



October 2021

# EMERGENCY WATERSHED PROTECTION

## Assistance Program Helps Meet Post- Disaster Needs and Could Be Improved with Additional Guidance

Accessible Version



A Century of Non-Partisan Fact-Based Work

# GAO Highlights

Highlights of [GAO-22-104326](#), a report to congressional requesters

## Why GAO Did This Study

Hurricanes, floods, wildfires, and other natural disasters can damage watersheds, creating threats to life and property. According to the U.S. Global Change Research Program, extreme weather events in the United States are becoming more frequent and intense, in part due to climate change, which GAO has reported poses a significant fiscal risk to the federal government. USDA's EWP program provides technical and financial assistance to help project sponsors relieve imminent threats to life and property created by natural disasters. Congress appropriated over \$1.3 billion to the EWP program from fiscal years 2015 through 2020.

GAO was asked to review the EWP program. This report (1) describes the process through which USDA provides assistance under the EWP program and (2) examines stakeholder perspectives on the EWP program, including any challenges and opportunities for improvement. GAO reviewed statutes, regulations, program guidance, and other documents. GAO also interviewed USDA officials and sponsors and other stakeholders in six states selected, among other reasons, because they received the most EWP funds from fiscal years 2015 through 2019.

## What GAO Recommends

GAO is making four recommendations, including that NRCS, as it develops a project sponsor guide for the EWP program, should ensure that the guide clarifies areas of limited guidance identified by stakeholders. NRCS and the Forest Service concurred with GAO's recommendations.

View [GAO-22-104326](#). For more information, contact Nathan Anderson at (202) 512-3841 or [AndersonN@gao.gov](mailto:AndersonN@gao.gov).

October 2021

## EMERGENCY WATERSHED PROTECTION

### Assistance Program Helps Meet Post-Disaster Needs and Could Be Improved with Additional Guidance

## What GAO Found

The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) provides assistance to project sponsors (e.g., state, local, or tribal governments) through the Emergency Watershed Protection (EWP) program using a process that includes assessing damage, overseeing implementation of projects, and reimbursing project costs. To be eligible for the EWP program, a project must address damage that poses a threat to life or property (see figure), and the benefits of the project must generally outweigh the costs. NRCS officials said that if a site meets these conditions, the agency generally approves it. If NRCS has insufficient EWP funds, an approved project may be waitlisted until the agency receives additional funds from Congress.

#### Flood Damage to Homes in Colorado, 2013



Source: Colorado Water Conservation Board. | GAO-22-104326

Sponsors and other stakeholders generally described the EWP program as an important program that helps sponsors respond to disasters, but they also identified challenges, including the clarity of program guidance for sponsors. For example, many stakeholders identified areas where guidance was limited or unclear, including guidance related to the steps and forms needed for sponsors to request assistance. Some said it would be helpful to have such guidance, so potential sponsors can quickly learn key policies and procedures, such as time frames for applying for assistance and project time limits. Some NRCS state offices have developed guides to help sponsors understand program requirements, but NRCS does not have a national sponsor guide for the EWP program. As of October 2021, NRCS officials said that they were in the process of developing a national sponsor guide, which they anticipated issuing in 2022. However, from GAO's review of NRCS documents and discussions with NRCS officials, it is not clear whether the guide will address the challenges identified by stakeholders GAO interviewed. As NRCS continues developing its national sponsor guide, it should ensure that the guide clarifies these areas to help NRCS and sponsors better achieve their objectives of protecting life and property after a natural disaster.

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<hr/> <b>Abbreviations</b>	
DSR	damage survey report
EWP	Emergency Watershed Protection
FEMA	Federal Emergency Management Agency
MOU	memorandum of understanding
NRCS	Natural Resources Conservation Service
O&M	operation and maintenance

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USDA

United States Department of Agriculture

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October 28, 2021

The Honorable Michael F. Bennet  
Chair  
Subcommittee on Conservation, Climate, Forestry, and Natural  
Resources  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate

The Honorable Mitt Romney  
United States Senate

Natural disasters such as hurricanes, floods, and wildfires can damage watersheds, posing a threat to life and property even after the disaster has passed.<sup>1</sup> The Department of Agriculture's (USDA) Emergency Watershed Protection (EWP) program, primarily administered by the Natural Resources Conservation Service (NRCS), provides technical and financial assistance to help nonfederal entities implement emergency measures to relieve imminent threats to life and property created by a natural disaster that causes a sudden impairment of a watershed.<sup>2</sup> Congress appropriated over \$1.3 billion to the EWP program from fiscal years 2015 through 2020.

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<sup>1</sup>According to the U.S. Global Change Research Program, the number of natural disasters in the United States is rising as extreme weather events become more frequent and intense, in part due to climate change. See D. J. Wuebbles, et al. (eds.), *Climate Science Special Report: Fourth National Climate Assessment*, vol. I. (Washington, D.C.: U.S. Global Change Research Program, 2017). As we previously reported, numerous studies have concluded that climate change poses risks to many environmental and economic systems and creates a significant fiscal risk to the federal government. See, for example, GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, [GAO-19-157SP](#) (Washington, D.C.: Mar. 6, 2019).

<sup>2</sup>The EWP program was created under Title IV of the Agricultural Credit Act of 1978. Pub. L. No. 95-334, 92 Stat. 420 (enacted Aug. 4, 1978) (codified as amended at 16 U.S.C. §§ 2201-2206); see also 33 U.S.C. § 701b-1. The Forest Service, part of USDA, also has a role in implementing EWP.

All EWP projects are required to have a project sponsor, which must be a state or local agency or tribal nation or organization.<sup>3</sup> Private entities or individuals may receive assistance under EWP only through the sponsorship of a governmental entity. Federal funds for EWP projects generally may not exceed 75 percent of the total cost of the project, and the program typically requires the sponsor to provide 25 percent of the cost.<sup>4</sup> The types of emergency measures eligible under the EWP program include removing debris from stream channels, road culverts, and bridges; reshaping and protecting eroded streambanks; establishing vegetative cover on critically eroding lands; and repairing levees or drainage facilities.

You asked us to review USDA's management of the EWP program. This report (1) describes the process through which USDA provides assistance under the EWP program and (2) examines stakeholder perspectives on the EWP program, including any challenges and opportunities for improvement.

To describe the process through which USDA provides assistance under the EWP program, we reviewed pertinent statutes, regulations, program guidance, and other documents to identify how the department provides assistance under the program, including how it identifies the need for EWP projects,<sup>5</sup> how eligibility is determined, how sponsors request assistance, how projects are implemented, and how USDA provides

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<sup>3</sup>A project sponsor for the EWP program is defined as a state government or a state agency or a legal subdivision thereof, a local unit of government, or any Native American tribe or tribal organization as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450b) with a legal interest in or responsibility for the values threatened by a watershed emergency. The sponsor must be capable of obtaining necessary land rights and of carrying out any operation and maintenance responsibilities that may be required. 7 C.F.R. § 624.4(g).

<sup>4</sup>7 C.F.R. § 624.7(a). Federal funds for EWP projects may be increased to 90 percent of the construction cost in a limited resource area, which is defined as a county where: (1) housing values are less than 75 percent of the state housing value average, (2) per capita income is 75 percent or less than the national per capita income, and (3) unemployment is at least twice the U.S. average over the last 3 years based upon the annual unemployment figures. 7 C.F.R. §§ 624.4(e)(1), 624.7(b).

<sup>5</sup>For the purpose of the EWP program, USDA defines a project as an entire natural disaster, according to NRCS officials, but there may be many emergency measures carried out by multiple sponsors in response to one disaster. For the purpose of our report, we defined a project as everything covered in a single cooperative agreement between USDA and a sponsor. A single project or cooperative agreement may include measures addressing multiple sites damaged by a disaster.

reimbursement.<sup>6</sup> To better understand how the EWP process works in practice, we interviewed NRCS headquarters officials, as well as officials from NRCS state offices and project sponsors in six states. In selecting the states, we selected a non-generalizable sample based on the following criteria: (1) funding, including the states that received the most EWP funds from fiscal years 2015 through 2019 (the most recent data available from USDA at the start of our review); (2) geographic distribution, including at least one state from each of NRCS's four regions; and (3) states that experienced a variety of disaster types (e.g., hurricanes, floods, tornados, wildfires, and winter storms). We also included at least one state that had an EWP guide for sponsors. The six states we selected are Colorado, Florida, Mississippi, New York, Texas, and Utah.

To select sponsors to interview in the six states, we used a two-stage process. First, we asked NRCS officials in the six selected states to each identify between eight and 12 EWP projects that were allocated funds from fiscal years 2015 through 2019 that they would recommend we consider selecting. In identifying these projects, we asked the officials to consider projects representing a range of experiences, including between four and six that were successful and between four and six that were challenging, either in terms of outcomes or in terms of how the implementation process and relationships with sponsors worked. Second, we contacted officials from nonfederal agencies in each of the six states and asked them to identify EWP projects that they would recommend we consider selecting, also considering both successful and challenging projects.

We analyzed the projects recommended by NRCS and nonfederal agencies and selected a non-generalizable sample of 13 sponsors to interview. In selecting sponsors, we selected at least two sponsors in each of the six states as well as sponsors representing a range of

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<sup>6</sup>The EWP program has two main components: recovery assistance and floodplain easements. Through the recovery assistance component of the program, NRCS and sponsors implement emergency measures, which are actions that safeguard life or property by removing or reducing hazards created by a natural disaster. Through the floodplain easement component of the EWP program, NRCS acquires easements in lieu of implementing emergency measures when it is the more cost-effective approach to reducing threats to life and property. USDA obligated \$16.5 million for EWP floodplain easements acquired in calendar years 2015 through 2019, compared with over \$1 billion for EWP emergency measures from fiscal years 2015 through 2019. We focused our review on the recovery assistance component of the EWP program.

experiences across the following criteria: (1) projects that were successful, (2) projects that experienced challenges, (3) different types of sponsors (e.g., state or local agencies), (4) variety of disaster types addressed, and (5) projects in urban or rural areas. The results of our interviews cannot be generalized to all sponsors, but they provide examples of EWP projects and sponsors' experiences with the EWP program.

To examine stakeholder perspectives on the EWP program, we asked the 13 sponsors in our sample for their perspectives on the program, including any challenges and opportunities for improvement.<sup>7</sup> We also interviewed representatives from 10 additional EWP stakeholders—including nongovernmental organizations, such as the Western Governors' Association and Association of State Floodplain Management, and state agencies—to obtain their perspectives on the program. We identified some of the additional stakeholders to interview through a review of EWP documents and interviews with agency officials and sponsors, and we asked those stakeholders to suggest others. We held a total of 24 interviews with nonfederal stakeholders. To quantify the number of stakeholders who provided a certain perspective, we use the following modifiers throughout the report: "some" represents two to six stakeholders and "many" represents seven or more.<sup>8</sup> Because the Forest Service is responsible for administering the EWP program on National Forest System lands,<sup>9</sup> we interviewed Forest Service officials to obtain their perspectives on the Forest Service's role in the EWP program and any related challenges and opportunities for improvement. We analyzed and categorized the challenges and opportunities for improvement identified by agency officials and stakeholders. One of our analysts conducted the initial categorization, and a team of analysts reviewed the categories and came to agreement on the categorization. Because we interviewed a non-generalizable sample of stakeholders, the perspectives of stakeholders are not representative of all perspectives but provide illustrative examples of the types of challenges and opportunities for improvement stakeholders have identified related to the EWP program.

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<sup>7</sup>In addition to the 13 sponsors we initially selected, we also interviewed one additional sponsor for information on the sponsor's experience with specific challenges raised by other stakeholders over the course of our review.

<sup>8</sup>We considered each interview as a unit of one, regardless of how many individuals participated.

<sup>9</sup>7 C.F.R. §§ 624.1, 624.5(c).

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We compared the challenges and opportunities for improvement with applicable criteria, including federal regulations, agency guidance pertinent to the program, federal standards for internal control, and selected leading practices for collaboration.<sup>10</sup>

We conducted this performance audit from June 2020 to October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### Effects of Disasters on Watersheds

Natural disasters can damage watersheds, and, in some cases, this damage can pose risks to life and property (see fig. 1). For example, hurricanes and other severe storms can uproot trees and scatter debris into rivers or streams, blocking flows and causing flooding. Wildfires can burn mountainous or hilly areas, leaving the soil more susceptible to erosion from subsequent rainfall. Heavy snowstorms can be followed by rapid snowmelt that can cause flooding and erosion.

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<sup>10</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014), and *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012). We selected the leading practices that were most relevant to assessing coordination between NRCS and the Forest Service.

**Figure 1: Flood Damage in Texas, New York, and Colorado**



Clockwise from upper left: streambank erosion near homes in Texas, streambank erosion from flooding in New York, home damage from flooding in Colorado, and road failure from flooding in Colorado.

Sources: Harris County, Texas; Schoharie County, New York; Colorado Water Conservation Board. | GAO-22-104326

The number of natural disasters in the United States is rising, as extreme weather events become more frequent and intense, in part due to climate change. The U.S. Global Change Research Program reported in a November 2018 assessment that climate change is playing a role in the increasing frequency of some types of extreme weather that have led to billion-dollar disasters.<sup>11</sup> The effects of climate change include vulnerability to drought, lengthening wildfire seasons, and potential for extremely heavy rainfall becoming more common in some regions. For example, we previously reported that wildfire frequency and the duration of the wildfire season in the western United States have been increasing,

<sup>11</sup>D. R. Reidmiller, et al. (eds.), 2018: Impacts, Risks, and Adaptation in the United States, *Climate Science Special Report: Fourth National Climate Assessment*, vol. II (Washington, D.C.: U.S. Global Change Research Program, November 2018). The U.S. Global Change Research Program coordinates and integrates the activities of 13 federal agencies that research changes in the global environment and their implications for society.

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according to recent assessments.<sup>12</sup> Additionally, climate change is expected to affect hurricane intensity in the future, due to an increase in sea surface temperatures, leading to storms with higher wind speeds and heavier rains.<sup>13</sup>

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## Role of EWP and Other Federal Programs in Addressing Damaged Watersheds

Through the EWP program, NRCS and project sponsors implement emergency measures to safeguard life or property by removing or reducing hazards created by a natural disaster. To be eligible for the EWP program, a local watershed emergency must be declared by NRCS or a major disaster or federal emergency must be declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).<sup>14</sup>

A variety of emergency measures may be implemented under the EWP program, such as ones that stabilize eroded streambanks; remove sediment and debris from stream channels, floodplains, and other areas;

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<sup>12</sup>See Booz Allen Hamilton (developed on behalf of the Forest Service and Department of the Interior), *2014 Quadrennial Fire Review Final Report* (Washington, D.C.: May 2015); D. J. Wuebbles, et al. (eds.), *Climate Science Special Report*; and Z. A. Holden, et al., "Decreasing fire season precipitation increased recent western US forest wildfire activity," *Proceedings of the National Academy of Sciences*, vol. 115, no. 36 (2018): pp. E8349–E8357.

<sup>13</sup>See U.S. Environmental Protection Agency, *Climate Change Indicators: Tropical Cyclone Activity* (Washington, D.C.: 2021), accessed May 14, 2021, <https://www.epa.gov/climate-indicators/climate-change-indicators-tropical-cyclone-activity>; D. J. Wuebbles, et al. (eds.), *Climate Science Special Report*; and Intergovernmental Panel on Climate Change, *Climate change 2013: The Physical Science Basis* (Cambridge, United Kingdom: Cambridge University Press, 2013).

<sup>14</sup>Pub. L. 100-707, 102 Stat. 4689 (enacted Nov. 23, 1988) (codified as amended at 42 U.S.C. §§ 5121-5207). The Stafford Act defines a "major disaster" as any natural catastrophe or, regardless of cause, any fire, flood, or explosion in any part of the United States that the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance. This assistance supplements the efforts and available resources of states, local governments, and disaster relief organizations to alleviate damage, loss, hardship, or suffering. A federal "emergency" for this purpose means any occasion or instance for which, "in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States." 42 U.S.C. § 5122(1)-(2).

repair damaged dams; and plant vegetation to help slow or reduce erosion (see fig. 2 and 3).

**Figure 2: Post-Wildfire Flood Damage and Emergency Measures in Colorado**



Top row: The photograph on the left shows sediment in a drainage ditch following a wildfire and subsequent flood; the photograph on the right shows the same site after emergency measures were implemented.

Bottom row: The photograph on the left shows debris and sediment in front of a home caused by a flood following a wildfire; the photograph on the right shows the same site after the debris and sediment were removed and a drainage structure was installed.

Source: La Plata County, Colorado. | GAO-22-104326

**Figure 3: Post-Flood Damage and Emergency Measures in Texas**



Top row: The photograph on the left shows streambank erosion and damage to retaining walls along a water channel; the photograph on the right shows repaired streambanks and new retaining walls built to withstand higher and faster-moving flows.

Bottom row: The photograph on the left shows damage to a water channel due to high water flows; the photograph on the right shows the implemented emergency measures, with full concrete slopes along the channel to reinforce it and minimize future damage.

Source: Harris County, Texas. | GAO-22-104326

In addition to the EWP program, other federal disaster relief programs assist state and local governments with disaster recovery. The Federal Emergency Management Agency (FEMA), a component of the Department of Homeland Security, is the primary federal agency responsible for mitigating, responding to, and recovering from disasters. It has responsibility for coordinating assistance provided under the Stafford Act. FEMA programs provide assistance in various ways. For example, FEMA's Public Assistance Program provides funds to state, territorial, or tribal government recipients for emergency work, such as debris removal, to help communities quickly respond to and recover from the disaster.<sup>15</sup> Other FEMA programs provide assistance directly to individuals, such as the Individual Assistance Program, which provides assistance to disaster survivors to cover necessary expenses such as those for housing and

<sup>15</sup>State and territorial recipients then provide funding to local officials, which are sub-recipients of the grant award.

medical treatment.<sup>16</sup> If action to mitigate damage from a presidentially declared disaster is eligible for assistance under both the Stafford Act and the EWP program, NRCS is to coordinate with FEMA, as the lead agency, in its implementation of the EWP program.<sup>17</sup>

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## NRCS Organization

NRCS is headquartered in Washington, D.C., and is organized into four regions: Northeast, Southeast, Central, and West. Each state has a NRCS state office, each of which is led by a state conservationist, as well as local NRCS offices. NRCS provides services through USDA service centers in each state. The service centers are designed to be single locations where nonfederal entities can access services from USDA agencies.

NRCS staff have various roles within the EWP program. Headquarters staff are responsible for ensuring that EWP funds are allocated, obligated, and dispersed in a timely and legally appropriate manner. To the extent allowed by law, they may also waive any EWP provision if they make a written determination that doing so is in the best interest of the federal government. State conservationists are responsible for implementing the EWP program in their respective states and declaring state or local emergencies, among other things. Other state NRCS staff are responsible for duties as assigned by the state conservationist to administer the EWP program in compliance with applicable statutes, regulations, and policies.

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## USDA Provides Emergency Assistance through a Process That Includes Assessing Damage, Implementing Projects, and Reimbursing Costs

USDA's NRCS provides emergency assistance to project sponsors under the EWP program through a process that includes assessing damage and

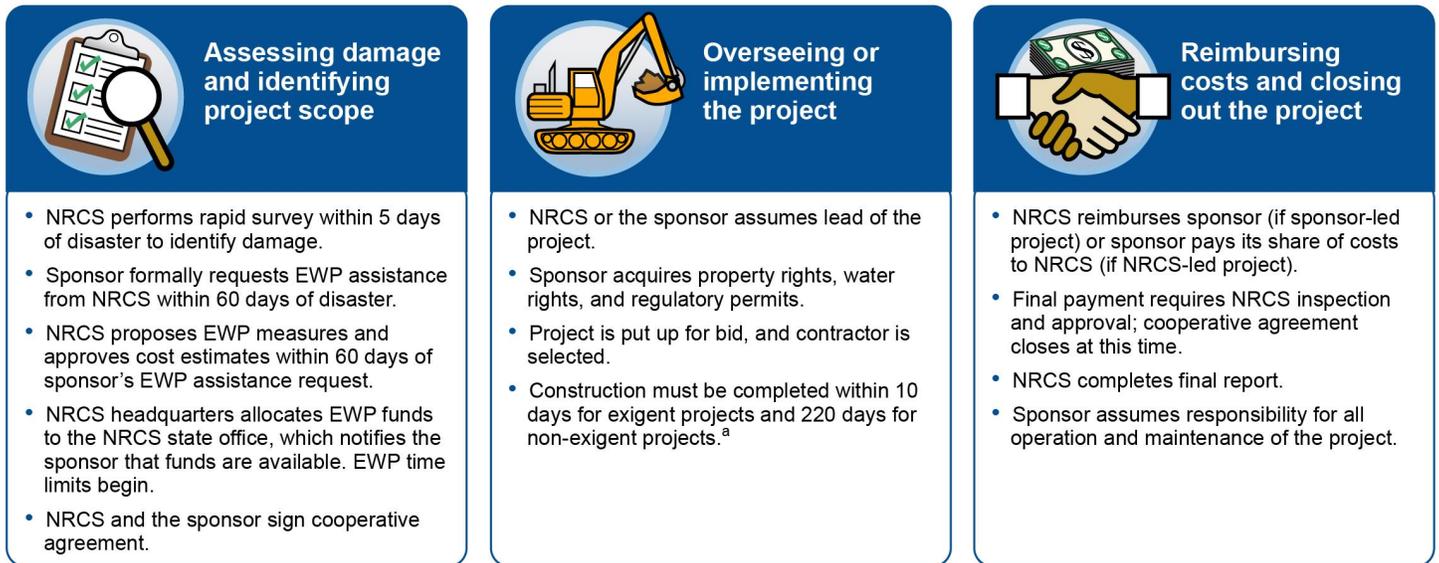
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<sup>16</sup>Individual Assistance Program sub-programs include Disaster Unemployment Assistance, Disaster Case Management Program, and Disaster Legal Services. See, for example, GAO, *Disaster Assistance: Additional Actions Needed to Strengthen FEMA's Individuals and Households Program*, [GAO-20-503](#) (Washington, D.C.: Sept. 30, 2020).

<sup>17</sup> 7 C.F.R. § 624.5(a).

identifying the scope of a project, overseeing or implementing the project, and reimbursing project costs and closing out the project (see fig. 4).

**Figure 4: Process for Providing Assistance through the Natural Resources Conservation Service's (NRCS) Emergency Watershed Protection (EWP) Program**



Source: GAO analysis of NRCS documentation. | GAO-22-104326

<sup>a</sup>Exigent projects address situations that demand immediate action to avoid potential loss of life or property.

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## Assessing Damage and Identifying Project Scope

Shortly after a disaster takes place, NRCS performs a “rapid survey”—which NRCS officials said consists of a visual inspection of the site—to assess the damage caused by the disaster. Potential sponsors may be invited to participate in the rapid survey, according to NRCS officials. Additionally, NRCS officials determine whether the damage is exigent or non-exigent in nature, which affects the time frames for funding and completing a project. Exigent refers to situations that demand immediate action to avoid potential loss of life or property, including situations where a second event could occur after the initial disaster and could cause further damage or the potential loss of life if action to remedy the situation is not taken immediately.<sup>18</sup> EWP regulations state that exigent projects are to be completed in 10 days, whereas non-exigent projects are to be completed in 220 days.<sup>19</sup>

After the rapid survey, the responsible NRCS state office submits to NRCS headquarters a report describing the damage. The report is submitted within 5 working days after the disaster. NRCS uses the report to determine the extent of the damage. For a site to be eligible, an emergency must be declared either by NRCS or by the President under the Stafford Act, as previously noted; the damage to the watershed must pose a threat to life, health, or property; and the benefits of repairing the site must generally outweigh the costs.<sup>20</sup> NRCS headquarters officials

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<sup>18</sup>7 C.F.R. § 624.4(b).

<sup>19</sup>According to EWP regulations, funds must be obligated by the state conservationist and construction completed within 220 calendar days after the date funds are committed to the state conservationist, unless the situation is exigent, in which case the construction must be completed within 10 days after the date the funds are committed. 7 C.F.R. § 624.9.

<sup>20</sup>7 C.F.R. § 624.3. In addition, the state conservationist must declare that a watershed impairment exists as a result of this disaster (see *id.* § 624.6(a)) and determine that this impairment poses a threat to life, health, or property (see *id.* § 624.6(b)). The regulations state that NRCS will provide EWP assistance based on the following criteria, ranked in order of importance: exigent situations, sites where there is a serious but not immediate threat to human life, and sites with threatened structures. 7 C.F.R. § 624.8(c)(3).

said if a site meets these conditions, the agency generally approves the site for inclusion in the program.<sup>21</sup>

At this stage, NRCS coordinates with other agencies, such as FEMA or state emergency agencies, as appropriate, and notifies them of the potential EWP project. For disasters declared by NRCS, NRCS assumes the lead in providing assistance and coordinating work with other agencies, as appropriate.<sup>22</sup> During a presidentially declared disaster, NRCS's assistance is coordinated through the lead response agency, FEMA.

Next, a sponsor formally requests EWP assistance from NRCS, which must be done within 60 days of when the disaster occurred or when access to the site becomes available.<sup>23</sup> The assistance request must include a description of the damage and the types of emergency measures needed.<sup>24</sup> If the project is exigent, NRCS can authorize funds to be made immediately available so that emergency measures can begin as quickly as possible. For example, NRCS headquarters officials said that when a dike protecting a community in Missouri was nearly breached in 2019 due to heavy rainfall and flooding, they immediately provided EWP funds to the sponsor so that the dike could be repaired before it was breached.

After receiving a request for assistance, NRCS establishes an interdisciplinary team to evaluate the site and complete a damage survey report (DSR) with the sponsor.<sup>25</sup> The DSR provides information on the specific emergency measures NRCS proposes to repair the site and the

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<sup>21</sup>Federal regulations list limitations on EWP assistance. For example, EWP assistance cannot be used to perform operation and maintenance; to repair, rebuild, or maintain private or public transportation facilities, public utilities, or similar facilities; or on federal lands if such assistance is found to augment other federal agency appropriations. 7 C.F.R. § 624.6(b)(2).

<sup>22</sup>In these circumstances, FEMA may still be involved in the emergency response but mainly provides coordination among multiple levels of government, which does not generally affect the EWP program, according to NRCS headquarters officials.

<sup>23</sup>7 C.F.R. § 624.8(a).

<sup>24</sup>The request must also include a statement that sponsors understand their responsibilities and are willing to pay their cost share. 7 C.F.R. § 624.8(a).

<sup>25</sup>The DSR team generally includes personnel with expertise in the EWP program, engineering, resource conservation and planning, economics, biology, cultural resources and historic properties, agreements and contracting, and other disciplines as needed.

estimated cost of the project. Generally, NRCS must complete the DSR within 60 days of receiving the sponsor's request or within 60 days of when EWP funds become available, whichever is later.<sup>26</sup> The 60-day deadline applies to the state conservationist's submission of the DSR to NRCS headquarters.

After NRCS headquarters approves the DSR, it notifies the NRCS state office about whether funds are available. Headquarters officials said if funds are available, they generally allocate funds to the state office within 5 to 7 days. The officials said if funds are not available for all approved projects, they place non-exigent projects on a wait list, to be funded once NRCS receives supplemental appropriations from Congress.<sup>27</sup>

After NRCS allocates funds to an EWP project, it enters into a cooperative agreement with the sponsor. The cooperative agreement specifies the responsibilities of the sponsor and NRCS in implementing the project, the amount of funding NRCS will provide, and cost-share requirements, among other information. It also specifies whether NRCS or the sponsor will take the lead role on implementing the project. EWP projects are predominantly led by the sponsor, according to NRCS officials, who said that the decision is made between the NRCS state office and the sponsor based on factors such as NRCS and sponsor staffing levels.

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## Overseeing or Implementing the Project

Once the cooperative agreement is signed, NRCS either oversees (if the sponsor is the lead) or implements the project. Regardless of whether NRCS or the sponsor is the lead for the project, steps taken during this stage include designing the project; obtaining property rights, water rights,

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<sup>26</sup> 7 C.F.R. § 624.8(b). For exigent situations, NRCS officials said that the DSR report needs to be completed prior to the end of work, which is within 10 days from when funds are approved.

<sup>27</sup> Over the past 10 years, Congress has typically provided funds for the EWP program through emergency supplemental appropriations following disasters or through continuing appropriations. NRCS officials said that once total available EWP funds drop below \$10 million, the agency places most non-exigent projects on the wait list, though it will still fund some non-exigent projects based on professional judgment, if sufficient funds are available. Officials also said once EWP funds drop below \$2 million, NRCS only funds exigent projects. Officials told us when funds become available, the state conservationist will review projects on the wait list to determine if the projects are still valid and if funds are still needed.

and permits; selecting a contractor if necessary; and constructing the project. According to the EWP program manual, when designing and constructing emergency measures, efforts must be made to avoid or minimize any adverse environmental effects associated with the measures, giving special attention to protecting cultural resources and fish and wildlife habitat.<sup>28</sup> The manual also states that NRCS should emphasize emergency measures that are the most economical. The measures must also be accomplished by using the least damaging construction techniques and equipment that retain as much of the existing characteristics of the landscape and habitat as possible.

In general, NRCS funds 75 percent of the cost of an EWP project (90 percent in designated limited-resource areas), with the sponsor covering the remaining costs. The sponsor can provide its share of costs in the form of cash, in-kind services, or a combination of both.<sup>29</sup> The EWP funds provided by NRCS include both financial assistance and technical assistance. Financial assistance consists of funds used for the NRCS contribution toward the construction costs of the emergency measures, including work performed to mitigate any adverse effects resulting from the measures. Technical assistance covers planning, design, contract administration, and construction inspection. For each DSR, NRCS headquarters initially provides 15 percent of eligible construction costs to the state conservationist for technical assistance. NRCS officials said a portion of these funds are provided to the sponsor, as agreed upon by the state conservationist and sponsor.<sup>30</sup> NRCS will not provide funds for any activities undertaken by a sponsor prior to the signing of the cooperative agreement.<sup>31</sup>

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<sup>28</sup>U.S. Department of Agriculture, Natural Resources Conservation Service, *Emergency Watershed Protection Program Manual*, 390-510-M, 5th ed. (November 2020).

<sup>29</sup>In-kind services may include labor, equipment, design, surveys, contract administration and construction inspection, and other services as determined by the state conservationist. A sponsor is responsible for costs for services such as obtaining land rights and permits and performing operation and maintenance of completed emergency measures, which are not eligible for cost sharing and do not qualify as in-kind or reimbursable services.

<sup>30</sup>The amount of technical assistance funds provided to sponsors is based on the services provided by the sponsor and ranges from 0 to 15 percent of construction costs, according to NRCS officials. NRCS does not have a formula or policy for determining the amount of technical assistance funds provided to sponsors.

<sup>31</sup>7 C.F.R. § 624.8(c).

As noted above, EWP projects must be completed within 10 days for exigent projects and 220 days for non-exigent projects. However, sponsors can request waivers on time limits if more time is needed, according to NRCS officials. All requests for extensions must document why construction will not be completed within the original time limit, a new schedule, an outline of any additional needed resources, and confirmation that the extension is in the best interest of the federal government. The state conservationist can extend the time limit up to 90 days from the disaster date for exigent projects and up to 18 months from the disaster date for non-exigent projects.<sup>32</sup> Any further extensions have to be approved by NRCS headquarters.<sup>33</sup>

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### Reimbursing Costs and Closing Out the Project

The sponsor submits a request for reimbursement to the NRCS state office when construction is completed, according to NRCS headquarters officials.<sup>34</sup> The officials said sponsors are generally reimbursed within 7 days of submitting reimbursement requests, either in a lump sum at the end of the project or in monthly installments throughout the project. Final payment is contingent upon NRCS's inspection and approval of the completed construction work for the project. After the final inspection, NRCS considers the project complete and closes the cooperative agreement with the sponsor.

Within 90 days of project completion, the NRCS state office submits a final report to headquarters describing the types of emergency measures

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<sup>32</sup>U.S. Department of Agriculture, *Emergency Watershed Protection Program Manual*, 5th ed. NRCS updated its policy on time limit extensions in November 2020. NRCS officials said that, before the 2020 update, sponsors could request a waiver for a 60-day extension from the state conservationist for non-exigent projects and, if additional time was still needed, NRCS headquarters would need to approve further extensions, generally up to 220 additional days.

<sup>33</sup>The fifth edition of the EWP program manual does not limit the time that NRCS headquarters can extend EWP projects. U.S. Department of Agriculture, *Emergency Watershed Protection Program Manual*, 5th ed.

<sup>34</sup>If NRCS is the project lead, headquarters officials said the sponsor pays NRCS the sponsor cost share when the project is completed

implemented and the benefits provided.<sup>35</sup> NRCS officials said the final reports help improve the program by highlighting unusual situations and lessons learned when implementing projects. Any recommendations for program improvement are also included in the final report.

Sponsors are responsible for any operation and maintenance (O&M) of the project that NRCS determines is needed to ensure the project continues to serve its purpose and that it will not become hazardous. The sponsor must sign an O&M agreement, which stipulates that O&M be performed in a manner that protects the environment and complies with NRCS, state, and local requirements. However, beyond that stipulation, the sponsor can determine how to perform the O&M. One sponsor said that it had agreements with landowners for them to perform any required O&M on their property. The sponsor's responsibility for O&M begins once the project is completed and NRCS officials said it can continue indefinitely. However, the officials also said that any damage resulting from a subsequent disaster may qualify for a new EWP project and thus would not be considered the sponsor's responsibility under the O&M agreement.

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## Stakeholders Generally Described the EWP Program as Important and Well Managed but Identified Challenges in Certain Areas

Stakeholders generally described the EWP program as an important program that helps project sponsors respond to disasters and said it was generally well managed, but they also identified challenges and, in some cases, opportunities for improvement. We grouped the identified challenges into six categories: (1) time limits, (2) funding, (3) sharing project costs, (4) guidance, (5) agency roles and responsibilities, and (6) other challenges.

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<sup>35</sup>The USDA Office of Inspector General recommended in June 2021 that NRCS improve its controls for reporting on the EWP program, including ensuring that NRCS state offices submit required reports and that EWP projects be closed out in a timely manner. U.S. Department of Agriculture, Office of Inspector General, *Hurricane Disaster Assistance—Emergency Watershed Protection Program*, Audit Report 10702-0001-23 (Washington, D.C.: June 25, 2021).

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## Many Stakeholders Said That EWP Is an Important Program That Helps Repair Damage after Natural Disasters

Many stakeholders we interviewed said that the EWP program is an important and effective program that helps repair damage following natural disasters. Some sponsors said they would not have been able to repair damage following a disaster if not for the program. For example, a sponsor in Utah said that without the EWP program, the sponsor would not have been able to secure funds to repair watershed damage following a 70,000-acre wildfire and subsequent flood that affected both homeowners and access to public lands. Many sponsors said their EWP projects were effective and provided a number of benefits, such as removing debris and sediment and reducing erosion and flooding risks. Many sponsors and other stakeholders said the EWP program is especially helpful for sponsors in rural areas that may not qualify for other types of disaster assistance, in part because the program does not have a minimum damage threshold that must be met as some other programs do.<sup>36</sup>

Some stakeholders we interviewed also said the EWP program was well managed by NRCS and that implementing EWP projects generally went smoothly. Many said that in managing the program, NRCS staff were responsive, helpful, and competent. For example, one sponsor said NRCS staff were readily available and proactive in identifying needed actions following disasters. Another sponsor said NRCS staff were diligent in communicating with the sponsor and went “above and beyond” to keep an EWP project moving forward. Another said that NRCS staff were great in helping sponsors with any problems that arose during the process to request assistance and throughout project implementation.

Many stakeholders identified timeliness of funding as a benefit of the EWP program. Some noted that NRCS moved quickly to provide EWP assistance, especially when compared to other federal programs. According to one stakeholder, EWP funds came at a critical time, and another said that the ability to provide funds quickly was the program’s “biggest asset.” Another stakeholder said the program allowed for “fast-

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<sup>36</sup>For example, to qualify for a disaster declaration under FEMA’s Public Assistance Program, damages from a single disaster must meet a minimum threshold of \$1 million, and state disaster assistance funds may also have damage thresholds that must be met.

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tracked repairs” following a major hurricane. In addition, some noted that NRCS’s reimbursement process was generally smooth and timely.

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## Stakeholders Identified Various Challenges, Including Ones Related to Time Limits, Funding, and Guidance

### Time Limits

Meeting EWP project time limits was the challenge most frequently identified by stakeholders. Many stakeholders said completing projects within 10 days in exigent situations and 220 days in non-exigent situations could be challenging. Some stakeholders said EWP projects are sometimes large-scale construction projects that require substantial time to implement, given the time required to design the project, coordinate with landowners, award contracts, and construct the project, among other steps. One stakeholder said that for complex projects, such as repairing dams with substantial damage, designing the project and finishing construction in 220 days is difficult. This stakeholder and others noted that some dam repairs and other complex projects can take nearly 2 years or more from start to finish. One sponsor noted that much of the 220-day time limit can be expended before construction even begins, given the time required to get landowner approval for a project, obtain permits, and design the project. Many said construction of projects may be constrained by weather, further cutting into the 220-day time limit. For example, one sponsor said that in certain parts of the country, such as areas with substantial snowfall, little work can be done between late fall and spring.

Moreover, some stakeholders and NRCS officials said meeting the 10-day time limit in exigent situations was particularly difficult and, in some cases, impossible. For example, one sponsor said that under its state contracting laws, the local jurisdiction was required to have a 30-day bid period for contracts, making it impossible to meet the 10-day limit. Some stakeholders and NRCS officials said that NRCS and sponsors had changed EWP projects from exigent to non-exigent because they would not be able to design and implement the projects within the 10-day time limit. One project that was initially classified as exigent ended up taking over a year to complete, according to the sponsor.

In addition to challenges in meeting project time limits for the EWP program, some stakeholders said time limits to request EWP assistance—60 days from when the natural disaster occurs or from when

access to the sites becomes available—are also a challenge, sometimes limiting the extent to which sponsors can assess damage and submit a complete request for assistance. For example, one sponsor said 60 days was not enough time to determine the extent of damage following major disasters such as hurricanes, given that this sponsor has an extensive network of flood control canals that would need to be assessed. Another sponsor said that the paperwork required to request EWP assistance was difficult to complete within 60 days for a small county with limited staff. This sponsor said the county had to postpone other tasks to submit the request on time.

Many stakeholders said that EWP time limits sometimes hindered projects from being implemented, with some noting that time limits constrained the size or scope of their projects or prevented them from being completed. For example,

- A sponsor in Texas said it omitted some damaged sites from its project because it would not have been possible to repair all of the sites within the EWP time limits.
- A sponsor in Utah received waivers from both the NRCS state office and headquarters to extend its time limits but was unable to complete its EWP project within even the extended time limits because of weather constraints, according to the sponsor.<sup>37</sup> The sponsor said that the project was about 95 percent completed when subzero temperatures and snow set in, preventing the installation of rocks and logs to stabilize the area and help prevent erosion. Because NRCS did not provide additional extensions, the sponsor had to stop construction.<sup>38</sup>
- Another sponsor said program time limits led to compromises when designing its EWP project. The original design would have required

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<sup>37</sup>According to the sponsor, the sponsor received waivers from NRCS providing an extra 280 days, or a total of 500 days to complete the project. Under the fourth edition of NRCS's EWP program manual, sponsors could request a 60-day waiver from the state conservationist for 220-day projects and, if additional time was needed, waivers of up to 220 days from NRCS headquarters. This resulted in 500 total days (220 days under the regulatory time limits plus 280 additional days under the waivers) to complete EWP projects. U.S. Department of Agriculture, *Emergency Watershed Protection Program Manual*, 4th ed. NRCS headquarters officials said they could provide extensions beyond 500 days total in "extreme circumstances," if justified.

<sup>38</sup>The sponsor secured other funds to finish the project in the summer of 2021, according to the sponsor.

the sponsor to work with FEMA to update the community's floodplain map, and EWP's 220-day time limit would not allow sufficient time to do so. The sponsor ultimately changed the design to avoid work within the floodplain.<sup>39</sup>

- Another sponsor said that there were conversations about changing the scope of its EWP project because of the 220-day time limit and that it sometimes seemed that the sponsor was working toward meeting a deadline rather than implementing the most effective long-term repair.

Although sponsors may request waivers from NRCS to extend the time to request assistance or complete EWP projects, many stakeholders identified challenges related to obtaining such waivers.<sup>40</sup> For example, some sponsors said they had to stop or delay work while awaiting approval for waivers or that NRCS approved the waivers a week or less from when the time limit was set to expire. Others said obtaining waivers required robust justification and that not knowing if or when they would be approved led to stress and uncertainty for sponsors and contractors.

In November 2020, NRCS updated its program manual to allow state conservationists to waive EWP time limits up to 18 months from the date of the disaster for non-exigent projects.<sup>41</sup> NRCS headquarters officials said they made the change to allow state offices more flexibility in approving waivers because state officials generally have more knowledge about the status of ongoing EWP projects.

Many stakeholders said having even more flexibility with respect to the EWP time limits would be helpful. In particular, some suggested increasing the time limits beyond 220 days for non-exigent projects and 10 days for exigent projects, and others suggested basing time limits on the extent of the disaster or complexity of the project rather than a

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<sup>39</sup>FEMA requires communities participating in the National Flood Insurance Program to adopt FEMA floodplain maps. Some sponsors said that these maps may need to be revised when implementing EWP projects, which they said may take about 4 to 6 months.

<sup>40</sup>NRCS headquarters does not track data on how often waivers on time limits are requested or approved or their duration for EWP projects.

<sup>41</sup>U.S. Department of Agriculture, *Emergency Watershed Protection Program Manual*, 5th ed. Before this change, sponsors could request a 60-day waiver from the state conservationist and, if additional time was still needed, waivers of up to 220 days from NRCS headquarters. U.S. Department of Agriculture, *Emergency Watershed Protection Program Manual*, 4th ed.

standard amount of time. Others said it would be helpful to have time upfront for such things as securing permits, designing the project, and selecting contractors before the 220-day time limit begins.

The current time limits for the EWP program were established when the federal regulations for the program were last updated in 2005.<sup>42</sup> Since then, the frequency and intensity of natural disasters have increased, but USDA has not reassessed the regulatory time limits for EWP projects to determine if any changes are needed to better meet the current needs of the program. According to federal standards for internal control, management should periodically review policies, procedures, and related control activities for continued relevance and effectiveness in achieving the entity's objectives or addressing related risks.<sup>43</sup> Assessing the current regulatory time limits for EWP projects would help ensure that NRCS's control activities are relevant and effective in helping the agency and sponsors design and implement the most effective projects and thus better achieve the objectives of the EWP program.

### Funding

Many stakeholders identified challenges around EWP funding, including the amount of funding provided. In particular, some stakeholders said the EWP funds NRCS provided only covered short-term repairs to fix the immediate damage without considering other repairs that may provide longer-term or more widespread benefits, better address environmental concerns, or be more aesthetically pleasing. For example, some stakeholders said that in implementing EWP projects after wildfires, which may lead to flooding, NRCS took a "Band-Aid approach," in that they implemented short-term, stand-alone fixes to move water away from individual structures (e.g., placing sandbags to protect homes) rather than other mitigation measures that may have had longer-term and broader effects (e.g., building infrastructure or increasing vegetative cover upstream to moderate downstream flows). Another sponsor said a challenge was that NRCS has wanted to install the cheapest possible

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<sup>42</sup>Although the EWP regulations have not been substantially updated since 2005, some amendments have been made. In particular, 7 C.F.R. § 624.6(a) was amended in 2011 to incorporate requirements related to the Federal Funding Accountability and Transparency Act of 2006. See 76 Fed. Reg. 19683 (Apr. 8, 2011). In addition, in 2015, the program regulations pertaining to floodplain easements at 7 C.F.R. § 624.10(c) were amended. See 80 Fed. Reg. 19007, 19009 (Apr. 9, 2015).

<sup>43</sup>[GAO-14-704G](#).

repair rather than considering options that might be more environmentally friendly or aesthetically pleasing. As an example, the sponsor noted that a standard approach used by NRCS to reduce erosion in the area is to build concrete or riprap ditches, whereas the Environmental Protection Agency is encouraging “green infrastructure,” such as creating natural areas throughout cities to soak up and store water.<sup>44</sup> Some stakeholders said allowing more flexibility in the use of EWP funds—beyond the cheapest fix—may be more cost-effective over the long term. NRCS headquarters officials said the purpose of the EWP program is to fix what was damaged by the disaster, not to address larger watershed problems, and they said that sponsors have the flexibility to pay additional costs for projects that go above and beyond repairing the immediate damage.<sup>45</sup>

Another challenge identified by some stakeholders was that the amount of technical assistance funds available from NRCS was not always sufficient to cover all of the “soft” costs associated with EWP projects, such as costs related to project design and monitoring. For example, one sponsor said its total technical assistance costs on past EWP projects were roughly three times greater than the technical assistance funds received from NRCS. According to NRCS headquarters officials, sponsors may request additional technical assistance funds, if there is a documented need.<sup>46</sup>

In addition to challenges related to the amount of EWP funds, many stakeholders identified challenges related to the timing of the funds. While many stakeholders identified timeliness of funding as a benefit of the EWP program, as noted above, many stakeholders also said funds are not always immediately available for EWP projects. Some sponsors said that NRCS put their EWP projects on a wait list because funds were not available at the time they requested assistance, but that NRCS eventually

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<sup>44</sup>Riprap is a permanent cover of rock used to protect soil from erosion and stabilize streambanks and channels. The Clean Water Act defines green infrastructure as “the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters.” 33 U.S.C. § 1362(27).

<sup>45</sup>EWP regulations state that if a sponsor desires to increase the level of protection that would be provided by the approved EWP emergency measure, the sponsor will be responsible for paying 100 percent of the costs of the upgrade or additional work. 7 C.F.R. § 624.6(b)(4).

<sup>46</sup>As noted above, NRCS headquarters initially provides 15 percent of eligible construction costs for technical assistance to the state conservationist, and NRCS provides a portion of those funds to the sponsor.

funded the projects. For example, one sponsor said that following Hurricane Harvey—a category-4 storm that made landfall in Texas in August 2017—the sponsor requested EWP assistance immediately following the hurricane but did not receive funds until one year later, in August 2018. Another sponsor said NRCS placed the sponsor’s projects on the wait list following a 2016 flood. While the projects were awaiting funds, the project sites were further damaged in 2017 by Hurricane Harvey. The projects were funded in 2018, about 2 years after the initial flooding event. Other sponsors also said that sites experienced additional damage while projects were awaiting funds. For example, a sponsor in Texas said increased erosion while a project was awaiting funds placed a home along a creek at greater risk. A sponsor in Mississippi said that due to the soft soil in the area, sites may continue to experience erosion while projects await EWP funds, which may lead to increased costs to repair. A stakeholder in Texas said that a dam that was partially breached by 2015 storms was in danger of fully breaching while a project was awaiting EWP funds, which the sponsor received about a year later.

NRCS officials acknowledged that the availability of EWP funds is sometimes a problem, mainly because the program is typically funded via supplemental or continuing appropriations.<sup>47</sup> According to NRCS officials, Congress funds the EWP program with supplemental appropriations because funding needs for the program are based on the natural disasters that occur in a given year.<sup>48</sup> Moreover, NRCS officials said the agency does not proactively request EWP funds from Congress following disasters; rather, Congress typically reaches out to NRCS after a major disaster occurs, then the agency communicates its estimated needs to Congress. This approach, however, can lead to gaps in funding, as a disaster has to be large enough to garner congressional attention for supplemental funding to be appropriated. Moreover, some past appropriations have limited EWP funding to major disasters declared

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<sup>47</sup>Congress generally provides no-year appropriations to the EWP program, meaning that the funds are available for obligation for an indefinite period.

<sup>48</sup>As of July 2021, NRCS officials said that the agency was working on developing a tool to help it predict EWP funding needs following disasters. The purpose of the tool is to help the agency estimate EWP funding needs for a particular disaster—based on the amount of damage from similar past disasters. The tool will not be able to estimate total annual EWP funding needs, according to NRCS officials. NRCS officials said that the completion date of the tool is uncertain.

pursuant to the Stafford Act, which also limits the funds available for smaller projects.<sup>49</sup>

According to NRCS headquarters officials, EWP funds dropped below \$10 million and triggered a wait list for non-exigent projects at least three times in the last 10 years: following Hurricane Sandy in 2012; following Hurricanes Harvey, Irma, and Maria in 2017; and more recently in March 2021, when about \$35 million in project costs related to the 2020 Colorado wildfires were waitlisted.<sup>50</sup> However, the officials could not say the extent to which other wait-listing has occurred over the last 10 years or whether wait-listing may be a problem because NRCS headquarters does not maintain data on how often delays occur, how long it takes for EWP projects to receive funds from the time a sponsor requests assistance, or whether additional damage is sustained in the meantime.<sup>51</sup> They noted that the EWP wait list is an active list, so when EWP projects are funded, they are removed from the wait list, and past wait lists are not archived.

Although the objective of the EWP program is to assist in implementing emergency measures to relieve imminent hazards to life and property created by a natural disaster, some sponsors said that NRCS does not always meet the objective of implementing emergency measures in a timely manner. According to federal standards for internal control, management should identify, analyze, and respond to risks related to achieving the defined objectives.<sup>52</sup> Analyzing whether another funding approach is needed to minimize delays in getting EWP funds to sponsors would help ensure that the program addresses emergency needs as

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<sup>49</sup>As noted above, EWP projects do not require a presidential declaration under the Stafford Act; therefore, EWP funds can be used to help repair damage from smaller disasters when not limited to presidentially declared disasters. From fiscal years 2010 through 2020, supplemental appropriations for the EWP program were at least partially limited to presidentially declared major disasters under the Stafford Act in 4 years: fiscal years 2012, 2013, 2015, and 2016.

<sup>50</sup>As of July 2021, 10 other projects had also been waitlisted, with total funding needs of about \$20 million, according to NRCS officials.

<sup>51</sup>The USDA Office of Inspector General recommended in June 2021 that NRCS establish and maintain a national database to track projects for the EWP program. U.S. Department of Agriculture, Office of Inspector General, *Hurricane Disaster Assistance—Emergency Watershed Protection Program*.

<sup>52</sup>[GAO-14-704G](#).

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quickly as possible. It would also decrease the risk of additional damages, helping NRCS better achieve the objectives of the program.<sup>53</sup>

### Sharing Project Costs

Many stakeholders said it can be challenging for some sponsors to pay their required share of the EWP project's cost (generally 25 percent). Some said that this is especially problematic for rural counties or other sponsors with small tax bases, and others said this may be particularly challenging for communities that may already be tight on funds, given other funding needs after a disaster. One sponsor that passed the sponsor cost share on to individual landowners said some landowners did not participate in EWP projects because of the cost share.<sup>54</sup> Specifically, this sponsor said that only about 40 percent of landowners approached by the sponsor participated in the EWP project, and the main reason others did not was because they either did not want to or were unable to cover their share of the costs. The sponsor said coming up with the cost share can be especially challenging for low-income individuals.

Some stakeholders identified ways in which this challenge may be alleviated. Specifically, stakeholders in some states said that state agencies or nongovernmental organizations have contributed funds to cover a portion of the sponsor's share of the costs. For example, in Colorado, the Colorado Department of Public Safety has contributed half or more of sponsors' shares for some projects. Other stakeholders said that sponsors have used in-kind services to meet some or all of the sponsor's cost share. Some said unclear guidance from NRCS presented challenges in calculating the value of in-kind services, and in some cases discouraged sponsors from using in-kind services.<sup>55</sup> One sponsor described developing its own form to track the value of in-kind services because NRCS did not have one. Others said allowing for reimbursement

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<sup>53</sup>Other funding approaches may include having an annual appropriation for the EWP program or a reserve fund that could be accessed when appropriations provided for the program are exhausted. Some funding approaches may require congressional approval.

<sup>54</sup>Sponsors may cover the entire sponsor cost share or may have individual landowners contribute.

<sup>55</sup>The EWP regulations state that sponsors must contribute their share of the project costs and that contributions may include: (a) cash; (b) in-kind services such as labor, equipment, design, surveys, contract administration and construction inspection, and other services as determined by the state conservationist; or (c) a combination of cash and in-kind services. 7 C.F.R. § 624.6(a)(2)(i).

of sponsor costs incurred before the cooperative agreement is signed would be beneficial because it would allow sponsors to immediately take action to repair damage following disasters. However, EWP regulations do not allow NRCS to provide funds for activities undertaken by a sponsor before the cooperative agreement is signed, as noted above.

In 2020 and 2021, Senators Bennet and Romney introduced legislation that would allow pre-agreement costs incurred by the sponsor for particular emergency measures specified or approved by USDA to count toward the sponsor cost share for EWP projects.<sup>56</sup> The legislation had not been enacted as of October 2021. NRCS officials said they realized that some sponsors might find it helpful to count pre-agreement costs toward the sponsor cost share. However, they raised some concerns about doing so, such as the need for clarity on what may be reimbursed or count toward the sponsor cost share, potentially complicating and slowing down the reimbursement process. As a result, NRCS officials said they were not planning on taking action to allow pre-agreement costs to count toward the sponsor cost share unless directed to do so by Congress.

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<sup>56</sup>S. 3214, 116<sup>th</sup> Congress and S. 1110, 117<sup>th</sup> Congress. Representative John Curtis of Utah introduced a companion bill to S. 3214 in 2020, H.R. 5627, 116<sup>th</sup> Congress. In addition, in 2019, Representative Curtis introduced legislation that directed the Secretary of Agriculture to make payments for EWP activities specified in an agreement between the Secretary and a sponsor during the period between the signing of the cooperative agreement and the release of funds pursuant to the agreement. H.R. 4205, 116<sup>th</sup> Congress.

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Guidance

Many stakeholders identified challenges related to NRCS guidance. Stakeholders identified specific areas of the EWP program where guidance was limited or unclear, including

- Process to request assistance, including the required steps, forms, and time frames
- Types of available funds, including definitions of financial and technical assistance
- Time limits and the waiver process
- Processes for permitting and assessing environmental and cultural resources
- Calculating the value of in-kind services
- If and when projects can be implemented on National Forest System or other federal lands
- Role of other federal agencies
- Reimbursement process
- O&M requirements for EWP projects

Some stakeholders said that it would be helpful to have general guidance about the EWP program following disasters, so potential sponsors can quickly learn key policies and procedures, such as time frames for applying for assistance and project time limits.<sup>57</sup> One stakeholder said that when a community experiences a disaster, it is like a “fire hose” in terms of all of the information coming at it, so having guidance readily available for potential sponsors to review would be helpful. One stakeholder said providing additional guidance would be particularly important for potential sponsors with smaller budgets or in rural areas because these sponsors may have less experience with federal programs and management of large projects. Some stakeholders said that a short training or introductory seminar, such as videos available on the internet, providing basic information (e.g., “EWP 101”) would be helpful. Some sponsors also said it would be helpful to have candid discussions with NRCS staff following disasters to better understand key aspects of the EWP program—such as time limits and waivers—and its flexibilities.

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<sup>57</sup>In addition to the EWP program, some stakeholders said it would be helpful to have more information and guidance on other federal disaster response programs.

Some sponsors said they had had such discussions with NRCS staff and found them helpful.

NRCS does not have a national sponsor guide for the EWP program, but some NRCS state offices have issued guides for sponsors in their states. These guides address some but not all challenges identified by sponsors. For example, the two state office guides we reviewed did not provide detailed information about or examples of how to calculate the value of in-kind services.<sup>58</sup> As of July 2021, NRCS officials were in the process of developing a national sponsor guide for the EWP program, which they anticipated issuing in August 2021.<sup>59</sup> Officials said the guide will describe various aspects of the program, such as time frames to request assistance, sponsor and site eligibility, and project close out. However, from our review of NRCS documents and discussions with NRCS officials, it is not yet clear if the guide will address all of the challenges identified by stakeholders.

According to federal standards for internal control, management should externally communicate the necessary quality information to achieve the entity's objectives.<sup>60</sup> As NRCS continues developing its national sponsor guide, ensuring that it clarifies areas of limited guidance identified by stakeholders would help NRCS and sponsors achieve the objectives of the EWP program more effectively.

### Agency Roles and Responsibilities

Some stakeholders identified challenges regarding the roles of other federal agencies—mainly the Forest Service and FEMA—as their roles

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<sup>58</sup>We reviewed sponsor guides developed by NRCS state offices in Florida and New York. The other four states included in our review—Colorado, Mississippi, Texas, and Utah—had not developed sponsor guides at the time of our review, although the Colorado and Utah state offices were in the process of developing guides.

<sup>59</sup>In commenting on a draft of this report, NRCS stated in October 2021 that its estimated completion date for the project sponsor guide is September 30, 2022.

<sup>60</sup>[GAO-14-704G](#).

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and responsibilities are fragmented in some aspects of the EWP program.<sup>61</sup>

### Forest Service

Some stakeholders and agency officials identified challenges related to implementing EWP projects on federal lands, particularly on lands managed by the Forest Service. Wildfires on National Forest System lands may lead to flooding—along with erosion and sedimentation—that can negatively affect life and property on nonfederal land downstream, such as by reducing water quality, damaging roads, and threatening homes. Some sponsors said that, in certain cases, EWP projects may be more effective at protecting nonfederal land downstream if carried out on National Forest System lands, but they were either discouraged from doing so or told by NRCS officials that they could not implement EWP projects on such lands. Other stakeholders said it was unclear to them if and when EWP projects could be implemented on such lands.

The regulations for the program allow EWP projects to occur on National Forest System lands, but there is a lack of clarity among sponsors and, in some cases, the agencies themselves. The lack of clarity includes if and when EWP projects can be implemented on those lands—confusion that stems from fragmented roles and responsibilities between NRCS and the Forest Service. For example,

- NRCS and Forest Service officials said there appears to be a gap between the post-fire mitigation work that can be covered by EWP and other federal programs, such as the Forest Service's Burned Area Emergency Response program. Specifically, they said the EWP program is generally intended for the implementation of projects on nonfederal land to protect life and property on nonfederal land. The Burned Area Emergency Response program is for the implementation of projects on National Forest System land to protect federal property, but there is no program that clearly funds projects on federal land to protect life and property on nonfederal land.
- One stakeholder said that wildfires and other disasters may cross private and federal land ownerships, and there are hurdles and

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<sup>61</sup>Fragmentation refers to those circumstances in which more than one federal agency (or more than one organization within an agency) is involved in the same broad area of national need and opportunities exist to improve service delivery. See GAO, *2020 Annual Report: Additional Opportunities to Reduce Fragmentation, Overlap, and Duplication and Achieve Billions in Financial Benefits*, [GAO-20-440SP](#) (Washington, D.C.: May 19, 2020).

confusion in terms of how the EWP program can be used on National Forest System and other federal lands to protect life and property on nonfederal land.

- Another stakeholder said that wildfires can cross multiple jurisdictions and that there are grey areas as to whether EWP or the Burned Area Emergency Response program will cover mitigation following fires.
- Another said there is an “invisible line” in NRCS’s management of the EWP program between private and federal land, with NRCS allowing EWP projects on private land but generally not on National Forest System lands.

The regulations list NRCS and the Forest Service as co-administrators of the program, with NRCS to administer the program on state, tribal, and private lands, and the Forest Service on National Forest System lands. However, in practice, NRCS has been the sole administrator of the program since 2005, according to NRCS and Forest Service officials.<sup>62</sup>

NRCS officials said that their current understanding is that NRCS can implement EWP projects on National Forest System or other federal lands when the projects would protect life or property on nonfederal land from watershed impairments. They said that applicable situations include those in which a nonfederal entity has a special use permit or right-of-way on federal lands.<sup>63</sup> For example, many communities have water sources on National Forest System lands and thus have special use permits from the Forest Service to operate infrastructure, such as reservoirs, pipes, or canals, on those lands. NRCS officials said it is less clear if EWP projects could be implemented on federal lands when a nonfederal entity does not

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<sup>62</sup>Before 2005, the Forest Service administered the EWP program on National Forest System lands via its Cooperative Forestry unit, according to Forest Service officials. NRCS and Forest Service officials described various changes to the EWP program that occurred since the mid-2000s. Some program changes to the EWP regulations and program funding raised concerns that EWP projects implemented on National Forest System lands may be considered to augment the Forest Service’s budget, but those changes are not well documented. USDA has not provided any EWP funds to the Forest Service since 2005, according to NRCS and Forest Service officials. Forest Service officials said that in the fall of 2020, an official from the USDA Office of General Counsel informed them, via an informal communication, that NRCS-funded EWP projects on National Forest System lands that provide benefits for nonfederal resources would not be considered to augment the Forest Service’s budget as long as the Forest Service would not otherwise perform such work and the primary purpose of the work is to protect nonfederal resources.

<sup>63</sup>The areas covered by those special use permits may be expanded to allow for EWP projects to be implemented on federal lands, according to NRCS officials.

have a special use permit, but they said this may be allowed if life and property on nonfederal lands are clearly at risk.

Recognizing the lack of clarity surrounding implementing EWP projects on National Forest System lands, the Forest Service and NRCS initiated conversations in 2018 to determine how to better coordinate to address the issue, according to NRCS and Forest Service officials. These officials said that conversations between the agencies have continued intermittently since then but have not resulted in any current memorandums of understanding (MOU) or guidance on how to administer the EWP program on National Forest System lands.<sup>64</sup> More recently, in May 2021, the Forest Service agreed to an EWP pilot project proposed by NRCS.<sup>65</sup> The goal of the project is to build interagency collaboration across NRCS and the Forest Service to facilitate implementation of EWP projects on National Forest System lands following wildfires for the protection of life and property on nonfederal land, according to a USDA document and NRCS officials. As part of the pilot project, NRCS and the Forest Service will coordinate efforts on emergency measures to protect at-risk nonfederal lands adjacent to areas burned on National Forest System lands. As of July 2021, NRCS officials said they were still in the process of determining time frames for the pilot project.

NRCS restrictions for the pilot project, however, have limited the ability of some communities to receive EWP assistance. NRCS has limited the pilot project to \$5 million and only to areas in Colorado burned by the 2020 Cameron Peak Fire.<sup>66</sup> A sponsor affected by the Cameron Peak Fire estimated the costs of the recovery work on National Forest System land to mitigate the threat to nonfederal property and infrastructure as approximately \$25 million and does not know how or if it will be able to

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<sup>64</sup>The 2005 regulations for the EWP program reference a 1998 MOU between NRCS and the Forest Service. The agencies were unable to locate the document and do not have a more recent MOU.

<sup>65</sup>In 2016 and 2018, Senator Murray of Washington introduced legislation that would have directed the Secretary of Agriculture to create an EWP wildfire pilot program with extended deadlines for applications, funding awards, and construction completion dates. The legislation would have limited the pilot program to areas declared a major disaster under the Stafford Act and required the Secretary to prepare a report 1 year after the pilot program was established describing the number of applications submitted and approved and the average time of construction for the projects. S. 3388, 114<sup>th</sup> Congress and S. 2767, 115<sup>th</sup> Congress. The legislation was not enacted.

<sup>66</sup>The Cameron Peak Fire burned nearly 209,000 acres in Colorado in 2020, including parts of the Arapaho and Roosevelt National Forests and Rocky Mountain National Park.

find funds to perform the remaining work.<sup>67</sup> The sponsor said that without mitigation, the lands will be more prone to flooding and erosion, resulting in impaired water quality, higher water treatment costs, and the potential for damaged water infrastructure over the next decade. Moreover, there have been many severe wildfires across the United States in recent years, and communities affected by fires other than the Cameron Peak Fire would not be eligible for assistance under the pilot project. In some cases, sponsors may have received assistance from NRCS to implement EWP projects on National Forest System lands through the general EWP program, but one sponsor we interviewed said they were told by NRCS officials that they could not implement EWP projects on such lands following a different wildfire.

NRCS and the Forest Service do not have a current MOU or guidance that clarifies their respective roles and responsibilities in administering the EWP program on National Forest System lands, as noted above. Moreover, current regulations for the EWP program do not reflect how the program is currently administered. In the absence of an MOU or guidance that clarifies roles and responsibilities, NRCS and the Forest Service may continue to face challenges managing fragmented roles and responsibilities for their implementation of post-fire emergency measures. According to our leading collaboration practices, based on prior work, agencies can enhance and sustain their collaborative efforts by clarifying roles and responsibilities and documenting how they will be collaborating in written guidance and agreements, and routinely monitoring and updating those agreements.<sup>68</sup> Better managing fragmentation by clarifying roles and responsibilities and formally documenting how they will be collaborating to operate the EWP program across NRCS and the Forest Service would help the agencies and sponsors better understand the Forest Service's role and implement the most effective projects within the constraints of the program.

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<sup>67</sup>The \$25-million figure is for aerial mulching (i.e., dropping mulch from a helicopter to cover the burn area) on National Forest System land and does not include any mitigation costs for the Forest Service to protect federal infrastructure, according to the sponsor. In June 2021, the Colorado governor signed into law wildfire mitigation legislation that provides additional funds to assist with post-wildfire recovery efforts, through which this sponsor said it received an additional \$3 million. Colo. S.B. 21-258, § 2 (2021) (codified at Colorado Revised Statutes § 23-31-310). However, the sponsor estimated that it would still have about \$17.5 million in mitigation work on National Forest System land with no assurance of any additional EWP or state funding.

<sup>68</sup>[GAO-12-1022](#).

Further, the agencies do not have written guidance for sponsors on when EWP projects can be implemented on National Forest System or other federal lands. In the absence of guidance in the forthcoming sponsor guide, sponsors may continue to be unclear on if and when EWP projects can be implemented on National Forest System or other federal lands. According to federal standards for internal control, management should externally communicate the necessary quality information to achieve the entity's objectives.<sup>69</sup> Incorporating guidance on when EWP projects can be implemented on National Forest System and other federal lands into the sponsor guide would help ensure sponsors receive equal access to the program, and it would help ensure sponsors design the most effective projects within the program's constraints.

### **FEMA**

Some stakeholders also identified challenges related to FEMA's role when implementing EWP projects, given fragmentation of coverage in disaster assistance with NRCS. The main challenge stakeholders identified related to FEMA was a lack of clarity over what was eligible to be covered by the EWP program versus by FEMA's disaster programs. Some sponsors said that it was not always clear which agency—NRCS, FEMA, or both—was best to work with when implementing repairs or cleaning up debris following disasters.<sup>70</sup> According to one sponsor, FEMA will not reimburse sponsors for projects that are eligible for EWP assistance, even if NRCS does not have EWP funds immediately available to fund the project.

Some sponsors identified benefits to allowing combined funds across NRCS and FEMA to pay for projects when the EWP program does not have funds immediately available. One sponsor said that it would be helpful to have improved communication between NRCS and FEMA following disasters to help determine with which agency it is best to work.

In September 2020, FEMA and NRCS finalized an interagency coordination and operations plan that describes the format and structure for coordination during periods of non-disaster activity across the two

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<sup>69</sup>[GAO-14-704G](#).

<sup>70</sup>FEMA may provide financial assistance to tribal, state, and local governments through FEMA's Public Assistance Program to conduct debris removal. It may also fund repair or replacement of infrastructure.

agencies.<sup>71</sup> NRCS officials said in July 2021 that it was too early to assess implementation of the plan, but NRCS and FEMA were meeting on a quarterly basis. From our review of the plan, it appears to help improve management of fragmentation by helping to clarify the roles of NRCS and FEMA. For example, the plan states that if a project falls within NRCS authority, FEMA will not consider funding it regardless of whether NRCS has available funds.<sup>72</sup>

### Other Challenges

Stakeholders also noted other challenges related to the EWP program, as follows:

- **Sponsor eligibility.** Some stakeholders said that limiting sponsors of EWP projects to state or local government agencies or tribal organizations was a challenge, and they identified benefits to allowing other types of entities, such as nongovernmental organizations, private entities, or landowners, to be sponsors.<sup>73</sup> Specifically, some stakeholders said that small local governments are not always well equipped financially to cover the sponsor cost share for EWP projects, and nongovernmental organizations may be more effective as the sponsor, such as by better coordinating funds and in-kind services. One stakeholder said that allowing nongovernmental organizations to be sponsors could be particularly helpful following disasters that affect multiple government entities, such as large wildfires that cross county lines.

NRCS headquarters officials said that the level of responsibility and accountability associated with EWP projects is best met by having a

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<sup>71</sup>U.S. Department of Agriculture, Natural Resources Conservation Service, and Department of Homeland Security, Federal Emergency Management Agency, *Interagency Coordination and Operations (ICO) Plan Between the United States Department of Agriculture, Natural Resources Conservation Service and The Department of Homeland Security, Federal Emergency Management Agency* (Washington, D.C.: Sept. 9, 2020).

<sup>72</sup>We did not thoroughly review coordination of disaster assistance across NRCS and FEMA or interview FEMA officials as part of this review of the EWP program.

<sup>73</sup>As noted, under the EWP regulations, a sponsor for the EWP program is defined as a state government or a state agency or a legal subdivision thereof, local unit of government, or any Native American tribe or tribal organization as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450b) with a legal interest in or responsibility for the values threatened by a watershed emergency. The sponsor must be capable of obtaining necessary land rights and of carrying out any operation and maintenance responsibilities that may be required. 7 C.F.R. § 624.4(g).

government entity be the sponsor. They said that private entities may be more likely than state or local agencies to dissolve, leaving no one responsible for O&M. In addition, they said that government entities represent the broader interests of the community, whereas nongovernmental organizations or private entities may have private interests that could lead to conflicts of interest with or profiting from the EWP program. They added that sponsors can seek partnerships with nongovernmental organizations or other entities when carrying out EWP projects, as has been the case with some past projects. For example, some stakeholders were aware of situations where private entities, such as ditch companies, were interested in the EWP program, and local governments were able to step in to be the sponsor.<sup>74</sup>

- **Operation and maintenance.** Many stakeholders identified the EWP program's O&M requirements as a challenge. Some stakeholders said that the O&M requirements sometimes limited participation in the program, and others said that the requirements may pose unforeseen financial challenges for sponsors. Some landowners have not participated in EWP projects because of concerns about O&M requirements, according to some stakeholders. For example, a sponsor in Mississippi said that the scope of an EWP project had to be reduced because a landowner did not want to participate due to the O&M requirement; as a result, the sponsor said that the effectiveness of the project was reduced. Another sponsor expressed concern about the future financial burden of maintaining EWP projects. This sponsor had been implementing EWP projects for decades and was worried that future O&M costs were going to be "astronomical." Other sponsors were concerned about costs for which they may be responsible if a future disaster destroys a project. NRCS headquarters officials said that if a future disaster damaged an EWP project, then sponsors would be eligible to reapply for additional EWP funds.

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## Conclusions

EWP and other disaster assistance programs are becoming increasingly critical as hurricanes, wildfires, and other natural disasters intensify, thus increasing the importance of managing such programs effectively. NRCS has recently made a number of improvements to better manage the EWP

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<sup>74</sup>Ditch companies coordinate the use and ensure proper O&M of surface water irrigation systems.

program, including updating its policy on waivers to time limits for EWP projects, initiating an EWP pilot project with the Forest Service, and beginning to develop a sponsor guide.

Nevertheless, challenges remain. For example, while NRCS's recent policy update increased flexibility, it does not fully address the time limit challenges identified by stakeholders. Assessing the current regulatory time limits for EWP projects and determining whether the regulations need to be revised would help ensure that NRCS's control activities are relevant and effective in helping the agency and sponsors design and implement the most effective EWP projects. In addition, federal funds are not always immediately available to fund EWP projects, according to many stakeholders, mainly because the program is typically funded through supplemental and continuing appropriations. Analyzing whether another funding approach is needed to minimize delays in getting EWP funds to sponsors, including potentially changing how USDA requests funds from Congress, would help ensure that the program is addressing emergency needs as quickly as possible. It would also help to decrease the risk of additional damages, thus helping the department better achieve the objectives of the EWP program.

Further, sponsors and agency officials identified challenges related to implementing EWP projects on National Forest System lands, stating that it was unclear if and when EWP projects can be implemented on such lands. EWP projects may be more effective if implemented on federal lands, where the origin of watershed impairments may be located following wildfires or other disasters. Better managing fragmentation by clarifying roles and responsibilities and formally documenting how they will collaborate to operate the EWP program across NRCS and the Forest Service would help the agencies and sponsors better understand the Forest Service's role. It would also help implement the most effective projects within the constraints of the program.

Finally, many stakeholders identified areas of the EWP program where guidance was limited or unclear. As NRCS continues developing its national sponsor guide, ensuring that it clarifies the areas of limited guidance identified by stakeholders would help NRCS and sponsors achieve the objectives of the EWP program more effectively. In particular, incorporating guidance on when EWP projects can be implemented on National Forest System and other federal lands into the sponsor guide would help ensure sponsors receive equal access to the program, and it would help ensure sponsors design the most effective projects within the program's constraints.

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## Recommendations

We are making four recommendations, including two to USDA and two to NRCS:

The Chief of NRCS should assess the time limits for EWP projects and determine whether program regulations need to be revised. In doing so, NRCS may wish to consider collecting data on how long it takes for projects to be completed and the frequency and durations of waivers on time limits, and challenges that stakeholders identified. (Recommendation 1)

The Secretary of Agriculture, in consultation with the Chiefs of NRCS and the Forest Service, should determine whether the department needs to seek another funding approach, including potentially changing how it requests funds from Congress, to minimize delays in getting EWP funds to sponsors. In doing so, the agencies may wish to assess how often delays occur, how long it takes sponsors to receive funds from the time they submit a request for assistance, and how this affects the program. (Recommendation 2)

The Secretary of Agriculture, in consultation with the Chiefs of NRCS and the Forest Service, should develop an MOU or guidance clarifying roles and responsibilities for how and when EWP projects can be done on National Forest System lands. In doing so, the Secretary may wish to consider if the federal regulations should be updated to better reflect the current administration of the program, with NRCS as the sole administrator. (Recommendation 3)

The Chief of NRCS should ensure, as the agency continues working on developing a sponsor guide for the EWP program, that the guide clarifies areas of limited guidance identified by stakeholders. In particular, the Chief should incorporate information regarding how and when EWP projects can be done on National Forest System and other federal lands into the guide. (Recommendation 4)

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## Agency Comments

We provided a draft of this report to USDA for review and comment. In its comments, reproduced in appendix I, NRCS concurred with the

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recommendations. The Forest Service stated in an email that the agency generally agreed with the draft report and recommendations.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Agriculture, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

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If you or your staff have any questions about this report, please contact me at (202) 512-3841 or [AndersonN@gao.gov](mailto:AndersonN@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix II.

A handwritten signature in black ink that reads "Nathan Anderson". The signature is written in a cursive style with a large, sweeping initial "N".

Nathan Anderson  
Director, Natural Resources and Environment

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# Appendix I: Comments from the Department of Agriculture

**Appendix I: Comments from the Department of  
Agriculture**



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

October 18, 2021

Mr. Steve D. Morris  
Director  
Natural Resources and Environment  
Government Accountability Office  
2635 Century Parkway, Suite 600  
Atlanta, Georgia 30345

Dear Director Morris:

The U.S. Department of Agriculture (USDA) appreciates the opportunity to respond to the U.S. Government Accountability Office (GAO) draft report, *Emergency Watershed Protection: Assistance Program Helps Meet Post-Disaster Needs and Could Be Improved with Additional Guidance*, Job 104326.

Attached are the Natural Resources Conservation Service (NRCS) responses to the GAO Official Draft dated 2021.

**In Summary:**

GAO evaluated NRCS's controls over the EWP Program and issues related to improving guidance for post disaster needs. Hurricanes, floods, wildfires, and other natural disasters can damage watersheds, creating threats to life and property. According to the U.S. Global Change Research Program, extreme weather events in the United States are becoming more frequent and intense, in part due to climate change, which GAO has reported poses a significant fiscal risk to the Federal government. USDA's EWP Program provides technical and financial assistance to help project sponsors relieve imminent threats to life and property created by natural disasters. USDA allocated over \$1.3 billion to EWP projects for fiscal years 2015 through 2020. If NRCS has insufficient EWP funds, an approved project may be waitlisted until the agency receives additional funds from Congress.

If you require additional information, please contact Gary Weishaar, Branch Chief, External Audits and Investigations, at 202-401-0584.

Sincerely,

A handwritten signature in cursive script that reads "Gloria Montano Greene".

Gloria Montano Greene  
Deputy Under Secretary  
Farm Production and Conservation

Attachments

An Equal Opportunity Employer



United States Department of Agriculture

Emergency Watershed Protection Program:  
Assistance Program Helps Meet Post-Disaster  
Needs and Could Be Improved with Additional Guidance  
GAO Audit #104326

**Agency Responses**

**Executive Summary**

GAO evaluated NRCS' controls over the EWP Program and issues related to improving guidance for post disaster needs. Hurricanes, floods, wildfires, and other natural disasters can damage watersheds, creating threats to life and property. According to the U.S. Global Change Research Program, extreme weather events in the United States are becoming more frequent and intense, in part due to climate change, which GAO has reported poses a significant fiscal risk to the Federal government. USDA's EWP program provides technical and financial assistance to help project sponsors relieve imminent threats to life and property created by natural disasters. USDA allocated over \$1.3 billion to EWP projects for fiscal years 2015 through 2020. If NRCS has insufficient EWP funds, an approved project may be waitlisted until the agency receives additional funds from Congress.

**Findings**

Sponsors and other stakeholders generally described the EWP program as an important program that helps sponsors respond to disasters, but they also identified challenges, including the clarity of program guidance for sponsors. For example, many stakeholders identified areas where guidance was limited or unclear, including guidance related to the steps and forms needed for sponsors to request assistance. Some said it would be helpful to have such guidance so that potential sponsors can quickly learn key policies and procedures, such as timeframes for applying for assistance and project time limits. Some NRCS state offices have developed guides to help sponsors understand program requirements, but NRCS does not have a national sponsor guide. As of July 2021, NRCS officials said that they were in the process of developing a national sponsor guide, which they anticipated issuing later in 2021. However, from our review of NRCS documents and discussions with NRCS officials, it is not clear whether the guide will address the challenges identified by stakeholders GAO interviewed. As NRCS continues developing its national sponsor guide, ensuring that the guide clarifies areas stakeholders identified would help NRCS and sponsors better achieve their objectives of protecting life and property after a natural disaster.

**Recommendations and Agency Responses**

Recommendation 1

The Chief of NRCS should assess the time limits for EWP projects and determine whether program regulations need to be revised. In doing so, NRCS may wish to consider collecting data on how long it takes for projects to be completed and the frequency and durations of waivers on time limits, and challenges that stakeholders identified.

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

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**Appendix I: Comments from the Department of Agriculture**



United States Department of Agriculture

**Agency Response**

NRCS accepts this recommendation. The National EWP Program Manual was revised in November 2020 to provide State Conservationists with more flexibility in determining EWP recovery assistance time limits. Nonetheless, the Chief of NRCS will continue to work with the leadership team and will revisit completion rates for emergency projects and the frequency and durations of waivers on time limits in addition to the challenges that stakeholders have identified. All identified program improvements will be updated in the National EWP Program Manual.

Estimated completion date is September 30, 2022.

Recommendation 2

The Secretary of Agriculture, in consultation with the Chiefs of NRCS and the Forest Service, should determine whether the department needs to seek another funding approach, including potentially changing how it requests funds from Congress, to minimize delays in getting EWP funds to sponsors. In doing so, the agencies may wish to assess how often delays occur, how long it takes sponsors to receive funds from the time they submit a request for assistance, and how this affects the program.

**Agency Response**

NRCS accepts this recommendation. History of the EWP program has provided supporting evidence that the EWP program source of funding has been through congressional supplemental appropriations. The Chief of NRCS will consult with the Chief of the Forest Service to determine if there is a need to seek another funding approach in requesting congressional appropriation.

Estimated completion date is September 30, 2022.

Recommendation 3

The Secretary of Agriculture, in consultation with the Chiefs of NRCS and the Forest Service, should develop an MOU or guidance clarifying roles and responsibilities for how and when EWP projects can be done on National Forest System. In doing so, the Secretary may wish to consider if the Federal regulations should be updated to better reflect the current administration of the program, with NRCS as the sole administrator.

**Agency Response**

NRCS accepts this recommendation. The Chiefs of NRCS and the Forest Service are currently developing a Memorandum of Understanding (MOU) that clarifies roles and responsibilities of each agency when identifying whether an EWP project can be undertaken on National Forest System land. The National EWP Program Manual will be updated upon signature approval of this MOU.

Estimated completion date is September 30, 2022.

Recommendation 4

The Chief of NRCS should ensure, as the agency continues working on developing a sponsor guide for the EWP program, that the guide clarifies areas of limited guidance identified by stakeholders. In particular, the Chief should incorporate information regarding how and when EWP projects can be done on National Forest System and other Federal lands into the guide.

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**Appendix I: Comments from the Department of  
Agriculture**



United States Department of Agriculture

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**Agency Response**

NRCS accepts this recommendation. As the agency continues working on developing a sponsor guide for the EWP program, the Chief of NRCS will ensure that the sponsor guide incorporates and clarifies areas identified as needing improvement by stakeholders. Also, the sponsor guide will incorporate information concerning how and when EWP funds can be made available on National Forest System and other Federal lands into the guide.

Estimated completion date is September 30, 2022.

Natural Resources Conservation Service  
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## Accessible Text for Appendix I: Comments from the Department of Agriculture

October 18, 2021

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Director  
Natural Resources and Environment  
Government Accountability Office  
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In Summary:

GAO evaluated NRCS's controls over the EWP Program and issues related to improving guidance for post disaster needs. Hurricanes, floods, wildfires, and other natural disasters can damage watersheds, creating threats to life and property. According to the U.S. Global Change Research Program, extreme weather events in the United States are becoming more frequent and intense, in part due to climate change, which GAO has reported poses a significant fiscal risk to the Federal government. USDA's EWP Program provides technical and financial assistance to help project sponsors relieve imminent threats to life and property created by natural disasters. USDA allocated over \$1.3 billion to EWP projects for fiscal years 2015 through 2020. If NRCS has insufficient EWP funds, an approved project may be waitlisted until the agency receives additional funds from Congress.

If you require additional information, please contact Gary Weishaar, Branch Chief, External Audits and Investigations, at 202-401-0584.

Sincerely,

Gloria Montañó Greene  
Deputy Under Secretary  
Farm Production and Conservation

#### Attachments

Emergency Watershed Protection Program:  
Assistance Program Helps Meet Post-Disaster  
Needs and Could Be Improved with Additional Guidance  
GAO Audit #104326

#### Agency Responses

##### Executive Summary

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##### Findings

Sponsors and other stakeholders generally described the EWP program as an important program that helps sponsors respond to disasters, but they also identified challenges, including the clarity of program guidance for sponsors. For example, many stakeholders identified areas where guidance was limited or unclear, including guidance related to the steps and forms needed for sponsors to request assistance. Some said it would be helpful to have such guidance so that potential sponsors can quickly learn key policies and procedures, such as timeframes for applying for assistance and project time limits. Some NRCS state offices have developed guides to help sponsors understand program requirements, but NRCS does not have a national sponsor guide. As of July 2021, NRCS officials said that they were in the process of developing a national sponsor guide, which they anticipated issuing later in 2021. However, from our review of NRCS documents and discussions with NRCS officials, it is not clear whether the guide will address the challenges identified by stakeholders GAO interviewed. As NRCS continues developing its national sponsor guide, ensuring that the guide clarifies areas stakeholders identified would help

NRCS and sponsors better achieve their objectives of protecting life and property after a natural disaster.

#### Recommendations and Agency Responses

##### Recommendation 1

The Chief of NRCS should assess the time limits for EWP projects and determine whether program regulations need to be revised. In doing so, NRCS may wish to consider collecting data on how long it takes for projects to be completed and the frequency and durations of waivers on time limits, and challenges that stakeholders identified.

##### Agency Response

NRCS accepts this recommendation. The National EWP Program Manual was revised in November 2020 to provide State Conservationists with more flexibility in determining EWP recovery assistance time limits. Nonetheless, the Chief of NRCS will continue to work with the leadership team and will revisit completion rates for emergency projects and the frequency and durations of waivers on time limits in addition to the challenges that stakeholders have identified. All identified program improvements will be updated in the National EWP Program Manual.

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##### Agency Response

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Estimated completion date is September 30, 2022.

##### Recommendation 3

The Secretary of Agriculture, in consultation with the Chiefs of NRCS and the Forest Service, should develop an MOU or guidance clarifying roles and responsibilities for how and when EWP projects can be done on National Forest System. In doing so,

the Secretary may wish to consider if the Federal regulations should be updated to better reflect the current administration of the program, with NRCS as the sole administrator.

Agency Response

NRCS accepts this recommendation. The Chiefs of NRCS and the Forest Service are currently developing a Memorandum of Understanding (MOU) that clarifies roles and responsibilities of each agency when identifying whether an EWP project can be undertaken on National Forest System land. The National EWP Program Manual will be updated upon signature approval of this MOU.

Estimated completion date is September 30, 2022.

Recommendation 4

The Chief of NRCS should ensure, as the agency continues working on developing a sponsor guide for the EWP program, that the guide clarifies areas of limited guidance identified by stakeholders. In particular, the Chief should incorporate information regarding how and when EWP projects can be done on National Forest System and other Federal lands into the guide.

Agency Response

NRCS accepts this recommendation. As the agency continues working on developing a sponsor guide for the EWP program, the Chief of NRCS will ensure that the sponsor guide incorporates and clarifies areas identified as needing improvement by stakeholders. Also, the sponsor guide will incorporate information concerning how and when EWP funds can be made available on National Forest System and other Federal lands into the guide.

Estimated completion date is September 30, 2022.

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## Appendix II: GAO Contact and Staff Acknowledgments

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### GAO Contact

Nathan Anderson, (202) 512-3841 or [AndersonN@gao.gov](mailto:AndersonN@gao.gov)

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### Staff Acknowledgments

In addition to the individual named above, Jonathan Dent (Assistant Director), Lesley Rinner (Analyst-in-Charge), and Jordan Kudrna made key contributions to this report. Mark Braza, Ellen Fried, William Gerard, Thomas M. James, Thomas J. McCabe, Dan Royer, Marylynn Sergent, and Sarah Veale made additional contributions.

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## Public Affairs

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