

2023 USDA EXPLANATORY NOTES—OFFICE OF CIVIL RIGHTS

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AGENCY-WIDE

PURPOSE STATEMENT

The Office of Civil Rights' (OCR) mission is to facilitate the fair and equitable treatment of USDA customers and employees while ensuring the delivery and enforcement of Departmental civil rights programs and activities. OCR seeks innovative methods to make progress towards meeting the regulatory standards for processing the Department's Equal Employment Opportunity (EEO) and program complaints, as well as to become a more efficient and effective operation. OCR utilizes assigned staff and contract attorneys to assist with the final agency decision workload. In addition, OCR utilizes contract services and detailed staff to assist with the elimination of the program and EEO complaint inventory.

OCR reviews agency standard operating procedures and employee performance standards to ensure systems and workload analyses are in place to prevent future backlogs and to maintain the complaint inventory at a manageable level while working to meet all processing regulatory timeframes. OCR focuses Alternative Dispute Resolution (ADR) efforts solely on EEO and program conflicts that could result into discrimination complaints. This focus allows conflicts and/or disputes to be resolved prior to becoming discrimination complaints. Non-EEO conflicts will be addressed outside of OCR however conciliation is utilized to ensure all parties are managing conflicts in a healthy and productive manner. OCR provides periodic ADR orientations, updates, and targeted conflict management training to USDA Subcabinet officials, recognized employee organizations, agency civil rights directors, and headquarters and agency employees.

As of September 30, 2021, there were 107 full-time permanent employees, including 105 located in Washington, D.C. and 2 working remotely.

OIG AND GAO REPORTS***Table OCR-1. In-Progress OIG Reports***

ID	Title
60601-0001-21	USDA Oversight of Civil Rights Complaints

Table OCR-2. Completed GAO Reports

ID	Date	Title	Result
GAO-02-942	9/16/2021	Department of Agriculture: Improvements in the Operations of the Civil Rights Program Would Benefit Hispanic and Other Minority Farmers	Recommendation: 3 and 4 Closed/Not Implemented; 5 Closed/Implemented.
GAO-09-62	10/14/2021	U.S. Department of Agriculture: Recommendations and Options to Address Management Deficiencies in the Office of the Assistant Secretary for Civil Rights	Recommendation: 1&2 Closed/Implemented; 3 Closed/Not Implemented.

Table OCR-3. In-Progress GAO Reports

ID	Title
GAO-19-543	Environmental Justice: Federal Efforts Need Better Planning, Coordination, and Methods to Assess Progress
GAO-20-187	Sexual Harassment in STEM Research: Agencies Have Taken Actions but Need Compliant Procedures, Overall Plans, and Better Collaboration
GAO-21-526	GAO Review of Federal Use of Facial Recognition Technology

AVAILABLE FUNDS AND FTEs***Table OCR-4. Available Funds and FTEs (thousands of dollars, FTEs)***

Item	2020		2021		2022		2023	
	Actual	FTE	Actual	FTE	Estimated	FTE	Estimated	FTE
Salaries and Expenses:								
Discretionary Appropriations	\$24,006	98	\$22,789	107	\$22,789	114	\$31,696	128
Transfers Out:								
Working Capital Fund	200	-	-	-	-	-	-	-
Total Obligations	24,206	98	22,789	107	22,789	114	31,696	128
Other Funding:								
Conflict	175	-	540	-	540	-	-	-
Employment Investigation	2,166	-	2,344	-	2,344	-	-	-
Employment Adjudication	652	-	590	-	590	-	-	-
Other OCR Reimbursable Funds	2,170	14	2,170	14	2,170	14	-	-
Working Capital Funding	993	-	-	-	-	-	-	-
Total Obligations, Other funding	6,156	14	5,644	14	5,644	14	-	-
Total Available, OCR	30,362	112	28,433	121	28,433	128	31,696	128

PERMANENT POSITIONS BY GRADE AND FTEs

Table OCR-5. Permanent Positions by Grade and FTEs

Item	2020 Actual			2021 Actual			2022 Estimated			2023 Estimated		
	D.C.	Field	Total	D.C.	Field	Total	D.C.	Field	Total	D.C.	Field	Total
SES	3	-	3	3	-	3	3	-	3	3	-	3
GS-15	11	-	11	11	-	11	13	-	13	13	-	13
GS-14	17	1	18	18	1	19	20	1	21	20	1	21
GS-13	47	-	47	52	-	52	65	-	65	65	-	65
GS-12	10	-	10	10	-	10	8	-	8	8	-	8
GS-11	5	-	5	5	-	5	4	-	4	4	-	4
GS-9	4	-	4	5	-	5	2	-	2	2	-	2
GS-8	6	1	7	7	1	8	5	1	6	5	1	6
GS-7	6	-	6	7	-	7	5	-	5	5	-	5
GS-6	1	-	1	1	-	1	1	-	1	1	-	1
Total Perm. FT EOY	110	2	112	119	2	121	126	2	128	126	2	128
FTE	110	2	112	119	2	121	126	2	128	126	2	128

SHARED FUNDING PROJECTS**Table OCR-6. Shared Funding Projects (dollars in thousands)**

Item	<u>2020 Actual</u>	<u>2021 Actual</u>	<u>2022 Estimated</u>	<u>2023 Estimated</u>
Working Capital Fund:				
Administrative Services:				
Material Management Service.....	\$20	\$20	\$20	\$19
Mail and Reproduction Services.....	238	210	323	323
Integrated Procurement Systems.....	48	47	47	46
Procurement Operations Services.....	105	103	100	108
Human Resources Enterprise Management Systems.....	2	1	1	1
Subtotal.....	413	381	491	497
Communications:				
Creative Media & Broadcast Center.....	89	15	5	22
Finance and Management:				
National Finance Center.....	43	33	30	30
Financial Management Support Services.....	38	36	40	42
Subtotal.....	81	69	70	72
Information Technology:				
Client Experience Center.....	958	809	771	820
Department Administration Information Technology Office.....	28	294	223	228
Digital Infrastructure Services Center.....	-	598	289	307
Enterprise Network Services.....	93	39	34	34
Subtotal.....	1,079	1,740	1,317	1,389
Office of the Executive Secretariat.....	20	18	22	22
Total, Working Capital Fund.....	1,682	2,223	1,905	2,002
Department-Wide Shared Cost Programs:				
Agency Partnership Outreach.....	10	9	9	9
Human Resources Self-Service Dashboard.....	1	-	-	-
Medical Services.....	1	8	29	29
Office of Customer Experience.....	7	12	11	11
Personnel and Document Security Program.....	5	6	6	6
Physical Security.....	7	5	5	6
Security Detail.....	6	6	6	6
Security Operations Program.....	8	8	8	8
TARGET Center.....	2	2	2	2
TARGET Center NCR Interpreting Services.....	-	2	12	15
USDA Enterprise Data Analytics Services.....	10	7	6	6
Total, Department-Wide Reimbursable Programs.....	57	65	94	98
E-Gov:				
Enterprise Human Resources Integration.....	2	1	1	-
Total, E-Gov.....	2	1	1	-
Agency Total.....	1,741	2,289	2,000	2,100

SALARIES AND EXPENSES**APPROPRIATIONS LANGUAGE**

The appropriations language follows (new language underscored; deleted matter enclosed in brackets):

For necessary expenses of the Office of Civil Rights, [~~\$29,328,000~~]\$31,696,000.

LEAD-OFF TABULAR STATEMENT**Table OCR-7. Lead-Off Tabular Statement (In dollars)**

Item	Amount
Estimate, 2022	\$22,789,000
Change in Appropriation	+ 8,907,000
Net 2023 Request	<u>31,696,000</u>

PROJECT STATEMENT**Table OCR-8. Project Statement (thousands of dollars, FTE)**

Item	2020		2021		2022		2023		Inc. or Dec.	FTE Inc. or Dec.	Chg Key
	Actual	FTE	Actual	FTE	Estimated	FTE	Estimated	FTE			
Discretionary Appropriations:											
Office of Civil Rights.....	\$24,206	98	\$22,789	107	\$22,789	114	\$31,696	128	+\$8,907	+14	(1)
Rescission, Transfers In and Out.....	-200	-	-	-	-	-	-	-	-	-	-
Total Obligations.....	<u>24,006</u>	<u>98</u>	<u>22,789</u>	<u>107</u>	<u>22,789</u>	<u>114</u>	<u>31,696</u>	<u>128</u>	<u>+8,907</u>	<u>+14</u>	

Table OCR-9. Project Statement (thousands of dollars, FTE)

Item	2020		2021		2022		2023		Inc. or Dec.	FTE Inc. or Dec.
	Actual	FTE	Actual	FTE	Estimated	FTE	Estimated	FTE		
Discretionary Obligations:										
Office of Civil Rights.....	\$24,006	98	\$22,789	107	\$22,789	114	\$31,696	128	+\$8,907	+14
Total Transfers Out.....	200	-	-	-	-	-	-	-	-	-
Total Appropriation.....	<u>24,206</u>	<u>98</u>	<u>22,789</u>	<u>107</u>	<u>22,789</u>	<u>114</u>	<u>31,696</u>	<u>128</u>	<u>8,907</u>	<u>14</u>

Office of Civil Rights

Base funds for OCR will continue to provide Department-wide activities, including Equal Employment Opportunity (EEO), program non-discrimination policy development, civil rights enforcement, coordination, analysis, adjudication, alternative dispute resolution, and compliance. OCR is responsible for providing services to all USDA agencies to conduct Equal Employment Opportunity investigations, final agency decisions and conflict of interest cases.

- (1) An increase of \$8,907,000 (\$22,789,000 and 114 FTEs available in 2022).

The funding change is requested for the following items:

- A) An increase of \$448,000, which includes \$126,000 for pay inflation and \$322,000 for FERS for 2022 Pay and FERS.

This increase supports the pay increase which went into effect January 1, 2022, of a 2.7 percent Cost of Living pay increases for civilian employees, and a 1.1 percent increase to cover the expenses for the mandated increase of USDA's contribution to FERS.

- B) An increase of \$801,000 for 2023 Pay.

This increase will support the annualization of the 2022, 2.7 percent Cost of Living pay increase and

the 2023 4.6 percent Cost of Living pay increase. This increase will support the pay costs for appropriated staff within OCR. This increase will continue to allow OCR to provide Department-wide activities including Equal Employment Opportunity (EEO) enforcement, investigation, and adjudication of complaints; full processing of conflict-of-interest complaints; program non-discrimination policy development; civil rights enforcement; coordination, compliance, and analysis; and alternative dispute resolution. OCR is the lead for civil rights at USDA and has authority to enforce Titles VI, VII, and IX of the Civil Rights Act in addition to other Federal anti-discrimination statutes. With almost 100,000 employees and a programmatic reach to every American, USDA touches every life, every day, in every way.

- C) An Increase of \$101,000 for Shared Cost Programs and Working Capital Fund Inflationary Increases. An increase of \$101,000, which includes \$97,000 for WCF and \$4,000 for Shared Cost Programs inflationary costs. This increase will support an inflationary percentage increase of 5.4.% for the OCR to continue to fund the required fixed Departmental programs.
- D) An increase of \$915,512 for OASCR to reduce Program Complaint Processing time to under 365 days. OASCR established a new timeframe of 365 days for processing program civil rights complaints. The new timeframe applies to program complaints accepted for processing after October 1, 2022, excluding the complaint timeframes identified in the Memorandum of Understanding with USDA’s Food and Nutrition Service and the U.S. Department of Housing and Urban Development.

In conjunction with the new case processing timeframe, OASCR redesigned program discrimination complaint processes, improved handoffs between divisions, identified and solved sources of delays and rework, developed competency models to support staff growth and career mobility, and developed procedures and job aids to standardize work. The actions identified above, would allow OASCR to achieve the following:

- Increase field investigations support capacity.
 - Increase investigation time necessary to research, collect, and analyze documentation and data.
 - Reduce evidentiary document requirements to complete investigations and adjudication.
 - Provide increase customer service to complainants based on prompt resolution of complaints.
- E) An increase of \$550,488 for the FY 2023 annual Maintenance of the Civil Rights Management System (CRMS). OASCR requires continued, committed modernization resources to maintain the repeatable processes of governing the complex program complaint management process in an information technology, multi-tenant environment. OASCR must continue operating and maintaining a modern and responsive integrated enterprise system to manage transactions and generate employment complaints, program complaints, and alternative resolution reports and will use appropriated funds to advance the benefits derived from cloud computing to USDA customers,.
- F) An increase of \$6,091,000 and 14 FTEs to enable the transition from reimbursable funding to appropriated funding. OCR is requesting appropriated funding in place of reimbursable funding because the reimbursable funding to provide Department-wide support for EEO complaint processing is never received in a timely manner, and the existing OCR appropriation is inadequate to independently fund this work. The current funding process significantly hampers timely EEO complaint processing and requires an overly cumbersome, labor intensive, and inconsistent financial management process. Without a reliable funding source to support Department formal complaint processing, the Department is at risk of being sanctioned by the Equal Employment Opportunity Commission (EEOC) for unfunded and/or the late completion of the EEO Process. Sanctions have historically been made against USDA by the EEOC and Federal Courts.

GEOGRAPHIC BREAKDOWN OF OBLIGATIONS AND FTEs**Table OCR-10. Geographic Breakdown of Obligations and FTEs (thousands of dollars, FTEs)**

State/Territory/Country	2020		2021		2022		2023	
	Actual	FTE	Actual	FTE	Estimated	FTE	Estimated	FTE
District of Columbia.....	\$23,775	96	\$22,552	105	\$22,552	112	\$31,459	126
Georgia.....	75	1	77	1	77	1	77	1
Nevada.....	156	1	160	1	160	1	160	1
Obligations	24,006	98	22,789	107	22,789	114	31,696	128

CLASSIFICATION OF OBJECTS**Table OCR-11. Classification by Objects (thousands of dollars)**

Item No.	Item	2020 Actual	2021 Actual	2022 Estimated	2023 Estimated
	Personnel Compensation:				
	Washington D.C.	\$10,572	\$12,971	\$14,137	\$15,126
	Personnel Compensation, Field	358	430	442	542
11	Total personnel compensation.....	10,930	13,401	14,579	15,668
12	Personal benefits.....	3,595	4,236	4,769	5,397
13.0	Benefits for former personnel.....	4	-	-	-
	Total, personnel comp. and benefits	14,529	17,637	19,348	21,065
	Other Objects:				
21.0	Travel and transportation of persons.....	14	55	55	122
22.0	Transportation of things.....		5	5	5
23.1	Rental payments to GSA.....	1,267	6	6	6
23.3	Communications, utilities, and misc. charges.....	525	150	150	500
24.0	Printing and reproduction.....	119	90	90	250
25.2	Other services from non-Federal sources.....	2,693	2,000	1,289	3,900
25.3	Other goods and services from Federal sources.....	4,685	2,794	1,794	5,664
26.0	Supplies and materials.....	19	47	47	150
31.0	Equipment.....	2	5	5	34
42.0	Insurance Claims and Indemnities.....	153			
	Total, Other Objects	9,477	5,152	3,441	10,631
99.9	Total, new obligations	24,006	22,789	22,789	31,696
	DHS Building Security Payments (included in 25.3).....	\$237	\$27	\$27	\$27
	Information Technology Investments:.....				
	Major Investment 1.....				
	Related Mission Area PPA #1.....				
	External Labor (Contractors).....	-	43	-	-
	Total Major Investment 1.....	-	43	-	-
	Mission Area Standard Investment Totals.....		741	487	487
25.3	Mission Area WCF Transfers.....	1,706	1,366	1,366	1,366
	Total Non-Major Investment	1,706	2,107	1,853	1,853
	Total IT Investments.....	1,706	2,150	1,853	1,853
	Position Data:				
	Average Salary (dollars), ES Position	\$175,538	\$178,171	\$180,844	\$183,557
	Average Salary (dollars), GS Position	\$103,435	\$104,987	\$106,562	\$108,160
	Average Grade, GS Position	13.2	13.2	13.3	13.3

Advertising Expenditures

There are no contracts for advertising expenses to report.

STATUS OF PROGRAMS

The Office of Civil Rights' (OCR) activities include: 1) managing the six elements of a model Equal Employment Opportunity (EEO) program, including a demonstrated commitment from agency leadership, integration of EEO into the agency's strategic mission, management and program accountability, proactive prevention of unlawful discrimination, efficiency, and responsiveness, and legal compliance to include timely processing of EEO complaints; 2) managing compliance with civil rights in USDA programs including timely processing of program complaints; 3) implementing proactive prevention measures including special emphasis programs; implementing the OCR Equity Action Plan; overseeing the Limited English Proficiency Program; and providing training, policy, and Alternate Dispute Resolution methodologies; and 4) providing leadership and oversight to USDA subcomponents to ensure a unified approach to effectively managing EEO, civil rights and equal opportunity efforts throughout USDA.

Current Activities

The OCR strengthened compliance in the six essential elements of a model EEO program by improving its Equal Employment Opportunity Commission (EEOC) rating from 69 percent in FY 2020 to 79 percent in FY 2021. The OCR manages both the informal and formal EEO complaint processing for staff offices, and the formal EEO complaint process for subcomponent agencies. The OCR also manages the Resolving Official Program and the Alternate Dispute Resolution Program to address employees' concerns at the lowest possible level. The OCR addressed improving resolution rates and timeliness of program complaint processing by instituting a pilot program in Rural Development and creating a new enterprise-wide tracking system for civil rights complaints. The OCR conducted EEO and civil rights training, updated the Department's Reasonable Accommodation and Personal Assistance Services Departmental Regulation in partnership with the Office of Human Resources Management, and aligned certain outreach, partnership, and tribal activities to civil rights outcomes. Finally, the OCR standardized the USDA's approach to managing review of policies and directives with the creation of an enterprise-wide civil rights impact analysis dashboard.

Selected Examples of Recent Progress

Special Emphasis Programs – In FY 2021, OCR re-established oversight of the Department's Special Emphasis Programs for Department-wide observances. OCR established communication channels with the Mission Area Civil Rights Directors, Staff Offices, Office of the Executive Secretary, Office of Communications, Office of Employee Experience, and Employee Resource Groups to initiate its Strategic Plan for Special Emphasis Programs. OCR then successfully conducted six federally recognized observances for over 100,000 USDA employees. Employee viewership ranges at over 15,000 views and counting for available content on YouTube. OCR also co-led the Secretary's Round Table Discussion and panel discussion for Hispanic American Heritage Month, connecting the Secretary of Agriculture with Hispanic Employees and Managers. OCR invested an estimated \$15,000 to contract with the EEOC to host MD-715 and Barrier Analysis training for Mission Area employees. OCR also invested an estimated \$15,000 in creative media and broadcast services for marketing, programs, media, video recording, and artistic content for Department-wide observances.

EEO Program – The number of EEO complaints filed decreased 23 percent from 396 in FY 2020 to 303 in FY 2021 due to the mandatory telework status of many USDA employees and additional emphasis on proactive prevention and training. The average number of days to conduct an EEO investigation decreased from 177 to 121 days, or 32 percent, during this time. The decrease in number of days (56) is attributed to fewer investigations needed as a result of the decrease in formal case filings.

Civil Rights Program – Strengthening civil rights in agriculture programs is a top customer service priority for the OCR. In FY20, the OASCR Call Center processed 9,852 telephone and written inquiries, of which 79 percent related to food programs, and three percent were in Spanish. The number of program complaints decreased from 405 to 362 (10.6 percent) between FY 2020 and FY 2021, while the number of days to investigate program complaints decreased from 309 to 300 (2.9 percent) during this timeframe. The OCR implemented a pilot program to attempt early resolution of program complaints and created a more effective complaint management system to process program complaints.

Proactive Prevention – The OCR is implementing an aggressive approach in proactive prevention, both to prevent complaints and increase compliance with a model EEO program from 79 percent in FY 2021 to 100 percent in FY 2022.

In FY 2021, the OCR oversaw zero (0) subcomponent compliance reviews and completed zero (0) compliance reviews. The OCR standardized the methodology for conducting barrier analyses and civil rights impact analyses (CRIA), conducted analytical training for all civil rights staff, resulting in process improvements reducing CRIA review times from six (6) weeks to ten (10) days. The OCR established Departmental Regulation 4120-001, Annual Department Civil Rights Training and completed the Departmental Regulation 4300-008, Reasonable Accommodation and Personal Assistance Services.