

**2021 USDA EXPLANATORY NOTES – EXECUTIVE OPERATIONS:
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 (FAD) 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 that 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 evolve into discrimination complaints. This new focus allows more conflicts and/or disputes to be resolved prior to becoming discrimination complaints. Non-EEO conflicts will be addressed outside of OCR. OCR has incorporated a conciliation function that will provide follow up to ensure that all parties are managing their 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, 2019, there were 130 full-time permanent employees, including 126 located in Washington, D.C. and 4 located in the field.

GAO Reports

Table OCR-1. In-Progress GAO Reports

ID	Title
GAO-09-62	U.S. Department of Agriculture: Recommendations and Options to Address Management Deficiencies in the Office of the Assistant Secretary for Civil Rights

AVAILABLE FUNDS AND STAFF YEARS

Table OCR-2. Available Funds and Staff Years (thousands of dollars, staff years (SY))

Item	2018		2019		2020		2021	
	Actual	SY	Actual	SY	Estimate	SY	Budget	SY
Salaries and Expenses:								
Discretionary Appropriations	\$24,206	118	\$24,206	111	\$24,206	114	\$20,633	114
Lapsing Balances	-50	-	-	-	-	-	-	-
Subtotal Obligations, OCR.....	24,156	118	24,206	111	24,206	114	20,633	114
Obligations Under Other USDA Appr.:								
Conflict	182	-	299	-	182	-	200	-
Employment Investigation.....	3,076	11	2,908	10	2,166	14	3,000	14
Employment Adjudication.....	188	-	106	-	653	-	650	-
Other OCR Reimbursables.....	435	-	1,420	-	2,170	-	2,170	-
Total Ob. Under Other USDA Appr.....	3,881	11	4,733	10	5,171	14	6,020	14
Total, OCR.....	28,037	129	28,939	121	29,939	128	26,158	128

PERMANENT POSITIONS BY GRADE AND STAFF YEARS

Table OCR-3. Permanent Positions by Grade and Staff Years

Item	2018			2019			2020			2021		
	Wash. DC	Field	Actual Total	Wash. DC	Field	Actual Total	Wash. DC	Field	Estimate Total	Wash. DC	Field	Budget Total
SES.....	4	-	4	4	-	4	4	-	4	4	-	4
GS-15.....	14	-	14	14	-	14	15	-	15	15	-	15
GS-14.....	20	3	23	20	3	23	20	3	23	20	3	23
GS-13.....	54	-	54	52	-	52	53	-	53	53	-	53
GS-12.....	8	-	8	8	-	8	9	-	9	9	-	9
GS-11.....	8	-	8	8	-	8	8	-	8	8	-	8
GS-9.....	3	-	3	3	-	3	3	-	3	3	-	3
GS-8.....	9	1	10	8	1	9	9	-	9	9	-	9
GS-7.....	9	-	9	8	-	8	3	-	3	3	-	3
GS-6.....	1	-	1	1	-	1	1	-	1	1	-	1
GS-4.....	2	-	2	-	-	-	-	-	-	-	-	-
GS-3.....	2	-	2	-	-	-	-	-	-	-	-	-
Total Permanent	134	4	138	126	4	130	125	3	128	125	3	128
Unfilled, EOY.....	10	-	10	-	-	-	-	-	-	-	-	-
Total Perm. FT EOY ...	124	4	128	126	4	130	125	3	128	125	3	128
Staff Year Est.....	125	4	129	117	4	121	125	3	128	125	3	128

SHARED FUNDING PROJECTS

Table OCR-4. Shared Funding Projects (dollars in thousands)

Item	2018 Actual	2019 Actual	2020 Estimate	2021 Estimate
Working Capital Fund:				
Administration:				
HR Enterprise System Management	\$2	\$2	\$2	\$2
Integrated Procurement Systems	62	45	48	48
Mail and Reproduction Services	285	256	238	238
Material Management Service.....	18	17	20	20
Procurement Operations Division	111	113	105	105
Subtotal.....	478	433	413	413
Communications:				
Creative Media & Broadcast Center	70	58	89	89
Finance Management Systems				
Financial Management Support Services.....	55	56	56	56
National Finance Center	42	41	43	43
Subtotal.....	97	97	99	99
Information Technology:				
Client Experience Center	583	939	958	958
National Information Technology Center.....	68	28	28	28
Enterprise Network Services	32	89	93	93
Subtotal.....	683	1,056	1,079	1,079
Correspondence Management	19	20	20	20
Total, Working Capital Fund.....	1,347	1,664	1,700	1,700
Department-Wide Shared Cost Programs:				
Advisory Committee Liaison Services	10	10	10	10
Agency Partnership Outreach	1	1	1	1
Human Resources Self-Service Dashboard.....	1	1	1	1
Human Resources Transformation	1	-	-	-
Identity and Access Management.....	-	-	-	-
Intertribal Technical Assistance Network.....	-	-	-	-
Medical Services.....	8	3	3	3
Office of Customer Experience.....	3	4	5	5
People's Garden.....	1	-	-	-
Personnel and Document Security.....	5	5	5	5
Personnel Security Branch	-	-	-	-
Security Detail	6	6	6	6
Security Operations	14	13	13	13
TARGET Center	2	1	1	1
USDA 1994 Program.....	-	-	-	-
USDA Enterprise Data Analytics Services.....	-	-	7	7
Virtual University	1	-	-	-
Total, Department-Wide Reimbursable Programs	52	43	51	51
E-Gov:				
Enterprise Human Resources Integration.....	3	3	3	3
E-Rulemaking	2	2	-	-
Total, E-Gov	5	5	3	3
Agency Total.....	1,404	1,712	1,754	1,754

ACCOUNT 1: SALARIES AND EXPENSES

LEAD-OFF TABULAR STATEMENT

Table OCR-5. Lead-Off Tabular Statement

Item	Amount
2020 Appropriation	\$24,206,000
Change in Appropriation	-3,573,000
Budget Estimate, 2021	<u>20,633,000</u>

APPROPRIATIONS LANGUAGE

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

Office of Civil Rights

For necessary expenses of the Office of Civil Rights, [\$24,206,000] \$20,633,000.

PROJECT STATEMENT

Table OCR-6. Project Statement (thousands of dollars, staff years (SY))

Item	2018		2019		2020		Inc. or Chg		2021		
	Actual	SY	Actual	SY	Estimate	SY	Dec.	Key	SY	Budget	SY
Discretionary Appropriations:											
Office of Civil Rights	\$24,206	118	\$24,206	111	\$24,206	114	-\$3,573	(1)	-	\$20,633	114
Lapsing Balances	-50	-	0	-	-	-	-	-	-	-	-
Total Obligations	<u>24,156</u>	<u>118</u>	<u>24,206</u>	<u>111</u>	<u>24,206</u>	<u>114</u>	<u>-3,573</u>	<u>-</u>	<u>-</u>	<u>20,633</u>	<u>114</u>

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) A net decrease of \$3,573,000 (\$24,206,000 and 114 staff years available in 2020) in non-personnel cost.

The funding change is requested for the following items:

A) An increase of \$187,755, for pay costs (\$85,974 for annualization of the 2020 pay increase and \$101,780 for the 2021 pay increase).

This increase will support the pay increase for civilian employees. This increase will allow the OCR to continue 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. This critical increase is needed to support and maintain current staffing levels to meet the demands and statutory requirements imposed on OCR and USDA. Elimination of the pay cost increase means the OCR would not be able to fund approximately 1.5 FTE and/or would need to significantly cut travel, training, and mission support. Approximately 85 percent of our budget supports personnel compensation and benefits. Failure to receive this increase would prevent us

from fully performing our mission, which ensures the delivery and enforcement of civil rights programs and activities at USDA .

B) An increase of \$135,707 for performance awards.

This increase will support a 1 percentage point increase in awards spending, consistent with objectives outlined in the President’s Management Agenda, to enhance workforce development. Without this additional funding, OCR will be unable to absorb these costs in FY 2021, resulting in reductions to planned hiring levels, eroding USDA’s ability to meet key Administration priorities contained in this Budget.

C) An increase of \$171,127 for the Department’s increased contribution to the Federal Employees Retirement System (FERS).

This increase will cover the expenses for the mandated increase of USDA’s contribution to FERS. These increases were effective January 1, 2020, and impact approximately 114 employees’ retirement packages.

D) A decrease of \$4,067,589 in facility cost.

OCR is proposing a cancelation of the existing lease agreement with the General Services Agency for occupancy of the Patriots Plaza 3 building and relocate existing occupants and functions.

GEOGRAPHIC BREAKDOWN OF OBLIGATIONS AND STAFF YEARS

Table OCR-7. Geographic Breakdown of Obligations and Staff Years (thousands of dollars, staff years (SY))

State/Territory/Country	2018		2019		2020		2021	
	Actual	SY	Actual	SY	Estimate	SY	Budget	SY
District of Columbia.....	23,589	125	23,639	117	23,639	125	20,066	125
Florida.....	165	1	168	1	168	1	168	1
Georgia.....	71	1	75	1	75	1	75	1
Nevada.....	153	1	156	1	156	1	156	1
New Mexico.....	165	1	168	1	168	-	168	-
Obligations.....	24,156	129	24,206	121	24,206	128	20,633	128
Lapsing Balances.....	50	-	-	-	-	-	-	-
Total, Available.....	24,206	129	24,206	121	24,206	128	20,633	128

CLASSIFICATION BY OBJECTS

Table OCR-8. Classification by Objects (thousands of dollars)

Item No.	Item	2018 Actual	2019 Actual	2020 Estimate	2021 Budget
	Personnel Compensation:				
	Washington D.C.	\$12,529	\$12,704	\$12,779	\$12,971
	Personnel Compensation, Field	426	428	428	430
11	Total personnel compensation.....	12,955	13,132	13,207	13,401
12	Personal benefits.....	4,098	4,148	4,173	4,236
13.0	Benefits for former personnel	12	-	-	-
	Total, personnel comp. and benefits	17,065	17,280	17,380	17,637
	Other Objects:				
21.0	Travel and transportation of persons.....	70	100	100	55
22.0	Transportation of things	4	5	5	5
23.1	Rental payments to GSA.....	1,855	1,890	200	200
23.3	Communications, utilities, and misc. charges	616	600	600	150
24.0	Printing and reproduction.....	154	150	150	90
25.2	Other services from non-Federal sources	1,839	2,000	3,581	1,600
25.3	Other goods and services from Federal sources.....	2,434	2,076	2,076	845
26.0	Supplies and materials.....	105	100	100	45
31.0	Equipment	5	5	5	5
41.0	Grants, subsidies, and contributions.....	9	-	9	1
	Total, Other Objects	7,091	6,926	6,826	2,996
99.9	Total, new obligations.....	24,156	24,206	24,206	20,633
	DHS Building Security Payments (included in 25.3)	\$252	\$260	\$265	\$200
	Position Data:				
	Average Salary (dollars), ES Position	\$169,052	\$172,265	\$175,538	\$178,171
	Average Salary (dollars), GS Position.....	99,000	100,203	103,435	104,987
	Average Grade, GS Position.....	13.2	13.2	13.3	13.3

STATUS OF PROGRAMS

The Office of Civil Rights (OCR) activities include 1) managing the six elements of a model EEO program, including timely processing EEO complaints; 2) managing compliance with civil rights in agriculture programs, including timely processing program complaints; 3) implementing proactive prevention programs, such as special emphasis programs, diversity and inclusion, Limited English Proficiency Program, training, policy, Alternate Dispute Resolution Program (ADR), and compliance; and 4) providing leadership and oversight to USDA subcomponents to ensure a OneUSDA approach to effectively manage EEO, civil rights and proactive prevention programs.

Current Activities

The OCR is taking steps to strengthen compliance in the six essential elements of a model EEO program from 61% in FY 2018 to 80% in FY 2019. The OCR manages all steps of the EEO complaint processing for staff offices, and the steps in the formal complaint process for subcomponent agencies. The OCR also manages the Resolving Official Program and the ADR Program to address employees concerns at the lowest possible level. The OCR is exploring methods for improving resolution rates and timeliness of program complaint processing, including a pilot with Rural Development and acquiring an effective system to manage and track program complaints. The OCR conducts EEO and civil rights training and is updating the Department’s Reasonable Accommodation and Personal Assistance Services Policy in partnership with the Office of Human Resources Management, as well as aligning certain outreach, partnership and tribal activities to civil rights outcomes. Finally, the OCR is taking steps to standardize the USDA’s approach to managing certain functions, such as preparing civil rights impact analyses (CRIA), establishing corporate priorities based on joint USDA-mission area barrier analyses.

Selected Examples of Recent Progress:

EEO Program - The number of EEO complaints filed decreased from 522 to 436 (16%) between FY 2018 and FY 2019 as a result of additional emphasis on proactive prevention and training. The average number of days to process an EEO complaint increased from 173 to 200 days (15.6%) during this time. The increase in number of days (27) is attributed to the Government shutdown in early CY 2019.

FORMAL EEO COMPLAINTS	FY17 Actual	FY18 Actual	FY19 Enacted	FY20 Estimate	FY21 Estimate
Number of Complaints	530	522	436	418	400
Average Days: Investigation	159	173	200	180	175

Civil Rights Program - Strengthening civil rights in agriculture programs is a top customer service priority for the OCR. In FY 2019, the OASCR Call Center processed 35,296 telephone

and written inquiries, of which 69% referred to food programs, and 13% were in Spanish. The number of program complaints decreased from 405 to 355 (12%) between FY 2018 and FY 2019, while the number of days to investigate program complaints decreased from 594 to 420 (29%) during this timeframe. The OCR is implementing a pilot program to attempt early resolution of program complaints, considering procurement options to support this function, and acquiring a more effective complaint system to manage and track program complaints in FY 2020.

PROGRAM COMPLAINTS	FY17 Actual	FY18 Actual	FY19 Enacted	FY20 Estimate	FY21 Estimate
Number of Program Complaints	403	405	355	400	410
Average Days: Investigation	571	594	420	300	180

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 61% in FY 2018 to 80% in FY 2019. These efforts include the development of the USDA Diversity Strategic Plan, the USDA Affirmative Employment Plan, the Innovative American Diversity Month, and several training sessions aimed at enhancing the analytic and evaluation skills of civil rights professionals in the USDA and its subcomponents.

MODEL EEO PROGRAM	FY17 Actual	FY18 Actual	FY19 Enacted	FY20 Estimate	FY21 Estimate
Compliance Rate	83%	61%	80%	90%	95%

In FY 2019, the OCR oversaw 19 subcomponent compliance reviews and completed 4 compliance reviews, providing mission areas with recommendations to strengthen their EEO and civil rights programs. The OCR standardized the methodology for conducting barrier analyses and CRIA, conducted analytic training for USDA OCR and subcomponent staff, resulting in process improvements that reduced CRIA review time from 3 weeks to 3 days. The OCR established Departmental Regulation 4120-001, Annual Department Civil Rights Training and completed a draft Departmental Regulation 4300-008, Reasonable Accommodation and Personal Assistance Services. The OCR also established a committee to assess gaps and strengthen operations in EEO complaint processing, program complaint processing, CRIAs, use of demographic data to evaluate equal access to farm programs, proactive prevention, and the impact of the 2018 realignment on OCR’s ability to effectively execute its mission.