



United States Department of Agriculture



OFFICE OF INSPECTOR GENERAL

Natural Resources Conservation Service

Equitable Relief

Audit Report 10601-0006-31

OIG reviewed NRCS to determine whether it administered equitable relief in accordance with the provisions of the 2002 Farm Bill.

OBJECTIVE

To determine whether NRCS administered ER in accordance with the provisions of the 2002 Farm Bill.

REVIEWED

We reviewed applicable laws, regulations, and NRCS policies and procedures concerning the administration of ER, obtained and reviewed NRCS files related to 65 non-statistically sampled ER requests from 2015–2017, and interviewed NRCS officials to gain a sufficient understanding of the implementation of ER.

RECOMMENDS

We recommend that NRCS: (1) develop and implement controls to ensure that ER requests are entered timely and accurately into the Appeals and ER database, and (2) provide training to States that ensures staff fully understand how to use the database, including when and how to enter ER requests.

WHAT OIG FOUND

The Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) sets forth provisions for Natural Resources Conservation Service (NRCS) program participants to request equitable relief (ER) when NRCS identifies noncompliance with one or more requirements of a covered conservation program. ER provisions provide eligible program participants with relief from negative consequences when NRCS determines that the participants put forth a good faith effort to comply with program or contractual requirements.

Although we found that NRCS generally processed individual ER requests in accordance with the 2002 Farm Bill, we identified 19 ER requests that were not included in NRCS' repository, the Appeals and ER database. In addition, we found that the database contained inaccurate information, such as monetary amounts granted and approval dates, for 8 of the 65 ER requests we reviewed. This occurred because NRCS lacked adequate internal controls to ensure that all ER cases were accurately entered into the database and subsequently reported to Congress. As a result, NRCS misreported ER information to Congress during calendar years 2015–2017, and may continue to annually misreport information regarding ER requests by U.S. agricultural producers participating in Federal conservation programs.

NRCS agreed with our finding and recommendations, and we accepted management decision on both recommendations.



United States Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



DATE: September 18, 2019

AUDIT
NUMBER: 10601-0006-31

TO: Matthew Lohr
Chief
Natural Resources Conservation Service

ATTN: Robert Bradley
External Audits, Farm Production and Conservation – Business Center for
Natural Resources Conservation Service

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Natural Resources Conservation Service Equitable Relief

This report presents the results of the subject review. Your written response to the official draft report is included in its entirety at the end of this report. Your response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on your written response, we are accepting management decision for all audit recommendations in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.

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Background and Objectives

Background

The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) works with farmers, ranchers, and forest landowners nationwide to help them boost agricultural productivity and protect the Nation's natural resources through conservation. Landowners apply to participate in NRCS programs and receive technical guidance and financial assistance to help them implement conservation practices on their land.

The Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) sets forth provisions for program participants to request equitable relief (ER) when NRCS identifies noncompliance with one or more requirements of a covered conservation program.¹ ER provisions provide eligible NRCS program participants² with relief from negative consequences when NRCS determines that the participants put forth a good faith effort to comply with program or contractual requirements. Program participants are not eligible for any type of ER based on instances of noncompliance relating to highly erodible land or wetland conservation requirements.³

NRCS' granting of ER is discretionary, and forms of relief include allowing a participant to:

- retain payments/benefits received under the covered program;
- continue to receive payments/benefits under the covered program;
- continue to participate (in whole or in part) under any contract under the covered program;
- re-enroll all or part of the land covered by the program; and
- receive other ER, as deemed appropriate.

A request for ER can be initiated by the participant or by NRCS on behalf of the participant. When a participant requests relief, the agency must receive the request, in writing, no later than 30 calendar days from the date the participant received a notification of noncompliance. NRCS can grant relief to participants based on one of two reasons: (1) acting in good faith whereby a participant acts incorrectly, but consistently, with instruction or action by an NRCS employee; or (2) acting in good faith whereby a participant's efforts to comply with program requirements resulted in either incomplete or incorrect implementation, but without the intent to defraud the Government.

The NRCS Chief and State Conservationists have the authority to grant ER. In most instances, State Conservationists are permitted to grant ER for individual requests under \$20,000 and any requests approved at this level must receive concurrence by USDA's Office of the General

¹ Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, § 1613(b) (2002 Farm Bill).

² Eligible program participants are those that participate in one of NRCS' conservation programs.

³ 2002 Farm Bill, Pub. L. No. 107-171, § 1613(e).

Counsel (OGC).⁴ All ER requests at or exceeding \$20,000 must go to the Chief for approval; however, requests reviewed by the Chief do not require OGC’s concurrence.⁵

The 2002 Farm Bill requires that the Secretary of Agriculture annually report to Congress the number of ER requests and the disposition of such requests for the preceding calendar year.⁶ NRCS’ State ER Coordinators are responsible for entering all ER requests—granted or denied, regardless of authority level—into the ER section of the Appeals and ER database. This database is NRCS’ repository that stores ER request information for the purposes of reporting this activity to Congress.⁷ Officials at NRCS’ national office use the database to submit information about ER activity to USDA’s National Appeals Division each January. The National Appeals Division then compiles a combined Equitable Relief Report to submit to Congress by February 1. This annual report, which is made available to the public, contains all ER activity across applicable USDA agencies, including ER requests processed by NRCS.⁸

Participant Entities’ Noncompliance with Federal Financial Accountability and Transparency Act Requirements—2016

In 2015, NRCS issued guidance stating that quality assurance reviews had identified wide-spread noncompliance with Federal Financial Accountability and Transparency Act⁹ requirements by program participant entities. Specifically, noncompliant entities did not obtain a Data Universal Numbering System (DUNS) number and/or maintain registration with the System for Award Management (SAM). Any entity that did not comply with DUNS/SAM requirements was ineligible to receive NRCS benefits. Any payments made to these noncompliant entities were considered improper payments, which the entities were potentially obligated to repay. In 2015, NRCS issued both a national instruction¹⁰ and national bulletin¹¹ to provide guidance to States for a streamlined process to resolve the DUNS/SAM issue and provide ER to eligible, affected entities. To resolve the improper payments resulting from entities’ failure to comply with DUNS/SAM requirements, the Chief granted ER to entities that demonstrated good faith in complying with other program and contractual requirements and substantially performed their responsibilities under the program and contract.

⁴ Participants who have already received \$5,000 or more in ER in a given fiscal year are not eligible for any further ER from State Conservationists; however, the Chief may grant ER in these instances.

⁵ 2002 Farm Bill, Pub. L. No. 107-171, § 1613(e).

⁶ 2002 Farm Bill, Pub. L. No. 107-171, § 1613(g). Because Congressional reporting is required to be based on calendar year, “year” relates to calendar year through our audit.

⁷ The Appeals and ER database does not contain information on actual payments made to participants; that information is collected and processed through a different mechanism. The primary purpose of the database is to report the number of ER requests to Congress each year.

⁸ Equitable Relief Reports are posted online at: <https://www.nad.usda.gov/content/reports>.

⁹ Federal Funding Accountability and Transparency Act of 2006, Pub. L. No. 109-282, § 2590.

¹⁰ NRCS National Instructions NI-440-305, *Instruction and Guidance for Addressing Participant Contracts with Entities That Have Not Complied Fully with the Federal Financial Accountability and Transparency Act* (Sept. 2015).

¹¹ NRCS National Bulletin NB 440-16-6 PMG, *Guidance to Address Additional DUNS/SAM Issues* (Nov. 2015).

Objectives

Our objective was to determine whether NRCS administered ER in accordance with the provisions of the 2002 Farm Bill.

Finding 1: NRCS Needs Improved Internal Controls over its ER Data

Although we found that NRCS generally processed individual ER requests in accordance with the 2002 Farm Bill, we identified 19 ER requests that were not included in NRCS' Appeals and ER database. In addition, we found that the database contained inaccurate information, such as monetary amounts granted and approval dates, for 8 of the 65 ER requests we reviewed. This occurred because NRCS lacked adequate oversight controls to ensure that all ER cases were accurately entered into the database and, subsequently, reported to Congress. As a result, NRCS misreported ER information to Congress during 2015–2017, and may continue to annually misreport information regarding ER requests by U.S. agricultural producers participating in Federal conservation programs.

Federal internal control standards state that NRCS management is responsible for the design, implementation, and effectiveness of its internal controls.¹² These standards further require management to design information systems and related control activities to achieve objectives. Information processing objectives may include completeness and accuracy.¹³

We non-statistically sampled eight States to review, primarily based on the monetary amount of ER granted during 2015–2017. We obtained evidence directly from each of the eight States for all ER requests processed during these years. To test completeness, we used each State's ER records and identified all ER requests that were not included in NRCS' data.¹⁴ To test accuracy, we compared NRCS' data against States' ER records and identified all requests where information within the data was inaccurate. Based on our testing, we found NRCS' Appeals and ER database to be incomplete and inaccurate.

Completeness of ER Request Data

In 5 of the 8 States visited, we found records for 19 ER requests that were not included in the data we obtained from the Appeals and ER database. Because of this, it is possible

¹² Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government* (Sept. 2014).

¹³ Per GAO's *Standards for Internal Control in the Federal Government*, completeness is ensured when "transactions that occur are recorded and not understated" and accuracy is ensured when "transactions are recorded at the correct amount."

¹⁴ During our fieldwork, we were made aware that, in 2016, NRCS undertook an ER-related project regarding DUNS/SAM requirements, which would constitute the vast majority of ER requests within our scope. While some DUNS/SAM-type requests were included in the Appeals and ER database, the agency acknowledged that not all were entered into the database and provided a separate dataset, which the agency used to determine 2016 ER summary figures for DUNS/SAM-type requests and the annual report to Congress. We collectively refer to both sets of data as "NRCS data." For the purposes of our audit, we used the Appeals and ER database to test both the completeness and accuracy of non-DUNS/SAM-type requests. However, for DUNS/SAM-type requests, we tested completeness using the separate dataset and tested accuracy using the Appeals and ER database. For consistency, we used the same general testing methods (i.e., corroboration of NRCS' data using States' ER records) for the two ER request types.

that the States we did not visit may also have ER requests that were not included in the database. Overall, we concluded that the Appeals and ER database was incomplete regarding its inventory of ER requests and due to this, NRCS misreported ER activity to Congress during 2015–2017.

Accuracy of ER Request Data

Within the 8 States we visited, we non-statistically sampled and reviewed 65 ER requests.¹⁵ We examined these requests to determine whether NRCS properly administered ER. We did not find evidence that NRCS improperly processed any of the 65 requests. However, we did identify eight ER requests where there were discrepancies between the data we obtained from the Appeals and ER database and States' ER records. These discrepancies were spread across five different States and resulted from data entry errors regarding the monetary amount granted, request's approval level, and whether the request had been granted or denied.

Additionally, a review of the entire dataset NRCS provided from the Appeals and ER database revealed the following:

- 1,106 Chief-processed requests were entered erroneously as being processed by a State Conservationist;
- 4 State Conservationist-processed requests were entered erroneously as being processed by the Chief; and
- 83 requests listed an incorrect year in the “date approved” field.

Because we found multiple discrepancies across several States between information stored in NRCS' data and States' ER records, as well as multiple general inaccuracies in the data, we concluded that the Appeals and ER database is inaccurate and, as such, there is reduced assurance that the information within the database is reliable.

We asked NRCS Headquarters officials whether there were any internal controls in place to ensure that all ER requests are entered, and done so accurately, into the Appeals and ER database. These officials informed us that the agency did not have any controls in place;¹⁶ however, they send a bulletin to the States each year and remind the States at various times throughout the year to input their ER requests into the database. Reportedly, due to budgetary and staffing shortages, there is no formal procedure to ensure that States enter all ER requests timely and accurately.

NRCS State officials expressed a need for training regarding when to enter ER requests into the Appeals and ER database, how to properly enter information into the database, and how to

¹⁵ We sampled ER requests primarily based on the monetary amount of relief granted.

¹⁶ NRCS Headquarters officials explained that State officials are required to enter all ER requests into the Appeals and ER database. When asked if there were any controls in place to ensure State officials actually complete this task, the Headquarters officials acknowledged that there were no controls due to staffing issues.

generate and use reports from the database. Therefore, we believe that additional training in these areas might reduce the type of issues we discovered.

Overall, we believe the agency could improve internal controls over its Appeals and ER database to ensure that ER requests are entered in a timely and accurate manner that prevents misreporting to Congress. For example, the NRCS national office could annually provide States with a list of all ER requests from the Appeals and ER database for that year. The States could then verify completeness and accuracy prior to providing ER activity information for Congressional reporting. Lastly, we believe that additional training could be provided to alleviate concerns regarding data completeness and accuracy.

Recommendation 1

Develop and implement oversight controls to ensure that ER requests are entered timely and accurately into the Appeals and ER database.

Agency Response

In its August 21, 2019, response NRCS concurred with our recommendation. All NRCS State ER coordinators/contacts will be instructed to complete ER database training to ensure they fully understand when and how to enter ER requests into the database. NRCS National Headquarters will spot check a minimum of 10% of each State's ER requests entered into the ER sections of the Appeals and ER database to confirm accuracy. NRCS National Headquarters will utilize other means to ensure State ER coordinators/contacts enter ER requests timely and accurately into the database, such as: (1) Sending monthly e-mail reminders several months prior to the end of each calendar year (CY), (2) issuing annual National Bulletins on CY Congressional ER Report, and (3) issuing a National Instruction explaining the requirement for the State offices to enter ER requests timely and accurately into the database. NRCS expects this to be completed by October 15, 2019.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Develop and provide training to State staff to ensure they fully understand how to use the Appeals and ER database, including when and how to enter ER requests.

Agency Response

In its August 21, 2019, response NRCS concurred with our recommendation. FPAC-BC will update the ER database training. FPAC-BC will coordinate with NRCS National Headquarters to provide all State ER coordinators/contacts with ER database training by September 30, 2019. Training will be conducted either in-person, by video teleconferencing (VTC), or by any other

means available subject to budgetary constraints. FPAC-BC will coordinate with NRCS National Headquarters to provide additional ER database training to all State ER coordinator/contacts, as needed. Training will be conducted either in person, by video teleconferencing (VTC), or by any other means available subject to budgetary constraints. NRCS expects all of this to be completed by October 15, 2019.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

We conducted our fieldwork at the NRCS national office in Washington, D.C. and eight NRCS State offices (see Exhibit A). We performed fieldwork between August 2018 and June 2019. Our audit covered ER activity during 2015–2017. Within this timeframe, NRCS processed more than 14,000 requests for ER and granted over \$967 million in monetary relief, as follows:^{17, 18}

Table 1. ER Requests and Monetary Relief Granted

Year	ER Requests	Monetary Relief Granted
2015	68	over \$3.2 million
2016	14,139	over \$960.8 million
2017	83	over \$3.0 million

During the course of our audit, we non-statistically selected eight States to visit (see Exhibit A). These States were selected primarily based on the amount of monetary relief granted during 2015–2017.¹⁹ Across the eight States, NRCS processed more than 2,500 requests for ER and granted over \$168 million in monetary relief. Within each sampled State, we non-statistically selected individual ER requests primarily based on the amount of monetary relief granted. In total, we reviewed 65 requests that were collectively granted over \$8.1 million in total monetary relief.²⁰

To accomplish our objective, we performed the following audit procedures:

- reviewed applicable laws, regulations, and NRCS policies and procedures concerning the administration of ER;
- interviewed NRCS officials to gain a sufficient understanding of the implementation of ER;
- interviewed NRCS officials to ascertain the internal controls over ER administration;
- obtained and reviewed NRCS files related to the 65 non-statistically sampled ER requests to determine whether each request was processed appropriately; and
- interviewed NRCS officials to identify the cause of data quality deficiencies noted during our review.

¹⁷ As a result of fieldwork, we determined that NRCS' ER data were inaccurate and incomplete (see Finding 1). As such, we have reduced assurance that these figures represent all ER activity during our scope period.

¹⁸ During the scope period of this audit, NRCS processed an influx of ER requests related to participants not obtaining a DUNS number and/or not registering with SAM. The DUNS/SAM issue resulted in 14,049 ER requests and monetary relief totaling over \$958.6 million; all other issues equated to 241 ER requests and monetary relief totaling over \$8.6 million.

¹⁹ In order to ensure sufficient audit coverage, we non-statistically sampled two States from each NRCS region, based on: (1) the State with the highest monetary amount in granted relief without a denied ER request, and (2) the State with the highest monetary amount in granted relief with at least one denied ER request. Overall, we selected and reviewed California, Kentucky, Michigan, Minnesota, Oklahoma, Vermont, Virginia, and Wyoming.

²⁰ Four of our 65 sampled ER requests were denied relief. Denied requests were non-statistically sampled based on the monetary amount requested. Additionally, five of the eight States we visited had at least one additional request for ER that was not included in NRCS' data. Across the eight States, we identified 19 additional ER requests that we ultimately included in the universe prior to sampling within each State.

We obtained NRCS data for use in scoping our audit as well as for selecting our sample of States and ER requests to review.²¹ We assessed the reliability of the data by: (1) testing accuracy by tracing key information related to our non-statistical sample of ER requests from NRCS' data back to States' original source documents and (2) testing completeness by determining whether all requests for ER from each of our sampled States were included in NRCS' data. Overall, we determined that NRCS' ER data were inaccurate and incomplete, which is explained in greater detail in our finding (see Finding 1).

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

²¹ During our fieldwork, we were made aware that, in 2016, NRCS undertook an ER-related project regarding DUNS/SAM requirements, which would constitute the vast majority of ER requests within our scope. While some DUNS/SAM-type requests were included in the Appeals and ER database, the agency acknowledged that not all were entered into the database and provided a separate dataset, which the agency used to supplement the 2016 ER summary figures for the report to Congress. Because of this, we reviewed and tested both sources of data—the Appeals and ER database and the separate dataset—which we globally refer to as “NRCS data,” throughout this audit report.

Abbreviations

DUNS.....	Data Universal Numbering System
ER	equitable relief
NRCS	Natural Resources Conservation Service
OGC	Office of the General Counsel
OIG	Office of Inspector General
SAM.....	System for Award Management
USDA.....	United States Department of Agriculture

Exhibit A: Locations Visited

The table below lists the NRCS offices and locations visited during fieldwork:

Office	Location
National Office	Washington, D.C.
California State Office	Davis, CA
Kentucky State Office	Lexington, KY
Michigan State Office	East Lansing, MI
Minnesota State Office	St. Paul, MN
Oklahoma State Office	Stillwater, OK
Vermont State Office	Colchester, VT
Virginia State Office	Richmond, VA
Wyoming State Office	Casper, WY

**AGENCY'S
RESPONSE TO AUDIT REPORT**



United States Department of Agriculture

SUBJECT: Response to the Office of Inspector General (OIG) Report 10601-0006-31, Equitable Relief for recommendations 1-2

TO: Gil H. Harden
Assistant Inspector General for Audit Office of Inspector General

Attached are NRCS' response to the OIG Official Draft dated August 15, 2019, transmitting OIG's Results for Audit # 10601-0006-31, NRCS Equitable Relief (ER).

In Summary:

OIG reviewed NRCS' administration of equitable relief in accordance with the provisions of the 2002 Farm Bill. OIG' oversight included ER determinations made during calendar year 2015 through 2017.

If you require additional information, please contact Kenneth Hill, Director for Performance, Accountability, and Risk Division, at 202-772-6035.

/s/
Matthew Lohr
Chief

cc:/w attachment

Jimmy Bramblett, Deputy Chief for Programs, Washington, D.C

Leslie Deavers, Acting NRCS Chief of Staff, Washington D.C.

Ron Alvarado, NRCS, Acting Deputy Chief for Management and Strategy, Washington D.C.

Kevin Norton, NRCS, Acting Associate Chief for Conservation, Washington, D.C.

Juliette White, FPAC-BC, Acting External Audits and Investigations Branch Chief, Beltsville, MD

Kenneth Hill, FPAC-BC, Director for Performance, Accountability, and Risk Division, Washington, D.C.

Attachment

**Agency Response to the Office of Inspector General (OIG) Audit Report 10601-0006-31,
NRCS Equitable Relief.**

During the review of ER, the auditors noted that:

Finding 1: ER database is inaccurate and incomplete.

RECOMMENDATION 1

Develop and Implement oversight controls to ensure that ER requests are entered timely and accurately into the Appeals and ER database.

AGENCY RESPONSE

All NRCS State ER coordinators/contacts will be instructed to complete ER database training to ensure they fully understand when and how to enter ER requests into the database.

NRCS National Headquarters will spot check a minimum of 10% of each State's ER requests entered into the ER sections of the Appeals and ER database to confirm accuracy.

NRCS National Headquarters will utilize other means to ensure State ER coordinators/contacts enter ER requests timely and accurately into the database, such as:

- i. Sending monthly e-mail reminders several months prior to the end of each calendar year (CY)
- ii. Issuing annual National Bulletins on CY Congressional ER Report
- iii. Issuing a National Instruction explaining the requirement for the State offices to enter ER requests timely and accurately into the database

Estimated Completion Date: 10/15/2019

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

RECOMMENDATION 2

Develop and provide training to States staff to ensure they fully understand how to use the Appeals and ER database, including when and how to enter requests.

AGENCY RESPONSE

FPAC-BC will update the ER database training.

FPAC-BC will coordinate with NRCS National Headquarters to provide all State ER coordinators/contacts with ER database training by September 30, 2019. Training will be conducted either in-person, by video teleconferencing (VTC), or by any other means available subject to budgetary constraints.

FPAC-BC will coordinate with NRCS National Headquarters to provide additional ER database training to all State ER coordinator/contacts, as needed. Training will be conducted either in-person, by video teleconferencing (VTC), or by any other means available subject to budgetary constraints.

Estimated Completion Date: 10/15/2019

OIG POSITION: [Note: OIG will provide after NRCS submits agency response.]

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