

2011 Explanatory Notes

National Appeals Division
Table of Contents

Purpose Statement.....	3-1
Statement of Available Funds and Staff Years.....	3-2
Permanent Positions by Grade and Staff Year	3-2
Salaries and Expenses:	
Appropriation Language	3-3
Lead-off Tabular Statement	3-3
Project Statement	3-3
Justifications	3-4
Geographic Breakdown of Obligations and Staff Years	3-5
Classification by Objects	3-6
Status of Program.....	3g-1
Summary of Budget and Performance:	
Statement of Goals and Objectives	3-7
Key Performance Outcomes and Measures	3-8
Full Cost by Strategic Objective	3-9

NATIONAL APPEALS DIVISION

Purpose Statement

The National Appeals Division (NAD) was established by the Secretary of Agriculture on October 20, 1994, by Secretary's Memorandum 1010-1, pursuant to the Federal Crop Insurance and Reform and Department of Agriculture Reorganization Act of 1994, Public Law No. 103-354. The Act consolidated the appellate functions and staff of several USDA agencies to provide for independent hearings and reviews of adverse agency decisions.

The mission of NAD is to conduct fair and impartial administrative appeal hearings and reviews of adverse decisions issued by certain agencies within the USDA and to issue determinations in an expeditious manner that reflect a thorough consideration of factual information and reach a proper conclusion. By statute, NAD hears appeals involving program decisions of the Farm Service Agency, Risk Management Agency, Natural Resources Conservation Service, Rural Business-Cooperative Service, Rural Housing Service, and the Rural Utilities Service. The Secretary of Agriculture may also assign to NAD additional jurisdiction to hear administrative appeals arising from decisions of other parts of USDA.

NAD Headquarters is located in Alexandria, Virginia. NAD administers its appeals system through three regional offices located in Memphis, Tennessee; Indianapolis, Indiana; and Lakewood, Colorado. The hearing officers are located in 57 field locations throughout the United States, and operate out of leased office space or home offices. As of September 30, 2009, there were 91 permanent full-time employees, including 24 in Alexandria, VA and 67 in the field.

NAD did not have any Office of Inspector General or Government Accountability Office evaluation reports during the past year.

NATIONAL APPEALS DIVISION

Available Funds and Staff Years
2009 Actual and Estimated 2010 and 2011

Item	2009 <u>Actual</u>		2010 <u>Estimate</u>		2011 <u>Estimate</u>	
	<u>Amount</u>	<u>Staff Years</u>	<u>Amount</u>	<u>Staff Years</u>	<u>Amount</u>	<u>Staff Years</u>
Salaries and Expenses.....	\$14,019,405	94	\$15,254,000	99	\$15,424,000	99

Permanent Positions By Grade and Staff Year Summary
2009 Actual and Estimated 2010 and 2011

Grade	2009			2010			2011		
	Wash DC	Field	Total	Wash DC	Field	Total	Wash DC	Field	Total
ES-00.....	1	--	1	1	--	1	1	--	1
GS-15.....	4	3	7	4	3	7	4	3	7
GS-14.....	2	5	7	2	4	6	2	4	6
GS-13.....	12	49	61	12	49	61	12	49	61
GS-12.....	2	--	2	3	--	3	3	--	3
GS-11.....	--	3	3	1	3	4	1	3	4
GS-10.....	1	--	1	1	--	1	1	--	1
GS-9.....	2	3	5	1	3	4	1	3	4
GS-8.....	1	--	1	1	--	1	1	--	1
GS-7.....	--	1	1	1	--	1	1	--	1
GS-6.....	1	7	8	1	7	8	1	7	8
GS-5.....	--	2	2	--	2	2	--	2	2
Total Permanent Positions	26	73	99	28	71	99	28	71	99
Unfilled Positions end-of-year	-2	-6	-8	--	--	--	--	--	--
Total, Permanent Full-Time Employment, end-of-year	24	67	91	28	71	99	28	71	99
Staff Year Estimate	24	70	94	28	71	99	28	71	99

NATIONAL APPEALS DIVISION

Appropriation Language

For necessary expenses of the National Appeals Division,[\$15,254,000] \$15,424,000.

Lead-Off Tabular Statement

Appropriations Act, 2010	\$15,254,000
Budget Estimate, 2011.....	<u>15,424,000</u>
Increase in Appropriation	<u>+170,000</u>

Summary of Increases and Decreases
(On basis of appropriation)

<u>Item of Change</u>	<u>2010 Estimate</u>	<u>Pay Costs</u>	<u>2011 Estimate</u>
National Appeals Division	\$15,254,000	\$170,000	\$15,424,000

Project Statement
(On basis of appropriation)

	<u>2009 Actual</u>		<u>2010 Estimate</u>		<u>Increase or Decrease</u>	<u>2011 Estimate</u>	
	<u>Amount</u>	<u>Staff Years</u>	<u>Amount</u>	<u>Staff Years</u>		<u>Amount</u>	<u>Staff Years</u>
National Appeals Division	\$14,019,405	94	\$15,254,000	99	+\$170,000	\$15,424,000	99
Unobligated Balance.....	691,595	--	--	--	--	--	--
Total Available or Estimate.....	14,711,000	94	15,254,000	99	+170,000	15,424,000	99

NATIONAL APPEALS DIVISION

Justification of Increases and Decreases

(1) An increase of \$170,000 for the National Appeals Division (NAD) consisting of:

a) An increase of \$170,000 to fund increased pay costs.

The proposed funding level is needed to cover pay and benefit cost increases for existing staff. This will ensure that NAD can carry out its statutory responsibilities in a timely manner. Appellants, USDA agencies, and Congress would all be adversely affected if NAD cannot execute its mission within statutory time requirements. Responsive, fair, and quality decision-making is a corner stone of NAD's strategic planning.

NATIONAL APPEALS DIVISION

Geographic Breakdown of Obligations and Staff Years
2009 Actual and Estimated 2010 and 2011

	2009		2010		2011	
	Amount	Staff Years	Amount	Staff Years	Amount	Staff Years
Alabama	\$97,604	1	\$110,000	1	\$112,000	1
Arkansas	--	--	90,000	1	91,000	1
California.....	265,447	2	242,000	2	245,000	2
Colorado.....	1,572,502	10	1,580,000	9	1,590,000	9
Connecticut.....	131,860	1	142,000	1	144,000	1
Delaware.....	127,786	1	--	--	--	--
Florida	369,789	2	202,000	2	205,000	2
Georgia	253,188	2	268,000	2	272,000	2
Idaho.....	97,604	1	86,000	1	88,000	1
Illinois.....	120,384	1	124,000	1	126,000	1
Indiana.....	1,306,140	10	1,334,000	11	1,375,000	11
Iowa.....	256,519	2	261,000	2	265,000	2
Kansas	15,600	1	--	--	--	--
Kentucky	249,857	2	260,000	2	264,000	2
Louisiana	123,263	1	127,000	1	128,000	1
Michigan.....	131,860	1	136,000	1	138,000	1
Minnesota.....	259,850	2	278,000	1	282,000	1
Mississippi.....	123,263	1	131,000	1	132,000	1
Missouri.....	123,263	1	127,000	1	129,000	1
Montana.....	126,594	1	133,000	1	135,000	1
Nebraska.....	123,263	1	121,000	2	123,000	2
North Carolina.....	361,956	2	385,000	3	386,000	3
North Dakota.....	246,526	2	179,000	2	181,000	2
Oklahoma	246,524	2	256,000	2	260,000	2
Pennsylvania.....	376,452	2	258,000	3	261,000	3
South Carolina.....	126,594	1	133,000	1	135,000	1
Tennessee	1,385,110	10	1,398,000	10	1,405,000	10
Texas	389,720	3	445,000	3	448,000	3
Vermont.....	123,263	1	129,000	1	131,000	1
Virginia.....	4,507,842	24	5,865,000	28	5,913,000	28
Washington.....	123,263	1	127,000	1	129,000	1
West Virginia	129,925	1	133,000	1	135,000	1
Wisconsin.....	126,594	1	194,000	1	196,000	1
Subtotal, Available or Estimate	14,019,405	94	15,254,000	99	15,424,000	99
Unobligated balance	691,595	--	--	--	--	--
Total, Available or Estimate.....	14,711,000	94	15,254,000	99	15,424,000	99

NATIONAL APPEALS DIVISION

Classification By Objects2009 Actual and Estimated 2010 and 2011

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Personnel Compensation:			
Alexandria, VA.....	\$5,096,291	\$5,454,000	\$5,561,000
Field.....	4,479,548	4,940,000	5,037,000
11 Total personnel compensation	9,575,839	10,394,000	10,598,000
12 Personnel benefits.....	1,988,476	2,375,000	2,438,000
13 Former personnel.....	160	9,000	9,000
Total pers. comp. & benefits.....	11,564,475	12,778,000	13,045,000
Other Objects:			
21 Travel and transportation of persons	376,901	253,000	253,000
22 Transportation of things.....	48,275	66,000	66,000
23.2 Rental payments to others.....	201,039	192,000	192,000
23.3 Communications, utilities, and misc. charges.....	177,625	181,000	181,000
24 Printing and reproduction	28,876	50,000	50,000
25.1 Advisory and assistance services	515,564	932,000	932,000
25.2 Other services	126,624	84,000	84,000
25.3 Purchases of goods and services from Government Accounts	539,294	398,000	398,000
26 Supplies and materials	150,835	150,000	102,000
31 Equipment	289,877	150,000	101,000
42 Litigation Fees & Awards.....	-	20,000	20,000
43 Interest and Dividends	20	--	--
Total other objects	2,454,930	2,476,000	2,379,000
Total direct obligations	14,019,405	15,254,000	15,424,000
Position Data:			
Average Salary, GS positions	\$91,269	\$94,349	\$94,349
Average Grade, GS positions	13.3	13.3	13.3

NATIONAL APPEALS DIVISION

STATUS OF PROGRAM

The National Appeals Division (NAD) is responsible for listening to farmers and other rural program participants concerning their disputes with certain agencies within the Department of Agriculture (USDA) and reaching the right decision for the right reason through fair and impartial administrative hearings and appeals.

Current Activities:

Appealability Determinations. When an agency notifies a participant that it does not believe an administrative decision is appealable to the Division, a participant may request that the NAD Director review that determination. The Director reviews hundreds of these decisions, and his determination is administratively final.

Pre-Hearing Conferences. NAD conducts pre-hearing conferences to identify or narrow the issues in the appeal and to help parties understand the evidence they need to bring to the hearing. Pre-hearing conferences increase the fairness of the appeal process by ensuring all parties are prepared for the hearing.

Hearings and Reviews. NAD conducts impartial administrative appeal hearings and reviews of adverse program decisions made by officers, employees or committees of designated agencies of the USDA and issues determinations in an expeditious manner that reflect a thorough consideration of factual information to reach a proper conclusion. By statute, NAD hears appeals involving program decisions of the Farm Service Agency, Risk Management Agency, Natural Resources Conservation Service, Rural Business - Cooperative Service, Rural Housing Service, and the Rural Utilities Service. The Secretary of Agriculture may also assign NAD additional jurisdiction to hear administrative appeals arising from decisions of other parts of USDA.

Selected Examples of Recent Progress:

In FY 2009, NAD—

- Processed 2,684 cases filed with NAD.
- Issued 266 determinations when appellants challenged the agency view that a decision was not appealable. Outcome was favorable to appellants in 94 percent of cases.
- Conducted 1,163 in-person or telephonic hearings, and recorded reviews.
- Issued 2,359 determinations, of which 1,995 were issued by Hearing Officers and 364 were issued by the NAD Director. Outcome was favorable to Appellants in 34 percent of cases.
- Increased transparency and affirmed the fairness of the USDA appeals process by publishing approximately 1,600 determinations in FY 2009, and over 9,000 since the program began, on the NAD Web site (http://www.nad.usda.gov/public_search.html); appealability decisions are now posted on the Web; over 120 since May 2008.
- Implemented digital recording of pre-hearings and hearings: Over 4,800 have been recorded and indexed in a database for easy employee and management review. When parties request audio recordings, NAD now provides CD's or MP3 audio files.
- Through group employee evaluation sessions, conducted quality assessments of over 500 hearing and review decisions, according to NAD writing standards that have been validated by the Educational Testing Service.
- Validated increase in quality of written decisions by publication in peer-reviewed journal of "best practices" article showing the use of holistic evaluation of writing as increasing the quality of NAD decisions (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1229562).
- Continued its outreach campaign (*Face to Face Fairness*) to demonstrate to producers the fairness of the USDA appeals system by conducting 19 outreach activities (e.g., attended farm shows, conventions, and conferences; conducted agency training; and met with rural colleges and organizations).

NATIONAL APPEALS DIVISION

Summary of Budget and Performance
Statement of Goals and Objectives

NAD has one strategic goal and two strategic objectives that contribute to the strategic goals of the Department.

USDA Strategic Goal/Objective	Agency Strategic Goal	Agency Objectives	Programs that Contribute	Key Outcome
NAD supports all the strategic goals and objectives of the Department	Agency Goal 1: Issue timely and well-written determinations that correctly interpret applicable regulations.	<u>Objective 1.1:</u> Conduct hearings and issue quality determinations within applicable statutorily-mandated timeframes. <u>Objective 1.2:</u> Issue appeal hearing and review determinations that reviewers have assigned evaluation scores that fall within a standard deviation of 1.0 based on a six-point scale identifying excellence and matters that detract from excellence. This provides an objective evaluation tool for identifying what makes a determination excellent and helps writers achieve excellence in their work.	Hearings Appeals Reviews Planning, Training, and Quality Control	<u>Key Outcome 1:</u> NAD conducts timely hearings and delivers timely determinations. <u>Key Outcome 2:</u> Correct, fair, and readable determinations; reaching the right decision for the right reason.

Selected Accomplishments Expected at the FY 2011 Proposed Resource Level:

- Our expected accomplishments for Appeal Hearings are 1,900
- Our expected accomplishments for Determinations are:
 - Director Review Determinations - 450
 - Appeal Determinations – 2,000
 - Appealability, Timeliness, and Jurisdictional Determinations - 450

NATIONAL APPEALS DIVISION

Summary of Budget and Performance
Key Performance Outcomes and Measures

Goal 1: Issue timely and well-written determinations that correctly interpret applicable regulations.

Key Outcome 1: NAD conducts timely hearings and delivers timely determinations.

Key Performance Measure:

- Percentage of hearings held and determinations issued within applicable timeframes.

Key Outcome 2: Correct, fair, and readable determinations; reaching the right decision for the right reasons.

Key Performance Measure:

- Determinations found to be within 1.0 standard deviation of excellence according to group evaluations.

Key Performance Targets:

Performance Measure	2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Target	2011 Target
Percentage of hearings held and determinations issued within applicable timeframes.						
Units:	85%	85%	85%	85%	85%	85%
Determinations found to be within 1.0 standard deviation of excellence according to group evaluations.						
Units:	100%	100%	100%	100%	100%	100%
Total Dollars:	\$14,285,760	\$13,889,886	\$14,276,250	\$14,019,405	\$15,254,000	\$15,424,000

NATIONAL APPEALS DIVISION

Full Cost by Objective
(Dollars in Thousands)

Objective 1.1: Conduct hearings and issue quality determinations within applicable statutorily-mandated timeframes.

Objective 1.2: Issue appeal hearing and review determinations that reviewers have assigned evaluation scores that fall within a standard deviation of 1.0 based on a six-point scale identifying excellence and matters that detract from excellence. This provides an objective evaluation tool for identifying what makes a determination excellent and helps writers achieve excellence in their work.

PROGRAM	PROGRAM ITEMS	Dollars in thousands		
		<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
National Appeals Division	Administrative Costs	\$14,019	\$15,254	\$15,424
	FTE's	94	99	99
	Percentage of hearings held and determinations issued within applicable timeframes.	85%	85%	85%
	Determinations found to be within 1.0 standard deviation of excellence according to group evaluations	100%	100%	100%