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INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR



Audit



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U.S. DEPARTMENT OF THE INTERIOR

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Memorandum

To: Scott Cameron
Principal Deputy Assistant Secretary – Water and Science
Exercising the Delegated Authority of the Commissioner
Bureau of Reclamation

From: Nicki Miller *Nicki Miller*
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Audit Report – *The Bureau of Reclamation Needs To Improve Transparency for Inflation Reduction Act-Funded Water Conservation Efforts in the Upper Colorado River Basin*
Report No. 2024-WR-007

This memorandum transmits our audit report on the Bureau of Reclamation's Inflation Reduction Act-funded water conservation efforts in the Upper Colorado River Basin administered through the Upper Colorado River Commission.¹

We will track open recommendations for resolution and implementation. We will notify Congress of our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions about this report, please contact me at aie_reports@doioig.gov.

¹ The issuance of this report was delayed because of the lapse in the U.S. Department of the Interior's appropriation that occurred from October 1, 2025, through November 12, 2025.

Audit

The Bureau of Reclamation Needs To Improve Transparency for Inflation Reduction Act-Funded Water Conservation Efforts in the Upper Colorado River Basin

Objective

To determine whether the Bureau of Reclamation (BOR) and the Upper Colorado River Commission (UCRC) awarded and administered drought mitigation funds consistent with the authorizing language in the Inflation Reduction Act (IRA) and applicable laws and regulations.

Recommendations

We make three recommendations that, if implemented, will help BOR to require UCRC to improve transparency, ensure compliance with Federal regulations, and reduce its risk of awarding IRA funds to entities that might otherwise be disqualified from doing business with the Federal Government. Two recommendations are resolved, and one is unresolved.

Risk Areas

Contract & Financial Assistance Oversight



Environmental Impact

Findings

BOR awarded a grant to UCRC to implement drought mitigation measures in accordance with the IRA. We found that UCRC classified its agreements with Upper Division States' (Colorado, Utah, Wyoming, and New Mexico) water-entitlement holders as contracts based on a collective understanding with BOR and the Upper Division States. We determined, however, that UCRC's agreements created relationships more akin to subawards than contracts. Had UCRC designated the agreements as subawards, it would have been obligated to comply with the requirements applicable to pass-through entities under 2 C.F.R. § 200.332. These requirements include establishing and maintaining internal controls to prevent fraud, waste, and abuse; conducting a risk assessment prior to issuing the subaward; ongoing monitoring of the subrecipient throughout the period of performance; ensuring adherence to all relevant Federal statutes, regulations, and award conditions; addressing noncompliance issues as needed; and verifying that subrecipients are not suspended or debarred. Because UCRC classified the agreements as contracts, it did not perform risk assessments or report those agreements on USASpending.gov, which is required for subawards. Furthermore, UCRC did not evaluate each agreement on a case-by-case basis as required by 2 C.F.R. § 200.331.

We also found that UCRC did not verify whether contractors were on the Federal exclusions list prior to awarding IRA funds. A UCRC official told us that it ran out of time to determine whether the contractors were on the exclusions list.

While we questioned the process UCRC used to award IRA funds, UCRC successfully raised awareness and interest in water conservation efforts, saving about 37,810 acre-feet in 2023 and 63,631 acre-feet in 2024.

Impact

UCRC's decision to classify the agreements as contracts meant that UCRC did not conduct risk assessments. Moreover, the classification decision meant that UCRC was not required to—and did not—report financial information to USASpending.gov. These actions decrease oversight of these funds and limit the public availability of information. Additionally, by not reviewing the Federal exclusions list, UCRC could have awarded funds to entities that are prohibited from doing business with the Federal Government, which would have resulted in risks to Federal programs such as potential misuse or loss of Federal funds.

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Introduction

Objective

Our objective was to determine whether the Bureau of Reclamation (BOR) and the Upper Colorado River Commission (UCRC) awarded and administered drought mitigation funds consistent with the authorizing language in the Inflation Reduction Act (IRA)² and applicable laws and regulations. We audited BOR's and UCRC's actions to protect the Upper Colorado River Basin (UCRB) using an estimated \$500 million of IRA funds allocated for the UCRB.

See Appendix 1 for our audit scope and methodology, and Appendix 2 for a list of abbreviations used in this report.

Background

BOR and UCRB

BOR manages, develops, and protects water and related resources for the American public in the Reclamation States.³ As the Nation's largest wholesale water supplier, BOR delivers about 10 trillion gallons of water to millions of people each year and operates 296 reservoirs with a total storage capacity of 140 million acre-feet.⁴ BOR also provides irrigation for 140,000 farmers who operate 10 million acres of farmland.

The UCRB includes portions of Arizona, Colorado, New Mexico, Utah, and Wyoming. This basin includes areas where waters naturally drain into the Colorado River System north of Lees Ferry, Arizona, and Lake Powell, located in Utah and Arizona (see Figure 1). In the UCRB, the States are in charge of water rights and work on interstate Colorado River matters with UCRC, an interstate water administration agency created by the Upper Colorado River Basin Compact of 1948.⁵ The UCRC consists of one State commissioner from each Upper Division State and one presidentially appointed Federal chair.

² Inflation Reduction Act of 2022, Pub. L. 117-169, § 50233, 136 Stat. 1818 (2022).

³ The Reclamation Act of 1902 (Pub. L. 57-161) funded irrigation projects in 17 States, known as the Reclamation States: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

⁴ An acre-foot of water is the amount of water it takes to cover an acre of land one foot deep and equals 325,851 gallons.

⁵ The major purposes of this compact are to provide equitable division and apportionment of the Colorado River System waters, the use of which was apportioned in perpetuity to the upper basin by the Colorado River Compact; to establish the obligations of each Upper Division State with respect to the deliveries of water required to be made at Lees Ferry by the Colorado River Compact; to promote interstate comity; to remove causes of present and future controversies; to secure the expeditious agricultural and industrial development of the Upper Basin; to store water; and to protect life and property from floods.

Figure 1: Upper Colorado River Basin

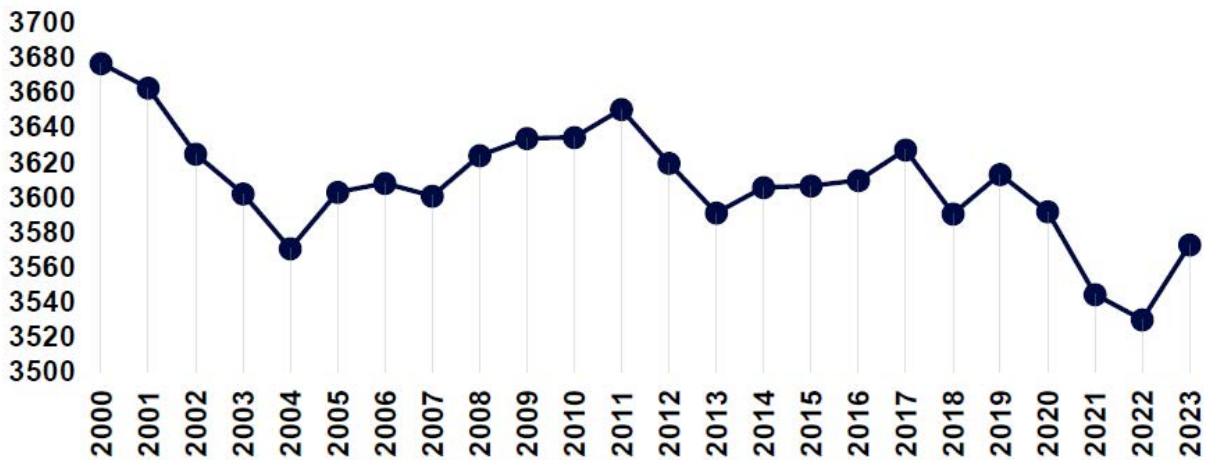


Source: U.S. Geological Survey.

Drought Risks

Low natural flows because of drought created the driest 23-year period, from fiscal year (FY) 2000 to FY 2022, on record for the Colorado River. BOR data shows that Lake Powell’s water elevation level was about 3,530 feet in 2022, 147 feet lower than in 2000, which was the lake’s highest point in the past 24 years (see Figure 2). While water levels rebounded in 2023 due to above average snowmelt, long-term drought remains a concern. According to BOR data, as of August 2025, Lake Powell’s water elevation was 3,553 feet, or 31 percent full.

Figure 2: Lake Powell Water Elevation Levels 2000-2023



Source: OIG chart using BOR data.

Maintaining sufficient water levels in Lake Powell is especially important for the Glen Canyon Dam in Arizona, a hydroelectric dam that requires Lake Powell's water elevation level to remain above 3,490 feet to ensure power generation can occur (see Figure 3). The dam's eight generators produce hydroelectric power that meets the electrical demands of the West's growing population. The Glen Canyon Powerplant has a capacity of 1,320 megawatts and generates about 5-billion kilowatt-hours annually,⁶ which are distributed to Wyoming, Utah, Colorado, New Mexico, Arizona, Nevada, and Nebraska by the Western Area Power Administration. Additionally, revenue from hydropower production supports vital environmental programs for the Glen and Grand Canyons.

Figure 3: Glen Canyon Dam



Source: OIG.

BOR's Use of IRA Funds for Drought Mitigation Projects

The IRA authorized \$4 billion through FY 2026 for BOR to mitigate drought in the Reclamation States, prioritizing the Colorado River Basin and other basins experiencing comparable levels of long-term drought.⁷ BOR allocated about \$500 million to the UCRB and plans to use up to \$125 million, with \$45.6 million already expended as of June 2025, for short-term projects, which are temporary and voluntary water conservation projects. It plans to use most of the \$375 million for long-term projects that focus on system conservation and efficiency and can reduce use and demand for water supplies, as well as projects that would spur advances in conservation through innovative techniques.

Pilot System Conservation Program 2015-2018

BOR implemented the Pilot System Conservation Program from 2015 through 2018 with funding from BOR and water districts and water authorities in Arizona, California, Colorado, and Nevada. It was designed to explore solutions and address declining water levels in Lake Mead and Lake Powell due to long-term drought

⁶ According to the U.S. Energy Information Administration, a single home used 10,791 kilowatt hours per year on average in 2022. The Glen Canyon Powerplant powers about 463,349 homes a year.

⁷ Drought mitigation efforts include compensation for voluntary reduction of water consumption, system conservation projects that reduce water consumption or provide environmental benefits to the lower or upper basins of the Colorado River, and ecosystem and habitat restoration projects. The temporary and voluntary reductions could include, but are not limited to, municipal and industrial conservation efforts and the fallowing of agricultural lands that create conserved water to benefit the Colorado River System.

in the UCRB. The program tested and implemented on-the-ground water conservation opportunities that were helpful in managing drought conditions in the Colorado River Basin. The program included agricultural fallowing—a drought mitigation measure where land is plowed, tilled, and left unplanted. Eligible participants included UCRB water-entitlement holders.⁸ BOR provided funding to UCRC to administer the pilot program. As such, UCRC entered into agreements with project participants. The program closed in 2018 when funding ended. The pilot program conserved an estimated 22,116 acre-feet of water at a cost of \$4,555,747.

IRA Funding

The President signed the IRA, Pub. L. No. 117-169, into law on August 16, 2022. Section 50233 authorized \$4 billion in appropriations through FY 2026 for BOR to mitigate drought in the Reclamation States. Specifically, the IRA provided these funds to BOR to issue grants, contracts, or financial assistance agreements to mitigate drought, mainly in the Colorado River Basin. Drought mitigation efforts include compensation for voluntary reduction of water consumption, system conservation projects that reduce water consumption or provide environmental benefits to the Lower and Upper Basins of the Colorado River or other basins, and ecosystem and habitat restoration projects.

Of the \$4 billion appropriated by the IRA, BOR allocated an estimated \$500 million for drought mitigation in the UCRB. BOR further divided this allocation into two components: short-term projects and long-term projects. BOR planned to invest up to \$125 million for short-term projects that would generate temporary and voluntary water conservation projects. BOR intends to use most of the \$375 million for long-term projects, such as system conservation and efficiency projects that achieve verifiable, multiyear reductions in the use of or demand for water supplies, as well as projects that would spur advances in conservation through innovative techniques. The funds for both short and long-term projects, and all funds appropriated by Section 50233 of the IRA, must be obligated by the end of FY 2026.

2023 Pilot System Conservation Program

The Pilot System Conservation Program was reauthorized by Congress in December 2022. In May 2023, BOR awarded a \$19.1 million grant to UCRC for the program. UCRC then funded agreements with Upper Basin water-entitlement holders. According to the grant agreement between BOR and UCRC, for each agreement that UCRC awards, it is responsible for:

- Developing and issuing a request for proposals and associated application forms each year the program is implemented.
- Soliciting project proposals to participate in the program. UCRC solicited proposals using seminars, webinars, and a conference, as well as other outreach measures to nongovernmental organizations.
- Determining the amount of money paid per acre-foot to project participants. Originally, these payments were a fixed price per acre-foot of water saved or another amount that was approved by BOR and UCRC.
- Reviewing and selecting proposals to include in the program based on multiple factors including, but not limited to, the ease of implementing an agreement, whether the project is likely to mitigate impacts of the ongoing drought, and the size of the project in terms of acre-feet conserved.
- Preparing agreements with each participant. UCRC must base these agreements on a template found in the grant between UCRC and BOR and note any changes to the template. Drafted agreements must be reviewed and approved by the Upper Division States and BOR prior to their enactment.

⁸ A water entitlement holder is an entity or individual that has a legal right to divert and use water from a specific source. These entitlements are granted through water contracts, a 2006 Supreme Court decision, or reservations of water for Federal purposes by the U.S. Department of the Interior. See [Boulder Canyon Operations Office | Lower Colorado Region | Bureau of Reclamation](#).

- Verifying whether water is being conserved in each project. Specifically, each program participant must have a verification plan included in its agreement with UCRC.
- Disbursing funds to project participants once they have completed their project according to the terms of the agreement and after water conservation has been properly verified.

On December 14, 2022, in anticipation of launching the 2023 program, the UCRC sent a pre-solicitation notice to UCRB water-entitlement holders requesting proposals for 2023 Pilot System Conservation Program projects. As stated in the pre-solicitation notice, a key consideration for selection in the 2023 program was the cost of the proposed project in terms of price per acre-foot for conservation reductions. Project applicants could either accept a fixed price of \$150 per acre-foot of water conserved or request and justify a different acre-foot price. For 2023, many applicants requested different prices, and prices for full-season fallowing and crop switching were substantially higher than \$150 per acre-foot. Specifically, these full-season fallow prices per acre-foot were \$462 in Colorado, \$260 in New Mexico, \$595 in Utah, and \$513 in Wyoming.

UCRC received 88 applications for the program and approved 64. Overall, about \$16 million was spent on the 64 projects, which were estimated to conserve about 37,800 acre-feet of water (see Figure 4). The projects varied greatly in size. For example, while one project in Colorado was estimated to conserve three acre-feet of water, another project in Utah was estimated to conserve almost 9,100 acre-feet of water.

Figure 4: Water Conservation Projects in the 2023 Pilot System Conservation Program

State	Number of Projects	Estimated Total Savings (acre-feet)	Payment Amounts
Colorado	22	2,517	\$991,929
New Mexico	1	4,633	\$1,205,182
Utah	20	15,091	\$5,343,575
Wyoming	20	11,338	\$5,749,558
Multiple states*	1	4,231	\$2,585,110
Total	64	37,810	\$15,875,355[†]

Source: BOR.

* Located in Wyoming and Colorado.

† Rounded number.

As stated in each agreement, water conservation verification would occur through monthly site visits or analyses of satellite imagery. UCRC has a contract with the Wilson Water Group to, in part, work with the Upper Division States to verify water conservation through onsite visits and remote analyses. Verification of water conserved varied by State. For example, State employees performed onsite visits in Utah and New Mexico, while the Wilson Water Group performed onsite visits in Colorado.⁹

2024 Pilot System Conservation Program

On October 27, 2023, UCRC held a kick-off webinar to provide information to interested UCRB water entitlement holders about the 2024 Pilot System Conservation Program and request project proposals. Unlike the 2023 program, the 2024 program required a minimum of 40 acre-feet of water conserved to be considered

⁹ Remote-sensing monitoring was completed by the Wilson Water Group using the Normalized Difference Vegetation Index via satellite imagery. This index is used to quantify vegetation greenness using a mathematical formula considering infrared and near-infrared values.

for funding. Wilson Water Group and UCRC officials noted this minimum acreage was important as a time- and cost-saving measure. Also, unlike the 2023 program, the 2024 program did not include an option for project applicants to negotiate a price per acre-foot; instead, all prices were fixed and dependent on the State where the project was located. UCRC officials stated that this pricing model was easier to administer.

UCRC received 124 applications for the 2024 Pilot System Conservation Program, approved 110, and received \$29.4 million in additional funds from BOR (see Figure 5).

Figure 5: Water Conservation Projects in the 2024 Pilot System Conservation Program

State	Number of Projects	Estimated Total Savings (acre-feet)	Total
Colorado	46	14,239	\$7,204,730
New Mexico	1	4,933	\$1,479,900
Utah	31	22,351	\$9,954,819
Wyoming	26	19,209	\$8,493,429
Multiple states	6	2,899	\$1,475,392
Total	110	63,631	\$28,608,270

Source: Wilson Water Group.

Results of Audit

The IRA authorizes BOR to use grants, contracts, and financial assistance agreements for drought mitigation in the UCRB. BOR awarded a grant to UCRC, which then funded agreements with Upper Basin water-entitlement holders. We found that UCRC classified its agreements¹⁰ with water-entitlement holders as contracts. We reviewed those agreements and concluded that they created relationships more akin to subawards than contracts. As a result of classifying them as contracts, these agreements were not subject to risk assessments, monitoring, or reporting to USASpending.gov, which protects against fraud, waste, and mismanagement of Federal funds. Further, UCRC did not make case-by-case determinations for each agreement, as required by 2 C.F.R. § 200.331.

We also found that UCRC did not verify whether contractors were on the Federal exclusions list prior to awarding IRA funds. If entities prohibited from doing business with the Federal Government received Federal funds, it could have resulted in risks to Federal programs, such as potential misuse or loss of funds.

While we questioned the process UCRC used to award IRA funds and the omission of exclusion list checks, we reviewed the solicitation, procurement, and verification process for 15 agreements and did not identify any additional reportable issues.

Classifying Awards as Contracts Resulted in Less Oversight and Transparency Compared to Subawards

Federal regulations¹¹ define subrecipients as entities that receive a subaward from a pass-through entity to carry out part of a Federal award. According to 2 C.F.R. § 200.331, a non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. The pass-through entity, UCRC in this case, is responsible for making case-by-case determinations on whether the entity receiving Federal funds is a subrecipient or a contractor. Each designation entails different requirements for award decisions, performance monitoring, and reporting.

Federal regulations¹² identify characteristics that guide when an entity should be designated a subrecipient or a contractor (see Figure 6). In determining whether a non-Federal entity is a subrecipient or a contractor, the substance of the relationship between the pass-through entity and non-Federal entity is more important than the form of the agreement.

¹⁰ Agreements between water-entitlement holders and the UCRC contain terms and conditions for the design, implementation, monitoring, evaluation, and compensation to the contractor proposing the plan, setting forth the obligations of the parties. The agreement allows the contractor to grant access to UCRC to perform periodic onsite inspections of its system conservation plan. Participants must follow applicable Federal, State, and local environmental laws and regulations throughout the term of the agreement.

¹¹ 2 C.F.R. § 200.1.

¹² 2 C.F.R. § 200.331(a).

Figure 6: Selected Characteristics of Subawards and Contracts*

<p>Subaward Purpose:</p> <p>Carries out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient.</p>	<p>Contract Purpose:</p> <p>Obtains goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor.</p>
<p>A subrecipient:</p> <ul style="list-style-type: none"> • Determines who is eligible to receive what Federal assistance. • Has its performance measured in relation to whether objectives of a Federal program were met. • Has responsibility for programmatic decision making. • Is responsible for adherence to applicable Federal program requirements specified in the Federal award. • In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity. 	<p>A contractor:</p> <ul style="list-style-type: none"> • Provides goods and services within normal business operations. • Provides similar goods and services to many different purchasers. • Normally operates in a competitive environment. • Provides goods and services that are ancillary to the operation of the Federal program. • Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Source: OIG chart using information from 2 C.F.R. § 200.331 (a) 1-5 and (b) 1-5.

* Characteristics may include, but are not limited to, the lists provided.

UCRC classified its agreements with water-entitlement holders as contracts and did not make case-by-case determinations for each agreement, as required by 2 C.F.R. § 200.331. In July 2024, UCRC provided us with a justification for its classification of the agreements as contracts, stating, “The collective understanding between [BOR], the UCRC, and the Upper Division States in negotiating and developing the funding agreement¹³ was that the funding agreement would be a grant agreement and the [agreements awarded by UCRC] would be procurement contracts.” The justification further stated that the water-entitlement holders receiving funding from UCRC satisfied “more of the ‘contractor’ elements” under 2 C.F.R. § 200.331. UCRC stated that the water-entitlement holders are contractors and provide the “good or service” in question (water conservation) and operate in a competitive environment where they are subject to competing demands for their water.

We reviewed 15 of 64 contracts awarded in FY 2023 and found that the agreements created relationships more akin to subawards than contracts because the agreements had characteristics similar to subawards, such as:

- The water-entitlement holders’ performance is measured by whether the objectives of a Federal program, to conserve water in the UCRB, were met.

¹³ BOR’s Grant No. R23AP00302 that was awarded to UCRC.

- The water-entitlement holders are responsible for adhering to applicable Federal program requirements specified in the Federal award. The grant agreement between BOR and UCRC states that one reason UCRC shall review proposals submitted by water-entitlement holders is to determine whether the water-entitlement holders' proposal adheres to the requirements of the grant.
- The water-entitlement holders carry out a public purpose specified in the IRA,¹⁴ which is to mitigate the impacts of drought through “temporary or multiyear voluntary reduction in diversion of water or consumptive water use.”¹⁵
- The water-entitlement holders do not provide services specifically for UCRC, as would be expected for a contract. Rather, the services provided by water-entitlement holders are for the public purpose of the Federal program. The agreement between BOR and UCRC states that water conserved pursuant to the grant and a conservation agreement “shall accrue only to the benefit of the Upper Basin of the Colorado River System.”
- The water-entitlement holders do not offer the services provided under the contracts, such as fallowing fields, as part of their normal business operations or to many different purchasers. Water-entitlement holders produce crops, not fallow fields.
- While water-entitlement holders may operate in a competitive environment in their normal course of business, the services provided under the contracts, namely fallowing fields, are not offered in a competitive environment.
- The water-entitlement holders are subject to compliance requirements of the Federal program. The contracts state that BOR “is an intended third-party beneficiary . . . and may enforce the terms of this [agreement] against the Contractor in the same manner as the UCRC.”

Reduced Oversight

Despite the prevalence of the characteristics typical of subawards, UCRC designated entitlement holders as contractors based on what it termed a “collective understanding” with BOR and the Upper Division States, rather than a case-by-case assessment, as required by 2 C.F.R. § 200.331. Because UCRC did not classify the agreements as subawards, it was not required to adhere to the pass-through entity requirements in 2 C.F.R. § 200.332, including performing risk assessments and developing monitoring plans.

When entities receive Federal funds to help achieve the objectives of a Federal program and are responsible for complying with Federal program requirements, as is the case of the Upper Basin water-entitlement holders, these oversight measures are critical to ensure compliance with Federal requirements and achievement of objectives. For example, risk assessments can identify compliance risks and identify whether the subrecipient can use funds appropriately. The results of the risk assessment can inform award terms and conditions and monitoring plans to mitigate risks. If risk is assessed as high, the monitoring plan may include multiple site visits and additional reporting requirements to help ensure successful project outcomes. Alternatively, classifying the award as a contract does not require risk assessments or monitoring plans, resulting in less oversight and responsibility for the pass-through entity and less assurance that the goals and objectives of the Federal funding will be achieved. This distinction demonstrates why it is important to carefully consider the characteristics of subawards and contracts when making case-by-case determinations.

¹⁴ IRA, Pub. L. No. 117-169, 136 Stat. 2053 § 50233 (2022).

¹⁵ *Id.* Consumptive use is that part of the water withdrawn that is evaporated, is transpired, is incorporated into products or crops, is consumed by humans or livestock, or is otherwise removed from the immediate water environment. <https://www.usgs.gov/mission-areas/water-resources/science/water-use-terminology>

Reduced Transparency

The Federal Funding Accountability and Transparency Act requires information on Federal awards to be publicly available via a single, searchable website, which is USASpending.gov.¹⁶ In most cases, grant recipients are required to report any subaward action of \$30,000 or more in Federal funds made to a non-Federal entity or Federal agency.¹⁷ Likewise, the Federal Acquisition Regulation requires reporting subcontracts awarded under Federal contracts.¹⁸ However, according to Office of Management and Budget guidance to Federal agencies on subaward reporting requirements,¹⁹ contracts awarded under Federal grants are not subject to Federal Funding Accountability and Transparency Act reporting requirements. While the Office of Management and Budget has stated that it may issue future guidance that could expand reporting obligations to include additional subaward data, such as procurement contracts under grants, it is not a current requirement.

UCRC's characterization of the agreements as contracts resulted in a lack of public transparency because the award information was not required to be posted to USASpending.gov. Transparency plays a crucial role in promoting accountability of drought mitigation spending, reducing fraud by increasing detection of potential red flags, empowering citizens by providing drought mitigation information publicly, and improving efficiency by allowing Government agencies such as BOR to analyze spending data and streamline processes. Public reporting of financial data promotes openness and trust between the Government and the public.

Recommendations

We recommend that BOR:

1. Direct the Upper Colorado River Commission to develop and implement controls to ensure it considers Federal guidance in 2 C.F.R. § 200.331 when it classifies agreements and documents justifications for its classifications.
2. To the extent the Upper Colorado River Commission classifies agreements as subawards, direct the Upper Colorado River Commission to develop a mechanism to ensure adherence to applicable Federal subaward requirements, including guidance for performing risk assessments, determining monitoring plans, and reporting subawards to USASpending.gov, as required by the Federal Funding Accountability and Transparency Act.

UCRC Did Not Conduct Exclusion List Checks

The grant between BOR and UCRC states that UCRC must comply with 2 C.F.R Part 1400, "Nonprocurement Debarment and Suspension," and 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)." One subpart of the latter regulation²⁰ states that when

¹⁶ Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, § 2(3), 120 Stat. 1186, 1187 (2006).

¹⁷ In most cases, recipients of a Federal subaward greater than or equal to \$30,000 are subject to the Federal Funding Accountability and Transparency Act's subaward reporting requirements. When the recipient awards any subaward of \$30,000 or more, the recipient must file a Federal Funding Accountability and Transparency Act subaward report by the end of the following month. 2 C.F.R. Part 170, Appendix A(1)(a)(2)(ii).

¹⁸ Federal Acquisition Regulation 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards.

¹⁹ Office of Management and Budget Memorandum for Senior Accountable Officials, *Open Government Directive – Federal Spending Transparency and Subaward and Compensation Data Reporting*, issued August 27, 2010.

²⁰ 2 C.F.R § 180.300.

entering into a covered transaction²¹ with another person²² at the next lower tier,²³ one must verify that the person with whom one intends to do business is not excluded or disqualified by doing one of the following:

- Checking the System for Award Management exclusions list on SAM.gov.²⁴
- Collecting a certification from that person.
- Adding a clause or condition to the covered transaction with that person.

UCRC neglected to conduct exclusion list checks, collect certifications, or include conditions in agreements with water-entitlement holders that received Federal funds. A UCRC official told us that, due to a “haste to push” agreements out on time, exclusion list checks were not conducted. Upon reviewing UCRC’s policies and procedures, including the *UCRC Procurement Standards for the Purpose of Administering Grant Agreements*, we did not identify specific procedures addressing exclusion list checks. In addition, we did not identify any supporting documentation during our testing to demonstrate this step was accomplished during the award process.

Performing exclusion list checks would protect the Government’s interests. Because it did not conduct these checks, UCRC risked entering into agreements with entities that are excluded from doing business with the Federal Government, increasing business risks and the likelihood of misuse or loss of Federal funds.

Recommendation

We recommend that BOR:

3. Direct the Upper Colorado River Commission to develop and implement policies and procedures in compliance with 2 C.F.R Part 1400 and 2 C.F.R. Part 180 to document review of the System for Award Management exclusions list before issuing agreements that use Federal funds.

²¹ According to 2 C.F.R. § 180.200, “A covered transaction is a nonprocurement or procurement transaction that may be a transaction at (a) the primary tier, between a Federal agency and a person []; or (b) a lower tier, between a participant in a covered transaction and another person.”

²² According to 2 C.F.R. § 180.985, “Person means any individual, corporation, partnership, association, unit of government, or legal entity, regardless of how organized.”

²³ A next lower tier contractor is one level below another contractor in a project’s contracting hierarchy.

²⁴ A System for Award Management registration is required for any entity to bid on and get paid for Federal contracts or to receive Federal funds. These entities include for-profit businesses, nonprofits, Government contractors, Government subcontractors, State governments, and local municipalities. The Department of the Interior provides instructions on how to search for exclusions at <https://www.doi.gov/pam/suspension-debarment/search-exclusions>.

Conclusion and Recommendations

Conclusion

BOR awarded \$49.1 million in grant funding to UCRC to implement drought mitigation measures in accordance with the IRA. We found that UCRC determined that its agreements with water-entitlement holders were contracts. Even though it was required to make case-by-case determinations, UCRC justified this broad classification in July 2024 by stating that the agreements were intended as procurement contracts based on a collective understanding with BOR and the Upper Division States. After reviewing 15 out of 64 contracts awarded in FY 2023, we determined that the agreements created relationships more akin to subawards than contracts and that using subawards would better protect Government and public interests.

As a result of classifying the agreements as contracts, we found that oversight and transparency were reduced compared to classifying the agreements as subawards. For example, subaward requirements for risk assessments were not conducted and financial data related to these contracts were not reported to USASpending.gov.

Further, we found that UCRC was not able to provide evidence that it reviewed the Federal exclusions list during the agreement approval process as required by law. By not performing exclusion list checks on water-entitlement holders, UCRC might issue IRA funds to entities that are excluded from doing business with the Federal Government because of previous misconduct or a history of poor performance or noncompliance. This could pose a business risk to the Federal Government and result in the misuse or loss of Federal funds.

We make three recommendations to help BOR ensure proper classification of subawards and oversight of recipients receiving IRA funding.

Recommendations Summary

We provided a draft of this report to BOR and UCRC for review. BOR and UCRC concurred with two recommendations and did not concur with one recommendation. We consider Recommendations 1 and 2 resolved and Recommendation 3 unresolved. Below we summarize BOR's and UCRC's responses to our recommendations, as well as our comments on their responses. See Appendix 3 for the full text of BOR's response and Appendix 4 for the full text of UCRC's response.

We recommend that BOR:

1. Direct the Upper Colorado River Commission to develop and implement controls to ensure it considers Federal guidance in 2 C.F.R. § 200.331 when it classifies agreements and documents justifications for its classifications.

BOR Response: BOR concurred with the recommendation and stated that it is “working with Upper Colorado River Commission to ensure consideration of the Federal guidance in 2 C.F.R § 200.331 when determining classification of agreements. Additionally, Reclamation will ensure processes are in place to document the determination and justification of the classification of agreements.”

BOR provided a June 30, 2026 target implementation date.

UCRC Response: UCRC stated that it concurred with the recommendation and that it is “working with BOR to develop the recommended controls, mechanisms, and policies, which will apply to all activities the UCRC undertakes with Infrastructure Reduction Act funds, including any future [System Conservation Pilot Program] efforts that may be authorized.”

While UCRC concurred with our recommendation, it stated that it does not concur with our finding that the agreements it awarded to water-entitlement holders qualify as subawards rather than contracts. Specifically, UCRC identified several factors that led it to classify the agreements as contracts. First, UCRC described the agreements as water leases that satisfy the elements of contracts, as described in 2 C.F.R. § 200.331. According to UCRC, many water rights holders regularly lease their rights to various purchasers for alternative uses and implement conservation measures outside the System Conservation Pilot Programs as a part of normal business operations. Further, UCRC stated that agricultural producers typically fallow fields as part of their normal business operations when they lease water rights. According to UCRC, this permits the lessee to use the leased water without exceeding the underlying water right.

Second, UCRC stated that, contrary to the statement in our report, the services provided under the contracts, namely fallowing fields, are offered in a competitive environment. In support of this position, UCRC pointed out that the System Conservation Pilot Program is not the only conservation program in the Upper Basin that requires fallowing and cited examples.

Third, UCRC disagreed with our report's statement that water-entitlement holders do not provide services specifically for UCRC, noting that accruing water for the benefit of the Upper Basin helps UCRC fulfill its obligations under the 1948 Upper Colorado River Compact.

Finally, UCRC contrasted the characteristics of the agreements with the elements of subrecipients as described in Federal guidance, stating that the agreements did not share characteristics typical of a subaward. Specifically, UCRC stated agricultural producers who leased water rights to the UCRC under the System Conservation Pilot Program had no authority over program decisions or implementation. Their involvement was limited to the verification plans, which the UCRC approved in consultation with BOR. They were not responsible for selecting projects, determining federal assistance recipients, managing or reimbursing program funds, or any other programmatic actions. These responsibilities were assigned to the UCRC under the funding agreement.

Status: Resolved. We will track implementation under Recommendation No. 2024-WR-007-01.²⁵

OIG Comment: The recommendation will be implemented when BOR provides documentation demonstrating that UCRC has developed controls, mechanisms, and policies to comply with 2 C.F.R. § 200.331 when it classifies agreements, including documenting the determinations and justifications for those classifications.

We reviewed and considered UCRC's comments on our finding regarding the classification of the agreements. We rely on the analysis set forth in the report itself, which is not repeated here, as it is explained in detail why these agreements created relationships more akin to subawards than contracts. None of the various arguments set forth by BOR and UCRC address the key point that the water-entitlement holders carried out the public purpose of drought mitigation as specified in the IRA and in the BOR grant to UCRC, rather than provided a service to UCRC. That being said, we acknowledge that BOR concurred with this recommendation and that both BOR and UCRC expressed an intent to coordinate and to establish processes to ensure compliance with 2 C.F.R. § 200.331.

2. To the extent the Upper Colorado River Commission classifies agreements as subawards, direct the Upper Colorado River Commission to develop a mechanism to ensure adherence to applicable Federal subaward requirements, including guidance for performing risk assessments, determining monitoring plans, and reporting subawards to USASpending.gov, as required by the Federal Funding Accountability and Transparency Act.

BOR Response: BOR concurred with the recommendation and stated that “[f]or agreements classified as subawards,” BOR is working with UCRC to develop and implement controls to ensure adherence to

²⁵ The numbering convention we use to track recommendations is the report number followed by sequential recommendation digits.

applicable Federal subaward requirements, including guidance for performing risk assessments, determining monitoring plans, and reporting subawards to USASpending.gov as required by the Federal Funding Accountability and Transparency Act.

BOR provided a June 30, 2026 target implementation date.

UCRC Response: UCRC stated that it concurred with the recommendation and that it is “working with BOR to develop the recommended controls, mechanisms, and policies, which will apply to all activities the UCRC undertakes with Infrastructure Reduction Act funds, including any future [System Conservation Pilot Program] efforts that may be authorized.”

Status: Resolved. We will track implementation under Recommendation No. 2024-WR-007-02.

OIG Comment: The recommendation will be implemented when BOR provides documentation demonstrating that UCRC has developed policies and procedures that ensure compliance with 2 C.F.R. § 200.331 and other applicable Federal subaward requirements, including guidance for performing risk assessments, determining monitoring plans, and reporting subawards to USASpending.gov as required by the Federal Funding Accountability and Transparency Act.

3. Direct the Upper Colorado River Commission to develop and implement policies and procedures in compliance with 2 C.F.R Part 1400 and 2 C.F.R. Part 180 to document review of the System for Award Management exclusions list before issuing agreements that use Federal funds.

BOR Response: BOR does not concur with the recommendation and stated that the contracts in question are not subject to the Federal Acquisition Regulation. BOR further stated that, even if they were, Federal Acquisition Regulation 9.402(b) specifies that suspension and debarment only be imposed in the public interest and for the Government’s protection and that denying water rights does not protect the Government’s interest. Additionally, it stated that inclusion on the suspended or debarred list does not affect a water user’s entitlement to water rights, which must still be granted.

BOR stated that disbarment or nonparticipation would defeat the purpose of the conservation program; however, it further stated, “in the spirit of addressing the goal of the recommendation, [BOR] will work with UCRC to develop and implement policies and procedures to ensure that award recipients are financially responsible and conduct their activities lawfully before issuing further agreements under a future [System Conservation Pilot Program] or similar program.”

BOR provided a June 30, 2026 target implementation date.

UCRC Response: UCRC does not concur with the recommendation because “disbarment may defeat the water conservation purpose of the Inflation Reduction Act as applied to future [System Conservation Pilot Program] programs.” UCRC stated that a debarred or suspended water-entitlement holder would still be able to use their water rights and prohibiting them from participating in the System Conservation Pilot Program would incentivize them to use their water rights. This would reduce the amount of conserved water, an outcome that would be contrary to the IRA’s purpose. UCRC added, however, that it would implement the recommendation if directed by BOR.

Status: Unresolved. We will follow up with BOR regarding resolution of Recommendation No. 2024-WR-007-03.

OIG Comment: We acknowledge that BOR’s proposal to “work with UCRC to develop and implement policies and procedures to ensure that award recipients are financially responsible and conduct their activities lawfully before issuing further agreements” could meet, at least in part, the objective of our recommendation. However, we do not agree with BOR’s and UCRC’s conclusion that the water-entitlement holders are not subject to exclusion list checks. The agreements qualify as covered transactions under 2 C.F.R. § 180.200 and 2 C.F.R. Part 1400. Additionally, BOR referenced the

Federal Acquisition Regulation in its response; however, it does not apply to these awards. If it did, the Federal Acquisition Regulation would still require checks to ensure entities receiving funds have not been suspended or debarred.

Additionally, Grant No. R23AP00302, issued to UCRC for the System Conservation Pilot Program, explicitly references 2 C.F.R. Part 1400, requiring compliance with Subpart C, and mandates including similar terms in all lower-tier covered transactions. The purpose of the nonprocurement debarment and suspension system, as stated in 2 C.F.R. § 180.125, is to protect public interest by ensuring that Federal programs engage only with responsible parties and to exclude those who are not presently responsible. Entities that have been excluded have been found to not be presently responsible, and allowing UCRC to do business with these entities raises programmatic and financial risks. We acknowledge BOR's and UCRC's fiduciary responsibilities to honor the legal rights of water-entitlement holders; however, we disagree with their analysis that even if an entity were suspended or debarred, UCRC would nonetheless be required to award it an IRA-funded agreement. To the contrary, participation in the System Conservation Pilot Program is voluntary, and BOR is not required to award IRA funds to any entity if it deems doing so could harm U.S. interests.

Concurrently with this audit, we also audited the Lower Colorado Basin region's IRA-funded drought mitigation agreements.²⁶ In that audit, we found that BOR did not perform exclusion list checks and recommended that BOR develop and implement policies to perform such checks. In its response to that audit, BOR stated that it concurred with the recommendation and its Lower Colorado Basin region had already implemented a process to review the exclusion list. Given BOR's acknowledgement of the benefits of checking the exclusion list in Report No. 2023-WR-035, we encourage it to take the same approach here, both for purposes of consistency and to help ensure that the same level of protections and oversight are applied in as many contexts as possible.

This recommendation will be resolved when BOR provides documentation stating that it will work with UCRC to ensure compliance with 2 C.F.R Part 1400 and 2 C.F.R. Part 180 before issuing agreements that use Federal funds. It will be implemented when BOR provides documentation demonstrating that UCRC has developed policies and procedures to ensure compliance with 2 C.F.R Part 1400 and 2 C.F.R. Part 180 and documents its review of the exclusion list checks.

²⁶ *The U.S. Bureau of Reclamation Should Improve Transparency in Inflation Reduction Act-Funded Drought Mitigation Agreements and Check to Ensure Funds Are Not Awarded to Excluded Parties*, Report No. 2023-WR-035.

Appendix 1: Scope and Methodology

Scope

We audited BOR's IRA-funded program and UCRC awarding of IRA funds in accordance with Federal regulations. The scope included BOR's IRA funded projects totaling about \$49 million and administrative requirements associated with UCRC from FYs 2022 through 2024.

Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Prior to starting the audit, we identified certain areas most likely to contain risk to the BOR's and UCRC's process of soliciting, approving, and administering IRA-funded agreements. These areas included how BOR and UCRC managed staffing and resources in response to the demands of implementing the IRA, solicited upper water division users to apply for system conservation funding, approved IRA-funded agreements, collected data for verification purposes, performed oversight activities, and reported its water conservation accomplishments.

We conducted interviews, analyzed documentation, and conducted site visits, as well as met with BOR officials; UCRC; the Wilson Water Group; and the Upper Colorado River Commissioners for Colorado, Utah, Wyoming, and New Mexico. We also traveled to Lewis, Delta, and Loma, Colorado; Green River, Utah; and Farmington, New Mexico, to assess the fallowed fields per the contract agreement to conserve water.

During our audit, we reviewed the solicitation, procurement, approval, and verification processes; use of funding vehicles; and calculated conserved consumptive use. We selected a judgmental sample of 15 out of 64 IRA-funded water conservation contracts for 2023 from a list provided by BOR based on location, payment amount, and conserved consumptive use. The locations include four in Colorado, one in New Mexico, three in Utah, six in Wyoming, and one located in both Colorado and Wyoming. We reviewed \$11,995,779 of the \$15,875,355 (76 percent) of the payments distributed and 26,987 of 37,810 acre-feet (72 percent) of conserved consumptive use. Figure 7 has a summary of the sample.

Figure 7: Audit Sample Used

State	Contract	Estimated Conserved Consumptive Use (acre-feet)	Total Payment
Colorado	CO_8	137	\$45,634
	CO_9	83	\$46,812
	CO_28	195	\$105,279
	CO_38	305	\$192,140
New Mexico	MN_1	4,633	\$1,205,182
Utah	UT_8	924	\$573,990
	UT_15	9,094	\$3,000,000

State	Contract	Estimated Conserved Consumptive Use (acre-feet)	Total Payment
	UT_7	238	\$154,440
Wyoming	WY_4	856	\$333,000
	WY_12	685	\$393,984
	WY_14	2,742	\$1,576,823
	WY_15	771	\$443,043
	WY_17	718	\$412,695
	WY_22	1,613	\$927,647
Colorado/Wyoming	CO/WY_1	4,231	\$2,585,110
Total	—	27,224	\$11,995,779

Source: OIG analysis of BOR information.

We assessed whether internal control was significant to the audit objective and determined that control activities and the following related principles were significant:

- Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.
- Management should design control activities to achieve objectives and respond to risks.
- Management should implement control activities through policies.

We tested the operation and reliability of internal controls over activities related to our audit objective. Our tests and procedures included:

- Gathering background information on the work and mission of BOR and UCRC as it relates to water conservation.
- Interviewing officials including the management and staff at BOR, UCRC, the Wilson Water Group, and State offices. We also interviewed State Water Commissioners and water-entitlement holders.
- Conducting site visits to the UCRC office; UCRC Water Commissioners' offices; and water-entitlement holders in Colorado, New Mexico, and Utah.
- Reviewing evidence that supports UCRC's solicitation, approval, oversight, and administration activities.

In addition, we reviewed:

- BOR's oversight of UCRC as outlined in Grant No. R23AP00302.
- Grant No. R23AP00302 administrative requirements, performance criteria, reporting, and oversight.
- UCRC's solicitation, approval, and administration of contracts to meet the intended programmatic goals and whether the funds to meet those goals were expended in accordance with Federal regulations.
- UCRC's collection and reporting on conserved consumptive use and the Normalized Difference Vegetation Index data through the Wilson Water Group.

- BOR, UCRC, Wilson Water Group, and States' monitoring and verification process, reports, and oversight for Pilot System Conservation Program projects.
- Final reports collected by the Wilson Water Group for all verification reports for each project.
- UCRC disbursements of final payment after the review and approval of the final verification and closure of projects.

We found deficiencies in internal controls resulting in our two findings that UCRC did not make case-by-case classifications that considered Federal regulatory guidelines and did not conduct exclusion list checks. We did not identify any reportable findings during our testing of other areas, as outlined in the sections below.

We relied on computer-generated data provided by BOR and UCRC staff for a list of 2023 Pilot System Conservation Program projects.²⁷ We confirmed the validity of such data, as appropriate, by reviewing supporting source documents. Based on our review and tracing, we determined that the data were sufficiently reliable, accurate, and applicable for the purposes of our audit.

Based on the results of our initial assessments, we assigned a risk level and selected a judgmental sample of transactions for testing. We used auditor judgment and considered risk levels relative to other audit work to determine the degree of testing performed in each area. We selected audit samples for testing on a judgmental basis rather than using statistical sampling; therefore, we did not project the results of our tests to the total population of transactions.

Solicitation Process

As part of our review of UCRC's solicitation process, we first looked at how UCRC and BOR reached out to potential applicants for IRA-funded opportunities—which they did mainly through early notices, seminars, webinars, and public announcements targeting Colorado River System users. Second, we reviewed the request for proposal and the application form on the UCRC website.

Approval Process

We sampled 15 IRA-funded agreements from 64 water-entitlement holders totaling \$15,875,355. While we questioned the process UCRC used to award IRA funds and the omission of exclusion list checks, our testing did not identify any other reportable issues related to UCRC's approval processes when evaluating water-entitlement holders' proposals to receive IRA funding. We also determined that UCRC maintained the appropriate segregation of duties within the approval process, including proper sign-offs in accordance with its directives and standards per its delegated authority.

While we questioned the process UCRC used to award IRA funds and the omission of exclusion list checks, we concluded that UCRC ensured the approved proposals met the other required criteria for its applicants, which included a history of the use of Colorado River water and the ability to verify and account for actual conservation.

Oversight–Verification Process

To issue payments per the terms of a particular agreement, UCRC needs to ensure that the water-entitlement holders are following the fields identified in the agreement to achieve the estimated conserved consumptive use. As part of the field verification process, UCRC worked with the Upper Division States and the Wilson Water Group to conduct site visits to ensure head gates are closed off and the fields were not being irrigated. Figure 8 illustrates a typical scene observed during a site visit.

²⁷ While we assessed the accuracy of the contracts, we did not assess the reliability of the information system as a whole.

Figure 8: Fallowed Field of Conservation Participant



Source: OIG.

In 2023, the Wilson Water Group used satellite imagery to monitor fields, conduct analyses, and calculate conserved consumptive use. At the beginning of the season, higher Normalized Difference Vegetation Index values indicate good soil moisture, which typically declines as the season progresses and fields dry out. The Upper Colorado Basin ordinarily does not get a lot of rain, so it is easy to see the vegetation decline. According to the Water Resource Engineer at the Wilson Water Group, the satellite passes every three days, ensuring the Wilson Water Group has up-to-date and reliable data. The Wilson Water Group can highlight Normalized Difference Vegetation Index from each pixel of a satellite image. In other words, it could see a well irrigated pivot.²⁸

We visited seven sites to interview the water-entitlement holders about the verification process and observe the fallowed fields. Figure 9 depicts a pivot system that is not irrigating the field.

²⁸ The Pivot Irrigation System consists of a center pivot and a single long pipe that rests on multiple wheels, allowing it to move easily in a circular motion. Water runs through the line and pushes through a series of attached sprinklers to water the ground.

Figure 9: Fallowed Field of Conservation Participant



Source: OIG.

Appendix 2: Abbreviations

Abbreviation	Definition
BOR	Bureau of Reclamation
FY	Fiscal Year
IRA	Inflation Reduction Act
UCRB	Upper Colorado River Basin
UCRC	Upper Colorado River Commission

Appendix 3: BOR Response to Draft Report

BOR's response to the draft report follows on page 23.



United States Department of the Interior

BUREAU OF RECLAMATION
Washington, DC 20240



IN REPLY REFER TO:

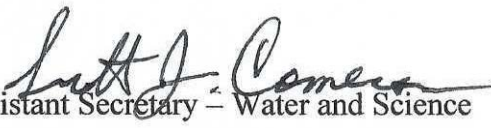
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4.4.13

VIA ELECTRONIC MAIL ONLY

Memorandum

To: Office of Inspector General
Office of Inspector General Audit, Inspection and Evaluation
Attn: Nicki Miller

From: Scott J. Cameron 
Principal Deputy Assistant Secretary – Water and Science
Exercising the delegated Authority of the Commissioner
Bureau of Reclamation

Subject: The Bureau of Reclamation's Response to the Office of Inspector General (OIG) Draft Audit Report – The U.S. Bureau of Reclamation Needs to Improve Transparency for Inflation Reduction Act-Funded Water Conservation Efforts in the Upper Colorado River Basin Report No. 2024-WR-007

The Bureau of Reclamation has reviewed draft report 2024-WR-007 and has provided responses to the recommendations below:

Recommendation 1: Direct the Upper Colorado River Commission to develop and implement controls to ensure it considers Federal guidance in 2 C.F.R. § 200.331 when it classifies agreements and documents justifications for its classifications.

Reclamation's Response: Concur. Reclamation is currently working with Upper Colorado River Commission to ensure consideration of Federal guidance in 2 C.F.R. § 200.331 in determining classification of agreements. Additionally, Reclamation will ensure processes are in place to document the determination and justification of the classification of agreements.

Target Implementation Date: June 30, 2026

Recommendation 2: To the extent the Upper Colorado River Commission classifies agreements as subawards, direct the Upper Colorado River Commission to develop a mechanism to ensure adherence to applicable Federal subaward requirements, including guidance for performing risk assessments, determining monitoring plans, and reporting subawards to USASpending.gov, as required by the Federal Funding Accountability and Transparency Act.

Reclamation's Response: Concur. For agreements that are classified as subawards, Reclamation is currently working with the Upper Colorado River Commission to develop and implement controls that ensure adherence to applicable Federal subaward requirements, including guidance for performing risk assessments, determining monitoring plans, and reporting subawards to USASpending.gov, as required by the Federal Funding Accountability and Transparency Act.

Target Implementation Date: June 30, 2026

Recommendation 3: Direct the Upper Colorado River Commission to develop and implement policies and procedures in compliance with 2 C.F.R § 1400 and 2 C.F.R. § 180 to document review of the System for Award Management exclusions list before issuing agreements that use Federal funds.

Reclamation's Response: Reclamation does not concur with this recommendation. As stated in Reclamation's response to the Notice of Potential Findings and Recommendation No. 3 (Attachment 1), it is the Federal Acquisition Regulation (FAR) that allows contractors to be placed on the Suspended/Debarred list. The effect is that no contracts will be awarded or renewed, nor may a suspended or debarred entity be used as a subcontractor. Water contracts are not subject to the FAR. Even if water contracts were subject to the FAR, it is stated in FAR 9.402 (b), the nature of suspension and debarment "requires that these sanctions be imposed only in the public interest for the Government's protection and not for purposes of punishment." When it comes to water delivery contracts based on a water right, it is difficult to see how denying those water rights would be protecting the Government's interest. Even if a water user were on the list, Reclamation would still have to grant them their water rights.

The purpose of the funds is to conserve water in the Colorado River system. Carrying the logic a little further, if an eligible entity, i.e. a farmer with cropland, is disbarred, they will simply choose not to participate in the program and, as they have a right to the water, they will use the water for crops. Thus, disbarment or non-participation will defeat the purpose of the Act. However, in the spirit of addressing the goal of the recommendation, Reclamation will work with the UCRC to develop and implement policies and procedures to ensure that award recipients are financially responsible and conduct their activities lawfully before issuing further agreements under a future SCPP or similar program.

Target Implementation Date: June 30, 2026

Responsible Official: Wayne G. Pullan
Regional Director, Upper Colorado Basin Region

For additional information, please contact Valerie Deppe at (801)524-3669, or via e-mail at vdeppe@usbr.gov. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Attachments

cc: Assistant Secretary – Water and Science
Attn: Andrea Travnicek, Ph.D.
(w/atts)

Appendix 4: UCRC Response to Draft Report

UCRC's response to the draft report follows on page 27.



UPPER COLORADO RIVER COMMISSION

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December 15, 2025

Nicki Miller

Assistant Inspector General for Audits, Inspections and Evaluations

Office of Inspector General

U.S. Department of the Interior

Re: UCRC Response to Draft Audit Report – *The U.S. Bureau of Reclamation Needs To Improve Transparency for Inflation Reduction Act-Funded Water Conservation Efforts in the Upper Colorado River Basin* (Report No. 2024-WR-007)

Dear Ms. Miller:

The Upper Colorado River Commission (“UCRC”) writes in response to Draft Audit Report No. 2024-WR-007 (the “Report”) that the Office of Inspector General (“OIG”) of the U.S. Department of the Interior issued on November 13, 2025, regarding the System Conservation Pilot Program (“SCPP”) the UCRC conducted in 2023 and 2024. The UCRC appreciates the opportunity to provide this response.

I. THE UCRC CONCURS WITH RECOMMENDATIONS #1 and #2 OF THE REPORT

The UCRC concurs with the Report’s first two recommendations as set forth in page 13; namely, that the U.S. Bureau of Reclamation (“BOR”) should:

1. “Direct the UCRC to develop and implement controls to ensure it considers Federal guidance in 2 C.F.R. § 200.331 when it classifies agreements and documents justifications for its classifications.”
2. “To the extent the UCRC classifies agreements and subawards, direct the Upper Colorado River Commission to develop a mechanism to ensure adherence to applicable Federal subaward requirements, including guidance for performing risk assessments, determining monitoring plans, and reporting subawards to USASpending.gov, as required by the Federal Funding Accountability and Transparency Act.”

The UCRC is working with BOR to develop the recommended controls, mechanisms, and policies, which will apply to all activities the UCRC undertakes with Inflation Reduction Act (“IRA”) funds, including any future SCPP efforts that may be authorized.

II. THE UCRC DOES NOT CONCUR WITH RECOMMENDATION #3 BECAUSE DISBARMENT MAY DEFEAT THE WATER CONSERVATION PURPOSE OF THE INFLATION REDUCTION ACT AS APPLIED TO FUTURE SCPP PROGRAMS

The UCRC does not concur with the Report’s third recommendation. That recommendation states that BOR should direct the UCRC “to develop and implement policies and procedures in compliance with 2 C.F.R § 1400 and 2 C.F.R. § 180 to document review of the System for Award Management exclusions list before issuing agreements that use Federal funds.”

The UCRC agrees with prior statements BOR has made during the course of this audit that water contracts are not, or should not be, subject to the Federal Acquisition Regulation (“FAR”), which allows for the placement of contractors on the System Award Management (“SAM”) exclusions list. Furthermore, as a practical matter, FAR 9.402(b) states that debarment and suspension should “be imposed only in the public interest for the Government’s protection and not for the purposes of punishment.” In the context of the SCPP, a debarred or suspended water right owner would still own their water rights and be able to use those water rights if excluded from participation in a future SCPP. It is unclear how excluding such water right owners from participating in a future SCPP would protect the federal government’s interest, particularly when prohibiting their participation would likely incentivize them to use their water rights, thereby reducing the amount of conserved water and the number of potential participants in a future SCPP. Such an outcome would be contrary to the purpose of Section 50233 of the Inflation Reduction Act, which appropriated \$4 billion to mitigate the impacts of drought in the Reclamation States, including “voluntary system conservation projects that achieve verifiable reductions in use of or demand for water supplies...in the...Upper Basin of the Colorado River.”¹

Of course, if directed to do so by BOR, the UCRC will develop and implement policies and procedures to document its review of the SAM exclusions list before issuing further agreements under a future SCPP or similar program.

III. THE UCRC DOES NOT CONCUR WITH THE REPORT’S FINDINGS THAT SCPP CONTRACTS QUALIFY AS SUBAWARDS RATHER THAN SUBCONTRACTS

The UCRC does not concur with the Report’s finding that the agreements the UCRC executed with water right owners in the Upper Colorado River Basin, known as “System Conservation Implementation Agreements” (“SCIAs”), under the SCPP qualify as subawards rather than subcontracts. The UCRC did not determine unilaterally that the SCIAs qualify as subcontracts. Instead, the UCRC and BOR made this determination jointly based upon their understanding of the nature of the SCPP, the SCIAs, and the applicable laws and regulations.

¹ 136 Stat. 2053.

Because of this understanding, the UCRC and the BOR jointly developed a process to select projects, as set forth in the facilitation exhibit of the funding agreement, which was premised on the SCIA's qualifying as subcontracts rather than subawards. In other words, the UCRC did not unilaterally classify the SCIA's as subcontracts. Moreover, this approach was consistent with how BOR and the UCRC implemented the SCPP in 2015 through 2018, during which time the contracts executed with water right owners were subcontracts rather than subawards. As a result, OIG is the first entity to determine that agricultural producers who participate in the SCPP qualify as subrecipients rather than subcontractors.

The reason BOR and the UCRC classified the SCIA's as subcontracts is due to several factors. First, the SCIA's are essentially water leases that satisfy the elements the Report describes in Figure 6 as applying to subcontracts. Contrary to the Report's findings, many of the water right owners that executed the SCIA's regularly lease their water rights to many different purchasers for other uses and implement conservation measures outside of the SCPP program as part of their normal business operations. The Report states that agricultural producers do not fallow fields as part of their normal operations because they "produce crops, not fallow fields."² This is incorrect. The act of leasing water rights – whether to another farmer, a municipality, or for conservation – necessarily requires the lessor to fallow all or part of their fields so the lessee can use the leased water without overusing the underlying water right. Consequently, any agricultural water right owner who leases their water on a regular basis typically fallows their fields to some extent as part of their normal business operations.

Second, the Report incorrectly concludes that "the services provided under the subcontracts, namely fallowing fields, are not offered in a competitive environment."³ The SCPP is not the only conservation program in the Upper Basin that requires fallowing. For instance, in Utah, the Carbon Canal Company created a water bank in the Price River System in 2022. Under the bank, the Utah Division of Wildlife Resources, The Nature Conservancy, and Trout Unlimited can lease water from shareholders in the company for conservation and environmental purposes. Any shareholders who lease their water for these purposes must fallow their fields. Notably, many of the shareholders in the company participated in the SCPP in 2015 through 2018 and chose to participate in SCPP in 2023 and 2024 rather than the water bank, representing one example of direct competition to the SCPP.⁴

Third, the Report incorrectly finds that the "water-entitlement holders do not provide services specifically for UCRC."⁵ In support of this conclusion, the Report misinterprets language in the SCIA's; namely, that the conserved water "shall accrue to the benefit of the Upper Basin of the Upper Basin of the Colorado River System." The UCRC was established pursuant to the 1948 Upper Colorado River Compact as the interstate administrative agency with several

² Report at page 10.

³ *Id.*

⁴ For more on the Price River Water Bank, see: <https://water.utah.gov/water-marketing/price-river-water-bank-pilot-project/>.

⁵ Report at page 10.

responsibilities regarding water in the Upper Colorado River Basin, including ensuring the Upper Basin's continued compliance with the 1922 Compact and the ability of the Upper Division States of Colorado, New Mexico, Utah, and Wyoming to use their Compact allocations. Essential to these obligations is the continued operation of the Upstream Initial Units, including Lake Powell. As the funding agreement notes, the primary objective of SCPP has long been to "assess the feasibility of System Conservation as a future means of increasing storage at the reservoir." Thus, because the UCRC consists of the Upper Basin States and has responsibilities to the Upper Basin, accruing water for the benefit of the Upper Basin necessarily provides a service that helps the UCRC fulfil its responsibilities and obligations under the 1948 Compact.

In contrast, the SCIAAs do not satisfy the elements the Report lists for subrecipients. The agricultural producers who leased their water rights to the UCRC under the SCPP do not have programmatic decision-making authority with respect to the implementation and operation of the SCPP. Their actions were limited to the specific verification plans attached to each SCIA, which the UCRC approved in consultation with BOR. They did not have any responsibility for selecting projects, determining which producers received federal assistance, administering program funds, reimbursing program funds, or taking any of the other programmatic actions needed to implement and operate the SCPP. Instead, the funding agreement assigned those responsibilities to the UCRC.

The UCRC explained its position regarding the classification of the SCIAAs as subcontracts in greater detail on July 9, 2024, when it responded to prior questions from OIG on this issue. The UCRC requests that its response, which is enclosed, be included in the record with the Report.

IV. CONCLUSION

The UCRC concurs with recommendations #1 and #2 of the Report. As such, the UCRC is developing the recommended controls, mechanisms, and policies in collaboration with BOR to assist the UCRC in implementing any program that uses IRA funds, including any future SCPP or similar programs. The UCRC, however, does not concur with recommendation #3 or the Report's findings that the SCIAAs qualify as subawards rather than subcontracts.

Thank you for considering the UCRC's response. Please contact me with any questions.

Sincerely,

UPPER COLORADO RIVER COMMISSION



Charles R. Cullom, Executive Director

Enclosure



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

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