



United States Department of Agriculture

Food, Conservation, and Energy Act of 2008
Section 14010
Report of Civil Rights Complaints, Resolutions, and Actions
Fiscal Year 2011

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Table of Contents

<i>EXECUTIVE SUMMARY.....</i>	<i>2</i>
<i>ANNUAL REPORTING REQUIREMENTS</i>	<i>2</i>
<i>SUMMARY OF THE REPORT.....</i>	<i>3</i>
<i>USDA EEO DATA.....</i>	<i>3</i>
<i>USDA PROGRAM DATA.....</i>	<i>4</i>
<i>EEO COMPLAINT DATA BY USDA AGENCY FY 2011</i>	<i>6</i>
<i>PART 1: EEO COMPLAINT DATA BY USDA AGENCY.....</i>	<i>7</i>
<i>PROGRAM DISCRIMINATION COMPLAINT DATA BY USDA AGENCY FY 2011</i>	<i>11</i>
<i>PART 2: PROGRAM DISCRIMINATION COMPLAINT DATA BY USDA AGENCY.....</i>	<i>12</i>

Executive Summary

Annual Reporting Requirements

Section 14010 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), mandates the U.S. Department of Agriculture (USDA) to prepare an annual report on each of its agency's civil rights complaints, resolutions, and actions. In accordance with that section, this report provides the following information:

- The number of civil rights complaints filed that relate to the agency, including whether a complaint is a program complaint or an employment complaint;
- The length of time the agency took to process each civil rights complaint;
- The number of proceedings brought against the agency, including the number of complaints described in Section 14010 (1) that were resolved with a finding of discrimination; and
- The number and type of personnel actions taken by the agency following resolution of civil rights complaints.

In addition, Section 14010 requires that a copy of this report be submitted to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and made available to the public by posting it on the USDA website.

The USDA agencies included in the report are: Agricultural Marketing Service (AMS); Agricultural Research Service (ARS); Animal and Plant Health Inspection Service (APHIS); Economic Research Service (ERS); Farm Service Agency (FSA); Food Nutrition and Consumer Service (FNCS), including the Food and Nutrition Service (FNS); Food Safety and Inspection Service (FSIS); Foreign Agricultural Service (FAS); Forest Service (FS); Grain Inspection, Packers and Stockyards Administration (GIPSA); National Agricultural Statistical Service (NASS); National Appeals Division (NAD); National Institute of Food and Agriculture (NIFA), formerly Cooperative State Research, Education and Extension Service (CSREES); Natural Resources Conservation Service (NRCS); Office of the Chief Financial Officer (OCFO); Office of Inspector General (OIG); Rural Development (RD); Risk Management Agency (RMA); and Departmental Management (DM).¹

¹ Complaints initiated or filed against the DM and USDA staff offices were processed by an independent staff/contractor. The DM and staff office complaints are identified in this report by the CRSD (Civil Rights Services Division) acronym.

Summary of the Report

USDA EEO Data

During Fiscal Year (FY) 2011, USDA had a total of 1,373 complaints in the equal employment opportunity (EEO) complaint inventory.² At the beginning of FY 2011, USDA had an open inventory of 846³ EEO complaints. (See Table 1-1) During the fiscal year, the USDA received an additional 527 EEO complaints. (See Table 1-1) USDA closed a total of 478 EEO complaints during FY 2011, including 32 complaints resolved with a finding of discrimination. (See Tables 1-2 and 1-3) At the end of the fiscal year, USDA had an inventory of 895 open EEO complaints. (See Table 1-2)

By the end of FY 2011, the average length of time that the complaints were in the EEO process was 757 days. (See Table 1-1) This constitutes a slight decrease of approximately six percent from the 804-day average processing in FY 2010. The average processing time includes 42 complaints that were subsumed in a class complaint and held in abeyance pending the disposition of the class actions. The Equal Employment Opportunity Commission (EEOC) does not allow opt-outs; thus, these complaints must remain in the system. Additionally, the average processing time includes 386 complaints that were at the EEOC for a hearing.⁴ Removal of these complaints reduces the average processing time to 525 days. This constitutes a decrease of approximately five percent from FY 2010, a 553-day average processing time calculated after excluding those cases. For complaints closed during FY 2011, time in the process was calculated based on the time between the formal filing date (regardless of the fiscal year) and the date of closure. For complaints that remained on open status by the end of FY 2011, time in the process was calculated based on the time between the formal filing date (regardless of the fiscal year) and the end of FY 2011 (September 30, 2011).

The total number of personnel actions taken by USDA agencies following resolution of EEO complaints was 342.⁵ The types of personnel actions taken included monetary, as well as, non-monetary. (See Table 1-4.) The number of final decisions finding discrimination rose from 29 in FY 2010 to 32 in FY 2011, a 10 percent increase. There were 28 disciplinary actions taken against USDA employees who were found to have committed prohibited acts of discrimination. (See Table 1-5.)

² The total complaint inventory in FY 2010 was 1, 412. In FY 2011, there were more complaints filed and fewer complaints closed compared to FY 2010. In FY 2011, 527 complaints were filed versus 473 in FY 2010; this represents an 11 percent increase. In FY 2011, 478 complaints were closed versus 571 in FY 2010; this represents a 16 percent decrease.

³ Data reconciliation efforts inherent to database quality control/updates yield a net change of 5 cases more than the 841-case ending inventory in FY 2010.

⁴ There are 16 complaints in class and hearing status.

⁵ This includes findings of discrimination, as well as, complaints voluntarily resolved by settlement agreement.

A summary of EEO complaint data for each USDA agency is provided in Part I of this report. The attachments provide information on the processing of complaints.

USDA Program Data

Unlike EEO complaints, most of the program discrimination complaints filed are against recipients of USDA financial assistance, primarily State and local agencies and multi-family housing authorities. Examples are complaints concerning FNS' programs, such as the Supplemental Nutrition Assistance Program (SNAP), in which the application and applicant eligibility are determined by the State or local government entities. The States issue SNAP benefits through local State or county offices to eligible households. Other examples are complaints filed against RD programs in which non-government entities receive rural housing funds, such as multi-family housing programs, which are administered or managed by non-USDA employees.

During FY 2011, USDA had a total of 1,942 complaints in the program complaint inventory. At the beginning of FY 2011, USDA had an open inventory of 863 program complaints.⁶ (See Table 2-1) During the fiscal year, USDA received an additional 1,079 complaints. (See Table 2-1.) USDA closed a total of 1,351 program complaints during FY 2011. At the end of FY 2011, USDA had an ending inventory of 591 open complaints, which represents a 31 percent reduction from FY 2010 ending inventory (853).⁷ (See Table 2-2)

By the end of FY 2011, the average length of time the complaints were in the program complaints process was 496 days.⁸ (See Table 2-1) The data shows an increase in the processing time of program complaints from FY 2010 to 2011. This is due to the USDA's emphasis on the Equal Credit Opportunity Act (ECOA) cases, with a two-year statute of limitation during the reporting period. As a result of focusing on the ECOA cases, the processing of non-ECOA has increased. To increase efficiency, the USDA recently added more resources towards the processing of program complaints.

For complaints closed during FY 2011, time in the process was calculated based on the time between the formal filing date (regardless of the fiscal year) and the date of closure. For complaints that remained in open status at the end of FY 2011, time in the process was calculated based on the time between the formal filing date (regardless of fiscal year) and the end of FY 2011 (September 30, 2011).

There were seven (7) program discrimination complaints resolved with a finding of discrimination during FY 2011. In addition, there were seven (7) settlements in program

⁶ Data reconciliation efforts inherent to database quality control/updates yield a net change of 25 cases less than the 888-case ending inventory in FY 2010.

⁷ This decline is due to an increase of 11 percent in the number of closures in FY 2011 (139 more than the 1,212 closed in FY 2010), despite an increase in the number of complaints filed in FY 2011 (1,079 vs. 1,055 in FY 2010 -- 24 in total); and ongoing data reconciliation efforts.

⁸ Processing time does not include the time it took to process the cases that were identified as or related to class complaints.

discrimination complaints. There were no personnel actions taken by USDA agencies following resolution of program complaints.

A summary of FY 2011 program complaint data for each USDA agency is provided in Part II of this report. The data includes both federally-assisted and federally-conducted allegations of program discrimination. Federally-assisted program complaints of discrimination concern programs and activities in which Federal financial assistance is provided through a recipient, a third party such as a State, or instrumentality of a State. Federally-conducted program complaints of discrimination concern the day-to-day operations of an agency's programs or activities. These programs or activities result in or contribute to the availability of, or delivery of services, benefits, or resources to customers. The FSA's direct farm loan program is an example of a conducted program in which loans are directly funded by FSA and administrated directly through local FSA offices. Although farmers and ranchers filed complaints in FY 2011, the majority of USDA program complaints filed involved federally-assisted programs.

Exhibit 2 provides information on the processing of each complaint.

Part I:

**EEO Complaint Data by
USDA Agency FY 2011**

Part 1: EEO Complaint Data by USDA Agency

This section provides summary data for EEO complaints in FY 2011 for each USDA agency. References are made to the exhibits section of this report regarding detailed EEO complaint data for each USDA agency.

Table 1-1 EEO Complaints Inventory During FY 2011					
Agency	Beginning Complaint Inventory	Complaints Filed	Total Complaint Inventory During FY 2011	Complaint Average Time (Days) In The Process	Exhibit 1-1 Page(s)
AMS	25	18	43	1,046	1 - 2
APHIS	60*	49	109	441	2 - 6
ARS	40*	18	58	533	6 - 9
CRSD	28	22	50	734	9 - 11
ERS	15	1	16	1,088	11
FAS	6*	7	13	1,331	11 - 12
FNCS	14	7	21	391	12 - 13
FS	214*	148	362	926	13 - 27
FSA	108*	38	146	1,026	27 - 32
FSIS	115*	81	196	634	32 - 40
GIPSA	13	11	24	395	40 - 41
NAD	1	0	1	560	41
NASS	1	2	3	303	41
NIFA	0	3	3	137	41
NRCS	43*	29	72	604	41 - 44
OCFO	39*	34	73	485	44 - 47
OIG	13	2	15	605	47
RD	105*	47	152	786	47 - 53
RMA	6	10	16	413	53- 54
Total USDA	846	527	1,373	757	1 - 54

*This number is different from the FY 2010 Farm Bill Report ending inventory due to reconciliation efforts.

Table 1-2 Number of EEO Complaints Closed in FY 2011				
Agency	Total Complaint Inventory	Total Number of Complaints Closed	Ending Complaint Inventory	Exhibit 1-1 Page(s)
AMS	43	21	22	1 - 2
APHIS	109	49	60	2 - 6

ARS	58	27	31	6 - 9
CRSD	50	5	45	9 - 11
ERS	16	1	15	11
FAS	13	4	9	11 - 12
FNCS	21	10	11	12 - 13
FS	362	129	233	13 - 27
FSA	146	48	98	27 - 32
FSIS	196	68	128	32 - 40
GIPSA	24	9	15	40 - 41
NAD	1	0	1	41
NASS	3	1	2	41
NIFA	3	1	2	41
NRCS	72	27	45	41 - 44
OCFO	73	21	52	44 - 47
OIG	15	4	11	47
RD	152	48	104	47 - 53
RMA	16	5	11	53- 54
Total USDA	1,373	478	895	1 - 54

Table 1-3 Number of EEO Complaints Resolved With Finding of Discrimination

Agency	Findings of Discrimination
AMS	1
APHIS	2
ARS	2
CRSD	0
ERS	0
FAS	0
FNCS	0
FS	12
FSA	4
FSIS	4
GIPSA	0
NAD	0

NASS	0
NIFA	0
NRCS	1
OCFO	0
OIG	0
RD	6
RMA	0
Total USDA	32

Table 1-4 Number of Personnel Actions Following Resolution of EEO Complaints

Agency	Number of Personnel Actions
AMS	24
APHIS	22
ARS	27
CRSD	16
ERS	4
FAS	0
FNCS	6
FS	92
FSA	23
FSIS	56
GIPSA	0
NAD	0
NASS	4
NIFA	0
NRCS	15
OCFO	8
OIG	11
RD	34
RMA	0
Total USDA	342

As noted in the referenced exhibits section, a total of 342 personnel actions are reported. However, the number of complaints resolved with personnel actions was 166 cases.

Detailed information regarding number and types of personnel actions taken following the resolution of each complaint is provided in Exhibit 1-2.

Table 1-5 below contains the number of disciplinary actions taken against employees who were found to have committed prohibited acts of discrimination, retaliation, harassment or prohibited personnel practices.

Table 1-5 Disciplinary Actions in EEO Complaint Findings of Discrimination*					
Disciplinary Action	Discrimination Type				
	Retaliation	Harassment	Prohibited Personnel Practice	Discrimination	Total
Removal	0	1	0	0	1
15 Day or More Suspension	0	2	0	1	3
14 Day or Less Suspension	1	3	1	3	8
Reduction-in-Grade	0	0	0	0	0
Reduction-in-Pay	0	0	0	0	0
Letter of Reprimand	1	8	3	4	16
Total	2	14	4	8	28

Part II:

Program Discrimination Complaint Data by USDA Agency FY 2011

Part 2: Program Discrimination Complaint Data by USDA Agency

This section provides summary data for program complaints in FY 2011 for each USDA agency. References are made to the exhibits section of this report regarding detailed program complaint data for each USDA agency.

Table 2-1 Program Complaints Inventory During FY 2011					
Agency	Beginning Complaint Inventory	Complaints Filed	Total Complaint Inventory During FY 2011	Complaint Average Time (Days) In The Process	Exhibit 2 Page(s)
APHIS	4*	5	9	325	1
FNS	100*	606	706	134	1 – 17
FS	27*	43	70	556	17 – 19
FSA	169*	114	283	627	19 – 25
FSIS	2	0	2	566	26
GIPSA	1	1	2	238	26
NIFA	2	1	3	1,245	26
NRCS	18*	12	30	603	26
OTHER GOVERNMENT AGENCY	0	3	3	45	26
RD	536*	285	821	755	27 – 46
RMA	4*	9	13	387	46
Total USDA	863	1,079	1,942	496	1 – 46

*This number is different from the FY 2010 Farm Bill Report ending inventory due to reconciliation efforts.

Table 2-2 Number of Program Complaints Closed in FY 2011

Agency	Total Complaint Inventory During FY 2011	Total Number of Complaints Closed	Ending Complaint Inventory	Exhibit 2 Page(s)
APHIS	9	4	5	1
FNS	706	653	53	1 – 17
FS	70	21	49	17 – 19
FSA	283	165	118	19 – 25
FSIS	2	1	1	26
GIPSA	2	1	1	26
NIFA	3	1	2	26
NRCS	30	12	18	26
OTHER GOVERNMENT AGENCY	3	3	0	26
RD	821	486	335	27– 46
RMA	13	4	9	46
Total USDA	1,942	1,351	591	1 – 46

EXHIBITS

Exhibit 1-1: USDA EEO Complaint Inventory during FY 2011

Exhibit 1-2: Number and Type of Personnel Actions Taken Following Resolution of EEO Complaints

Exhibit 2: USDA Program Complaint Inventory during FY 2011

The exhibits to this report, listed above, are not available on our Website. We are in the process of putting the exhibits in a format that will be accessible to all. You may obtain a copy of the exhibits by contacting the Office of the Assistant Secretary for Civil Rights, Information Research Service, on (202) 401-0005 or (800) 795-3272 (toll free) or by sending an email request to CR-INFO@ascr.usda.gov.