



U.S. Department of Agriculture
Office of Inspector General
Southwest Region
Audit Report

Cooperative State Research Education
and Extension Service
Review of Research Grants to the National
Center for Resource Innovations
Arlington, Virginia



Report No.
13099-2-Te
August 2002



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250



DATE: August 6, 2002

REPLY TO
ATTN OF: 13099-2-Te

SUBJECT: Grants to the National Center for Resource Innovations

TO: Colien Hefferan
Administrator
Cooperative State Research, Education,
and Extension Service

ATTN: Louise Ebaugh
Director
Cooperative Research Grants and Awards
Management
Office of Extramural Programs

This report presents the results of our audit of Cooperative State Research, Education, and Extension, Service (CSREES) grants to the National Center for Resource Innovations (NCRI). We performed the audit in response to a whistleblower complaint.

CSREES' written response to the report is included in its entirety as exhibit C. The NCRI board of directors' response is included in its entirety as exhibit D. Based on the written responses, we were unable to reach management decision on any of the recommendations. Excerpts from CSREES' and the NCRI board of directors' responses, along with our comments explaining the actions necessary to accept management decision, are presented after each recommendation in the report.

In accordance with Departmental Regulations 1720-1, please furnish a reply within 60 days describing corrective actions taken or planned and the timeframe for implementing the recommendations. 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, and final action to be taken within 1 year of the management decision. Please follow your internal agency procedures in forwarding final action to the Office of the Chief Financial Officer.

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

/s/
RICHARD D. LONG
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

COOPERATIVE STATE RESEARCH EDUCATION AND EXTENSION SERVICE REVIEW OF RESEARCH GRANTS TO THE NATIONAL CENTER FOR RESOURCE INNOVATIONS ARLINGTON, VIRGINIA

REPORT NO. 13099-2-Te

RESULTS IN BRIEF

The objective of our review of the operations of the National Center for Resource Innovations (NCRI) was to determine whether research grant funds¹ provided to NCRI by the

Cooperative State Research, Education, and Extension Service (CSREES) were used to further grant objectives in accordance with the terms of the grant agreements and Federal regulations. This objective included a determination of whether grant funds had been used for unauthorized purposes, and whether the database developed by an NCRI subrecipient and sold to a private party was the geographic information system (GIS) database funded by CSREES grants.

We determined that \$1.2 million was not used in accordance with grant requirements. A key official of NCRI misused a substantial portion of the grant funds. That official, who is no longer with NCRI, sold the GIS database developed with CSREES grant funds and did not provide CSREES with a copy of the database.

Because NCRI was able to develop the GIS database in spite of the misused funds, we concluded that not all grant funds were needed to accomplish project goals. We also noted that the official did not allocate funds among NCRI's seven subrecipients in accordance with the budgets. Although budgeted to receive only 18.6 percent of the last grant, or \$629,525 of \$3,381,652, NCRI-Chesapeake, Inc. (NCRI-C) received more than 30 percent of those funds, or \$1,027,511.

The NCRI's board of directors gave the NCRI official broad authority to carry out the grant projects but did not sufficiently monitor either the projects or the official's actions. The official established another entity as an NCRI subrecipient and moved the GIS project to it, becoming a key official of that subrecipient, NCRI-C.² This official's position in both NCRI and NCRI-C set up an apparent conflict of interest.

¹ Granted by three grants, one of which was to the American Farmland Trust to which NCRI was a subrecipient.

² NCRI-C did not pay NCRI for either the database or the equipment on which it was housed.

Because the board trusted the managerial capabilities of the official and did not always receive timely annual independent certified public accountant (CPA) audit reports, it was unaware that:

- the official used over \$37,000 in grant funds³ to mount lobbying campaigns in Washington, D.C., to increase NCRI grant funding, a violation of Federal statute;
- the official spent \$1.1 million in grant funds⁴ on items that accounting records could not support as reasonable or necessary for accomplishment of grant purposes or that were disallowed by regulation, including bad debts, entertainment costs, and fines and penalties;
- the official routinely borrowed NCRI funds to cover NCRI-C's accounts and expenses;
- the official gave away or sold over \$93,000 of equipment paid for with grant funds without notifying CSREES or paying CSREES its pro-rata share of the proceeds.

During the course of the audit, we issued two management alerts. We issued the first on November 4, 1999, and the second on December 4, 2000. We recommended that CSREES and NCRI stop the sale of the database and obtain grant records to ascertain the ownership of the database. In response to the management alert, CSREES sent a letter to NCRI requesting that they obtain a copy of the database and citing regulations that precluded the sale of the database and NCRI's responsibility for those assets, but NCRI's efforts to obtain the database and/or stop the sale were not successful.

Following our issuance of the draft audit report and exit conferences with the CSREES officials and the NCRI board members, we received a written opinion, dated March 8, 2002, from the Office of the General Counsel (OGC). OGC opined that the Government had no ownership rights in the GIS database sold by the NCRI official, but confirmed that applicable regulations reserve for the Government a royalty-free, nonexclusive, and irrevocable license in the database developed with Federal funds. Therefore, we are no longer recommending CSREES recover its pro-rata share of the database sold. However, we continue to recommend that CSREES obtain a copy of the database NCRI-C developed with Federal funds.

³ From the two most recent grants.

⁴ From the two most recent grants.

KEY RECOMMENDATIONS

Because of the NCRI board's lax oversight over the NCRI official and NCRI's lobbying activities, NCRI or its successor organization should no longer be eligible to receive Federal

grant funds.

We are therefore recommending that CSREES withhold grant funding until such time CSREES has determined that NCRI, or its successor organization, is operating in accordance with its grant agreement. We are also recommending that CSREES consult with OGC to determine if any criminal or civil actions should be brought against the NCRI official for approving lobbying activities in violation of the law.

Also, CSREES needs to ensure that NCRI returns all unused grant funds and repays all misused amounts. Concerning the GIS database developed with Federal funds, CSREES should obtain a copy of the database and make it available to agencies in the Department developing GIS capabilities.

CSREES RESPONSE

CSREES' response is included in the report as exhibit C. Also, we have inserted pertinent portions of the response in the CSREES response section of the report following each

recommendation. In summary, CSREES officials stated that NCRI as an organization no longer exists. The University of Wisconsin-Madison (UWM) is the legal recipient of the CSREES awards for the GIS project, and the awards are carried out under the programmatic direction of the National Consortium for Rural Geospatial Innovations (RGIS). They stated UWM has an accounting system and internal controls that CSREES considers acceptable to administer Federal awards, and its June 30, 2000, A-133 audit did not identify any accounting system, or internal control weaknesses, which indicated UWM could not adequately administer Federal awards. Also, they indicated CSREES would pursue recovery of the Office of Inspector General (OIG) questioned costs that CSREES determines to be unallowable.

NCRI BOARD RESPONSE

The board members' response is included in the report as exhibit D. We have inserted pertinent portions of the response in the NCRI Board Response section of the report

following each recommendation.

In general, the board's response disavows responsibility for conditions identified in the report and asks us to change the recommendation to hold the NCRI official responsible and recover the questioned costs from that individual. They believe their position is justified because the NCRI official violated controls the board established, the board removed the NCRI

official from a position of authority once problems came to their attention, and the board formed RGIS as a new entity to continue receiving CSREES grant funds. The board also objected to our characterization of RGIS being the successor organization to NCRI.

OIG POSITION

We acknowledge that the repository for the GIS grant funds has changed. The University of Wisconsin is now the recipient of the grant for the RGIS consortium. However, the entity administering those funds, RGIS, has not dramatically changed; therefore, we consider our use of the term “successor organization” to be appropriate. Six of the seven NCRI consortium members are also RGIS consortium members.

We acknowledge the board’s efforts to remove the NCRI official after problems surfaced; however, we continue to believe the board should have exercised greater oversight in an effort to prevent the problems. Specifically, USDA regulations state that recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award.⁵ Since NCRI was the grant recipient, the NCRI board had the responsibility to ensure subrecipients, such as NCRI-C, complied with grant requirements. Therefore, we have not modified the recommendations as the board requested. Our detailed responses to CSREES’ and the board’s comments follow each recommendation in the OIG Position sections of the report. Also, because of the detail of the response, we inserted some OIG rebuttals as footnotes to the document. (See exhibit D.)

⁵ Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, part 3019.51, August 24, 1995.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
RESULTS IN BRIEF	i
KEY RECOMMENDATIONS	iii
CSREES RESPONSE	iii
NCRI BOARD RESPONSE	iii
OIG POSITION	iv
TABLE OF CONTENTS	v
INTRODUCTION	1
BACKGROUND	1
OBJECTIVE	2
SCOPE	2
METHODOLOGY	3
FINDINGS AND RECOMMENDATIONS	5
CHAPTER 1	5
LAX OVERSIGHT BY NCRI BOARD OF DIRECTORS RESULTED IN MISUSE OF GRANT FUNDS	5
FINDING NO. 1	5
RECOMMENDATION NO. 1	8
CHAPTER 2	11
NCRI-C SOLD A DATABASE PRIMARILY DEVELOPED WITH FEDERAL FUNDING	11
FINDING NO. 2	11
RECOMMENDATION NO. 2	12
CHAPTER 3	14
NCRI GRANT FUNDS WERE USED TO LOBBY CONGRESS IN VIOLATION OF FEDERAL STATUTE	14
FINDING NO. 3	14
RECOMMENDATION NO. 3	14
RECOMMENDATION NO. 4	16
CHAPTER 4	18

GRANT FUNDS NOT NEEDED TO ACCOMPLISH PROJECT GOALS WERE MISUSED	18
FINDING NO. 4	18
RECOMMENDATION NO. 5	22
RECOMMENDATION NO. 6	23
FINDING NO. 5	24
RECOMMENDATION NO. 7	25
CHAPTER 5	29
NCRI’S OFFICIAL DID NOT RETURN UNUSED GRANT FUNDS TO CSREES	29
FINDING NO. 6	29
RECOMMENDATION NO. 8	29
CHAPTER 6	31
NCRI DID NOT CONTROL ASSETS	31
FINDING NO 7	31
RECOMMENDATION NO. 9	32
EXHIBIT A – SUMMARY OF MONETARY RESULTS	34
EXHIBIT B – UNALLOWED AND UNSUPPORTED TRANSACTIONS OF NCRI AND NCRI-C	35
EXHIBIT C – CSREES RESPONSE	36
EXHIBIT D – NCRI BOARD RESPONSE	40

INTRODUCTION

BACKGROUND

NCRI was a nonprofit organization located in the Washington, D.C., area, whose activities included educating State and local communities in the benefits of GIS

technology, transferring GIS technology to support local governments and other public policy development and decisionmaking. NCRI's specific areas of data compilation have been topographies of agricultural, urban and commercial plots of land, population densities, crops grown, soil and water resources, weather patterns, placements of railroads, highways, pipelines, utility lines, etc. Because data related to these areas would help local and State governments make sound and environmentally sensitive decisions about the use of land, Congress provided NCRI with \$7.4 million in funding to develop a GIS database and disseminate GIS technology to local communities. The funding was provided to NCRI in three grants administered by CSREES of the U.S. Department of Agriculture (USDA).

CSREES approved the grant funding over the period 1990 through 1998. In 1990, NCRI received the first grant of \$423,190⁶ as a subrecipient of the American Farmland Trust. At that time, NCRI consisted of three cooperators: NCRI's Chesapeake Bay Project⁷ in Arlington, Virginia; the South Georgia Regional Development Center at Valdosta, Georgia; and the University of Arkansas at Fayetteville, Arkansas. Between 1990 and 1999, NCRI enlarged its consortium to encompass five new entities: NCRI-C in Arlington, Virginia (originally known as the Chesapeake Bay Project); Central Washington University in Ellensburg, Washington; the University of North Dakota Weather Facility at Grand Forks, North Dakota; the University of Wisconsin Land Information and Computer Graphics Facility (LICGF) in Madison, Wisconsin; and the Southwest Indian Polytechnic Institute at Albuquerque, New Mexico. NCRI itself acted as a passthrough entity for the recipients of its grants. In 1991, NCRI received the second grant of \$3,594,818,⁸ and in 1995, it received the third grant of \$3,381,652.⁹ Because a GIS database operates on local data, each of NCRI's seven subrecipients received a portion of the grant money to carry out the mission of NCRI.

⁶ This grant, no. 90-38813-5059, was administered by the Cooperative State Research Service (CSRS), predecessor agency to CSREES.

⁷ This project was incorporated in 1993 and joined NCRI as NCRI—C.

⁸ This grant, no. 91-38813-5956 was also administered by CSRS.

⁹ This grant, no. 95-38813-1325, was administered by CSREES.

NCRI and NCRI-C collocated their offices in 1993 in the same suite in Arlington, Virginia, and remained collocated throughout the grant periods until October 1999. The official directing the operations of NCRI-C served also as the key official for NCRI. This person was wholly responsible for the day-to-day operations of both entities, including the employment and release of personnel, the deposits and withdrawals from both entities' checking accounts, and the deposit of grant funds by check from the U.S. Treasury and by electronic funds transfer from the Department of Health and Human Resources, through whom CSREES grant funds were made available to grant recipients. The NCRI-C official also owned a forprofit entity known as the OSIRIS Corporation.

In July 1999, CSREES asked USDA's OIG to audit NCRI. Earlier that year, CSREES had reviewed some transactions at NCRI and NCRI-C, the result of a hotline complaint forwarded to CSREES by OIG. The CSREES review found merit in the complaint concerning the mishandling of grant funds, the inability to prove expenditures for some transactions, the inability to locate equipment purchased with grant funds, and the potential misuse of funds for lobbying. Both CSREES' review and OIG's audit were hindered by the unavailability of the NCRI official to answer questions, to provide evidence of the propriety of charges to the grants, and to provide NCRI-C's records for review. The NCRI-C records were obtained by OIG through administrative subpoenas; however, the person in custody of NCRI-C records would not provide oral or written explanations of questioned transactions.

After April 1999, RGIS proposed to CSREES to take over the funding formerly allocated to NCRI. In July 1999, RGIS received the initial installment on another grant, totaling \$789,984. The grant amount for FY 2000 was \$795,600. However, these two grants were issued to the University of Wisconsin. For these latter grants, RGIS replaced NCRI-C as a consortium member with Penn State University in College Station, Pennsylvania, and Wilkes University/Kings College in Wilkes-Barre, Pennsylvania. For additional detailed background material provided by the board of directors, see exhibit D.

OBJECTIVE

The objective of the audit was to determine whether grant funds were used to further grant objectives in accordance with the terms of the grant agreement and Federal regulations. This objective included determining whether any funds had been misappropriated, used for unauthorized purposes, or used to develop a GIS database that was subsequently sold.

SCOPE

The audit reviewed the administrative and financial records related to GIS grants distributed to NCRI, and through NCRI, to

NCRI-C, for fiscal years 1990 through 1999. Of the \$7.4 million budgeted for the NCRI consortium during the period, NCRI was budgeted to receive, for the three grants, no. 90-38813-5059, no. 91-38813-5956, and no. 95-38813-1325 a total of \$1,024,000 for its administrative expenses (1990 through 1999). NCRI-C was budgeted to receive, for the same period, \$1,460,000.

We reviewed the grant documents and interviewed officials at the CSREES offices in Washington, D.C., in September 1999. We reviewed some NCRI and NCRI-C records at the entities' offices in Arlington, Virginia, in October 1999. After subpoenaing NCRI-C's records, we catalogued NCRI-C records on and off from January through June 2000 at the offices of the NCRI-C attorney in Washington, D.C. We reviewed NCRI records at the NCRI accountant's office in Washington, D.C., in September and October 1999. After NCRI shipped its records to the University of Wisconsin, we reviewed and catalogued those records at the LICGF in the basement of the Steenbock Library at the University of Wisconsin in Madison, Wisconsin, in July and August 2000. Further, from October 1999 through July 2001 we reviewed and catalogued the copied documents.

We conducted telephonic interviews with persons who, at one time or another, were employed by NCRI or served on the NCRI board of directors from 1991 through 1999.

We experienced delays in September and October 1999 because the NCRI-C official was not always available to admit us to the office to review NCRI and NCRI-C records. We experienced significant delays from October 1999 through mid-January 2000 because the NCRI-C offices were vacated and the records sent to a custodian. Once the records were subpoenaed, the custodian asked us to delay catalog and review until he had documented the records to be made available. During cataloging, we were delayed 2 weeks because NCRI-C's attorney thought we had not given proper notice of an impending record review visit.

NCRI-C's records were in considerable disarray and we were unable to discuss grant transactions with the NCRI/NCRI-C official. Because the NCRI-C official was not available to answer questions related to questionable transactions, we developed our conclusions based on our analysis of data obtained by subpoena. Subject to the audit scope limitations noted above, the audit was conducted in accordance with the generally accepted Government audit standards.

METHODOLOGY

To determine NCRI's use of grant funds, we catalogued the records provided us and summarized their content. We copied

documents which: (1) supported proposed and completed contracts of NCRI, NCRI-C, and OSIRIS Corporation, (2) evidenced unsupported and unallowable expenditures, (3) indicated use of grant funds for lobbying purposes, (4) mentioned the purchase and disposition of equipment, (5) indicated funds used to develop the database sold to a third party, and (6) indicated accounting and disposition of income.

We analyzed and scheduled data used to meet the objective of the audit and to determine the magnitude of improper loans, undeposited and unremitted income, and questionable and unallowable expenditures. We relied upon testimonial evidence when corroborated by other evidence.

To gain an understanding of GIS, we conducted interviews with persons knowledgeable of GIS technology, NCRI and computer hardware and software. These persons worked for the Economic Research Service in Washington, D.C.; the Natural Resources Conservation Service in Washington, D.C., and Temple, Texas; and, the University of Wisconsin's LICGF in Madison, Wisconsin.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	LAX OVERSIGHT BY NCRI BOARD OF DIRECTORS RESULTED IN MISUSE OF GRANT FUNDS
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FINDING NO. 1

The NCRI board of directors did not provide sufficient oversight over the NCRI official, who: (1) sold a GIS database developed with Federal funds without giving CSREES a copy of the database, (2) spent grant funds on lobbying activities in violation of Federal statute, (3) spent grant funds on expenses that were not allowable under the terms of the grant, and (4) failed to document how all charges to the grant, including lodging and meal charges in areas where no apparent grant activity occurred, benefited the grant. The NCRI official also failed to return unused grant funds and interest earned on grant funds and disposed of grant property without authorization (see Findings Nos. 2 through 8). In total, \$1.2 million was not used in accordance with grant agreements.

The NCRI board of directors was charged with establishing operating policies and with monitoring the operations of NCRI. However, none of the board's officials sufficiently monitored the operations of the entity, nor provided oversight of the NCRI official, who was authorized to carry out the day-to-day operations of NCRI. The board instead trusted in the managerial capabilities of the official to provide reasonable assurance that the terms and conditions of the CSREES grants were being met and that its subrecipients, mainly NCRI-C, were operating in accordance with applicable laws and regulations.

Grant documentation mandated that the grant be administered in accordance with the requirements set forth in Title 7, CFR 3015, 3017, and 3018; the grant proposal and any revision thereto; CSREES Special Terms and Conditions, dated June 1995; and the approved award budget. As noted above, we determined that NCRI's administration of the grant funds was not in compliance with these requirements. Most instances of noncompliance occurred because the NCRI board of directors: (a) did not ensure the NCRI official was free of conflicts of interest, (b) did not follow up and identify all funding authorities the official assumed, (c) did not adequately monitor and review the CPA's work, and (d) did not ensure that NCRI could account for all equipment purchases the NCRI official made with grant funds.

A. Conflicts of Interest

The official having primary responsibility for the operations of NCRI and NCRI-C was the same person. This person was responsible for the daily operations of both entities, including the authorizations for deposits and withdrawals to NCRI and NCRI-C checking accounts. In 1993, this person moved the GIS database projects entirely to NCRI-C, leaving NCRI as an administrative function only. The transfer resulted in a greater isolation of the NCRI board of directors from the development of the database and its attendant costs.

The official controlling NCRI-C and NCRI did not, for either of the two organizations, ensure that costs were properly documented and allocated to the income source benefiting from the costs. In particular, we noted both NCRI and NCRI-C used grant funds to pay the official's salary and fringe benefits totaling \$466,831 when there was no documentation, other than the official's own estimate, of how the salary was distributed to those awards.

The official also authorized the expenditure of NCRI funds, which were wholly provided by CSREES grants, for illegal lobbying efforts. The official authorized payment to a firm that invoiced NCRI for its lobbying efforts in the U.S. Congress, on behalf of NCRI. The official further instructed one employee to provide a legend, stating the payment was for "consulting," on a check written to the lobbyist (see Finding No. 3).

We concluded that improper transactions and unsupported costs occurred because the official was more inclined to further the future and wealth of NCRI-C than of NCRI. For example, although NCRI-C was budgeted to receive only 18.6 percent of the 1995 grant, or \$629,525 of \$3,381,652, NCRI-C received more than 30 percent of those funds, or \$1,027,511. Further, the NCRI board of directors did not sufficiently monitor the activities of the official or the operations of NCRI to ensure that transactions were proper and documented.

B. Uncontrolled Access to Funds

The NCRI board of directors allowed the NCRI official uninhibited access to its checking accounts. As noted above, the official transferred NCRI's funds to NCRI-C. From October 1994 through June 1999, this person removed grant funds totaling \$846,081 from NCRI's accounts, and deposited them in NCRI-C's accounts. The official returned \$448,095 leaving a deficit of \$397,986. Of this deficit, NCRI-C repaid \$320,481 to four subrecipients with proceeds

from the questionable sale of a Federally funded database and other assets (see Finding No. 2).

C. Board of Directors Did Not Adequately Monitor and Review CPA's Work

The NCRI board of directors should have exercised control over the NCRI official through its CPA's annual audit reports and random checks of grant transactions. However, the board did not ensure the CPA reports were issued annually, and it did not perform random checks of NCRI activities. Board members trusted instead the managerial capabilities of the NCRI official, at whose recommendation the board engaged the CPA firm. Audit reports that were prepared did not reflect a study of internal controls or compliance with laws and regulations, nor did they usually include a schedule of Federal awards, as required by OMB Circular A-133 and Appropriations Law. Also, we saw no evidence that the auditor reported any lack of compliance with lobbying laws or CSREES regulations or the internal control deficiencies that allowed the NCRI official to carry out unauthorized and unallowable activities. Further, we found that no annual audit reports had been issued for 1997, 1998, or 1999, and there has been no final report issued for CSREES grant no. 95-38813-1325, as required.¹⁰

D. No Complete Inventory of Equipment Purchased with Grant Funds

There was no complete equipment inventory that would enable the NCRI board of directors and other officials to determine the source of funds used to acquire the equipment, modifications and attachments, in order to ensure that the ownership of the equipment acquired was identified and maintained. In the absence of a complete inventory, the NCRI official, without informing CSREES or the board, disposed of equipment purchased with grant funds by donating some to charitable organizations and selling or otherwise disposing of more than \$93,000 of equipment budgeted for in the grant. The NCRI official failed to remit to CSREES its pro-rata share of the then-current fair market value of the equipment disposed of.

In none of its audit reports did the CPA engaged by the NCRI board of directors report the lack of equipment inventory, the improper dispositions of property, the improper withdrawals from NCRI accounts, or the internal control deficiency (lack of oversight of the NCRI official's authorizations, executions, and documentation of transactions). Further, the CPA failed to disclose the illegal lobbying activities. We concluded that the board of directors' oversight of NCRI operations and the NCRI official's activities was deficient.

¹⁰ Required by Title 7, CFR 3019.71 dated August 24, 1995.

Further, the board of directors' actions in response to our management alerts was not effective. During the course of the audit, we issued two management alerts. We issued the first on November 4, 1999, and recommended that CSREES and NCRI stop the sale of the database and obtain grant records to ascertain the ownership of the database. In response to the management alert, CSREES sent a letter to NCRI requesting that they obtain a copy of the database and citing regulations that precluded the sale of the database and NCRI's responsibility for those assets, but NCRI's efforts to obtain the database and/or stop the sale were not successful. We issued the second management alert on December 4, 2000, and recommended that CSREES obtain a copy of the database and ascertain whether confidential data present on the database was properly controlled. The CSREES officials, by access to a web site, concluded that confidential data on the database was properly controlled. Though CSREES sent another letter to NCRI requesting the database and informing NCRI of its fiduciary duties and responsibilities, again NCRI was not successful in obtaining a copy of the database.

RECOMMENDATION NO. 1

Withhold funding from NCRI, or its successor organization (RGIS), until CSREES has ensured the board of directors has implemented a plan of oversight that will ensure the grantee operates in accordance with the grant agreement.

CSREES Response

CSREES' awards in support of the GIS project are administered by UWM's Office for Research and Sponsored Programs. UWM has an accounting system and internal controls that CSREES considers acceptable to administer Federal awards. CSREES reviewed UWM's OMB Circular A-133, Audits of States, Local Governments, and Non-profit Organizations, audit report for the fiscal year ended June 30, 2000. The report did not identify any accounting system, or internal control weaknesses, which indicated UWM could not adequately administer Federal awards. Accordingly, CSREES believes the risk of recurrences of the types of noncompliance and internal control issues the auditors identified in the draft audit report is greatly reduced.

NCRI Board Response

The NCRI board expressed concern that the OIG report did not give credence to the management controls established by NCRI and expounds upon those controls as follows:

The activities of NCRI's sites were monitored through submission of annual proposals (for use of grant funds) and annual reports of accomplishments.

Each site's annual proposals and annual reports of accomplishments were reviewed by the NCRI board of directors.

- 1) Each site's annual proposals and accomplishments reports were combined for presentation to CSREES.
- 2) The annual budget and report were prepared by the National Office and subject to review and approval by the board of directors.
- 3) The National Office's costs and scope of work were included in every awarded proposal.
- 4) The board of directors set parameters on the conduct of the NCRI official to:
 - a. Direct business, supervise staff, advance the interests and manage the NCRI affairs in accordance with those bylaws and those policies and procedures and guidelines as adopted by the board of directors.
 - b. Operate in accordance with its education status as a nonprofit, tax-exempt corporation under Sec. 501(c)(3) of the Internal Revenue Code.

Also, the board indicated USDA had initiated a review of the fiscal controls of RGIS and only after a thorough review did USDA permit funds to flow to RGIS.

OIG Position

Notwithstanding the controls the board indicated it implemented, we continue to believe the NCRI board did not exercise sufficient oversight to ensure the NCRI official conducted business, supervised staff, or managed NCRI affairs in accordance with bylaws and the policies, procedures and guidelines adopted by the board of directors.

The NCRI board did not require the NCRI official to produce the NCRI bank statements for its review. The NCRI board did not compare the NCRI contracts with GrayWell to its invoices attendant to those contracts. The NCRI board did not regularly hold exit conferences with terminated employees. NCRI did not require the 1997 and 1998 audit reports in a timely fashion. The NCRI board did not determine that its auditor was independent. Any of the above actions by the NCRI board

may well have prevented the malfeasance being discussed in the OIG report.

To accept a management decision, RGIS officials need to explain their plan of oversight that will ensure subgrantees operate in accordance with the grant agreement. Also, CSREES needs to provide a copy of the review performed of RGIS and the A-133 audit and related management letters for the University of Wisconsin for the period ending June 30, 2000, confirming that RGIS operates with adequate controls.

FINDING NO. 2

The NCRI-C official¹¹ sold a database and was to receive more than \$900,000 in proceeds from the sale. The database was primarily developed with Federal funds, of which more than 62 percent was provided by CSREES through its grants to NCRI. NCRI-C assumed full ownership rights to the database, and did not provide CSREES a copy of the database.

Title 7, CFR 3019.36 (a) and (d), dated August 24, 1995, states that the Federal agency shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use property developed under an award by a recipient.

Throughout NCRI-C's existence, both as the Chesapeake Bay Project and as NCRI-Chesapeake, Inc., it has used CSREES funds to purchase and lease software,¹² and to purchase and develop other databases¹³ to improve its own database. In a letter written by the NCRI-C official in March 1991 to CSREES, the official acknowledged the database created with Federal funds was to reside in the public domain.

Our analysis of the sources of income deposited to NCRI-C's bank accounts revealed that CSREES funds contributed 62 percent of the income used by NCRI-C. Therefore, we concluded that 62 percent of the funds NCRI-C used to develop the database came from CSREES.

The NCRI-C official was aware of the interest the Federal Government had in the GIS database. A July 6, 1999, letter from the NCRI-C attorney to the NCRI-C official stated that:

The Agreement Fact Sheets¹⁴ * * * incorporate sections of the Code of Federal Regulations and CSREES Special Terms and Conditions which suggest that the government may have a viable claim of title against the utility [i.e., the GIS database] and/or the applications. If this is true, there is little doubt that an ownership interest can be made by the Government and NCRI * * *. It may be that funds allocated to NCRI regional offices were diverted and

¹¹ As previously noted, the NCRI-C official and NCRI official are the same individual.

¹² Including TIN, GRID, and ARC/Info, ARC/View, etc.

¹³ Including the Harvard Chesapeake database, pesticide use database, EPA's reach file, zip code databases, etc.

¹⁴ For the CSREES and CSRS grants to NCRI and its subrecipients.

utilized for the development of the utility and/or applications.¹⁵

The NCRI-C official sold the GIS database to an independent third party in October 1999 and was to receive more than \$900,000. The official did not inform CSREES of the impending sale of the database, and did not distribute the proceeds from the sale to NCRI or CSREES on a pro-rata basis. In December 2000, we issued a management alert to CSREES recommending that they obtain the GIS database from NCRI. CSREES directed NCRI to recover the database; however, the database was not obtained.

We concluded that because Federal funds supported the development of the GIS database, and because CSREES supplied a majority of these Federal funds through its grants to NCRI, the Federal Government and particularly CSREES, has a proprietary interest in the GIS database that NCRI-C developed under the direction of the grant agreements and that the NCRI-C official sold to a private party. Because of the Government's proprietary interest in the database, OIG contacted the Assistant U.S. Attorney for Northern Virginia to discuss OIG's concerns with the improper and unauthorized disposition of assets purchased and developed with Federal funds. The attorney stated that he would be willing to pursue the matter upon receipt of a legal opinion from USDA's OGC confirming the Federal interest in those assets. Subsequently, in August 2000, OIG joined with CSREES to issue a letter to OGC in Washington, D.C., requesting that opinion.

On March 8, 2002, OGC opined that the Government had no ownership rights in the software and source code sold by the NCRI official. However, the failure to provide the Government with a royalty-free, nonexclusive, irrevocable license for use of the software and source code may have violated the agreements.

Based on the OGC opinion, we will not recommend recovery of funds for the sale of the database and have modified Recommendation No. 2 accordingly.

RECOMMENDATION NO. 2

GIS capabilities.

Work with OGC to obtain a copy of the database developed with grant funds and make the database available to USDA agencies developing and expanding their

¹⁵ Shortly after this letter was sent, the NCRI-C official contracted with another attorney to complete the "due diligence" required prior to the sale of the database.

CSREES Response

In light of OGC's opinion regarding the database, CSREES will not pursue recovery of the auditors' questioned costs associated with the database. However, it is CSREES' understanding that OIG still intends to recommend that CSREES work with OGC to obtain a copy of the database NCRI-C developed with grant funds.

CSREES believes this recommendation is in contradiction to OGC's opinion. OGC stated "The Government has no ownership rights in the software and source code * * *. The Government had no express or implied relationship with * * * NCRI-Chesapeake that would establish a legal right of ownership for the Government in the software or source code." Accordingly, OIG should not recommend that CSREES pursue a copy of the database.

NCRI Board Response

The former NCRI board pledged its continued full cooperation with CSREES and OGC to accomplish this recommendation.

OIG Position

In our opinion, Title 7, CFR 3019.36, is clear that the Federal agency has a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use property developed under an award by a recipient. Further, in our opinion, OGC's opinion does not refute CSREES' right of access to the database, but affirms that right. Therefore, to accept a management decision, CSREES needs to work with OGC to obtain a copy of the database and make it available to the agencies of the Department.

CHAPTER 3

NCRI GRANT FUNDS WERE USED TO LOBBY CONGRESS IN VIOLATION OF FEDERAL STATUTE

FINDING NO. 3

NCRI used appropriated funds, totaling \$37,135 to lobby Congress to sustain and increase its funding. Although such expenditures would normally be a result of board policy rather than normal operations, the NCRI official approved the expenditures without the knowledge of the board of directors. As a result, NCRI stands in violation of Public Law 104-65, which forbids recipients of Government grants to use grant money (i.e., appropriated funds) to lobby Congress for the continuation of such grant. In effect, NCRI's lobbying effort has rendered NCRI ineligible for Government grants.

Title 7, CFR 3018, dated February 26, 1990, forbade the use of appropriated funds by the recipient of a Federal grant, loan, contract or cooperative agreement to pay any person to influence or attempt to influence a member of Congress, in the awarding, making or continuing of any Federal grant, loan, contract or cooperative agreement.

Public Law 104-65, Lobbying Disclosure Act, dated December 19, 1995, states that no organization which engaged in lobbying activity and whose net earnings were devoted exclusively to charitable, educational, or recreational purposes would be eligible for the receipt of Federal funds constituting an award, grant or loan.

NCRI was a nonprofit corporation devoted solely to educational and charitable purposes. Its revenues were derived from CSREES grants. From 1995 to 1998, NCRI paid a firm to visit members of Congress and their staff on behalf of NCRI and monitor legislation and hearings on GIS-related issues. During this time, NCRI earned no funds from non-Federal sources, which could be used to cover these expenses; therefore, we concluded that Federal funds were used.

Neither the CPA nor the NCRI official informed the board of directors that the lobbying efforts were being funded by grants. Instead, the official instructed employees of the organization who were aware of the lobbying to refer to the payments as "consulting" or "public outreach."

RECOMMENDATION NO. 3

Recover the \$37,135 NCRI improperly spent on lobbying.

CSREES Response

In its response to CSREES, NCRI stated that it reviewed numerous invoices but could not identify any costs incurred for lobbying activities. Further, it stated that during an onsite review at NCRI's headquarters in September 1999, CSREES also could not support the existence of lobbying costs from a review of consultants' invoices. Accordingly, CSREES requests that OIG provide copies of the invoices that contain the \$35,358 of questioned lobbying costs.

NCRI Board Response

First of all, if any such lobbying occurred, it is important to recognize that NCRI management controls designed to prevent lobbying were ignored and circumvented in secrecy by the executive director. This may include illegal activities, though we have no evidence that this included expending Federal funds for lobbying.

Secondly, the former NCRI board cannot find any documentation or evidence to support the finding that grant funds were used to mount lobbying campaigns. We have personally reviewed a large number of invoices from GrayWell Group, Inc., and they all appear to refer to education/outreach professional and consulting services.

Two checks in 1995 were sent to the GrayWell Group, Inc., from the South Georgia Regional Development Center for legislative services. An official of the South Georgia Regional Development Center and an NCRI board member at the time, recalls the checks were to help offset the cost of outreach for legislative services in Washington, D.C. These funds did not have Federal origins.

Further, in a CSREES review of NCRI dated September 13, 1999, CSREES reported the following findings. "On May 20 and 21, 1999, the CSREES conducted an onsite review of the National Center for Resource Innovations Financial and Administrative Controls to access the validity of an Office of Inspector General hotline complaint." The results of that review regarding lobbying stated on page three "The task force could not determine from the invoices whether the payments were for outreach or lobbying activities performed by GrayWell Group, Inc. as the descriptions on the invoices were not specific."

OIG Position

CSREES officials in their response asked for copies of the invoices that contain the lobbying questioned costs. We previously provided CSREES with NCRI check numbers making payments to GrayWell and a GrayWell principal, and the board has NCRI records. However, we will make our working papers available for CSREES' further review.

The board's response indicates that numerous invoices were reviewed without identifying lobbying activities. Also, their comments regarding CSREES' review of NCRI suggests that CSREES had no concern regarding lobbying. However, CSREES' report stated "* * * a contractor was engaged to lobby on behalf of NCRI, NCRI failed to report its lobbying activity to CSREES." Further, CSREES reported "the task force obtained copies of several subcontracts made under the CSREES grant * * *. Two types of contracts were issued. One contract appears to specify lobbying. The other contract type focused on education and outreach activities. However, it contained language that could be construed to include lobbying." OIG construed the same as the CSREES – the contracts were for lobbying. One such contract, signed by a board member, specified work to be performed as follows:

- Monitoring Capitol Hill legislation, hearings and other developments concerning NCRI.
- Assistance to have NCRI funding included in USDA budget requests for 1998 fiscal year.
- Monitor and guide the NCRI fiscal year 1998 request as it proceeds through legislative process.
- Contacts with key members of various committees to explain and justify NCRI request and respond to questions.

The contract clearly called for lobbying activities. Also, CSREES concluded in its document requesting an audit that "we suspect the use of Federal funds for lobbying activity."

Finally, the board in its response implied that any lobbying activities were paid with non-Federal funds by the South Georgia Regional Development Center. We did not audit the South Georgia Regional Development Center and cannot comment on its payments; however, all the lobbying payments we questioned were made by NCRI, and NCRI's source of funding was only Federal grants.

To accept a management decision, CSREES needs to send the NCRI board a bill for collection in the amount of \$37,135, and establish the amount as a receivable on the agency's financial records or provide evidence of recovery of the amount questioned.

RECOMMENDATION NO. 4

104-65.

Consult with OGC to determine if any criminal or civil actions should be brought [] for authorizing lobbying activities in violation of Public Law

CSREES Response

Before consulting with OGC, CSREES must first review the documentation for the costs in question to determine if the costs were, in fact, related to lobbying activities.

NCRI Board Response

The former NCRI board of directors respectfully suggests that, if any grant funds were spent on lobbying, the former NCRI official should be held responsible for the reimbursement of these funds. Accordingly, the former NCRI board concurs with Recommendation No. 4.

OIG Position

As noted in the OIG Position for Recommendation No. 3, check numbers for the questioned lobbying expenses were previously provided. However, we will make our working papers available for CSREES' review, as necessary. To accept a management decision, please provide a copy of OGC's position regarding bringing charges for lobbying.

Of the total \$7.4 million in CSREES funds that was granted for the promotion of GIS technology and the development of the GIS database, NCRI and NCRI-C misused funds by spending \$269,705 for items that were disallowed by regulation and \$841,762 for items that were unsupported in the entities' accounting records. In some cases, such as foreign travel and purchases of office equipment, NCRI needed prior approval from CSREES to pay those expenses but did not obtain that approval. In other cases, where expenses may have furthered the promotion of GIS technology or the development of the database, NCRI and NCRI-C failed to properly account for, and allocate, those expenses. Other expenses were unallowable, such as payment of interest on loans, or could not be shown to relate to the grant, such as mobile phone charges and other personal items.

Grant documentation mandated that the grant would be administered in accordance with Title 7, CFR 3015, 3017, and 3018; the grant proposal and any revision thereto; CSREES Special Terms and Conditions, dated June 1995; and the approved award budget and Attachment A thereto. Title 7, CFR 3019, dated August 24, 1995, superseded 7 CFR 3015 and 7 CFR 3017.¹⁶ OMB Circular A-122, "Cost Principles for Non-Profit Organizations," established principles for determining costs of grants, contracts, and other agreements with nonprofit organizations. OMB Circular A-122¹⁷ was required to be used by nonprofit grantees and subgrantees and was authorized by Title 7, CFR 3015.193, dated December 19, 1989.

Our disclosure of improper NCRI expenditures demonstrates that NCRI and NCRI-C did not operate either the 1991 nor 1995 CSREES grant to NCRI in accordance with the appropriate authorities. Accordingly, NCRI needs to return to CSREES the questioned grant amounts spent on unsupported and unallowable costs.

FINDING NO. 4**SOME NCRI GRANT FUND
EXPENSES WERE
UNALLOWABLE**

The NCRI official charged the grants for expenditures that were disallowed by regulation, not applicable to the grants, and for expenditures not approved by CSREES. The improper expenditures occurred because NCRI's board of directors did not exercise proper control over the NCRI official's use of funds (see

Finding No. 1). As a result, CSREES grant funds totaling \$269,705

¹⁶ These regulations were superseded only to the extent that they disagreed with Title 7 CFR 3019.

¹⁷ Dated: May 8, 1997, September 29, 1995, and May 19, 1987.

were improperly spent for expenses not allowed to be charged to those grants.

OMB Circular A-122 required that costs, to be allowable under an award (grant or other Federal contract), must: (1) be reasonable for the performance of the award and allocable thereto, (2) conform to any limitations or exclusions as to types or amounts of cost items, (3) be consistent with policies and procedures that apply uniformly to all activities of the organization, (4) be accorded consistent treatment, (5) be determined in accordance with generally accepted accounting principles, (6) not be included as a costs or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period, and (7) be adequately documented.

A. NCRI and NCRI-C Charged Expenditures to the Grant Even Though Such Expenditures Were Disallowed by Regulation

NCRI and NCRI-C improperly charged \$223,961 to the grants for interest and loan expenses; fines and penalties; entertainment; bad debts; and donations.

Improper Payments of NCRI-C Debts. NCRI paid the debts of NCRI-C totaling \$181,912. This occurred because the same individual had control of both NCRI's and NCRI-C's bank accounts. As a result, NCRI (1) paid loans¹⁸ for which NCRI-C had received the proceeds, totaling \$140,953, (2) paid \$37,392 for equipment approved for purchase on NCRI-C's budgets,¹⁹ (3) made installment payments on NCRI-C loans, totaling \$663, and, (4) paid NCRI-C's property taxes for 1994 and 1996 totaling \$2,903.

OMB Circular A-122(1) requires that for a cost to be allowable under an award the cost must be allocable thereto. Because the accounting records did not indicate that NCRI-C had reimbursed NCRI for any of these expenses, the NCRI-C costs were not allocable to NCRI.

Interest and Loan Expenses. NCRI and NCRI-C improperly used grant funds to pay interest and other loan expenses totaling \$18,385 (NCRI: \$17,100; NCRI-C: \$1,285) on capital borrowed from a local bank. This capital was borrowed to cover operating expenses until funds from CSREES and other contracts were received. This type of loan is commonly referred to as a "bridge" loan. According to OMB Circular A-122, part B 19, interest on borrowed capital is unallowable.

¹⁸ Amount paid during the period of the 1995 grant.

¹⁹ Amount paid during the period of the 1991 grant.

Fines and Penalties. NCRI and NCRI-C used grant funds totaling \$10,339 (NCRI: \$9,661; NCRI-C: \$678) to pay fines and penalties arising from its failure to abide by the laws and regulations of the IRS, the Arlington County Virginia Commissioner of Revenue, the D.C. Treasurer, and the Unemployment Commission, among others.

OMB Circular A-122, part B 14, states that costs of fines and penalties resulting from violations of, or failure of the organization to comply with Federal, State, or local laws and regulations are unallowable.

Entertainment. NCRI and NCRI-C charged the grants \$6,285 (NCRI: \$4,341; NCRI-C: \$1,944) for expenses of local newspaper subscriptions, entertaining, and providing coffee and other refreshments for its employees and guests.

OMB Circular A-122, part B 12, states that entertainment costs (costs of amusement, diversion, social activities, ceremonials and costs relating thereto) are unallowable.

Bank Fees and Other Charges. NCRI and NCRI-C improperly used grant funds totaling \$3,562 (NCRI: \$2,115; NCRI-C: \$1,447) to pay bank charges for unspecified services and bank fees charged for submitting negotiable instruments against accounts with insufficient funds therein.

OMB Circular A-122, part A 2, states that costs must be reasonable for the performance of the award. Insufficient fund charges are not a reasonable cost of the grant.

Bad Debts. The NCRI official failed to collect a promissory note received from an employee caught embezzling grant funds, thus allowing the grant to absorb the \$2,213 debt of the employee.

In the NCRI board's response to the draft audit, it stated that after NCRI discovered the embezzlement, the issue was discussed with CSREES personnel and they concurred with the actions of the board in trying to recoup these funds. Through the actions of NCRI, a substantial portion of the embezzled funds was recovered.

We acknowledge that some of the debt was recovered; however, the amount questioned above is the portion of the debt that was not repaid. OMB Circular A-122, part B 2, states that bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related to legal and collection costs, are unallowable.

Donations. NCRI and NCRI-C improperly made cash donations of \$1,265 (NCRI: \$765; NCRI-C: \$500) to other non-profit organizations. These donations were in addition to the donations of equipment discussed in Finding No. 7 and Finding No. 1d. OMB Circular A-122, part B 8, states that contributions and donations by the organization to others are unallowable.

B. NCRI and NCRI-C Did Not Have CSREES Approval For All Grant Expenditures

For certain expenditures, NCRI and NCRI-C were obliged to obtain approval in advance of the expense. However, they expended \$45,744 without the required approval.

Title 7, CFR 3015.112(a), dated December 19, 1998, states that approvals shall not be valid unless they are in writing and signed by either the responsible officer or the head of the awarding agency's regional office. Title 7, CFR 3015.196(b)(2), dated December 19, 1998, states that when costs are specified in the budgets, approval of the budget shall constitute approval of the cost. However, CSREES had not approved, in writing or in the budgets, the following expenditures.

General-Purpose Capital Equipment. NCRI and NCRI-C used \$28,965 (NCRI: \$18,374; NCRI-C: \$10,591) to acquire general-purpose capital equipment (office equipment and furnishings, copiers, printers and computers).

OMB Circular A-122, part B 13, states that capital expenditures for general-purpose equipment are unallowable except with prior approval of the awarding agency. Costs of acquisitions include costs of modifications, attachments, accessories or auxiliary apparatus necessary to make it usable for the purpose for which it was acquired, or improvements that increase its value or useful life.

Equipment Repair. NCRI and NCRI-C used grant funds totaling \$5,191 (NCRI: \$4,140; NCRI-C: \$1,051) to repair and maintain equipment not allowed to be acquired with grant funds. General-purpose capital equipment may be purchased with the prior approval of the agency, but the equipment upon which repairs and maintenance was affected had never been approved for purchase by CSREES, and the repairs had never been requested by NCRI or NCRI-C.

Organization Expenses. NCRI and NCRI-C used grant funds totaling \$6,034 (NCRI: \$5,569; NCRI-C: \$465) to pay the

organization expenses of NCRI and NCRI-C, without prior approval of CSREES.

OMB Circular A-122, part B 27, states that expenditures, such as organization fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants or investment counselors, whether or not employees of the organization, in connection with the establishment or reorganization of an organization, are unallowable except with the prior approval of the awarding agency.

Foreign Travel. NCRI-C improperly charged the CSREES grants for expenses totaling \$5,553 for costs associated with travel to foreign countries and did not receive prior approval from the awarding agency for those trips. Although the U.S. Agency for International Development awarded NCRI-C a \$20,000 grant that could have been used to cover foreign travel costs, that money was never deposited to NCRI-C's account.

OMB Circular A-122, part B 50, states that direct costs for foreign travel costs are allowable only with the prior approval of the awarding agency. Each separate foreign trip must be approved.

RECOMMENDATION NO. 5

Recover from NCRI the \$223,961 in expenses that were not allowed to be paid with CSREES grant funds.

CSREES Response

CSREES will pursue recovery of the OIG's questioned costs that CSREES determines to be unallowable. However, CSREES must give NCRI an opportunity to respond to the individual transactions that comprise the questioned costs. Accordingly, as previously requested by CSREES, please provide an itemized breakdown of each transaction comprising the questioned costs.

NCRI Board Response

The former NCRI board has not had the opportunity to review the actual records that document the alleged unallowable expenses, but it emphasizes that these allegedly unallowable or unapproved expenditures were not disclosed in the financial audits conducted by the NCRI auditor, nor were they disclosed to the board by the executive director or any other party. If funds were committed for the alleged unallowable/unapproved items, they were done without the knowledge or permission of the former NCRI board.

OIG Position

OIG previously provided a schedule of the questioned costs, identified by check number and amount. However, we will make our working papers available for CSREES officials to review as necessary.

To accept a management decision, CSREES needs to send the NCRI board a bill for collection in the amount of \$223,961, and establish the amount as a receivable on the agency's financial records or provide evidence of recovery of the amount questioned.

RECOMMENDATION NO. 6

Recover from NCRI the \$45,744 in expenses that were paid without prior CSREES approval.

CSREES Response

Please provide an itemized breakdown of each transaction comprising the questioned costs. CSREES will give NCRI an opportunity to respond to the individual transactions that the OIG questioned. CSREES will also determine if any of the questioned costs were reasonable and necessary to accomplish the award's objectives and can be approved. If they cannot be approved, CSREES will pursue recovery of the questioned costs.

NCRI Board Response

With respect to Recommendation No. 6, several things need to be pointed out:

- the former NCRI Board expected the executive director to comply with CSREES requirements for approval of expenditures;
- certain of the expenses, such as foreign travel, appear to have been incurred for the personal benefit of the executive director;
- the NCRI National Office did not have sources of funding other than CSREES funds. Since NCRI was incorporated with the awareness and approval of CSREES, it would appear that organizational expenses were tacitly approved, if not explicitly.

Similarly, with respect to the capital equipment, there is no suggestion that the equipment purchased was not reasonably necessary to perform the functions for which NCRI was given grant funding, and

there is no suggestion that approval would not have been given had the executive director followed the clear expectations of the NCRI board and complied with the requirements for seeking approval for the purchase of capital equipment. The former NCRI board questions whether it was reasonable to seek recovery for monies relating to expenditures which, though prior approval may not have been obtained, were nonetheless made for legitimate purposes in furtherance of the purposes for which NCRI received funding.

OIG Position

OIG previously provided a schedule of the questioned costs, identified by check number and amount. However, we will make our working papers available for CSREES officials to review as necessary.

To accept a management decision, CSREES needs to provide OIG its regulatory authority for postapproval of any amounts it determines to be within the scope of the grant purpose. Also, CSREES needs to send the NCRI board a bill for collection for the balance, and establish the amount as a receivable on the agency's financial records or provide evidence of recovery of the amount billed.

FINDING NO. 5

GRANT EXPENDITURES WERE UNSUPPORTED IN NCRI'S AND NCRI-C'S RECORDS

NCRI and NCRI-C used CSREES grant funds to pay costs that their administrative and accounting records did not support as reasonable or necessary grant expenditures. As a result, NCRI and NCRI-C spent \$841,762 in grant funds without proper support: \$837,986 from the 1995 grant and \$3,776 from the 1991

grant.

OMB Circular A-122, part A 2, states that costs must, be adequately documented. Part A 4 states that a cost is allocable to an award if it is incurred specifically for the award or benefits both the award and other work and can be distributed in reasonable proportion to the benefits received.

NCRI-C Staff Salaries. NCRI-C accounting records were not sufficient to provide for the distributions of NCRI-C staff salaries to the projects upon which they worked during the period of the 1995 grant. This occurred because the NCRI-C official kept no timesheets and did not consistently require the NCRI-C staff to keep timesheets. As a result, we had no evidence to support the \$805,562²⁰ paid the NCRI-C staff.

The only record we found of how the NCRI-C official's salary was distributed was a memorandum to the NCRI CPA indicating months

²⁰ Includes fringe benefits at 21 percent.

allocated to different projects in 1997 and 1998. We found no timesheets to support these distributions. However, with respect to the project coordinator's salary, we found timesheets supporting the distribution of his time for the last quarter of 1995 through the first 2 quarters of 1999. Consequently, we only questioned the salary paid the coordinator in the first 3 quarters of 1995 and the third quarter of 1999. Generally, when we found timesheets for the other NCRI-C employees, we only questioned their salaries if there were no timesheets available at any time during a year; i.e., if one time sheet was found for 1 year, we did not question the salary paid that year.

Questionable Credit Card Charges. NCRI and NCRI-C used grant funds totaling \$17,883 (NCRI: \$391; NCRI-C: \$17,492) to pay the charges invoiced by NCRI-C's MasterCard statements, but not supported as a grant expense. These charges included charges by restaurants and lodging facilities in the local commuting area of Maryland and Virginia; charges for health and beauty aids; purchases of items not documented as to specific goods or services or as to grant purpose; and, airline tickets, lodging and meals charges in areas where no grant activity was documented to have occurred. In only a few instances did NCRI or NCRI-C personnel record on the MasterCard statements the sources of awards benefiting from those costs.

Office Supplies, Personal Expenses. NCRI and NCRI-C used grant funds totaling \$13,437 (NCRI: \$10,272; NCRI-C: \$3,165) to pay unsupported charges for office supplies and/or commingled with personal expenses (business cards). More than \$3,000 of the charges to NCRI was for a mobile phone that could not be justified by administrative duties performed by the NCRI official such as allocation of funds among the various subrecipients.

Internet Purchases. NCRI and NCRI-C used grant funds totaling \$4,880 (NCRI: \$187; NCRI-C: \$4,693) to pay for products and services purchased via the Internet without documentation to support the grant purpose of those products and services.

RECOMMENDATION NO. 7

Recover \$841,762 from NCRI, unless additional records can be provided to support the questioned costs.

CSREES Response

Please provide a schedule of questioned salary costs that identifies the employee, questioned salary, and time period. Also, provide an itemized breakdown of each transaction comprising the remaining nonsalary questioned costs of \$36,200 (\$841,762-\$805,562). CSREES

will give NCRI an opportunity to provide acceptable explanations and documentation. Based on NCRI's response, CSREES will determine the appropriate amount, if any, of questioned costs to disallow.

NCRI Board Response

The former board of NCRI notes -- OIG reports that a considerable amount of the nonpayroll unsubstantiated expenditures appear to have been made by, and/or for the personal benefit of, the NCRI official, such as credit card charges for local or nonsite lodging and restaurants, health and beauty aids, Internet purchases, business cards, and a mobile phone.

Further, it is the understanding of the former NCRI board that various types of contemporaneous timesheet records or similar memos to document labor costs were provided by NCRI and NCRI-C employees and maintained at NCRI and NCRI-C. What happened to these records remains a mystery and their whereabouts are unknown. We do know that records from NCRI administration and NCRI-C were requested by the former NCRI board initially on April 26, 1999, and were not received in Madison, Wisconsin (RGIS headquarters), until mid-November 1999 (see records recovered subsection of chronology in appendix). During this period, we believe the records were in the offices of the NCRI official's lawyer. It should also be noted that one or more boxes of records were apparently never shipped by the attorney, and the shipping company lost one. Despite repeated attempts from the University of Wisconsin-Madison, the lost box has never been recovered. We do not know what was contained in this box, as the executive director's attorney never supplied the former NCRI board with an inventory of the NCRI or NCRI-C records that were shipped (or not shipped, as the case may be).

We have been in contact with the GIS programmer/analyst, employed through the entire 1995 grant and beyond. NCRI's auditor, along with the programmer are willing to attest that time records by project were kept on a regular basis. In fact, the programmer still retains in his possession all of his time, in electronic form, from date of employment to the day he resigned.

In sum, the former NCRI board believes that contemporaneous timesheets or similar reports were faithfully maintained by NCRI, at least with respect to NCRI employees other than the NCRI official. To the extent these records have disappeared, it is because they have either been mislaid or destroyed by NCRI-C, the NCRI official, or NCRI-C's attorney, or were contained in the box of NCRI records lost by the shipping company. We suggest the audit report be modified to reflect the fact the former NCRI board has made a good faith effort to

retrieve all records pertaining to NCRI and to make these available for CSREES and OIG inspection.

OIG Position

Notwithstanding the board's efforts to locate the missing records, the records were not available for OIG's review; therefore, the costs remain unsupported. With regard to CSREES request for a schedule of questioned costs, we previously provided such a list. However, we will make our working papers available for CSREES officials to review as necessary.

To accept a management decision, CSREES needs to send the NCRI board a bill for collection for \$841,762 and establish the amount as a receivable on the agency's financial records or provide evidence of recovery of the amount questioned.

FINDING NO. 6

Although some of NCRI's subrecipients forwarded to NCRI \$4,026 in unused grant funds and interest earned on grant deposits, NCRI failed to remit this amount

to CSREES.

Our audit determined that NCRI-C failed to remit to CSREES \$2,676 of grant funds that NCRI subrecipient, Central Washington University, returned by check dated December 16, 1998, and was deposited to NCRI-C's account on December 24, 1998. Regulations require that recipients refund any balances of unobligated cash that has been advanced or paid and not authorized to be retained by the recipient.²¹

Also, we found no evidence that the following funds were deposited to NCRI's or NCRI-C's accounts or returned to CSREES: (a) interest earned on grant funds of \$1,044 returned to NCRI by a subrecipient, University of North Dakota, by check dated July 9, 1992, and (b) \$306 in interest that a subrecipient, South Georgia Regional Development Center, earned on funds from the 1991 grant and returned to NCRI by check dated November 20, 1996. Regulations require that earned interest be returned to CSREES.²²

RECOMMENDATION NO. 8

Collect \$4,026 from NCRI for unreturned funds and accrued interest.

CSREES Response

CSREES will determine if the \$2,676 of unused grant funds were rebudgeted for authorized purposes. CSREES will require that NCRI remit any accrued interest.

NCRI Board Response

With respect to Finding No. 6, apparently there was at least one instance when unencumbered funds were returned to NCRI administration by a regional site (Central Washington University) with the implicit understanding that the funds would be forwarded to CSREES. There were also several instances when requests for no-cost extensions were submitted to CSREES by this regional site and approved. In returning unencumbered funds, the subrecipient

²¹ Title 7, CFR 3019.71(d), dated August 24, 1995.

²² Title 7, CFR 3015.46, dated December 19, 1989.

involved (Central Washington University) had no indication that the NCRI official did not follow proper procedures.

Likewise, interest returned to NCRI administration by both University of North Dakota and the South Georgia Regional Development Center was returned by the subrecipients in good faith with the understanding these funds would be returned to CSREES.

It is the contention of the former NCRI board that the NCRI official intentionally refrained from returning the funds to CSREES, and apparently used the money to advance personal agendas. The NCRI official apparently withheld from NCRI's accountant the information regarding the funds returned from NCRI sites, as NCRI's annual financial audits did not disclose any evidence of the interest that was returned. The financial audits would have been the primary method expected to inform the NCRI board of any improprieties. All subrecipients followed the correct procedures in returning unencumbered funds and/or interest as required by terms of the grant.

The former NCRI board had no indication or notification that proper procedures were not being followed to return unused grant funds to CSREES. However, after March of 1999 when the existence of such funds was identified, the former NCRI board consulted with CSREES as to their proper disposal and followed the CSREES procedures.

OIG Position

Notwithstanding the board's reliance on the NCRI official, it remains that the unused grant funds and earned interest were not returned to CSREES as required. Further, because NCRI grants were budgeted to the full amount of the GIS grant funds available, and no other sources of funds were included in the budgets, we have concluded returned funds were not rebudgeted.

To accept a management decision, CSREES needs to send the NCRI board a bill for collection for \$4,026 and establish the amount as a receivable on the agency's financial records or provide evidence of recovery of the amount questioned.

FINDING NO 7

The NCRI official disposed of equipment purchased with grant funds without obtaining permission from CSREES officials.²³ As discussed in Finding No. 1,

the NCRI board of directors was unaware of the disposition of equipment because a proper inventory of the entity's assets had not been performed. As a result, about \$93,533 of equipment (budget cost) is not available for grant purpose uses.

Paragraph 12 of the Special Terms and Conditions of the CSREES grant to NCRI and subsequently to NCRI-C states that equipment acquisition shall be subject to the provisions of Title 7, CFR 3015.165 and 3015.169.²⁴ Title 7, CFR 3015.165(a), states that the awarding agency shall have the right to require transfer of equipment (including title) for items of equipment having a unit cost of \$1,000 or more to the Federal Government or its non-Federal designee.

Title 7, CFR 3019.34(g), dated August 24, 1995, states that if the recipient has no further need for the equipment, and the equipment has a current fair market value of \$5,000 or more, the recipient may retain the equipment for other uses, provided the Federal Government receives its pro-rata share of the current fair market value. If the recipient has no further need for the equipment, the recipient shall request disposition instructions of the Federal awarding agency, which shall issue those instructions within 120 days after receipt of a final inventory. The Federal agency may reserve the right to transfer title to the Federal Government or to a third party named by the Federal Government, when the third party is eligible under existing statutes.

When the NCRI official formed NCRI-C in October 1993, NCRI-C assumed ownership of the office equipment and the equipment housing the GIS database, whether paid for by Chesapeake Bay Project's budget or by NCRI. We found no financial records indicating NCRI was paid the fair market value of that equipment when NCRI-C assumed ownership and control.

The NCRI official donated to two different charities equipment acquired with CSREES funds from two different grants, at a budgeted cost of \$16,088. The NCRI official also sold a computer costing \$2,000 to an employee for \$100. The NCRI official did not inform NCRI or CSREES of the intended disposition, did not seek CSREES guidance as to its

²³ This equipment included that which housed the database discussed in Finding No. 2.

²⁴ In August 1995, Title 7, CFR 3019 superseded CFR 3015, only to the extent that CFR 3015 disagreed with CFR 3019.

disposal, and did not remit to CSREES its pro-rata share of the then current fair market value of that equipment.

In October 1999, the NCRI official also sold or otherwise disposed of equipment with budgeted costs of about \$75,445. This equipment housed the database discussed in Finding No. 2. The equipment was sold for an undisclosed amount, without notifying CSREES of the impending sale, without obtaining disposition instructions, nor remitting to CSREES its pro-rata share of the then current fair market value.

RECOMMENDATION NO. 9

Collect \$93,533 or require NCRI to independently determine the then current fair market value of equipment improperly disposed of by NCRI and NCRI-C, and remit to CSREES that amount.

CSREES Response

CSREES will determine the appropriate amount, if any, of questioned costs to disallow. Please provide an itemized breakdown of the questioned equipment items, which includes a description, acquisition cost, acquisition date and disposal date.

NCRI Board Response

As a preliminary matter, the former NCRI board has been informed by its accountant that an inventory of equipment was maintained. The former NCRI board has not yet had an opportunity to review this list. However, we would note from general knowledge of the kinds of equipment used for similar activities that it is likely that none of the equipment had an individual fair market value greater than \$5,000 at the time of sale. The former NCRI board will certainly provide OIG with a copy of the inventory list once its existence is confirmed.

Further, computer equipment purchased by NCRI-Chesapeake was purchased under the approval of CSREES to perform the functions of the grant activities. A report was made annually to CSREES as part of regular reporting of equipment acquired. A board resolution adopted and signed September 8, 1995, described the transfer process for site ownership of equipment, should approval be received by CSREES and subject to dissolution of NCRI. The NCRI official, aware of this board resolution, failed to request board approval to dispose of any and all equipment acquired under the CSREES agreements per the board's approved procedure. At no time did the board give sanction to this action as it violated the resolution of the board.

OIG Position

OIG has already provided CSREES with a list of the equipment missing from NCRI and NCRI-C. We will provide CSREES with the latest equipment inventory we have available, dated October 1996, but asset descriptions are skimpy at best. We have provided CSREES, on February 28, 2002, our workpaper indicating asset descriptions, purchase dates, purchase and budget amounts, and disposition dates. We will also provide our workpaper indicating those assets, purchased with NCRI funds, which NCRI-C claimed as its own.

To accept a management decision, CSREES needs to send the NCRI board a bill for collection for the value of equipment improperly disposed of and establish the amount as a receivable on the agency's financial records or provide evidence of recovery of the amount questioned.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

FINDING NUMBER	RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
3	3	NCRI Used Grant Funds to Lobby Congress	\$ 37,135	QCRR
4	5	Expenses Were Not Allowed to be Charged to the Grant	223,961	QCRR
4	6	Expenses Were Not Preapproved by CSREES	45,744	QCRR
5	7	Expenses Not Supported by Entity Financial Records	841,762	UCRR
6	8	Interest Income and Unused Grant Funds Not Returned to CSREES	4,026	QCRR
7	9	Grant Funded Equipment Unaccounted For	93,533	QCRR
TOTAL			\$1,246,161	

QCRR - Questioned Costs, Recovery Recommended.
UCRR - Unsupported Costs, Recovery Recommended.

EXHIBIT B – UNALLOWED AND UNSUPPORTED TRANSACTIONS OF NCRI AND NCRI-C

Findings	GRANT NO. 95-38813-1325			GRANT NO. 91-38813-5956			Grand Total
	NCRI-Admin	NCRI-C	Total	NCRI-Admin	NCRI-C	Total	
Finding 3:							
Lobbying	\$36,158.25	\$0.00	\$36,158.25	\$976.75	\$0.00	\$976.75	\$37,135.00
Finding 4a:							
Payments for NCRI-C	143,168.84	0.00	143,168.84	38,742.84	0.00	38,742.84	\$181,911.68
Interest Expense	7,588.84	213.74	7,802.58	9,511.03	1,071.66	10,582.69	\$18,385.27
Penalties	78.41	204.46	282.87	9,583.06	473.34	10,056.40	\$10,339.27
Entertainment	2,479.97	1,833.11	4,313.08	1,860.70	111.02	1,971.72	\$6,284.80
Bank Charges	2,114.82	1,446.77	3,561.59	0.00	0.00	0.00	\$3,561.59
Bad Debt Expense	0.00	0.00	0.00	2,213.35	0.00	2,213.35	\$2,213.35
Donations	0.00	500.00	500.00	765.15	0.00	765.15	\$1,265.15
Sub Total:	\$155,430.88	\$4,198.08	\$159,628.96	\$62,676.13	\$1,656.02	\$64,332.15	\$223,961.11
Finding 4b:							
Leased GP Equip	5,865.21	8,709.00	14,574.21	12,508.34	1,882.34	14,390.68	\$28,964.89
Maintenance/Repair	1,966.84	713.50	2,680.34	2,173.62	337.17	2,510.79	\$5,191.13
Organization Costs	165.00	0.00	165.00	5,404.27	465.00	5,869.27	\$6,034.27
Foreign Travel	0.00	3,873.51	3,873.51	0.00	1,679.81	1,679.81	\$5,553.32
Sub Total	\$7,997.05	\$13,296.01	\$21,293.06	\$20,086.23	\$4,364.32	\$24,450.55	\$45,743.61
Total Finding 4:	\$163,427.93	\$17,494.09	\$180,922.02	\$82,762.36	\$6,020.34	\$88,782.70	\$269,704.72
Finding 5:							
NCRI-C Wages/Salaries	27,869.50	777,692.79	\$805,562.29	0.00	0.00	0.00	\$805,562.29
MasterCard Charges	391.19	17,491.50	\$17,882.69	0.00	0.00	0.00	\$17,882.69
Personal Expense	7,764.94	1,896.00	\$9,660.94	2,506.76	1,269.45	3,776.21	\$13,437.15
Internet Charges	187.16	4,692.67	\$4,879.83	0.00	0.00	0.00	\$4,879.83
Total Finding 5:	\$36,212.79	\$801,772.96	\$837,985.75	\$2,506.76	\$1,269.45	\$3,776.21	\$841,761.96
Finding 6:							
Interest Income	\$305.75	\$2,676.14	\$2,981.89	\$1,044.27	\$0.00	\$1,044.27	\$4,026.16
Finding 7:							
Missing Equipment	<u>\$2,000.00</u>	<u>\$9,174.00</u>	<u>\$11,174.00</u>	<u>\$44,990.00</u>	<u>\$37,369.00</u>	<u>\$82,359.00</u>	<u>\$93,533.00</u>
Totals:	\$238,104.72	\$831,117.19	\$1,069,221.91	\$132,280.14	\$44,658.79	\$176,938.93	\$1,246,160.84

EXHIBIT C – CSREES RESPONSE



United States
Department of
Agriculture



Cooperative State
Research, Education
and Extension Service

Washington, DC
20250

MAY 17 2002

TO: Richard Long
Assistant Inspector General for Audit
Office of Inspector General

FROM: Colien Hefferan
Administrator

SUBJECT: The National Center for Resource Innovations – Audit Report No. 13099-2-Te

Thank you for the opportunity to respond to the Office of Inspector General's (OIG) audit of the grants that the Cooperative State Research, Education, and Extension Service (CSREES) awarded to the National Center for Resource Innovations (NCRI). Below is CSREES' response to the findings contained in the audit report. CSREES also has provided for inclusion in the OIG's final audit report a copy of the former NCRI board members' response to the audit findings.

Key Recommendations

Because NCRI's lobbying activities were in violation of Federal statute, NCRI or its successor organization should no longer be eligible to receive Federal grant funds. We are therefore recommending that CSREES revoke NCRI's grant recipient status and withhold grant funding until such time CSREES has determined that NCRI, or its successor organization, is operating in accordance with its grant agreement. We are also recommending that CSREES consult with the Office of the General Counsel [

]

Concerning ongoing NCRI operations, or its successor organization, we are recommending that CSREES require the NCRI board of directors to take a more active role in monitoring NCRI and its managers' activities. Also, CSREES needs to ensure that NCRI returns all unused grant funds and repays all misused amounts. Concerning the GIS database, CSREES should consult with OGC regarding recovery from NCRI of the database and its pro rata share of the \$900,000 price that was to have been paid for it.

CSREES' Response

NCRI as an organization no longer exists. Beginning with the fiscal year 1999 award, CSREES continues to fund the Congressionally mandated Geographic Information System (GIS) project through awards that it makes to the University of Wisconsin-Madison (UWM). UWM is the legal recipient of CSREES' awards for this project. However, the awards are carried out under the programmatic direction of the National Consortium for Rural Geospatial Innovations (RGIS). RGIS is a consortium of faculty researchers from numerous educational institutions located throughout the United States.

CSREES' awards in support of the GIS project are administered by UWM's Office for Research and Sponsored Programs. UWM has an accounting system and internal controls that CSREES considers acceptable to administer Federal awards. CSREES reviewed UWM's OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, audit report for the fiscal year ended June 30, 2000. The report did not identify any accounting system, or internal control weaknesses, which indicated UWM could not adequately administer Federal awards.

Additionally, CSREES cannot, at the present time, consult with the Office of the General Counsel (OGC) to determine the appropriate penalties regarding NCRI's alleged lobbying activities. Rather, CSREES must first review the documentation for the costs in question to determine if the costs were, in fact, related to lobbying activities. Accordingly, CSREES requests that the OIG provide copies of the invoices which contain the questioned lobbying costs.

CSREES will pursue recovery of the OIG's questioned costs which CSREES determines to be unallowable. However, based on an OGC opinion dated March 8, 2002, CSREES will not pursue recovery of questioned costs associated with the database. OGC determined that the Government had no ownership rights in the database and was not entitled to any proceeds resulting from the sale of the database.

Recommendation No. 1

Withhold funding from NCRI, or its successor organization, until CSREES has ensured the board of directors has implemented a plan of oversight that will ensure the grantee operates in accordance with the grant agreement.

As noted in CSREES' response to the OIG's key recommendations (see above), CSREES continues to fund the GIS project through awards that it makes to UWM, which has an acceptable accounting system and internal controls. Accordingly, CSREES believes the risk of recurrences of the types of noncompliance and internal control issues the auditors identified in the draft audit report is greatly reduced.

Recommendation No. 2

Collect \$558,000 for the Government's 62 percent pro rata share of the \$900,000 that was to be generated by the sale of the database.

In light of OGC's opinion regarding the database, CSREES will not pursue recovery of the auditors' questioned costs associated with the database. However, it is CSREES' understanding that the OIG still intends to recommend that CSREES work with OGC to obtain a copy of the database NCRI-C developed with grant funds.

CSREES believes this recommendation is in contradiction to OGC's opinion. OGC stated, "The Government has no ownership rights in the software and source code...The Government had no express or implied relationship with...NCRI-Chesapeake that would establish a legal right of

ownership for the Government in the software or source code". Accordingly, the OIG should not recommend that CSREES pursue a copy of the database.

Recommendation No. 3

Recover the \$35,358 NCRI improperly spent on lobbying.

In its response to CSREES, NCRI stated that it reviewed numerous invoices but could not identify any costs incurred for lobbying activities. During an on-site review at NCRI's headquarters in September 1999, CSREES also could not support the existence of lobbying costs from a review of consultants' invoices. Accordingly, CSREES requests that the OIG provide copies of the invoices which contain the \$35,358 of questioned lobbying costs.

Recommendation No. 4

Consult with the Office of the General Counsel [] NCRI [] in violation of Public Law 104-65.

Before consulting with OGC, CSREES must first review the documentation for the costs in question to determine if the costs were, in fact, related to lobbying activities.

Recommendation No. 5

Recover from NCRI the \$225,141 in expenses that were not allowed to be paid with CSREES grant funds.

CSREES will pursue recovery of the OIG's questioned costs which CSREES determines to be unallowable. However, CSREES must give NCRI an opportunity to respond to the individual transactions which comprise the \$225,141 of questioned costs. Accordingly, as previously requested by CSREES in e-mails to the OIG dated February 14, 15 and 27, 2002, please provide an itemized breakdown of each transaction comprising the \$225,141 of questioned costs.

Recommendation No. 6

Recover from NCRI the \$49,173 in expenses that were paid without prior CSREES approval.

Please provide an itemized breakdown of each transaction comprising the \$49,173 of questioned costs. CSREES will give NCRI an opportunity to respond to the individual transactions that the OIG questioned. CSREES also will determine if any of the questioned costs were reasonable and necessary to accomplish the award's objectives and can be approved. If they cannot be approved, CSREES will pursue recovery of the questioned costs.

Recommendation No. 7

Recover \$841,762 from NCRI, unless additional records can be provided to support the questioned costs.

Please provide a schedule of questioned salary costs which identifies the employee, questioned salary, and time period. Also provide an itemized breakdown of each transaction comprising the remaining non-salary questioned costs of \$36,200 (\$841,762-\$805,562). CSREES will give NCRI an opportunity to provide acceptable explanations and documentation. Based on NCRI's response, CSREES will determine the appropriate amount, if any, of questioned costs to disallow.

Recommendation No. 8

Collect \$4,026 from NCRI for unreturned funds and accrued interest.

CSREES will determine if the \$2,676 of unused grant funds were re-budgeted for authorized purposes. CSREES will require that NCRI remit any accrued interest.

Recommendation No. 9

Collect \$96,805 or require NCRI to independently determine the then current fair market value of equipment improperly disposed of by NCRI and NCRI-C, and remit to CSREES that amount.

CSREES will determine the appropriate amount, if any, of questioned costs to disallow. Please provide an itemized breakdown of the questioned equipment items which includes a description, acquisition cost, acquisition date and disposal date.

If you have any questions, please contact Jack Goldberg at (202) 205-5799.

Attachment

cc: Ernie Hayashi, Director, Farm and Foreign Agricultural Division
Ralph Childs, Assistant Regional Inspector General for Audit

EXHIBIT D – NCRI BOARD RESPONSE

Response to Report No. 13099-2-Te

By

Former National Center for Resource Innovations (NCRI)
Board Members

April 30, 2002

(NOTE: Footnotes 25-28 are added by OIG in rebuttal to the board's comments.)

Memorandum

TO: Mr. Jack Goldberg
Senior Accountant and Cost Analyst
Office of Extramural Programs
U.S. Department of Agriculture (USDA)
Cooperative State Research, Education and Extension Service (CSREES)
3705 Waterfront Center
800 9th Street SW
Washington, D.C. 20024-2210

FROM: Former Board Members of the National Center for Resource Innovations,
(NCRI), 1991-1999

RE: Audit Report #13099-2-Te Draft (transmitted 2/21/2002)

DATE: April 30, 2002

cc: Ray Knighton, CSREES

Thank you for providing us the opportunity to review and respond to the above cited report.

We, the former NCRI board members who were asked to comment on the Draft Audit Report, organized our response into several sections. We start with an overview of our response (*Executive Summary*) and then address our *Overriding Issues and Comments*. The next section, *Findings*, provides response to the seven Findings in the report, with subsections providing specific comments on each. We have also included an appendix – a chronology of events around the time of dissolution of NCRI and the creation of a new organization to conduct and manage the Geographic Information Systems Project – the National Consortium for Rural Geospatial Innovations (RGIS).

We hope you find this information useful, and we stand ready to provide more as needed.

EXECUTIVE SUMMARY

We have reviewed the Draft Audit Report as provided to us by CSREES. We recognize that this is an informal opportunity to clarify issues of fact in the Draft Audit Report before it is published, and we appreciate that opportunity. We are continuing in our own process of gathering facts pertinent to this matter. We present information to the best of our current knowledge, but acknowledge that we have not had an opportunity to review all documents that may exist pertinent to this matter.

We have provided discussion and comments (recommendations) on each of the findings. Overall, we were surprised and dismayed by the extensiveness of the allegations. However, we are equally dismayed by the suggestion that the USDA Office of Inspector General (OIG) may seek to hold former NCRI board members personally accountable for the problems identified in the Draft Audit Report, in lieu of the []].

In respect to Finding No. 1, we believe we have provided the level of management control and oversight that is consistent with general expectations for volunteer non-profit boards, and responded quickly and decisively to improprieties when we became knowledgeable of their occurrence. In respect to Finding No. 2, we conducted ourselves responsibly when asked by CSREES to pursue access to the GIS database, including requesting a copy for the agency, and will continue these efforts if requested to by CSREES. In respect to Finding No. 3, we never authorized the use of NCRI funds for lobbying, nor can we determine if NCRI grant funds were actually used for lobbying. In respect to Finding No. 4, it appears that any unallowable/unapproved expenses were made [] in direct contravention of clear board policies and expectations, and many of these expenses pertain to National Center for Resource Innovations - Chesapeake site (NCRI-C), a separate and distinct corporation. In respect to Finding No. 5, we have determined that salary records were collected but their whereabouts are unknown. Therefore most or all of the unsupported expenses are legitimate. In respect to Finding No. 6, we have concluded that all sites except NCRI-C acted properly in regard to returning unused grant funds and interest; any irregularities that may have occurred happened because of intentional act [] [] that were systematically concealed from the board and NCRI's accounting firm. And, in respect to Finding No. 7, if any grant supported equipment was not disposed of properly, this would have been done without the approval of the NCRI Board, in direct violation of NCRI by-laws, by NCRI-C []].

Finally, despite the apparent [] and NCRI-C, it is our strong conviction that the NCRI sites (with the possible exception of NCRI-C) did in fact successfully complete all project activities as proposed and funded by CSREES. Further, each site documented their significant accomplishments in annual reports to the agency, and fully complied with any and all requests for information or actions from CSREES.

OVERRIDING ISSUES AND CONCERNS

Before addressing the specific allegations contained in the Draft Audit Report, two concepts reflected throughout the report merit discussion. First and foremost, the references to NCRI's "successor organization" are not accurate. NCRI is a defunct organization; it ceased to exist in April, 1999. There is no successor organization to NCRI, and it is certainly not RGIS.

After the demise of NCRI in April of 1999, a new entity was proposed to take over the funding formerly allocated to NCRI. The USDA initiated a review of the fiscal controls of the new entity, eventually named RGIS. Only after this thorough review did the USDA permit funding to flow to RGIS. In a February 25, 2002 meeting with the OIG, USDA representatives agreed that RGIS and NCRI are separate, different, and distinct organizations. The USDA certainly never suggested to the University of Wisconsin-Madison (UW-Madison), which serves as the host for RGIS and is the legal recipient of the RGIS funding, that it would be considered the "successor" to NCRI. The UW-Madison firmly rejects any such suggestion at this point.

Organizationally and operationally, RGIS differs from NCR] in important respects: 1) financial administration is performed at a major land grant institution, UW-Madison, rather than a small non-profit corporation, 2) [] OIG [] National Office and NCRI-C [] RGIS, 3) the membership of RGIS is significantly different than that of NCRI; RGIS eliminated the Washington-based Chesapeake site, and now includes Pennsylvania State University and Wilkes Universities in this region (after a competitive search), 4) the composition of the RGIS board is very different from the former NCRI board, 5) USDA appointed a new project manager at CSREES to oversee and monitor the program, and 6) the products produced by RGIS are dramatically different than those produced by NCRI.

We respectfully request that the Draft Audit Report delete all references to an NCRI "successor organization," as there is no such entity.

Secondly, the former board of NCRI was notified by the USDA OIG in a letter dated April 11, 2002, that the USDA Office of General Counsel had concluded that "the Government has no ownership rights in the software and source code sold [] and therefore, has no rights in the proceeds from the sale of the software and source code." Please revise the Draft Audit Report to reflect the Government's lack of a financial interest in the software and source code.

FINDINGS

Introduction, Background, Page 1, Paragraph 1

The Draft Audit Report does not accurately summarize the general purpose of NCRI, and how NCRI grant funds were utilized. For example, on page 13, the report says "...\$7.4 million in CSREES funds that was granted for the promotion of GIS technology and *the development of the GIS database*" (emphasis added). This perception that Congress primarily provided funding to "develop a GIS database and disseminate GIS technology to local communities" (see page I and 13) does not reflect the breadth and depth of NCRI's past accomplishments.

Similarly, the statement in the Draft Report that "...because a GIS database operates on local data, each of NCRI's sub-recipients received a portion of the grant money to carry out the [database development] mission of NCRI" (see page 1) does not reflect, in total, how the resources were utilized. Upon inspection of each site's objectives over the past ten years, a different picture emerges.

Except for NCRI-C, the remaining sites have not been focused on database and equipment sales. Sites developed data sets when the sets were needed to address one of their programmatic objectives. Once operational, the databases were made public. For example, NCRI-Northwest helped an irrigation district develop an irrigation network data set. It now resides within the district. NCRI-South Georgia developed ownership parcel and land-use data sets to help their local communities manage their urban infrastructure. The data are now public. NCRI-Great Lakes helped automate the SCS (now NRCS) soils database in Dane County. It is now publicly available and resides with the Dane Conservation Department. Thus, in contrast to simply disseminating GIS technology in and of itself, NCRI's focus was to assist rural local entities become users and wise consumers of GIS data technology and its tools.

The former NCRI board feels that it is important that the Draft Audit Report reflect the reality that the NCRI mission was not simply to develop the GIS database, because this insinuates that the absence of such a database means NCRI sites did not fulfill the purpose of their funding. Over the years, Congress funded NCRI to help a variety of local rural communities, and those entities that serve them, become GIS literate and incorporate geospatial tools into their day-to-day land-planning and management decisionmaking needs, and not simply to develop a data base in the abstract. We request that the report be modified to note that NCRI was funded in order "to provide collaborative and innovative transfer of geographic information system technology to support local government and other public-policy development and decision-making" (NCRI by-laws, Section 1.02 Corporate Purposes: Mission).

Introduction, Background, Page 2, Paragraph 2

We suggest the report reflect the corporate and fiscal separation between NCRI and NCRI-C was at the recommendation of NCRI's auditor and CSREES officials, and that NCRI followed the wishes and advice of CSREES officials in this regard. In 1992, CSREES prepared a report for Congress that encouraged the NCRI board to keep administrative functions with the NCRI office rather than transferring these functions to another entity, such as a land-grant institution.

Introduction, Background, Page 2, paragraph 3

The Draft Audit Report does not reflect NCRI's significant actions to notify USDA/CSREES of potential problems [] and NCRI-C, which occurred immediately after learning of [] NCRI-C []-well before the former NCRI board became aware of the existence of the "hotline complaint." Omission of this information helps create an inaccurate impression that the former NCRI board did not aggressively act to address problems when brought to the board's attention. We respectfully request the Draft Audit Report be revised to reflect the following facts (these are also documented in the attached appendix, which provides a chronology of events in 1999).

The NCRI [] first learned of apparent irregularities on March 22, 1999 directly from an NCRI staff member (a month before learning of the "whistle-blower" complaint and months before the USDA's July request to OIG for an audit of NCRI). Upon learning of problems such as delaying or diverting grant payments to some sites, the former NCRI board immediately responded. Within one week, board members flew to Washington, D.C. and met with NCRI staff and the NCR] CPA beginning on the afternoon of Sunday, March 28, 1999. Two NCRI board members, [] [] met with an NCRI [] an NCRI-C employee, and [] NCRI to discuss various alleged irregularities.

On Monday morning, March 29, 1999, [] and the two NCRI board members met with [] [] and discussed the various irregularities. It was their conclusion that [] [] had evaded the directions of the board on fiscal matters and concealed [] activities from NCRI personnel. When knowledge was gained of [] actions, the NCRI board promptly reported to the CSREES potential irregularities as part of its obligation to report such matters. Further, the board took

immediate action [] from any further responsibilities following the guidelines it had established in the NCRI by-laws, and disassociated NCRI-C from NCRI.

Upon confirming the existence of irregularities, the two NCRI board members met with [] [] CSREES [] and informed [] of the irregularities the afternoon of Monday, March 29, 1999. Upon learning about the improprieties, CSREES, in consultation with the NCRI board of directors, required the dissolution of NCRI and transfer of existing contracts to a new organization, the present RGIS, in order to continue program funding. This effort was done to the satisfaction of CSREES.

In sum, the former NCRI board respectfully requests that the Introduction/Background include the facts regarding the former NCRI board's forceful and immediate actions in response to allegations of impropriety involving [] NCRI [] and NCRI-C, which occurred in advance of learning of the "hotline complaint." Inclusion of these facts is important, because it highlights the active and involved nature of the former NCRI board of directors, and demonstrates their central role in bringing the allegations contained in this report to the attention of CSREES and USDA.

Introduction, Background, Page 3

The lengthy discussion of [] NCRI/NCRI-C's uncooperative and obstructionist behavior leads the former board of NCRI to question why the former board is being targeted by this audit, and not [] is directly responsible for the many problems identified in the Draft Audit Report, [] has apparently managed to repeatedly dupe not only the NCRI board of directors but CSREES and USDA as well. The former board of NCR] also understands that USDA has the authority to directly audit a sub-grantee such as NCRI-C, and to hold the sub-grantee directly responsible to the USDA for expenditure and accounting of grant funds. The former NCR] board suggests that a more appropriate target for this audit would be NCRI-C. Many of the problems identified in the Draft Audit Report are specific to NCRI-C, which is a distinct legal entity with its own board of directors. The former NCRI board of directors respectfully requests that allegations specific to NCRI-C be stricken from the Draft Audit Report, and that these issues be raised directly with NCRI-C if necessary.

CHAPTER 1

The Draft Audit Report asserts that the alleged misdeeds of NCRI-C and the NCRI [] the result of lax oversight by the NCRI board of directors. However, the Draft Audit Report does not detail NCRI's significant management controls that were in effect during the time of the alleged misdeeds. Reflection on the nature of NCRI's management controls further supports the contention of the former NCRI board of directors that NCRI, CSREES and USDA are common victims of [] [] and that misdeeds [] can occur, as they did here, even in situations of reasonable board oversight. The former NCRI board respectfully requests that the Draft Audit Report be revised to reflect the following NCRI management controls.

Activities of NCRI sites and the National Office were monitored through submission of annual work proposals and subsequent annual reports reporting on the work performed. These documents were individually prepared by each site and collated in the National Office for review by the board of directors at an annual meeting held (typically) in November of each year. The board review of proposals considered the scope of work to be performed by site and the budget allocated to conduct the work. Personnel and equipment expenses were identified within these proposals and subject to final approval of the Board. Upon completion of all site proposals, a combined proposal was submitted to CSREES for review and award approval. Where suggestions were made by CSREES project monitors in their review, these suggestions were incorporated into the proposal in both a scope of work and budgetary manner. In a similar manner of board management, the annual-reports of the prior year's work included a summary of

accomplishments commensurate with the specified scope of proposed work and budget. These reports were submitted to CSREES for approval. All proposals and annual reports were accepted and approved by CSREES.

An annual budget and report were prepared by the National Office and subject to review and approval by the board of directors prior to submission to CSREES. The National Office costs and scope of work were included in every awarded proposal in a similar manner to site proposals and annual reports. [] [] NCRI activities with CSREES [] [] the board of directors. [] the NCRI by-Laws (Article VI, Section 6.01) that stipulated [] [] affairs in accordance with these by-laws and those policies, procedures and guidelines as adopted by the board of directors." These same by-laws set distinct limitation on activities (Article I, Sec. 1.03) as "consistent with its educational status, (a) NCRI shall not participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office; (b) no part of NCRI's net funds shall inure to the benefit of officers, directors, or other private persons, except that it is authorized and empowered to pay reasonable compensation for services rendered and otherwise to make payments and distributions in furtherance of its educational purposes; and (c) NCRI shall take only actions permitted an organization exempt from taxation under §501(c)(3) of the Internal Revenue Code ("the Code") and pertinent Income Tax Regulations, as amended as they may be amended."

The NCRI board used available means to review the performance of sites and the activities of [] [] , including annual proposals and reports, an annual audit, and oversight provided by CSREES program officers. Given the geographically extensive nature of the organization, and the volunteer board made up of members from around the country, it was not practical to provide day-to-day supervision of all activities of [] . Instead, the board relied on ordinary professional expectations of performance - providing overall directions, guidance, and limitations that the board expected to be followed. As noted earlier, even the most rigid board controls cannot completely eliminate the potential for instances [] institutional policies and legal requirements.

The former NCRI board respectfully requests the Draft Audit Report note the significant management controls highlighted above, and to indicate clearly that [] appears to have deliberately and surreptitiously avoided the management controls that were in effect.

Please allow us to comment on the specific findings set forth in Chapter 1.

(a) Conflict of Interest (Draft Audit Report page 5)

The NCRI board of directors established in its by-laws a procedure for conducting business including the management of the fiscal affairs of NCRI. These by-laws served as the basis for oversight of NCRI matters. When problems and potential problems in areas of fiscal management were suspected early in the history of the organization, efforts were completed in 1992 and again in 1994 to expand the management role of the board of directors to provide closer oversight of fiscal matters and to amend the by-laws accordingly. These included controls on funds dispersal such as a requirement for two signatures on checks for over \$5,000 and review of audit reports at annual meetings. The potential for a conflict of interest with the co-location of a NCRI site and the National Office was also raised at this time. A 1993 CSREES review and report to Congress of the activities of the National Office and NCRI-C did not find issue with the co-location of the National Office and NCRI-C and did not infer any conflict of interest.

We respectfully request that the Draft Audit Report reflect the fact that the corporate and fiscal separation between NCRI and NCRI-C was at the recommendation of an auditor's report and recommended by

CSREES officials, and that the former NCRI board followed the wishes and advice of CSREES officials in this regard.²⁵

(b) Uncontrolled Access to Funds (Draft Audit Report page 6)

The Draft Audit Report erroneously states that the former NCRI board "allowed [] NCRI [] uninhibited access to its checking accounts." As noted above, the board instituted a two-signature requirement with respect to checks for over \$5,000. However, it appears that [] deliberately circumvented this management control, for example by writing multiple checks for under \$5,000 to the same entity. Moreover, NCRI was provided electronic fund-transfer authority by USDA, but this fact was apparently only communicated by USDA to [] and not the NCRI Board. Thus, for some period of time [] was able to access USDA funds without the knowledge of the NCRI Board. That [] would not disclose an important detail such as electronic fund-transfer authority to the NCRI Board is yet another indication of the lengths to which [] [] went to conceal [] improper activities and circumvent the NCRI Board's management controls. We suggest that this lack of communication be noted in the report, as it underscores the extent to which [] concealed relevant facts from the board and its auditor.²⁶

(c) Review of CPA's work (Draft Audit Report page 7)

From 1991 to 1998 annual audits were performed and reported to the board by Kronzek & Company, a certified public accounting firm retained by the NCRI Board of Directors. Action by the board was taken whenever the audit indicated potential problems with fiscal matters (e.g., accepting the accountant's 1993 recommendation to require two signatures for funds greater than \$5,000). The responsibility given the accountants by the board was to identify potential inconsistencies in reporting of grant funds and to certify that funds expended per the board's direction were being followed as intended. Where inconsistencies were found, these were reported to CSREES and steps were taken to mitigate problems and potential problems. The auditor did not notify the board of any inconsistencies with [], or allegations of the type raised in the Draft Audit Report during this period.

The former NCRI board believes it was justified in relying on the accounting firm to accurately identify any financial or management problems that arose during the audits. It is not reasonable to expect the former NCRI board to second-guess the conclusions of audit reports issued by a reputable and competent accounting firm, particularly when actions were taken to deceive both the former NCRI board and the accounting firm. The former NCRI board members respectfully suggest that the Draft Audit Report asserts an expectation of oversight and responsibility on the former NCRI board which is greatly in excess of the normal, reasonable expectations for non-profit board members who serve as volunteers without compensation. Non-profit boards retain accounting firms precisely because boards do not have the individual expertise about compliance with funding requirements and restrictions that the accounting firms are expected to review during the annual audit process.²⁷

(d) Equipment purchases (Draft Audit Report, page 7)

Its accountant that a complete inventory of equipment exists, and is seeking to obtain this inventory has informed the former NCRI board. This is discussed in more detail in our response to Chapter 6 (page 10 of this document).

Once again, the Draft Audit Report faults the former NCRI board for the shortcomings [] []. The former NCRI board respectfully suggests that its behavior was absolutely consistent with the general expectations placed on non-profit board members, and that even the best-run non-profits boards are not immune to []. The former NCRI board again suggests that [] and/or NCRI-C would be a more appropriate subject of this [] and audit.²⁸

6

²⁵ OIG comment – OIG found no evidence that the split of NCRI and NCRI-C occurred at the suggestion of CSREES. Further, the NCRI board of directors, not CSREES, prepared the 1992 Report to Congress through CSREES may have presented it to Congress.

²⁶ OIG Comment – OIG believes that the NCRI board's lack of awareness of electronic funds transfer ability would have been revealed had the board exercised its authority by reviewing the NCRI bank statements at any time after October 1, 1996. Those statements would have shown the funds deposited from the Government electronically; the electronic transfers between the NCRI account and the NCRI-C account; and, the abuse of the board's \$5,000 rule. Furthermore, evidence suggests that the auditor informed the NCRI board of internal control deficiencies in May 1995, specifically those indicating wire transfers between NCRI and NCRI-C accounts. That letter also suggested that the Secretary-Treasurer review general ledger and journal information, including journal entries. Its states, "Internal control can be strengthened by involvement of officers or board members in the review of transactions and financial information."

²⁷ OIG comment – Contrary to the board's statement, NCRI did not receive the 1996 nor the 1997 audit reports in a timely manner and did not followup to determine why they were delayed. As of December 6, 2000, neither the FY 1997 nor the FY 1998 audit report had been released due to the failure of NCRI to pay the audit fees to the auditor.

²⁸ OIG comment – OIG notes that the responsibilities of board members of a nonprofit corporation are consistent with those of a for profit corporation, to manage the affairs of a corporation. In 1993, the NCRI board decided it did not need independent members – members not associated with sites receiving grant funds – because it did not want their oversight of site budgets. Consequently, the NCRI board took upon itself the duties required of independent board members – audit committees, oversight of site management, etc. We believe the report findings are properly directed toward those responsible for them – the NCRI board. Section 10.01 of NCRI bylaws states that NCRI officers (President and Secretary-Treasurer) are authorized and directed to take all steps necessary to assure that NCRI operates and transacts its affairs in full compliance with all applicable provisions of law. NCRI bylaws Article V indicate NCRI officers to be the President, Secretary and Treasurer – not the Executive Director. NCRI's board eliminated the position of Executive Director in March 1993.

Recommendation No. 1

The former NCRI board respectfully requests that this recommendation be withdrawn. NCRI has been disbanded, and there is no successor organization from which funds can be withheld. The spirit of this recommendation has already been implemented. A consortium of educational and public agencies known as RGIS receives some of its funding from USDA-CSREES, based on the Congressional budget line item entitled "Geographic Information Systems Program." This is the same line item that provided funding to NCRI. However, RGIS is administered at a land-grant institution (the University of Wisconsin-Madison) that clearly has the administrative capability and accounting safeguards to ensure that USDA funds are spent in compliance with all existing requirements and in fulfillment of annual proposals submitted to CSREES.

CHAPTER 2

The former NCRI board observes that Chapter 2 of the Draft Audit Report received by former NCRI board members in late February does not reflect the current position of the USDA OIG. Please note that the USDA OIG notified CSREES by letter dated April 11, 2002 that "the Government has no ownership rights in the software and source code sold [], and therefore, has no rights in the proceeds from the sale of the software and source code." The former NCRI board was also notified of this change in position by copy of the memorandum. Please also note that the letter indicated that Recommendation No. 2 should be changed to suggest that CSREES should "Work with OGC to obtain a copy of the database NCRI-C developed with grant funds." The former NCRI board pledges its continued full cooperation with CSREES and OGC to accomplish this recommendation.

CHAPTER 3

With respect to the allegations that NCRI grant funds were used to lobby Congress in violation of federal law, the former NCRI board of directors respectfully notes the following.

First of all, if any such lobbying occurred, it is important to recognize that NCRI management controls designed to prevent lobbying were ignored and circumvented in secrecy []. This may include [], though we have no evidence that this included expending federal funds for lobbying.

Secondly, the former NCRI board cannot find any documentation or evidence to support the finding that \$35,358 in grant funds was used to mount lobbying campaigns. We have personally reviewed a large number of invoices from Gray Well Group, Inc. and they all appear to refer to education/outreach professional and consulting services. For example, in March of 1999, Gray Well Group, Inc. helped to set up a technical education session about the activities of NCRI sites for members of Congress with the oversight and participation of CSREES.

Two checks in 1995 were sent to the Gray Well Group, Inc. from the South Georgia Regional Development Center for legislative services. [] South Georgia Regional Development Center and a NCRI board member at the time, recalls the checks were to help offset the cost of outreach for legislative services in Washington, D.C. These funds did not have federal origins. Also, according to [], the NCRI board never authorized any payments from the grant for lobbying purposes on behalf of NCRI.

In a CSREES review of NCRI dated September 13, 1999, CSREES reported the following findings. "On May 20 and 21, 1999 the CSREES conducted an on-site review of the National Center for Resource

Innovations Financial and Administrative Controls to access the validity of an Office of Inspector General hotline complaint." The results of that review regarding lobbying stated on page three, "The task force could not determine from the invoices whether the payments were for outreach or lobbying activities performed by Gray Well Group, Inc. as the descriptions on the invoices were not specific." As noted above, former NCRI board members familiar with the activities did not find evidence that funds were used for lobbying purposes.

On page 11 of the OIG report, the assertion "Neither [], nor the NCRI [], informed the board of directors that the lobbying efforts were being funded by grants," needs to be clarified. If evidence emerges that federal funds were indeed used illegally to conduct lobbying activities, then perhaps it was the case that [] should have known about such expenditures. However, the board is unaware of any evidence to suggest that [] actually *did* know about such activities such that [] have reported them to the board. This again underscores the fact that, if any such lobbying occurred, it was conducted at the specific request [] and, like virtually all of the other improper activities alleged in the Draft Audit Report, was conducted in secrecy and in violation of existing management controls. We are pleased to see this point reflected on page 11 of the Draft Audit Report, where it is acknowledged that, "Although such expenditures (lobbying) would normally be a result of board policy rather than normal operations, the NCRI [] approved such expenditures without the knowledge of the Board of Directors."

With respect to Recommendation 3, and in light of the foregoing, the former NCRI board of directors respectfully suggests that, if any grant funds were spent on lobbying, [] NCRI [] be held responsible for the reimbursement of these funds. Accordingly, the former NCRI board concurs with Recommendation No. 4.

CHAPTER 4

As an introductory item, please note that the former NCRI board does not feel that the description of the purpose of NCRI funding is accurate. Please note the description of NCRI site activities set forth in Part 2 - Findings, on page 3 of this response.

Further, the former NCRI board respectfully suggests that the reason for the improper expenditures alleged in the Draft Audit Report was not an inadequate level of control exercised by the former NCRI Board, but the deliberate actions of the NCRI/NCRI-C [] that would have occurred under the watchful eye of the most tightly-run board. There simply is no adequate defense for a non-profit organization against [] is determined to circumvent organizational policies and legal requirements.

Finding No. 4 - Unallowable funds

The former NCRI board has not had the opportunity to review the actual records that document the alleged unallowable expenses, but it emphasizes that these allegedly unallowable or unapproved expenditures were not disclosed in the financial audits conducted by the NCRI auditor, nor were they disclosed to the board [] or any other party. If funds were committed for the alleged unallowable/unapproved items, they were done without the knowledge or permission of the former NCRI board.

One exception is with respect to the bad-debt[] issue. In that regard, please note that after NCRI discovered [], the issue was discussed with USDA and CSREES [] [] and they concurred with the actions of the board in trying to recoup these funds. Through the actions of NCRI, a substantial portion of [] funds was recovered;

CSREES officials were satisfied with this effort at the time, and did not suggest or request that further efforts were necessary to recover the remaining funds. The OIG report lists [] (\$2213) of the funds that need to be returned to USDA, but CSREES had previously absolved NCRI of responsibility for recovering these funds.

With respect to Recommendation No. 5., as discussed previously, the former NCRI Board feels that the unallowable expenditures at issue either resulted from the NCRI [] deliberate circumvention of NCRI Board policies and legal requirements, and/or were incurred by or for the benefit of NCRI-C (such as payment of NCRI-C debts). Accordingly, the former NCRI Board respectfully suggests that Recommendation No. 5 be changed to "Recover from [] and NCRI-C any expenses that were not allowed to be paid with CSREES grant funds."

With respect to Recommendation No. 6, several things need to be pointed out:

- the former NCRI Board expected [] to comply with CSREES requirements for approval of expenditures;
- certain of the expenses, such as foreign travel, appear to have been incurred for the personal benefit of [];
- the NCRI National Office did not have sources of funding other than CSREES funds. Since NCRI was incorporated with the awareness and approval of CSREES, it would appear that organizational expenses were tacitly approved, if not explicitly.

Similarly, with respect to the capital equipment, there is no suggestion that the equipment purchased was not reasonably necessary to perform the functions for which NCR] was given grant funding, and there is no suggestion that approval would not have been given had [] followed the clear expectations of the NCRI Board and complied with the requirements for seeking approval for the purchase of capital equipment. The former NCRI Board questions whether it was reasonable to seek recovery for monies relating to expenditures which, though prior approval may not have been obtained, were nonetheless made for legitimate purposes in furtherance of the purposes for which NCR] received funding.

Accordingly, the former NCRI Board respectfully suggests that Recommendation No. 6 be changed to: "Recover from [] the amount of any expenditures pertaining to NCRI that were made or authorized by [] and that would not have been approved by CSREES had approval been sought, and recover from NCRI-C any expenses pertaining to NCRI-C for which prior approval was not obtained."

Finding No. 5 - Unsupported Expenditures

The former board of NCRI notes that the vast majority of the allegedly unsupported expenditures (\$841,762) pertains to NCRI-C. The former NCRI board respectfully requests that it not be held accountable for the mismanagement of a separate and distinct legal entity, and that this finding be amended to reflect only the allegedly unsupported expenditures attributable to the NCRI National Office. In addition, we note that the OIG reports that a considerable amount of the non-payroll unsubstantiated expenditures appear to have been made by, and/or for the personal benefit of, [], such as credit card charges for local or non-site lodging and restaurants, health [], internet purchases, business cards, and a mobile phone.

Further, it is the understanding of the former NCRI board that that various types of contemporaneous time-sheet records or similar memos to document labor costs were provided by NCRI and NCRI-C employees and maintained at NCRI and NCRI-C. What happened to these records remains a mystery and their whereabouts are unknown. We do know that records from NCRI administration and NCRI-C were requested by the former NCRI board initially on April 26, 1999 and were not received in Madison, WI

RGIS headquarters) until mid-November 1999 (see records recovered sub-section of chronology in appendix). During this period, we believe the records were in the offices [] []. It should also be noted that one or more boxes of records were apparently never shipped by the [], and one was lost by the shipping company. Despite repeated attempts from the University of Wisconsin-Madison, the lost box has never been recovered. We do not know what was contained in this box, [] never supplied the former NCR] board with an inventory of the NCR] or NCR] records that were shipped (or not shipped, as the case may be).

We have been in contact with [], GIS [] through the entire 1995 grant and beyond. [], is willing to attest that time records by project were kept on a regular basis. In fact, [] still retains in [] possession all of [] time, in electronic form, from date of employment to the day [] resigned.

In sum, the former NCR] board believes that contemporaneous time sheets or similar reports were faithfully maintained by NCR], at least with respect to NCR] employees other than []. To the extent these records have disappeared, it is because they have either been mislaid or destroyed by NCR]-C, [], [], or were contained in the box of NCR] records lost by the shipping company. We suggest that the Draft Audit Report be modified to reflect the fact the former NCR] board has made a good faith effort to retrieve all records pertaining to NCR] and to make these available for CSREES and OIG inspection.

With respect to Recommendation No. 7, the former NCR] Board respectfully suggests that this Recommendation be changed to: "Recover any amounts pertaining to unsubstantiated expenditures by NCR]-C directly from NCR]-C, and recover amounts pertaining to any unsubstantiated expenditures by the NCR] National Office directly from []."

CHAPTER 5

With respect to Finding No. 6, apparently there was at least one instance when unencumbered funds were returned to NCR] administration by a regional site (Central Washington University) with the implicit understanding that the funds would be forwarded to CSREES. There were also several instances when requests for no-cost extensions were submitted to CSREES by this regional site and approved. In returning unencumbered funds, the sub-recipient involved (Central Washington University) had no indication that the NCR] [] did not follow proper procedures.

Likewise, interest returned to NCR] administration by both University of North Dakota and the South Georgia Regional Development Center was returned by the sub-recipients in good faith with the understanding these funds would be returned to CSREES.

It is the contention of the former NCR] Board of Directors that [] intentionally refrained from returning the funds to CSREES, and apparently used the money to advance [] [] apparently withheld from NCR]'s accountant the information regarding the funds returned from NCR] sites, as NCR]'s annual financial audits did not disclose any evidence of the interest that was returned. The financial audits would have been the primary method expected to inform the NCR] board of any improprieties. All sub-recipients followed the correct procedures in returning unencumbered funds and/or interest as required by terms of the grant.

The former NCR] board had no indication or notification that proper procedures were not being followed to return unused grant funds to CSREES. However, after March of 1999 when the existence of such funds

was identified, the former NCRI board consulted with CSREES as to their proper disposal and followed the CSREES procedures.

With respect to Recommendation No. 8, the former NCRI board respectfully suggests that this recommendation be changed to recommend the collection of the \$4,026 be obtained from either [] [] or NCRI-C.

CHAPTER 6

As a preliminary matter, the former NCR] board has been informed by [] that an inventory of equipment was maintained. The former NCR] board has not yet had an opportunity to review this list. However, we would note from general knowledge of the kinds of equipment used for similar activities that it is likely that none of the equipment had an individual fair market value greater than \$5,000 at the time of sale. The former NCRI board will certainly provide the OIG with a copy of the inventory list once its existence is confirmed.

Further, computer equipment purchased by NCRI-Chesapeake was purchased under the approval of CSREES to perform the functions of the grant activities. A report was made annually to CSREES as part of regular reporting of equipment acquired. A board resolution adopted and signed September 8, 1995 described the transfer process for site ownership of equipment, should approval be received by CSREES and subject to dissolution of NCRI. [], aware of this board resolution, failed to request board approval to dispose of any and all equipment acquired under the CSREES agreements per the board's approved procedure. At no time did the board give sanction to this action as it violated the resolution of the board.

With respect to Recommendation No. 9, the former NCRI board respectfully requests that NCRI not be held responsible for the disposition of property by NCRI-C, a distinct legal entity. Further, since as noted above, the disposition of the property was in contravention of clear NCRI policies and the money from such disposition was apparently retained by NCRI-C [], the former NCRI board respectfully requests that Recommendation No. 9 be modified to recommend that the fair market value of any improperly-disposed NCRI property be collected from [] NCRI-C, if necessary.

APPENDIX - CHRONOLOGY OF EVENTS

DATE:	EVENT:	Location or means of COMMUNICATION:
June 11, 1998	Geographic Information System Program approved in the Agricultural, Rural Development, Food & Drug Administration and related agencies Appropriations Bill, 1999	Washington, D.C.
Nov. 9, 1998	Election of NCRI Officers: Ben Niemann, President of Board of Directors and member Executive Committee Hal Davis, Secretary Treasurer and member Executive Committee [], member Executive Committee	Valdosta, GA
Dec. 8, 1998	Budget approved for the NCRI National Office and each site.	Via conference call.
Jan. 7, 1999	Geographic Information System Technology Transfer Program (GISTTP) Proposal submitted to, and approved by, the CSREES.	Washington, D.C.
March 2, 1999	NCRI sponsored GIS in Indian Country Distance Education Satellite Video Conference (broadcast from Southwestern Indian Polytechnic Institute (SIPI) Distance Learning Center).	Albuquerque, NM
March 22, 1999	NCRI sponsored technical demonstration for Congress members and staff.	Washington, D.C.
March 22, 1999	[], NCRI [], informs [] [] about alleged budget shortfalls in payments to NCRI sites (Ben Niemann was absent []).	Washington, D.C.
March 23, 1999	[] Ben Niemann about alleged irregularities.	Via telephone call.
March 23, 1999	Ben Niemann calls [], to determine if the allegations deserve attention.	Via telephone call.
March 23, 1999	Based upon discussions with [], Ben Niemann [] determine that the allegations deserve immediate attention.	Via telephone call.
March 24, 1999	Ben Niemann and [] to verify [] site had not been paid. Sites verify that short falls have occurred.	Via conference call.
March 27, 1999	Ben Niemann [] travel to Rosslyn, VA.	Rosslyn, VA Holiday Inn

March 28, 1999	Ben Niemann and [] hold six-hour meeting [], [] to review allegations, review draft audit, discuss options and next steps.	Rosslyn, VA Holiday Inn
March 29, 1999	Ben Niemann, [] [] to review and verify the allegations. They inform [] that they intend to meet with USDA officials to report the problems.	Rosslyn, VA NCRJ National Headquarters
March 29, 1999	Ben Niemann, [] [] CSREES/NCRI USDA [] [], to inform [] about a) the allegations, and b) the steps the NCRJ board wishes to employ to correct the administrative management problem. These are to: 1) change the status of the Principle Investigator (PI) [] [] to Ben Niemann; and 2) move the administrative and financial management home to the College of Agricultural & Life Sciences (CALS) at the University of Wisconsin-Madison (UW Madison), (see letter, dated March 31, 1999). The UW-Madison agrees to support these proposed changes.	Washington, D.C.
March 29, 1999	Ben Niemann [] held a conference call with board members while in Washington, D.C. to inform them of current status.	Washington, D.C.
March 31, 1999 or April 1	NCRI Board of Directors discuss options. Board acts unanimously to recommend to the USDA a change in the PI and administrative home as mentioned above (see letter, dated April 14, 1999). [] [] [], from the University of Arkansas, [] []. Relations with NCRI-C are severed.	Via conference call. (A quorum is present, all sites are represented).
April 22, 1999	[], of USDA, informs Ben Niemann that a "whistle blower complaint" has been filed asserting various allegations concerning NCRI's administrative management funds. [] also informs Ben Niemann that FYI 999 funds will be frozen until an investigation is conducted and completed by [] office. The investigation will be conducted by [] staff sometime during the middle of May.	Via telephone call.
April 23, 1999	Ben Niemann [] a letter informing [] that NCRI intends to fully cooperate in the investigation (see letter, dated April 23, 1999).	Letter
May 6, 1999	[] informs Ben Niemann they (USDA) plan on commencing the investigation May 19, 1999. [] requests that [] Ben Niemann, President, [] [], be present starting on May 20, 1999).	Via telephone call.

July, 1999	OIG audit requested.	Letter
Feb. 21, 2002	OIG draft report provided to former NCR] board members.	Letter
Feb. 25, 2002	Meeting at CSREES headquarters with former NCRI board members, OIG staff, CSREES staff	Washington, D.C.

Chronology of efforts to recover NCRI records

April 26, 1999	Ben Niemann sends [] a letter requesting [] full cooperation in providing access to NCRI's financial records (see letter, dated April 26, 1999).	Letter via certified mail.
Sept. 26, 1999	Ben Niemann again instructs [] [] to provide access to NCR] records	Letter, fax, and email, cc'ed to CSREES
Oct. 4, 1999	Letter sent [] sent letter indicating existence of subpoena for records.	Certified mail
Oct. 7 -	Extensive correspondence between University of Wisconsin	email
Nov. 4, 1999	staff [] about how to ship boxes of records.	
Nov. 11, 1999	Boxes begin arriving in Madison.	
Nov. 16, 1999	Final box (last of 16) arrives in Madison.	

Note: [] was informed by [] that 18 NCRI-related boxes of records were packed at NCRI headquarters in Rosslyn for shipment to [] office. Months later, University of Wisconsin-Madison LICGF ultimately received 12 boxes of records and 4 boxes of office equipment, shipped from the []. One box was lost by the shipping company and never recovered; one box apparently may never have been shipped. We are not sure what happened to the contents of all the boxes and are not confident that we have received all records pertaining to NCRI administration.

Informational copies of this report have been distributed to:

Cooperative State Research	(5)
General Accounting Office	(2)
Office of the Chief Financial Officer	
Director, Planning and Accountability Division	(2)