

2015 President's Budget
National Appeals Division

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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, 2013, there were 84 permanent full-time employees, comprised of 25 in Virginia and 59 in the field.

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

NATIONAL APPEALS DIVISION

Available Funds and Staff Years (SYs)
(Dollars in thousands)

Item	<u>2012 Actual</u>		<u>2013 Actual</u>		<u>2014 Estimate</u>		<u>2015 Estimate</u>	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Salaries and Expenses:								
Discretionary Appropriations.....	\$12,841	86	\$14,225	87	\$12,841	92	\$13,430	92
Rescission.....	-	-	-385	-	-	-	-	-
Sequestration.....	-	-	-646	-	-	-	-	-
Total Available.....	12,841	86	13,194	87	12,841	92	13,430	92
Lapsing Balances.....	-65	-	-206	-	-	-	-	-
Total Obligations, NAD.....	12,776	86	12,988	87	12,841	92	13,430	92

Permanent Positions by Grade and Staff Year Summary

Item	<u>2012 Actual</u>			<u>2013 Actual</u>			<u>2014 Estimate</u>			<u>2015 Estimate</u>		
	V.A.	Field	Total	V.A.	Field	Total	V.A.	Field	Total	V.A.	Field	Total
SES.....	1	-	1	1	-	1	1	-	1	1	-	1
GS-15.....	4	3	7	3	3	6	3	3	6	3	3	6
GS-14.....	2	6	8	2	5	7	2	5	7	2	5	7
GS-13.....	13	46	59	12	48	60	12	45	57	12	45	57
GS-12.....	2	-	2	2	-	2	2	-	2	2	-	2
GS-11.....	-	3	3	-	3	3	-	3	3	-	3	3
GS-10.....	1	-	1	1	-	1	1	-	1	1	-	1
GS-9.....	2	2	4	2	2	4	2	3	5	2	3	5
GS-8.....	1	-	1	1	1	2	1	-	1	1	-	1
GS-7.....	-	1	1	-	-	-	-	1	1	-	1	1
GS-6.....	1	6	7	1	4	5	1	6	7	1	6	7
GS-5.....	-	1	1	-	1	1	-	1	1	-	1	1
Total Perm.												
Positions.....	27	68	95	25	67	92	25	67	92	25	67	92
Unfilled, EOY.....	2	1	3	-	8	8	-	-	-	-	-	-
Total, Perm. Full-Time												
Employment EOY.....	25	67	92	25	59	84	25	67	92	25	67	92
Staff Year Est.....	25	61	86	25	62	87	25	67	92	25	67	92

NATIONAL APPEALS DIVISION

The estimates include appropriation language for this item as follows (new language underscored; deleted matter enclosed in brackets):

Salaries and Expenses:

For necessary expenses of the National Appeals Division, [~~\$12,841,000~~] \$13,430,000.

Lead-Off Tabular Statement

Budget Estimate, 2015.....	\$13,430,000
2014 Enacted	<u>12,841,000</u>
Change in Appropriation	<u>+589,000</u>

Summary of Increases and Decreases

(Dollars in thousands)

Program	2012 Actual	2013 Change	2014 Change	2015 Change	2015 Estimate
Discretionary Appropriations:					
National Appeals Division.....	\$12,841	+\$353	-\$353	+\$589	\$13,430

Project Statement

Appropriations Detail and Staff Years (SYs)

(Dollars in thousands)

Program	<u>2012 Actual</u>		<u>2013 Actual</u>		<u>2014 Estimate</u>		<u>Inc. or Dec.</u>		<u>2015 Estimate</u>	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Discretionary Appropriations:										
National Appeals Division.....	\$12,841	86	\$13,194	87	\$12,841	92	+\$589 (1)	-	\$13,430	92
Rescissions, Transfers, and Seq. (Net)....	-	-	1,031	-	-	-	-	-	-	-
Total Appropriation.....	12,841	86	14,225	87	12,841	92	+589	-	13,430	92
Rescission.....	-	-	-385	-	-	-	-	-	-	-
Sequestration.....	-	-	-646	-	-	-	-	-	-	-
Total Available.....	12,841	86	13,194	87	12,841	92	+589	-	13,430	92
Lapsing Balances.....	-65	-	-206	-	-	-	-	-	-	-
Total Obligations.....	<u>12,776</u>	<u>86</u>	<u>12,988</u>	<u>87</u>	<u>12,841</u>	<u>92</u>	<u>+589</u>	<u>-</u>	<u>13,430</u>	<u>92</u>

NATIONAL APPEALS DIVISION

Project Statement
Obligations Detail and Staff Years (SYs)
(Dollars in thousands)

Program	2012 Actual		2013 Actual		2014 Estimate		Inc. or Dec.		2015 Estimate	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Discretionary Obligations:										
National Appeals Division.....	\$12,776	86	\$12,988	87	\$12,841	92	+\$589 (1)	-	\$13,430	92
Total Obligations.....	12,776	86	12,988	87	12,841	92	+589	-	13,430	92
Lapsing Balances.....	65	-	206	-	-	-	-	-	-	-
Total Available.....	12,841	86	13,194	87	12,841	92	+589	-	13,430	92
Rescission.....	-	-	385	-	-	-	-	-	-	-
Sequestration.....	-	-	646	-	-	-	-	-	-	-
Total Appropriation.....	12,841	86	14,225	87	12,841	92	+589	-	13,430	92

Justification of Increases and Decreases

The base funds will continue to support the mission of NAD 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.

- (1) A net increase of \$589,000 for NAD (\$12,841,000 and 92 staff years available in 2014).
 - a) An increase of \$113,000 for pay costs (\$28,000 for annualization of the fiscal year 2014 pay raise and \$85,000 for the anticipated fiscal year 2015 pay raise.)
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. Responsive, fair, and quality decision-making is a corner stone of NAD's strategic planning.
 - b) An increase of \$528,000 for GSA and DHS rental payment.
USDA proposes in FY 2015 the decentralization of GSA Rental Payments and DHS payments. The amount shown is the equivalent share of the current GSA Rent and DHS central appropriations based upon current space occupancy across the continental United States. The appropriations request for the central GSA rent account and the DHS payment account have been reduced accordingly.
 - c) A decrease of \$52,000 for Operating Costs.
NAD will decrease contractual services.

NATIONAL APPEALS DIVISION

Geographic Breakdown of Obligations and Staff Years

(Dollars in thousands and Staff Years (SYs))

State/Territory	2012 Actual		2013 Actual		2014 Estimate		2015 Estimate	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Alabama.....	\$116	1	-	-	\$86	1	\$88	1
Arkansas.....	\$111	1	\$106	1	106	1	110	1
California.....	251	2	260	2	260	2	262	2
Colorado.....	943	8	1,100	9	922	9	930	9
Connecticut.....	146	1	146	1	146	1	147	1
Florida.....	284	2	232	2	233	2	234	2
Georgia.....	126	1	264	2	264	2	265	2
Idaho.....	122	1	133	1	133	1	134	1
Indiana.....	903	7	1,079	9	880	8	890	8
Iowa.....	122	1	-	-	-	-	-	-
Louisiana.....	133	1	133	1	133	1	134	1
Maryland.....	114	1	118	1	118	1	120	1
Massachusetts.....	-	-	-	-	86	1	88	1
Michigan.....	264	2	105	1	105	1	106	1
Minnesota.....	115	1	140	1	240	2	242	2
Mississippi.....	140	1	109	1	109	1	110	1
Missouri.....	140	1	133	1	180	2	182	2
Montana.....	136	1	133	1	180	2	182	2
Nebraska.....	110	1	116	1	116	1	117	1
New York.....	110	1	126	1	126	1	127	1
North Carolina.....	359	3	236	2	236	2	237	2
North Dakota.....	220	2	116	1	86	1	118	1
Ohio.....	86	1	115	1	115	1	118	1
Oklahoma.....	263	2	266	2	263	2	264	2
Oregon.....	124	1	126	1	86	1	88	1
Pennsylvania.....	265	2	107	1	110	1	111	1
South Carolina.....	134	1	133	1	133	1	134	1
Tennessee.....	1,130	8	1,412	11	1,436	12	1,443	12
Texas.....	322	3	322	3	231	3	240	3
Vermont.....	132	1	132	1	132	1	134	1
Virginia.....	5,100	25	5,338	25	5,338	25	5,821	25
Washington.....	136	1	133	1	133	1	134	1
Wisconsin.....	119	1	119	1	119	1	120	1
Obligations.....	12,776	86	12,988	87	12,841	92	13,430	92
Lapsing Balances.....	65	-	206	-	-	-	-	-
Total, Available.....	12,841	86	13,194	87	12,841	92	13,430	92

NATIONAL APPEALS DIVISION

Classification by Objects

(Dollars in thousands)

	2012	2013	2014	2015
	<u>Actual</u>	<u>Actual</u>	<u>Estimate</u>	<u>Estimate</u>
Personnel Compensation:				
Alexandria, VA.....	\$2,391	\$2,492	\$2,517	\$2,583
Field.....	5,835	5,882	5,940	6,095
11 Total personnel compensation.....	8,226	8,374	8,457	8,678
12 Personal benefits.....	2,211	2,315	2,386	2,464
Total, personnel comp. and benefits.....	10,437	10,689	10,843	11,142
Other Objects:				
21.0 Travel and transportation of persons.....	210	242	242	200
22.0 Transportation of things.....	38	34	35	35
23.1 Rental payments to GSA.....	-	-	-	452
23.2 Rental payments to others.....	78	81	81	81
23.3 Communications, utilities, and misc. charges.....	302	424	409	359
24.0 Printing and reproduction.....	18	23	10	10
25.0 Other contractual services.....	141	240	215	163
25.1 Advisory and assistance services.....	1,019	877	845	733
25.2 Other services from non-Federal sources.....	307	121	50	143
25.3 Other purchases of goods and services from Federal sources.....	103	59	60	60
26.0 Supplies and materials.....	48	119	49	50
31.0 Equipment.....	75	79	2	2
Total, Other Objects.....	2,339	2,299	1,998	2,288
99.9 Total, new obligations.....	12,776	12,988	12,841	13,430
Position Data:				
Average Salary (dollars), SES Position.....	\$165,300	\$165,300	\$165,300	\$165,300
Average Salary (dollars), GS Position.....	\$94,969	\$92,001	\$95,919	\$95,919
Average Grade, GS Position.....	13.3	13.2	13.3	13.3

NATIONAL APPEALS DIVISION

Shared Funding Projects
(Dollars in thousands)

	2012	2013	2014	2015
	<u>Actual</u>	<u>Actual</u>	<u>Estimate</u>	<u>Estimate</u>
Working Capital Fund:				
Administration:				
Beltsville Service Center.....	\$8	\$9	\$11	\$10
Mail and Reproduction Management.....	7	5	4	5
Procurement Operations.....	-	42	42	42
Integrated Procurement System.....	7	7	7	7
Subtotal.....	22	63	64	64
Finance and Management:				
NFC/USDA.....	299	126	21	89
Controller Operations.....	48	45	27	27
Financial Systems.....	18	18	17	16
Subtotal.....	365	189	65	132
Information Technology:				
NITC/USDA.....	70	8	138	138
Telecommunications Services.....	340	408	286	269
Subtotal.....	410	416	424	407
Correspondence Management.....	4	4	4	5
Total, Working Capital Fund.....	801	672	557	608
Department-Wide Reimbursable Programs:				
1890's USDA Initiatives.....	3	2	3	3
Continuity of Operations Planning.....	2	2	2	2
E-GOV Initiatives HSPD-12.....	6	6	6	6
Emergency Operations Center.....	2	2	2	2
Facility and Infrastructure Review and Assessment.....	1	-	-	-
Hispanic-Serving Institutions National Program.....	2	2	2	2
Human Resources Transformation (inc. Diversity Council)..	2	1	1	1
Intertribal Technical Assistance Network.....	2	-	-	-
Medical Services.....	1	1	1	1
Personnel and Document Security.....	-	1	1	1
Pre-authorizing Funding.....	3	3	3	3
Sign Language Interpreter Services.....	2	2	3	3
TARGET Center.....	1	1	1	1
USDA 1994 Program.....	1	1	1	1
Virtual University.....	2	2	2	2
Visitor Information Center/People's Garden.....	1	1	1	1
Total, Department-Wide Reimbursable Programs.....	31	27	29	29
E-Gov:				
Enterprise Human Resources Intigration.....	2	2	2	2
E-Training.....	2	2	2	2
Integrated Acquisition Environment - Loans and Grants.....	1	1	1	1
Integrated Acquisition Environment.....	1	1	1	1
Total, E-Gov.....	6	6	6	6
Agency Total.....	838	705	592	643

NATIONAL APPEALS DIVISION

STATUS OF PROGRAM

The mission of the National Appeals Division (NAD) is to conduct fair and impartial administrative appeal hearings and reviews of adverse decisions issued by the Farm Service Agency, Risk Management Agency, Natural Resources Conservation Service, Rural Business-Cooperative Service, Rural Housing Service, and the Rural Utilities Service, to issue determinations in an expeditious manner that reflect a thorough consideration of factual information, and to reach a proper conclusion. The Secretary of Agriculture may also assign to NAD jurisdiction to hear administrative appeals arising from decisions of other parts of USDA. In carrying out its statutory authority, NAD hears from farmers and other rural program participants about their disputes with USDA agencies and makes decisions through a fair and impartial administrative hearings and appeals process.

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 the determination is administratively final.

Pre-Hearing Conferences. NAD conducts pre-hearing conferences to identify and/or narrow the issues in the appeal and helps 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 properly prepared for the hearing.

Hearings and Reviews. NAD Hearing Officers conduct impartial administrative hearings and issue determinations in an expeditious manner that reflects 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.

Selected Examples of Recent Progress:

In 2013, NAD—

- Processed 2,065 cases filed with NAD.
- Issued 87 determinations when appellants challenged the agency view that a decision was not appealable. Outcome was favorable to appellants in 80 percent of the cases.
- Conducted 857 in-person or telephonic hearings, and reviews of the record.
- Issued 1,896 determinations, of which 1,547 were issued by Hearing Officers and 349 were issued by the NAD Director. Outcome was favorable to appellants in 37 percent of the cases.
- Increased transparency and affirmed the fairness of the USDA appeals process by publishing more than 1,250 determinations in 2013; approximately 15,750 have been published on the NAD Web site (http://www.nad.usda.gov/public_search.html) since the program began. Appealability decisions are now posted on the Web as well; more than 950 of those determinations have been made since May 2008.
- Continue to increase access to 10,800 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 hearings and review decisions; NAD writing standards have been validated by the Educational Testing Service, and are described in a peer-reviewed article that shows that the use of holistic evaluation of writing increases the quality of NAD decisions (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1229562).
- Increased the cost-effectiveness and capability of the case tracking system which captures increasing amounts of data about cases and performance measurements, implements increased electronic delivery services to customers, and increases transparency of NAD decision-making to the public. More than 60 eFile requests have been processed since NAD introduced the option to electronically file requests in February 2013.
- Continued its outreach campaign (*Face to Face Fairness*) to demonstrate to producers the fairness of the USDA appeals system by conducting 25 outreach activities (e.g., attended farm shows, conventions, and conferences; conducted agency training; and met with rural colleges and organizations). Outreach activities were aligned with the USDA strike force initiatives.

NATIONAL APPEALS DIVISION

Summary of Budget and Performance Statement of Department Goals and Objectives

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 (NAD). 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.

NAD has one strategic goal and two strategic objectives that contribute to one of the Secretary’s Strategic Goals and one Agency Priority Goal.

USDA Strategic Goal: Assist rural communities to create prosperity so they are self sustaining, repopulating, and economically thriving.

Objective 1.2: Increase agricultural opportunities by ensuring a robust safety net, creating new markets, and supporting a competitive agricultural system.

Agency Strategic Goal	Agency Objectives	Programs that Contribute	Key Outcomes
Issue timely and well-written determinations that correctly interpret applicable regulations.	Conduct hearings and issue quality determinations within applicable statutorily- mandated timeframes.	Hearings Appeals Reviews	Conducts timely hearings and delivers timely determinations
	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.	Planning, Training, and Quality Control	Correct, fair, and readable determinations; reaching the right decision for the right reason

Key Performance Measures and Targets:

Measure	2009 Actual	2010 Actual	2011 Actual	2012 Actual	2013 Actual	2014 Target	2015 Target
Percentage of hearings held and determinations issued within applicable timeframes.	85%	85%	85%	85%	85%	85%	85%
Cost (thousands)	\$7,009	\$7,200	\$6,986	\$6,388	\$6,494	\$6,421	\$6,715

NATIONAL APPEALS DIVISION

Performance Measure	2009 Actual	2010 Actual	2011 Actual	2012 Actual	2013 Actual	2014 Target	2015 Target
Determinations found to be within 1.0 standard deviation of excellence according to group evaluations.	100%	100%	100%	100%	100%	100%	100%
Cost (thousands)	\$7,010	\$7,200	\$6,986	\$6,388	\$6,494	\$6,420	\$6,715

Selected Past Accomplishments toward Achievement of the Key Outcomes:

Hearing, Appeals, and Reviews:

- 95% of Hearings, Appeals, and Reviews met the timeliness standard.

Planning, Training, and Quality Control

- 100% of Review Determinations (349) were peer reviewed with quality control processes based upon NAD Holistic Evaluation Writing Standards.
- 100% of Hearing Determinations went through a supervisory peer review process in the draft drafting phase, based upon NAD the NAD holistic writing standards.
- There was an end of the year writing evaluation session that was linked to end of FY 2012 performance awards. All adjudicators submitted their best writing and a calibrated evaluation committee evaluated and provided feedback to writers on their products.
- NAD was identified by the IRS and the VA as a best practice for improving writing and establishing an evaluation system. Work with the VA continues.

Selected Accomplishments Expected at the 2015 Proposed Resource Level:

Hearings, Appeals, and Reviews:

- A minimum of 85% of Hearings, Appeals, and Reviews will meet the timeliness standard.

Planning, Training, and Quality Control:

- 100% of Review Determinations will be reviewed with quality control processes based upon NAD Holistic Evaluation Writing Standards.
- 100% of Hearing Determinations will undergo a supervisory peer review process in the draft drafting phase, based upon NAD the NAD holistic writing standards.
- NAD will conducting writing evaluation sessions that are linked to end to performance awards.
- NAD will continue partnerships with other federal agencies for best practices in achieving excellence in its written products.

Strategic Goal and Objectives Funding Matrix

(Dollars in thousands)

<u>Program/ Program Items</u>	<u>2012 Actual</u>	<u>2013 Actual</u>	<u>2014 Estimate</u>	<u>Inc. or Dec.</u>	<u>2015 Estimate</u>
Department Strategic Goal: Assist rural communities to create prosperity so they are self sustaining, repopulating, and economically thriving.					
Strategic Objective 1.2: Increase agricultural oportunities by ensuring a robust safety net, creating new markets, and supporting a competitive agricultural system.					
National Appeals Division.....	\$12,841	\$13,194	\$12,841	+\$589	\$13,430
Staff Years.....	86	87	92	-	92

NATIONAL APPEALS DIVISION

Full Cost by Department Strategic Goal
(Dollars in thousands)

Department Strategic Goal: Assist rural communities to create prosperity so they are self sustaining, repopulating, and economically thriving.

Program/ Program Items	2012 Actual	2013 Actual	2014 Estimate	2015 Estimate
<u>National Appeals Division</u>				
Administrative costs (direct).....	\$10,437	\$10,689	\$10,843	\$11,142
Indirect costs.....	2,339	2,299	1,998	2,288
Total Costs.....	12,776	12,988	12,841	13,430
FTEs.....	86	87	92	92
Performance Measure:				
Percentage of hearings held and determinations issued within applicable timeframe.				
Measure.....	85%	85%	85%	85%
Cost per measure (unit cost).....	\$6,388	\$6,494	\$6,421	\$6,715
Performance Measure:				
Determinations found to be within 1.0 standard deviation of excellence according to group evaluations.				
Measure.....	100%	100%	100%	100%
Cost per measure (unit cost).....	\$6,388	\$6,494	\$6,420	\$6,715