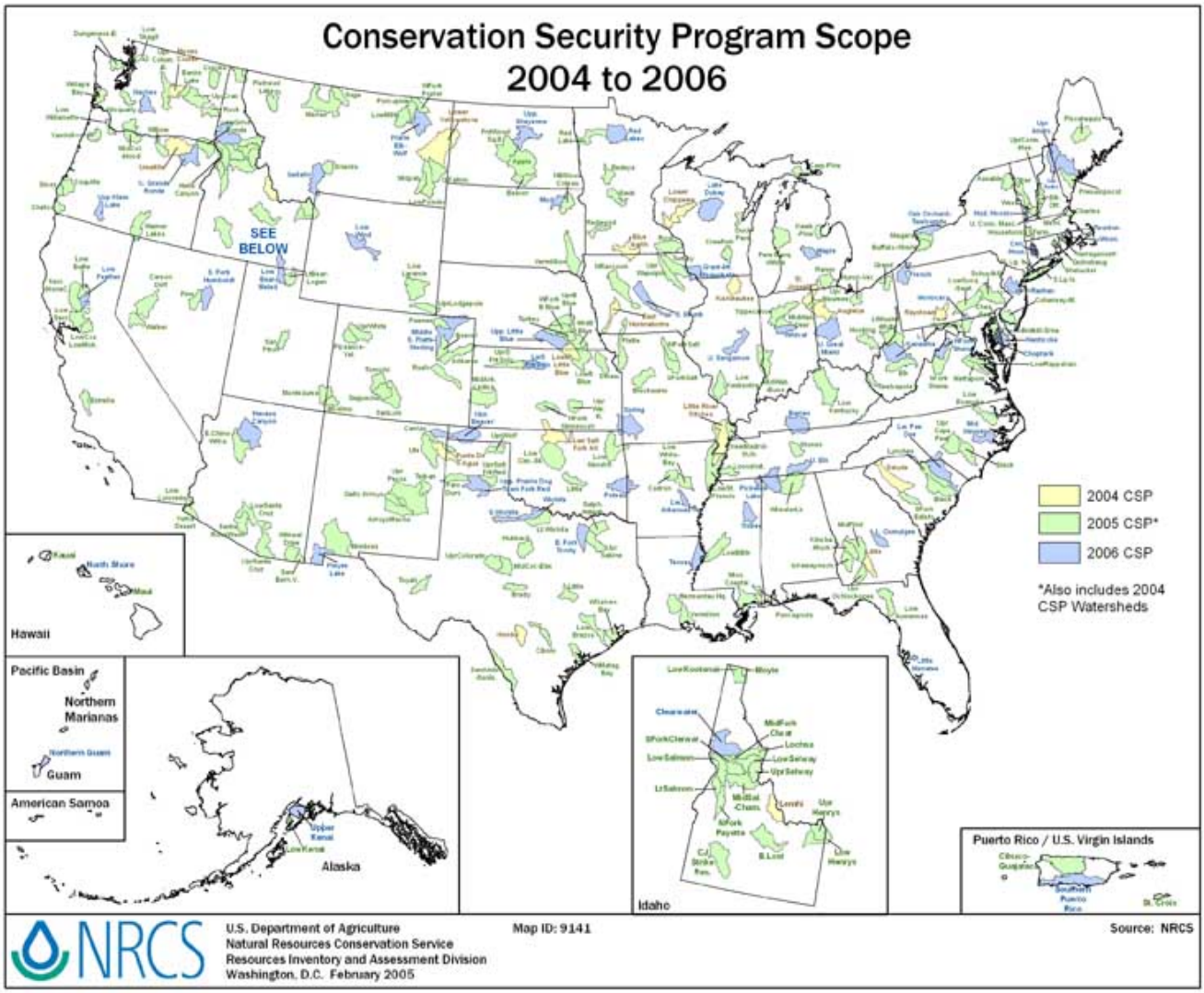

Exhibit D – CSP Watersheds FY 2006

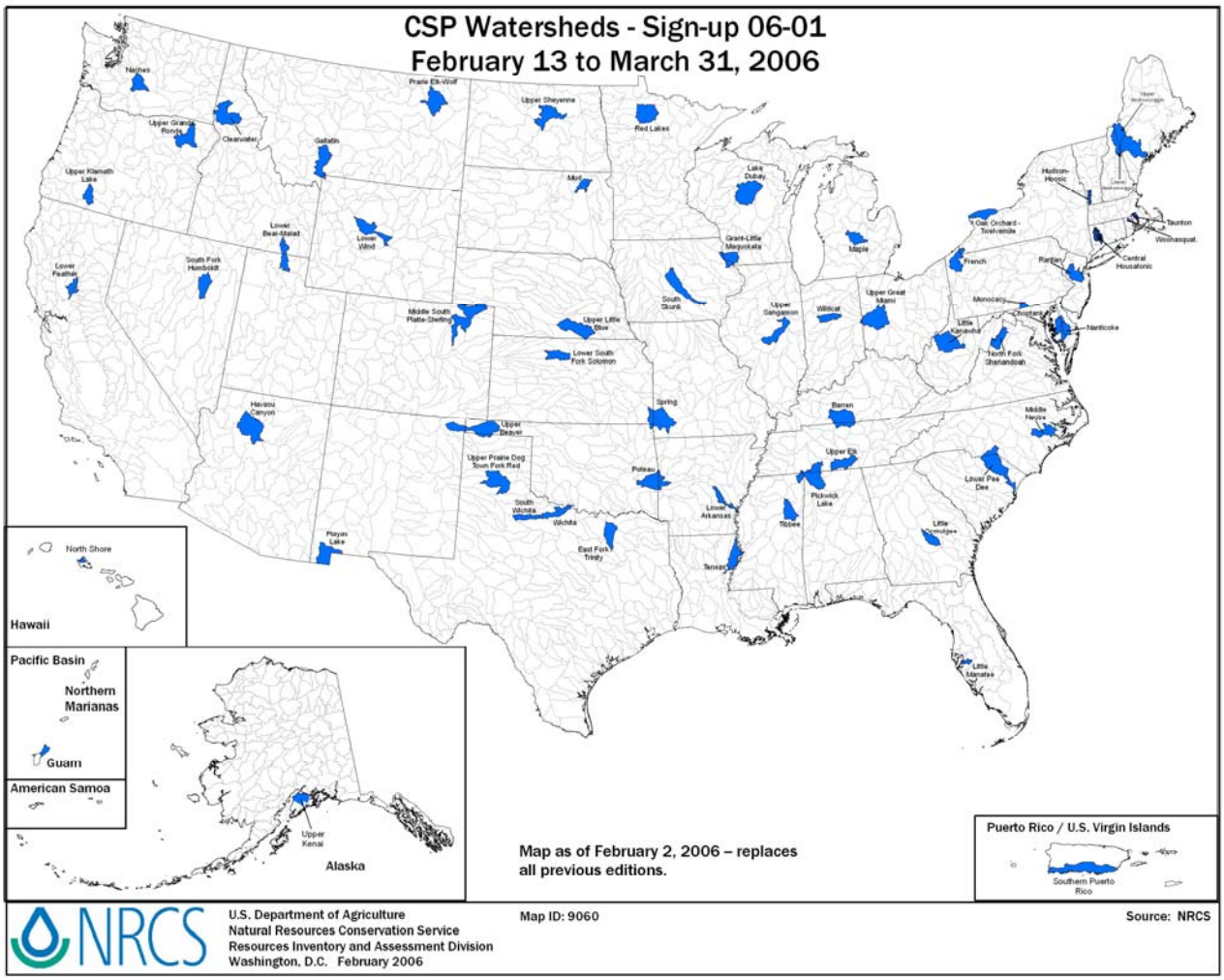

Exhibit E – CSP Category and Group Assignment Criteria

Category	Tier I	Tier II	Tier III
A	Not Applicable	Group 1 or 2	Group 1, 2, or 3
B	Group 1	Group 3	Group 4
C	Group 2	Group 4	Group 5
D	Group 3	Group 5	
E	Groups 4 and 5		

Cropland (row crops, closely grown crops, hay or pasture in rotation with row or closely grown crops, orchards, vineyards, horticultural crops, cropped woodland and marshes, and permanent hay land)	Group	Conservation System Criteria
		Conservation Cropping System Performance Level and Stewardship Practices and Activities installed and maintained for at least two years prior to the sign-up period from the list included in the program regulations
	1	SCI of ≥ 0.70 or STIR rating of ≤ 15, plus at least 2 unique practices or activities from each area of Soil Quality, Water Quality, and Wildlife Habitat.
	2	SCI of ≥ 0.50 or STIR rating of ≤ 30, plus at least 1 unique practice or activity from each area of Soil Quality, Water Quality, and Wildlife Habitat, and one additional practice from any of the areas.
	3	SCI of ≥ 0.25 or STIR rating of ≤ 60, plus at least 1 unique practice or activity from each area of Soil Quality, Water Quality, and Wildlife Habitat.
	4	SCI of ≥ 0.10 or STIR rating of ≤ 100, plus at least 2 unique practices or activities from any of the areas.
	5	Must meet minimum program eligibility requirements as defined in 7 C.F.R. § 1469.

Grazing Land (Range and Pasture)	Group	Conservation System Criteria
		Grazing Management System and Stewardship Practices and Activities installed and maintained for at least two years prior to the sign-up period from the list included in the program regulations
	1	Vegetation and animal management accomplished by following a grazing management plan, plus at least 3 unique practices or activities from Water Quality and at least 2 unique practices or activities from each area of Soil Quality and Wildlife Habitat.
	2	Vegetation and animal management accomplished by following a grazing management plan, plus at least 2 unique practices or activities from each area of Soil Quality, Water Quality, and Wildlife Habitat.
	3	Vegetation and animal management accomplished by following a grazing management plan, plus at least 1 unique practice or activity from each area of Soil Quality, Water Quality, and Wildlife Habitat.
	4	Vegetation and animal management accomplished by following a grazing management plan, plus at least 2 unique practices or activities from any of the areas.
	5	Must meet minimum program eligibility requirements as defined in 7 C.F.R. § 1469.

Exhibit F – Required Subcategory Funding Order—FY 2006

For FY 2006, if NRCS could not fully fund a category when disbursing CSP funding, the Federal Register required NRCS to fund subcategories in the following order:

1. Applicants who are limited resource producers, according to criteria specified in the USDA Limited Resource Farmers/Ranchers guidelines or a Tribal member producing on Tribal or historically tribal lands;

2. Applicants who are participants in an ongoing monitoring program that is sponsored by an organization or unit of government that analyzes the data and has authority to take action to achieve improvements;

3. Agricultural operations in a water conservation area or aquifer zone designated[69] by a unit of government;

4. Agricultural operations in a drought area designated by a unit of government in the past three years before the sign-up dates;

5. Agricultural operations in a water quality area with a priority on pesticides designated by a unit of government;

6. Agricultural operations in a water quality area with a priority on nutrients designated by a unit of government;

7. Agricultural operations in a water quality area with a priority on sediment designated by a unit of government;

8. Agricultural operations in a non-attainment area for air quality or other local or regionally designated air quality zones designated by a unit of government;

9. Agricultural operation in an area selected for the conservation of imperiled plants and animals, including threatened and endangered species, as designated by a unit of government; or

10. Other applications.

[69] "Designated" – Officially assigned a priority by a Federal, State, or local unit of government prior to the notice published in the Federal Register on February 7, 2006.

Effect of Errors on 61 Contracts Reviewed

Sample No. 1/	Contract Number	Total Amount of Expectations for Contracts with Errors	Total Contract Expectations
1	[ ]	$163,190	$163,190
2	[ ]	$128,955	$128,955
3	[ ]	$263,873	$263,873
4	[ ]	$250,311	$250,311
5	[ ]	$267,828	$267,828
6	[ ]	$201,130	$201,130
7	[ ]		$182,066
8	[ ]	$87,751	$87,751
9	[ ]	$265,624	$265,624
10	[ ]	$255,710	$255,710
11	[ ]		$271,972
12	[ ]	$317,419	$317,419
13	[ ]	$221,721	$221,721
14	[ ]	$223,044	$223,044
15	[ ]		$34,288
16	[ ]		$274,644
17	[ ]		$233,557
18	[ ]		$252,971
19	[ ]	$9,920	$9,920
20	[ ]		$311,806
21	[ ]	$88,681	$88,681
22	[ ]		$92,268
23	[ ]		$12,856
24	[ ]		$32,790
25	[ ]		$20,658
26	[ ]		$99,903
27	[ ]		$24,008
28	[ ]		$21,188
29	[ ]	$193,256	$193,256
30	[ ]		$260,336
31	[ ]		$164,479
32	[ ]		$164,176
33	[ ]		$228,881

Effect of Errors on 61 Contracts Reviewed

Sample No. 1/	Contract Number	Total Amount of Expectations for Contracts with Errors	Total Contract Expectations
34	[ ]	$227,467	$227,467
35	[ ]	$51,505	$51,505
36	[ ]	$188,474	$188,474
37	[ ]	$161,732	$161,732
38	[ ]	$109,666	$109,666
39	[ ]		$207,263
40	[ ]		$192,395
41	[ ]		$192,175
42	[ ]		$406,503
43	[ ]	$339,265	$339,265
44	[ ]	$232,272	$232,272
45	[ ]		$169,731
46	[ ]		$307,677
47	[ ]	$278,059	$278,059
48	[ ]		$220,192
49	[ ]		$185,349
50	[ ]		$147,645
51	[ ]	$282,988	$282,988
52	[ ]		$50,518
53	[ ]		$41,278
54	[ ]		$51,183
55	[ ]		$57,194
56	[ ]		$159,622
57	[ ]		$220,948
58	[ ]		$272,769
59	[ ]		$216,965
60	[ ]		$176,074
61	[ ]		$208,541
Total		**$4,809,841**	**$10,976,710**

1/ We performed a limited review of 14 additional contracts as they were related to contracts in our sample. See table on next page. The 14 related active contracts are labeled 36a, 36b, 43a, 43b, 43c, 43d, 44a, 44b, 44c, 44d, 47a, 47b, 47c, and 47d.

Effect of Errors on 14 Related Contracts

Sample No. 1/	Contract Number	Total Amount of Expectations for Contracts with Errors	Total Contract Expectations
36a	[ ]	$219,588	$219,588
36b	[ ]	$54,012	$54,012
43a	[ ]	$54,499	$54,499
43b	[ ]	$49,363	$49,363
43c	[ ]	$28,861	$28,861
43d	[ ]	$10,919	$10,919
44a	[ ]	$130,617	$130,617
44b	[ ]	$32,006	$32,006
44c	[ ]	$29,641	$29,641
44d	[ ]	$25,468	$25,468
47a	[ ]	$87,418	$87,418
47b	[ ]	$36,674	$36,674
47c	[ ]	$26,707	$26,707
47d	[ ]	$37,116	$37,116
Total		**$822,889**	**$822,889**

Exhibit H – Producers Appearing on Multiple Contracts

Case No.	Contract Number	State	Total Payments Received	Footnotes
1	[ ]	NE	$964	2/
	[ ]	NE	$4,310	
2	[ ]	IA	$28,691	1/
	[ ]	IA	$85,469	
3	[ ]	IA	$56,333	1/
	[ ]	IA	$1,662	
4	[ ]	IA	$48,391	1/
	[ ]	IA	$97,587	
5	[ ]	OH	$2,495	2/
	[ ]	OH	$3,364	
6	[ ]	OH	$1,142	2/
	[ ]	OH	$27,541	
7	[ ]	OH	$1,142	2/
	[ ]	OH	$27,541	
8	[ ]	OH	$12,744	2/
	[ ]	OH	$978	
9	[ ]	AR	$4,708	2/
	[ ]	AR	$82	
10	[ ]	NE	$1,152	2/
	[ ]	NE	$181	
11	[ ]	MD	$5,765	1/
	[ ]	MD	$18,531	
12	[ ]	OH	$816	2/
	[ ]	OH	$2,098	
Total			**$433,687**	

1/ These four producers received multiple contracts.

2/ These eight producers received payments from more than one CSP contract.

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