

Civil Rights at the United States Department of Agriculture

A Report by the
Civil Rights Action Team

Washington, DC
February 1997



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Secretary of Agriculture
Daniel R. Glickman.

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Civil Rights at the United States Department of Agriculture

Introduction

Secretary of Agriculture Daniel R. Glickman's goal is that each employee and customer of the U.S. Department of Agriculture be treated fairly and equitably, and with dignity and respect. The Secretary's goal is that the USDA become, as Abraham Lincoln suggested over 130 years ago, "the people's department," serving all of the people.

There are some who call USDA "the last plantation." An "old line" department, USDA was one of the last Federal agencies to integrate and perhaps the last to include women and minorities in leadership positions. Considered a stubborn bureaucracy and slow to change, USDA is also perceived as playing a key role in what some see as a conspiracy to force minority and socially disadvantaged farmers off their land through discriminatory loan practices.

Many of the hundreds of minority and socially disadvantaged customers who addressed the civil rights listening sessions held across the country spoke poignantly of discrimination and mistreatment by county-level employees and advisory boards who administer USDA programs. Employees also told of discrimination by USDA managers.

The problems are not new, nor are they unknown. Studies, reports, and task forces have documented the problems in report after report. In 1965, the U.S. Commission on Civil Rights found discrimination problems both in USDA program delivery and in USDA's treatment of minority employees. A 1970 USDA Employee Focus Group Report concluded the agency was insensitive to issues regarding equal opportunity and civil rights and that cronyism and nepotism were frequent factors in making personnel and management decisions. A 1982 Civil Rights Commission report found the Farmers Home Administration had not placed adequate emphasis on dealing with the crisis facing black farmers, and saw indications the agency "may be involved in the very kind of racial discrimination that it should be seeking to correct." A report by the Congressional Committee on Government Operations in 1990 identified Farmers Home Administration as one of the key causes of the drastic decline in black farm ownership.

Despite the fact that discrimination in program delivery and employment has been documented and discussed, it continues to exist to a large degree unabated. USDA is a huge decentralized bureaucracy that administers several hundred federally assisted and federally conducted programs with more than 90,000 Federal and nearly 20,000 non-Federal employees throughout the world.

Many of its agencies deliver programs through a large field office network in conjunction with local farmer boards which help direct how the programs are administered locally. Maintaining focus on civil rights policy across the far-flung bureaucracy is no easy task.



Members of the Civil Rights Action Team at a listening session.



SECRETARY'S CHARGE TO CRAT—

The Civil Rights Action Team was charged with developing a set of recommendations to address institutional and underlying problems and ways to implement actions to ensure accountability and follow-through at USDA.

On December 12, 1996, a group of black farmers demonstrated outside the White House in Washington, DC, calling on President Bill Clinton to assure fair treatment for them in agricultural lending programs. The farmers also filed suit in court against Secretary of Agriculture Dan Glickman, asking for an end to farm foreclosures and restitution for financial ruin they claimed was brought on by discrimination. The farmers' actions buttressed those by many USDA employees who have relentlessly pursued change by writing letters, holding press conferences, and filing class action law suits.

Clearly, it was time for USDA to address its long-standing civil rights problems.

Secretary Glickman responded by appointing a team of USDA leaders to take a hard look at the issues and make strong recommendations for change. The Civil Rights Action Team (CRAT) was charged with developing a set of recommendations to address institutional and underlying problems and ways to implement actions to ensure accountability and follow-through at USDA.

In addition to auditing past reports, the team sponsored 12 listening sessions in January 1997, in 11 locations across the country to hear from customers—especially socially disadvantaged and minority farmers—and from USDA employees. The listening panels were composed of either Secretary Glickman or Deputy Secretary Richard E. Rominger (with one exception), CRAT members, members of Congress, and members of the State Food and Agriculture Council. Customer sessions were tailored to address the civil rights concerns of specific cultural groups.

Testimony at the sessions was often emotionally charged and evoked compassion. Hundreds of customers and employees provided valuable information about how they perceive USDA. Many farmers told stories of years of bias, hostility, greed, ruthlessness, rudeness, and indifference not only by USDA employees, but also by the local county committees that provide access to USDA's Farm Service Agency programs. Minority, socially disadvantaged, and



Some of the most poignant comments, however, came from minority farmers across the country, who noted that the Federal Government writes off millions of dollars in loans to foreign countries that cannot pay, yet forecloses on U.S. farmers when they cannot pay.



women farmers charged that USDA has participated in a conspiracy to acquire land belonging to them and transfer it to wealthy landowners. Minorities, women, and disabled employees charged that discrimination, sexual harassment, favoritism, and reprisals are common at USDA.

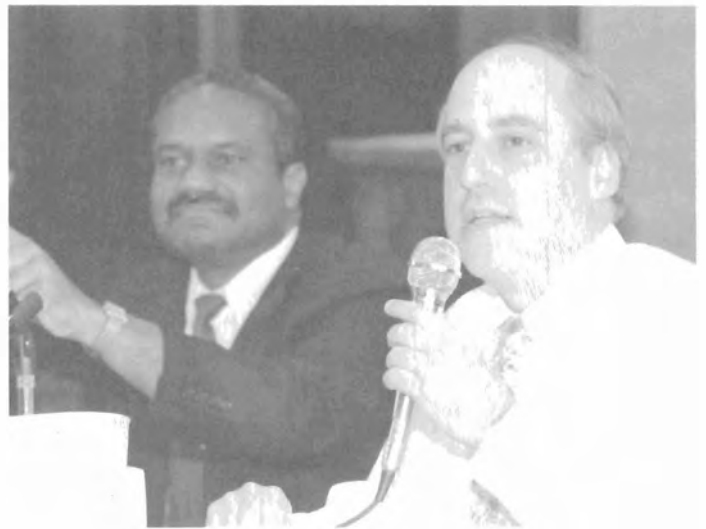
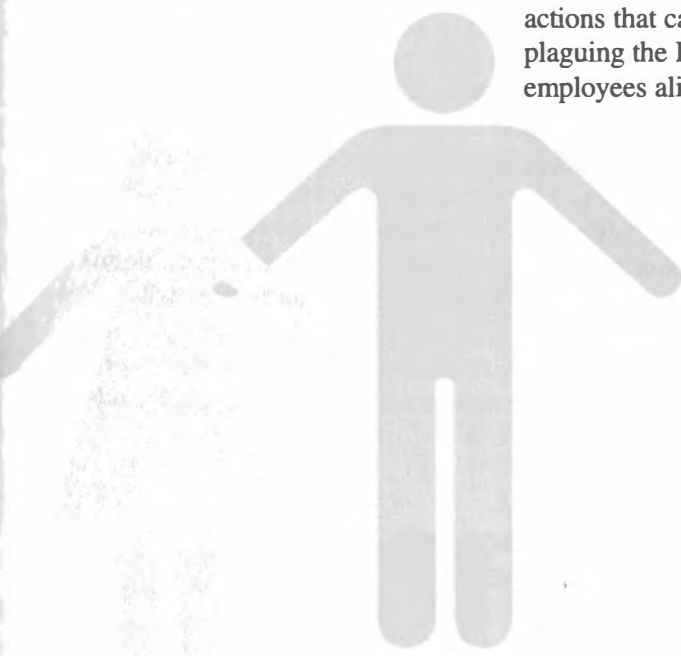
Many customers and employees who could not attend the sessions, or who did not want to comment publicly, faxed and mailed comments to the CRAT. Others phoned a Hotline USDA had established to handle civil rights issues. The comments reflected the depth of pain and betrayal felt by so many customers and employees. Many sent page after page of documentation of their situations.

A speaker in Belzoni, MS, said USDA employees treat small-scale and minority farmers "worse than I would treat a dog." Another, who felt he was receiving unequal and unfair treatment from USDA employees, said "All I ask is for a level playing field."

A female USDA employee said she was told that her career would be jeopardized if she did not submit to sexual relations with her supervisor. While the supervisor was eventually transferred as a result of an ensuing investigation, she said she was left "stigmatized and blamed for challenging the culture." Another woman noted that the system at USDA is broken, "perhaps not intended to work."

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This is the report of Secretary Dan Glickman's Civil Rights Action Team. It is the result of an audit of civil rights issues facing the U.S. Department of Agriculture in 1997 in both program delivery and employment. It contains findings and draws conclusions. Most importantly, it contains recommended actions that can be taken to remedy many of the long-standing problems plaguing the Department and weakening its credibility among customers and employees alike.



Lack of Management Commitment to Civil Rights

Background



Findings in this report, and many others, lead to the conclusion that too many managers—from the lowest to the highest levels, both career civil servants and political appointees—are not committed to and are not being held accountable for their actions on civil rights.

USDA's painful history of individual and class action law suits, court orders, media exposés, numerous Congressional hearings, and reports depicts the Department as a stubborn bureaucracy that refuses to provide equal opportunity to all as the law requires.

The CRAT was told over and over, by farmers and employees, that managers at USDA operate in a system that does not hold them accountable when they break the law.

Farmers Say That USDA's Managers Are Not Held Accountable for Their Actions

During the CRAT listening sessions, hundreds of minority farmers voiced concerns, as they have for decades, that they are still being denied equal access to USDA's programs. An African-American farmer in Brooks County, GA, which is 62 percent black, said the Farm Service Agency (FSA) wasn't serving black farmers there. He asked the Secretary "to come in and assist us to put watchdog groups over these places, so they can see that we're treated fairly."

Many echoed the sentiments of a farmer at the listening session in Washington, DC, who said USDA has participated in a "conspiracy to strip black farmers of their land." They described a litany of neglect, racial bias, unfair lending practices, and discrimination by county officials who one described as "short on moral rectitude and long on arrogance and sense of immunity."

Blacks, as well as white small-scale farmers, in the Mississippi Delta charged that USDA officials deny them courtesy and respect while giving large-scale farmers service and loans. A white female farmer said that the "single largest problem for women is to be taken seriously by the financial community." Another farmer added, "if they [county officials] don't like you, they won't give you the loan." And another said that county supervisors "are playing with our lives, playing with our livelihoods.... We need people we can trust."

Hispanic, Asian-American, and American Indian farmers in Texas, California, and Oklahoma, and at other listening sessions, told stories with a common theme: USDA has done more to hurt than to help small and minority farmers. One farmer said that the 400 Hispanic growers in





California Central Coast counties formed an association in 1995 because the Department of Agriculture “systematically excluded” them from programs. “Some [USDA] staff need to change their attitudes towards members of our community,” he said. “I feel that everyone who is present and has testified reinforces this statement.”

Many farmers complained about the regulations and cumbersome paperwork requirements which simply don’t work for small farmers. However, they also described a county committee system that shuts out minorities and operates for the favored few, where county officials, as another Mississippi farmer said, have the power “to send you up the road to fortune, or down the road to foreclosure,” a system where officials abuse their power with impunity. They describe an entire system without accountability.

Echoing feelings expressed across the country, a farmer and representative of the Cherokee Nation in Oklahoma said, “I have seen the abuses at the county level personally and for many other farmers.... You know, I believe that people in Cherokee County, I don’t know if they’re just bigots or ignorant, or if it’s just such a tight-knit group there they don’t want minorities to participate.”

A field coordinator for small farm outreach in Texas said, “we had a supervisor actually take an individual’s plan and throw it in the trash can.... I think we need to look at some policies which govern accountability and look at the ethics of accountability as well.” That sentiment was repeated by a female farm advocate from Louisiana, who said, “today we need somebody to hold the offices accountable for their actions...that needs to be done if anybody’s going to ever be treated fairly.”

Farmers also charged that USDA refuses to pay them damages, even after admitting that it has discriminated. One farmer said that discrimination continues because it has not yet cost the government “one single dime.”

A farmer in Mississippi recalled that in 1990 and 1991, he and two other minority farmers were rejected for operating loans. They filed appeals and



won. They filed discrimination complaints, which were upheld by USDA. "The same county supervisors and county committee year after year used the fact that we filed these complaints and that they had to attend civil rights training classes as a reprisal against us, from '91 until the present," he said. "And what have we received? Delinquent accounts. What has the county supervisor received? He walked out with his 25 years of retirement, leaving us with this debt over our head."

Several farmers and farm advocates harshly criticized the Department's Office of the General Counsel (OGC). Their perception is that OGC has prevented USDA from providing compensation to farmers who have been discriminated against; that OGC lacks diversity among its senior staff; and that the agency lacks sensitivity to—and is even hostile towards—civil rights. Similar perceptions were also shared with the CRAT by the Department's Civil Rights Leadership Council.

Farmers also told the CRAT that USDA's Office of Inspector General is being used by management to investigate and bring unsubstantiated charges against them. "I've got stories" of OIG investigations and retaliation against farmers, a farm advocate said. "If the Office of General Counsel says, 'this is the way it ought to be,' then that's the way it is. It doesn't matter about your rights. So the system is very badly broken, as I see it."


One example of a "broken" system is that field-level employees, those closest to farmers, often work under an incentive system that is adverse to serving minority and other small producers. Minority and small farmers said that their loans are processed too late, if at all, and that often, "the money is gone" by the time they are approved. Field employees' performance ratings are often based on measurement systems that favor large, wealthy landowners. County loan officers are rewarded based on the total number of acres served by program dollars, for having low default rates, and for dispensing all of the funds allocated to them—a performance management system that rewards service to large, financially sound producers while working against small and minority farmers.

USDA's policy statements support the idea of helping low-income and socially disadvantaged farmers. However, its management practices include performance measurement systems that actually do the opposite.

USDA Employees Tell Similar Stories

USDA employees at the listening sessions—several of them at the emotional breaking point—told of acts of "intimidation, fear, threats, and retaliation" by managers when employees complain of discrimination. They related stories of abusive behavior by managers who, rather than being punished, were rewarded with promotions and awards.

At the May 1996 Departmental Forum on Civil Rights, in CRAT listening sessions, in focus group reports, in the Blue Ribbon Task Force report, and



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Pearlie Reed, Team Leader,
Civil Rights Action Team.

elsewhere, USDA employees consistently have said that they believe managers who are guilty of discrimination are not being disciplined.

Abuse of managerial authority was a common theme, expressed most often by employees within the Forest Service. "Believe it or not," one Forest Service employee said at the Washington, DC, session, "management has used Forest Service law enforcement to police their own employees. Clearly, in these cases, the agency is not acting in the public's best interest, but as a Gestapo, totally out of control....Added to this, there is a segment of management which may not be guilty of these offenses, but chooses to ignore them in the effort not to buck the system." Several employees said that when confronted by complaints, agency leadership at higher levels adopts an attitude of "defending the troops"—the managers—rather than listening to employees or customers.

Although many of the employees who attended the listening sessions were from the Forest Service, USDA's largest agency, similar problems were described by employees of other agencies at the listening sessions, in reports, and in letters. A report produced by Westover Consultants for the Foreign Agricultural Service (FAS) in 1993, for example, said that minority and female employees feel that they are discriminated against and that many of the agency's managers lack the skills and training necessary for managing a diverse workforce. An employee in the Economic Research Service said Asian-Pacific American employees at USDA "get reprisal" when they voice their concerns to top management.

GAO Finds Agency Heads Not Accountable for Affirmative Employment Plans

Managerial commitment to civil rights is fundamentally an issue of accountability. Equal Employment Opportunity Commission (EEOC) regulations make agency heads accountable, and require them to hold all officials, managers, and employees accountable, for the successful implementation of Affirmative Employment Programs (AEP's). AEP's are mandated by Congress for agencies with more than 500 employees. They are designed to eliminate the under-representation of women and minorities in each agency's workforce. However, in 1995, GAO reported that at USDA, and three other Federal agencies, "no formal mechanisms are in place to hold them (agency heads) accountable for the success of their agencies' EEO/affirmative employment programs." GAO also found that senior officials treat AEP's as "paperwork requirements rather than as action plans to be taken seriously."

Contrary to EEOC regulations, most senior managers at USDA do not actively participate in the preparation of AEP's. According to GAO, officials with the authority to make personnel decisions regarding employment, job assignments, training, promotions, and terminations at USDA and the other agencies were rarely involved in the process of identifying barriers and actions to improve the representation of women and minorities in their agencies.



According to GAO, accountability “suggests that goals will be established, performance will be measured and reported, and that this information in turn will be used to monitor progress towards achieving the agencies’ EEO objectives.” However, as GAO noted, USDA managers make hiring, promotion, and other employment decisions without reference to the agency’s AEP’s.

Many managers at the Department also view numerical goals for ending under-representation as illegal quotas. In its February 1996 Memorandum to General Counsels (Post-Adarand Guidance on Affirmative Action in Federal Employment), the Department of Justice (DOJ) addressed this issue. It stated that agencies may establish reasonable numerical objectives for minority representation under specified conditions where race may be a factor in decision making. Further, Justice said, “the establishment of numerical goals for minority participation should not raise concerns under Adarand where race-based decision-making is not used to achieve the goal and the goal is commensurate with availability of minorities in the qualified and appropriate labor pool.”

Previous Reports Find Lack of Commitment and Accountability

USDA employees appear to agree with GAO’s findings. A 1993 USDA employee focus group report noted “strong concerns that managers have not been held accountable for their actions when discrimination is found.” Lack of managerial accountability was one of four critical issues identified by the Department’s Blue Ribbon Task Force on Equal Opportunity and Diversity in its recommendations to the Secretary in 1996.

Employees with discrimination complaints often contend that managers are not held accountable for civil rights. A 1993 study by Westover Consultants, Inc., commissioned by the Foreign Agricultural Service’s (FAS) Civil Rights office, and marked “confidential,” reported that many managers in FAS agree. In focus groups, managers in the agency “expressed that their attempts to foster a workplace where diversity is recognized and respected have had negative results and no support from top management. This has created in them a reluctance to become involved.”

Westover found many managers in the agency view the emphasis on civil rights and diversity as “a burden.” The report continued: “White supervisors were said by several groups to be tired of racial/ethnic issues. They are also tired of the EEO effort and perceive it to have a negative influence on the workforce.” Senior executives “admitted that they have had a management style that reacts and is focused entirely on the Director’s concerns. This has meant that little time is spent ensuring that employees are satisfied and that issues such as workforce diversity are dealt with appropriately.”

Like farmers, employees at listening sessions also complained that some USDA managers harbor prejudices. This view was echoed in the Westover report, which found that some managers in FAS still hold stereotypes about minorities. “Major barriers consistently identified in each [focus] group were



PERFORMANCE RATINGS

Despite the problems documented throughout this report, no senior executive was rated “does not meet fully successful” in civil rights at USDA.

the preconceived notions and prejudicial attitudes that white managers appear to have about the skills and competencies of African-American and Hispanic/Latino employees. These attitudes are demonstrated by the kinds of training suggested; the level of assignments given; their presence in minimal numbers in the Foreign Service; and in the general lack of recognition of positive accomplishments and contributions.”

At the New Orleans Listening Session, several USDA employees brought up the issue of racism and racist comments. “lack of respect for people of color,” and incidents of physical abuse against employees.

Assistant Secretary for Administration Lacks Authority

The Assistant Secretary for Administration (ASA) has overall responsibility for ensuring that agencies comply with all civil rights laws, rules, and regulations. However, the ASA is not involved in the performance appraisal process for the agency heads and senior executives (other than those in Departmental Administration) whose actions—at least on civil rights—the office ostensibly oversees. The ASA has the responsibility for ensuring compliance; in reality, the ASA has minimal ability to impact the performance ratings, bonuses, or pay adjustments of senior executives, civil rights directors, deputies for management, and others throughout the Department whose actions he or she is responsible for overseeing.

Accountability at the highest levels should cascade down through agencies’ organizational structures, where field supervisors provide direct service to the public. However, without measurable goals, agencies have no way of effectively assessing whether or not they are making progress. Performance Review Boards (PRB’s) meet yearly to assess the performance of senior executives. In fiscal year 1996, 59 percent of the Department’s 318 senior executives received a rating of “exceeds fully successful” in their EEO/Civil Rights performance element. The other 41 percent received ratings of “meets fully successful.” Despite the problems documented throughout this report, no senior executive was rated “does not meet fully successful” in civil rights at USDA.

PRB’s also recommend to the Secretary the amount of bonuses, pay raises, and awards for the Department’s senior executives. In FY 1996, the Department awarded a total of \$564,000 to 87 senior executives. Career executives are also eligible for special act awards (up to \$10,000) and Presidential Rank awards (\$10,000 or \$20,000). With rare exceptions, senior executives are rewarded for achievements in program areas, rather than civil rights.

Some Managers Lack Skills To Manage Diversity

Managerial competence is another concern. The ability to manage people, according to a former USDA personnel director, is the one area where USDA candidates have the most trouble passing the Office of Personnel

Management's Quality Review Boards, which certify candidates for the Senior Executive Service (SES).

In 1994, the Department's National Performance Review Team supported this observation. The team analyzed questionnaires from over 1,400 USDA employees on the issue of human resources management. The team reported that many employees "cited an inflexible style of management as the reason for hindering achievement of their full performance potential." The report said that many USDA managers are selected on the basis of their technical competence and are "not trained as managers."


Level of Resources for Civil Rights Also Measures Commitment

Finally, commitment is also a question of resources devoted to civil rights. A report being prepared by the Department's Civil Rights Policy Analysis and Coordination Center found that less than 1 percent of the Department's full time equivalent (FTE) resources, and budgetary resources, are allocated to civil rights. Civil rights budgets were seriously reduced in the 1980's, and have not fully recovered. The Civil Rights Leadership Council told the CRAT that agencies do not provide adequate resources to carry out the compliance and oversight activities needed to enforce civil rights laws and regulations.

Conclusions

In recent years, every Secretary of Agriculture has said that improving civil rights is a priority at USDA. However, findings in this report and many others suggest that with few exceptions, senior managers at the Department have not invested the time, effort, energy, and resources needed to produce any fundamental change.





Management commitment and accountability are key to the civil rights issues at the U.S. Department of Agriculture, both from a customer and program delivery standpoint as well as from the standpoint of employment practices and workforce diversity.

Minority and small farmers believe that USDA has participated in a conspiracy to take their land. In listening sessions across the country, farmers and employees described a system without accountability; a system in which some managers and supervisors abuse their power without concern for the consequences. The perception persists that even when discrimination occurs, appropriate disciplinary actions are not taken.

USDA's employment and program delivery systems appear to operate without sufficient checks and balances. Agency heads have delegated responsibility for civil rights to agency civil rights directors who do not have the resources, or authority, to ensure compliance with civil rights laws and regulations.

Contrary to EEOC regulations, agency heads and senior officials are not held accountable for results-oriented AEP's to end under-representation, or for Civil Rights Implementation Plans, which address program delivery. In most cases, agencies have not established measurable goals, in employment, program delivery, or procurement, for which managers are to be held accountable.

Senior officials receive awards, bonuses, and pay raises—but generally not for documented improvements in civil rights. Senior officials who receive “does not meet” for their civil rights performance elements do not qualify for bonuses or pay raises. However, few, if any, officials have ever received this rating. Field-level supervisors also have performance incentives that favor large producers while putting small and minority producers at a disadvantage. For example, accomplishments are often measured in acres or dollars; therefore, it is to field employees' advantage to work with large, well-financed farmers.

The Assistant Secretary for Administration, who is ultimately charged with ensuring that civil rights laws, rules, and regulations are enforced, does not have the delegated authority to ensure that subcabinet officials, agency heads, and other senior officials are held accountable. As a result, accountability has not cascaded down throughout USDA's massive field structure.

Management commitment and accountability are key to resolving the civil rights issues at the U.S. Department of Agriculture, both from a customer and program delivery standpoint as well as from the standpoint of employment practices and workforce diversity. The sections that follow detail the CRAT's findings in both of these areas.

Program Delivery and Outreach

Background

Many minority and limited-resource farmers believe that USDA has participated in a conspiracy to take their land. They cite as proof the severe decline in farm ownership by minorities, especially African-American farmers, in the last 70 years. Much of this land had been owned for generations, in some cases acquired by these farm families after slavery was abolished in the 1860's.

According to the most recent Census of Agriculture, the number of all minority farms has fallen—from 950,000 in 1920 to around 60,000 in 1992. For African Americans, the number fell from 925,000, 14 percent of all farms in 1920, to only 18,000, 1 percent of all farms in 1992. Although the number of farms owned by other minorities has increased in recent years, particularly among Hispanics, the total acres of land farmed by these groups has actually declined. Only women have seen an increase in both number of farms and acres farmed.

During this time, the number of nonminority farmers has also dramatically declined, although at a slower rate. Many farmers have voluntarily chosen other pursuits. For some, however, especially minority and limited-resource farmers and ranchers, the loss of their land has been involuntary. Many of these farmers and ranchers believe that USDA has been in part responsible for their losses.

These farmers blame USDA's program delivery system, with its wide-ranging and relatively autonomous local delivery structure. They charge that USDA has long tolerated discrimination in the distribution of program benefits and misuse of power to influence land ownership and farm profitability. They blame farm program regulations that—intentionally or not—shut out minority and limited-resource farmers and ranchers from the benefits of the programs that have helped larger nonminority producers survive the changes in agriculture in the last 50 years. And they blame USDA's insensitivity to the differing needs of minority and limited-resource customers and neglect of its responsibility to reach out and serve all who need USDA's assistance.

Farm advocates compared minority farmers to "endangered species." "We keep up with endangered species of animals," one said. "And I guess what we're saying is that black farmers, people-of-color farmers in this country... deserve the kind of registry, the kind of list so that we could preserve those farmers." They called on USDA to establish a voluntary registry of minority land owners, through the Farm Service Agency, that would establish a baseline of land ownership by people of color. They challenged USDA to target its various programs to ensure that the baseline level of ownership by these farmers is sustained, and progressively increased.



A Common Theme:

By the time processing is completed, even when the loan is approved, planting season has already passed and the farmer has not been able to plant...profit is then reduced.

Socially Disadvantaged Customers Perceive USDA Is a Partner in Taking Their Land

Customers across the nation, but most particularly in the Southeast, echoed a common theme at the recent listening sessions. They pointed to discrimination in USDA programs by Farm Service Agency (FSA), formerly Agricultural Stabilization and Conservation Service (ASCS), and Farmers Home Administration (FmHA) county offices as the primary reason for their loss of land and farm income. Details varied from family to family, but the general outlines of the stories farmers told the CRAT remained constant:

The minority or limited-resource farmer tries to apply for a farm operating loan through the FSA county office well in advance of planting season. The FSA county office might claim to have no applications available and ask the farmer to return later. Upon returning, the farmer might receive an application without any assistance in completing it, then be asked repeatedly to correct mistakes or complete oversights in the loan application. Often those requests for correcting the application could be stretched for months, since they would come only if the minority farmer contacted the office to check on the loan processing. By the time processing is completed, even when the loan is approved, planting season has already passed and the farmer either has not been able to plant at all, or has obtained limited credit on the strength of an expected FSA loan to plant a small crop, usually without the fertilizer and other supplies necessary for the best yields. The farmer's profit is then reduced.





“ ... Somewhere there should be reparations. It’s good to know that you’re saying we’re not going to have foreclosures, but what are you going to do about those hundreds of thousands of acres of land that have been lost, hundreds of thousands of black farmers who have been put out of business because of the policies that were adverse to them?”

If the farmer’s promised FSA loan finally does arrive, it may have been arbitrarily reduced, leaving the farmer without enough money to repay suppliers and any mortgage or equipment debts. In some cases, the FSA loan never arrives, again leaving the farmer without means to repay debts. Further operating and disaster loans may be denied because of the farmer’s debt load, making it impossible for the farmer to earn any money from the farm. The farmer then will have to sell the land or be foreclosed on to settle debts. As an alternative, the local FSA official might offer the farmer an opportunity to lease back the land with an option to buy it back later. The appraised value of that land is set very high, presumably to support the needed operating loans, but also making repurchase of the land beyond the limited-resource farmer’s means. The land is lost finally and sold at auction, where it is bought by someone else at half the price being asked of the minority farmer. Often it is alleged that the person was a friend or relative of one of the FSA county officials.

The consequences of this scenario, repeated in all its varieties, and the hopes of those who have lost land through this process, were summarized by a participant at the listening session in Memphis, TN:

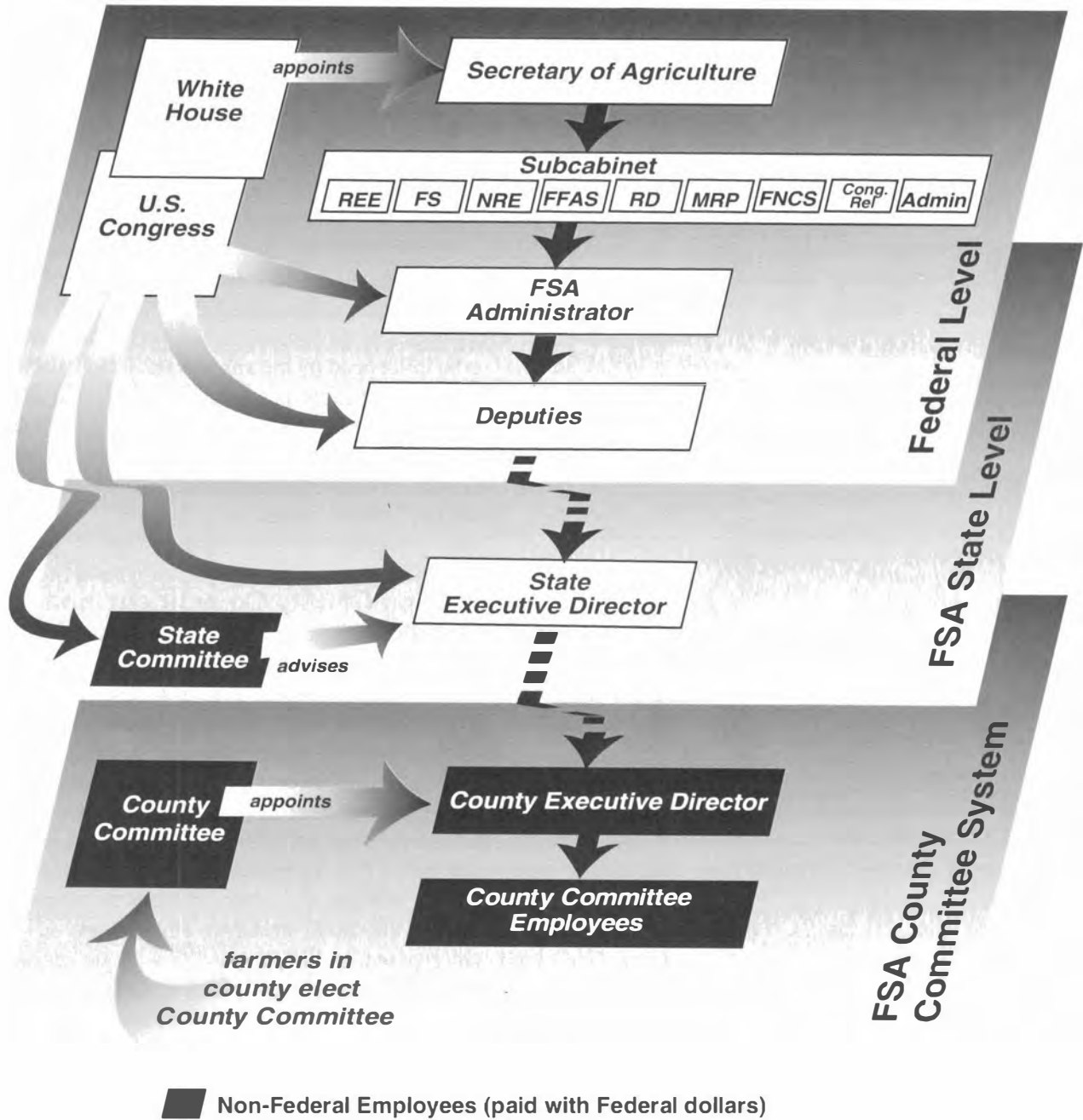
“ ... Somewhere there should be reparations. It’s good to know that you’re saying we’re not going to have foreclosures, but what are you going to do about those hundreds of thousands of acres of land that have been lost, hundreds of thousands of black farmers who have been put out of business because of the policies that were adverse to them?”

Lack of Accountability Within the FFAS and Rural Development Mission Areas

Currently, the Farm and Foreign Agricultural Services (FFAS) Mission Area, which manages the FSA program delivery system, provides ineffective oversight of the local delivery of farm credit services. At all levels of management in FSA, the Secretary must defer to interested outside constituencies in making appointments. Those appointed to management positions then retain a degree of autonomy in their management decisions because of their connection to influential constituencies outside of USDA. A similar situation exists within the Rural Development Mission Area.

The problem of autonomy from the Departmental chain of command is amplified at the State and local levels of FSA program delivery and at the State level in Rural Development program delivery. State committees and State executive directors in FSA and State directors in Rural Development, although appointed by the Secretary and charged with carrying out the policies of USDA, owe some loyalty to those supporters who nominated them for appointment and retain some autonomy from the Secretary’s authority by the strength of that outside support.

USDA Reporting Lines and Personnel—from Headquarters to FSA County Committee Level





At the county level, local farmers and ranchers elect 3- to 5-member committees to oversee FSA programs locally. These committees hire a county executive director, who hires a county office staff. The county executive director is accountable to the county committee and supervises the county committee staff. Neither the county executive director nor the county committee staff are Federal employees, although they are paid through Federal funds appropriated to operate FSA programs. County office employees are officially responsible for implementing the policies of USDA and can be removed, as can State executive directors and county and State committee members, for failing to do so. In practice, however, that is rare.

As in most large organizations, FSA draws on its local and State staffs to fill positions at higher levels in the organization. Since county executive directors and employees owe their positions and allegiances to people, and sometimes political parties, other than the Secretary, it is more difficult to hold people accountable and remove employees who do not follow the Secretary's policies. This appears to be particularly true at the local level, where employees tend to be influenced by the values of their local communities and county committees rather than by standard policies promulgated at the national level. Farmers at the recent listening sessions described it as a system where management and program staffs at the State and local levels are relatively free to use their program authority and insider information to benefit themselves, their friends, and their families.

Lack of Diversity Among County Committees and County Office Employees



Because of the ways in which State and county committees are chosen and county offices are staffed, FSA lacks diversity in its program delivery structure. Federal EEO and Affirmative Employment laws and policies do not govern the FSA non-Federal workforce except by agency regulation. Consequently, the diversity of the non-Federal workforce is even less reflective of customers than the Federal program delivery workforce. In addition, the non-Federal employees within this county committee system are not covered by most Federal labor relations and labor standards protections. They can be fired at the discretion of the county executive director.

A recent GAO study indicated that in the 101 counties with the largest concentration of minority farmers, one-quarter had no minority employees in their offices. In those offices that did employ minorities, most were program assistants, although one-quarter of the offices had minority county executive directors.



Perhaps the lack of diversity that minority and limited-resource customers deem to be most critical, however—and this was confirmed by comments in the recent listening sessions—is the lack of minority and female representation on the county committees which can affect access to FSA programs. Proportionate under-representation has been a particular problem in the

**FSA County Committee Members
by Race, Sex, and Ethnicity, 1996**



Midwest

White	Male	 1,923
	Female	 119
Black	Male	0
	Female	0
Hispanic	Male	0
	Female	0
Asian American/ Pacific Islander	Male	0
	Female	0
American Indian/ Alaskan Native	Male	3
	Female	0



Northeast

White	Male	 708
	Female	 73
Black	Male	4
	Female	0
Hispanic	Male	1
	Female	0
Asian American/ Pacific Islander	Male	0
	Female	0
American Indian/ Alaskan Native	Male	0
	Female	0



Northwest

White	Male	 1,026
	Female	 107
Black	Male	0
	Female	0
Hispanic	Male	0
	Female	1
Asian American/ Pacific Islander	Male	4
	Female	2
American Indian/ Alaskan Native	Male	27
	Female	1

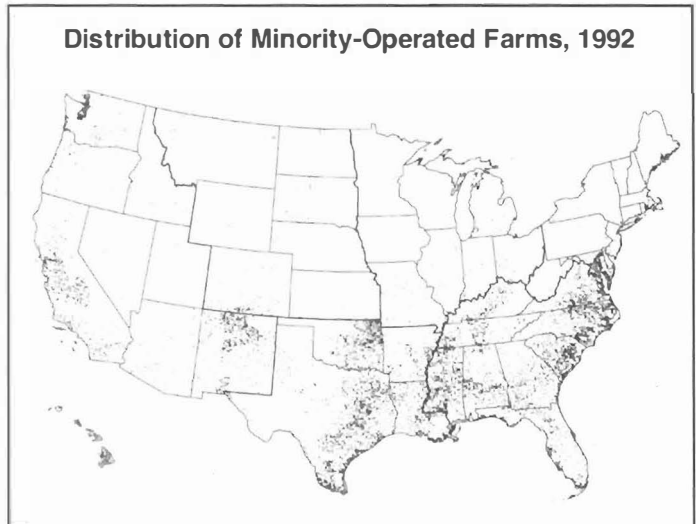
Southeast

White	Male	 2,287
	Female	 121
Black	Male	27
	Female	1
Hispanic	Male	21
	Female	7
Asian American/ Pacific Islander	Male	1
	Female	0
American Indian/ Alaskan Native	Male	4
	Female	0

Southwest

White	Male	 1,441
	Female	 152
Black	Male	5
	Female	0
Hispanic	Male	33
	Female	2
Asian American/ Pacific Islander	Male	10
	Female	4
American Indian/ Alaskan Native	Male	29
	Female	4

Distribution of Minority-Operated Farms, 1992



Source: Farm Service Agency



Southeast and Southwest, but it is a problem throughout the Nation.

In 1994, 94 percent of all county committees had no female or minority representation. Minority producers were 4.7 percent of eligible voters, but held only 2.9 percent of county committee seats. Women were 28.8 percent of eligible voters, but held only 1.5 percent of county committee seats. GAO found that in 1995, only 36 of the 101 counties with the largest concentration of minority farmers had a least 1 minority county committee member. Representation has improved slightly for women in the last few years, reaching 7 percent in 1997, but remains variable and disproportionately low, at 2.3 percent in 1997, for minorities.

Legislation passed by Congress in 1994 to reorganize the USDA requires that the county committees be representative of the agricultural producers in the county or multi-county area. In counties with relatively high concentrations of minority farmers without elected minority county committee members, FSA has required appointment of minority advisors to increase the awareness of and participation of minorities in FSA programs, including elections. Minority advisors are also intended to ensure that minority group problems and viewpoints are fully understood and considered in all FSA actions.

However, both FSA and minority and limited-resource farmers and ranchers recognize that the minority advisor system does not work. Without representation that has equal voting status on the county or area committees, the interests of minorities and limited-resource farmers and ranchers will not carry any weight.

Disparities in the Treatment of Minorities in FSA Programs

Minority and limited-resource customers stated repeatedly in the recent listening sessions that their participation in FSA programs has been blocked by discriminatory county office staffs. If they do succeed in receiving services, their participation is often restricted by delays and lack of support.

Recent studies requested by Congress and FSA have found lower participation and lower loan approval rates for minorities in most FSA programs. Participation rates in 1994 in programs of the former Agricultural Stabilization and Conservation Service (ASCS), particularly commodity programs and disaster programs, were disproportionately low for all minorities.

The GAO found that between October 1, 1994, and March 31, 1996, 33 percent of minority applications but only 27 percent of nonminority applications in the Agricultural Conservation Program (ACP) were disapproved. During the same period, 16 percent of minority but only 10 percent of nonminority loans in the direct loan program were disapproved.

Approval rates for the FSA direct and guaranteed loan programs in 1995 and 1996 varied by region and by State and showed no consistent picture of disparity between minority and nonminority rates. Some States showed fairly wide ranges, however. For example, only 67 percent of African-American loans were approved in Louisiana, compared to 83 percent of nonminority loans. Alabama showed a similar disparity—only 78 percent of African-American loans approved, compared to 90 percent of nonminority loans.

Loan processing rates for the FSA direct and guaranteed loan programs also varied widely in 1995 and 1996 and again showed no consistent picture of disparity between minority and nonminority rates. Again, however, some States showed consistently longer processing times for minorities. In the Southeast, for example, in several States it took three times as long on average to process African-American loan applications as it did nonminority applications. Similar disparities between nonminority loan processing and American Indian loan processing appeared in records for a number of States included in FSA's Northwest region.

These reports suggest that the disparity in participation and treatment of nonminority and minority farmers may be partially accounted for by the smaller average size of minority- and female-operated farms, their lower average crop yields, and their greater likelihood not to plant program crops, as well as less sophisticated technology, insufficient collateral, poor cash flow, and poor credit ratings.



LONGER LOAN PROCESSING

In several Southeastern States, it took three times as long on average to process African-American loan applications as it did nonminority applications.



However, representatives of minority and female farm groups point out that previous discrimination in USDA programs has helped to produce these very conditions now used to explain disparate treatment.

Opportunities for Relief Neglected



A program exists that could be more widely used to help with debt relief for minority and limited-resource farmers. The conservation contract debt reduction program, familiarly called “Debt for Nature,” reduces a landowner’s debt in return for placing a portion of the land under contract as a conservation easement for a specified length of time, usually about 50 years. Use of the program would allow minority or limited-resource farmers to retain ownership of their land and continue farming on a large enough portion to remain profitable, while contributing to the conservation of highly erodible land, wetlands, endangered species habitats, and other fragile lands.

However, because these contracts are considered debt write-downs, their use disqualifies the landowner from further FSA loans. A change in legislation to end that prohibition would make “Debt for Nature” contracts more helpful to minority and limited-resource customers and would increase benefits to fragile ecosystems.

Farmers Find Little Relief in USDA Complaint Processes

Farmers who told the CRAT stories of discrimination and abuse by USDA agencies also described a complaints processing system which, if anything, often makes matters worse. They described a bureaucratic nightmare where,



The D. J. Miller report of 1996 found anecdotal evidence suggesting that minorities and females use the appeals process less. This is primarily due to discomfort with and lack of confidence in the decision makers; slowness of the appeals process; lack of knowledge of appeals rules and regulations; and the time-consuming bureaucracy of the appeals process.

even after they receive a finding of discrimination, USDA refuses to pay damages. They charged USDA with forcing them into court to seek justice, rather than working with them to redress acknowledged grievances. They painfully described the toll these ongoing battles with USDA has taken on their families, and on their health.

When USDA denies a loan, payment, or any other benefit, the customer almost always has appeal rights. Agency appeals processes vary but, typically, an appeal goes to a higher level agency official in the county, State, or region, and then to the agency's national office or to the Department. Until 1995, FmHA and ASCS (now FSA) appeals processes were handled entirely within the agency. If the customer did not agree with the national decision, the only appeal was to the courts.

However, many farmers, especially small farmers, who have managed to appeal their cases to FSA charge that even when decisions are overturned, local offices often do not honor the decision. They claim that decisions favoring farmers are simply "not enforced." Farmers also mentioned the backlog and length of time needed to appeal, and the lack of timely communication to inform them of the status of their cases.

The D. J. Miller report of 1996 noted that this system was not beneficial to minority farmers. It found that "the statistical evidence shows that minority and female farmers do not file appeals of FSA decisions in proportion to their share of producers" and that "anecdotal evidence suggests that minorities and females utilize the appeals process less primarily due to discomfort with and lack of confidence in the decision makers; slowness of the appeals process; and lack of knowledge of appeals rules and regulations; and the time-consuming bureaucracy of the appeals process." For those minority farmers who did use this system, the Miller report did not find a statistically significant difference between the outcomes of appeals between white male and female and minority farmers.

A new, independent, National Appeals Division (NAD) was established by USDA in 1994. The director of NAD reports directly to the Secretary. Any customer may appeal to NAD after going through at least one stage of appeal within the agency.

Testimony at the listening sessions and written comments submitted questioned the integrity of the new NAD appeals system. The principal complaint was that after a NAD hearing officer overturns an agency decision in favor of the farmer, the agency, usually FSA, appeals to NAD's Director to reverse the hearing officer's decision and rule against the farmer. Questions were raised about the influence of OGC and the Justice Department over NAD. One speaker said that farmers' civil rights have been violated when the appeals system has not respected the bankruptcy laws. Also, based on a meeting with OGC, it appears that NAD's appeals process is not coordinated with the Department's program discrimination complaints process.

However, one farm advocate at the Halifax, NC, listening session stated that according to information he received through the Freedom of

Information Act (FOIA), “when hearing officers rule for the agencies, they were competent [upheld] 98 percent of the time, but when they ruled for the farmer, these same hearing officers were incompetent [reversed] over 50 percent of the time.... This is indisputable evidence of bias and discrimination against a whole class of farmers....”

NAD does not process complaints which allege discrimination. When they believe they have been denied service because of discrimination, as hundreds of farmers told the CRAT, farmers can file discrimination complaints directly with the agencies they believe have discriminated, or with the Department. Many described this approach as “the fox guarding the hen house.”

Program discrimination complaints generally fall within two categories: (1) programs conducted directly by a USDA agency, such as USDA loan programs, and (2) federally assisted programs, where USDA does not directly offer services to customers, but recipients of USDA funds do. The recipients must obey civil rights laws, and USDA can be sued under such laws as Title VI, the Rehabilitation Act, Title IX, the Equal Credit Opportunity Act, and others.

CRAT members were informed by OGC that USDA presently has no published regulations with clear guidance on the process or timelines involved in program discrimination complaints. When a farmer does allege discrimination, “preliminary investigations” are typically conducted by the agency that has been charged with violating her or his rights.

Also, farmers charged that while complaints are working their way through the agency, USDA proceeds with farm foreclosures—even where discrimination may have contributed to the farmers’ plight. This sentiment was expressed by a farmer in Albany, GA, who said, “I felt like that if I enter a complaint, then that would just speed up (the) foreclosure process on me. And I didn’t want to do that, because some farmers, they already have complaints in with Farmers Home. And it didn’t do them any good.”

Some charged that USDA doesn’t respond even when they do file complaints. In Tulsa, OK, an advocate representing black and American Indian farmers said, “we have filed 72 civil rights complaints. Not one complaint has ever been answered.”

At the Memphis, TN, listening session, a farmer who filed a complaint against FSA 11 months ago complained, “I have not, I cannot get, anyone to talk to me about the status of this discrimination complaint. I called the office and they tell me don’t call back...that they have arthritis and that they don’t want to talk. They’ve got other things to do. I’d just like to know what I can do to find out the status of this complaint that I’ve filed.”

The CRAT was unable to gather historical data on program discrimination complaints at USDA because record keeping on these matters has been virtually nonexistent. Complaints filed with the agencies are not necessarily reported to USDA’s Civil Rights office.

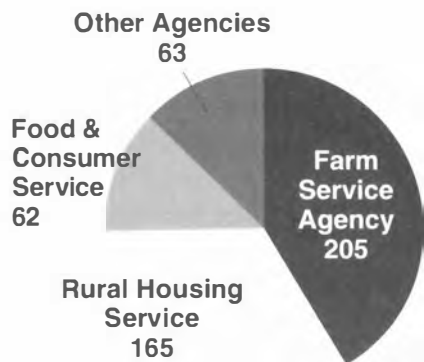
Some figures are available, however, for cases that were open as of December 31, 1996. The largest number of pending discrimination complaints, as comments at the listening sessions suggest, are concentrated in



Richard E. Rominger, Deputy Secretary of Agriculture, at a listening session.



Number of Pending Program Discrimination Complaints at USDA



Source: USDA Office of Operations

three agencies at USDA. There were 205 cases pending, representing 42 percent of the total, against the FSA; 165, or 33.3 percent against the Rural Housing Service (RHS); and 62, or 12.5 percent, against the Food and Consumer Service. Sixty-three cases, or 12.7 percent of the total, were pending against other agencies. The Department had a total of 495 pending program discrimination complaints. Approximately one-half of the pending cases are 2 years old or older, verifying farmers' contention that complaints are being processed slowly, if at all.

According to the Complaints Processing Division at the Office of Operations (OO), which processes complaints that make it to the Department level, USDA averages about 200 new program discrimination complaints each year. However, in fiscal year 1996, an average of only 9 cases were closed per month, or 108 during the year—increasing a backlog of program complaints.

Program Rules Reduce Minority and Limited-Resource Customer Participation

In some cases, the CRAT found that program rule changes, either required by Congress in legislation or developed through the rule-making process, have the effect of disqualifying many minority and disadvantaged farmers from participating in USDA programs, or significantly reducing benefits they may receive. Most of these arise from lack of communication by responsible agencies with the minority and limited-resource communities.

A recent example of one such congressionally mandated rule change includes the abrupt end to the Lease Back/Buy Back option for farmers who had been unable to repay FSA loans. A number of farmers who had entered

into such agreements were unable to exercise their option to buy back their land because of inadequate program funding in the 3 years preceding the rule change. Because the rule change ended the program altogether, without protection of existing options, many minority and limited-resource farmers have lost this opportunity to repurchase their land.

Another example is the prohibition instituted in 1996 against continued lending to farmers who had received a debt write-down or whose farms were pending liquidation. Many minority and small farmers have limited access to sources of credit outside USDA. Without eligibility for FSA operating loans, these farmers are unable to continue farming and are likely to lose their land even without formal foreclosure.

Other agencies, including RHS and the Natural Resources Conservation Service (NRCS), require particular practices or qualifications for loans that are difficult for limited-resource customers to meet. Until USDA agencies review their rules to identify and eliminate regulations that discriminate against socially disadvantaged customers, they will not achieve the goal of equitable treatment for all customers.



Improved Outreach Would Improve Program Participation'

Lack of diversity in the FSA county office delivery system directly affects participation of minority and female producers in USDA programs. Underrepresentation of minorities on county committees and on county staffs means minority and female producers hear less about programs and have a more difficult time participating in USDA programs because they lack specific information on available services.

However, outreach efforts have failed on a much broader front than just the county committee system in FSA. USDA does not place a priority on serving the needs of small and limited-resource farmers and has not supported any coordinated effort to address this problem. The many mission areas and agencies within the Department have developed their own separate programs that may or may not be successful in responding to the real differences in scale and culture presented by minority and limited-resource customers.

Minority and limited-resource farmers and ranchers reported they are not receiving the technical assistance they require. They said they are not receiving basic information about programs for which they might be eligible. They are not being helped to complete complicated application forms. They are not being helped to understand and meet eligibility requirements for programs. They are not receiving information about how their applications are handled and, if they are denied participation, why they were denied and how they might succeed in the future. When they do receive loans or other program benefits, they are not being helped to use those benefits most effectively to improve their operations.

Some outreach efforts, like the consolidated Service Center approach to





providing comprehensive services to USDA customers, have created new barriers. Their locations have not considered the needs of minority and limited-resource customers who may have difficulty in reaching more distant centers than customers with greater resources. Their services have not provided for cultural and language differences that make USDA programs inaccessible or less relevant to minority customer needs. And their services have failed to recognize the different needs of small-scale enterprises, be they farms, businesses, communities, or families.

Cultural Insensitivity Interferes with Minority Participation

USDA program outreach efforts have not made sufficient use of partnerships with community-based organizations, land-grant and other educational institutions, and program diversity initiatives that understand the specific needs of minority and limited-resource customers. These organizations and institutions can help USDA agencies address discriminatory program rules, develop appropriate special programs, and target outreach in the most effective ways to reach minority communities and other groups with special needs.

Customers at the recent listening sessions reiterated the special needs of different minority and socially disadvantaged communities. All communities agreed that they are overlooked when information is released about available USDA programs. USDA agencies do not make use of minority community organizational and media outlets to be sure all eligible participants know about their programs. Cultural barriers prevent the communication necessary for good service by USDA programs.

All communities also agreed that minority youth are being discouraged from becoming farmers. They witness the struggles of their parents to obtain fair treatment and the poor return for their efforts. Listening session participants said young minorities are not recruited for USDA youth programs in sufficient number. And those few who do choose to try to farm are turned down for ownership and operating loans because they are too young or too inexperienced, even when they hold college degrees in agriculture.

Young men and women who want to follow in the family footsteps, either by taking over the family farm or by buying their own, oftentimes find it difficult to obtain financing for their ventures. According to several speakers at the listening sessions, FSA has denied loans to new or beginning farmers despite years of working on their family farm or receiving advanced degrees in agriculture.

A farmer at the Halifax, NC, session said that in 1994, his son received a letter from FmHA which said, "You lack sufficient training and experience and education to be successful in farming to assure reasonable re-payment for the loan requested." His son, who grew up on a 300-acre family farm, was a graduate of A&T State University with a major in agricultural education. Since his son had inherited land and equipment from his grandfather, all he needed was operating money. This speaker mentioned an FmHA pamphlet



for young farmers which says "You're interested in being a young farmer, then FmHA wants to help." As the speaker said, "Where is the help?"

A special case exists among American Indians on Tribal lands. USDA programs have not addressed their special status as sovereign nations and have not accommodated the special needs of their ownership of land in trust. The county delivery system ignores the political boundaries of Tribal governments. Lack of cooperation between the Department of the Interior, with responsibility for Indian affairs, and the USDA, with its responsibilities for agricultural, rural, and food and nutrition programs, interferes with delivery of needed services to American Indians. Program rules specifying particular forms of land ownership for eligibility prevent American Indians from access to assistance they need to develop their agriculture and conserve their land.

Hispanic and Asian-American farming communities expressed concern that cultural differences in approaches to farming, in family and community traditions, in language, even in diet, are not being considered in the ways USDA delivers its programs. They express a perception that USDA has begun to recognize the shortcomings in its outreach to African-American and American Indian customers, but that it has yet to even identify that there is an unmet need in the Hispanic and Asian-American communities.

One of the most neglected customer communities, with few representatives at the listening sessions, was the farmworker community. According to this group, USDA has almost completely failed to acknowledge its responsibilities for addressing the needs of this community of agricultural workers.



Research and Education Needs of Minority, Small-Scale, and Limited-Resource Farmers and Ranchers Have Been Neglected

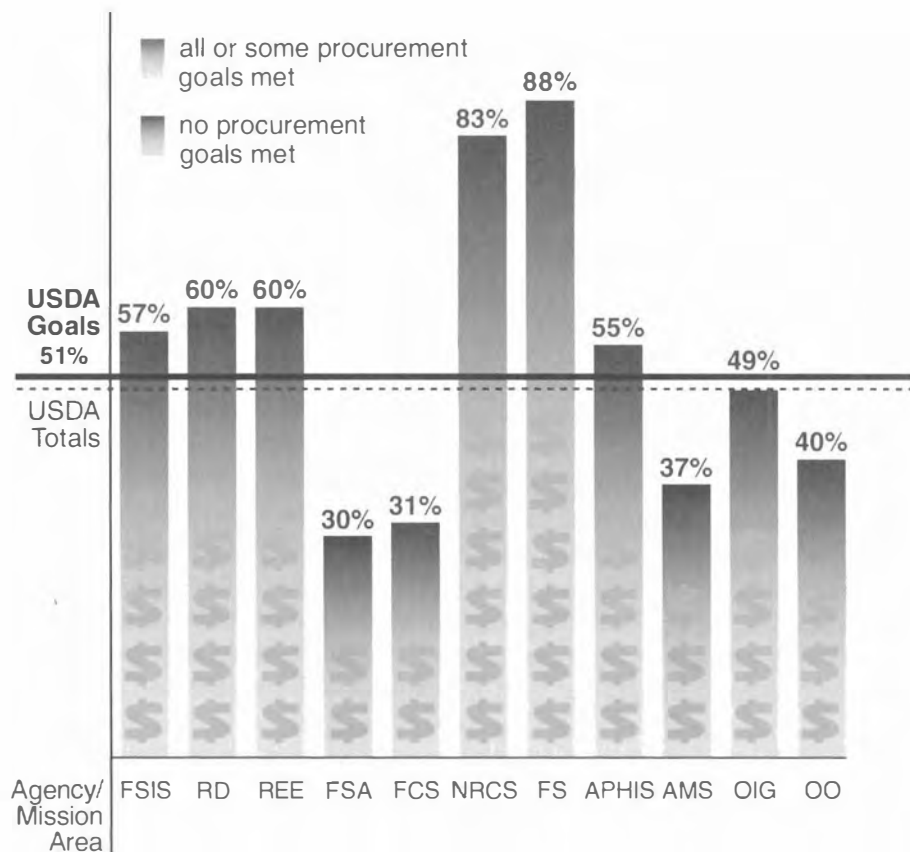
Beyond direct assistance programs, USDA research and extension efforts are not adequately addressing the unique needs of small, limited-resource, and minority farmers and ranchers. These include the need for intensive enterprises, appropriate technologies and practices, value-added products, management and marketing strategies, and the systematization of these into profitable operations.

Funding for the 1890 and 1994 land-grant institutions has not been adequate. Speakers at the Belzoni, MS, listening session said that the "disparate funding" between the State's 1890 and 1862 institutions by USDA has also contributed to the problems facing minority farmers in the State. Funds for 1890 and 1994 institutions should be directly appropriated in proportion to the number of minority farmers in the State. At the Washington, DC, session, the Secretary was asked to act on a proposal submitted several weeks ago to create partnerships with institutions serving Asian-Pacific Americans.

Also, the lack of representation of small, limited-resource, and minority farmers and ranchers on many research and education advisory boards has reduced the responsiveness of research and education programs to the specific needs of these under-represented groups. Minority customers are also more

USDA Small and Disadvantaged Business Procurement Accomplishments FY96

(in % of total \$)



Source: OSDBU

likely to participate in research and education programs if at least some of those delivering the programs and on the advisory committees are of the same race, sex, and ethnicity.

Including Small Businesses in USDA Programs

Outreach efforts to expand contracting for goods and services to support USDA agencies have also been a source of complaints. Minorities, women, and other under-represented groups say that USDA agencies favor nonminority contractors for general operating goods and services.

USDA set procurement goals in fiscal year 1996 for all small businesses, and within that category for small disadvantaged businesses participating in the Small Business Administration (SBA) 8(a) program, for other minority-owned small disadvantaged businesses, and for women-owned businesses. Although

the Department met its goal only for 8(a) participant businesses, it came close to the goals in several other categories. Accomplishment by mission area and agency, however, varied widely, from a high of exceeding all USDA small and disadvantaged business procurement goals in the Natural Resources Conservation Service and Forest Service to a low of meeting none of those goals in the Farm Service Agency and the Agricultural Marketing Service.

Along the same lines, the Foreign Agricultural Service (FAS) operates an Export Promotions Program that assists U.S. agriculture and food-related businesses in reaching overseas markets. Minorities have not been well-represented, either among employees or among cooperating businesses. FAS also has not focused much attention on developing markets in African nations, countries in which many African-American businesses are interested.

Current Funding Priorities Are Inadequate To Address the Needs of Minority and Limited-Resource Customers

All of these voids in USDA's program delivery are exacerbated by the increasing shortage of funds available for program delivery. Yet shortage of funds is no excuse for inaction. USDA has not dedicated enough of its available funding to serving the needs of minority and limited-resource customers. Both increased funding and a retargeting of already available funds are necessary to address the Department's failures in responding to the needs of these underserved customers.



Conclusions

Clearly, USDA has not effectively protected, supported, or promoted small and limited-resource farmers and ranchers and other underserved customers. Not only have they often not been served at all, but in many cases the service has appeared to be detrimental to the survival of minority and limited-resource farmers. The recent Civil Rights listening sessions revealed a general perception of apathy, neglect, and a negative bias towards all minorities on the part of most local USDA government officials directly involved in decision making for program delivery. A reporter at the recent listening session in Tulsa, OK, observed that minority farmers are not sure which condition "was worse—being ignored by the USDA and missing potential opportunities or getting involved with its programs and facing a litany of abuses."

Minority farmers have lost significant amounts of land and potential farm income as a result of discrimination by FSA programs and the programs of its predecessor agencies, ASCS and FmHA. Socially disadvantaged and minority farmers said USDA is part of a conspiracy to take their land and look to USDA for some kind of compensation for their losses.

Because of the traditional selection process for employees and management within the FSA program delivery system, State and county committees and



their staffs have not been held accountable for carrying out USDA nondiscrimination policies. The non-Federal status of county employees allows for less diversity and accountability to the Departmental civil rights policies. Under-representation of socially disadvantaged groups on State and county committees and in the county offices contributes to mistrust of the Department. The Rural Development mission area faces similar charges of discriminatory delivery of programs and lack of accountability of its State directors.

The process for resolving program complaints has failed. Minority and limited-resource customers believe USDA has not acted in good faith on the complaints. Appeals are too often delayed and for too long. Favorable decisions are too often reversed.

Some problems of inequitable delivery of services stem from program rules and legislation that—intentionally or not—have the effect of disqualifying limited-resource customers from USDA programs. Eligibility requirements limit the participation of limited-resource customers while complicated forms and program regulations discourage participation.

Poor outreach efforts are central to the USDA's failure to meet the program needs of minority, small-scale, and limited-resource farmers. USDA Service Centers are not well located to serve socially disadvantaged customers and are not always accessible to the disabled. County offices and Service Center staffs do not provide the necessary assistance to socially disadvantaged customers in understanding regulations and completing complicated applications.

USDA agencies have also failed to establish working relationships with community-based organizations and educational institutions that could help communicate USDA programs to underserved communities. As a consequence, cultural and language differences that interfere with minority participation in USDA programs have not been addressed sufficiently.

The special needs of small-scale and limited-resource enterprises have also not been addressed, either in the area of technological improvements and alternative enterprises, or in the area of marketing. USDA has also failed to consistently meet its goals for increasing procurement from small and disadvantaged businesses.

Limited funding cannot be an excuse for inadequate targeting of funds to minority and limited-resource customers. However, increased funding, as well as improved targeting, would do much to improve minority and limited-resource customer participation in USDA programs and to demonstrate the Department's commitment to serving their needs.

Workforce Diversity and Employment Practices

Background



Many of the problems in USDA's program delivery system are related to the level of diversity in the Department's workforce. USDA customers at listening sessions expressed their concern about diversity, or rather the lack of it, in USDA service centers. Minority farmers in particular said that because the workforces in many county offices are not diverse, they are often forced to deal with employees who not only did not understand their needs and concerns, but who blatantly discriminate against them.

Although women, minorities, and persons with disabilities have made gains over the past decade, the CRAT found that these groups continue to be underrepresented in many USDA agencies. This includes, significantly, the offices of the Secretary and the Subcabinet, which according to many managers and employees set examples for the rest of USDA.

How the CRAT Defines Workforce Diversity

Workforce diversity is an integral part of USDA's mission. The CRAT believes that, fundamentally, workforce diversity is an effort to improve the way all employees work together to accomplish USDA's missions. It means making every effort to find and use the rich human talent and diversity of the Nation. More than just an idea and a goal, it is a way of looking at ourselves and each other; an openness to difference and innovation; a realization that, as Secretary Glickman has said, America's strength is in our differences.

Workforce diversity is also a commitment to provide training and career development opportunities to all USDA employees, so that their potential is fully used. It's what the "People's Department" is, or should be, all about—fair and equal treatment for all USDA employees and customers. Where diversity is valued as a source of strength, employees of differing race, color, age, sex, sexual orientation, national origin, religion, marital status and people with disabilities are allowed to contribute effectively at all levels of USDA; employees are given an opportunity to develop, advance, and contribute to the USDA mission; managers at all levels understand, embrace, and effectively use the diverse values, beliefs, and behavior of USDA's employees.

Workforce diversity is not giving preferential treatment in violation of merit system principles. It is not denying opportunity to one group to hire, train, or promote another group; and it is not a quota program, which is neither legal nor advocated.



Minority and Women Under-Represented in USDA's Workforce

According to the U.S. Department of Labor, between 1990 and 2000, women, minorities, and immigrants will account for 80 percent of the United States labor force growth. The "Framework for Change: Work Force Diversity and Delivery of Programs," a USDA report released in 1990, found that USDA had a need to remedy under-representation in its workforce by providing equal employment and promotion opportunities for all employees. When this statement was made, USDA ranked 52nd out of 56 Federal agencies in the employment of minorities, women, and individuals with disabilities.

In 1990, USDA established a goal to build a diverse workforce that approximates the Nation's labor force at entry, mid, senior, and executive levels and to ensure that the workforce would deliver programs in an efficient, effective, and fair manner by 2000. The 1995 GAO report cited earlier noted that while women and minorities at USDA had made progress in their relative levels of representation since 1984, compared with white men, they were still represented in lower relative numbers in the agencies' key job categories. In general, the relative numbers of white women and minorities in the SES ranks of USDA has increased since 1984. However, white men continued to dominate the higher ranks of USDA's top positions in 1996.

These statistics, however, do not tell the whole story. An analysis of USDA's workforce by Professional, Administrative, Technical, Clerical, Other, and Blue Collar (PATCOB) series shows that men continue to dominate the professional ranks in USDA, accounting for over 77 percent of the 28,101 professional positions. White men in particular account for 18,678 or 66 percent of all professional positions in USDA. Women continue to hold the majority of the 7,057 clerical positions in USDA, filling 92 percent of those positions.

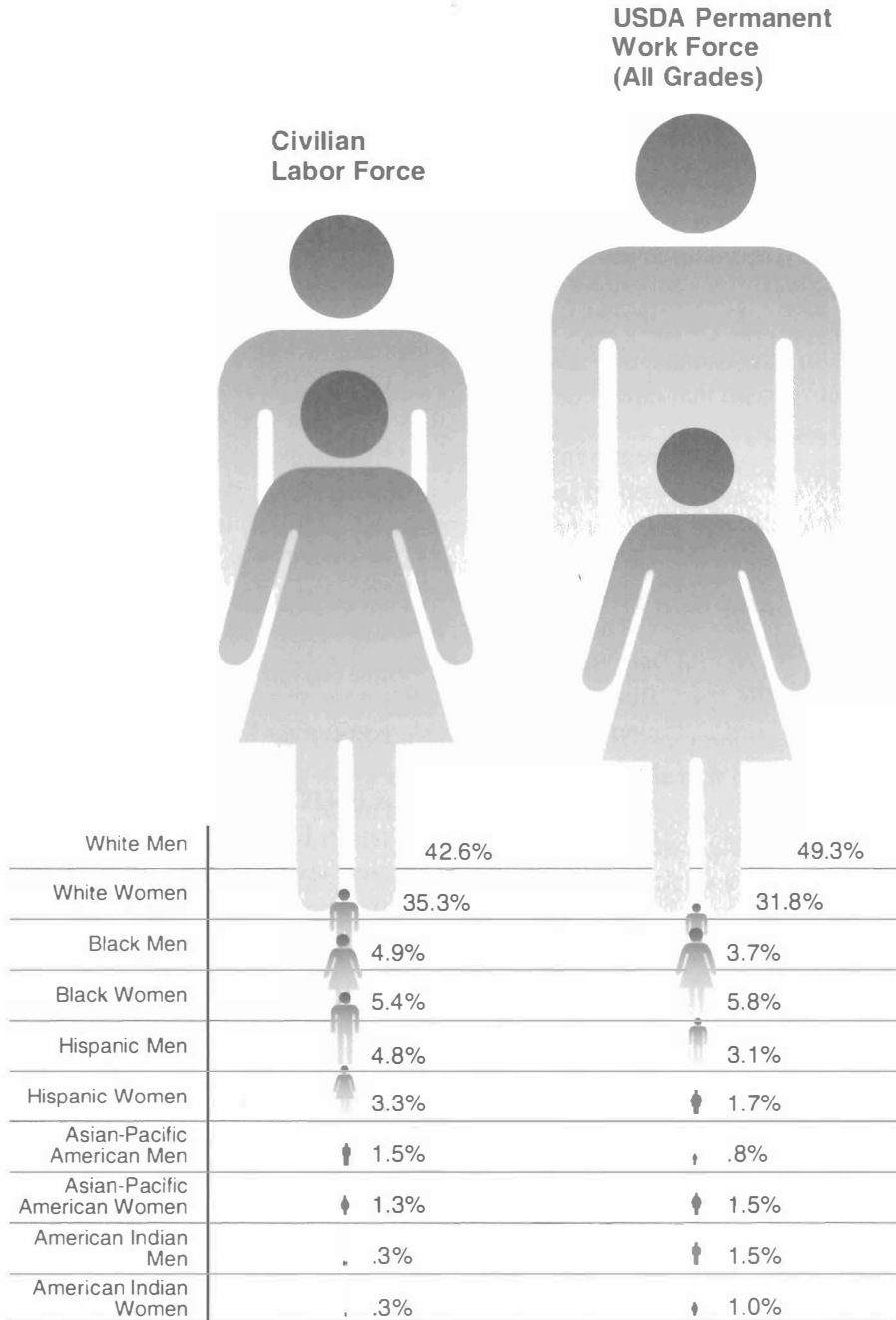
While a few USDA agencies have made great strides in diversifying their workforce at all levels, most continue to lag far behind in providing the same levels of diversity in their professional, mid-, and senior-level positions. (See

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Members of the Civil Rights Action Team at a listening session.

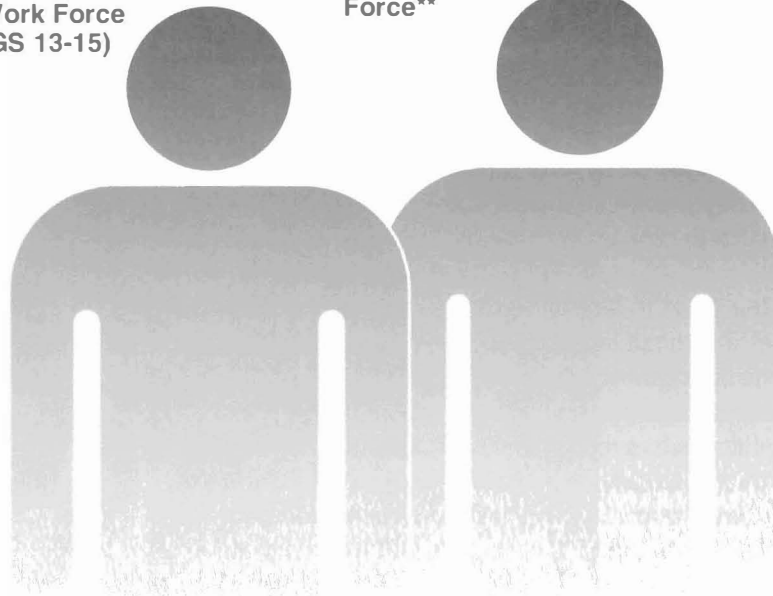
USDA Work Force Compared to Civilian Labor Force in 1996



Source: EEO/MAAS data for September 30, 1996

USDA Permanent
Work Force
(GS 13-15)

Senior Executive
Level Work
Force**



White Men	67.9%	68.0%
White Women	17.9%	19.0%
Black Men	4.0%	7.8%
Black Women	3.9%	2.6%
Hispanic Men	2.0%	1.3%
Hispanic Women	.6%	.3%
Asian-Pacific American Men	2.1%	.8%
Asian-Pacific American Women	.6%	0%
American Indian Men	.8%	0%
American Indian Women	.2%	.3%

**Presidential appointees, career and non-career SES positions, senior level positions, scientific and technical positions, and USDA judges. Does not include senior foreign service positions.



the agency workforce profiles in Appendix C for detailed information on USDA employment statistics.)

According to data from the Equal Employment Opportunity Monitoring and Analysis System (EEOMAS), relative to the Civilian Labor Force, Hispanics are the most under-represented minority group in USDA, followed by Asian-Pacific Americans. Hispanics, who are not well represented at any grade level, are the fastest growing minority group; many estimate that they will be the largest minority group by 2012. American Indians have been able to achieve and exceed parity in USDA overall, but are under-represented in some regions and grade levels.

Employee Perceptions of Workforce Diversity at USDA

Statistics tell only a small part of the story. Workforce diversity is about how well USDA treats, values, and taps the potential of everyone in its workforce. By that measure, according to employees who spoke at CRAT listening sessions, USDA is not very diverse at all.

Statistics alone do not explain why USDA's workforce looks as it does, or what has and has not been done by USDA managers to help or hinder diversity. At listening sessions at USDA's National Finance Center (NFC) in New Orleans, at Woodland, CA, and at the Jefferson Auditorium in Washington, DC, minority, female, and employees with disabilities told the CRAT that they face a different set of standards when trying to advance in their careers at USDA.

Many contend that personnel rules, regulations, and policies are applied



Female employees at some of the listening sessions said that those who refused to engage in sexual relationships with their supervisors often were denied promotions and/or transfers. In some instances, careers were “destroyed and the work situation turned violent.”

differently for women and minority employees. Black employees, many with college degrees, said they were turned down for technician positions or even many entry-level positions, because they do not qualify. They spoke about the inability of black employees, even those with prior government experience, to be converted to permanent positions. One employee who applied for an accounting technician job said he was told that his hands were too large to use an adding machine.

Minority and female employees told of being unfairly denied promotions, permanent positions, developmental assignments, training, and awards, and they spoke of having their positions downgraded and eliminated. They said managers often detail “favored” employees into vacant positions prior to advertising those positions. This practice gives the detailed employees valuable experience in the job, which strengthens their resumé and often guarantees their eventual selection. Such “pre-selection” tactics are problems at all grade levels, including SES positions, minority and female employees said.

There is a perception that the Forest Service is using its “surplus list” to retaliate against employees who filed complaints. The surplus list, officially called the Forest Service’s Employee Placement Service, is used to identify positions that will be reduced, eliminated, or moved in response to budget cutbacks.

Because they represent only a small portion of USDA’s workforce, Asian-Pacific American employees said they “feel invisible.” Despite their specialized degrees or educational achievements, many Asian-Pacific American employees at NFC said that they have a hard time getting promoted. In addition to a “glass ceiling,” they believe there is a “sticky floor” for them because none can rise above the GS-12 level. Others said that managers used employees’ accents as excuses to hold them back.

As noted earlier, many USDA employees described what they called “hostile work environments.” Other employees, particularly at the NFC, contended that nepotism and favoritism were widespread throughout their agency. They said that promotions were given to employees who were friendly with or related to managers.

Female employees at some of the listening sessions said that those who refused to engage in sexual relationships with their supervisors often were denied promotions and/or transfers. In some instances, careers were “destroyed and the work situation turned violent.”

A Forest Service employee at the New Orleans listening session compared the situation to someone who has cancer, adding that if the cancer is ignored, it destroys everything around it, and “eventually destroys its host, the very thing that is essential to its livelihood.” While NFC and the Forest Service are cited in these examples, these recurring themes can be applied to other USDA agencies as well.

The CRAT also heard from employees with disabilities. Approximately 1,142 employees (1.2 percent) in USDA have indicated that they have a targeted disability. Targeted disabilities are 29 specified severe disabilities. At employee listening sessions, individuals with disabilities said that even though



they are competent in their skills and abilities, they often cannot carry out and complete assignments because they lack adaptable equipment for the hearing- or visually-impaired. Many times, USDA agencies also fail to provide material in the necessary format, such as Braille or closed-captioning.

At the Washington, DC, listening session, a Forest Service employee described the frustration of many disabled USDA employees regarding the lack of special accommodations, which they need to fully participate in meetings and listening sessions. She said that while EEOC Management Directive 712 clearly provides avenues to enable employees with targeted disabilities to be promoted and to receive training, approximately 70 percent of those with disabilities in the Forest Service are in GS-7 or below positions. The employee said, "While persons with targeted disabilities represent 7 percent of the Civilian Labor Force [CLF], they only represent 1.28 percent [394 employees] of the workforce at the Forest Service." The CRAT has not been able to verify the CLF numbers for persons with targeted disabilities. (Table 1 provides information on the number of employees with targeted disabilities in USDA.)

The CRAT found that USDA has not taken advantage of the existing Federal programs available to help agencies in recruiting and hiring employees with disabilities. The Workforce Recruitment Program for College Students with Disabilities is one recruitment source; however, in 1996 USDA hired only three students under that program.

Employees at all of the listening sessions told of harassment or reprisals after they had filed complaints or come to the defense of co-workers. They complained that their supervisors suffered no consequences, even after having been found guilty of committing various offenses. In some instances, these supervisors were promoted and their careers advanced with no ill effects. One employee told of a manager with four findings of reprisal against him who recently received a temporary assignment as acting head of a regional office. Fear of reprisal or harassment has kept some employees with legitimate complaints or concerns from speaking out. Several employees at the listening sessions said that they hesitated to come forward for fear of reprisal and that this fear kept other employees from speaking out.

Two speakers at the Washington, DC, employee listening session identified themselves as members of the USDA Gay, Lesbian, and Bisexual Employees Organization (GLOBE) and both spoke of the hostility and ridicule they have experienced from others when they disclosed their sexual orientation. An employee at the Woodland, CA, session said that for 22 years, from the signing of Executive Order 10450 by then-President Dwight Eisenhower branding homosexuals as perverts and excluding them from the Federal civil service, to a 1975 Civil Service Commission memorandum which declared such discrimination a prohibited personnel practice, it was impossible to serve one's country as an openly gay or lesbian Federal employee. Despite this policy change, many gay and lesbian Federal employees remained in the closet because of the discrimination experienced by others who were open about their sexual orientation. As this employee said, "it takes an enormous amount

Table 1: USDA Employees with Targeted Disabilities

Position Levels	Number	Percent
SES	2	0.5
GS 13-15	87	0.7
GS 9-12	369	0.9
GS 1-8	639	1.9
Wage Grade & Other	39	2.0

of energy to maintain a cover 24 hours a day. Sadly, for many employees the stress is too much and they spiral downwards into various forms of dysfunctional and self-destructive behavior.”

Past Recommendations on Workforce Diversity

These issues are not new. Several past reports and task forces have identified problems in workforce diversity as well as proposed solutions, but little has been done to implement those recommendations.

The Secretary's 1996 Blue Ribbon Task Force on Equal Opportunity and Diversity stressed the importance of having effective AEP's in place. Several of the recommendations of the Task Force which were adopted by Secretary Glickman concerned strengthening agencies' AEP's. The Secretary directed the Assistant Secretary for Administration to issue guidance on existing statutes and regulations for executing the AEP program; and each Subcabinet official was directed to issue a statement to her or his agency heads reiterating the need to comply with their submitted plan. The Assistant Secretary for Administration also was directed to issue an official semi-annual report on each agency's compliance with its AEP.

An effective AEP will ensure that USDA is taking the necessary actions to eliminate the under-representation of women, minorities, and persons with disabilities. The Blue Ribbon Task Force reiterated that the development and execution of AEP's must be carried out in a fashion that is consistent with the principles laid out by the Supreme Court in *Adarand Construction v Pena*. The goals and objectives described in AEP's cannot be transformed unconsciously into quotas.

The Task Force also advocated diversity on all USDA task forces, committees, and advisory groups. USDA is continually establishing task forces, committees, and advisory groups on a large variety of issues. These groups cover a wide range of activities, and provide important developmental opportunities for employees to advance their careers.

USDA has published a regulation requiring that USDA consider diversity as part of its appointments to external task forces, committees, or advisory groups. Secretary Glickman has also issued a policy statement regarding diversity on all internal task forces, committees, and advisory groups. Even so, several employees, including political appointees, told members of the CRAT that diversity is rarely the case, especially when decisions are being made about critical issues at the Departmental and agency level, such as the Fund for Rural America.

The opportunity to participate in decision-making bodies provides important career developmental opportunities for minorities and women, whose perspectives also add to the quality of decisions that are made.

The Secretary has directed the Assistant Secretary for Administration to establish a database containing information on the workforce makeup of each agency. Accurate data is essential, especially when the perception is that



The opportunity to participate in decision-making bodies provides important career developmental opportunities for minorities and women, whose perspectives also add to the quality of decisions that are made.

Average Processing Time of Formal EEO Complaints 1992-1996



Source: USDA annual reports filed with EEOC

minorities and women are being adversely impacted by downsizing. (Unfortunately, the Department now has two databases—the EEO MAS and the DN714 databases—neither of which contains accurate data.) Based on the data available to the CRAT, downsizing has not had a negative impact on women and minorities. In fact, these groups have shown slight increases largely because many white males accepted incentives to retire.

The Report of the USDA Task Force on Sexual Orientation, dated January 31, 1994, included a list of recommendations which addressed the issue of sexual orientation. The USDA GLOBE provided the CRAT with a revised list of recommendations based on that report. These recommendations include providing training on the subjects of sexual orientation, homophobia, and nontraditional family structures; defining and publicizing the avenues of redress available to employees and program recipients who have been subjected to discrimination based on sexual orientation; and having the Department become an advocate for domestic partner benefits, and reintroduction of the Employment Non-Discrimination Act.

Employee Complaints

Because of USDA's lack of effective leadership in civil rights, employees who file EEO complaints have had to endure a truly dysfunctional system.

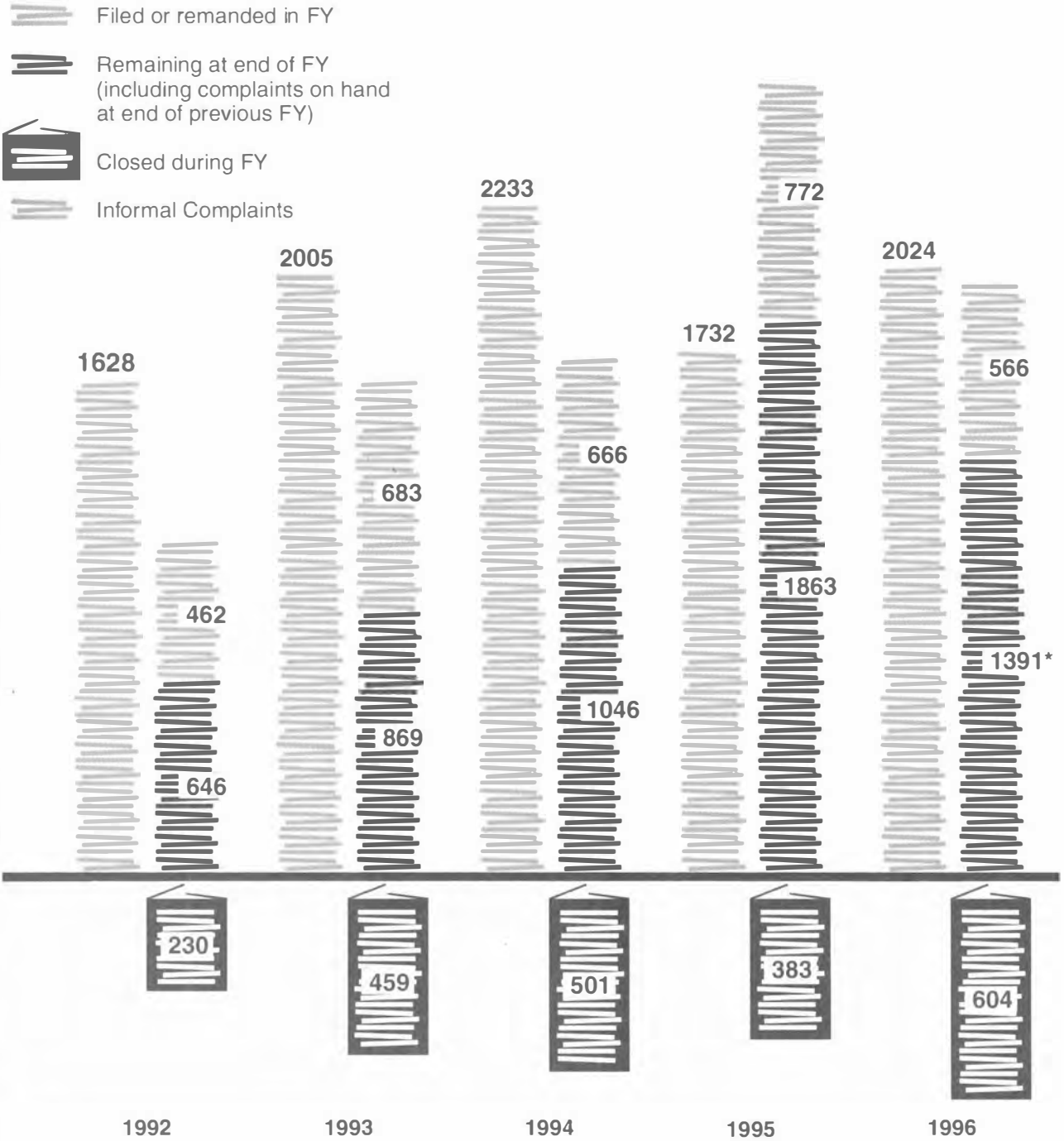
Under the EEO complaint process, employees who believe they have been discriminated against in the workplace must first contact a USDA EEO counselor. The counselors report to a central USDA civil rights office as a result of a 1994 reorganization. During the counseling stage, counselors tell employees about their EEO rights, and employees are encouraged to "informally resolve" the matter. If the matter is not resolved, then a "formal complaint" is filed with one of USDA's civil rights offices. The case must then be investigated before a decision is reached. Although there are legally established time limits, employees often don't hear anything about their cases for years.

One part of the problem is strictly the volume of complaints. USDA has figures on EEO complaints closed, opened, and pending during the last 5 years (see chart next page).

The numbers clearly show that, with the exception of a decrease in 1996 due to the reconciliation of data, complaints are being filed faster than the Civil Rights office can handle them. Between 1992 and 1996, USDA reported that complaints took anywhere from 1 to 3 years to close, either by settlement or decision. The listening sessions suggest that resolution may be taking much longer.

Employees at the listening sessions complained about the process and the lack of responsiveness on the part of USDA's Civil Rights office. An NFC employee who filed a complaint in 1992 said the only contact he ever received from USDA was in June 1996. Although the letter apologized for the delay and assured him he would receive prompt service, he said he has heard nothing further and his calls have gone unreturned.

**Backlog of Formal EEO Complaints
Filed Against USDA by Employees
1992-1996**



*This figure is lower because 432 cases were closed due to a comprehensive audit (reconciliation of data).
Source: USDA annual reports filed with EEOC: Office of Operations



One woman said she had filed a complaint because she feared for her life, and 6 weeks later, received a form letter asking her to contact an EEO counselor. A Forest Service employee in California believes the EEO complaint process and the people running it are "an adversary toward the employee rather than what their job is supposed to be." Feeling they have nowhere else to turn, many employees have gone directly to the Secretary's office.

Another oft-expressed complaint about the EEO process is the failure of the civil rights staff to honor confidentiality. An employee in New Orleans charged that "by the time you get back to your desk, your supervisor and those who you are alleging these charges against know everything you have said."

Employees also echoed the theme that agencies, in particular the Forest Service, have not complied with the terms of settlement agreements or taken the corrective actions mandated by EEOC or other adjudicative bodies in their decisions. One employee said when she reported the non-compliance to USDA's compliance division, she was simply told to go to court.

A sentiment frequently voiced by employees and managers alike is that the EEO office and the Department are more concerned with settling complaints than with solving the real workplace problems. During the New Orleans listening session, several employees complained that they were pressured by EEO counselors not to go through with an EEO complaint. An employee relations specialist in Washington, DC, characterized the process as one of "giving out money in exchange for withdrawing a complaint." She added that while settling all complaints may be fine if the only concern is settlement rates, "legitimate issues of discrimination" become "lost in this process of settling." An EEO specialist at the Woodland session said: "It is more economical to resolve these issues, not to settle complaints, but to resolve the issues."

The focus on settlement is evident in the USDA "resolution model." The underlying premise of the model is that it is better for managers to resolve their own disputes than to have a judge do it for them. That model makes sense as far as it goes, but it uses a settlement "formula." Little attention is given to the human aspects of conflict, such as relationships and communication. As a result, USDA hasn't focused on uncovering and resolving the real problems in the workplace. So, while complaints may get "settled," issues are never "resolved" and new complaints are filed.

The fixation on settlement is perpetuated by the high volume of EEO complaints filed. A 1991 law that allows employees who prove discrimination to receive up to \$300,000 in compensatory damages provides additional incentive for filing. An employee in New Orleans summed up the fear about those cases already in the system: "If they can't investigate one that's 4 years old, how long is it going to take one to surface that's filed now?"

The EEO system has left the perception that management is not held accountable for wrong doing. Many employees contend that when settlements are reached, managers who have discriminated go unpunished. Since most settlements are "no fault," there usually is no finding of discrimination, making discipline difficult. Between 1992 and 1996, there was an average of 22 findings of discrimination per year by USDA agencies in the EEO process.

The Department has tried new ways to deal with EEO complaints. In September 1993, the Department established the Dispute Resolution Boards (DRB) to require management to negotiate and settle complaints. The boards conduct mini-hearings at the beginning of the formal complaint phase, and then assess the case and attempt to work out a settlement.

A May 1994 study revealed that both employees and managers thought the boards were a step in the right direction. However, surveys and focus groups revealed that the boards were seen as formal, too late in the process, and concerned only with settlement. They did not deal with improving communications or identifying and solving problems. An individual at the Woodland, CA, listening session said five or six management officials attend board sessions while employees don't even know how the boards are supposed to work.

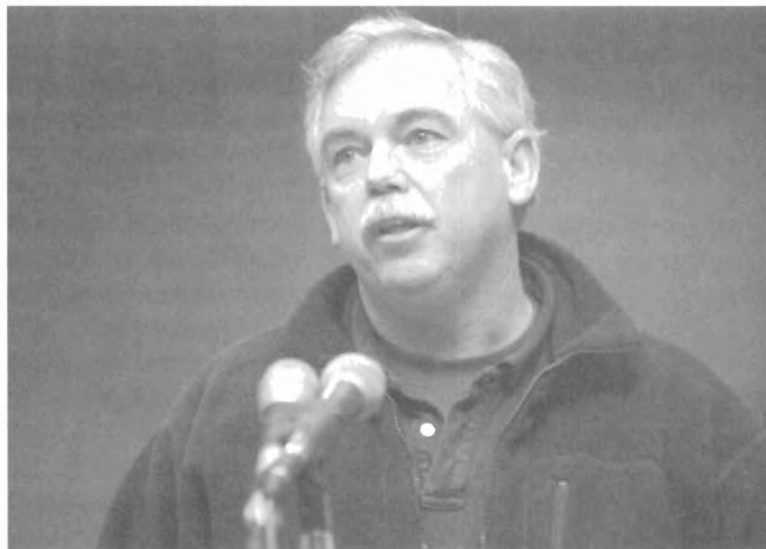
The boards have decreased their activities since FY 1994. For example, in the last quarter of FY 1996, four of the six service centers conducted only three DRB sessions combined. Even using the settlement standard by which effectiveness has been judged at USDA, the boards in one of the most active service centers settled 121 complaints in FY 1994, while the boards in all six service centers settled only 88 cases in FY 1996.

In 1994, USDA moved the counselors from the agencies to the Department's Civil Rights office to improve the effectiveness of the counselors. However, employees feel the counselors have actually been less effective and responsive since the move.

The fact that agencies settle a high percentage of EEO cases may suggest that many complaints do have merit. On the other hand, managers frequently maintain that their agencies settle regardless of merit and that they are "hung out to dry." Under the current system, where settlement is the focus, the question of whether discrimination has occurred or not is beside the point. In a 1996 study, the EEOC observed that while some EEO complaints may not



The EEO system has left the perception that management is not held accountable for wrong doing.



involve discrimination, Federal employees may choose the EEO route because they see “no other forum available to air general workplace concerns.” Few USDA employees have an acceptable alternative route to address their workplace complaints.

Many recommendations have been made to improve the handling of workplace disputes. The May 1994 evaluation of the Dispute Resolution Boards recommended the Department move its focus away from settlement and toward resolving the underlying problems, even before an employee goes to an EEO counselor. On a similar note, the EEOC’s 1996 report concluded that agencies could benefit from the use of an “interest based” approach to resolving workplace disputes, where emphasis is placed on finding areas of mutual agreement that address people’s needs and concerns. A USDA employee focus group on EEO and civil rights recommended in July 1993 that USDA allow employees to prevail when an agency doesn’t respond within the prescribed timeframes. And a 1996 report commissioned by the Administrative Conference of the United States found that the creation of “ombudsman” offices has taken pressure off of overloaded EEO systems and provided agencies with a vehicle for identifying and solving systemic organizational workplace problems.

Slowly, USDA is moving in this direction. A few agencies—the Agricultural Research Service, Animal and Plant Health Inspection Service, and the Eastern Region (Region 9) of the Forest Service—have established mediation systems outside the EEO process. The Secretary, on May 15, 1996, directed the Assistant Secretary for Administration to establish a model complaint prevention system, and directed every agency to create a complaint prevention program by November 30, 1996. The idea is a good one; however, it appears that implementation has been slow. Agencies would benefit greatly from Departmental guidance and a coordinated effort toward conflict management. Finally, the number of EEO complaints could be greatly reduced if managers had the necessary conflict management and communications skills.



Conclusions

USDA's workforce does not reflect the diversity of its customer base. The lack of diversity in field offices adversely affects program delivery to minority and women customers of USDA. Since Federal EEO and Affirmative Employment laws and policies do not govern the non-Federal workforce, it is even less reflective of customers than the Federal program delivery workforce. At the highest levels, agencies look to the office of the Secretary and the Subcabinet to be models for the kind of diversity USDA is expected to achieve.

Since 1990, when USDA initiated formal efforts to diversify its workforce, there has been limited progress. Women, minorities, and those with disabilities continue to be under-represented in senior management and executive positions at USDA.

Many minority, female, and employees with disabilities believe that they are subjected to "hostile work environments," and that they face double standards when seeking to advance in their careers at USDA. They charge managers with unfair employment practices in personnel areas regarding preselection, time-in-grade, inequities in the distribution of high-visibility assignments, and with violation of merit promotion principles. They also perceive that USDA unfairly distributes training, awards, promotions, and developmental opportunities.

Managers do not always aim for workforce diversity when forming task forces, committees, and advisory groups, or in the composition of staffs responsible for program delivery. Also, recruitment efforts in USDA agencies are not coordinated to ensure workforce diversity in the hiring of women, minorities, and those with disabilities.

As USDA strives for a diverse workforce, workforce planning and retention programs must be developed and implemented as part of each agency's strategic plan.

Also, recommendations in the "1994 Report of the USDA Task Force on Sexual Orientation" have not been implemented to make certain that discrimination and/or harassment based on sexual orientation will not be tolerated.

The EEO complaint system is not timely, is unresponsive, and is generally dysfunctional. Too much focus is placed on settlement for settlement's sake, and not enough focus is placed on resolving the underlying problems.



The Organizational Structure of Civil Rights

Background



Major “people” problems, many of them noted already, exist with USDA’s civil rights program. However, while preparing this report, the CRAT also identified significant organizational and structural problems that impact USDA’s ability to ensure civil rights enforcement for its customers and employees.

They include: the absence of one highly placed official with full authority over USDA’s civil rights program; inadequate oversight and guidance to USDA agencies from the Department’s Civil Rights office; USDA’s failure to emphasize eliminating discrimination in program delivery; and, as noted earlier, the widespread dissatisfaction with the role of the Office of the General Counsel.

Lack of Strong Civil Rights Leadership at USDA

The Assistant Secretary for Administration is USDA’s senior official responsible for civil rights. Although that position has the responsibility for civil rights policy and compliance, it does not have the authority or resources necessary to ensure that programs are delivered and employees are treated fairly and equitably.

On the contrary, the resources and authority for administering programs as well as for hiring and employment practices are vested with agency heads. And, agency heads’ performance is rated by their subcabinet members, not the senior civil rights official. As mentioned earlier in this report, it is rare that agency heads are rated as “does not meet” in their civil rights performance element, even though many USDA agencies have obvious civil rights problems.

This scenario is repeated with the agency and mission area civil rights directors. Regardless of to whom the civil rights directors report at the agency or mission area level, they do not have the authority to rate program directors within their agency or mission area on their civil rights accomplishments. This lack of close oversight and accountability at the agency level has led to the widespread perception by both customers and employees that the fox is guarding the henhouse when it comes to enforcing civil rights policies at USDA.





According to a June 1996 report by the U.S. Commission on Civil Rights, during the early and mid-1980's USDA leaders had effectively "dismantled" USDA's civil rights apparatus.

Lack of Administrative Management Coordination

Too many administrative issues are elevated to the Office of the Secretary without coordination among USDA management functions. There is also a lack of cooperation between functions that report to the Office of the Secretary and those that report to the Assistant Secretary for Administration (ASA). For example, the Chief Financial Officer (CFO) and the Chief Information Officer (CIO) report directly to the Secretary. Some argue that Congress mandated that the CFO report to the Secretary. However, Treasury and Interior are examples of Departments which have successfully managed this issue by having their ASA also serve as the CFO.

Several other offices that influence civil rights operate without coordination by the Assistant Secretary for Administration. The USDA Service Center Implementation Team, which assists the USDA Service Centers with such things as automation and outreach, reports indirectly to the Deputy Secretary through the Food and Agriculture Council. The Office of Small and Disadvantaged Business Utilization, which plays a key role in promoting equal opportunity for small and minority businesses, reports to the Deputy Secretary. Improvement in USDA's civil rights performance will require a concerted outreach effort. For that effort to succeed, close coordination with USDA's civil rights functions will be needed. However, there is little coordination because there is no one individual ultimately in charge.

If At First You Don't Succeed . . . Reorganize, Reorganize, Reorganize

The CRAT's study of past reports indicates that civil rights at USDA has been in a persistent state of chaos because of numerous reorganizations since the 1980's. According to a June 1996 report by the U.S. Commission on Civil Rights, during the early and mid-1980's USDA leaders had effectively "dismantled" USDA's civil rights apparatus.

Until 1993, USDA's Office of Personnel handled adjudication of EEO complaints within the Employee Appeals Staff, which was then renamed EEO Complaints Management. The Office of Advocacy and Enterprise (OAE) was responsible for adjudicating program discrimination complaints, and handled other civil rights functions, such as outreach and enforcement.

In 1993, the EEO complaints function was briefly transferred to OAE, and redesignated the Disputes Resolution Staff, the first step towards consolidating all civil rights compliance functions relating to program delivery and employment under the Assistant Secretary for Administration.

In a major reorganization of civil rights in 1994, USDA created the Office of Civil Rights Enforcement (OCRE), which assumed civil rights responsibility for both EEO (primarily Title VII) and program delivery (such as Title VI and the Equal Credit Opportunity Act) activities. The reorganization also established six regional service centers in Atlanta, Sacramento, Kansas City,



Denver, New Orleans, and Washington, DC, whose primary functions are to provide counseling and conduct dispute resolution boards for employment complaints.

In October 1995, OCRE's short life came to an end: USDA divided civil rights responsibilities among two new offices—the Policy Analysis and Coordination Center (PACC-CR), and the Office of Operations (OO). PACC-CR was delegated all civil rights responsibility for USDA, except for employment and program delivery complaints, which was delegated to OO.

In addition to civil rights, OO's Director is responsible for many other functions at USDA, ranging from procurement to security. OO's Associate Director for Complaints Adjudication is responsible for hearing civil rights complaints. The Employment Complaints and Adjudication Division, the Program Complaints and Adjudication Division, and six regional service centers also report to the Associate Director.

The 1995 reorganization thus moved responsibility for civil rights complaints to a lower level than civil rights policy, and has left employees and customers confused about which office they should go to for help.

In June 1996, the U.S. Commission on Civil Rights found that "the impact of the numerous reorganizations on Title VI or other civil rights enforcement at USDA remains unclear." The one clear impact the Commission did find was negative: "these reorganizations have created considerable upheavals among the civil rights staff"

Civil Rights Leadership Changes Frequently

Over the years, USDA has had almost as many Departmental Civil Rights Directors as it has had reorganizations. The Civil Rights Leadership Council cited this as another factor contributing to the disarray in civil rights at USDA. They stated that not only has there been a lack of continuity and longevity in directors, but that the individuals who have held the position have not had a strong background in civil rights, and attributed this to the fact that the position has been designated as a "general" senior executive position which can be filled by political appointees. The civil rights community advocates designating the director position as "career reserved" to ensure that individuals with the appropriate qualifications and background are appointed to this position.

The Commission on Civil Rights also cited the "revolving door" of Civil Rights Directors in the mid-1980's, "many of whom had no civil rights experience." The current Director of Civil Rights is a career employee, but did not come from a civil rights background, and has been "acting" in that position for more than a year. This has given the perception that civil rights is not a high priority in USDA.

The Civil Rights Leadership Council recommended that USDA's Civil Rights Director should report directly to the Secretary, and that agency Civil Rights Directors should report to their agency heads. In 1996, the Commission observed that OCRE's director reported to the Assistant

Members of the Civil Rights Action Team at a listening session.



While some contend that elevating the civil rights role directly to the Secretary would increase both accountability and visibility, others felt a more effective program could be obtained by building accountability into agency heads' performance standards and giving full authority for civil rights program oversight, compliance, and enforcement to the Assistant Secretary for Administration.

Secretary for Administration, "several layers removed from the Secretary," and called this "a placement which suggests that civil rights enforcement is not a high priority at USDA."

In the Federal Government, executive Departments are almost evenly split on where their civil rights office reports, some reporting directly to the Secretary, and others reporting to a Subcabinet official. Some within USDA's civil rights community expressed concern about the increased span of control in the Office of the Secretary if the civil rights function were to be elevated. Both sides of the issue agree that there is a greater need for accountability and commitment at a high level.

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Lack of Emphasis on Eliminating Program Discrimination

In part because USDA has dedicated most of its civil rights efforts and resources to processing employment discrimination complaints, civil rights has not been integrated into program delivery. The Fifth Amendment of the Constitution and certain Federal statutes mandate that Federal agencies deliver their programs to the public without discrimination. Title VI of the Civil Rights Act of 1964 requires that programs and activities receiving Federal



funds be delivered free of discrimination. Other statutes, such as the Equal Credit Opportunity Act, make discrimination in USDA's lending programs illegal as well.

In the mid-1970's, the U.S. Commission on Civil Rights found that Federal agencies, including USDA, were not enforcing Title VI effectively. Approximately 20 years later, the Commission found that the deficiencies from the 1970's still existed, and that Title VI enforcement "remained dormant." Other than the Department of Education, the Commission found that "none of the Federal agencies has a comprehensive and proactive Title VI enforcement program to eliminate and prevent discrimination in each of the federally assisted programs it administers." Commission findings also indicated that agency resources for Title VI enforcement are inadequate.

The absence of adequate enforcement of Title VI and other statutes governing program delivery explains why farmers, other customers, and even USDA employees at listening sessions asserted consistently that civil rights are being violated without effective oversight by USDA. For example, an EEO counselor for Rural Development in California pointed out that even when she completed her investigation of one housing discrimination complaint within 45 days, "after a year and a half there was still no decision [from Washington] in the case."

The Commission pointed out that at USDA "one of OCRE's [the former Office of Civil Rights Enforcement] chief responsibilities" is to "oversee, coordinate, and monitor the USDA agency heads' Title VI implementation and enforcement programs." However, "OCRE has not fulfilled this responsibility adequately," the Commission found. This inadequacy was attributed, in part, to the elimination of the desk officer position, a staff member in the central Civil Rights Office assigned to oversee specific USDA agencies.

The Commission pointed out that USDA did not have units “devoted exclusively to policy and planning related to Title VI and other civil rights enforcement activities.” Ensuring that Federal programs and federally funded programs are delivered in an equal and fair manner requires that USDA’s top civil rights officials take the lead in establishing, disseminating, and enforcing USDA’s civil rights policies. The Commission found that USDA does have a Departmental Regulation, 4330-1, establishing policy and providing guidance on compliance reviews, which “lays a strong foundation for USDA’s Title VI implementation and enforcement program.”

However, the Commission reported that “with the exception of a change with respect to filing complaints, the USDA regulations have not been revised since 1973. In particular, they have not been updated to reflect the Civil Rights Restoration Act of 1987, which clarifies that an entire institution is covered by anti-discrimination laws even if only one part of that institution received Federal funds. The absence of clear legal guidance to agencies and civil rights officials hinders enforcement, and makes it difficult to hold management accountable.”


Finally, as noted earlier, is the question of resources. The Commission expressed concern about the lack of USDA resources dedicated to civil rights in program delivery. For example, in 1982 there were 63 full-time employees (FTE’s) carrying out compliance and special emphasis programs. As of December 1993, that number had decreased to 20. A 1994 proposal would have increased the number of FTE’s to 56. As of this report, however, the staff dedicated to program delivery is well below the proposed increase.

A former Director of OCRE also reported that no USDA money was specifically earmarked for Title VI implementation because “external civil rights is primarily the function of the program agencies, with OCRE maintaining only an oversight role.” The Commission found that “the absence of specific funding for Title VI allows resources to be transferred from one civil rights enforcement activity to another without adequate management planning by OCRE.”

Civil Rights Responsibilities Divided Between the Department and the Agencies

Another problem with enforcing civil rights in program delivery is fragmentation. Agency civil rights directors have a number of responsibilities. For example, USDA agencies each perform some complaint processing functions. However, the Commission noted that the respective roles of OCRE and the agencies were not clearly defined. The Commission also found that OCRE was providing technical assistance to agencies on civil rights statutes, not proactively, but only when requested.

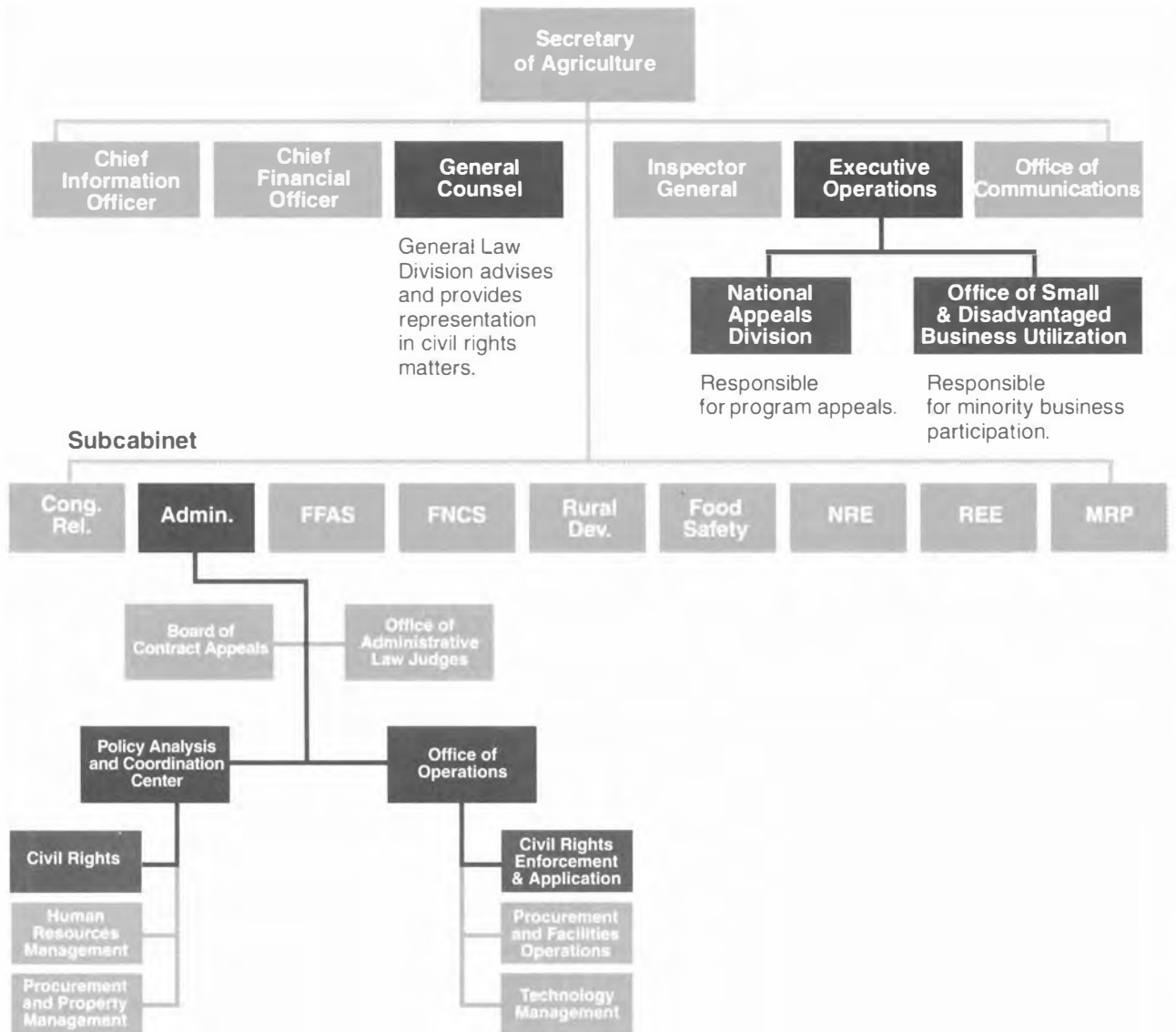
Before the 1994 USDA reorganization, most agencies had their own civil rights offices. USDA’s policy required these offices to report directly to the agency head, in order to provide the agency’s director of civil rights direct



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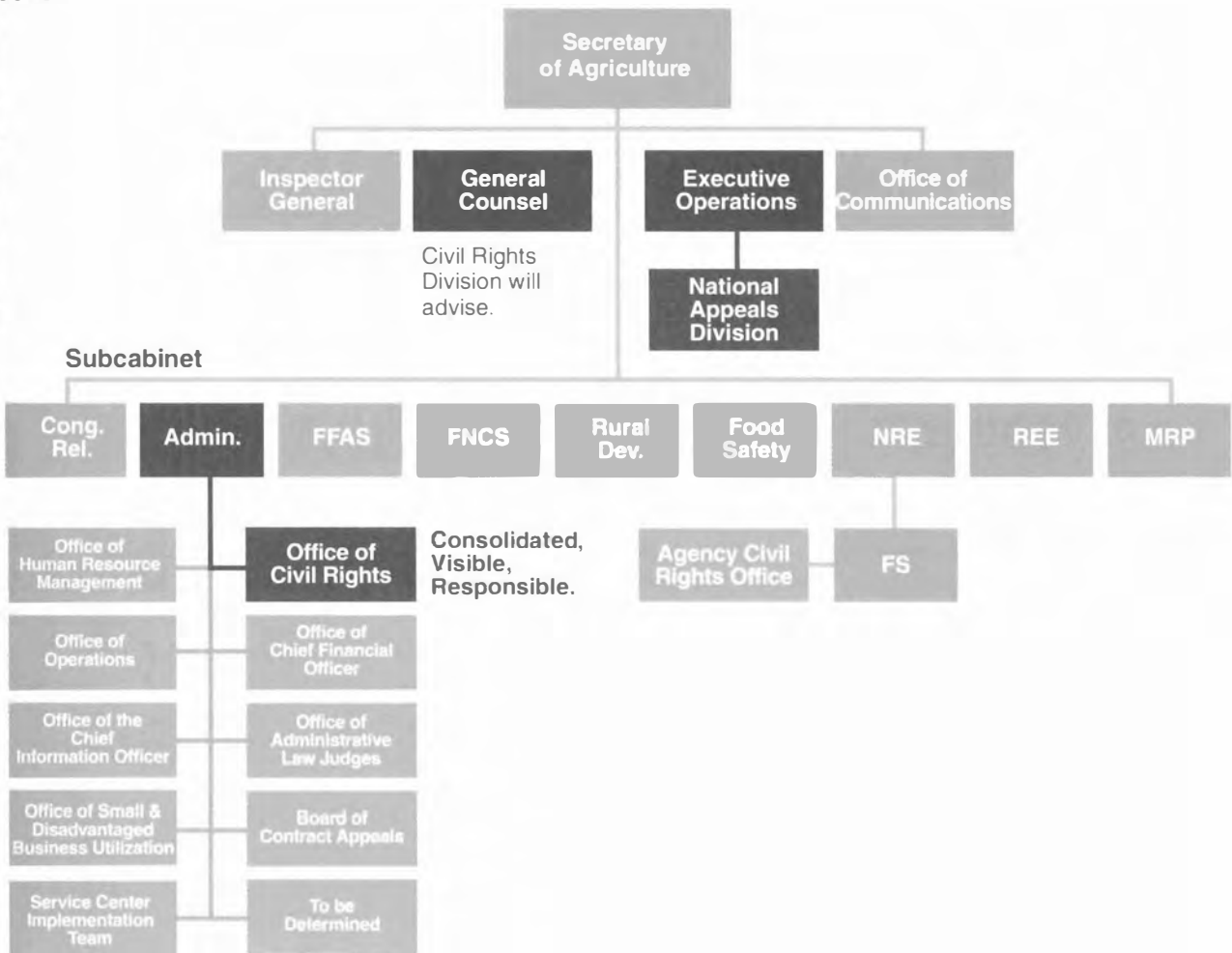
**U. S. Department of Agriculture
Headquarters Civil Rights Structure**

Current



**U. S. Department of Agriculture
Headquarters Civil Rights Structure**

Proposed





Of the current staff in the Department's two civil rights offices, two-thirds work on EEO complaints. That means only a small percentage of USDA's civil rights staff works on civil rights issues relating to program delivery.

access to the agency head without intervening layers of supervision that might impede access. However, this was not implemented consistently throughout the Department. The 1994 reorganization required each Subcabinet officer to consolidate all mission area administrative functions using either a "lead agency" or "center of excellence" approach.

This followed a November 1993 directive by then-Secretary Espy to each Under and Assistant Secretary to establish a "Board of Directors," which was to include a senior civil rights official.

Thus, the channels of communication and accountability in the civil rights area at the mission level are inconsistent. In addition, some agency field offices have civil rights personnel who report to their program managers in the field, and not to the agency's central civil rights office. The CRAT concluded that agency heads, because they have authority and resources to manage people and programs, must be held accountable for civil rights. Ensuring oversight and compliance should be the role of the Assistant Secretary for Administration, at least until such time as the agency heads can be trusted to hold themselves accountable.

Lack of Civil Rights Expertise

The Civil Rights Commission's report on the lack of Title VI enforcement also pointed to USDA's lack of civil rights specialists in program-related civil rights issues. Many of the Department's civil rights resources are devoted to processing of employment discrimination complaints. Of the current staff in the Department's two civil rights offices, two-thirds work on EEO complaints. That means only a small percentage of USDA's civil rights staff works on civil rights issues relating to program delivery.

According to the Commission, the 1994 civil rights reorganization was deficient because OCRE did not separate internal and external civil rights issues into separate offices. The Commission predicted that "a probable consequence is that USDA's Title VI enforcement program may suffer as OCRE responds to pressures to improve USDA's internal civil rights program." It recommended that USDA establish "two separate units, with different supervisory staff," one for internal and one for external civil rights issues.

Comments at listening sessions indicate that employees believe USDA's civil rights offices are dysfunctional. The widespread perception is that the Department's civil rights offices are "dumping grounds," where many employees end up as a result of settlements of their own EEO complaints. Since 1989, at least 11 employees have been assigned to USDA's civil rights offices by way of EEO settlements, most at the GS-13 or GS-14 level. On top of all this, there is general dissatisfaction within the Civil Rights office. As of January 1997, there were 31 EEO complaints against the Departmental civil rights offices.

Members of the Civil Rights Action Team at a listening session.



The Role of the Office of the General Counsel Is Unclear

The perception that the Office of the General Counsel is hostile to civil rights has been discussed earlier in this report. OGC's legal positions on civil rights issues are perceived as insensitive at the least, and racist at worst. Correcting this problem is critical to the success of USDA's civil rights program.

The CRAT found at least four Federal Departments—Health and Human Services, Housing and Urban Development, Labor, and Justice—that have legal divisions devoted exclusively to civil rights.

The General Law Division in OGC is USDA's principal legal advisor on civil rights matters. It provides legal advice to the Department on civil rights issues; reviews draft regulations, reorganizations, and policies for USDA's civil rights office; and represents USDA agencies in hearings before the EEOC on employee discrimination complaints. When an employee or customer sues USDA in court for discrimination in employment or program delivery, various OGC divisions assist the Department of Justice in defending USDA.

However, the CRAT has found that attorneys who practice civil rights law at OGC are not required to have specialized experience or education in civil rights when they are hired. They acquire their civil rights experience on the job. In addition, most of OGC's lawyers working on civil rights issues work on non-civil-rights issues as well.

Agency civil rights directors told the CRAT that they do not seek assistance from OGC because OGC is perceived as unresponsive. They stated that OGC attorneys need a better understanding of the mission areas that they service. A number of the directors expressed the need for OGC to assign a civil rights attorney to each mission area. Others told the CRAT that they do not understand the role of OGC regarding civil rights.

Another reason for the perception that OGC is insensitive when it comes to civil rights is the lack of diversity among OGC's attorneys. According to recent USDA figures, women make up 34.2 percent of the lawyers; however, only 5.4 percent of the lawyers are minorities. A USDA report on diversity and under-representation for USDA agencies found that OGC has "a manifest imbalance in the representation of black men." There is one black male attorney in OGC.

There are no minority senior executives at OGC. Nor are there minority attorneys working on civil rights. At the GS-15 level, minorities (one black male, one black female) represent 6.9 percent. Most important, until OGC leads by example and diversifies its professional staff starting at the highest levels, it may always be viewed with suspicion regarding civil rights.

Conclusions



USDA does not have the structure in place to support an effective civil rights program. The Assistant Secretary for Administration lacks authority and resources essential to ensure accountability among senior management ranks.

There has been instability and lack of skilled leadership at the position of USDA Director of Civil Rights. Dividing up the Department's Civil Rights office between policy and complaints has further exacerbated the problem. The division of responsibility for civil rights among different USDA offices and agencies has left confusion over enforcement responsibilities. Finally, OGC is perceived as unsupportive of civil rights.



Summary

To realize the Secretary's goal that every USDA customer and employee be treated fairly and to finally solve the persistent problems discussed in this report, USDA must make decisive breaks with the past.

Among other things, failure to change will mean that minority farmers continue towards extinction; USDA will continue to underutilize a significant number of its employees; the Department's liability for discrimination complaints of all kinds will continue to increase; and, perhaps most importantly, USDA will not accomplish its mission.

Fundamental change will not be easy. USDA has allowed too many past reports to gather dust and too many recommendations to go unimplemented.

The following recommendations include action steps along with those who should be accountable for those actions. These recommendations are not intended to address every problem that has been identified. Indeed, the Department is too massive, and its programs too numerous, for any one report to do that.

However, the recommendations in this report, when completed, will allow the Department to make fundamental changes which will dramatically improve USDA's ability to serve all customers and to fully use the potential of every USDA employee.

The hundreds of customers and employees who came forward to share their stories with the CRAT, and all Americans, deserve no less.





Civil Rights Action Team Recommendations

Lack of Management Commitment to Civil Rights



Delegate to the Assistant Secretary for Administration Full Civil Rights Authority

1. To ensure civil rights accountability at USDA, delegate to the Assistant Secretary for Administration (ASA) full authority—in practice as well as on paper—over all civil rights issues at USDA. The ASA may further delegate civil rights authority through the Mission Area Assistant and Under Secretaries to Agency Heads to administer civil rights programs.
2. Delegate to the ASA the authority to rate Agency Heads on their civil rights performance elements. The ASA will provide feedback to the Secretary on the civil rights performance of the Subcabinet.
3. Revise the present Performance Review Board (PRB) process for measuring performance of senior executives in civil rights, and implement an objective process designed to measure accomplishments based on specific goals and objectives. Hold Subcabinet members, Agency Heads, and senior officials accountable for implementing results-oriented affirmative employment and civil rights implementation plans.

Action Plan

A Ensure that the ASA has the full backing of the Secretary and the leadership and management skills and abilities necessary to support an effective USDA civil rights program. The ASA must have direct access and serve as the policy advisor to the Secretary on all civil rights issues.

Who: *The Secretary*

When: *Immediately*

B Send a clear and concise message to the Subcabinet that the ASA has full authority for civil rights but that the Subcabinet, Agency Heads, and agency civil rights directors are fully accountable for an effective civil rights program in their respective areas of responsibility.

Who: *The Secretary*

When: *Immediately*

C Delegate authority to the ASA to rate Agency Heads on their civil rights programs and to provide feedback to the Secretary on the Subcabinet's civil rights performance. Delegation should have provision to reassess the need to continue close agency monitoring after three rating cycles.

Who: *The Secretary*

When: *30 days*



D Assess the funding needs for conducting an effective USDA civil rights program.

Who: *Assistant Secretary for Administration;
Civil Rights Director* **When:** *60 days*

E Allocate adequate funding to the ASA to implement an effective civil rights program.

Who: *The Secretary* **When:** *Immediately upon receipt of assessment*

Ensure the Department Has Measurable Goals for Treating Customers and Employees Fairly and Equitably

4. The Secretary should revise and reissue USDA's civil rights policy to include specific, measurable goals and objectives in program delivery and employment that will provide guidance for senior officials on what they are expected to accomplish. The Secretary will hold the Subcabinet and Agency Heads accountable for adherence to the civil rights policy.

Action Plan

A Revise civil rights policy.

Who: *The Secretary* **When:** *Immediately*

B Publicize goals and objectives widely throughout USDA.

Who: *Subcabinet* **When:** *Immediately*





Adopt a USDA Policy on Reprisals

5. To assure accountability, adopt and enforce a policy that the Department will take the appropriate adverse or disciplinary action against any manager found guilty of reprisal against any USDA employee or customer. Investigate all allegations of reprisal, and abuses of power, and, where the allegations appear meritorious, immediately remove the official from managerial duties pending full investigation.

Action Plan

- A Issue policy.

*Who: Assistant Secretary
for Administration*

When: Immediately

- B Determine and implement process for investigating reprisal allegations.

*Who: Assistant Secretary
for Administration*

When: Immediately



Remove USDA Employees Who Do Not Perform Adequately on Civil Rights or Who Abuse Their Authority

6. Streamline procedures to allow agencies to quickly take the appropriate adverse and disciplinary actions against employees who fail to provide programs and services in compliance with all applicable civil rights laws and regulations, or who discriminate against or harass USDA customers or employees.

Action Plan

- A Issue new policy and procedures on adverse and disciplinary actions.

*Who: Assistant Secretary
for Administration*

When: 60 days



The Secretary, the Subcabinet, and Agency Heads Must Set Examples of Diversity

7. The Secretary, USDA's Subcabinet, and Agency Heads must set an example of accountability and commitment for the Department by ensuring that their immediate staffs reflect the desired diversity that the Secretary is establishing for the Department as a whole.

Action Plan

- A** Ensure diversity among senior staff.

Who: *The Secretary or Subcabinet; Agency Heads* **When:** *Immediately*



Include Goals in USDA's Strategic Plan

8. Include in the Department's Strategic Plans required under the Government Performance and Results Act (GPRA) as well as in agency plans, goals as outlined in the Secretary's policy statement to improve workforce diversity and civil rights. Affirmative Employment Plans and Civil Rights Implementation Plans must also reflect the Secretary's goals. Set specific goals for minority and women-owned business participation in all program delivery, procurement, export, and business development activities.
9. Plans should establish reporting requirements to periodically collect data from USDA field offices to measure program delivery to minority, women, and small and limited-resource farmers.
10. Plans should include well-defined areas of responsibility and accountability. Performance standards and elements for Agency Heads and all senior officials should reflect the specific goals and objectives as identified in the Department's and agencies' strategic plans.

Action Plan

- A** Plan Department-wide strategic planning session.

Who: *Assistant Secretary for Administration* **When:** *Immediately*

- B** Conduct session/ develop plan.

Who: *Assistant Secretary for Administration* **When:** *Complete within 90 days*

C Plans should include measures such as contracts, loan applications, acceptance and rejection rates, status of foreclosure actions, processing times, and other data critical to determining the quality of service provided.

Who: Agency Heads

When: Complete within 90 days

D Plans should identify the institutional barriers to improving civil rights and ending under-representation at USDA and include a comprehensive compliance review schedule to provide effective oversight to agency operations.

Who: Agency Heads

When: Complete within 90 days



Identify the Core Competencies and Skills Required to Effectively Manage People and Serve Customers

11. Identify the core competencies and skills required to effectively manage people and serve customers, including recruitment and management of a diverse workforce and serving diverse customers. Require all promotions and selectees into managerial positions to demonstrate those competencies. Use employee and peer review surveys to assess managerial competence, provide feedback, and develop performance improvement plans for managers where needed.
12. Require and provide ongoing training for all managers to enhance their people skills, including managing a diverse workforce. Develop criteria to measure effectiveness, provide specific timeframes for managers to improve, and require Agency Heads to remove from managerial positions those whose performance fails to meet the criteria.

Action Plan

A Identify core competencies.

*Who: Assistant Secretary
for Administration*

When: Complete within 180 days

B Issue policy on promotions.

*Who: Assistant Secretary
for Administration*

When: Complete within 45 days

C Determine process for employee and peer reviews.

*Who: Assistant Secretary
for Administration*

When: Complete within 45 days

D Develop training module.

*Who: Assistant Secretary
for Administration*

When: Complete within 45 days

E Develop criteria for measuring effectiveness.

Who: *Assistant Secretary for Administration* **When:** *Complete within 45 days*



Investigate Alleged Abuses of Authority by Office of Inspector General (OIG) and Forest Service, and Advise on Role of Office of the General Counsel (OGC)

- 13. The Department of Justice (DOJ) should investigate allegations of abuses of authority by the Office of Inspector General and Forest Service Law Enforcement.
- 14. The Secretary should direct the Forest Service to discontinue the practice of using its Law Enforcement staff to investigate Forest Service employees.
- 15. The DOJ should advise the Secretary on the role and functions of the OGC at USDA as it relates to civil rights. The Secretary should take appropriate action to ensure that OGC has the capacity to provide the Department with the quality of legal assistance required for Civil Rights.

Action Plan

A Request DOJ review of OIG, OGC, and Forest Service Law Enforcement.

Who: *The Secretary* **When:** *Immediately*

B Issue directive to Forest Service.

Who: *The Secretary* **When:** *Immediately*



Program Delivery and Outreach



Manage USDA Programs in Accordance with USDA Civil Rights Policy

16. To assure that local delivery of USDA credit programs is fair and equitable, work with the President and Congress to obtain the authority to make personnel selections and manage the Farm and Foreign Agricultural Service (FFAS) and Rural Development (RD) mission areas to ensure accountability down the line from the Secretary to the State and county levels.

Action Plan

- A** The Secretary should work with the White House and Congress to change the personnel selection process and system in FFAS and Rural Development.

Who: The Secretary

When: Within 90 days of this report

17. Modernize the FSA State and county committee system by converting all county non-Federal FSA positions, including county executive directors, to Federal status; changing the committee selection process; and removing county committees from any farm loan determinations.

Action Plan

- A** Include in the legislative package to Congress amendments to the 1935 Soil Conservation and Domestic Allotment Act to make all FSA county positions Federal and to remove county committees from any loan determinations.

Who: Under Secretary FFAS

When: In conjunction with preparation of the legislative package

- B** Appoint voting members of under-represented groups to State committees where such representation is not currently present.

Who: The Secretary

When: Within 60 days of this report



- C Include in the legislative package to Congress amendments to the 1935 Soil Conservation and Domestic Allotment Act to add two voting members to county committees that are appointed to represent members of groups who are otherwise under-represented on the elected county committee. Selection of the two members should be based upon recommendations from under-represented groups in the county to the State executive director and the State committee.

Who: Under Secretary FFAS When: In conjunction with preparation of the legislative package

- 18. Conduct a complete review of county committees and county office staffs to determine whether nepotism, conflict of interest, and/or discrimination in program delivery exists.

Action Plan

- A Appoint an independent review body in each State to conduct reviews.

Who: FSA Agency Head When: Within 30 days of this report, with reviews to be completed within 120 days

- B Where violations are found, require immediate corrective action.

Who: FSA Agency Head When: Within 30 days of completed review

- 19. Establish a system to assure timely and equitable handling of loan applications by county offices, including review and concurrence by FSA and Rural Development State directors within 30 days of any adverse decision that affects a member of a defined socially disadvantaged group.

Action Plan

- A Instruct FSA and Rural Development Agency Heads to notify State directors of current disparities in loan processing times and require immediate corrective action.

Who: FSA and Rural Development Agency Heads When: Within 30 days of this report



- B** Instruct FSA and Rural Development Agency Heads to establish an ongoing monitoring system for loan application processing, including provisions for concurrence of State directors in any adverse decisions involving socially disadvantaged customers.

Who: *FSA and Rural Development Agency Heads* **When:** *Within 30 days of this report*

- 20. Require independent review of all pending foreclosures to determine whether discrimination in USDA programs contributed to foreclosure action.

Action Plan

- A** Reissue policy suspending all foreclosures.

Who: *The Secretary* **When:** *Immediately*

- B** Appoint diverse, independent teams in each State to review whether USDA discrimination contributed to pending foreclosure. If evidence of discrimination is found, recommend appropriate action to reverse the foreclosure and provide compensation for any additional losses.

Who: *The Secretary* **When:** *Immediately, with reviews to be completed within 60 days*

- 21. Require that all pending foreclosures or actions leading to foreclosure be halted until all appeals of any formal civil rights complaints have been completed.

Action Plan

- A** Issue policy halting foreclosure proceedings until customer has exhausted all other rights.

Who: *The Secretary* **When:** *Immediately*

- 22. Act on all existing program discrimination complaints within the next 120 days. Resolve those that can be resolved and bring all others to the point of adjudication within those 120 days.

Action Plan

- A** Delegate authority to the Subcabinet to implement the recommendation in mission areas.

Who: *Assistant Secretary for Administration* **When:** *Immediately*

23. Require that an agency's civil rights office elevate a program discrimination complaint to the next higher level when no action has been taken within the time limit. When a delay occurs at the next higher level, the agency's civil rights office should apply the adverse inference rule and direct the agency to immediately act on the complaint in favor of the customer.

Action Plan

- A** Delegate authority to the Assistant Secretary for Administration, who may redelegate that authority to Subcabinet or Agency Heads, to implement the recommendation.

Who: *The Secretary* **When:** *Immediately*

24. Establish one program appeals system for all Mission Areas at USDA. Hold all litigation until the appeals process is complete.

Action Plan

- A** Delegate authority to the Assistant Secretary for Administration to establish a uniform program appeals system.

Who: *The Secretary* **When:** *Immediately*

- B** Issue a policy to hold all litigation until appeals are completed.

Who: *The Secretary* **When:** *Immediately*

25. The National Appeals Division Director shall consider the impact of the NAD appeals process on the civil rights of farmers and coordinate the program appeals process with the Department's program discrimination complaints process.

Action Plan

- A** Meet with farmer groups, USDA civil rights community, and USDA Director of Civil Rights.

Who: *NAD Director* **When:** *Immediately*

26. Require that the National Appeals Division and informal agency program appeals processes comply with established legal timelines and establish timelines in cases where they are not required by law. When NAD does not comply with these timelines and the Hearing Officer has ruled in favor of the customer, the Hearing Officer's ruling shall stand.

Action Plan

- A** Delegate authority to the Assistant Secretary for Administration to establish a timeline of 90 days for processing appeals where they are not already established by law.

Who: *The Secretary* **When:** *Immediately*

- B** Hold NAD and all agencies responsible for handling program appeals to meet established timelines.

Who: *Subcabinet* **When:** *Within 2 weeks of the Secretary's approval*



27. Hold all managers accountable for carrying out the final decisions of the National Appeals Division and within 10 working days of their issuance.

Action Plan

- A** Issue policy to all Mission Areas establishing the 10-day deadline.

Who: *Subcabinet* **When:** *Within 2 weeks of the Secretary's approval*

28. To establish a baseline for the number of minority farms, USDA should support a voluntary registry of minority farms. This would help USDA set goals to halt land loss and to monitor the loss of minority-owned farms.

Action Plan

- A** Follow up on recommendations from Albany, GA, and Washington, DC, listening sessions.

Who: *Civil Rights Director* **When:** *FY 1997*

- B** Assure that the Census of Agriculture accurately counts minority farms, paying particular attention to Tribal lands.

Who: *USDA* **When:** *FY 1998*

29. Fully implement a "Debt for Nature" program as authorized in the 1996 Farm Bill and prior legislation.

Action Plan

A Implement a "Debt for Nature" program.

Who: *Under Secretaries for FFAS and NRE* **When:** *FY 1998*

Take Action to Remedy Past Discrimination

30. Establish and empower a Special Task Force to determine a process for providing remediation to farmers who have been discriminated against by USDA. Priority should go to farmers who have lost or are about to lose their land because of discrimination.

Action Plan

A Appoint Task Force and delegate appropriate authority.

Who: *Assistant Secretary for Administration* **When:** *Within 15 days of this report*

B Establish parameters including criteria and timeframes under which prior cases will be reviewed. Establish process to examine files, gather additional guidance, and determine where discrimination occurred.

Who: *Assistant Secretary for Administration* **When:** *Within 30 days of convening Task Force*

C Make a fair and equitable offer of settlement to farmers who have already received findings of discrimination.

Who: *Assistant Secretary for Administration* **When:** *Within 120 days of convening Task force*





31. Allow farmers who have received debt write-down or whose farms are pending liquidation to continue eligibility for operating loans.
32. Allow completion of lease back/buy back agreements extended for lack of funds during the 3 years previous to elimination of the program on April 4, 1996, where the farm and home plan did show that the operation would cash-flow.
33. Allow incorporation of anticipated tax liability in the terms of debt write-downs.
34. Allow eligibility for 502 single-family housing program direct loans without a credit history if applicants can demonstrate they have been able to live independently and pay rent and utility bills in a timely manner.
35. Allow EQIP cost-share payments in the same year conservation practices are completed.

Action Plan

- A** Include in the legislative package to Congress amendments to the 1990 Consolidated Farm and Rural Development Act to revise program rules for operating loans and the lease back/buy back program.
Who: Under Secretary FFAS When: In conjunction with preparation of the legislative package
- B** Include in the legislative package to Congress language for EQIP payments as recommended.
Who: Under Secretary NRE When: In conjunction with development of new EQIP regulations
- C** Issue policy revisions to change program rules on tax liability for debt write-downs.
Who: FSA Agency Head When: Within 30 days of this report
- D** Issue policy revision to change policy on eligibility for 502 housing program direct loans.
Who: RHS Agency Head When: Within 30 days of this report



Strengthen USDA Outreach Efforts to Under-Represented Customers

36. Appoint a diverse commission to develop a national policy on small farms.

Action Plan

- A** Appoint diverse commission.

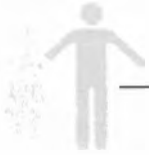
Who: The Secretary

When: 60 days

37. Establish an Office of Outreach in a program mission area to coordinate program delivery outreach efforts throughout USDA. Assign responsibility for the Outreach and Technical Assistance to Socially Disadvantaged Farmers (2501) program to this new office to assure Department-wide implementation.
38. Develop a strategic outreach plan, as part of USDA's strategic plan, for which Agency Heads will be held accountable through the Civil Rights performance standard.
39. Establish in each agency an outreach liaison position to coordinate and direct outreach programs in conjunction with the new USDA Office of Outreach. The agency coordinator must be responsible for monitoring outreach goals and accomplishments to under-served customers.
40. Establish State and National Outreach Councils, comparable to the USDA Food and Agriculture Council (FAC), to coordinate outreach efforts of all USDA agencies with State and local-level program delivery. Require that Outreach Councils establish partnerships with community-based organizations and 1890, 1994, and 1862 land-grant institutions, HACU, and Research Employment Access Programs Initiative to enhance program and service delivery to under-served communities.
41. Establish a partnership between USDA and the Department of Interior to develop a strategic outreach plan to address the needs of American Indian agriculture and land conservation.

Action Plan

- A** Establish an Office of Outreach in a program mission area to coordinate program delivery outreach efforts throughout USDA.
Who: The Secretary *When: Within 30 days of this report*
- B** Assign responsibility for the Outreach and Technical Assistance to Socially Disadvantaged Farmers (2501) program to the new Office of Outreach.
Who: The Secretary *When: Within 30 days of this report*
- C** Develop a strategic outreach plan as part of the USDA strategic plan for which Agency Heads will be held accountable through the Civil Rights performance standard.
Who: The Secretary *When: Within 30 days of this report*
- D** Establish in each agency an outreach liaison position to coordinate and direct outreach programs in conjunction with the new USDA Office of Outreach.
Who: Agency Heads *When: Within 45 days of this report*
- E** The agency coordinator must be responsible for monitoring outreach goals and accomplishments to under-served customers.
Who: Agency Heads *When: Within 45 days of this report*
- F** Establish a State and National Outreach Council, comparable to the state FAC, to coordinate outreach efforts of all USDA agencies with State and local level program delivery.
Who: The Secretary *When: Within 30 days of this report*
- G** Work with the Secretary of the Interior to better coordinate USDA assistance on Indian lands.
Who: The Secretary *When: Within 60 days of this report*



Strengthen USDA's Research and Educational Assistance to the Socially Disadvantaged

42. Require land-grant institutions and major CSREES, ARS, ERS, FS, and NRCS programs to identify and give priority to the research and educational needs of the socially disadvantaged.

Action Plan

- A** Name an individual in each land-grant institution and major CSREES, ARS, ERS, FS, and NRCS program whose primary responsibility is to assure the research, management, and educational needs of the socially disadvantaged are identified and given priority.
Who: *Land-grant presidents; CSREES, ARS, ERS, FS, and NRCS Agency Heads* **When:** *Within 30 days of this report*
- B** Develop a plan to expand use of cooperative research agreements with the Historically Black Colleges and Universities, the Hispanic Association of Colleges and Universities, Research Employment Access Programs, the American Indian Initiative, and community-based organizations.
Who: *Agency Heads* **When:** *Within 90 days of this report*
- C** Develop a plan to increase involvement of small and limited-resource farmers/ranchers in demonstration farms, forests, and watershed projects.
Who: *NRCS, FS, CSREES* **When:** *Within 90 days of this report*

Members of the Civil Rights Action Team at a listening session.



43. USDA should thoroughly examine funding of institutions of higher education to determine if 1890 and 1994 land-grant institutions are receiving equitable support to assist USDA in carrying out its mission. The Department should adjust its budget recommendations and consider other statutory or regulatory changes required to eliminate any disparate funding of land-grant institutions.

Action Plan

- A** Establish mechanism to examine land-grant funding.
Who: Assistant Secretary for Administration; Under Secretary REE *When: Within 60 days of this report*
- B** Adjust budget, develop legislative package to eliminate any disparities.
Who: Assistant Secretary for Administration; Under Secretary REE *When: Within 60 days of this report*

44. Fully fund the Outreach and Technical Assistance to Socially Disadvantaged Farmers (2501) program at \$10 million annually.
45. Extend and fully fund the Extension Indian Reservation program at \$8 million annually.
46. Increase EQIP funding from \$200 million to \$300 million and target the increase for assistance to minority and limited-resource farmers, ranchers, and Indian nations.
47. Fully fund the farm ownership and farm operating direct loan programs at \$85 million and \$500 million, respectively.
48. Require that a higher percentage of farm ownership and farm operating direct loan funding be targeted to minorities and socially disadvantaged groups.





Action Plan

- A Include in the legislative package to Congress amendments necessary to support these recommendations.

Who: The Secretary

When: In conjunction with preparation of the legislative package

- 49. Dedicate one-third of the Fund for Rural America to serving the needs of socially disadvantaged customers.
- 50. Target \$100 million annually from Rural Utilities Service Water and Waste Disposal Grant Program to Federally Recognized Indian Tribes.
- 51. Target \$50 million of RHS funds annually for the Farmworker Housing Program.

Action Plan

- A Instruct Subcabinet heads to adjust funding targets to reflect recommendations.

Who: The Secretary

When: Immediately



Remove Barriers to Serving Under-Represented Customers at USDA Service Centers.

52. Require consideration of under-served communities in USDA Service Center location decisions.
53. Establish satellite offices where necessary to reach under-served customers.

Action Plan

- A Instruct State FAC's to work with representatives of under-served customers to identify locations with concentrations of socially disadvantaged customers and determine whether full Service Centers or satellite offices are most appropriate to meet those customers' needs.
Who: State FAC's *When: Immediately*

54. Establish full-time USDA Service Centers on Indian Tribal lands.

Action Plan

- A Work with Indian tribes to set guidelines and locations of the USDA Service Centers.
Who: State FAC's *When: Immediately*

55. Ensure that all USDA Service Centers are accessible to the disabled.

Action Plan

- A Instruct USDA Service Centers to review their facilities and make necessary changes to assure accessibility to the disabled.
Who: State FAC's *When: Immediately*
- B Make adequate funding available to Service Centers to make these necessary changes.
Who: State FAC's *When: Immediately*

56. Streamline program regulations and application forms to make USDA programs more easily accessible to all customers. Require USDA county offices to assist socially disadvantaged customers in understanding requirements and completing forms.
57. Strengthen the training program for FSA county committees and county office staff on all programs, with special emphasis on civil rights issues and outreach responsibilities.

58. Provide and document Title VI training for all volunteers and new field, State, and Service Center employees on an annual basis.

Action Plan

- A Instruct agencies to examine rules and application forms and make changes necessary to facilitate participation by socially disadvantaged customers.
Who: Agency Heads *When: Within 90 days of this report*

- B Collaborate with National Center for Diversity at Kentucky State University and others as appropriate for providing diversity training.
Who: Agency Heads *When: Within 6 months of this report*

59. Make all USDA educational and technical assistance services and publications available to customers in languages appropriate to the community being served. Use appropriate media outlets to distribute information to under-served communities.

Action Plan

- A Make resources available for translation services.
Who: Agency Heads *When: Within 6 months of this report*



Address Needs of Farmworkers

- 60. Establish an initiative to address the needs of farmworkers that could be addressed through USDA programs.

- 61. Enforce the requirement that those who use “restrictive-use pesticides” keep records of the application of their products.

62. Immediately provide pesticide information to health care providers treating pesticide-related illnesses.
63. Require USDA to use this information to prepare comprehensive annual pesticide use reports, as mandated in the 1990 and 1996 farm legislation.
64. Enforce the Environmental Justice Executive Order at USDA.

Action Plan

- A** Appoint a panel to review unmet needs of farmworkers that could be addressed through USDA programs.
Who: Under Secretary REE When: FY 1997
- B** Support the farmworker-related recommendations of USDA Environmental Justice Initiative.
Who: Under Secretary REE When: FY 1997



- C Extend research to investigate the impact of pesticides on farmworkers' health.
Who: Under Secretary REE When: FY 1997
- D Develop an enhanced training program in farm safety and pesticide safety that addresses the special needs and concerns of farmworkers.
Who: Under Secretary REE When: FY 1997
- E Fund pesticide training programs for farmworkers, particularly programs delivered by community-based organizations with demonstrated experience with farmworkers.
Who: Under Secretary REE When: FY 1997
- F Train community health care providers in the diagnosis, treatment, and proper reporting of pesticide and other work-related illnesses.
Who: Under Secretary REE When: FY 1997



Increase Involvement of Small and Disadvantaged Business in USDA Programs

65. Reassert the commitment of USDA to the goal of increasing involvement of small and disadvantaged businesses in USDA programs.

Action Plan

- A Prepare a plan and establish goals for expanding Market Access Program outreach to minority and women-owned businesses.
Who: FAS When: Within 30 days of this report
- B Develop Departmental as well as agency-specific goals for increasing purchasing and contracting of goods and services from minority and limited-resource businesses.
Who: OSDBU When: Within 30 days of this report
- C Develop a technical assistance program for small and socially disadvantaged businesses to enable them to successfully compete for contracts with USDA programs.
Who: OSDBU, in conjunction with the new Office of Outreach When: Within 90 days of this report

Workforce Diversity and Employment Practices



Review All USDA Senior Executive Service (SES) Designations

66. Review all SES designations, beginning with FSA, to determine if positions are appropriately designated as career-reserved or general.

Action Plan

- A** Review SES positions.

Who: Assistant Secretary
for Administration

When: Within 90 days



Hold All Managers Accountable for a Diverse Pool of Applicants

67. Hold all managers accountable for a diverse pool of applicants for all vacancy announcements and target outreach and recruitment of under-represented groups as identified in the agency Affirmative Employment Plans (AEP's).

Action Plan

- A** Require and approve outreach plans for filling vacancies. Outreach plans must target under-represented groups and organizations.

Who: Agency Heads

When: Immediately

- B** Require that recruiters have interpersonal skills, be trained in recruiting, and be sensitive to cultural differences of potential recruits.

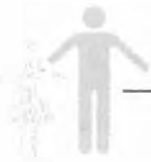
Who: Agency Heads

When: Ongoing

- C** Advertise, where appropriate, positions as multi-graded positions (e.g., GS-7/9/11, GS-11/12/13).

Who: Agency Heads

When: Ongoing



Require All USDA Employees to Have Civil Rights Training

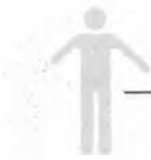
68. Require all USDA employees to have civil rights training annually.

Action Plan

- A Develop standardized training modules for USDA.
Who: Assistant Secretary for Administration *When: Within 120 days of this report*

- B Train all employees and certify to the Secretary that training is completed on an annual basis.
Who: Agency Heads *When: FY 1998*

- C Make a civil rights module a part of all management/supervisory training and orientation programs.
Who: Agency Heads *When: Ongoing*



Hold All Managers Accountable for a Diverse Workforce

69. Publicize and recognize those managers and agencies that have made significant accomplishments in workforce diversity.

Action Plan

- A Recognize managers and employees through awards and commendations, as appropriate.
Who: The Secretary; Agency Heads *When: Annually; ongoing*

70. Direct the Forest Service to end the use of surplus lists.

Action Plan

- A Issue a directive to the Forest Service to end use of surplus lists.
Who: The Secretary *When: Immediately*

71. Evaluate the role and function of the Special Emphasis Program Managers (SEPM) in accomplishing USDA's civil rights goals and objectives. The valuable resources dedicated to support SEPM could be used more effectively. Presently they are limited to the annual Special Emphasis activities as their primary function.

Action Plan

- A** Conduct a review and reassessment of the roles and responsibilities of the Special Emphasis Program Managers USDA-wide.

Who: *Assistant Secretary for Administration* **When:** *90 days*

- B** Allocate appropriate resources to support and administer program and employment functions of the SEPM's.

Who: *Assistant Secretary for Administration; Agency Heads* **When:** *90 days*

72. Develop and implement retention programs to ensure a diverse workforce.

Action Plan

- A** Require the use of an "Exit Interview Feedback" system to assist agencies in determining why employees leave the Agency/Department. Share this information with agency managers and develop a system for trend-analysis and evaluation. Use the analyses to develop action items for inclusion in agency plans designed to eliminate barriers to recruitment and retention, improve the work environment, and retain a diverse workforce.

Who: *Agency Heads* **When:** *120 days; ongoing*

- B** Require that each agency initiate surveys such as the Food and Consumer Service's "Employee Work Life Surveys" and the Forest Service's "Continuous Improvement Process" to assess employee satisfaction about issues affecting their work lives. Use the results to develop action items in agency plans that will assist in improving the work environment and help employees in balancing their career and personal needs.

Who: *Agency Heads* **When:** *120 days; ongoing*





Employee Complaints

73. To substantially reduce the backlog of EEO complaints, offer mediation, arbitration, or similar alternative dispute resolution (ADR) processes to employees who filed a formal EEO complaint before January 1, 1997. The use of ADR shall be the employee's choice; however, binding arbitration will be used only if agreed to by both the employee and management.

Action Plan

- A** Determine whether all, or select categories of complaints (e.g., by location, type of complaint, age of complaint) will be offered ADR.
Who: *Director;* **When:** *Immediately*
Office of Civil Rights
- B** Identify and obtain necessary resources.
Who: *Assistant Secretary* **When:** *Immediately*
for Administration
- C** Write to employees and management explaining the ADR option.
Who: *Director;* **When:** *15 days*
Office of Civil Rights
- D** Obtain necessary DOJ authority to use binding arbitration.
Who: *General Counsel* **When:** *Immediately after decision*
to make binding arbitration
an option
- E** Select or contract with competent, neutral mediators and/or arbitrators.
Who: *Director;* **When:** *45 days*
Office of Civil Rights
- F** Begin ADR sessions.
Who: *Director;* **When:** *60 days*
Office of Civil Rights
- G** Complete ADR sessions.
Who: *Director;* **When:** *Most within 120 days;*
Office of Civil Rights *ongoing*

74. All EEO resolution agreements shall have terms that (1) relate to the nature of the complaint; (2) address causal factors; (3) are conducive to timely implementation; and (4) contain implementation timeframes. To ensure accountability, "no fault" settlements shall be used only in cases where all the parties to the dispute agree that it is appropriate.

Action Plan

- A** Establish a USDA policy on the use of "no fault" agreements.
Who: *The Secretary* **When:** *60 days*



75. To ensure an effective and timely EEO complaints process on a permanent basis, conduct an independent review of USDA's existing EEO system, assess the areas of deficiency, and redesign or repair the system.

Action Plan

- A** Select an independent entity/individual(s) with necessary expertise and neutrality to review the system and recommend changes.
Who: *Assistant Secretary for Administration* **When:** *Immediately*

- B** Complete the report and recommendations.
Who: *Selected reviewer* **When:** *Within 45 days of selection*

- C** Implement the recommended changes.
Who: *Assistant Secretary for Administration; Director, Office of Civil Rights* **When:** *Begin immediately upon receipt of recommended changes. Complete major changes within 90 days*

- D** Identify and obtain resources necessary to implement this recommendation.
Who: *Assistant Secretary for Administration* **When:** *Immediately*

76. Initiate a continuing and coordinated USDA-wide workforce planning and recruitment process.

Action Plan

- A** Require the Department and each agency to develop a workforce planning process, linked to its strategic plan and affirmative employment program plan, that addresses under-representation and includes recruitment, training, and retention efforts.

Who: *The Secretary* **When:** *Within 60 days of this report, then annually*

- B** Coordinate recruitment efforts Department-wide and coordinate outreach and recruitment plans with institutions with which the Department has ongoing relationships such as the 1890 Land-Grant Colleges, HBCU, HACU as well as special recruitment initiatives such as REAP and the Workforce Recruitment Program for College Students with Disabilities.

Who: *Assistant Secretary for Administration* **When:** *Immediately/ Ongoing*

- C** Sign REAP MOU and fund appropriately.

Who: *The Secretary* **When:** *Immediately*

- D** Establish a personnel management evaluation/assistance program at the Department level to coordinate periodic reviews of agency workforce plans and human resource management programs.

Who: *Assistant Secretary for Administration* **When:** *Immediately/ ongoing*

77. The Secretary should be more involved in the management and selection of the SES cadre within USDA.

Action Plan

- A** Issue a letter to Agency Heads regarding changes in the SES program. The letter requires Agency Heads to assure that training, details, reassignments, and other work-related activities that are assigned to prepare individuals for the SES level are done in a fair and equitable manner.

Who: *The Secretary* **When:** *Immediately*

- B** Use impartial third parties to evaluate applicants for SES positions, especially for their demonstrated commitment to civil rights.

Who: *The Secretary* **When:** *Immediately*

- C** Reopen USDA-wide Senior Executive Service Candidate Development Program and ensure a diverse pool of candidates.

Who: *The Secretary* **When:** *Immediately*

Organizational Structure of Civil Rights



Consolidate USDA's Civil Rights Functions Into One Office

78. Consolidate the Department's civil rights functions under one Office of Civil Rights that reports directly to the ASA. Immediately fill the top position in that office with a career SES individual with demonstrated skills in civil rights management, communications and outreach, partnership building with other USDA agencies, and leadership.
79. Organize the new USDA civil rights office with separate employment and program civil rights components that report under separate lines of supervision.
80. The USDA Civil Rights Office will proactively promote civil rights at USDA, provide guidance and oversight to agencies, establish and disseminate civil rights policy, update regulations, and conduct compliance reviews and audits to ensure enforcement of all applicable civil rights laws, rules, and regulations.
81. USDA's Director of Civil Rights is ultimately accountable for investigations of program discrimination complaints. The Director may delegate to agency civil rights directors the authority to conduct preliminary investigations of program discrimination complaints, but must document any such delegation in writing, and may withdraw such authority from the agencies.
82. The Director of Civil Rights will focus on improving the Department's enforcement of civil rights laws in program delivery, and ensure that adequate funds are allocated to enforcing civil rights in program delivery. The Director should consider reestablishing the position of desk officer or similar position that would provide specialized service to individual agencies.
83. Give the Department's new Director of Civil Rights the authority to create a quality, competent staff capable of implementing an effective civil rights program at USDA. This authority includes the flexibility to reassign and hire staff.

Action Plan

- A** Identify the skill mix a Civil Rights Director needs to administer an effective civil rights program (e.g., enforcement, policy development, evaluation, advisory services, conflict resolution, etc.).
Who: *Assistant Secretary for Administration* **When:** *Immediately*
- B** Conduct a search for qualified applicants; ensure that a competent panel is responsible for recommending to the Secretary the new Director; establish criteria and goals by which the Director will be evaluated.
Who: *Assistant Secretary for Administration* **When:** *Immediately*
- C** Appoint a Civil Rights Director with a proven track record in civil rights who is committed to carrying out the recommendations in this report.
Who: *The Secretary* **When:** *30 days after receiving the name of the recommended individual candidate*
- D** Enter into a memorandum of understanding with OGC to establish, clarify, and improve relationship and communications between offices.
Who: *Assistant Secretary for Administration; General Counsel* **When:** *60 days after new Director is appointed*
- E** Prohibit transfer of employees to the civil rights staff as a resolution of a complaint unless justified by merits of complaint.
Who: *Assistant Secretary for Administration* **When:** *Immediately*
- F** Develop a reorganization and implementation plan and identify strategies for placement and out-placement of individuals who do not match skills in the new structure.
Who: *Assistant Secretary for Administration* **When:** *60 days*

SES Status of Civil Rights Director

84. Change the designation of the Director of Civil Rights from SES general to SES career reserved, but do not allow that process to hold up the immediate appointment of a permanent Director of Civil Rights.

Action Plan

- A** Prepare justification for change and transmit to Office of Personnel Management.

Who: Executive Resources and Services Division *When: 90 days*

Make the Office of the General Counsel Accountable for Civil Rights

85. To ensure civil rights accountability, OGC must demonstrate its commitment to civil rights by establishing a division dedicated to providing legal counsel to the Department and agency officials on civil rights issues and diversifying its staff of attorneys starting at the highest levels.

Action Plan

- A** Develop an organizational structure that will ensure effective delivery of civil rights legal services, such as adding an Assistant General Counsel for Civil Rights and having that Assistant report to the General Counsel.

Who: General Counsel *When: 30 days*

- B** Staff the Civil Rights Division with lawyers who are committed to civil rights in USDA and who specialize in civil rights law and have been, or will be, thoroughly trained in civil rights law.

Who: General Counsel *When: 90 days*

- C** Ensure that top OGC management supports these changes or ensure that OGC has leadership that will support it.

Who: The Secretary *When: Immediately*

- D** Make resources available within existing budget.

Who: General Counsel *When: Immediately*



Establish Civil Rights Offices in Each Agency

86. To ensure that each USDA agency has civil rights accountability, each agency must have a civil rights director who reports to the agency head. Any exception to the reporting line must be approved by the Secretary. The director will have primary responsibility for ensuring that the agency enforces all civil rights laws and that the agency complies with all complaints processing timeframes. Departmental Staffs (OGC, OIG, OBPA, etc.) must have effective civil rights programs with a measurable mechanism for feedback to the Secretary on their civil rights performance.
87. Agency civil rights programs must include program planning/analysis, compliance, and complaints management. In addition, agencies must have documented, measurable goals and timetables to address civil rights in program delivery and employment, under-representation, work force diversity, and procurement.
88. The EEO counselor positions, including resources, must be returned to the agencies from the Department's Civil Rights Office. All EEO counselors must be in a full-time civil rights position.

Action Plan

- A** Revise the policy to administer mission area civil rights programs through Agency Heads and agency civil rights directors, unless the Secretary grants an exception.

Who: The Secretary

When: 30 days

- B** Require all staff offices reporting to the Secretary to have an AEP.

*Who: Assistant Secretary
for Administration;
Agency Heads*

When: 60 days

- C** If agencies change or establish organizational structure associated with this recommendation, submit to the USDA Director of Civil Rights any required documentation to effect this change.

Who: Agency Heads

When: 45 days

- D** Expedite approval of changes in organizational structure.

*Who: Assistant Secretary
for Administration*

*When: Immediately, upon receipt
of documentation*

- E** Execute necessary directives to return counselors to agencies.

*Who: Assistant Secretary
for Administration*

When: Immediately

- F** Hold Agency Heads and civil rights directors accountable for meeting mandated processing deadlines and for adequately training their staffs in all aspects of civil rights, including conflict management.

Who: Assistant Secretary
for Administration;
Director;
Office of Civil Rights

When: Immediately; ongoing.



Adopt a New Conflict Management Policy at USDA

89. Adopt and announce as USDA's official policy that management is responsible for preventing conflict and resolving disputes at the lowest possible level by resolving the underlying issues and preventing recurrence of conflicts. Resolve conflicts using an "interest based" approach whenever possible.

Action Plan

- A** Issue a statement that forcefully states policy for resolving disputes on an interest-based approach and that USDA's past philosophy of "settle at all costs" is not acceptable.

Who: The Secretary **When:** 30 days

- B** Direct that EEO counselors and other USDA personnel with dispute resolution responsibilities are not to be rated exclusively or even primarily on their settlement/resolution rates. Instead, ratings should be based primarily on the quality of the dispute resolution services these employees provide.

Who: The Secretary **When:** 30 days

90. Convene a team, with representatives from all mission areas/agencies, to develop a USDA program implementing the Department's new conflict management policy.

Action Plan

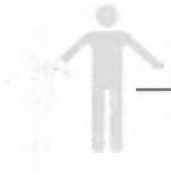
- A** Direct each agency/mission area to designate one or two representatives for membership on the Department's Conflict Management Team (CMT).

Who: The Secretary **When:** Immediately

- B** Select team leader having the necessary conflict resolution knowledge and skills.

Who: The Secretary **When:** Immediately

- C Develop recommendations on implementing complaint prevention/resolution programs.
Who: Conflict Management Team When: 45 days
- D Determine how responsibility for conflict resolution programs shall be divided between agencies and the Department.
Who: Conflict Management Team When: 45 days
- E Reassess the role of the EEO counselors and determine whether counselors should serve as mediators.
Who: Conflict Management Team When: 45 days



Eliminate Dispute Resolution Boards, Regional Service Centers

- 91. Eliminate the Dispute Resolution Boards and close the Department's Civil Rights Regional Service Centers.

Action Plan

- A Communicate closure of civil rights service centers directly to the affected employees before making the public announcement.
Who: Assistant Secretary for Administration When: Immediately
- B Announce to the USDA community the discontinuation of boards and closures.
Who: Assistant Secretary for Administration When: October 1, 1997
- C Provide a career transition and placement program for employees affected by service center closings.
Who: Human Resources When: 45 days



Consolidate Offices Under the Assistant Secretary of Administration

92. Consolidate all administration and management functions under the ASA with full delegation of authority. This consolidation will bring the Chief Financial Officer, the Chief Information Officer, the Office of Small and Disadvantaged Business Utilization, and the Service Center Implementation Team under the ASA.

Action Plan

- A** Prepare the necessary draft legislation to move the CFO, CIO, and OSDBU reporting from the Secretary to the ASA.
Who: General Counsel *When: 30 days*
- B** Ensure that the ASA has demonstrated leadership skills in managing administration functions in a large and complex organization. Such leadership should have a track record with results.
Who: The Secretary *When: Immediately*
- C** Ensure that ASA is able to implement the new organizational structure with the full support and resources from the Secretary. This includes full authority to adjust leadership to make this happen, including removal of those who do not support the new structure.
Who: The Secretary *When: Immediately*





Follow-up/Listening Sessions

In addition to using the information gained at the listening sessions to help develop this report and make recommendations, USDA will provide follow-up to those who voiced concerns about civil rights at USDA.

During each session, Secretary Glickman or Deputy Secretary Rominger requested staff to follow up by investigating some individual cases of speakers. That is currently being done and the process will continue.

However, the recommendations contained in this report are intended to solve the underlying civil rights problems at USDA to make the system work for both customers and employees. The recommendations are also intended to provide a framework for civil rights at USDA into the next century.

Listening Sessions

The CRAT sponsored 12 listening sessions, which were held in 11 locations across the country, in January of 1997. The sessions were designed to hear "first hand" from both customers—especially socially disadvantaged and minority farmers—and USDA employees about what was wrong with civil rights at the Department. The CRAT held 9 listening sessions with customers and 3 with employees. Each customer listening session was tailored to address the concerns of specific gender, racial and cultural groups, including American Indians, Hispanics, and Asians. Each session followed the same basic format, which was designed to hear from the maximum number of people in a 3-hour period. When needed, language translators were provided.

Customers and employees who did not speak at the listening sessions or did not wish to speak openly were able to submit recorded or written statements to the CRAT. USDA also established an e-mail address, a fax number, and a Hot Line for civil rights comments.

Over 2,000 customers and 900 employees attended the sessions. Those who spoke voiced concerns about program delivery and civil rights issues at USDA. Some spoke as individuals, others represented groups.

Customers' Major Issues

Major farmer concerns focused on program delivery. Speakers told of abuse and discrimination in loan processing, delays in delivery of approved loans, and lack of timely information and help needed to participate in USDA programs.

Some speakers voiced concern over the decline of minority farmers and farms in the South and Southwest. Some farmers and farm advocates spoke of a perception that USDA is involved in a conspiracy to take land from minority farmers and let wealthy land-owners buy it, often at a fraction of the land's worth.

All customer sessions raised the issue of the lack of a USDA workforce that reflects the diversity of the customers in USDA's field offices.

Employees' Major Issues

USDA employees tended to focus on unfair management practices, insensitive managers, hostile work environments, and lack of protection from reprisals. Many employees felt they were discriminated against because of race, national origin, religion, sexual orientation, disability, gender, or age.

Employees said USDA management is neither accountable for nor committed to civil rights. Many complained about the complaint process. Some pointed out it had been years since they'd filed a complaint and they had heard nothing back about the status of the complaint.

Listening Sessions:

January 6, 1997	Customer Listening Session, Albany, GA
January 7, 1997	Employee Listening Session, New Orleans, LA
January 7, 1997	Customer Listening Session, Memphis, TN
January 8, 1997	Customer Listening Session, Halifax, NC
January 10, 1997	Customer Listening Session, Tulsa, OK
January 11, 1997	Customer Listening Session, Brownsville, TX
January 13, 1997	Customer Listening Session, Window Rock, AZ
January 16, 1997	Customer Listening Session, Salinas, CA
January 17, 1997	Employee Listening Session, Woodland, CA
January 22, 1997	Employee Listening Session, Washington, DC
January 22, 1997	Customer Listening Session, Washington, DC
January 24, 1997	Customer Listening Session, Belzoni, MS



Acknowledgements

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State Food and Agriculture Committees at listening session locations

Natural Resources Conservation Service

Office of the Chief

Quality Management and Program Evaluation Division

Office of Public Affairs

Administrative Services

Policy Analysis and Coordination Center—Civil Rights

Policy Analysis and Coordination Center—Human Resources

Office of Operations

Office of Management Services

Modernization of Administrative Processes

Economic Research Service

Office of the Chief Financial Officer

Office of Congressional Relations

Office of the General Counsel

Office of Inspector General

Office of Communications

Office of Budget and Program Analysis

Office of the Executive Secretariat

National Appeals Division

Farm Service Agency

Farm and Foreign Agricultural Services Mission Area

Food and Consumer Service

Rural Development

Civil Rights Action Team Hotline Staff

Office of Chief Information Officer

Agricultural Research Service

Forest Service

The team also thanks those Congressional representatives and members of their staffs who attended listening sessions.