

2011 Explanatory Notes

National Appeals Division
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NATIONAL APPEALS DIVISION

Purpose Statement

Section 272 of the Federal Crop Insurance Reform and Department of Agricultural Reorganization Act of 1994, Pub. Law No. 103-254, requires the Secretary of Agriculture to establish and maintain the National Appeals Division. The Act consolidated the appellate functions and staff of several USDA agencies to provide for independent hearings and reviews of adverse agency decisions. 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.

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 that reach a proper conclusion.

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. During the previous fiscal year, NAD experienced higher than average turnover in the Hearing and Appeals Officer position. This budget request reflects a return to staff levels to meet statutory requirements for conducting its mission. As of September 30, 2010, there were 89 permanent full-time employees, comprised of 24 in Alexandria, VA and 65 in the field.

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

Available Funds and Staff Years
2010 Actual and Estimated 2011 and 2012

Item	2010 <u>Actual</u>		2011 <u>Estimate</u>		2012 <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.....	\$14,399,866	91	\$15,254,000	103	\$15,254,000	103
Unobligated Balance.....	397,134	--	--	--	--	--
Transfer to WCF.....	457,000	--	--	--	--	--
Total, Salaries and Expenses.....	15,254,000	91	15,254,000	103	15,254,000	103

NATIONAL APPEALS DIVISION

Permanent Positions By Grade and Staff Year Summary2010 Actual and Estimated 2011 and 2012

Grade	2010			2011			2012		
	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	6	8	2	6	8	2	6	8
GS-13.....	13	49	62	13	53	66	13	53	66
GS-12.....	3	---	3	3	---	3	3	---	3
GS-11.....	--	3	3	--	3	3	--	3	3
GS-10.....	1	--	1	1	--	1	1	--	1
GS-9.....	2	3	5	2	3	5	2	3	5
GS-8.....	1	--	1	1	--	1	1	--	1
GS-7.....	--	--	--	--	--	--	--	--	--
GS-6.....	1	6	7	1	6	7	1	6	7
GS-5.....	--	1	1	--	1	1	--	1	1
Total Permanent Positions.....	28	71	99	28	75	103	28	75	103
Unfilled Positions end-of-year.....	-4	-6	-10	--	--	--	--	--	--
Total, Permanent Full-Time Employment, end- of-year.....	24	65	89	28	75	103	28	75	103
Staff Year Estimate.....	24	67	91	28	75	103	28	75	103

NATIONAL APPEALS DIVISION

Appropriation Language

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

Lead-Off Tabular Statement

Annualized Continuing Resolution, 2011	\$15,254,000
Budget Estimate, 2012	<u>15,254,000</u>
Change in Appropriation	<u>0</u>

Summary of Increases and Decreases

(On basis of appropriation)

<u>Item of Change</u>	<u>2011 Estimate</u>	<u>Program Change</u>	<u>2012 Estimate</u>
National Appeals Division.....	\$15,254,000	0	\$15,254,000

Project Statement

(On basis of appropriation)

	<u>2010 Actual</u>		<u>2011 Estimate</u>		<u>Increase or Decrease</u>	<u>2012 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.....	\$14,399,866	91	\$15,254,000	103	--	\$15,254,000	103
Unobligated Balance.....	+397,134	--	--	--	--	--	--
Transfer to WCF.....	+457,000	--	--	--	--	--	--
Total Available or Estimated.....	<u>15,254,000</u>	<u>91</u>	<u>15,254,000</u>	<u>103</u>	<u>--</u>	<u>15,254,000</u>	<u>103</u>

NATIONAL APPEALS DIVISION

Geographic Breakdown of Obligations and Staff Years
2010 Actual and Estimated 2011 and 2012

	2010		2011		2012	
	Amount	Staff Years	Amount	Staff Years	Amount	Staff Years
Alabama	\$111,606	1	\$192,836	2	\$192,836	2
Arkansas.....	101,460	1	101,460	1	101,460	1
California	133,946	1	215,176	2	215,176	2
Colorado.....	1,332,207	9	1,413,437	9	1,413,437	9
Connecticut.....	141,641	1	141,641	1	141,641	1
Florida	216,448	2	297,678	3	297,678	3
Georgia.....	272,114	2	272,114	2	272,114	2
Idaho.....	114,987	1	114,987	1	114,987	1
Illinois	128,514	1	128,514	1	128,514	1
Indiana.....	1,126,464	8	1,207,694	8	1,207,694	8
Iowa.....	263,795	2	263,795	2	263,795	2
Kansas	--	--	81,230	1	81,230	1
Kentucky	260,412	2	--	--	--	--
Louisiana	128,514	1	128,514	1	128,514	1
Maryland	--	--	81,230	1	81,230	1
Michigan	260,412	2	260,412	2	260,412	2
Minnesota.....	279,505	2	279,505	2	279,505	2
Mississippi	131,897	1	131,897	1	131,897	1
Missouri	--	--	81,230	1	81,230	1
Montana	131,897	1	131,897	1	131,897	1
Nebraska.....	104,842	1	104,842	1	104,842	1
New York.....	--	--	81,230	1	81,230	1
North Carolina.....	216,469	2	216,469	2	216,469	2
North Dakota.....	209,684	2	290,914	3	290,914	3
Ohio.....	--	--	81,230	1	81,230	1
Oklahoma	260,412	2	260,412	2	260,412	2
Pennsylvania	260,412	2	260,412	2	260,412	2
South Carolina.....	131,897	1	131,897	1	131,897	1
Tennessee	1,412,560	11	1,412,560	11	1,412,560	11
Texas	371,605	3	452,835	4	452,835	4
Vermont	128,514	1	128,514	1	128,514	1
Virginia	5,641,289	24	5,781,076	28	5,781,076	28
Washington	131,897	1	131,897	1	131,897	1
West Virginia	161,107	1	161,107	1	161,107	1
Wisconsin.....	233,358	2	233,358	2	233,358	2
Subtotal, Available or Estimate.....	14,399,866	91	15,254,000	103	15,254,000	103
Transfer to WCF	+457,000	--	--	--	--	--
Unobligated balance.....	+397,134	--	--	--	--	--
Total, Available or Estimate	15,254,000	91	15,254,000	103	15,254,000	103

NATIONAL APPEALS DIVISION

Classification By Objects2010 Actual and Estimated 2011 and 2012

	<u>2010</u>	<u>2011</u>	<u>2012</u>
Personnel Compensation:			
Alexandria, VA.....	\$2,361,808	\$2,684,155	\$2,693,417
Field.....	6,826,206	7,158,059	7,142,321
11 Total personnel compensation.....	9,188,014	9,842,214	9,835,738
12 Personnel benefits.....	2,114,701	2,299,000	2,373,000
13 Former personnel.....	103	2,000	2,000
Total pers. comp. & benefits.....	11,302,818	12,143,214	12,210,738
Other Objects:			
21 Travel and transportation of persons	394,092	394,000	394,000
22 Transportation of things.....	54,518	58,000	58,000
23.2 Rental payments to others.....	71,309	75,000	75,000
23.3 Communications, utilities, and misc. charges.....	171,391	175,000	175,000
24 Printing and reproduction	7,358	7,000	7,000
25.1 Advisory and assistance services.....	1,691,035	1,685,786	1,623,262
25.2 Other services	151,510	151,000	151,000
25.3 Purchases of goods and services from Government Accounts	281,489	290,000	290,000
26 Supplies and materials	128,931	130,000	130,000
31 Equipment.....	141,034	140,000	140,000
42 Litigation Fees & Awards.....	4,377	5,000	5,000
43 Interest and Dividends.....	4	--	--
Total other objects	3,097,048	3,110,786	3,043,262
Total direct obligations.....	14,399,866	15,254,000	15,254,000
<u>Position Data:</u>			
Average Salary, GS positions	\$94,969	\$94,969	\$94,969
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, that participant may request that the NAD Director review that determination. The Director reviews hundreds of these decisions annually, 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 efficiency and fairness of the appeal process by ensuring all parties are prepared for the hearing.

Hearings and Reviews. NAD Hearing Officers conduct impartial administrative hearings and issue determinations in expeditious manners that reflect a thorough consideration of factual information to reach a proper conclusion. On petition, the NAD Director reviews those determinations. In addition, the Hearing Officers and the NAD Director make decisions about attorney fees under the Equal Access to Justice Act. 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 2010, NAD—

- Processed 2,558 cases filed with NAD.
- Issued 285 determinations when appellants challenged the agency view that a decision was not appealable. Outcome was favorable to appellants in 95 percent of cases.
- Conducted 1,250 in-person or telephonic hearings, and recorded reviews.
- Issued 2,416 determinations, of which 2,021 were issued by Hearing Officers and 395 were issued by the NAD Director. Outcome was favorable to appellants in 37 percent of cases.
- Increased transparency and affirmed the fairness of the USDA appeals process by publishing approximately 1,900 determinations in FY 2010, and over 11,000 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 500 since May 2008.
- Continue to implement 7,200 digital recordings of pre-hearings and hearings for employee access and management review. When parties request audio recordings, NAD now provides CDs or MP3 audio files.
- Through group employee evaluation sessions, conducted quality assessments of over 500 hearing and review decisions; NAD writing standards have been validated by the Educational Testing Service, and described in a NAD-published article that shows the use of holistic evaluation of writing increases the quality of NAD decisions (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1229562).
- Conducted a benchmarked employee engagement survey of NAD employees to capitalize on employee strengths and identify areas that require organizational improvement.
- Installed new case tracking system that captures increased data about cases and performance measurement, implements increased electronic delivery services to customers, and increases transparency of NAD decision-making to the public.
- Negotiated and implemented a new Collective Bargaining Agreement (CBA) with the American Federation of State County and Municipal Employees (AFSCME), Council 26, Local 3020. This is the first NAD CBA in eight years.
- 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 2012 Proposed Resource Level:

- Our expected accomplishments for Appeal Hearings are - 2,000
- 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	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Target	2012 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:	\$13,889,886	\$14,276,250	\$14,019,405	\$14,399,866	\$15,254,000	\$15,254,000

NATIONAL APPEALS DIVISION

Full Cost by Strategic Objective
(Dollars in Thousands)

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

Strategic 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	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
National Appeals Division	Administrative Costs	\$14,399	\$15,254	\$15,254
	FTE's	91	103	103
	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%