

2010 Explanatory Notes

National Appeals Division
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EXECUTIVE OPERATIONS

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, 2008, there were 97 permanent full-time employees, including 24 in Alexandria, VA and 73 in the field.

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

EXECUTIVE OPERATIONS

NATIONAL APPEALS DIVISION

Available Funds and Staff Years2008 Actual and Estimated 2009 and 2010

Item	2008 <u>Actual</u>		2009 <u>Estimate</u>		2010 <u>Estimate</u>	
	Amount	Staff Years	Amount	Staff Years	Amount	Staff Years
Direct						
Appropriation.....	\$14,466,000	101	\$14,711,000	99	\$15,559,000	99
Rescission	-101,262	--	--	--	--	--
Total, Agriculture Appropriations	14,364,738	101	14,711,000	99	15,559,000	99

Permanent Positions By Grade and Staff Year Summary2008 Actual and Estimated 2009 and 2010

Grade	2008			2009			2010		
	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	5	7	2	5	7
GS-13	12	53	65	12	50	62	12	50	62
GS-12	2	--	2	2	--	2	2	--	2
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	9	10	1	9	10	1	9	10
GS-5	--	--	--	--	--	--	--	--	--
Total Permanent Positions	26	77	103	26	73	99	26	73	99
Unfilled Positions end-of-year	-2	-4	-6	--	--	--	--	--	--
Total, Permanent Full-Time Employment, end- of-year	24	73	97	26	73	99	26	73	99
Staff Year Estimate.....	26	75	101	26	73	99	26	73	99

EXECUTIVE OPERATIONS

NATIONAL APPEALS DIVISION

Appropriation Language

For necessary expenses of the National Appeals Division, [\$14,711,000] \$15,559,000.

Lead-Off Tabular Statement

Appropriations Act, 2009	\$14,711,000
Budget Estimate, 2010.....	<u>15,559,000</u>
Increase in Appropriation	<u>+848,000</u>

Summary of Increases and Decreases
(On basis of appropriation)

<u>Item of Change</u>	<u>2009 Estimate</u>	<u>Pay Costs</u>	<u>Program Changes</u>	<u>2010 Estimate</u>
National Appeals Division	\$14,711,000	+\$308,000	+\$540,000	\$15,559,000

Project Statement
(On basis of appropriation)

	<u>2008 Actual</u>		<u>2009 Estimate</u>		Increase or <u>Decrease</u>	<u>2010 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.....	\$14,276,250	101	\$14,711,000	99	+\$848,000	\$15,559,000	99
Unobligated Balance.....	+88,488	--	--	--	--	--	--
Total Available or Estimate.....	14,364,738	101	14,711,000	99	<u>+848,000</u>	<u>15,559,000</u>	<u>99</u>
Rescission	+101,262	--	--	--			
Total, Appropriation...	<u>14,466,000</u>	<u>101</u>	<u>14,711,000</u>	<u>99</u>			

Justification of Increases and Decreases

(1) An increase of \$848,000 for the National Appeals Division (NAD) consisting of:

a) An increase of 308,000 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.

b) An increase of \$340,000 to improve accessibility and transparency of NAD case management.

This funding would allow for enhancements to the NAD case tracking system (NADTrack 2.0) to make it more accessible to the public and to increase efficiencies in NAD's internal case management process. NADTrack is a Web-based database that allows employees to enter data about the progress of NAD cases, upload NAD documents, and report data for performance management. The current system requires modernization to improve user-friendliness and to comply with USDA security standards. System improvements would be made to: 1) provide appellants the ability to file appeals electronically, 2) increase electronic document management capabilities to share draft decisions among NAD employees, and 3) increase electronic notification to customers and NAD employees of key events during the case management cycle. These enhancements will make the system more user friendly for both the public and agency employees and will increase transparency of the process through which NAD makes case determinations.

c) An increase of \$200,000 for IT system modernization.

In order to maintain organizational continuity and compatibility with the Department, NAD must upgrade desktop hardware, and network operating system software. The current suite of hardware is five years old and the failure rate is high for individual components of desktops. NAD requires funding to keep pace with Department upgrades for network operating programs. Without funding, legacy system operating costs will continue to increase and eventually vendor maintenance will be discontinued for outdated software. By investing in modernized hardware, software and network systems in FY 2010, NAD will be able to continue meeting its performance goals and regulatory guidelines. Modernizing the legacy software will also upgrade current security protection. USDA Department standardization to Microsoft Office 2007 will require 100 licenses.

NATIONAL APPEALS DIVISION

Geographic Breakdown of Obligations and Staff Years
2008 Actual and Estimated 2009 and 2010

	2008		2009		2010	
	Amount	Staff Years	Amount	Staff Years	Amount	Staff Years
Alabama	\$230,402	2	\$259,519	2	\$264,215	2
Arkansas	119,673	1	--	--	126,961	1
California.....	258,518	2	265,447	2	273,895	2
Colorado	1,249,225	10	1,292,590	10	1,223,824	9
Connecticut.....	127,878	1	131,860	1	136,045	1
Delaware.....	123,977	1	127,786	1	--	--
Florida	239,346	2	369,789	2	375,259	2
Georgia	245,814	2	253,188	2	260,784	2
Idaho.....	94,834	1	97,604	1	100,704	1
Illinois.....	116,437	1	120,384	1	124,204	1
Indiana.....	1,216,041	8	1,256,140	9	1,273,898	10
Iowa.....	249,048	2	256,519	2	264,215	2
Kansas	116,437	1	15,600	1	123,528	1
Kentucky	242,580	2	249,857	2	257,353	2
Louisiana	119,673	1	123,263	1	126,961	1
Michigan.....	242,580	2	249,857	2	--	--
Minnesota.....	252,282	2	259,850	2	267,646	2
Mississippi.....	119,673	1	123,263	1	126,961	1
Missouri.....	119,673	1	123,263	1	126,961	1
Montana.....	122,907	1	126,594	1	130,392	1
Nebraska.....	119,673	1	123,263	1	126,961	1
North Carolina.....	336,376	4	461,956	2	357,646	3
North Dakota.....	239,346	2	246,526	2	253,922	2
Oklahoma	239,344	2	246,524	2	253,920	2
Pennsylvania.....	365,487	3	376,452	3	387,745	3
South Carolina.....	122,907	1	126,594	1	130,392	1
Tennessee	1,231,206	11	1,335,110	11	1,342,978	12
Texas	475,456	3	489,720	3	378,308	3
Vermont.....	119,673	1	123,263	1	126,961	1
Washington.....	119,673	1	123,263	1	126,961	1
West Virginia	126,141	1	129,925	1	133,823	1
Wisconsin.....	122,907	1	126,594	1	130,392	1
*National Office.....	5,051,063	26	5,099,437	26	6,225,185	26
Subtotal, Available or Estimate	14,276,250	101	14,711,000	99	15,559,000	99
Unobligated balance	+88,488	--	--	--	--	--
Total, Available or Estimate.....	14,364,738	101	14,711,000	99	15,559,000	99

* Amount includes Operation and Overhead.

EXECUTIVE OPERATIONS

NATIONAL APPEALS DIVISION

Classification By Objects2008 Actual and Estimated 2009 and 2010

	<u>2008</u>	<u>2009</u>	<u>2010</u>
Personnel Compensation:			
Alexandria, VA	\$5,916,399	\$5,611,969	\$6,051,243
Field	3,716,001	4,649,031	4,517,757
11 Total personnel compensation.....	9,632,400	10,261,000	10,569,000
12 Personnel benefits	2,034,297	2,327,000	2,404,000
Total pers. comp. & benefits	<u>11,666,697</u>	<u>12,588,000</u>	<u>12,973,000</u>
Other Objects:			
13 Former personnel	8,778	9,000	9,000
21 Travel and transportation of persons	251,027	253,000	253,000
22 Transportation of things	65,209	66,000	66,000
23.2 Rental payments to others	191,620	192,000	192,000
23.3 Communications, utilities, and misc. charges	204,597	206,000	206,000
24 Printing and reproduction.....	18,590	19,000	19,000
25.1 Advisory and assistance services	1,524,223	1,008,000	1,005,000
25.2 Other services.....	55,721	56,000	396,000
25.3 Purchases of goods and services from Government Accounts.....	31,553	33,000	33,000
26 Supplies and materials.....	139,165	140,000	143,000
31 Equipment	119,068	121,000	244,000
42 Litigation Fees & Awards	--	20,000	20,000
43 Interest and Dividends.....	2	--	--
Total other objects.....	<u>2,609,553</u>	<u>2,123,000</u>	<u>2,586,000</u>
Total direct obligations	<u>14,276,250</u>	<u>14,711,000</u>	<u>15,559,000</u>
<u>Position Data:</u>			
Average Salary, GS positions	\$89,280	\$91,869	\$94,349
Average Grade, GS positions	13.1	13.1	13.1

EXECUTIVE OPERATIONS
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:

- Processed 2,450 cases filed with NAD;
- Issued 264 determinations when appellants challenged the agency view that a decision was not appealable. Outcome was favorable to appellants in 91 percent of cases;
- Conducted 1,284 in-person or telephonic hearings, and record reviews;
- Issued 2,585 determinations, of which 2,035 were issued by Hearing Officers and 550 were issued by the NAD Director. Outcome was favorable to Appellants in 32 percent of cases;
- Increased transparency and affirmed the fairness of the USDA appeals process by publishing approximately 1,500 determinations in FY 2008, and over 7,500 since the program began, on the NAD Web site (http://www.nad.usda.gov/public_search.html);
- Implemented digital recording of pre-hearings and hearings: Over 5,000 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); and
- Continued its outreach campaign (*Face to Face Fairness*) to demonstrate to producers the fairness of the USDA appeals system by conducting 13 outreach activities (e.g., attended farm shows, conventions, and conferences; conducted agency training; and met with rural colleges and organizations).

EXECUTIVE OPERATIONS

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	<p>Agency Goal 1: Issue timely and well-written determinations that correctly interpret applicable regulations.</p>	<p><u>Objective 1.1:</u> Conduct hearings and issue quality determinations within applicable statutorily-mandated timeframes.</p> <p><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.</p>	<p>Hearings Appeals Reviews</p> <p>Planning, Training, and Quality Control</p>	<p><u>Key Outcome 1:</u> NAD conducts timely hearings and delivers timely determinations.</p> <p><u>Key Outcome 2:</u> Correct, fair, and readable determinations; reaching the right decision for the right reason.</p>

Selected Accomplishments Expected at the FY 2010 Proposed Resource Level:

- Our expected accomplishments for Appeal Hearings are 1,600
- Our expected accomplishments for Determinations are:
 - Director Review Determinations - 500
 - Appeal Determinations - 2,300
 - Appealability, Timeliness, and Jurisdictional Determinations - 660

EXECUTIVE OPERATIONS

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	2005 Actual	2006 Actual	2007 Actual	2008 Actual	2009 Target	2010 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:	\$14,228,760	\$14,285,760	\$13,889,886	\$14,276,250	\$14,711,000	15,559,000

EXECUTIVE OPERATIONS

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	Dollars in thousands		
		<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
National Appeals Division	Administrative Costs	\$14,276	\$14,711	\$15,559
	FTE's	101	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%