



U.S. Department of Agriculture



Office of Inspector General
Office of Inspections and Research

Inspection Report

Departmental Regulation 1051-002 International Activities and Agreements of USDA Agencies

Report No. 50901-01-IR
September 2007



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Washington, DC 20250



SEP 28 2007

REPLY TO

ATTN OF: 50901-01-IR

TO: Abigail Kimbell
Chief
Forest Service

Michael W. Yost
Administrator
Foreign Agricultural Service

FROM: Rod DeSmet /s/
Assistant Inspector General
for Inspections and Research

SUBJECT: Inspection of Departmental Regulation 1051-002 - International Activities
and Agreements of USDA Agencies

This report presents the results of our inspection of the implementation of Departmental Regulation 1051-002 - *International Activities and Agreements of USDA Agencies*. The report identifies where the Foreign Agricultural Service (FAS) and the Forest Service (FS) have failed to implement the regulation in an efficient and effective manner. FAS has begun taking significant actions to address the inefficiencies we identified. FS is committed to taking action once general guidance is available. Both agencies have agreed to implement our recommendations improving the performance of this regulation.

Your responses to our draft dated August 3, 2007, for FAS and August 22, 2007, for FS, are included in their entirety in Exhibits A and B respectively, with excerpts incorporated into the Findings and Recommendations section of the report. Based on the information provided in the responses, we concur with management decision for Recommendations 1, 3, and 4. Additional information is needed to achieve management decision for Recommendation 2. Please refer to the OIG Position sections of the report for specific details.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementation of the outstanding recommendations noted above. Please note that the regulation requires management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance.

We appreciate the courtesies and cooperation extended to us during the inspection.

Executive Summary

Results in Brief

We conducted this inspection to determine whether the implementation of Departmental Regulation 1051-002, *International Activities and Agreements of USDA Agencies* (DR) has been effective in ensuring Foreign Agricultural Service's (FAS) position as the coordinating agency for all of the Department of Agriculture's (USDA) international activities and agreements.

The DR was issued to ensure that a uniform message was presented by USDA in the international arena, consistent with U.S. policy goals. The DR identifies three responsibilities USDA agencies have in (1) coordinating their international activities with FAS, (2) negotiating cost-reimbursable agreements through FAS, and (3) coordinating with FAS to determine whether international agreements are subject to the Case-Zablocki Act.¹

Several agencies within USDA have the authority to enter into international agreements and engage in international activities. FAS is responsible for coordinating the international activities and agreements of these agencies. FAS' coordination responsibilities in this area are extensive.

FAS is charged with coordinating all of the foreign agricultural policies and programs that come out of USDA. This includes matters and legislation relating to agricultural trade and the World Trade Organization. Also, FAS is the foreign agricultural liaison for a number of governmental and nongovernmental entities including the Department of State, U.S. Agency for International Development, and foreign governments.

We found that greater coordination and communication efforts are needed in order to implement the DR effectively, particularly between FAS and the Forest Service (FS). We also found that FS does not coordinate with FAS on its international activities, cost-reimbursable agreements, and international agreements subject to the Case-Zablocki Act, as mandated by the DR. Failure of FAS and FS to communicate and coordinate efforts may result in an inconsistent message being sent both inside and outside of USDA

¹ Pub. L. No. 92-403, 86 Stat. 619, as amended (codified at 1 U.S.C. § 112b). The Case-Zablocki Act establishes a procedure for implementing international agreements, other than treaties, of which the United States is a party. See 1 U.S.C. § 112b(a).

on international policy matters, thereby further undermining the purpose and effective implementation of the DR.

**Recommendations
in Brief**

We recommend FAS do the following:

- Provide guidelines regarding specific types of contracting and activities that must be coordinated with FAS as well as the appropriate contact(s) in FAS for such coordination. The guidelines should also include clarification of whether FAS needs to be notified of modifications to existing international agreements.
- Use committee meetings to communicate issues pertaining to the DR.

We recommend FS do the following:

- Communicate with FAS on cost-reimbursable agreements, including modifications to inter-agency agreements (IAA), or request a waiver under the provisions of the DR.
- Follow the DR and submit a draft of its international agreements, prior to the start of negotiations or as early as possible in the negotiating process in order to receive a determination from FAS whether the draft agreement is subject to the Case-Zablocki Act.

Agency Response

FAS is committed to developing guidelines and to specifically call for discussion and reporting on international activities at committee meetings. FS is committed to going through FAS on cost-reimbursable agreements, including modifications to the IAA, or request a waiver, and they will provide FAS with draft international agreements prior to the start of negotiations once FAS guidelines are established.

OIG Position

We were able to concur with management decision on Recommendations 1, 3, and 4. We need a committee meeting schedule from FAS to reach management decision on Recommendation 2.

Abbreviations Used in This Report

APHIS	Animal and Plant Inspection Service
ARS	Agricultural Research Service
DR	Departmental Regulation
FAO	Food and Agricultural Organization
FAS	Foreign Agricultural Service
FS	Forest Service
IAA	Inter-Agency Agreement
ICC-IA	Intra-Departmental Coordination Committee on International Affairs
ICD/FAS	International Cooperation and Development Office/FAS
OCBD	Office of Capacity Building and Development
TCG/FS	Technical Cooperation Group/FS
USAID	U.S. Agency for International Development
USDA	U.S. Department of Agriculture

Table of Contents

Executive Summary	i
Abbreviations Used in This Report.....	iii
Background and Objectives	1
Scope and Methodology	3
Findings and Recommendations	4
Section 1. Coordinating International Agreements and Activities with FAS Needs Improvement	4
Recommendation 1	7
Recommendation 2	7
Section 2. Negotiating International Cost-Reimbursable Agreements.....	8
Recommendation 3	9
Section 3. FS Needs to Coordinate with FAS to Determine Whether International Agreements are Subject to the Case-Zablocki Act.....	10
Recommendation 4	11
Exhibit A – FAS Response	12
Exhibit B – FS Response	15

Background and Objectives

Background

Departmental Regulation 1051-002, *International Activities and Agreements of USDA Agencies* (DR), dated December 22, 2004, was issued in order to ensure that a uniform message was presented by the United States Department of Agriculture (the Department) in the international arena, consistent with U.S. policy goals. The DR mainly identifies three responsibilities Departmental agencies have in (1) coordinating their international activities with the Foreign Agricultural Service (FAS), (2) negotiating cost-reimbursable agreements through FAS, and (3) coordinating with FAS to determine whether international agreements are subject to the Case-Zablocki Act.² OIG initiated this inspection when concerns about the DR's implementation were brought to our attention during an OIG review of FAS' overseas programs in December, 2005.

OIG found that greater coordination and communication efforts are needed in order to implement the DR effectively, particularly between FAS and the Forest Service (FS). OIG further found that FS does not coordinate with FAS on its international activities, cost-reimbursable agreements, and international agreements subject to the Case-Zablocki Act, as mandated by the DR. Failure of FAS and FS to communicate and coordinate efforts may result in an inconsistent message being sent both inside and outside of the Department on international policy matters, thereby further undermining the purpose and effective implementation of the DR.

Several agencies within the Department have authority to enter into international agreements and engage in international activities. These agencies include the Animal and Plant Health Inspection Service (APHIS), Agricultural Research Service (ARS), FAS, and FS. The agency responsible for coordinating the international activities and agreements of these agencies is FAS. FAS' coordination responsibilities in this area are extensive.

FAS is charged with coordinating all of the foreign agricultural policies and programs that come out of the Department. This includes matters and legislation relating to agricultural trade and the World Trade Organization. Also, FAS is the foreign agricultural liaison for a number of governmental and nongovernmental entities including the U.S. Department of State,

² Pub. L. No. 92-403, 86 Stat. 619, as amended (codified at 1 U.S.C. § 112b). The Case-Zablocki Act establishes a procedure for implementing international agreements, other than treaties, of which the United States is a party. See 1 U.S.C. § 112b(a).

U.S. Agency for International Development (USAID), and foreign governments. In this capacity, FAS is the point of contact for the U.S. Department of State regarding Departmental agreements subject to the Case-Zablocki Act.³ FAS has the sole authority in the Department to determine whether an agreement meets the criteria of an “international agreement” as defined by the Secretary of State, and is therefore subject to the Case-Zablocki Act.⁴

FAS is also responsible, through the Office of Capacity Building and Development (OCBD), for coordinating the Department’s activities in international economic development, technical assistance, and training. FAS’ international authorities are mainly delegated from the Secretary⁵ and the Foreign Assistance Act.⁶

Within FS, the International Programs office is responsible for coordinating its international activities with FAS. The office has three main units: the Policy Group, the Technical Cooperation Group (TCG/FS) (which is the FS counterpart to FAS’ OCBD), and the Disaster Assistance Support Program. The Policy Group, among other things, works to track and respond to emerging issues in the international forestry arena. The other two units provide technical services and expertise to clients such as USAID, the Department of State, foreign governments, and intergovernmental organizations in areas such as fire management, forest monitoring, and disaster response management. Services are provided through grants, cost-reimbursable agreements, and cooperative agreements. FS’ authority to conduct international activities comes from a variety of sources, including the International Forestry Cooperation Act of 1990,⁷ Forest and Rangeland Renewable Resources Research Act of 1978,⁸ and Cooperative Forestry Assistance Act of 1978.⁹ FS’ authority to enter into contracts, grants and cooperative agreements for research, extension, and teaching, comes from the National Agricultural Research, Extension, and Teaching Policy Act of 1977.¹⁰

Objectives

The purpose of this inspection was to determine whether the implementation of the DR has been effective in ensuring FAS’ position as the lead coordinating agency for all of USDA’s international activities and agreements.

³ DR ¶ 4.c(1).

⁴ *Id.*

⁵ 7 U.S.C. §§ 2201, 2202; 7 C.F.R. § 2.16(a)(3).

⁶ 22 U.S.C. § 2151.

⁷ Pub. L. No. 101-513, 104 Stat. 2070, as amended (codified in part at 16 U.S.C. §§ 4501-4505).

⁸ Pub. L. No. 95-307, 92 Stat. 353, as amended (codified in part at 16 U.S.C. §§ 1641-1605).

⁹ Pub. L. No. 95-313, 92 Stat. 365, as amended (codified in part at 16 U.S.C. §§ 2101-2114).

¹⁰ Pub. L. No. 95-113, 91 Stat. 981, as amended.

Scope and Methodology

OIG reviewed the relevant regulations and authorities that FAS¹¹ and FS have for carrying out international activities. Further, we conducted interviews with various officials from FS, FAS, ARS, APHIS, Office of Budget and Program Analysis, and USAID. Our review primarily focused on FS and FAS activities from January, 2005 through April, 2006.¹²

After the completion of our fieldwork, FAS underwent a structural reorganization of the entire agency. The majority of FAS officials we spoke with prior to the reorganization were in the former International Cooperation and Development Office (ICD/FAS). ICD/FAS was charged with coordinating many of the responsibilities mandated by the DR. After the reorganization, the OCBP absorbed many of ICD/FAS' duties, however the officials that we previously spoke with were assigned to other areas of FAS. Furthermore, certain responsibilities under the DR that were once under the authority of one office (ICD/FAS) are now being administered by several offices within FAS. Therefore, in December, 2006 and January, 2007, OIG spoke with officials from the former ICD/FAS, and upon their request, APHIS, to discuss implementation of the DR post-reorganization.

¹¹ 7 C.F.R. § 2.43(a)(1)-(40).

¹² This is the period of time from the month following the DR's issuance to the initial termination of our fieldwork.

Findings and Recommendations

OIG found that greater communication efforts are needed by FAS in order to implement the DR effectively, particularly after the FAS reorganization. Additionally, OIG found that FS does not coordinate with FAS on its international activities, cost-reimbursable agreements, and international agreements subject to the Case-Zablocki Act. The following section highlights areas in which FS' and FAS' actions have not been sufficient in implementing the DR:

1. Coordinating International Agreements and Activities with FAS Needs Improvement.

OIG found that FS does not keep FAS fully and timely informed of its international agreements and activities. This has led to a lack of coordination between the two agencies that is inconsistent with the purpose of the DR.

The DR provides a framework for FAS to coordinate inside and outside the Department on international activities. Within the Department, FAS has the responsibility to inform agencies of the Department's international activities and policies that could potentially impact their work. In turn, each agency must keep FAS timely and fully informed of its international activities.

Furthermore, FAS must ensure that there are adequate channels for agencies to offer input about the Department's international activities and policies. The DR states that the Administrator, FAS, may determine the extent of coordination that "is necessary to facilitate FAS in carrying out its responsibilities to coordinate Department functions involving foreign agricultural policies and programs and Departmental agencies' operations and activities in foreign areas."¹³

In order to enhance coordination efforts, the DR established the "Intra-Departmental Coordination Committee on International Affairs" (the Committee), consisting of representatives from specified USDA agencies. The Committee is mandated to meet quarterly in order to facilitate coordination of the Department's international activities and to review implementation of the DR.

As set forth below, OIG has identified two issues regarding FS' and FAS' international activities that need improvement, including notification of modifications to existing agreements and the need for supplemental FAS guidance on the DR.

¹³ DR ¶ 4.b.

a. Notification of Modifications to Existing Agreements

Since the DR was issued, FS has entered into two new agreements with respect to technical support and emergency response management: one with the State Department and the other with the Food and Agricultural Organization of the United Nations (FAO). FS also made 11 modifications to existing agreements with USAID and the State Department, totaling over \$9 million. The majority of these modifications were made to a five-year blanket inter-agency agreement (IAA) that FS has with USAID.

The IAA authorizes FS to provide technical support and services to USAID projects on a global level. It does not refer to specific projects at the country level. Instead, specific international projects are agreed to in subsequent modifications to the IAA. The modifications to the IAA are formal documents, signed by both parties. They authorize FS to provide technical support for specific USAID international projects. In turn, USAID is obligated to provide the agreed upon funding amount for FS' services. Since December 2004, FS made three modifications to the IAA, which totaled over \$5 million.

None of the aforementioned agreements or modifications were coordinated through FAS. FS officials did not notify FAS of their agreements with the State Department and FAO, because they did not perceive the agreements to be the type that FAS needed to be informed about. FS explained that, as to the IAA with USAID, it does not consider the modifications as substantive, because the IAA itself covers all of USAID's work globally. For example, if a modification identifies another country for FS to work in and/or provides additional funding for such work, FS considers such modifications within the scope of work contracted in the IAA. Officials from FS claim that because the modifications are not agreements, they are not subject to coordination with FAS under the DR.

OIG is concerned that, although FS does not consider the modifications to be new agreements, the modifications still continue to expand the Department's foreign activities covered by the DR. Moreover, FS did not timely inform FAS of its agreements with the FAO and State Department, although they were executed after implementation of the DR. Under the DR, only FAS has the authority to determine which foreign activities it needs to be informed of in order to coordinate the Department's work effectively.

Currently, FS provides FAS with a list of its international activities on an annual basis. Officials from FS conceded, and we agree, that

this is not a timely method of informing FAS of their actions. FS itself has suggested that creating a central database where all agencies can update FAS on international activities would facilitate a more timely method of communication.

b. Need for Supplemental FAS Guidance

During meetings with FS, officials informed us that they are willing to coordinate with FAS regarding their international agreements; however they are waiting for FAS to issue guidelines for implementing the DR. FS officials claimed that if they had agreements for FAS to coordinate, they would not know who to contact. Moreover, they indicated they are not clear as to which type(s) of agreements FAS needs to be informed about. To date, FS has not contacted FAS for clarification on any of these issues. They claimed that FAS guidelines on how to implement the DR would clarify these issues.

Prior to FAS' reorganization, ICD/FAS believed that the DR was self-explanatory and there was no need for subsequent guidelines to facilitate implementation of the DR, that all parties knew who to contact within FAS and which agreements needed to be cleared through FAS. However, after the reorganization, it became apparent that guidelines would be beneficial. As a result of the reorganization, several of the DR-related responsibilities, once within the purview of ICD/FAS, were reassigned throughout FAS. For example, if an agency has to coordinate with FAS on a policy issue, it would have to go to the new Office of Country and Regional Affairs; whereas, if the issue relates to a cost-reimbursable agreement, the agency would need to contact the Office of the Administrator and/or the Office of Administrative Operations. Based upon our discussion with other Department officials, greater clarity is needed as to who the points of contact are in FAS, which contracts need to be seen by FAS, and which contracts need to get State Department approval.¹⁴ As these issues fall directly within the scope of the DR, the issuance of guidelines from FAS would clarify which international activities and agreements require FAS coordination and the appropriate point of contact for the requesting agency.

The Administrator of FAS held a meeting with officials from the International Programs of the FS in the summer of 2005 but did not raise FS' failure to comply with the DR, nor has the issue ever been raised by FAS at any of the Committee meetings held by FAS. Further, although the Committee also has a specific Sub-

¹⁴ As explained further in section 3 of this report, State Department approval is required for certain international agreements under the Case-Zablocki Act. See DR ¶ 4.c.; see also 1 U.S.C. § 112b(a).

Committee on Grants and Agreements, the Sub-Committee has never held a meeting to address this issue.

Both FS and FAS have responsibility to ensure the DR is implemented effectively. The issues that FS has with implementing the DR (i.e., no guidelines, no contact person, lack of understanding about which agreements require notification, etc.) do not absolve FS of its responsibility to adhere to the regulation. Conversely, FAS should have taken action to ensure that all agencies were clear on how to implement the DR effectively. Although former ICD/FAS officials did not think that guidelines were necessary prior to FAS' reorganization, they were aware of FS' lack of compliance with the regulation. It is FAS' responsibility under the DR to ensure that they are providing a unified voice from the Department on international activities and policy matters.

Recommendation 1

Provide Guidelines. FAS should issue guidelines regarding specific types of contracting and activities that must be coordinated with FAS as well as the appropriate contact(s) in FAS for such coordination. The guidelines should also include clarification of whether FAS needs to be notified of modifications to existing international agreements.

FAS Response

FAS is developing guidelines for implementing statutes on international agreements and Departmental regulations concerning the coordination of international activities. The guidelines include the types of USDA contracting and activities that must be coordinated with FAS; the appropriate contact(s) within FAS for such coordination; the types of activities, oral agreements, or documents which constitute international agreements that are subject to FAS review; and other additional information. The guidelines are expected to be made available by the end of the calendar year.

OIG Position

We concur with the management decision.

Recommendation 2

Communication Regarding the DR. FAS should use committee meetings to communicate issues pertaining to the DR, as mandated by the DR. For example, the Grants and Agreements Sub-Committee could be used as a forum to ensure that grants and agreements are being implemented pursuant to the DR.

FAS Response

Effective communication and coordination across the Department is essential to align international activities with overall U.S. and USDA policy goals. Such practices also allow USDA to convey uniform messages, direct limited resources to strategic priorities, and demonstrate solid results to key stakeholders. Since its establishment in DR 1051-002, FAS had held five meetings of the Intra-Departmental Coordination Committee on International Affairs (ICC-IA). Working through the committee, an infrastructure for intra-departmental sharing, planning and programming has been put into place, with focal points identified for all USDA agencies and offices. As a result, greater interagency coordination and cooperation on international trade and development assistance initiatives already has been achieved.

FAS currently is undertaking several initiatives that build upon this initial foundation to support the development, implementation, monitoring, and evaluation of a USDA global strategy, including a new FAS strategy setting process that involves coordination of international activities across USDA through the ICC-IA. FAS also will ensure that the agendas for all future ICC-IA meetings include a specific call for discussion and reporting on international agreements and international activities.

OIG Position

In order to reach management decision, FAS should provide us with the meeting schedule for the Grants and Agreements Sub-Committee.

2. Negotiating International Cost-Reimbursable Agreements

OIG found that FS negotiates and enters into international cost-reimbursable agreements and establishes the corresponding indirect cost rates. However, FS does not have the authority to engage in such activities regarding international cost-reimbursable agreements without first obtaining a waiver from FAS. The DR states that FAS is the agency with the authority in the Department to establish indirect cost rates and enter into cost-reimbursable agreements for international activities made under the Foreign Assistance Act of 1961.¹⁵ A cost-reimbursable agreement occurs when an agency in the Department agrees to furnish goods or services to a contracting party, and the contracting party reimburses the agency for an agreed percentage of both direct and indirect costs.

FAS' authority to enter into international cost-reimbursable agreements stem from the National Agricultural, Research,

¹⁵ DR ¶ 4.d.

Extension and Teaching Policy Act of 1977¹⁶ and the Foreign Assistance Act¹⁷ as delegated from USAID. All agencies entering into such agreements with either USAID, Department of State, a foreign state, foreign state agency, or intergovernmental organization must go through FAS.

The DR allows FAS to waive its negotiating authority and permit other agencies to enter into cost-reimbursable agreements and establish their own indirect cost rates. To obtain this authority, a requesting agency must consult with FAS. FAS must then determine whether an agency should be exempted from going through FAS for its cost-reimbursable agreements.¹⁸

The FAO and State agreements, along with the modifications to the inter-agency agreement with USAID, are all cost-reimbursable agreements. To date, FS has not sought a waiver exempting the agency from FAS authority for these agreements. Further, FS does not believe that it is required to seek a waiver under the DR for modifications to the IAA, because it does not perceive the modifications to be new cost-reimbursable agreements. Although FS officials did not regard the FAO and State agreements as the type that FAS needed to coordinate, they informed OIG that they would seek a waiver for international cost-reimbursable agreements, but FAS has not provided guidance on how to implement the waiver process.

Recommendation 3

Comply with the DR on cost-reimbursable agreements. OIG recommends that FS go through FAS on its cost-reimbursable agreements, including modifications to the IAA, or request a waiver under the provisions of the DR.

FAS Response

FAS agrees with this recommendation and will include in its guidelines a process for consulting with FAS on international agreements and for requesting a waiver of FAS negotiating authority.

FS Response

The Forest Service concurs with the recommendation. The agency will comply when FAS provides the Department-approved guidelines and mechanisms as specified in Recommendations 1 and 2. Estimated Completion Date: 90 days following FAS provision of guidelines and mechanisms for compliance.

¹⁶ Pub. L. No. 95-113, 91 Stat. 981, as amended; see also 7 C.F.R. § 2.43(a)(39)-(40).

¹⁷ 22 U.S.C. § 2357.

¹⁸ The DR provides exemptions from this process for the grants and cooperative agreements specified in DR ¶ 4.d.(3).

OIG Position

We concur with both FAS' and FS' management decisions.

3. FS Needs to Coordinate with FAS to Determine Whether International Agreements are Subject to the Case-Zablocki Act.

The DR mandates that FAS be the point of contact for the Department of State regarding Departmental agreements subject to the Case-Zablocki Act. An agreement is subject to the requirements of the Case-Zablocki Act if it meets the criteria of an "international agreement" as defined by the Secretary of State.¹⁹ FAS has the sole authority within the Department to determine whether an agreement meets this criteria. When a Departmental agency, acting within the scope of its legal authority, intends to enter into an agreement with "a foreign state, foreign state agency, [or] intergovernmental agency," it must submit a draft of the agreement to FAS.²⁰ The agency is required to submit the draft prior to agreement negotiations or "as soon as possible in the negotiation process."²¹ If FAS determines that the agreement satisfies the State Department's criteria and is an international agreement, the agreement would then go through the State Department for approval and Congressional notification. FAS may also exempt certain types of agreements from having to go through a Case-Zablocki Act determination.²²

To date, FS has not gone through FAS for determinations on international agreements with intergovernmental agencies. An example of this involves the agreement with FAO, an intergovernmental agency, in February, 2006. FS did communicate with FAS at a certain point of the FAO negotiation; however, the agency did not perceive the FAO agreement as a matter that needed to be channeled through FAS. Regardless, FS did not provide a draft text of the agreement or notify FAS requesting an international agreement determination, pursuant to Section 4.c. of the DR.

As FAO is an intergovernmental agency, the FS-FAO Agreement is within the purview of the DR and should have gone through the appropriate FAS channels. There is a risk that when FS enters into an agreement with an intergovernmental agency such as the FAO without coordinating with FAS, such action undermines the

¹⁹ DR ¶ 2.b.

²⁰ DR ¶ 4.c.

²¹ DR ¶ 4.c.

²² DR ¶ 4.c.(2).

purpose of the DR, which is to ensure that the Department has one voice regarding international activities and policy matters.²³

Recommendation 4

FS should follow the DR and submit a draft of its international agreements prior to the start of negotiations or as early as possible in the negotiating process in order to receive an FAS determination of whether the draft agreement is subject to the Case-Zablocki Act.

FAS Response

FAS agrees with this recommendation and will include in its guidelines a process and format for Circular 175 clearance and Case-Zablocki reporting on international agreements.

FS Response

The Forest Service concurs with the recommendation. The agency will comply when FAS provides the Department-approved guidelines and mechanisms as specified in Recommendations 1 and 2. Estimated Completion Date: 90 days following FAS provision of guidelines and mechanisms for compliance.

OIG Position

We concur with both FAS' and FS' management decisions.

²³ FAS contends that an agreement with the FAO has possible Departmental policy implications.



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TO: Rod DeSmet
Assistant Inspector General for Inspections and Research
Office of Inspector General

FROM: Michael W. Yost  AUG 3 2007
Administrator

SUBJECT: Response to OIG Official Draft Inspection Report -- "Departmental
Regulation 1051-002 International Activities and Agreements of USDA
Agencies" (50901-01-IR)

The Foreign Agricultural Service (FAS) appreciates this opportunity to respond to the Office of Inspector General's (OIG) draft inspection report on the responsibilities of USDA agencies regarding the coordination of international activities and agreements, as set out in Departmental Regulation 1051-002. OIG's diligent inspection of current practices and helpful identification of areas for improvement provide a welcome opportunity to refine, promote, and further implement the coordination initiatives intended in DR 1051-002.

As for the four recommendations contained in the draft report, FAS's specific response to each is provided as follows:

Recommendation 1:

Provide guidelines. FAS should issue guidelines regarding specific types of contracting and activities that must be coordinated with FAS as well as the appropriate contact(s) in FAS for such coordination. The guidelines should also include clarification of whether FAS needs to be notified of modifications to existing international agreements.

FAS Response:

FAS is developing guidelines for implementing statutes on international agreements and Departmental regulations concerning the coordination of international activities. The guidelines include the types of USDA contracting and activities that must be coordinated with FAS; the appropriate contact(s) within FAS for such coordination;

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- 2 -

the types of activities, oral agreements, or documents which constitute international agreements that are subject to FAS review; and other additional information. The guidelines are expected to be made available by the end of the calendar year.

Recommendation 2:

Communication Regarding the DR. FAS should use committee meetings to communicate issues pertaining to the DR, as mandated by the DR. For example, the Grants and Agreements Sub-Committee could be used as a forum to ensure that grants and agreements are being implemented pursuant to the DR.

FAS Response:

Effective communication and coordination across the Department is essential to align international activities with overall U.S. and USDA policy goals. Such practices also allow USDA to convey uniform messages, direct limited resources to strategic priorities, and demonstrate solid results to key stakeholders. Since its establishment in DR 1051-002, FAS has held five meetings of the Intra-Departmental Coordination Committee on International Affairs (ICC-IA). Working through the committee, an infrastructure for intra-departmental sharing, planning and programming has been put into place, with focal points identified for all USDA agencies and offices. As a result, greater interagency coordination and cooperation on international trade and development assistance initiatives already has been achieved.

FAS currently is undertaking several initiatives that build upon this initial foundation to support the development, implementation, monitoring, and evaluation of a USDA global strategy, including a new FAS strategy setting process that involves coordination of international activities across USDA through the ICC-IA. FAS also will ensure that the agendas for all future ICC-IA meetings include a specific call for discussion and reporting on international agreements and international activities.

Recommendation 3:

Comply with the DR on cost-reimbursable agreements. OIG recommends that [the Forest Service (FS)] go through FAS on its cost-reimbursable agreements, including modifications to the IAA [the five-year blanket inter-agency agreement that FS has with the U.S. Agency for International Development], or request a waiver under the provisions of the DR.

- 3 -

FAS Response:

FAS agrees with this recommendation and will include in its guidelines a process for consulting with FAS on international agreements and for requesting a waiver of FAS negotiating authority.

Recommendation 4:

FS should follow the DR and submit a draft of its international agreements prior to the start of negotiations or as early as possible in the negotiating process in order to receive an FAS determination of whether the draft agreement is subject to the Case-Zablocki Act.

FAS Response:

FAS agrees with this recommendation and will include in its guidelines a process and format for Circular 175 clearance and Case-Zablocki reporting on international agreements.

Finally, FAS takes exception to FS statements in the draft report that FAS has never expressed any concerns to FS directly regarding the implementation of DR 1051-002. In fact, in meetings with FS on numerous occasions in both 2005 and in 2006, FAS directly expressed specific concerns about FS's lack of coordination with FAS on international activities.

If you have any questions or concerns regarding these comments, or if you require additional information, please contact James Gartner, FAS's Audit Liaison and Management Control Officer, on (202) 720-0517.



Forest Service
Washington Office

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File Code: 1430

Date: AUG 22 2007

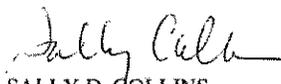
Rod DeSmet
Assistant Inspector General for Inspections & Research
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1400 Independence Ave SW, Room 41-W
Washington, DC 20250

Dear Mr. DeSmet:

Thank you for the opportunity to review and comment on OIG Official Draft Report No. 50901-01-IR, "Departmental Regulation 1051-002 – International Activities and Agreements of USDA Agencies." While we generally agree with the recommendations, we continue to take exception with the findings regarding the coordination of USDA international activities. A discussion on these exceptions is enclosed. The corrective actions, to reach management decision on the report's recommendations, are also enclosed.

If you have any questions, please contact Alex Moad, International Program staff, at 202-273-0163 or Art Seggerson, OIG Audit Liaison, at 703-605-4983.

Sincerely,


SALLY D. COLLINS
Associate Chief

Enclosures

cc: Alex Moad, Art Seggerson



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USDA Forest Service (FS)

Office of Inspector General (OIG) Report No. 50901-01-IR
Departmental Regulation 1051-002 - International Activities and Agreements
of USDA Agencies

Comments on Report

Statement (Page 1, paragraph 2): *“OIG found that greater coordination and communication efforts are needed in order to implement the DR effectively, particularly between FAS and the Forest Service (FS).”*

FS Comment: The effective implementation of the DR requires transparent policies and processes that should apply to all USDA agencies. With adequate guidance for the implementation of the DR and clear criteria for compliance, all USDA agencies, the Forest Service included, would be able to redeem their responsibilities under the DR.

Requested Change: Refer to “all USDA agencies” or the change the word “particularly” to “including.”

Statement (Page 4, paragraph 2): *“OIG found that FS does not keep FAS fully and timely informed of its international agreements and activities. This has led to a lack of coordination between the two agencies that is inconsistent with the purpose of the DR.”*

FS Comment: The Forest Service believes that any lack of coordination regarding international activities within USDA primarily reflects the absence of an effective mechanism to request, collect and synthesize information on the international activities of all USDA agencies. For example, in response to the DR, FAS established several committees to facilitate coordination of USDA international activities and agreements. In response to this, the Forest Service identified points of contact for these groups; to date neither of the subcommittees focused on international or interagency agreements has met.

Requested Change: Our preference would be to delete the statement from the report. The report could be modified to emphasize the absence of effective mechanisms for full and timely collection of information on all USDA international activities.

Statement (Page 8, paragraph 2): *“The DR states that FAS is the agency with the authority in the Department to establish indirect cost rates and enter into cost-reimbursable agreements for international activities made under the Foreign Assistance Act of 1961.”*

FS Comment: We believe this is an incorrect interpretation of the DR, which simply states that “the Foreign Agricultural Service (FAS) has been delegated detailed responsibilities in the international arena.” The DR outlines what those responsibilities entail, but does not mention

indirect cost rates and cost-reimbursable agreements as specified in the Inspection Report. Our principal concern is with the reference to FAS as “the authority.” This modification to the text is only a slight improvement on the original use of “sole authority” in the discussion draft, since it still implies that FAS retains exclusive authority to enter into international agreements, when in fact this authority is held by several USDA agencies, including the Forest Service. The second paragraph of the DR clearly states that “this regulation is not intended to limit any agency’s authority to conduct international activities, to constitute a change in existing delegations of authority for any agency engaged in international activities, nor to constitute a delegation of authority to engage in international activities.”

Requested Change: Delete the statement or modify the statement to accurately reflect the language contained in the DR.

Other Comments:

As indicated in the sequence of recommendations in the inspection report and confirmed by the Office of the Inspector General during the June 6, 2007 “exit conference,” the Foreign Agriculture Service must first implement the recommendations relating to FAS before the Forest Service and other USDA agencies can implement the report recommendations. Specifically, FAS needs to develop guidance to all USDA agencies, not just the Forest Service, regarding processes and structures for the coordination of USDA international activities. Without this guidance, and the supporting data management systems and interagency coordination mechanisms, it remains uncertain how the Forest Service should best comply with Departmental Regulation 1051-002 regarding the nature, the timing and structure of information sharing, and the clearance and signing of international agreements.

As FAS moves to implement the inspection report recommendations, the Agency requests that FAS consults with affected USDA agencies in the development of guidance for the implementation of DR 1051-002. This participation and consultation will greatly help to establish processes that effectively and efficiently promote increased coordination of international activities within USDA.

The Forest Service, like a number of other agencies, engages in numerous cooperative activities with international partners each year. These activities include research collaboration, joint hosting of international meetings and conferences, fire monitoring and suppression, disaster response, technical exchange, and representation in policy dialogues at the request of the State Department. Many of these activities, such as exchanges of research scientists, collaborative research, and exchange of aircraft and firefighters involve formal agreements for cooperation; others do not. Similarly, many activities result in specific, reportable results; others do not. Increased collaboration among agencies is necessary to design effective and consistent methods of and tools for coordinating, monitoring and reporting on these international activities and agreements.

As a starting point, an interagency team could address the following questions:

- In which of the many agreements currently signed by USDA agencies does FAS wish to be involved, and how?
- When and in what manner does FAS wish to be informed of the results of international activities?
- Are there specific topics or issues about which FAS wishes to be informed? If, so, what is the appropriate method for communication and reporting?

Addressing these questions could lead to an effective set of tools and mechanisms to improve interagency coordination on international activities and facilitate Forest Service and other agency compliance with the report recommendations.

USDA Forest Service (FS)

Office of Inspector General Inspection Report No. 50901-01-IR:
Departmental Regulation 1051-002, International Activities and Agreements
of USDA Agencies

Management Decision

OIG Recommendation 3: Comply with the DR on cost-reimbursable agreements. OIG recommends that FS go through FAS on its cost-reimbursable agreements, including modifications to the IAA, or request a waiver under the provisions of the DR.

FS Response to Recommendation 3: The Forest Service concurs with the recommendation. The agency will comply when FAS provides the Department-approved guidelines and mechanisms as specified in Recommendations 1 and 2.

Estimated Completion Date: 90 days following FAS provision of guidelines and mechanisms for compliance.

OIG Recommendation 4: FS should follow the DR and submit a draft of its international agreements prior to the start of negotiations or as early as possible in the negotiation process in order to receive an FAS determination of whether the draft agreement is subject to the Case-Zablocki Act.

FS Response to Recommendation 4: The Forest Service concurs with the recommendation. The agency will comply when FAS provides the Department-approved guidelines and mechanisms as specified in Recommendations 1 and 2.

Estimated Completion Date: 90 days following FAS provision of guidelines and mechanisms for compliance.

Enclosure 2