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Office of Inspector General



Emergency Disaster Assistance for
2008 Floods: Emergency Conservation Program

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TO: Val Dolcini
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Farm Service Agency

ATTN: Philip Sharp
Acting Director
Operations Review and Analysis Staff

FROM: Gil H. Harden /s/
Assistant Inspector General
for Audit

SUBJECT: Emergency Disaster Assistance for 2008 Floods: Emergency Conservation Program

This report presents the results of the subject audit. Your written response to the draft report, dated March 22, 2011, is attached with excerpts and the Office of Inspector General's (OIG) position incorporated into the Finding and Recommendation sections of the report.

We accept management decisions for Recommendations 1, 4, 6, and 9. However, we are unable to accept management decision on Recommendations 2, 3, 5, 7, and 8. Documentation and/or actions needed to reach management decisions for these recommendations are described in the relevant OIG Position section of the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken or planned, and timeframes for implementing the recommendations for which management decisions have not been reached. Please note that the regulation requires management decision to be reached on all recommendations within 6 months from report issuance, and final action to be taken within 1 year of each management decision to prevent being listed in the Department's annual Performance and Accountability Report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

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

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Emergency Disaster Assistance for 2008 Floods: Emergency Conservation Program

Executive Summary

In order to help farmers recover from damage caused by wind erosion, floods, hurricanes, or other natural disasters, the Farm Service Agency's (FSA) Emergency Conservation Program (ECP) provides emergency cost-share assistance and technical assistance to producers.¹ In fiscal year (FY) 2008, Congress provided \$204.4 million in appropriations for ECP, including additional funding for the Office of Inspector General (OIG) to oversee the program. OIG initiated this audit to evaluate the effectiveness of FSA's management of ECP, and to evaluate the sufficiency of the corrective actions FSA took in response to the audit of ECP we completed in 2008.²

Of the \$10.6 million in ECP assistance that had been disbursed to 4,200 applicants as of May 2009, we selected and reviewed 190 applications totaling \$1.12 million from 10 counties located in the States of Iowa, Indiana, and Missouri.³ Overall, we found that FSA needs to take steps to strengthen its control structure for ECP, beginning with its initial onsite inspection of producers' fields.

While FSA county office employees performed their initial onsite inspections of the damage caused to all 190 ECP applicants' fields, they did not always determine the type and extent of the damage the producer sustained, even though this determination of damage serves as a baseline for the entire ECP application process. This occurred because FSA's ECP handbook does not include guidance specifically detailing how employees are to determine and document the type and extent of damage they observed. Because the onsite inspection serves as FSA's only opportunity to view the applicant's land before issuing a payment, it is vital that employees determine the type and extent of damage as a baseline for evaluating the reasonableness of invoices that producers will submit later in the process.

Similarly, we found that FSA employees did not complete cost estimates for 75 of the 156 ECP applications they were responsible for.⁴ FSA county office officials stated that they did not perform all required estimates because they lack the technical expertise needed to estimate the damage associated with many repairs and restorative practices, but OIG notes that they also did not contact knowledgeable local vendors who could provide meaningful estimates. Without completing cost estimates or determining the extent of damage, FSA paid \$559,650 in ECP funds with reduced assurance reimbursed cost shares were limited to approved restoration costs.

¹ Title 7 Code of Federal Regulations (CFR) 701.3(a), January 1, 2008.

² Audit No. 03601-27-KC, "Farm Service Agency Hurricane Relief Initiatives: Emergency Conservation Program," February 26, 2008.

³ See Scope and Methodology for a complete description of how we selected our sample.

⁴ For the other 34 ECP applications, Natural Resources Conservation Service (NRCS) was the technical agency responsible for performing the cost estimate.

FSA county employees stated that they focused on determining whether producers were eligible for ECP when they conducted onsite inspections, yet we found that they did not always notice that some ECP applications required additional scrutiny:

- FSA county employees did not identify 12 of 18 ECP applications as being submitted by county office personnel (and therefore requiring higher level review), largely because they relied on their own recollections regarding who was a county employee, and did not research county office records to ensure all were identified. OIG identified this problem in the prior audit, and FSA sent out a notice reminding employees of the relevant rules and procedures for approving ECP applications from county office employees, but this corrective action was not adequate to address the problem.
- FSA county employees improperly approved 26 ECP applications from producers who had started their restoration work before they applied for the program. Such producers can be approved for ECP, but they must first be granted relief; however, FSA employees neglected to notice that the producers had started work before applying for the program, even though the producers in some cases listed the date the work began as being several weeks before they applied for the program. As a result, FSA may have inappropriately issued \$117,575 in ECP benefits to producers who had already begun their work and had not been granted relief.

Finally, since FSA county employees did not have a baseline against which to compare producers' invoices at the end of the ECP application process, they made mistakes when calculating ECP assistance. Of the 190 ECP applications we reviewed, FSA county employees did not exclude ineligible expenses and practices for 15 ECP applications. Additionally, in two county offices in Missouri, FSA employees failed to limit ECP assistance to 75 percent of the lesser of the producer's actual cost or the total allowable costs (as required in Federal regulations) for 19 applications.⁵ Due to these two problems, these 34 applicants received \$48,432 in improper ECP benefits.

Overall, OIG concluded that FSA needs to take steps to improve its controls over ECP. By strengthening how it performs onsite inspections and damage estimates, FSA can better position itself to review producers' invoices and determine if the costs producers incurred were for allowable program practices.

During the audit, we referred three of the ECP participants to OIG's Office of Investigations. However, those referrals were declined for investigation due to lack of prosecutorial interest.

⁵ 7 CFR 701.26(a), January 1, 2008.

Recommendation Summary

Revise the ECP handbook to specifically require FSA county office employees completing onsite inspections to adequately document the extent of the damage, whether or not the applicant has started restoration work, and if the application is being submitted by county office personnel.

Require, if FSA county employees cannot themselves estimate the costs associated with a given restoration project, producers to submit at least one estimate showing the type and extent of damage (cubic yard, depth and area of sand, number of acres to be restored, etc.) from a qualified local vendor or other technically-trained sources.

Implement an automated system control for ensuring that ECP applications from county office employees, county committee members, and other county-level USDA employees are properly identified and flagged for higher level review and approval.

Develop an automated system control requiring FSA county office personnel to record the practice start date or planned start date at the time of application. If the start date precedes the application date, then the system should flag the application until such time that the county committee either grants relief with the State committee's concurrence or denies the ECP application.

Require the county committees to review each ECP cost-share agreement for the cited participants and take the appropriate administrative action. Recover any overpayments and apply liquidated damages as appropriate.

Agency Response

In FSA's March 22, 2011, response to the official draft report, the agency generally agreed with Findings 1 through 5, but provided alternative actions due to lack of adequate funding and resources necessary for Recommendations 4 through 6. In addition, FSA disagreed with Recommendation 2. We have incorporated FSA's response in the Findings and Recommendations section of this report, along with our comments in the applicable OIG Position sections. FSA's response to the official draft report is included in its entirety at the end of this report.

OIG Position

We accept management decisions for Recommendations 1, 4, 6, and 9. However, FSA did not provide sufficient detail regarding its planned corrective actions for Recommendations 2, 3, 5, 7, and 8 for us to accept management decisions for these recommendations. We have provided our comments and what actions are needed to reach management decisions for these recommendations and they are provided in the OIG Position section of this report.

Background & Objectives

Background

FSA's ECP provides emergency cost-share assistance and technical assistance to producers to rehabilitate farmland damaged by wind erosion, floods, hurricanes, or other natural disasters.⁶ During fiscal year 2008, Congress provided FSA two supplemental appropriations for ECP totaling \$204.4 million, which were to remain available until expended.⁷ FSA allocated over \$95 million in ECP funds to 29 States to repair flood damage. In the second supplemental appropriation, Congress also included funding for OIG to oversee ECP and other USDA emergency programs.⁸

ECP is administered by FSA State and county committees. Subject to the availability of ECP funds, locally elected FSA county committees are authorized to implement ECP for all disasters except drought, which is authorized by the national office of FSA. FSA county committees determine land eligibility based on onsite inspections of damage, taking into account the type and extent of damage. For land to be eligible, the natural disaster must create new conservation problems that, if untreated, would:

- impair or endanger the land;
- materially affect the land's productive capacity;
- represent unusual damage that, except for wind erosion, is not of the type likely to recur frequently in the same area; and
- be so costly to repair that Federal assistance is or will be required to return the land to productive agricultural use.

Conservation problems existing prior to the disaster are not eligible for cost-share assistance.⁹ ECP participants receive cost-share assistance of up to 75 percent of the cost to implement approved conservation practices, as determined by FSA county committees.¹⁰

To rehabilitate farmland, ECP program participants may implement emergency conservation practices, such as removing debris, restoring fences and conservation structures, and providing water for livestock in drought situations. Other conservation measures may be authorized by

⁶ 7 CFR 701.3(a), January 1, 2008.

⁷ House Resolution 2642-26, Title III, Chapter 1, authorized FSA-ECP \$89,413,000 available until expended, and PL 110-329 Division B, Title I, Chapter 1, authorized FSA-ECP \$115,000,000 available until expended.

⁸ Public Law 110-329 Division B, Title I, Chapter 1, authorized OIG \$5,000,000 available for oversight until expended.

⁹ 7 CFR 701.12(a), January 1, 2008.

¹⁰ 7 CFR 701.26(a), January 1, 2008.

FSA county committees, with approval from the State committee and national office. Technical assistance may be provided by USDA's Natural Resources Conservation Service (NRCS). Producers can apply or sign up for ECP assistance at their local FSA county office. ECP sign-up periods are set by local FSA county committees. Individual or cumulative requests for cost sharing of \$50,000 or less per person, per disaster are approved at the county committee level. Cost share requests from \$50,000 to \$100,000 are approved at the State committee level. Cost-share requests over \$100,000 must be approved by FSA's national office. Further, there is a payment limitation of \$200,000 per person per disaster.

In a prior audit of ECP, we found that FSA granted waivers to the pre-inspection requirement, which made it difficult to determine whether costs were commensurate with the work performed. Additionally, we found that FSA county office employees improperly approved ECP applications submitted by other county office employees and county committee members. Further, we determined that county employees approved ECP funds that were used to rehabilitate ineligible land.¹¹

In response to our findings, FSA agreed not to waive the requirement that its employees conduct onsite inspection as part of implementing ECP. FSA also issued a notice to remind both State offices and their respective county offices of the relevant rules and procedures for approving ECP applications for county office employees and county committee members.¹²

Objectives

Our objective was to evaluate the effectiveness of FSA's management of ECP and the adequacy of its program integrity. Specifically, we assessed FSA's management controls over processing and approving ECP applications. We reviewed individual disbursements, checking for improper payments or fraud. We also followed up to evaluate the sufficiency of corrective actions taken on our prior audit.

¹¹ Audit No. 03601-27-KC, "Farm Service Agency Hurricane Relief Initiatives: Emergency Conservation Program," February 26, 2008.

¹² FSA Notice ECP 50, January 31, 2008.

Section 1: FSA Needs to Strengthen its Onsite Inspection Procedures and Preparing Estimates of the Repairs and Restoration Work to be Performed

Finding 1: FSA Needs to Determine the Extent of Damage to Producers' Fields During its Initial Onsite Inspection

When FSA county office employees performed their initial onsite inspections of the damage done to all 190 ECP applicants' fields, they did not always determine and document the type and extent of the damage the producer sustained, even though this determination of damage serves as a baseline for the entire ECP application process. This occurred because FSA's ECP handbook does not include guidance specifically detailing how employees are to determine and document the type and extent of damage they observed. Without this baseline information concerning the damage done to producers' fields, FSA lacks critical information for determining whether the costs producers incur are necessary to restore their fields. If FSA employees do not determine the type and extent of damage during the onsite inspection, then FSA cannot evaluate the invoices that producers later present for ECP assistance.

ECP is intended to help restore producers' fields to their state before a disaster, not to improve producers' fields beyond the point at which the disaster occurred. When producers apply for ECP assistance, FSA is required to conduct onsite inspections of the damaged fields as quickly as possible after the disaster. The intended purpose of these inspections is to determine if producers qualify for ECP assistance, and to ascertain the type and extent of damage the producer sustained.¹³ For example, an FSA official might visit a producer's fields and determine that 200 yards of fencing was destroyed by a recent flood. The ECP handbook, however, provides no guidance concerning how these determinations are to be made or documented for practices that involve grading and shaping and debris removal.

These onsite inspections serve a critical control function because they establish a baseline determination of the type and extent of damage against which subsequent interactions with the producer can be compared. If the onsite inspection determines that 200 yards of fencing was destroyed, then FSA can expect to develop and approve an estimate of the costs to replace 200 yards of fencing, perhaps \$2,000. Once the producer has replaced his fencing, FSA would expect to receive invoices totaling approximately \$2,000—if the invoices exceeded that total, then the FSA employee processing the payment should question the difference and determine whether the higher amount should be paid. Finally, if FSA later selected this ECP application for a spot check, its employee would expect to visit the producer's land and find 200 yards of new fencing. All of these controls—cost estimates, invoices, and spot checks—hinge upon an accurate determination of the type and extent of damage performed during the onsite inspection. Without performing a quality onsite inspection, FSA has no meaningful baseline to use during subsequent interactions with the producer.

¹³ Handbook 1-ECP (Rev. 3) Amendment 2, Paragraph 171, dated March 30, 2004.

We found that, although FSA performed onsite inspections for all 190 ECP applications in our sample, the FSA employees responsible for the inspections did not always document the type and extent of the damage they found. Employees from the FSA county offices explained that they conducted their inspections expeditiously and mainly to determine if producers were eligible for the program. They stated that, as a result, their inspections were superficial and did not determine the type and extent of damage the producers' fields had sustained.

OIG maintains that the superficiality of FSA's initial onsite inspections caused control problems throughout the ECP application process since the agency did not establish baseline determinations of the type and extent of damage it was paying to restore.

As we discuss in Finding 2, FSA should have been able to use its determinations of the type and extent of damage producers suffered as a baseline against which to compare the cost estimates it received later in the process. Of the 190 ECP applications we reviewed, FSA was responsible for completing cost estimates for 156,¹⁴ yet we found that FSA completed estimates for only 81. For the other 75 ECP applications, FSA processed \$559,650 in ECP payments without having either a determination of the type and extent of damage or an estimate of the cost of restoring the producers' fields. In other words, the county offices simply accepted the producers' invoices and paid them.

Despite the fact that FSA employees focused their onsite inspections on program eligibility, we found that they sometimes made mistakes and did not identify applicants who should have been judged ineligible unless a higher-level official reviewed and approved the application:

- FSA improperly approved 12 ECP applications submitted by county office personnel, including county committee members, in 3 of the counties we visited. These applications require higher level review, but the FSA county employees processing these applications did not identify the applications as being submitted by county office personnel (see Finding 3).
- FSA improperly approved 26 ECP applications in 7 counties where the applicants had started to restore their land before applying for the program. If FSA county office employees had carefully performed their onsite inspections, they should have noted that the producer was already restoring his land and forwarded the application for a higher level review—in fact, nine producers provided dates on their application that indicated they were already restoring their land. Due to these problems, 26 applications received \$117,575 in ECP benefits without proper approval (see Finding 4).

In Finding 5, we describe how FSA, without adequate determinations of the type and extent of damage producers suffered or meaningful cost estimates, paid producers for ineligible costs and practices that county employees should have excluded when they reviewed producers' invoices.

¹⁴ For the other 34 ECP applications, NRCS was the technical agency responsible for performing the cost estimate. Nothing came to our attention in reviewing the cost estimates provided by NRCS that caused us to believe NRCS' procedures were not adequate.

For 15 of the ECP applications we reviewed, we found that FSA county employees did not identify and exclude ineligible costs and practices when they reviewed the producers' invoices. For another 19 ECP applications, county office employees failed to limit FSA cost-share payments to just 75 percent of the producer's actual cost. Errors on these 34 ECP applications resulted in \$48,432 in improper payments.

Overall, we found that FSA needs to take steps to improve its control structure for ECP, beginning with its initial onsite inspection of producers' fields. Because the onsite inspection serves as FSA's only opportunity to view the applicant's land before issuing a payment, it is vital that employees determine the type and extent of damage as a baseline for evaluating estimates and invoices that producers will submit later in the process.

Recommendation 1

Revise ECP Handbook to specifically describe the minimum requirements for FSA county office employees completing onsite inspections so that they will adequately document the types of damages sustained, the location of the damaged acreage, the magnitude and extent of the damage, whether or not the applicant has started restoration work, and whether the application is being submitted by county office personnel.

Agency Response

FSA officials concurred with this recommendation and will amend the ECP Handbook to specifically describe the minimum requirements for documenting the location, types of damages sustained, and whether the producer has begun restoration measures. In addition, the ECP Handbook will be amended to require that if an application for ECP assistance is submitted from county office personnel, then the application will be so noted, and the State committee representative and State executive director will be immediately notified that an onsite inspection must be completed before payment. This corrective action will be completed on or before May 27, 2011.

OIG Position

We accept management decision for this recommendation.

Finding 2: FSA County Office Employees Did Not Complete Cost Estimates for ECP Applications

Of the 190 ECP applications we reviewed, FSA county office employees were responsible for completing cost estimates for 156,¹⁵ yet we found that FSA completed estimates for only 81 applications. FSA county office employees stated that they did not perform all required cost estimates because they lack the technical expertise needed to estimate the costs associated with

¹⁵ For the other 34 ECP applications, NRCS was the technical agency responsible for performing the cost estimate.

many repairs and restorative practices. OIG acknowledges that FSA employees may lack such expertise, but maintains that, since the estimates are an important control in the ECP application process, FSA should develop procedures for contacting local vendors who are knowledgeable and can provide accurate estimates of the cost of various repairs. Since FSA approved 75 ECP applications without completing cost estimates or determining the extent of damage, it paid \$559,650 in ECP funds with reduced assurance that cost shares were limited to approved restoration costs.¹⁶

Before the FSA county committee can approve an ECP application, FSA is required to include an accurate estimate of the costs required to complete the practice.¹⁷ An accurate estimate is essential for both the producer and FSA—for the producers, the estimate identifies how much they can expect to receive from the program; for FSA, it helps the county offices prioritize projects and allocate funds.

Of the 190 ECP applications we reviewed, FSA was responsible for estimating costs for 156, but we found that FSA county employees did not estimate costs for 75 applications that were eventually approved for \$559,650. FSA county officials believed that they lacked the expertise to estimate restoration costs for many types of restoration practices, but they did not request that producers provide an estimate from a vendor with experience performing the necessary work before the FSA employees approved producers' applications. Instead, they allowed producers to present their actual invoices after the work was performed, and then FSA employees used those invoices to develop "estimates" for program payments. In one case, we observed that the "estimate" obtained in this manner was the same as the amount on the invoices. Estimating costs in this way does not serve as a useful control for the program, as illustrated by the following examples:

Producer J Uses ECP Assistance for an Ineligible Dike

Producer J applied for ECP assistance for damages resulting from a flood. FSA county office personnel did conduct an initial onsite inspection of the damaged land, but they did not determine the extent of the damage, nor did they estimate the costs needed to restore the land. Instead, the FSA county office accepted an invoice that stated that \$42,500 in work was performed, approved the ECP application after that work was done, and then paid the producer \$21,546 in cost-share assistance.

In the course of our fieldwork, we discovered that the \$42,500 invoice the producer submitted to FSA was actually for repairing a dike. The regulations state that dike repairs are an ineligible expense.¹⁸ We informed FSA officials of this ineligible expense and they began the process of seeking repayment.

¹⁶ As part of this \$559,650 in ECP assistance for which FSA employees did not perform cost estimates, we describe \$67,176 of improper payments in Finding 4 and \$28,745 in improper payments in Finding 5 for other errors. So that we do not double count these errors, in exhibit A we subtracted \$95,921 (\$67,176 + \$28,745) from \$559,650, resulting in \$463,729.

¹⁷ Handbook 1-ECP (Rev. 3) Amendment 2, Paragraph 82A, dated March 30, 2004.

¹⁸ 7 CFR 701.5 (b) 12, January 1, 2008.

Producer AC Uses ECP Assistance for Ineligible Stream Stabilization

Producer AC applied for ECP assistance for damages to his land resulting from a flood. FSA county office personnel did conduct an initial onsite inspection of the damaged land. They noted sand deposits and large holes, but they did not determine the extent of damage, nor did they develop a cost estimate. Instead, the FSA county office accepted the producers' invoices, approved the ECP application, and then paid the producer \$4,984 in total cost-share assistance.

During our fieldwork, we discovered that a stream bank had been newly stabilized and that grading and shaping had been performed. The producer and vendor stated that they had hauled rock to stabilize the stream bank and to prevent future flooding by building up the stream bank, and that a portion of the ECP funds had been used for this purpose, even though the regulations state that stream bank stabilization and dike building are ineligible for ECP assistance.¹⁹ We notified FSA officials of these discrepancies and they began seeking repayment of \$1,860 of the \$4,984 in cost assistance paid to Producer AC.

OIG concluded that FSA would be much better positioned to review the invoices producers submit for ECP payments if the agency first determined the type and extent of damage as part of the onsite inspection and then developed a reasonable estimate of the restoration work needed before the application is approved. In four county offices in Missouri and Iowa, we noted that FSA employees did a much better job of estimating costs to restore damage because they relied on NRCS' technical expertise or had sufficient technical expertise themselves.

OIG maintains that, since developing accurate estimates of the work necessary for many types of restoration does require expertise that many county employees may not have, FSA should require producers to submit estimates from qualified local vendors or NRCS and provide their employees guidance in reviewing those estimates. FSA county employees should review those estimates and the county office should approve the application before producers submit their invoices for payment.

Recommendation 2

Require producers to submit at least one estimate showing the type and magnitude of damage (cubic yards, depth and area of sand, number of acres to restored, etc.) from a qualified local vendor or other technically trained sources.

Agency Response

FSA disagrees with this recommendation. FSA contends that an accurate estimate from the assigned technical agency of needed units and cost upon which the county committee can base its commitment of funds is already a requirement as documented in the ECP Handbook. The

¹⁹ 7 CFR 701.5 (b) 12, January 1, 2008.

ECP Handbook also requires that supporting data for cost-share of the actual cost, not to exceed a dollar amount per unit, is based on data from National Agricultural Statistics Service, applications for payment, quotations, dealers, contractors, National Institute of Food and Agriculture, or NRCS.

OIG Position

We are unable to accept FSA's proposed management decision. We acknowledge that the agency's current ECP Handbook already requires the assigned technical agency to prepare accurate estimates. But even with these existing requirements, we found that in approximately half of the applications (75 of the 156 applications) where the FSA county offices were responsible for completing estimates did not include such estimates. Also, instead of relying on upfront estimates, we found that FSA county offices allowed producers to provide their actual invoices after the work was performed and then use those invoices to develop or reconstruct "estimates" of the repairs and/or restoration performed. We continue to believe that FSA needs to strengthen its controls to ensure that FSA county office personnel develop or obtain such estimates upfront instead of this after-the-fact manner. To accept management decision, FSA needs to develop a corrective action to better ensure that the assigned technical agency prepare or obtain upfront and accurate estimates for the restoration or rehabilitation. At the minimum, the estimate should include the type and extent of the damage.

Recommendation 3

Establish specific guidelines for county offices in evaluating the estimates of the type and extent of damages that are submitted by vendors and/or other technical sources for reasonableness.

Agency Response

FSA officials concurred with this recommendation and will amend the ECP Handbook and require State committees or their designee to review supporting cost data and documentation for average costs determined in accordance with the ECP Handbook. All county offices will be required before the beginning of each fiscal year to document average costs for implementing the applicable National Practices listed in the ECP Handbook. This recommendation will be completed on or before May 27, 2011.

OIG Position

We are unable to accept FSA's proposed management decision. We concur with FSA's cited proposed action to review and develop supporting cost data and average costs as a good starting basis and tool to assist FSA county offices in evaluating cost estimates and data submitted by vendors and/or other technical sources for reasonableness. However, our recommendation is focused on ensuring a more basic point – that the FSA county offices ensure that the type and extent of damages as reported by other non-FSA technical agency are reasonable. In order to reach management decision, we believe that FSA needs to establish specific guidelines or instructions for FSA county offices to evaluate and compare estimates from other non-FSA

sources for reasonableness, particularly as to the type and extent of the damage, with the damage assessments made during the county offices' initial onsite inspections.

Section 2: FSA Needs to Strengthen its Controls Over Applications and Disbursements

Finding 3: FSA Needs to Better Identify ECP Applications Submitted by County Employees

We found that FSA improperly approved 12 applications submitted by county office personnel, including county committee members. FSA requires that an FSA State committee representative review and approve applications from county office personnel, but county employees did not identify and forward for higher level review 12 of the 18 applications that should have been forwarded. This occurred because county officials relied on their own working knowledge of who should be reviewed at a higher level, as FSA lacks an automated system control for identifying and flagging ECP applications requiring higher levels of approval. We did not find any errors or indications of fraud on these 12 applications; however, if FSA does not more carefully review applications submitted by its employees, it runs a greater risk that employees may abuse the program.

If a USDA employee or county committee member applies for ECP assistance, then FSA requires that the application be reviewed and approved by an FSA State committee representative.²⁰

OIG noted in its previous audit report that FSA county offices were not always following this requirement.²¹ In response to our recommendation, FSA issued a notice to all State offices, reminding its personnel that applications made by FSA employees needed to be reviewed and approved by a State committee representative.²²

Of the 10 FSA county offices in which we reviewed ECP applications in the present audit, we discovered 18 applications at 5 county offices that should have been forwarded for higher level review: we found that 12 applications at 3 county offices were not approved by the State committee's representative. When we spoke to county office employees about this problem, they stated that they relied on their working knowledge of county office employees and committee members to identify those applications requiring the State committee review and approval.

OIG concluded that FSA employees cannot reasonably rely on their knowledge of county employees to identify those needing a higher level review, and that the corrective action FSA took in response to our last audit was not effective in preventing county office employees from approving ECP applications submitted by their peers.

²⁰ Handbook 1-ECP (Rev. 3) Amendment 2, Paragraph 179, March 30, 2004.

²¹ Audit No. 03601-27-KC, "Farm Service Agency Hurricane Relief Initiatives: Emergency Conservation Program," February 26, 2008.

²² FSA ECP Notice 50, January 31, 2008.

FSA officials stated that they are currently designing a new web-based ECP system that could include an automated system control ensuring required approval at the proper level of authority—the Service Center Information Management System. According to FSA, this system can identify and flag State and county office employees and county committee members. OIG believes that incorporating such a control into the new web-based system could enable FSA employees to more fully comply with FSA regulations regarding higher level review and approval of ECP applications.

Recommendation 4

Implement in the new web-based system a control for ensuring that ECP applications of county office employees, county committee members, and other county-level USDA employees are properly identified, flagged, and suspended until they receive the proper higher level review.

Agency Response

FSA officials concurred with this recommendation, but stated it does not currently have adequate funding and resources to implement the software change in the very near future. FSA will instead amend the ECP Handbook to require that if an application for ECP assistance is submitted from county office personnel, then the application will be so noted, and the State committee representative and State Executive Director will be immediately notified that an onsite inspection must be completed before payment. This recommendation will be completed on or before May 27, 2011.

OIG Position

We accept management decision for this recommendation.

Recommendation 5

Instruct the three reviewed State offices that, before the new ECP web-based system is implemented, district directors are to verify that all future applications from county office personnel have been properly reviewed and approved by a State committee representative before approvals are granted.

Agency Response

FSA will notify the three State offices reviewed on April 1, 2011, that all ECP applications that required a State committee representative review are to be completed on April 15, 2011, and that the Deputy Administrator for Field Operations and Deputy Administrator for Farm Programs are notified of the corrective actions implemented by the State executive directors to prevent this type of error in the future for all counties in their respective States no later than April 15, 2011.

OIG Position

Based on the information provided in its response, we are unable to accept FSA's proposal for management decision. In order to achieve management decision, FSA needs to provide clarification whether the notice to the three State offices will include actions by the district directors to spot check and verify future applications from county office personnel to ensure that they have been properly reviewed and approved by a State committee representative before approvals are granted.

Finding 4: FSA Needs to Improve its Controls for Identifying Producers Who Have Begun Restoration Work Before They Apply for ECP

Of the 190 ECP applications reviewed, we found that FSA improperly approved 26 ECP applications because the producers had started their restoration work before they applied for the program. FSA employees neglected to notice that the producers had started the work before applying for the program, even though the producers in some cases listed the date the work began as being several weeks before they applied for the program. For instance, one producer submitted an ECP application on August 14, 2008, but FSA employees did not note that the producer's application showed that he began the work on July 16, 2008—29 days before he applied for the program. Due to these problems, FSA issued \$117,575 in ECP benefits to producers who had already begun their work and had not been granted relief.²³

While FSA requires that producers apply for ECP before they start their restoration work, FSA may make exceptions, if *all* of the following conditions are met: (1) the situation requires immediate action; (2) the application is filed within 15 calendar days of the start of the sign-up period, and (3) the practice began no more than 60 calendar days before the ECP disaster designation.^{24, 25}

Given these requirements, we determined that, for 26 applicants, the county offices should have recognized that they could not approve these applications without obtaining an exception, such as in the following examples:

- Nine applicants documented in their applications that they had started their work before applying for the program. These applicants were thus ineligible for the program unless

²³ Of \$117,575 in ECP assistance that FSA employees improperly approved because producers had started their work before applying for the program, \$9,312 in assistance is also presented in Finding 5. So that we do not double count these errors in exhibit A, we subtracted \$9,312 from \$117,575 and listed \$108,263 as the funds to be put to better use.

²⁴ Handbook 1-ECP (Rev. 3) Amendment 2, Paragraph 175 E, February 8, 2007.

²⁵ Since our original audit, FSA has amended its Handbook, rescinding the requirement that applicants apply within 15 calendar days. It now allows the county office committee (with the State committee's concurrence) to grant relief to those applicants who apply at any point during the sign-up period (1-ECP (Rev. 3) Amendment 3, Paragraph 175 D, February 3, 2010).

they received an exception. FSA employees did not notice the problem, nor did they seek to determine if the applicants met the requirements to be granted an exception.

- Seven applicants did not apply for ECP until 15 days after the start of the sign-up period. They were thus ineligible for the program unless the ECP Program Manager issued a waiver authorizing their acceptance.²⁶ These seven applicants did not receive a waiver, but they did receive their ECP benefits.

Overall, OIG concluded that FSA should take steps necessary to ensure that its employees verify that producers have not started restoration work before they apply for the program. If the producers have started work, then the FSA employee processing the application must follow the agency's rules for granting an exception.

OIG maintains that FSA's new web-based ECP system could be designed to require FSA county office employees to input the practice start date or planned start date at the time of application. If the start date precedes the application date, then the system could flag the application until such time that the county committee either grants relief with State committee concurrence or denies the ECP application.

Recommendation 6

Develop controls in the new ECP web-based system that require FSA county office personnel to record the practice start date or planned start date at the time of application. If the start date precedes the application date, then the system should flag the application and disallow approval until such time that the county committee either grants relief with State committee concurrence or denies the ECP application.

Agency Response

FSA officials concurred with this recommendation; however, they stated FSA does not currently have adequate funding and resources to implement this software change in the very near future. Instead, FSA will issue a notice to State and county offices that during onsite inspections an estimated start date will be obtained from the producer and documented by the assigned technical agency representative. In addition, FSA will amend the ECP Handbook to add this documentation requirement. This recommendation will be completed on or before May 27, 2011.

OIG Position

We accept management decision for this recommendation.

²⁶ Handbook 1-ECP (Rev. 3) Amendment 2, Paragraph 3, February 8, 2007.

Recommendation 7

Issue, pending the implementation of the new web-based system, an interim notice to State and county personnel reminding county office employees of their responsibility to verify producers' start dates when approving an application for ECP assistance.

Agency Response

FSA will issue a notice to State and county offices inform that during onsite inspections an estimated start date will be obtained from the producer and documented by the assigned technical agency representative. In addition, FSA will amend the ECP handbook to include this requirement. This recommendation will be completed on or before May 27, 2011.

OIG Position

Based on the information provided in FSA's response, we cannot accept management decision. Although FSA has agreed to strengthen its control by issuing a notice to State and county offices and amending the ECP handbook to include the requirement to obtain and document such dates, we believe that FSA needs to take an additional step to ensure compliance at the field offices. As we found in other findings in this report, FSA county offices were not complying with established procedural requirements. Therefore, in order to achieve management decision, we believe that in the interim FSA also needs to adopt procedures to periodically conduct spot checks to ensure that FSA county offices are complying with the cited requirement or include such spot checks as part of its County Office Review Program process.

Finding 5: FSA Did Not Correctly Limit ECP Assistance to Eligible Expenses and Practices

Of the 190 ECP applications we reviewed, FSA did not limit ECP benefits to eligible expenses and practices for 34 applications. At the end of the ECP application process, FSA approves producers' applications and then the producers present their invoices for the expenses they incurred as they completed their work. We found, however, that for 15 ECP applications FSA county employees did not exclude ineligible expenses and practices because, without a determination of the extent of damage from the initial onsite inspection and a meaningful cost estimate, they had no baseline against which to compare producers' invoices. Additionally, in two county offices in Missouri, FSA employees did not limit ECP assistance to 75 percent of the lesser of the producer's actual cost or the total allowable costs, as required in Federal regulations, for 19 applications.²⁷ This problem occurred because employees in those offices misinterpreted language in FSA's ECP handbook. Due to these two problems, these 34 applicants received \$48,432 in improper ECP benefits.

²⁷ 7 CFR 701.26 (a), January 1, 2008.

When a producer applies for cost-share assistance through ECP, FSA must determine how much assistance the producer should receive, which includes determining if the practices and costs for which the producer is requesting assistance are eligible.²⁸ Additionally, Federal regulations require that cost-share payments be limited to 75 percent of the lesser of the participant's total actual costs or of the total allowable costs to perform the practice.²⁹

We found, however, that because FSA's controls for the ECP application process—the onsite inspection as an initial determination of the extent of damage (Finding 1) as well as the subsequent estimate of the costs associated with restoration work (Finding 2)—were not functioning as intended, FSA employees lacked a baseline against which to compare the invoices producers submitted at the end of the process.

FSA Did Not Exclude Ineligible Costs and Practices from its ECP Payments

For 15 of the ECP applications we reviewed, we found that FSA county employees did not identify and exclude ineligible costs and practices when they reviewed the producers' invoices. This occurred because county employees lacked determinations of the extent of damage and detailed cost estimates that would provide a baseline for judging producers' invoices. As a result, FSA paid \$34,427 in ECP assistance for practices and costs that were ineligible under the program.

For example, one ECP applicant received payments for land that was located between a levee and a river, even though land is ineligible if it is between any levee or dike and any stream, river, or body of water.³⁰ FSA employees did conduct an initial onsite inspection of the applicant's land, but they did not note the position of the land, which clearly rendered it ineligible for assistance. If FSA provided its employees clearer guidance for performing the initial onsite inspection (as we recommend in Finding 1), then it would help mitigate problems of this sort.

Another ECP applicant applied for grading and shaping of a waterway, but he instead used his benefits to install new terraces. Since ECP benefits are intended to restore land to conditions similar to those prior to the natural disaster, this use of ECP benefits was ineligible and the producer received an improper ECP payment of \$4,046. Although FSA county employees reviewed this producer's invoices, they did not note that the invoices were for a practice other than the one for which the producer originally applied.

A third ECP applicant received \$2,513 for ECP assistance to repair a waterway, but did not carry out the repairs. As the technical agency responsible for this application, NRCS certified completion of the practice. NRCS employees stated that they drove by the area that was to be repaired when it was covered with snow, and did not notice that the practice was not completed.

²⁸ 7 CFR 701.36, January 1, 2008.

²⁹ 7 CFR 701.26 (a), January 1, 2008.

³⁰ Handbook 1-ECP (Rev. 3) Amendment 2, Paragraph 111A, March 30, 2004.

OIG concluded that FSA needs to correct these ECP errors and take appropriate administrative action, including recovering any overpayments. OIG also maintains that improving FSA's overall control structure for processing these applications, as discussed in Findings 1 and 2, will enable FSA county employees to spot problems in the invoices they must review before issuing payments.

FSA County Employees Did Not Limit its ECP Assistance to 75 Percent

For 19 ECP applications, FSA employees did not limit ECP assistance paid to producers to 75 percent of the lesser of the participant's actual cost or the total allowable costs, as required in Federal regulations.³¹ Although this rule is straightforward, some FSA employees became confused by another passage in the handbook, which states that the payment shall not exceed 100 percent of the producer's out-of-pocket cost to perform the practice.³² They interpreted this remark to mean that producers could receive up to 100 percent of their costs; however, their interpretation contradicted the 75 percent limit in Federal regulations. Since the limit in Federal regulations takes precedence, producers should have been limited to 75 percent of the lesser of the participant's actual costs or the total allowable costs. Due to these employees' failure to follow the regulation, FSA paid 19 ECP participants \$14,005 more than they were due.

According to Federal regulations, ECP assistance shall be limited to 75 percent of the lesser of the participant's actual cost or the total allowable costs.³³

When we spoke to officials at the FSA national office about this problem, they agreed that the language in the handbook could be construed as contradicting Federal regulations and amended Handbook 1-ECP.³⁴ FSA also sent out an e-mail to all State and county office personnel clarifying that ECP cost-share payments should be limited to 75 percent.

In addition, FSA is currently designing a new web-based ECP system that will automate the payment process. Such an automated system will be able to quite easily limit the payment to the lesser of 75 percent of the participant's total cost or the total allowable costs determined by the county committee.

OIG concludes that FSA needs to take steps to improve the accuracy of ECP payments. We believe that improving the agency's overall control structure for processing these payments, beginning with determining the extent of damage during the initial onsite inspection and continuing through meaningfully estimating the cost of restoration estimates, as discussed in

³¹ 7 CFR 701.26(a), January 1, 2008.

³² Handbook 1-ECP, Paragraph 42A, February 8, 2007.

³³ 7 CFR 701.26(a), January 1, 2008.

³⁴ FSA amended Handbook 1-ECP (Rev. 3) Amendment 3, Paragraph 42A, February 3, 2010, to limit cost-share reimbursement to 75 percent of out-of-pocket cost and withdrew flat rate provisions in Paragraph 49.

Findings 1 and 2, will result in FSA county employees having a better baseline against which to compare the invoices they receive.

Recommendation 8

Require the county committees to review each ECP cost-share agreement for the cited participants and take the appropriate administrative action. Recover any overpayments and apply liquidated damages as appropriate.

Agency Response

FSA officials concurred with this recommendation and will implement this recommendation upon receipt of the cited participants.

OIG Position

We are unable to accept FSA's proposed management decision. In order to reach management decision, FSA needs to provide us the decisions made on each cited participant and a copy of the demand letter for collection for amounts owed to the Government and evidence that these amounts have been entered as a receivable on the agency's accounting records or collected. We have provided FSA with the requested information on the cited participants under a separate cover.

Recommendation 9

Include an automated system control in the new ECP web-based system that will limit the producer to the lower of the authorized cost-share rate percentage of actual cost or of the total allowable expenses.

Agency Response

FSA officials concurred with this recommendation and implemented this automated functionality in the new ECP web-based system on December 6, 2010.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

USDA's OIG received specific funding for the oversight of disaster assistance and emergency programs. In response, we performed reviews of FSA's implementation of ECP assistance for the 2008 Midwest flooding and ECP assistance for damages caused by hurricanes, floods, wildfires, and tornados in the Southwest.³⁵ In addition, we performed a review of NRCS' Emergency Watershed Protection Program.³⁶

Following the 2008 Midwest flooding, FSA received supplemental appropriations for ECP totaling about \$204 million and allocated over \$95 million in ECP funds to 29 States to repair flood damage. As of May 19, 2009, FSA had over 25,000 applications for ECP flood assistance and had made cost share payments of over \$10.6 million to 4,200 applicants.³⁷

Based on the amount of ECP funds allocated to each affected State for flooding, we judgmentally selected and performed fieldwork in Indiana, Iowa, and Missouri because they were three of the top four States receiving ECP allocations for flooding. As of March 30, 2009, the three States selected for review received about \$48.5 million in ECP funding (Iowa \$29 million, Indiana \$13 million, and Missouri \$6.5 million). Within each State, we selected counties with the largest disbursements of ECP funds, as follows: Bartholomew, Jackson, and Sullivan Counties in Indiana; Allamakee, Dubuque, Freemont, and Winneshiek Counties in Iowa; and Atchison, Osage, and Phelps Counties in Missouri. We thus reviewed ECP payments in a total of 10 counties in 3 States.

Of the 347 ECP applications, receiving a total of \$1.27 million in these 10 counties, we judgmentally selected ECP applications for review, choosing the larger agreements while still covering all practices available in the county. We limited our sample selections to ECP applicants who had completed the practices and received ECP funds. In total, we reviewed 190 ECP applications totaling \$1.12 million. Additionally, at each county office, we selected and included for review internal ECP applications for all county committee members and county office employees in the county offices visited.

At the national, State, and county office levels, we interviewed agency personnel who were responsible for the administration and management of ECP program operations. In addition, we reviewed laws, regulations, policies, handbook procedures, and program documents to verify and evaluate program operations, including documents pertaining to recent ECP procedural changes. To evaluate land eligibility and inspect the practices performed, we performed onsite field visits on farms and interviewed individual producers regarding their participation. In addition, we met with 109 vendors to verify invoices and producer payments for ECP repairs. We performed fieldwork from January 2009 through December 2010.

³⁵ Audit No. 03702-01-Te, "Emergency Disaster Assistance for the 2008 Natural Disasters: Emergency Conservation Program."

³⁶ Audit No. 10601-6-KC, "NRCS Emergency Disaster Assistance: Emergency Watershed Protection Program."

³⁷ As of December 15, 2010, FSA had over 28,000 applications for ECP flood assistance and had made cost-share payments of over \$42.7 million to 16,706 applicants.

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. We do not reach any conclusion on the adequacy of the information systems used to implement ECP.

Abbreviations

CFR.....	Code of Federal Regulations
ECP.....	Emergency Conservation Program
FSA.....	Farm Service Agency
NRCS.....	Natural Resources Conservation Service
OIG.....	Office of Inspector General
USDA.....	Department of Agriculture

Exhibit A: Summary of Monetary Results

Finding No.	Recommendation(s)	Description	Amount	Category
2	2 & 3	Lack of cost estimates	\$463,729 ³⁸	Funds to be Put to Better Use
4	6 & 7	Lacked appropriate level of approval	\$108,263 ³⁹	Funds to be Put to Better Use
5	8 & 9	Unsupported payments for ineligible expenses	\$48,432	Questioned Costs Recovery Recommended
Total			\$620,424	

³⁸ As part of the \$559,650 in ECP assistance for which FSA employees did not perform cost estimates, we describe \$67,176 in improper payments in Findings 4 and \$28,745 in improper payments in Finding 5 for other errors. So that we do not double count these errors, in exhibit A we subtracted \$95,921 (\$67,176 + \$28,745) from \$559,650, resulting in \$463,729.

³⁹ Of the \$117,575 in ECP assistance that FSA employees improperly approved because producers had started their work before applying for the program, \$9,312 in assistance is also presented in Finding 5. So that we do not double count these errors in exhibit A, we subtracted \$9,312 from \$117,575 and listed \$108,263 as the funds to be put to better use.

USDA'S

FARM SERVICE AGENCY'S

RESPONSE TO AUDIT REPORT



United States
Department of
Agriculture

Farm and
Foreign
Agricultural
Services

Farm
Service
Agency

Operations Review
and Analysis Staff

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March 22, 2011

TO: Gil H. Harden
Assistant Inspector General
for Audit

FROM: Philip Sharp, Acting Director
Operations Review and Analysis Staff

SUBJECT: Audit 50601-16-KC: Emergency Disaster Assistance for 2008 Floods:
Emergency Conservation Program (ECP)

This is the Farm Service Agency's (FSA) response to the official draft report on the subject audit.

Recommendation 1

Revise ECP Handbook to specifically describe the minimum requirements for FSA county office employees completing onsite inspections so that they will adequately document the types of damages sustained, the location of the damaged acreage, the magnitude and extent of the damage, whether or not the applicant has started restoration work, and if the application is being submitted by county office personnel.

Agency Response

FSA will amend subparagraph 171A of the 1-ECP (Rev. 4) handbook to specifically describe the minimum requirements for documenting the location, types of damages sustained, and whether the producer has begun restoration measures. In addition, subparagraph 179A will be amended to require that if an application for ECP assistance is submitted from a State Office employee, State Committee (STC) member, State Executive Director (SED), County Committee (COC) member, County Office employee, or any other county-level USDA employee the application will be so noted, and the STC representative and SED will be immediately notified that an on-site inspection must be completed, review and approval for ECP assistance will be necessary before issuing a page 2 of the FSA-848 Cost-share Performance Certification and Payment form. This recommendation will be completed on or before May 27, 2011.

An accurate estimate from the assigned technical agency of needed units and cost upon which the COC can base its commitment of funds is already a requirement as documented in subparagraph 82A of the 1-ECP (Rev. 4) handbook. Subparagraph 45B of the 1-ECP (Rev. 4) handbook requires that supporting data for cost-share of the actual cost, not to exceed a dollar amount per unit, is based on data from: National Agricultural Statistical Service, applications for payment, quotations, dealers, contractors, National Institute of Food and Agriculture, or Natural Resources Conservation Service.



Recommendation 2

Require producers to submit at least one estimate showing the type and magnitude of damage (cubic yards, depth and area of sand, number of acres to restored, etc.) from a qualified local vendor or other technically trained sources.

Agency Response

FSA disagrees with this recommendation. An accurate estimate from the assigned technical agency of needed units and cost upon which the COC can base its commitment of funds is already a requirement as documented in subparagraph 82A of the 1-ECP (Rev. 4) handbook. Subparagraph 45B of the 1-ECP (Rev. 4) handbook requires that supporting data for cost-share of the actual cost, not to exceed a dollar amount per unit, is based on data from: NASS, applications for payment, quotations, dealers, contractors, NIFA, or NRCS.

Recommendation 3

Establish specific guidelines for county offices to evaluate the estimates of the type and extent of damages that are submitted by vendors and/or other technical sources for reasonableness.

Agency Response

FSA will amend the 1-ECP (Rev. 4) handbook and require the STC or designee to review supporting cost data and documentation for average costs determined in accordance to subparagraph 45B. All county offices will be required before the beginning of each Fiscal Year (FY) to document average costs for associated in implementing the applicable National Practices listed in Exhibit 12. This recommendation will be completed on or before May 27, 2011.

Recommendation 4

Implement in the new web-based system a control for ensuring that ECP applications of county office employees, county committee members, and other county-level USDA employees are properly identified, flagged, and suspended until they receive the proper higher level review.

Agency Response

FSA currently does not have adequate funding and resources to implement this software change in the very near future. If an application for ECP assistance is submitted from a State Office employee, STC member, SED, COC member, County Office employee, or any other county-level USDA employee the application will be so noted, and the STC representative and SED will be immediately notified that an on-site inspection must be completed, review and approval for ECP assistance will be necessary in accordance with subparagraph 179A of the 1-ECP (Rev. 4) handbook before issuing a page 2 of the FSA-848. Please note Recommendation 1 and that subparagraph 179A will be amended on or before May 27, 2011.

Recommendation 5

Instruct the three reviewed State offices that, before the new ECP web-based system is implemented, district directors are to verify that all future applications from county office personnel have been properly reviewed and approved by a State committee representative before approvals are granted.

Agency Response

FSA currently does not have adequate funding and resources to implement this software change in the very near future. If an application for ECP assistance is submitted from a State Office employee, STC member, SED, COC member, County Office employee, or any other county-level USDA employee the application will be so noted, and the STC representative and SED will be immediately notified that an on-site inspection must be completed, and review and approval for ECP assistance will be necessary in accordance with subparagraph 179A of the 1-ECP (Rev. 4) handbook before issuing a page 2 of the FSA-848. Please refer to Recommendation 1

The three reviewed State Offices will be notified in writing on April 1, 2011, that all ECP applications that required a STC representative review are to be completed on April 15, 2011, and that the Deputy Administrator for Field Operations and Deputy Administrator for Farm Programs were notified of the corrective actions implemented by the SED to prevent this type of error in the future for all counties in their respective State no later than April 15, 2011.

Recommendation 6

Develop controls in the new ECP web-based system that require FSA county office personnel to record the practice start date or planned start date at the time of application. If the start date precedes the application date, then the system should flag the application and disallow approval until such time that the county committee either grants relief with the State committee concurrence or denies the ECP application.

Agency Response

FSA currently does not have adequate funding and resources to implement this software change in the very near future. FSA will issue a notice to State and County Offices that during onsite inspections an estimated start date will be obtained from the producer and documented by the assigned technical agency representative. Paragraph 175 of the 1-ECP (Rev. 4) handbook will also be amended to add this required documentation. This recommendation will be completed on or before May 27, 2011.

Recommendation 7

Issue, pending the implementation of the new web-based system, an interim notice to State and county personnel reminding county office employees of their responsibility to verify producers' start dates when approving an application for ECP assistance.

Agency Response

FSA will issue a notice to State and County Offices that during on-site inspections an estimated start date will be obtained from the producer and documented by the assigned technical agency representative. Paragraph 175 of the 1-ECP (Rev. 4) handbook will be amended in the very near future to add this requirement. This recommendation will be completed on or before May 27, 2011.

Recommendation 8

Require the county committees to review each ECP cost-share agreement for the cited participants and take the appropriate administrative action. Recover any overpayments and apply liquidated damages as appropriate.

Agency Response

FSA will implement this recommendation upon receipt of the cited participants, and take appropriate action to recover any overpayments.

Recommendation 9

Include an automated control in the new ECP web-based system that will limit the producer to the lower of the authorized cost-share rate percentage of actual cost or the total allowable expenses.

Agency Response

FSA implemented this automated functionality in the new ECP web-based system on December 6, 2010.