

**HEARING TO REVIEW THE USDA
ADMINISTRATION OF CONSERVATION
PROGRAM CONTRACTS**

HEARING
BEFORE THE
SUBCOMMITTEE ON CONSERVATION, CREDIT,
ENERGY, AND RESEARCH
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED ELEVENTH CONGRESS

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WEDNESDAY, MARCH 25, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION, CREDIT, ENERGY, AND
RESEARCH,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 1300 of the Longworth House Office Building, Hon. Tim Holden [Chairman of the Subcommittee] presiding.

Members present: Representatives Holden, Halvorson, Dahlkemper, Markey, Schauer, Peterson (*ex officio*), Boccieri, Massa, Minnick, Goodlatte, Moran, Pomeroy, Schmidt, Smith, Luetkemeyer, and Thompson.

Staff present: Nona Darrell, Adam Durand, Tyler Jameson, John Konya, Robert L. Larew, Anne Simmons, April Slayton, Rebekah Solem, Kristin Sosanie, Patricia Barr, Tamara Hinton, Josh Maxwell, Pelham Straughn, and Jamie Mitchell.

**OPENING STATEMENT OF HON. TIM HOLDEN, A
REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA**

The CHAIRMAN. This hearing of the Subcommittee on Conservation, Credit, Energy, and Research to review the USDA administration of conservation program contracts will come to order.

I would like to welcome our witnesses to today's hearing. In this hearing, we hope to examine how the U.S. Department of Agriculture administers conservation program contracts and whether USDA has been a good manager. The Inspector General's recent audit of the Natural Resources Conservation Service showed that NRCS was unable to provide sufficient evidence to support certain transactions and account balances. The agency was not able to fix the problems before the audit concluded. The agency failed to provide proper oversight of its contracts and obligations, and the audit identified weaknesses in accounting and controls in many areas. I hope the agency can learn from the results and be a better manager of its funding.

There is a question that we heard a lot in the news lately: where did the money go? The taxpayers are asking for accountability and responsibility with their dollars. I hope we will hear the answers to other questions as well: where are the problems, what needs to be fixed and why did this happen. We must ensure that the NRCS

and FSA are effective and efficient in the administration of conservation programs, and also following through with contract obligations. We must ensure that contracts are completed to receive the best result for the environment. We must ensure that taxpayer dollars are used properly to receive the best outcome for the effort.

We made substantial funding increases in the 2008 Farm Bill and we all worked long and hard to reauthorize and make needed changes to USDA programs. We know that conservation funds have allowed many farmers to meet environmental regulations in this changing industry. Conservation programs assist our farmers and ranchers in strengthening their environmental stewardship. We know that USDA has supported farmers in being good stewards of the land. We know that we need NRCS to be better stewards of the taxpayers' money.

I am extremely interested in hearing what our witnesses say today. I hope we can then move forward to improve administration of conservation programs and ensure agriculture's continued role in conservation.

[The prepared statement of Mr. Holden follows:]

PREPARED STATEMENT OF HON. TIM HOLDEN, A REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA

I would like to welcome our witnesses to today's hearing. In this hearing, we hope to examine how the U.S. Department of Agriculture administers conservation program contracts, and whether USDA has been a good manager.

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I hope the agency can learn from the results, and be a better manager of its funding.

There's a question we've heard in the news a lot lately: Where did the money go? The taxpayers are asking for accountability and responsibility with their dollars.

I hope we will hear the answers to other questions, as well: Where are the problems? What needs to be fixed? Why did this happen?

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We know that USDA has supported farmers in being good stewards of the land. We know that we need NRCS to be better stewards of taxpayer money.

I am extremely interested in hearing what our witnesses say today. I hope we can then move forward to improve administration of conservation programs, and ensure agriculture's continued role in conservation. Thank you for being here today.

The CHAIRMAN. Thank you for being here today, and I now recognize the Ranking Member of the Subcommittee, the gentleman from Virginia, Mr. Goodlatte.

**OPENING STATEMENT OF HON. BOB GOODLATTE, A
REPRESENTATIVE IN CONGRESS FROM VIRGINIA**

Mr. GOODLATTE. Thank you, Mr. Chairman, and I would like to thank you for calling today's hearing to review the USDA administration of conservation contracts.

Since 1985, farm bills have increased the size and complexity of conservation programs to meet the needs of individual constituencies. Today there are a number of programs that assist producers in being good stewards of the land. However, these programs can also be duplicative in nature and create inefficiencies. Some of the testimony we will hear today speaks to the fact that we have multiple programs that have similar or overlapping purposes. In my district, I have one progressive producer who in an attempt to address water quality and quantity needs has used six different programs on her farm: CRP, CREP, EQIP, GRP, WHIP, and CSP. Each one of these programs has its own set of rules, its own applications and its own rankings and evaluations. I believe we missed a great opportunity in the 2008 Farm Bill to streamline and simplify the delivery of conservation programs. That was a time to look at the programs as a whole to see if there were any overlapping missions and goals, to see if programs were working as effectively as they can, to see if money used for such programs was sent efficiently. We owe it to the producers and landowners to create programs that work toward on-the-ground conservation. We owe it to the American taxpayer to manage those programs so every dollar spent is accounted for and used wisely.

Throughout today's hearing, I hope to learn more about the implementation of the 2008 Farm Bill. My constituents in Virginia continue to ask about how programs will operate in their final form so they can determine what practices they will be doing this year. It has been 8 months since the enactment of the farm bill and I still can't give them an answer.

Again, I thank you, Mr. Chairman, for holding this hearing and I look forward to hearing the testimony from today's witnesses.

[The prepared statement of Mr. Goodlatte follows:]

PREPARED STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS
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Mr. Chairman, I would like to thank you for calling today's hearing to review the USDA administration of conservation contracts.

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Again, thank you Mr. Chairman for holding this hearing. I look forward to hearing the testimony from today's witnesses.

The CHAIRMAN. The chair thanks the gentleman and recognizes the Chairman of the full Committee, Mr. Peterson.

**OPENING STATEMENT OF HON. COLLIN C. PETERSON, A
REPRESENTATIVE IN CONGRESS FROM MINNESOTA**

Mr. PETERSON. I thank the Chairman and the Ranking Member for their hard work in leading this Subcommittee, and thank you for calling today's hearing.

Today's hearing is an important look at the effectiveness of the major part of USDA's mission. Today's witnesses conducted separate reviews and focused on different parts of USDA's conservation mission, yet all of them call into question the effectiveness of NRCS and FSA conservation program management. The OIG's audit conducted last year concluded that the NRCS lacks the proper controls in place to consistently monitor programs and contracts. Auditors found problems with obligations, state reimbursements, accruals, leases, financial reporting and overall lack of documentation for many contracts. In some cases, documentation was so poor that auditors did not have enough information with which to complete the audit. Although NRCS has begun to review their policies and procedures in response to this audit, we will be keeping a close eye on their management practices.

A recent GAO report found that USDA lacks the necessary controls to provide Federal farm program payments to individuals who exceed income eligibility limits. However, USDA has recently addressed this by announcing last week that they would request waivers from producers, which will grant the IRS the authority to provide the USDA with income verification for program eligibility. While it is early in the process, this could be a step in the right direction when it comes to making sure that program payments go only to those who are eligible.

With these reports in mind, I asked our Committee Investigator to look at Wetlands Reserve and Wildlife Habitat Incentive Programs project files over the past 10 years, with an emphasis on the largest easements and restoration agreements both in terms of acreage and dollar amount. I asked him to review the eligibility requirements both for land and for income, whether the land and the owners met the basic requirements for participation in these conservation programs. In many cases he found the adjusted gross income requirements and 12 month ownership requirements were not followed, or if they were, they were not properly accounted for in the program files. His findings also echo OIG's findings regarding poor documentation and tracking of contracts including annual monitoring of easements and restoration projects required by both programs. Spotty billing and accounting were also prevalent in many of the files. Some of the program files make it difficult to tell

what, if any, restoration work has been done on many of these program sites. The lack of follow-up from NRCS or FSA once an easement is filed, or a restoration agreement is made, raises questions of what actually happens to the sites after the money is obligated.

While there may not be a smoking gun of improper payments or outright fraud in any of these examinations, the perception that an agency with such an important mission cannot do its job effectively is not acceptable. Those of us who still have fresh memories of negotiating the farm bill remember the tough choices all of us had to make on the conservation title. That explains why today's hearing is so important, and why this Committee will make sure that those eligible for conservation programs will be the ones getting them.

So I thank today's witnesses for being here and look forward to the testimony, and again I thank the Chairman and the Ranking Member for their hard work.

[The prepared statement of Mr. Peterson follows:]

PREPARED STATEMENT OF HON. COLLIN C. PETERSON, A REPRESENTATIVE IN
CONGRESS FROM MINNESOTA

Thank you, Chairman Holden for calling today's hearing and for the work you have done on farm and conservation programs for this Committee.

Today's hearing is an important look at the effectiveness of a major part of USDA's mission: to assist farmers, ranchers and landowners with the conservation of soil, water, and other natural resources.

Today's witnesses conducted separate reviews and focused on different parts of USDA's conservation mission. Yet all of them call into question the effectiveness of NRCS and FSA conservation program management.

OIG's audit, conducted last year, concluded that NRCS lacks the proper controls in place to consistently monitor programs and contracts. Auditors found problems with open obligations, state reimbursements, accruals, leases, financial reporting, and overall lack of documentation for many contracts. In some cases, documentation was so poor that the auditors did not have enough information with which to complete the audit. Although NRCS has begun to review their policies and procedures in response to this audit, we will be keeping a close eye on their management practices.

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His findings also echo OIG's regarding poor documentation and tracking of contracts, including annual monitoring of the easements and restoration projects required by both programs. Spotty billing and accounting were also prevalent in many of the files. Some of the program files make it difficult to tell what, if any, restoration work had been done on many of these program sites. The lack of follow-up from NRCS or FSA once an easement is filed or a restoration agreement is made raises the question of what actually happens to the sites after the money is obligated.

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today's hearing is so important and why this Committee will make sure that only those eligible for conservation programs will be the ones getting them.

I thank today's witnesses for being here and I look forward to their testimony. Thank you, Chairman Holden, and I yield back.

The CHAIRMAN. The chair thanks the Chairman for his statement and I will remind all our Members, they are welcome to submit opening statements for the record.

We will now welcome our first panel. Mr. Robert Stephenson, acting Deputy Administrator for Field Operations at the Farm Service Agency of the U.S. Department of Agriculture, and first of all, congratulations to Mr. Dave White for being promoted from acting Chief to Chief of the Natural Resources Conservation Service at the Department of Agriculture. We said that sort of changes the protocol for today's hearing but we look forward to a great hearing today, Mr. White. You have had a great career with the USDA in all regions of the country and in working with the Agriculture Committee in the House and the Senate, so we congratulate you on your promotion and look forward to working with you.

Mr. Stephenson, you may start when you are ready.

STATEMENT OF ROBERT STEPHENSON, ACTING DEPUTY ADMINISTRATOR FOR FIELD OPERATIONS, FARM SERVICE AGENCY, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.; ACCOMPANIED BY CANDY THOMPSON, ACTING DEPUTY ADMINISTRATOR FOR FARM PROGRAMS, FARM SERVICE AGENCY, U.S. DEPARTMENT OF AGRICULTURE

Mr. STEPHENSON. Thank you, Mr. Chairman. We appreciate the opportunity to review the conservation programs delivered by the Farm Service Agency.

In addition to conservation, FSA delivers commodity, credit and emergency programs for the nation's farmers and ranchers. Most FSA programs are delivered through a network of state and county offices that are located in over 2,200 rural counties. FSA's conservation programs include the Conservation Reserve Program, the Emergency Conservation Program, the Grass Roots Source Water Program, Voluntary Public Access and Habitat Incentive Program, and the Emergency Forestry Restoration Program. We also share with NRCS delivery of the Grassland Reserve Program.

At the contract level under CRP, FSA assists farmers and ranchers with: enrolling the land; ensuring compliance with program goals and requirements; managing the contract; making payments and obtaining the technical assistance, which is generally provided by NRCS, local conservation districts or state and local foresters and includes practice eligibility determinations; conservation plan development; and practice certification. Chief among those agreements to provide technical assistance is FSA's relationship with NRCS. Since the Dust Bowl days of the 1930s, FSA and NRCS have been partners in delivering financial and technical assistance in helping to conserve and improve the nation's natural resources. At the national level, the agencies jointly work in the development of program policies such as CRP. The agencies also meet regularly to discuss resource allocation issues and ways to improve program performance.

America's farmers and ranchers have made significant strides to lessen the impact to our nation's environment over the last 20 years. As of February 2009, this past February, CRP participants have restored more than 2 million acres of wetlands and installed about 2 million acres of buffers. Land enrolled in CRP will also reduce soil erosion by 400 million tons each year, and has the potential to be one of the nation's largest carbon sequestration programs on private lands. Last fall FSA issued over 900,000 checks to CRP participants. FSA also maintains many of the databases that are essential including average adjusted gross income, conservation compliance, and financial offset.

In an environment of increasing public service demands, scrutiny and decreasing resources, FSA has improved program integrity and fiscal stewardship by enhancing internal controls, transparency and accountability in USDA's financial management programs. By recognizing that internal controls and solid financial management practices are the cornerstones, FSA has focused much of this effort on working to address weaknesses. Commitment to continuous improvement to strengthening internal controls and accountability has resulted in the achievement in seven consecutive Commodity Credit Corporation unqualified or clean financial statement audit opinions.

Further improvements in financial integrity are planned. Under CRP, software to record financial obligations at the contract level is scheduled for release within the year.

The recently enacted stimulus bill provided \$50 million to assist with the stabilization and modernization of FSA's information technology systems. This funding will be used to continue essential investments to stabilize the infrastructure and performance of the web-based systems, and to initiate the modernization program to provide a modern-day IT system architecture supporting farm program delivery and moving away from the 1980s-era technologies used today.

Geospatial Information Systems, or GIS, is an innovative technology that FSA and NRCS have been working with over the last decade to change the way the agencies manage conservation programs and enable more efficient management of conservation programs. The agencies, FSA and NRCS, have developed a substantial collection of computerized map assets such as the soil survey, aerial imagery and farm field boundaries that describe the agricultural activities nationwide. Integration of these powerful resources into everyday business processes is an ongoing challenge, but significant progress has been made in laying the foundation for implementing cost-effective and commonsense solutions to better support FSA conservation efforts and conservation program delivery.

Conservation programs have provided notable achievements in both conserving and protecting our natural resources. The strong working relationships between FSA and NRCS have led to the efficient and effective delivery of conservation programs. The agencies will continue to work to improve the delivery of program services and to ensure the environmental benefits are achieved in a sound fiduciary manner.

Thank you, Mr. Chairman, and we would be happy to respond to any questions.

[The joint prepared statement of Mr. Stephenson and Mr. White follows:]

JOINT PREPARED STATEMENT OF ROBERT STEPHENSON, ACTING DEPUTY ADMINISTRATOR FOR FIELD OPERATIONS, FARM SERVICE AGENCY, U.S. DEPARTMENT OF AGRICULTURE; AND DAVE WHITE, CHIEF, NATURAL RESOURCES CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee, we appreciate the opportunity to review conservation programs delivered by the U.S. Department of Agriculture (USDA). We are pleased to share our experiences in implementing the Conservation Title. We will also offer our observations on the changing business environment in which programs operate, the working relationships with our USDA conservation partners, and the opportunities and challenges we face in implementing the 2008 Farm Bill.

Farm Service Agency

Background and Programs

The Farm Service Agency (FSA) delivers conservation, commodity, credit, and emergency programs. Program level funding varies depending upon market and weather conditions and new legislation. For Fiscal Years (FYs) 2007 and 2008, the program level was \$30.8 billion and \$25.0 billion, respectively. We estimate the level to be \$23.7 billion for FY 2009. FSA has a staffing level of just under 14,700 staff years and an annual salaries and expenses budget of about \$1.5 billion.

FSA's conservation programs include the Conservation Reserve Program (CRP), Emergency Conservation Program (ECP), Grass Roots Source Water Program (Source Water), Voluntary Public Access and Habitat Incentive Program (Public Access), and the Emergency Forestry Restoration Program. FSA also shares program delivery with the Natural Resources Conservation Service (NRCS) of the Grassland Reserve Program.

Implementation Model

Most FSA programs are delivered through a network of state and county offices that are located in over 2,200 rural counties. Other programs, such as Source Water, are implemented through the National Rural Water Association and Public Access is implemented as grants to state and Tribal governments.

At the contract level, under CRP, FSA assists farmers and ranchers with enrolling land, ensuring compliance with program goals and requirements, managing the contract, making payments, and obtaining technical assistance which is generally provided by NRCS or local conservation districts. In some cases, non-government providers may also offer technical assistance which includes practice eligibility determinations and conservation plan development.

In delivering its conservation programs, FSA has entered into agreements with some of its partners to provide technical support. Chief among those agreements is FSA's relationship with NRCS. Since the 1930's, FSA and NRCS employees have worked closely together to assist farmers and ranchers in conserving and improving our nation's natural resources.

The NRCS role included developing technical standards and providing technical assistance. Over time, NRCS' role has expanded in the area of program delivery as this Committee has added a number of important conservation programs to the NRCS portfolio including the Environmental Quality Incentives Program (EQIP), Conservation Security Program, and Wetlands Reserve Program (WRP).

FSA's agreement with NRCS for CRP includes providing technical assistance. Other government partners include USDA's Forest Service (FS) and Cooperative State Research, Education, and Extension Service; state forestry agencies, and local soil and water conservation districts.

FSA, NRCS, and FS have a long history of delivering conservation programs to farm and ranch community. Since the Dust Bowl days of the 1930's, FSA and NRCS have been partners in delivering conservation programs' financial and technical assistance. The success of our efforts is seen across the landscape in windbreaks, waterways, filterstrips, and wetlands implemented through programs such as conservation compliance, ACP, EQIP and CRP.

Both agencies are committed to the delivery of conservation program that will "get conservation on the ground" in an efficient and effective manner. We take our fiduciary responsibilities seriously and want to be accountable to the public for our performance. These common goals require the agencies to work together and with our partners.

At the national level, the agencies jointly work in the development of program policies such as CRP. The agencies meet on a regular basis to discuss resource allocation issues and ways to improve program performance. In the case of CRP, FSA administers the program but utilizes the strength of agencies such as NRCS and FS for providing technical assistance.

NRCS and FS are recognized as leaders in developing conservation practice technical standards and conservation plans and providing conservation technical assistance. Also, soil surveys and natural resource and forest inventories are critical components of designing effective conservation programs.

FSA has been delivering conservation programs since the 1930's. Since the 1980's, FSA and its partners, including NRCS, transformed the CRP program from primarily an erosion control program to a multi-dimensional conservation program that now addresses water quality, wildlife, water quantity, threatened and endangered species, and carbon sequestration issues.

2008 Farm Bill Implementation

The 2008 Farm Bill responded to a broad range of ongoing conservation challenges including soil erosion, wetlands conservation, water quality, wildlife habitat, and potential markets for sequestered carbon and other environmental services.

The 2008 Farm Bill re-authorized CRP and Source Water and authorized, for the first time, Public Access and the Emergency Forestry Restoration Program.

The CRP-related provisions will be implemented in two parts. We are working diligently on Part one, which includes the Farmable Wetland Program (i.e., aquaculture restoration, constructed wetlands, flooded prairie wetlands, and wetland restoration), tree thinning, and the conservation exception under the new Average Adjusted Gross Income provisions.

The other CRP-related provisions of the 2008 Farm Bill which includes cropping history requirements, transition payment to beginning and socially disadvantaged farmers and ranchers, and routine grazing are scheduled to be implemented after completion of an Environmental Impact Statement.

Public Access provides grants to state governments and Tribes to expand public access opportunities on private land and is scheduled to be implemented later this year.

The Emergency Forestry Restoration Program will assist in the restoration of forests damaged due to natural disasters including replanting. An appropriation of funds is necessary to implement.

Program Accomplishments

America's farmers and ranchers have made significantly strides to lessen the impact on our nation's environment over the last 20 years. Under all USDA conservation programs, soil erosion on cropland has been reduced by over 1.2 billion tons per year. As of February 2009, CRP participants have restored more than 2 million acres of wetlands and about 2 million acres of buffers. Land enrolled in CRP will also reduce soil erosion by 400 million tons each year and has the potential to be one of nation's largest carbon sequestration programs on private lands.

During October 2008, FSA issued over 900,000 checks to CRP participants and most of the participants received their payment with a few days after they were eligible. FSA maintains many of the databases that are essential including Average Adjusted Gross Income, conservation compliance, financial offset. FSA also works extensively with NRCS to integrate our databases to assist them in implementing programs such as Environmental Quality Incentive Program, Grassland Reserve Program, and other programs.

Program Performance—Financial

In an environment of increasing public service demands, scrutiny and decreasing resources, FSA has improved program integrity and fiscal stewardship by enhancing internal controls, transparency, and accountability in USDA's financial management programs. By recognizing that strong internal controls and solid financial management practices are the cornerstones of effective Federal stewardship, FSA has focused much of this effort on working to address weaknesses.

By developing and implementing corrective action plans that ensured a correct measurement of improper paperwork and improper payments, FSA was able to reduce its improper payments reported from \$2.9 billion (11.2 percent) to \$187 million (1.3 percent) between FYs 2006 and 2008. In addition, commitment to continuous improvement to strengthening internal controls and accountability has resulted in the achievement in seven consecutive Commodity Credit Corporation (CCC) unqualified or "clean" financial statement audit opinions, testimony that the CCC's financial statement data is reliable, accurate, and complete.

FSA continues to work on improving our financial controls for our program. From FY 2006 through FY 2008, we conducted reviews under the Improper Payments Information Act (IPIA) to determine the potential extent of improper payments and ways to improve our business process.

These statistical surveys indicated that the error rate for improper payments for CRP was 3.53 percent for FY 2006 which was reduced to 1.25 percent for FY 2008. For CRP and other programs, this reduction was achieved through an aggressive commitment by the Agency which included: (1) direct senior management involvement; (2) agency-wide training; (3) increased accountability at levels; (4) development and use of checklists; (5) enhanced program eligibility verification; (6) elimination of automatic rollover of eligibility determinations; (7) improved documentation control; (8) a comprehensive re-examination of payment files; and (9) increased internal controls and external audits.

Future Outlook

Further improvements in financial integrity are planned. Under CRP, software to record financial obligations at the contract level is scheduled for release within the year.

The recently enacted Stimulus Bill provided \$50 million to assist with the stabilization and modernization of FSA's Information Technology systems. This funding will be used to continue essential investments to stabilize the infrastructure and performance of the web-based systems and to initiate the modernization program to provide a modern-day IT system architecture supporting Farm Program delivery and moving away from the 1980's era technologies used today.

We also have ongoing efforts to: (1) improve data quality and develop a data warehouse; (2) improve the governance and the quality of user requirements; and (3) to improve and standardize common business process. These efforts all require significant staff and financial resources.

Geospatial Information Systems (GIS) is an innovative technology that FSA and NRCS have been working with over the last decade to change the way the agencies manage conservation programs. GIS provides an intuitive solution for managing, visualizing, and understanding land information that enables more efficient management of conservation programs.

FSA and NRCS have acquired and developed a substantial collection of computerized map assets such as soil survey, aerial imagery (NAIP), farm field boundaries (Common Land Unit that describes the agricultural activities nationwide), and others that are used both internal to USDA and are available to the wide range of customers via data centers and data warehouses.

Integration of these powerful resources into everyday business processes is an ongoing challenge to the agencies but significant progress has been made in laying the foundation for implementing cost-effective and common sense solutions to better support FSA conservation efforts and conservation program delivery. GIS has the capability to support and enable better decision-making and effective solutions to the wide range of conservation issues that FSA faces in the coming years.

While environmental indicators clearly show progress in resource conservation is being made, many challenges remain and new issues continue to emerge. For example, excess nutrients impair water quality in many rivers, streams, and lakes, and hypoxia is a significant problem in the Gulf of Mexico, Chesapeake Bay, and other waters. In addition, conflicts over water availability for agriculture, environmental, and urban use are increasing as water demands increase. As one of the largest water users, agriculture has a vital interest in securing water quality and quantity. Conservation is bringing about important achievements, but more can be done, particularly for wetland and aquatic systems.

In the near term, CRP contracts enrolling about 3.9 million acres are scheduled to expire on September 30, 2009. Taking into account the reduced enrollment authority of 32.0 million acres and ongoing enrollment for continuous signup practices, there is some room under the cap to enroll more acres, though there is insufficient authority to re-enroll all of these acres. The lost conservation benefit could result in increases in water and air pollution and could exacerbate recovery of the Lesser Prairie Chicken in the southern Great Plains.

Natural Resources Conservation Service

Conservation Investments and Trends

Before getting into the operational mechanics of the NRCS conservation programs, I would like to take just a moment to put the Federal investment in agricultural conservation programs into perspective. Consider for a moment the following trends in conservation program investments just in the past 12 years:

- In 1996, many of the conservation programs that are so familiar today were just in their infancy. Congress created and authorized EQIP at \$200 million per year, but it was regularly limited to nearly \$170 million per year.
- In 1996, new programs such as the Farm and Ranch Lands Protection Program (FRPP) and Wildlife Habitat Incentives Program (WHIP) were funded at \$35 million and \$50 million *total* over the life of that farm bill.
- From the 1996 to 2002 Farm Bills, conservation program investments were increased by more than \$17 billion over the previous baseline of spending, with programs such as EQIP receiving over a billion in annual spending. FRPP and WHIP greatly expanded in scope and ambitious new programs such as the Conservation Security Program were created.
- The 2008 Farm Bill continued this support with an additional increase of more than \$4 billion over the previous baseline.
- Today, NRCS implements more than 20 conservation programs and initiatives, with an annual budget of more than \$3 billion.

2008 Accomplishments

The significant investments made by this Subcommittee in farm bill conservation programs, combined with the complete range of conservation authorities and initiatives are generating impressive results. USDA appreciates the ongoing support of this Subcommittee to ensure that farmers and ranchers have the financial and technical resources they need to realize their conservation goals. Consider for a moment the conservation accomplishments from last year:

- During FY 2008, NRCS employees helped develop conservation plans covering more than 42 million acres of privately owned farm, ranch, and forestland. We also assisted producers and other land managers to voluntarily implement conservation practices on nearly 50 million acres. These actions on private lands yield public benefits we all enjoy in the form of cleaner and more abundant water, cleaner air, improved wildlife habitat and healthier soils.
- NRCS provided more than \$2 billion in financial assistance to landowners and communities to encourage participation in programs such as EQIP, WHIP, CSP, FRPP and others, resulting in tens of thousands of cost share and incentive contracts and easements.
- Volunteers contributed over 810,000 hours to NRCS efforts—valued at over \$15 million. The agency also expanded conservation implementation capacity through the certification and re-certification of several hundred Technical Service Providers.
- Beyond delivering planning and technical assistance, NRCS influenced the acceleration and adoption of new technologies, standards and approaches through Conservation Innovation Grants and our National Technology Support Centers.
- The NRCS Snow Survey and Water Supply Forecasting program issued 12,500 water supply forecasts and we mapped or updated soil surveys for over 35 million acres.

Cumulative Results

Looking at the implementation of conservation programs just since the beginning of this decade, NRCS has worked with farmers, ranchers, and landowners to:

- Apply conservation plans and systems on 328 million acres.
- Apply conservation practices through the Environmental Quality Incentives Program (EQIP) on 145 million acres.
- Enter into nearly 313,000 (EQIP) contracts.
- Create or restore wetlands on 2.7 million acres.
- Apply comprehensive nutrient management plans on almost 40 million acres.
- Develop new or updated soil maps on 260 million acres.
- Deploy a new Web Soil Survey Program with more than 3.5 million website visits by the public.

These accomplishments are a testament to the continued trust and relationship that we maintain at the local level with farmers, ranchers, Conservation Districts, and other partners. As we initiate implementation of the 2008 Farm Bill, with its increased investment in conservation programs, NRCS looks forward building on these accomplishments.

Growing Conservation and Some Growing Pains—the NRCS Financial Audit

While the results of conservation programs and investments have reshaped the landscape, it is clear that just getting conservation on the ground is not the full measure of program success. With the change in the scope of conservation programs and expenditures, it has come a realization that we need to better assess and maintain excellence in accounting procedures and execution, and to ensure that our recordkeeping systems are robust.

In FY 2008, NRCS contracted with an external audit firm to conduct our first stand-alone financial audit, under the supervision of the USDA Office of Inspector General and the USDA Office of the Chief Financial Officer. At the end of the FY 2008 audit, the auditors issued a disclaimer of opinion. The auditors found problems with the accuracy and completeness of the FY 2008 financial information. In some measure, this was due to inadequate recordkeeping in NRCS offices. During the timeframe of the audit period, NRCS was unable to provide the auditors adequate support to verify our financial information as presented for FY 2008. In other words, we could not prove the validity of our numbers.

The auditors found five material weaknesses: accounting and controls for (1) undelivered orders, (2) unfilled customer orders, (3) accrued expenses, (4) property, plant and equipment, and (5) controls over financial reporting. They also identified deficiencies in our internal controls over purchase and fleet card transactions, and the general controls environment for our information systems.

NRCS understands the seriousness of these findings and is moving aggressively to correct them. When informed of the auditors' preliminary findings, NRCS began developing a corrective action plan and initiated a massive undertaking—a review of over 160,000 open obligations. To our knowledge, a review of this size and scope is unprecedented in the Federal Government. The agency developed and delivered training to over 330 NRCS personnel in mid-November, 2008 and continues to aggressively review open obligations. So far NRCS has deobligated over \$1.3 billion since the review started in FY 2007. To help prevent this from reoccurring, NRCS now mandates that all line officers formally certify on a quarterly basis the accuracy, reliability, and completeness of information in 21 separate areas of financial management.

During this file-by-file, transaction-by-transaction evaluation, we learned a great deal about our existing contracts, easements, and other open obligations. As a result of the audit and our aggressive approach, we have outlined a comprehensive corrective action plan necessary to establish a firm foundation for going forward. NRCS is analyzing and rewriting policy and procedures for program, administrative, and financial aspects of our business to ensure that all responsible parties understand what is required. In addition, we have begun an initiative to redesign and streamline our business processes. I am confident this initiative will lead to the development of new strategies for delivering conservation assistance that are more efficient and effective.

The external auditor is currently performing a special review of corrective actions taken to date for the FY 2008 audit. The results of this review will be available in April. In addition, the audit firm has started work on the FY 2009 financial audit. Our goal is to have a clean audit in the near future.

Clarifying the Term, “Deobligation of Funds”

Prior to the stand-alone audit, a limited scope review in FY 2007 showed a high number of fund deobligations within our agricultural conservation programs. *Deobligation* of funding occurs when funding that was previously obligated—either through a contract or agreement—is released because of cancellation, termination, modification or spending adjustments.

A key point to remember is that whenever funds are deobligated, they are not lost to the taxpayer nor are the funds necessarily lost to a prospective farmer or rancher. Funds deobligated in our discretionary programs—Conservation Technical Assistance, Emergency Watershed Protection, Watershed Rehabilitation, for example—are generally shifted to other priority projects within the respective program. Funds deobligated in mandatory farm bill programs, if not used for contract modifications or cost overruns, are eventually returned to the Treasury.

There are a number of reasons why funds may be deobligated out of contracts. These reasons vary across the diverse suite of programs delivered by NRCS. Some deobligations historically have occurred because of how NRCS delivered its programs. Here are some examples:

- (1) A WHIP contract included a plan for a field border, including the number of acres and the costs associated with creating the border. Both the number of acres and the costs were estimates at the time of obligation. Two years later,

when the producer went to install the field border, the costs both came in less than estimated. The excess funding in the contract resulted in a deobligation of the difference between the estimate and the actual cost.

(2) For a WRP contract, restoration costs were estimated based on a preliminary restoration plan. When the wetland restoration was actually completed some time later, it was found that the restoration costs were overestimated, leading to deobligation of some funds.

Deobligations also routinely occur because of noncompliance caused by the sale or transfer of property, changes in agricultural operations, death or serious illness of participants, natural disasters, bankruptcies, and personal hardships. These factors cannot be anticipated at the time a contract is signed. Here are a few examples:

- EQIP contracts can be up to 10 years in length. A producer signed up in year 1 with a commitment to install a grassed waterway in year 5 of the contract. Funding was obligated for all of the practices in the contract at the time the contract was signed at the beginning of year 1. In year 3, the producer passed away and the family decided to sell the farm. The funds for the grassed waterway had to be deobligated.
- In 2004, a producer signed a contract that included an animal waste structure to be built in 2006. After Hurricane Katrina, the cost of construction materials skyrocketed. The producer was unable to afford his or her share of the cost to build the structure in 2006, and the funds were deobligated.

Again, deobligations due to these types of producer noncompliance cannot be anticipated at the time a contract is signed. We have a keen interest in answering the question—what is an acceptable rate of deobligation for the types of programs NRCS administers? A 2005 Economic Research Service analysis estimated that the average annual exit rate for farms is nine to ten percent per year. Our latest estimated exit rate for EQIP contracts is thirteen percent annually. The constantly shifting mosaic of conditions in the agricultural economy and industry as a whole and at the individual farm scale indicates that some level of deobligation is expected. That is not to say, however, that NRCS is not committed to reducing deobligations. We have embarked on a number of efforts to do just that, to reduce to the greatest extent possible the number and amount of deobligations due to NRCS business practices and program policies.

A key point to remember is that farm bill conservation program contracts are distinctive agreements. These contracts are a product of an individual farmer or rancher voluntarily offering his or her own financial resources toward a benefit not just for themselves but for the public *writ large*. NRCS manages hundreds of thousands of conservation program contracts. It is inevitable that, with some frequency, a producer's personal or financial situation will change over the lifetime of a contract. Our objective is to ensure that farmers can be good conservation stewards while maintaining productivity and profitability. Cancellation of conservation projects are a reality and, given the emerging economic climate, may increase in the near term.

Moving Forward

Looking ahead, we believe we are better positioned to handle the issues raised by the audit and fund deobligation statistics. Starting 2 years ago, NRCS began developing a number of new business tools and practices that will improve our financial management controls. This fall, we will introduce a business tool that will integrate easement contracts into our financial management system. Currently, we are reviewing every policy document produced by the agency to find ways to improve program delivery, tighten financial controls, and reduce fund deobligations. In 2008, the agency implemented a new WRP business model that will result in improved payment controls and fewer deobligations. Two other program policy changes—payment schedules and a payment inflation index—should also help reduce future deobligations. Finally, as I mentioned earlier, we have launched an initiative to establish a new vision for delivering our programs and carrying out the agency's core activities—conservation planning and the application of conservation practices—through a new business model and modernized workforce.

The audit has been a positive experience for NRCS in that it pointed out ways that the agency can achieve a higher standard in implementation of its programs. The issues that the audit raised are solvable and we have taken aggressive action to immediately address the deficiencies and weaknesses in our financial system. However, we recognize that these issues will not be solved overnight. Our corrective action plan details actions that will be implemented over the next year and beyond. NRCS leadership is evaluating options to address accounting expertise across the Agency and issuing strengthened policies and procedures governing business and fi-

nancial management processes. In February 2009, the USDA Office of Inspector General concurred, without exception, to our planned actions.

We believe we are on the right track to be better equipped for success in financial management for the future. NRCS has evolved greatly over the last 2 years in our understanding of proper accounting for our financial resources. We have embraced the financial audit as a way to improve achieving our mission and stewardship of taxpayer assets. I want to reinforce that the audit did not show any instances of funds being misused or improper payments. We recognize that there are three critical aspects of the situation: human capital, processes, and systems. Our planned remedies to the problems revealed by the audit will address each of these critical areas.

Conclusion

Conservation programs have provided notable achievements in both conserving and protecting our natural resources. However, several existing and emerging environmental challenges will require needed attention. Efficient and effective delivery of USDA conservation programs could not occur without a strong working relationship between FSA and NRCS. The agencies will continue to work to improve the delivery of program services and to ensure the environmental benefits are achieved in a sound fiduciary manner. We thank the Chairman and Members of the Subcommittee and would be happy to respond to any questions that Members might have.

The CHAIRMAN. Thank you, Mr. Stephenson.
Mr. White.

**STATEMENT OF DAVE WHITE, CHIEF, NATURAL RESOURCES
CONSERVATION SERVICE, U.S. DEPARTMENT OF
AGRICULTURE, WASHINGTON, D.C.**

Mr. WHITE. Greetings, Mr. Chairman, Members of the Subcommittee. It is an honor to be here to discuss with you some of the conservation activities of the Natural Resources Conservation Service.

You said it well, Mr. Holden, Mr. Peterson, and mentioned it as well, Mr. Goodlatte: There has been a substantial and an incredible increase in funding for conservation across our nation, particularly since the 2002 Farm Bill, and these things are transforming our landscape. In my written testimony, I talk a lot about acres and number of plans and stuff like that and I am not going to visit with you about that. In your packet you should have some color photographs. They show before and afters of what the land looked like before the conservation practices and what they look like now. You will see stuff from Chesapeake Bay, from the West, from the South. I am not going to belabor it but I would like to draw your attention to the cover picture, which is of two little, baby, girl bear cubs. This is the Louisiana black bear. It is the only black bear species on the threatened and endangered list. In 2007, these two little cubs were born in Mississippi. They were the first Louisiana black bears born in the delta of Mississippi in something like 40 years, and they were born on a WRP-restored site.

But while these programs are helping to reshape America, transform our landscape, just getting conservation on the ground is not enough. With the increased resources we have increased demands, particularly in the financial category, and Mr. Peterson, when you were taking about WRP and you said it is not acceptable, I agree with you: it is not acceptable and we are going to fix it, sir.

In 2008, and this is what brings me here today, we had our first full stand-alone audit as an agency. We have been in business since 1933. And when we sent out the RFP, the request for proposals,

the company that won it was KPMG. This is one of the best auditing firms in the nation. For our first-ever audit, we brought in the A-Team and they found nine deficiencies. Mr. Peterson mentioned some of them. Five of them were material weaknesses. And as a result, the audit conclusion was a disclaimer. They couldn't come to a conclusion. There wasn't enough documentation. They couldn't reach a final number. I would emphasize again that they did not find any misuse of funds or improper payments, and I have been told that other agencies when they have this first stand-alone it is something like a 3 to 5 year journey to get there. Some agencies have taken over a decade. So that was November 2008. December 2008, we went and undertook one of the most massive open-obligation reviews ever. We looked at 160,000 open obligations. We created a web-based tool that was transparent that allowed us to monitor so we could see real-time action in that. We also looked at our leases, the capitalized and the operating leases. Mr. Goodlatte, I know you mentioned the deobligations, we deobligated something like \$241 million in that effort. On deobligations, let us talk a little bit about that. They occur for a variety of reasons. Producers often request contract cancellations, resulting in deobligations. Their financial situation changes. Their life changes. We have disasters like Hurricane Katrina. There are processes internal to NRCS, activities that cause them that we have since corrected, particularly in the Wetlands Reserve Program.

Our goal, Mr. Chairman, we know we have problems. We want to fix those problems. We want to be absolutely stellar in how we operate these programs. Let me just give you a few of the steps we are taking. We now require quarterly financial certifications from our State Conservationists and our leaders at headquarters. We have put a stand-alone financial measurement in everyone's performance appraisal. We have developed a corrective action plan that tracks those nine deficiencies that KPMG found. We sent it up here the other day but those nine deficiencies are outlined, what actions we are going to take, what we have taken. This was submitted to the Office of Inspector General on January 30. They accepted it without comment, without any changes, which I was told was pretty unusual, and we are in progress with that. The key thing we need to do, and I know we have an auditor, a CPA here, so I am a little bit nervous; what we need to do is to establish that agreed-to baseline number so we can move to getting that clean audit.

We have some problems, Mr. Chairman. I agree with that, but I hope you will also agree that they are fixable and we are on the road to fixing them. Mr. Chairman, I have been in agriculture for a long time and I know that things grow best in the sunshine. I am going to commit to you that we are going to be open, we are going to be honest with you and the Members of this Subcommittee and full Committee, and we are going to be transparent as we go about fixing this thing. You can see the pictures, how we are transforming the landscape. Our challenge now is to bring our paperwork stuff up to snuff.

Thank you. I look forward to any questions.

[The joint prepared statement of Mr. Stephenson and Mr. White is located on p. 8.]

The CHAIRMAN. Thank you, Mr. White.

The chair would remind Members that they will be recognized for questioning in order of seniority for Members who were here at the start of the hearing. After that, Members will be recognized in order of arrival.

I will ask our panelists if they could explain in more detail how your agencies share information. Do you use the same computer system and how does the flow of information between the agencies work?

Mr. STEPHENSON. Thank you, Mr. Chairman. Information flow comes from a number of different ways. We do have automated processes that include name and address files, it includes a lot of subsidiary information such as the average adjusted gross income, conservation compliance, financial offset. On a local level where they have access to that data, we also still have to transfer some data manually. For CRP, for example, FSA will generally take the offer even though NRCS is sometimes the first contact, depending upon who is there to speak with the farmer. After we take the initial information, NRCS will do some initial eligibility work from a technical perspective, and then that information is passed back to us to go ahead and process the contract.

The CHAIRMAN. Mr. White?

Mr. WHITE. Thank you, Mr. Chairman. Bob pretty much said it all. There are critical intersections between us and probably one of the greatest is the adjusted gross income. We are completely reliant on FSA and our ProTracts system, which is our main web-based tool that we do our contracting in. It goes into the FSA system to find the adjusted gross income, to look at producer eligibility, so there is a lot of cooperation between us. At NRCS, we also maintain this thing called the Office Information Profile (OIP). It is the list of offices. We do that for the Department. But there are many, many areas that we work together and share data across the agencies.

The CHAIRMAN. The GAO report indicates that they found \$49.4 billion went to ineligible individuals and that six percent of that was in conservation payments. Can you explain the roles of each of your agencies in determining payment eligibility for the adjusted gross income test?

Mr. WHITE. I can address part of that. There was an audit that found that there was some duplication of payments between the Conservation Security Program (CSP), EQIP, and the Wildlife Habitat Incentives Program (WHIP). We have put in place in our ProTracts system a check that will go back and forth between those programs to make sure that there aren't duplicate payments. Now, we do rely on the adjusted gross income from the database that is maintained by FSA.

The CHAIRMAN. Mr. Stephenson?

Mr. STEPHENSON. Mr. Chairman, a colleague of mine actually versed in the data that is collected with the adjusted gross income which she can answer.

The CHAIRMAN. Absolutely.

Ms. THOMPSON. Good morning. My name is Candy Thompson. I am the acting Deputy Administrator for Farm Programs in FSA. Currently, producers when they come into the county office or the

service center, they fill out a form 926, which collects information. They certify to their adjusted gross income. As you know, the farm bill provided three different adjusted gross income provisions, \$1 million for conservation, and there are three questions on that form, the \$500,000 for non-farm, the \$750,000 for farm income and then the \$1 million for conservation, and that information is collected and entered into the subsidiary files.

The CHAIRMAN. Thank you.

Mr. White, you mentioned steps that you are taking for improvement at the agency. Can you assure the Subcommittee that the implementation of the 2008 Farm Bill conservation programs will be smooth and on time?

Mr. WHITE. I think only a madman would make that assurance. I can assure you we are going to do your darnedest to make sure they run smoothly. We will cooperate with our agencies. We are putting into effect the electronic computerized systems that will help us do that, sir.

The CHAIRMAN. Thank you.

The gentleman from Virginia, the Ranking Member, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Let me direct this question to both of you. In the Government Accountability Office's October 2008 report referencing payments to participants who exceed the adjusted gross income, there was a recommendation that the USDA work with the IRS to develop a method to determine whether all recipients of farm program payments meet income eligibility requirements. Last week the USDA published a proposal in the *Federal Register* that would require all applicants of farm programs to sign a waiver allowing the Internal Revenue Service to release tax information to FSA. I want to ask each of you if you believe that this proposal includes applicants of conservation programs.

Ms. THOMPSON. That press release that went out on the data-sharing efforts with IRS addresses all of the adjusted gross income requirements.

Mr. GOODLATTE. Including conservation programs?

Ms. THOMPSON. Including conservation.

Mr. GOODLATTE. So under what authority are you acting for Title II programs? And let me just add, we certainly did not discuss anything like this and I don't know that it was the intent of the Congress. Why are you requiring all applicants for these programs to do something, sign a waiver of very personal information that I am sure many people are not going to be very happy about at all to do something that Congress did not express any intention to have you do that?

Ms. THOMPSON. In the farm bill, it did have a provision for enforcement of the adjusted gross income provision, and we are working to enforce these provisions and ensure that only eligible persons receive the payments. By teaming with the IRS through this data-sharing effort, we hope to identify producers who may exceed the statutory provisions, but we don't intend to obtain tax information from the IRS, just more of an indication from the IRS that producers may have exceeded these AGI provisions.

Mr. GOODLATTE. Do you intend to run that check on every single applicant for the programs?

Ms. THOMPSON. The intent is to start with our programs where we collect the AGI form for and ask them to sign this waiver form to enable the IRS to look at the data for us.

Mr. GOODLATTE. Will this delay the applicant's processing of their application for farm payment programs? I know that when we have had these issues in other areas where one government agency has to seek information from another, there is sometimes very lengthy delays in getting the information.

Ms. THOMPSON. It is not our intent to delay the payments. We are working with the IRS on this provision right now and we do not have all the details worked out, but it is not our intent to delay the payments.

Mr. GOODLATTE. Let me switch subjects to another one that I did mention in my opening statement, and that is the concern of some of my constituents, some of whom had personal experience with this, interested in knowing about the status of these conservation programs. I wonder if you can give us a timeline when the 2008 Farm Bill conservation programs will be fully implemented. Let us start with you, Mr. Stephenson, and go to Mr. White.

Mr. STEPHENSON. For the Conservation Reserve Program, we are going to be implementing in two parts. Part one hopefully will be implemented this spring and part two will be implemented after completion of the environmental impact statement. That is probably going to be some time next year, the first half of the year hopefully. The Voluntary Public Access Program is in the queue. It is \$50 million for states and tribes for public access. It is in the queue. It is probably going to be this summer. The Emergency Forest Restoration Program is an appropriated program and we need funds to be made available so we can do the NEPA work before we will be able to implement that program.

Mr. GOODLATTE. Mr. White, and by the way I want to also extend my congratulations to you being named the official head of the agency and we have always enjoyed working with you and look forward to continuing to do that.

Mr. WHITE. Thanks, Mr. Goodlatte. Mr. Holden mentioned the rules changes, now that I am permanent, you can pummel away. The rules cover a lot of different programs here. By the time January 20 had occurred, most of them had been published as interim final rules. Post that, we had to pull a couple of them back to make a technical correction. There had to be a technical corrections in EQIP and Wildlife Habitat Incentives Program, and those have since been reissued and it dealt with the payments on joint tenants. The rules as initially published had said that a husband and wife would be treated as one entity instead of two and we had to make it conform with the rules. So there were some corrections, but those rules are back out now for public comment. And we took advantage of the re-publishing to also ask for comment on how these could be used for climate change within the statutory authorities. I know that is of interest to this Committee and we will share those comments when we get them. There is one that is going to go out probably this week on procedures for the State Technical Advisory Committees, and then there are three others

that are back in USDA for internal clearance. One is the Wetlands Reserve Program, then we have the Farmland Protection Program and the Grassland Reserve Program. Farmland Protection Program, Grassland Reserve Program, we have resolved our internal differences. I think they will go out pretty quick. Wetlands Reserve Program, I am meeting with the Office of General Counsel this afternoon to discuss some of our differences. The last big one is the Conservation Stewardship Program. It is an internal clearance at USDA. We hope to publish it in April, Mr. Goodlatte. We are on track to have the sign-ups, do everything in June, hopefully July, enter into the contracts August, September to have full implementation of all the programs in the 2008 Farm Bill, sir.

Mr. GOODLATTE. Thank you very much, and Mr. Chairman, thank you.

The CHAIRMAN. The chair thanks the gentleman and recognizes the Chairman of the full Committee, Mr. Peterson.

Mr. PETERSON. Thank you.

Just to follow up a little bit, as I understand this process with the IRS, first of all, producers already have to sign this waiver so that is not something new. As I understand how this is going to work, maybe you can confirm this, that the IRS is going to run the people that get these payments and if they are in the range of \$500,000 or \$750,000 or a million, depending on what their situation is, then that is going to be just given back to you, that these people potentially are in this range and then you are going to follow up and get verification. So that is kind of how it is going to work. They are not going to be getting any information from the IRS. They are just giving them the names so the IRS can run them against their tax returns to see if their adjusted gross income is close to \$500,000 or to \$750,000 or whatever it is, and then if it is, then they will send the names back and then they look into it further. So I don't think it is a very intrusive thing that they are doing. I think it makes sense and hopefully it will resolve this issue so we are not embarrassed by getting another report that comes out that says we are not doing what we should be doing.

The other question I have regarding these payments is how are you going to track the payments to comply with these new direct attribution rules and is the FSA computer system set up to do this?

Ms. THOMPSON. You are correct about how the data-sharing effort will work with IRS, and on the direct attribution, we are working to implement those provisions on both the old system, on the system 36, and also on our web-based applications. It will track it back to the person that has signed up through either our 902 form, which is our payment eligibility and limitation form, or the 901, which shows the members' IDs of that entity, if it is an entity who is participating in the programs, and the payments will be attributed to that individual ID number.

Mr. PETERSON. Thank you.

Mr. White, what directions were State Conservationists offices given in regard to their ability to waive the previous 1 year land ownership requirement for WRP, and did anybody in the national office keep track of how many waivers were taking place?

Mr. WHITE. You know, sir, the waivers were in policy and if you felt that it met certain criteria, and I can't recall those right now,

but you could issue a waiver, and that was on the 12 month ownership rule at that time. I do not know if those waivers were tracked at headquarters or not.

Mr. PETERSON. Do you have anybody keeping track of how many waivers are going on?

Mr. WHITE. Well, I will now.

Mr. PETERSON. Fair enough. Mr. White, could you be able to tell the Committee how much mandatory farm bill conservation spending was returned to the Treasury because of contracts that weren't completed?

Mr. WHITE. In the last 3 years we have deobligated about \$1.3 billion total. I think since 2002 we have deobligated about \$19 billion in both discretionary and mandatory. We have deobligated about \$1.3 billion, but not all of that has been returned to the Treasury. If you had an 2007 EQIP contract and for some reason it was cancelled, and say it was \$10,000, that \$10,000 would go back into the 2007 EQIP pot. If Mr. Goodlatte needed funds for certain reasons, they could draw from that. So until those Treasury symbols expire, they are available for other farmers depending on the year, but at some point in time they will go back. But, as far as how much we have actually sent back to Treasury, I will have to get you that, sir.

Mr. PETERSON. Well, if you could get that information, I would appreciate it.

Mr. Chairman, I yield back.

The CHAIRMAN. The chair thanks the Chairman.

The gentleman from Missouri, Mr. Luetkemeyer.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

I guess this question is for Mr. White. I am kind of curious. We had an overpayment here of about \$49 million. What are the plans to recover that, if any?

Mr. WHITE. The \$40 million—

Mr. LUETKEMEYER. Forty-nine million dollars, is that correct, from 2003 to 2006, overpayments of that amount. Are there plans to recover that or withhold future payments from those individuals who received checks through overpayments of funds?

Mr. WHITE. Right. Is this from the GAO report?

Mr. LUETKEMEYER. Yes.

Mr. WHITE. And this was overpayments in conservation?

Mr. LUETKEMEYER. Right.

Mr. WHITE. Okay. I think of that, and I am a bit unclear, sir, of that \$49 million, it was like \$6 million in conservation, and I don't know, was that related to the AI—I always mess this up. I am saying AIG. It is AGI.

Mr. LUETKEMEYER. AGI. Yes.

Mr. WHITE. It is not the other one.

Mr. LUETKEMEYER. We still have financial troubles here, don't we?

Mr. WHITE. Yes, we do, sir. Let us hope we never get like that. Of the \$49 million, there was \$6 million in NRCS and I will have to go back and find out exactly what the process is right now. What we have done in the past when we found overpayments is, we worked with the producer to get that funding back. In areas like the Conservation Security Program where you would get funding

over a set period of years, say we find out you got paid too much in year 1, well, we can reduce year 2, year 3 and we can even out the payments without having to collect a lot of money from the producer, assuming it is not a scheme or device or something like that. But we will get back to you, sir.

Mr. LUETKEMEYER. Also along that line, I know there has been previous discussion with regards to verifying income and using IRS to initially do that. Do we not require just a page off a tax return to verify income?

Ms. THOMPSON. For adjusted gross income verification, right now it is a certification that we take from the producer. They can provide tax information, or they can have a certification from a CPA or another third party approved by the Secretary to also provide that certification as to their AGI.

Mr. LUETKEMEYER. Is there a sharing of this information between different programs?

Ms. THOMPSON. Yes. We have one AGI process that all the programs use.

Mr. LUETKEMEYER. So in other words, if the farmer—because Mr. Goodlatte a while ago made mention of one of his constituents had six or seven different programs that she was accessing. All those would be able to take from that initial file, whatever information is presented and shared among all those programs?

Ms. THOMPSON. That is correct.

Mr. LUETKEMEYER. Then why do we have a problem with income verification?

Ms. THOMPSON. It is a certification from the producer on an annual basis, so I don't think we have a problem with it. The GAO did this data mining with IRS and identified these possible ineligible payments from producers who may have exceeded the AGI provisions. In the past we have taken either the producer's certification or if they were pulled for spot check, then we would look for additional documentation.

Mr. LUETKEMEYER. Well, if we are already verifying for it, why do we need to go back to the IRS for some additional information? Am I missing something here?

Ms. THOMPSON. We take a certification from the producer and so this is an effort to verify that certification.

Mr. LUETKEMEYER. Okay. The certification from the producer is not a tax return?

Ms. THOMPSON. No, it is a form.

Mr. LUETKEMEYER. It is a form that he can sign and he doesn't necessarily have to tell the truth on it. Is that what you just said?

Ms. THOMPSON. Basically, yes.

Mr. LUETKEMEYER. Okay. So why then aren't we getting the tax return? You are going back to the IRS instead of getting the copy of the tax return.

Ms. THOMPSON. I think there is a concern with us getting tax data from the IRS, and I am not sure that the Tax Code would allow us to get the tax information. This is a way to work with the IRS, for the IRS to look at the tax information and then provide to us whether or not the producer may have exceeded that AGI.

Mr. LUETKEMEYER. Doesn't Farm Services also deal with some credit?

Ms. THOMPSON. Right, the farm loans.

Mr. LUETKEMEYER. And don't you get income tax information from the individual who you loan money to there?

Ms. THOMPSON. Probably, but on a smaller scale. I mean, on the Direct and Countercyclical Payment Program, we have about 1.7 million producers.

Mr. LUETKEMEYER. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The chair thanks the gentleman and recognizes the gentleman from New York, Mr. Massa.

Mr. MASSA. Thank you, Mr. Chairman, and Mr. White, as a freshman Member of this Committee, I must express to you that your candor is very, very welcome. Thank you very much, and thank you for what your personnel in the field do in the many, many farms in my district. This is a question away from finances, but as I have traveled in the last 3 or 4 months throughout the farms, there has been a great appreciation for what the field personnel do where the rubber hit the roads. But, there is also a significant concern as we see the retirement of an awful lot of individuals that have been doing this for 25 to 30 years, and the difficulty in recruiting new personnel who are knowledgeable to take their place. Could you please comment as it pertains to your organizations what kind of recruiting efforts need to be held, and do you see this as a problem as I see it as a problem?

Mr. WHITE. Absolutely. We are an aging workforce. You know, my 15 minutes are going to be up pretty soon and then hopefully I am going to be on a beach somewhere. But I am not there yet. We do have a human capital strategy. We know the number, as this bulge, the Baby Boomers, move through all our organizations, and we trying to aggressively find ways to have younger people or newer employees come into the system. We are very aware of it, very cognizant of it. Could I also talk a little bit about, when you talk about the people in the field offices?

Mr. MASSA. Please.

Mr. WHITE. They are the ones that are on the sharp edge of the sword. That is where we have to implement these programs. I started there carrying a surveying rod for a technician 30-some years ago, and I still love and respect those people. We are trying to look at our organizational structure right now, not so much as what does headquarters look like and then flow down, but what do those people on the sharp edge of the sword, what do they need. Can we develop a direct line of sight from that district person all the way to the Office of the Chief and structure ourselves where we meet their needs, as you move up the organization, we can get more in the field, and we do a better job.

Mr. MASSA. I appreciate that. That is exactly the feedback I am hearing from the farmers with whom I am traveling over the winter months. I would like to know if you would be willing to accept an invitation to come to my district so I can introduce you to some of those people out in the field, and I can satisfy myself that that direct line of sight is in fact being connected. Would you be open to that invitation?

Mr. WHITE. Do they serve value-added barley products there?

Mr. MASSA. Yes, we do, but more importantly, we serve value-added vinting products.

Mr. WHITE. I am not afraid, sir. I am there.

Mr. MASSA. Again, thank you very much.

Mr. WHITE. Thank you, Mr. Massa.

The CHAIRMAN. The chair thanks the gentleman and recognizes the gentleman from Pennsylvania, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman.

My first question actually is for Mr. Stephenson. You mentioned in your testimony that some expiring CRP acres will not be able to be reenrolled due to the reduced enrollment authority of 32 million acres. Are any of these expiring acres suitable for crop production?

Mr. STEPHENSON. Well, yes, I suppose certainly some of them are, and when it comes to the expiration of those contracts, we will work with those producers and NRCS will work with those producers if they want to return it to crop production. It does depend on each individual contract and the location of that land, what types of crops and how they could be cropped, but certainly some of it could be returned to crops. That is correct.

Mr. THOMPSON. Just a follow-up then. With the current struggle to meet the RFS mandate and also provide an adequate and affordable feed supply, shouldn't we focus on enrolling our more environmentally sensitive land and bringing out suitable cropland for production?

Mr. STEPHENSON. We have tried to make great strides in CRP in the past 20-plus years now to convert it from essentially a supply control program to a multidimensional environmental program that focuses on water quality, wildlife, soil erosion, now carbon sequestration, and air quality. We have attempted in the past to restrict, as much as we can, prime farmland from being enrolled in CRP because that land should be cropped. There are some overlaps because no matter the acre, they all provide environmental benefit of some type, especially around streams, for example. So we have endeavored to move in that direction. We understand those demands and we want to work with those demands as these contracts expire and as we remake the program. One of the issues we are going to be focusing on over the next year is soliciting public input on the future direction of CRP and how it should go, given all the demands for land for production, for biomass, for energy, and for conservation.

Mr. THOMPSON. I am certainly encouraged at getting our farmers as part of that, obviously the key stakeholders there. Kind of following that line of unintended consequences, you talk about trying to prevent certain things from happening. A lot of my district is actually a very rural district in Pennsylvania, and I have a question regarding the CREP. Some of the farmers in my district are relying on CREP as a form of retirement because the current reimbursement rate under the program really is significantly higher than the open market value in rural Pennsylvania. Where there are certainly positive benefits from CREP, there is no doubt about that, I am convinced of that, I really do have concerns that one of the unintended consequences is that farms are not easily passed along

from generation to generation because of that. Have there been any efforts to address this situation, from either panelist, please?

Mr. STEPHENSON. I am a little confused as to the question about transferring property to heirs, to family?

Mr. THOMPSON. Right, with the CREP program providing incentives obviously to take it out of production and hence, because of the reimbursement rates, kind of trumps the incentive to pass the farms along in a productive state so that we are continuing to sustain farming through the generations.

Mr. STEPHENSON. We do need to be mindful of that, I agree. When we negotiate CREP agreements with state governments, we endeavor to focus on the environmental need of the state and ensure that it is an important environmental need to the nation as well. The state throws in some extra money and we usually end up with effective payment rates a little bit higher than market level or some higher than market levels. Really, I don't think our intent under CREP is for that to be a retirement program. Generally, although not exclusively, but, generally, our hope is we are focusing on smaller acreages. That said, we also have a 25 percent cropland enrollment limit by county for the program as well. We would certainly like to work with you on that issue to kind of better understand it and follow up if we could.

Mr. THOMPSON. Thank you, Mr. Chairman.

The CHAIRMAN. The chair thanks the gentleman. The Chairman will ask Members for their indulgence here, but Mr. Pomeroy has a problem in North Dakota that he has to attend to. I would like to recognize him out of order at this time. Mr. Pomeroy.

Mr. POMEROY. I thank the Chairman. We have all kinds of problems in North Dakota. I do want to verify with NRCS what Chairman Peterson verified with Minnesota. Is there an emergency reserve being established to deal with such relief as the program administers to inundated areas like is now occurring in the Red River? We are also getting flooding from ice jams in the Missouri at the present time.

Mr. WHITE. Mr. Pomeroy, Godspeed as you go back.

Mr. POMEROY. Thank you.

Mr. WHITE. I wanted to let you know that the program we operate, the Emergency Watershed Protection Program, which helps clean up afterwards, we have already established two accounts, one with Minnesota, one with North Dakota, \$500,000 each, so if they need to do something tonight at midnight or over the weekend, they can do it. They have the money, they have the authority. And the other thing, Mr. Pomeroy, is if they need more, pick up the phone. The second thing is, we are currently conducting a floodplain easement signup across the nation. We have \$145 million in Recovery Act funding for that, and because of what is happening in Minnesota and North Dakota, there are some other areas where Members have asked, we are going to extend that floodplain easement signup for 2 weeks if individuals were interested in that. So, yes, sir, I will confirm that.

Mr. POMEROY. Thank you, and thanks for that extension. I am really not in a position to even evaluate whether we might be talking about a further extension, but at the moment we have high water. We will worry about cleanup tomorrow.

Mr. WHITE. You are doing triage right now.

Mr. POMEROY. Correct. Thank you very much.

Mr. Chairman, thank you.

The CHAIRMAN. The chair thanks the gentleman.

The gentleman from Minnesota, Mr. Schauer.

Mr. SCHAUER. I pass.

The CHAIRMAN. The gentleman passes. The gentlewoman from Colorado, Ms. Markey.

Ms. MARKEY. I hope you haven't covered this but over the course of the audit, the NRCS had to cancel some contracts, I understand, because the landowner was getting paid for work not done. If that is so, can you tell me the extent of that number of any contracts that had to be cancelled?

Mr. WHITE. Thank you, Ms. Markey. I appreciate it. Deobligations occur for a variety of reasons with producers, health, financial. If you don't mind, I brought some samples just to give you an idea. This is from Texas. "I am requesting termination of the last practice in my contract. Due to the loss of my husband, I can no longer financially be able to continue the contract. I hate to not complete what my husband started but with all these increases in expenses, I need to find different avenues." We have one from Colorado. This is a couple that says, "When we were originally awarded the contract, we were in the middle of the growing season and we decided to do it in the fall. Then Katrina hit. Everything we needed for our project went to double or more of the prices we had obtained. The supply of pipe was just not there. This was followed by 3 years of drought and water shortage, which caused us financial problems, and this year was the final blow to our plan when Vince became ill and we were unable to do the work ourselves. There is no money in place to be able to hire the work done." The last one: "I am writing on behalf of my mother. Several things have happened. My brother and partner died. My aunt, who owned part of the place, also passed away. Furthermore, on March 12, 2006, fire burned 99 percent of this place, leaving it unusable. Because of this, we are forced to sell our cattle herd at a huge discount." Those are the kind of letters that I got as a State Conservationist in Montana, that my colleagues around the nation get, and how could I not sign to cancel those contracts? We are not going to investigate, did her husband really pass away or things like that. These are human stories and they are all here, Ms. Markey, and there are real reasons why we deobligated some of these contracts. ERS data shows that there is about a ten percent quit rate in farming every year. Our EQIP data has shown a 13 percent contract cancellation rate. So are we in the ballpark? I don't know. But I saw it in Montana when Katrina hit. The price, anything with steel or pipe in it just doubled or tripled. Our producers can't afford it. We are not—this is different. We are not sending them money. We are helping them pay the cost. They are putting in money to establish these conservation practices that those photos show. It is a joint effort, and when our partners have difficulty, we need to be compassionate and we need to understand their needs, ma'am.

Ms. MARKEY. Thank you.

The CHAIRMAN. Does the gentlewoman yield back?

Ms. MARKEY. Yes, I yield back.

The CHAIRMAN. The gentleman from Kansas, Mr. Moran.

Mr. MORAN. Mr. Chairman, thank you very much. Just a couple of questions, probably directed at FSA. The proposal of having farmers sign a waiver for IRS information, I have concerns with that. One of them is the value of that information to USDA in the sense that an IRS form, a tax form shows adjusted gross income. It doesn't differentiate that the more important issue from an FSA or USDA point of view, which is non-farm adjusted gross income *versus* farm adjusted gross income. So just getting a line on a tax return that says adjusted gross income is insufficient amount of evidence one way or another about whether or not a farmer qualifies. Any thoughts about that?

Ms. THOMPSON. I think we agree with you on that. It isn't a simple calculation for the adjusted gross income provisions. So we are working on a formula in looking at the tax return, for IRS to look at the tax return, not only the adjusted gross income but any schedules that are associated with that to give an indication that their non-farm income exceeds the \$500,000, and then they would provide that ID number back to Farm Service Agency for us to contact the producer for additional follow-up.

Mr. MORAN. And that follow-up occurs at what level? Is the county committee going to be involved in examining a neighboring farmer's return?

Ms. THOMPSON. Our intent is to handle it at a centralized level, but we are not sure yet of the volume, and so the intent is to try to handle it at a more centralized level, a national level.

Mr. MORAN. I have concerns about having it handled at the local level because the privacy invasion is even greater, but at a centralized level, which may mean national, a farmer may be called upon to come to that centralized location, long distance, time, effort, in order to explain his or her tax return. I hope you all take a second look at what you are proposing to do, and thank you for your answer.

In regard to CRP, one of the most common conversations that I have with landowners when I am home is, "Moran, are they going to have a signup this year?" It is a question that farmers, landowners need answers to. We have a huge number of acres that will come out of the program this year. Some of those acres probably could be farmed. Others probably should not be, and September is rapidly approaching. We need answers from USDA about CRP intentions.

Mr. STEPHENSON. Mr. Moran, we do not intend on having a general signup this year. We do intend on having a general signup next year. There are about 4 million acres of land coming due, contracts expiring this fall, and they could return to production. If their land is eligible for continuous signup, they can reenroll the land under a continuous signup contract. They can do that.

Mr. MORAN. Have you reached the conclusion that you now have to go through a NEPA process before you can do a CRP signup?

Mr. STEPHENSON. We know that before we can issue the final rule to implement much of the program that, yes, we will need to do an environmental impact statement on CRP.

Mr. MORAN. Which is a new development in the process?

Mr. STEPHENSON. Actually we did an environmental impact statement after the 2002 Farm Bill before we issued the final rule, and since the beginning of the program before the 2002 Farm Bill back to the beginning of the program, we did an environmental assessment before we issued the rule.

Mr. MORAN. But now the change is that every signup will be preceded by an environmental evaluation?

Mr. STEPHENSON. No, sir, it is going to be by farm bill.

Mr. MORAN. By farm bill?

Mr. STEPHENSON. Yes.

Mr. MORAN. Thank you, Mr. Chairman.

The CHAIRMAN. The chair thanks the gentleman.

The gentleman from Michigan.

Mr. SCHAUER. Thank you, Mr. Chairman, and I appreciate the opportunity to learn as a new Member about the conservation programs. It is great to have both of you here. I am from Michigan, the only Member from the Michigan delegation on the Agriculture Committee, a very important sector in our economy. Michigan has the second most diverse agricultural economy in the country. I am sure you know that, and thanks to your programs for helping us grow. Everything I think about here as a Member of Congress is, how can we help create jobs. We are scrutinizing the conservation program contracts, but I wonder if you can talk about this topic within the context of how can we help fuel our agricultural economy, and if you want to talk about states that are particularly hurting with high unemployment rates, that would be fine with me.

Mr. STEPHENSON. You are correct. The farm bill generally provides quite a bit of money locally and there is a multiplier effect for that money. Take CRP for an example: We make both annual and cost-year payments with that. We are quite confident that seed is bought. They may need to at least do maintenance or buy some small equipment for CRP and the rest of their operation. All that is bought locally. We know in some cases in CRP there is a recreational benefit, public viewing as well as hunting. Hunters come in, they spend money, stay in lodging and maybe even pay the CRP participant. Also, just more broadly in the farm bill, the commodity title pays out lots of money a year locally. Our farm loan programs make loans locally. Under the stimulus bill, the farm loan programs are also providing money throughout, about \$168 million, we have already obligated with stimulus money under our farm loan programs. So that is probably the FSA part.

Mr. WHITE. I am ready. There is a program. It is called IMPLAN. It is a computerized program. It was developed by the Forest Service and University of Minnesota, I believe, and you can actually figure out the multiplier effect that Bob was talking about. In Montana every year, we would figure out how much money was spent on conservation in the various programs and we would actually issue news releases by county on what that meant to the people who lived there because there is a direct relationship. If you buy a fencepost, somebody has to sell it, somebody has to transport it, somebody has to put it up. So a lot of this turns over a great deal. Specifically on the Recovery Act funding, we changed our policy. I mentioned earlier when Mr. Pomeroy was here on the floodplain

easements, part of the purpose of that funding is to increase the workforce, and what we have done is upgrade the restoration requirements of those floodplain easements. We don't want to just buy it and set it and forget it like the "Showtime Rotisserie," but we want to actively restore the hydrology, restore native plants, knock the dikes out and that is all going to create jobs. We have the Watershed Rehabilitation Program. We have \$50 million in that. That is all going to be locally contracted jobs to repair those old dams. Your Ranking Member, Mr. Lucas, has one of the highest populations of those dams in the state as does Texas, so that is going to be jobs there. We are very cognizant. There is a huge spillover impact. I will tell you what I will do is, I will go back and see if we have the IMPLAN data for Michigan and see if we can't provide you specifically what the NRCS, those programs are doing.

Mr. SCHAUER. That would be great. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. The chair thanks the gentleman.

Mr. Stephenson, you mentioned use of the Geospatial Information System as a useful tool for managing and understanding land information that enables more efficient management of conservation programs. Can you elaborate on how you use this technology? Is it available to everyone? Do they pay for it? And how will you spend the recent appropriation of \$24 million?

Mr. STEPHENSON. I will start with describing GIS and maybe I can have some help about how we are going to spend the \$24 million. We use Geospatial Information System technology to—let me back up. We maintain farm field data history, land use data throughout the country, however many farms in the country there are and 300 or so million acres. We are in a process now of digitizing all that information, putting it on a layer, a GIS layer, for example. Then program people like Dave White or myself under CRP, we will be able go read that data and it will help us target what programs—maybe we don't need as much acreage, maybe we can do a better job of targeting the right acreage when we enroll programs. It can also help us with compliance work as far as programs are concerned. We have not yet finished the digitization of all that land nationally. With luck, I believe it will be done by the end of the year, but it is a long process and so there are some states because of Katrina in 2005 are a little behind schedule. One thing we have done in CRP with the GIS is, when we implemented in 2006 the Emergency Forestry Conservation Reserve Program for the 2005 hurricanes, we did it using GIS as much we could in that area and we did it on a web-based program. More recently in the past year or so, we have rolled out web-based continuous signup for CRP that also uses GIS. I do not believe that data is yet available publicly even though I suspect we are going to have to address that sometime in the future.

The \$50 million on the stimulus is not going to be used for GIS, but we are going to be using with 2009 money \$24 million to support—I need to give you some more information.

The CHAIRMAN. I have several other questions and some suggestions, and maybe I will just submit them to you and you could respond back to the Subcommittee as quickly as possible. But just one, and if you can't answer this, I understand it, but you just said

\$50 million in the stimulus you are not going to use. Do you know what you are going to use it for?

Mr. STEPHENSON. It is going to be used for stabilization of the system and perhaps modernization of our automated system. I did not mean to suggest that it was going to necessarily all be used for GIS.

The CHAIRMAN. Like I said, sir, I have several more questions and suggestions. I will submit them to you and if you can get back to us as soon as possible.

Mr. White?

Mr. WHITE. I would like to talk about GIS because we have upgraded our capabilities. We do cooperate a lot with FSA, but one key thing and it directly relates to what Ms. Markey was saying. I gave her deobligations from a personal producer standpoint but there are other reasons for that as well, like when we would do an EQIP contract. We use a program called ToolKit and we will have the map from the common land unit from FSA and say we were going to put a fence. Well, in the past we would say well, that looks like about 1,000 feet. We would estimate it. With GIS now, we can go in there and we know it is 963.5 feet, and that means our contracts are more accurate and we are less likely to overestimate or underestimate when we put those conservation plans together. That is one of the great things that GIS is doing for us.

The CHAIRMAN. Thank you.

Do any Members have any follow-up questions?

Mr. MORAN. Mr. Chairman, Mr. Goodlatte had a question that I would appreciate—

The CHAIRMAN. The chair recognizes the gentleman from Kansas.

Mr. MORAN. Thank you, Mr. Chairman.

Mr. Peterson of the Committee contended that producers have had to sign a waiver before the 2008 Farm Bill to release information to the IRS. Is that accurate, and what is that waiver and is it mandatory?

Ms. THOMPSON. Beginning with this year with the signup for the 2009 direct and countercyclical payments, there is a new adjusted gross income form that producers are signing that does have a statement on there that the producer agrees to allow Farm Service Agency to contact IRS to verify the AGI information.

Mr. MORAN. And that comes about with giving USDA authority—let me say that differently. I am sorry. In what way did Congress give USDA authority in regard to that waiver?

Ms. THOMPSON. The way we are reading it, it is part of the enforcement provision on the adjusted gross income.

Mr. MORAN. From the previous farm bill?

Ms. THOMPSON. No, this was under the 2008 Farm Bill.

Mr. MORAN. So any authority that you have to require a farmer to grant the waiver for access to information in your opinion comes from the 2008 Farm Bill?

Ms. THOMPSON. Right, and I am not sure about the previous farm bill. I would have to check on that.

Mr. MORAN. If you would, thank you.

Ms. THOMPSON. Thank you.

Mr. MORAN. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. Any other follow-up questions?

The chair thanks the panel for their testimony and looks forward to working with you.

We will now call up our second panel. Ms. Kathleen Tighe, Deputy Inspector General, Office of Inspector General, U.S. Department of Agriculture; Ms. Lisa Shames, Director of Natural Resources and Environment, U.S. Government Accountability Office; and Mr. John Jurich, Investigator for the Agriculture Committee, U.S. House of Representatives.

Ms. Tighe, you may proceed when you are ready.

STATEMENT OF KATHLEEN S. TIGHE, DEPUTY INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Ms. TIGHE. Thank you very much, Mr. Chairman, Members of the Subcommittee. Thank you for asking us here to address the Natural Resources Conservation Service's administration and management of its programs.

As part of our oversight responsibilities, we have conducted a variety of work in this area including both financial statement audits and audits of NRCS's and FSA's program operations. The Chief Financial Officers Act mandated that the Office of Inspector General perform audits of the Department's financial statements. We have conducted the audit of the Department's consolidated financial statements and stand-alone audits of FNS, RD, Forest Service and CCC. For the other agencies including FSA, we selected transactions from them in the universe we look at for purposes of the consolidated financial statement.

In Fiscal Year 2007, our financial audit responsibilities were expanded to include a separate audit of NRCS's financial statements. For Fiscal Year 2008, NRCS, in conjunction with us, contracted with KPMG for a full financial statement audit. That audit was the first attempt to audit NRCS's transactions comprehensively. KPMG found that NRCS could not support its transactions and account balances due to a wide range of documentation problems including lack of evidence supporting obligations such as accrued expenses, undelivered orders and unfilled customer orders. We found these problems occurred mainly because NRCS lacked Federal financial accounting experience or expertise. Until 2004, NRCS had relied on FSA employees to help account for its transactions and had not developed a staff of accounting professionals.

As to the NRCS program operations, I would like to talk about a couple of recent audits we have done in the Wetlands Reserve Program. The Wetlands Reserve Program has been the subject of three different audits over the last several years. Our first audit dealt with how NRCS compensated owners for land that would be used for conservation. Legally, NRCS was required to limit landowner compensation to the difference between the fair market value of the land before and after the conservation easement. NRCS assumed the land subject to these easements had little or no remaining market value. However, our review found that the market value can be substantial. As a result, we estimated that

NRCS could have potentially saved the program more than \$159 million for the 5 year period we looked at.

Our second audit report found that ongoing problems of coordination between NRCS and FSA resulted in producers receiving farming subsidies for lands that should have been retired. When producers participate in the Wetlands Reserve Program, they must inform FSA that they have reduced the arable land they are farming by the number of acres now being dedicated to conservation. In our review, we found cases in which landowners had not notified FSA and continued receiving farm subsidy payments for land where the conservation easements had been purchased by the government. We also found a handful of cases involving the grassland reserve easements where NRCS in fact had done the notifications but FSA hadn't made the adjustments to the crop base.

Our third report noted problems with how NRCS monitored landowners' overall compliance with conservation programs. We found that five of the six state offices we reviewed did not annually monitor nearly 90 percent of our sample of 153 easements. We also found possible noncompliance issues on approximately 40 percent of the easements we did visit.

We are currently completing a review of NRCS's implementation of its Dam Rehabilitation Program. Congress appropriated approximately \$160 million for Fiscal Years 2002 through 2007 for purposes of assessing and rehabilitating our aging system of flood control structures. We found, however, that NRCS had not assessed for rehabilitation 79 percent of the dams categorized as high hazard. In our preliminary discussions with senior NRCS officials, they acknowledged the need to expeditiously complete these assessments.

We appreciate the cooperation and the assistance of NRCS and FSA during our oversight reviews, and I am happy to answer any questions.

[The prepared statement of Ms. Tighe follows:]

PREPARED STATEMENT OF KATHLEEN S. TIGHE, DEPUTY INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Good morning, Mr. Chairman and Members of the Subcommittee. Thank you for inviting me to appear before you today to address the Natural Resource Conservation Service's (NRCS) administration and management of its programs.

As the oversight agency of the U.S. Department of Agriculture (USDA), the Office of Inspector General (OIG) works to ensure that the Department's programs are delivered as efficiently and as effectively as possible and to prevent fraud, waste, and abuse in USDA's programs and operations. As part of overseeing NRCS, we have conducted a variety of recent audit work, including financial statement audits and audits of NRCS' program operations. We appreciate the agency's cooperation and assistance during these oversight reviews, and we note the good work being done by NRCS personnel across the country. I will begin my remarks by addressing NRCS' efforts to adequately account for the tax dollars it receives and spends.

Financial Statement Audits

The Chief Financial Officers Act of 1990 mandated that OIG perform financial statement audits of the Department's financial statements. In Fiscal Year 2007, OIG's financial audit responsibilities were expanded to include a separate audit of NRCS' financial statements. For Fiscal Year 2008, NRCS, in conjunction with OIG, contracted for an NRCS financial statement audit. The contractor, KPMG, conducted the audit with OIG serving as the Contracting Officer's Technical Representative to oversee and monitor the contract. For Fiscal Year 2008, KPMG was unable

to provide an opinion on NRCS' financial statements because the agency could not document or support its transactions and account balances.

To understand how NRCS arrived at this point, some background is necessary. Prior to 2004, NRCS and the Farm Service Agency (FSA) shared responsibility for farm programs. As part of this arrangement between the two agencies, NRCS provided the technical assistance producers required, and FSA administered the programs, including providing the financial accounting. Since the Chief Financial Officers Act of 1990 did not require a separate financial statement audit of NRCS, OIG did not issue a separate opinion on the agency's financial statements. Instead, NRCS' transactions were included in the universe from which we selected transactions for the consolidated financial statement audit.

The Farm Security and Rural Investment Act of 2002 changed this arrangement by making NRCS fully responsible for administering its own farm programs, including the necessary financial accounting. Full responsibility switched to NRCS with the start of Fiscal Year 2004, which meant that NRCS employees were now preparing the transactions we sampled in our consolidated financial statements.

Beginning in Fiscal Year 2007, the Office of Management and Budget (OMB) required a separate financial statement audit of NRCS. In this requirement's first year, the agency contracted to perform a review of several accounts instead of a comprehensive audit. OIG monitored the contractor's work by attending meetings, reviewing audit evidence, and reviewing and approving deliverables. The contractor issued a report noting that NRCS' accounting departed from generally accepted accounting principles. These accounting problems were caused by NRCS overstating unpaid and undelivered orders, needing better accounting controls, and lacking complete supporting documentation. After the review, NRCS embarked on a project to improve its records in preparation for the Fiscal Year 2008 financial statement audit.

The 2008 financial statement audit was the first attempt to audit NRCS' transactions comprehensively. The independent certified public accounting firm contracted to perform this work—KPMG—was unable to provide an opinion because NRCS could not support its transactions and account balances. There were a wide range of documentation problems, including a lack of evidence supporting obligations such as accrued expenses, undelivered orders, and unfilled customer orders. For example, KPMG found a number of accrued expenses (which are expenses that are incurred during 1 fiscal year, but paid later) that either lacked support or lacked support that matched the expense. In addition, KPMG also found deficiencies in how NRCS accounted for leases and easements.

These problems occurred because NRCS lacked Federal financial accounting expertise. Until 2004, NRCS had relied on FSA employees to help account for its transactions, and had not cultivated a staff of accounting professionals. Part of this problem also has to do with how NRCS understands its mission within USDA. Many NRCS officials perceive their primary role as providing technical and scientific assistance to producers. Training employees to correctly account for its activities was not the agency's first priority.

NRCS has taken steps to address the deficiencies disclosed in the 2008 financial audit. To reach a correct statement of the agency's balances as of September 30, 2008, NRCS has:

- Trained over 300 NRCS employees concerning financial accounting principles in the areas that were identified as deficiencies in the Fiscal Year 2008 audit.
- Developed an automated tool to assist these employees as they validate and correct balances for specific general ledger accounts.
- Performed quality assurance reviews of the clean-up efforts performed by the states to address issues identified in the audit.
- Required the Deputy Chiefs and State Conservationists to attest that their financial information is complete, accurate, and reliable.

Based on the results of this clean-up effort, NRCS will adjust its financial statements to what it believes are the correct balances for the fiscal year ending September 30, 2008. NRCS believes these ending balances will serve as the foundation for an improved Fiscal Year 2009 financial statement.

Beginning last month, NRCS engaged the services of KPMG to evaluate the effectiveness of its efforts to clean up its financial statements. While it would be premature to anticipate the results of KPMG's evaluation, NRCS believes that its clean-up efforts will enable the agency to achieve an unqualified opinion on future financial statement audits, which KPMG will also be performing.

Wetlands Reserve Program (WRP): Financial Accounting

As an illustration of how NRCS' financial accounting and its program operations are interrelated, I would like to discuss one of our recent audits of NRCS' Wetlands Reserve Program (WRP).¹ WRP is a voluntary program that offers landowners technical and financial support to restore, enhance, and protect qualified wetlands on their property. By the end of Fiscal Year 2008, over 2 million acres were enrolled in WRP under approximately 9,400 easements and 1,200 restoration agreements. As of October 15, 2008, NRCS had obligated approximately \$150 million in WRP funds for Fiscal Year 2008.

Early in our review of WRP payments, we found that NRCS was obligating expired funds—the agency was using funds that had been authorized under the 1996 Farm Bill after that bill had been superseded by the 2002 Farm Bill. We found over 1,400 WRP contracts, totaling almost \$74 million, that had been obligated using expired WRP funds.

NRCS' financial management officials allowed these expired funds to be used because they had mistakenly assumed that 1996 Farm Bill funds—like the 1990 Farm Bill funds—were “no-year funds” and, therefore, were available for obligation in subsequent fiscal years. We recommended that NRCS adjust its financial accounts to correct for these improper obligations, and the agency took corrective action to resolve this problem.

NRCS Program Management

Turning from NRCS' efforts to account for the funds it receives and spends, I would like to comment now on a number of audits concerning NRCS' program operations that OIG has already issued, or will soon issue.

WRP has been the subject of three different audit reports.² OIG's first audit dealt with how NRCS compensated owners for land that would be used for conservation. Under the WRP statute, NRCS was required to limit landowner compensation to the difference between the fair market value of the land before the WRP conservation easement and the fair market value of the land after the WRP easement (also known as the “residual value”).³ NRCS assumed that lands subject to WRP easements had little or no remaining market value; therefore, the agency issued instructions to establish a residual value of zero. However, we found that the residual value can be substantial. As a result, we estimated that NRCS could have potentially saved the program more than \$159 million from 1999 to 2003. In response to our recommendation, NRCS modified its WRP appraisal methodology to recognize the residual value of easement-encumbered lands.⁴

When producers participate in WRP, they must inform FSA that they have reduced the arable land they are farming by the number of acres now being dedicated to conservation. This step is important because it decreases the farm subsidy the producer receives from FSA. We found cases in which landowners had not notified FSA and continued receiving improper farm subsidy payments for land where conservation easements had been purchased by the government.⁵ This issue formed the basis of our second audit report on WRP, which found that ongoing problems of coordination between NRCS and FSA resulted in producers receiving farming subsidies for land they should have retired.^{6,7}

Our third report on WRP noted problems with how NRCS monitored landowners' compliance with WRP conservation provisions.⁸ During our audit of activities from 2003 to 2005, we found that five NRCS state offices did not annually monitor nearly 90 percent of our sample of 153 WRP easements. We found possible noncompliance

¹“WRP—Wetlands Restoration and Compliance,” Audit Report 10099-4-SF, dated August 25, 2008.

²“WRP—Wetlands Restoration and Compliance,” Audit Report 10099-4-SF, dated August 25, 2008; “Compensation for Easements,” Audit Report 10099-3-SF, dated August 2005; and “Crop Bases on Lands with Conservation Easements—State of California,” Audit Report 50099-11-SF, dated August 2007.

³Residual value is the value of the land with the conservation easement restrictions, which may include the landowner's continued control of access to the land; the right to allow hunting and fishing; and the pursuit of other undeveloped recreational uses, provided such uses do not impact other prohibitions listed in the warranty easement deed.

⁴“Compensation for Easements,” Audit Report 10099-3-SF, dated August 2005.

⁵We also found similar problems in NRCS' Emergency Watershed Protection Program and FSA's Grassland Reserve Program easements.

⁶“Crop Bases on Lands with Conservation Easements—State of California,” Audit Report 50099-11-SF, dated August 2007.

⁷In this report, we audited easements only in California, but NRCS took corrective action nationwide.

⁸“WRP—Wetlands Restoration and Compliance,” Audit Report 10099-4-SF, dated August 25, 2008.

issues on approximately 40 percent of the easement sites we inspected. With the number of easements increasing and field staff decreasing, NRCS has fewer resources to monitor its easements for compliance with program requirements. To correct this problem, NRCS agreed to develop a risk-based monitoring system to optimize its monitoring resources.

OIG also has completed, or will soon complete, audits on other aspects of NRCS' program operations. For instance, we are currently performing an audit of the Conservation Security Program, intended to evaluate the adequacy of NRCS' controls over the program and to review participant and land eligibility.

We are also completing a review of NRCS' implementation of its dam rehabilitation program.⁹ Recognizing the threat to public safety posed by the aging system of flood control structures, Congress appropriated approximately \$160 million from Fiscal Years 2002 to 2007 for the purpose of assessing and rehabilitating these dams. We found, however, that NRCS has not always rehabilitated the dams that pose the greatest risk to public safety. Instead, 7 years after the program was initiated, NRCS has not assessed 1,345 of 1,711 (79 percent) high hazard dams for rehabilitation and has spent \$10.1 million (of the \$160 million) to rehabilitate lower priority dams—dams where failures would be unlikely to result in the loss of human life. NRCS' efforts to implement the dam rehabilitation program have been hindered because the agency does not own the dams and lacks direct regulatory authority over dam owners. However, NRCS has not always established cooperative relationships with the state agencies responsible for overseeing dams. These state agencies can, if the need arises, compel owners to repair a dangerous structure. In our preliminary discussions with senior NRCS officials, they acknowledged the need to expeditiously complete assessment of high hazard dams. They also stated that the additional funding provided under the American Recovery and Reinvestment Act of 2009 will help accomplish this goal.

The American Recovery and Reinvestment Act of 2009 (Recovery Act)

Our review of the dam rehabilitation program is especially timely because the Recovery Act appropriated an additional \$50 million for rehabilitating dams. In a recent meeting with senior NRCS officials, they agreed that our draft report will help them develop "best practices" as the agency prepares to expend the additional funding. We plan to do a followup review of this program later this fiscal year or early next fiscal year, which will provide NRCS an opportunity to demonstrate how it has responded to our recommendations as it spends this stimulus money.

The Recovery Act also appropriated to NRCS an additional \$290 million, which NRCS distributed by allocating \$145 million for floodplain easements and \$145 million for watershed operations. The Department recently announced that it will release the full \$145 million to restore floodplains and protect an estimated 60,000 acres through the floodplain easement component of its Emergency Watershed Protection Program (EWP). Since signups for the easements will end on March 27, we have already staffed an audit team to review this additional funding. In the first phase of this review, we will evaluate the adequacy of NRCS' management controls over easements in EWP, given the control weaknesses we found in the processing of easements under WRP. In the second phase of our review, we intend to verify the eligibility of the participants and whether funds were expended properly.

We plan to apply a similar approach and methodology to our planned review of the \$145 million allocated for watershed operations projects. In its announcement on March 9, 2009, the Department stated that it would be releasing \$80 million of the amount that week. The funding will be provided to sponsoring local organizations, which will operate projects intended to protect watersheds, and promote flood mitigation and water quality improvements.

Mr. Chairman and Members of the Subcommittee, I would like to conclude by thanking the Subcommittee for the opportunity to present OIG's recent work on these issues. I am happy to answer any questions you may have.

The CHAIRMAN. Thank you, Ms. Tighe.
Ms. Shames.

⁹"Rehabilitation of Flood Control Dams," Audit Report 10601-1-At. The report is not yet released.

STATEMENT OF LISA SHAMES, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, D.C.

Ms. SHAMES. Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to discuss our work on USDA's management of its conservation programs. As you know, these programs provide billions of dollars in assistance each year. That is why their efficient and effective management can enhance the stewardship of our natural resources.

My testimony will discuss findings from past GAO reports. Specifically, we found duplicate payments under CSP, EQIP funds not linked to environmental purposes, and farm program payments made to individuals who exceeded the income limit. In response to these findings and our recommendations, USDA has taken a number of actions intended to improve its management of these programs. Overall, these actions appear promising but we have not evaluated their effectiveness.

First, regarding CSP duplicate payments, both legislative and regulatory measures are designed to reduce the potential for duplication between CSP and other conservation programs. For example, both the 2002 and 2008 Farm Bills explicitly prohibit CSP payments for activities that can be funded under other conservation programs. Also, NRCS regulations establish higher minimum eligibility standards for CSP. Despite these measures, our analysis found duplicate payments. In one case, a producer received a CSP payment of over \$9,000 and an EQIP payment of nearly \$800 on the same parcel of land for the same conservation action. In response to our recommendations, NRCS said it had updated software to compare CSP applications and existing contracts, issued a bulletin describing measures to preclude duplicate payments, and indicated it would require applicants to identify any payments received under another conservation program. Subsequently, NRCS told us that it had identified 760 potential or actual duplicate payments totaling nearly \$1 million and has taken appropriate action to preclude or recover these payments.

Regarding EQIP funds, we reported that the general financial assistance formula which accounts for about $\frac{2}{3}$ of funding to the states did not clearly link to the program's purpose of optimizing environmental benefits. Specifically, the formula did not have a documented rationale for its factors and weights. Small differences in the weight can significantly affect the amount of funding a state receives by \$6.5 million. We also reported that the formula used questionable and outdated data. Positively, at the time of our review, we found NRCS had begun to develop performance targets and measures to assess environmental changes resulting from EQIP practices. We noted that this information could help direct funds towards areas of the country that needed the most improvement. In response to our recommendations, NRCS modified the factors and weights, updated some data sources and described how factors in the formula linked to a number of performance measures.

Regarding the integrity of farm program payments, we reported that about \$49 million in farm payments were made to about 2,700 potentially ineligible individuals between Fiscal Years 2003 and 2006. Of the \$49 million, \$14 million was from CRP payments and

\$3 million from EQIP. We found that FSA does not test for income. Instead, FSA tests compliance by looking at how much a farm received in payments in the previous year and whether it experienced a change in ownership, among other things.

The need for management controls will remain critical. The 2008 Farm Bill lowered the income eligibility caps, thus the number of individuals whose adjusted gross income exceeds the caps is likely to rise to as many as 23,000, according to our analysis, and increases the risk that USDA could make improper payments and our analysis shows that that could be as high as \$90 million.

USDA agreed with our recommendations that FSA work with IRS to develop a way to determine whether payment recipients meet eligibility requirements. Last week USDA announced that recipients would be required to sign a form that grants IRS authority to provide income information to USDA so that it can verify it.

In conclusion, USDA conservation programs can play an invaluable role in encouraging farmers to act as stewards of the nation's natural resources. On a positive note, USDA has taken a number of actions to address our findings. Nevertheless, while these actions appear promising, continued oversight is especially critical in light of the nation's current fiscal challenges.

Mr. Chairman, this concludes my prepared statement and I would be pleased to answer any questions that you or Members of the Subcommittee may have.

[The prepared statement of Ms. Shames follows:]

PREPARED STATEMENT OF LISA SHAMES, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, D.C.

Improved Management Controls Can Enhance Effectiveness of Key Conservation Programs

Highlights

Highlights of GAO-09-528T (<http://www.gao.gov/new.items/d09528t.pdf>), testimony before the Subcommittee on Conservation, Credit, Energy, and Research, House Committee on Agriculture.

Why GAO Did This Study

The U.S. Department of Agriculture (USDA) administers conservation programs, such as the Conservation Stewardship Program (CSP, formerly the Conservation Security Program) and the Environmental Quality Incentives Program (EQIP), to help farmers reduce soil erosion, enhance water supply and quality, and increase wildlife habitat, among other things.

This testimony is based on GAO reports on CSP and EQIP, each issued in 2006, and a 2008 report on farm program payments. It discusses (1) the potential for duplicate payments between CSP and other conservation programs, (2) USDA's process for allocating EQIP funds to the states to optimize environmental benefits, and (3) USDA's management controls over farm program payments.

What GAO Recommends

Among other things, GAO recommended that USDA (1) develop a comprehensive process to preclude and identify duplicate payments between CSP and other conservation programs, (2) take steps to improve the EQIP general financial assistance formula, and (3) work with the Internal Revenue Service (IRS) to develop a method for determining whether all recipients of farm program payments meet income eligibility requirements. USDA agreed with these recommendations and has taken actions to implement them, but GAO has not assessed the effectiveness of these actions.

View GAO-09-528T or key components. For more information, contact Lisa Shames at [Redacted], [Redacted].

What GAO Found

While legislative and regulatory measures are in place to reduce the possibility of duplicate payments, the potential still exists because CSP and other USDA conservation programs may be used to finance similar conservation activities. GAO previously reported that USDA did not have a comprehensive process to preclude or identify such duplicate payments, and GAO found a number of instances of duplicate payments. USDA was unaware of this duplication. However, USDA has since updated its contracting software to identify potential duplication and issued written guidance to its field offices outlining measures to preclude duplicate payments. As a result, USDA said that it has identified about 760 examples of potential or actual duplicate payments since Fiscal Year 2004 totaling about \$1 million, and has taken action to preclude or recover these payments, as appropriate.

GAO previously reported that USDA's process for allocating EQIP funds was not clearly linked to the program's purpose of optimizing environmental benefits. Therefore, USDA may not have directed funds to states with the most significant environmental concerns arising from agricultural production. To allocate most EQIP funds, USDA uses a general financial assistance formula that consists of 31 factors and weights. However, USDA did not have a documented rationale for how each factor contributes to accomplishing the program's purpose; some of the formula's data was questionable or outdated; and the funding allocation process was not linked to USDA's long-term performance measures. For Fiscal Year 2009, USDA has issued updated guidance for this formula that appears to address a number of these elements.

GAO reported that USDA does not have adequate management controls in place to verify that farm program payments, including those for conservation programs, are made only to individuals who do not exceed income eligibility caps. As a result, USDA cannot be assured that millions of dollars in farm payments are proper. GAO found that \$49.4 million in farm payments were made to about 2,700 potentially ineligible individuals between Fiscal Years 2003 and 2006. About six percent of this amount was for EQIP payments; 29 percent was for the Conservation Reserve Program, a program that pays farmers to retire environmentally-sensitive cropland. The need for management controls will remain critical, since recent legislation lowered the income eligibility caps and makes the number of individuals whose income exceeds these caps likely to rise. In March 2009, USDA announced that it has begun working with IRS to ensure that high-income individuals and entities who request farm payments meet income limits as set forth in law, and that once this verification system is fully operational, it should identify inappropriate payments before they are disbursed. As GAO has previously reported, ensuring the integrity and equity of farm programs is a key area needing enhanced Congressional oversight. Such oversight can help ensure that conservation programs benefit the agricultural sector as intended and protect rural areas from land degradation, diminished water and air quality, and loss of wildlife habitat.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the U.S. Department of Agriculture's (USDA) management of its conservation programs designed to help farmers be better stewards of our natural resources. Under these programs, primarily the Conservation Stewardship Program (CSP, formerly the Conservation Security Program) and the Environmental Quality Incentives Program (EQIP), USDA and producers (farmers and ranchers) enter into contracts to implement practices to reduce soil erosion, enhance water supply and quality, and increase wildlife habitat, among other things. These conservation programs are administered by USDA's Natural Resources Conservation Service (NRCS). Another USDA agency, the Farm Service Agency (FSA), is responsible for ensuring that only individuals who meet certain eligibility criteria receive Federal farm program payments, including payments for many conservation programs.

As you know, farmers and ranchers own or manage about 940 million acres, or about half of the continental United States' land area, and thus they are among the most important stewards of our soil, water, and wildlife habitat. USDA's conservation programs, which provide billions of dollars in assistance each year, are a key resource in promoting this environmental stewardship. Therefore, it is essential that they be managed effectively and efficiently and that they be adequately overseen to assure that payments are provided only to eligible individuals. We are eager to assist the 111th Congress in meeting its oversight agenda. To that end, we have rec-

ommended that ensuring the integrity and equity of the farm programs is a key area needing Congressional oversight.¹

My testimony today is based on our reports on CSP, EQIP, and Federal farm program payments.² I will focus on three primary issues discussed in these reports: (1) the potential for duplicate payments under CSP and other USDA conservation programs for similar conservation activities, (2) NRCS's process for allocating EQIP funds to the states to optimize environmental benefits, and (3) FSA's efforts to ensure the integrity of farm program payments, including payments for conservation. To perform this work, we reviewed relevant statutory provisions, NRCS, FSA, and other USDA regulations, program documentation, guidelines for implementing EQIP and CSP, and guidance for making farm program payments. We also analyzed data on farm program payments, producer income, and funding allocated to the states under EQIP and to priority watersheds under the Conservation Security Program. In addition, we spoke with officials at NRCS, FSA, other USDA offices, and the Internal Revenue Service (IRS). We conducted our work in accordance with generally accepted government auditing standards.

In summary, USDA has taken a number of actions to address our recommendations to improve its management of these conservation programs and the integrity of farm program payments. Specifically:

- Regarding CSP, we reported that duplicate payments had occurred despite legislative and regulatory measures that were to reduce the potential for duplication between CSP and other programs. We recommended that NRCS develop a process to preclude further duplicate payments as well as to identify and recover past duplicate payments. In response, NRCS updated its contracting software to identify potential duplication and issued written guidance to its field offices in October 2006 outlining measures to preclude duplicate payments. As a result, NRCS reportedly has identified 760 examples of potential or actual duplicate payments since Fiscal Year 2004 totaling nearly \$1 million, and has taken action to preclude or recover these payments, as appropriate.
- Regarding EQIP, we reported that NRCS's formula for allocating financial assistance, which accounts for most of the funding provided to the states, does not link to the program's purpose of optimizing environmental benefits. We recommended that NRCS ensure that the rationale for the formula's factors and weights used to determine the state allocations is documented and linked to program priorities, and that data sources used in the formula are accurate and current. We also recommended that NRCS use information from long-term performance measures to further revise the formula to ensure funds are directed to areas of highest priority. In response, in January 2009, NRCS issued updated guidance for its EQIP funding allocation formula that appears to address a number of the elements raised in our recommendation.
- Regarding the integrity of farm program payments, we reported that USDA cannot be certain that millions of dollars in farm program payments, including conservation payments, it made are proper because it does not have management controls to verify that payments are made only to individuals who did not exceed income eligibility caps. We recommended that FSA work with IRS to develop a method for determining whether all recipients of farm payments meet income eligibility criteria. In response, USDA announced last week that it has begun working with IRS to ensure that high-income individuals and entities who request farm program payments meet income limits as set forth in law. According to USDA, once this verification system is fully operational, it should identify inappropriate payments before they are disbursed.

While these are positive steps, we have not evaluated their effectiveness. In the latter two cases, the agency actions to implement our recommendations are so recent that there is little or no basis yet to do this evaluation.

¹GAO, *Suggested Areas for Oversight for the 110th Congress*, GAO-07-235R (<http://www.gao.gov/new.items/d07235r.pdf>) (Washington, D.C.: Nov. 17, 2006).

²GAO, *Conservation Security Program: Despite Cost Controls, Improved USDA Management Is Needed to Ensure Proper Payments and Reduce Duplication with Other Programs*, GAO-06-312 (<http://www.gao.gov/new.items/d06312.pdf>) (Washington, D.C.: Apr. 28, 2006). GAO, *Agricultural Conservation: USDA Should Improve Its Process for Allocating Funds to States for the Environmental Quality Incentives Program*, GAO-06-969 (<http://www.gao.gov/new.items/d06969.pdf>) (Washington, D.C.: Sept. 22, 2006). GAO, *Federal Farm Programs: USDA Needs to Strengthen Controls to Prevent Payments to Individuals Who Exceed Income Eligibility Limits*, GAO-09-67 (<http://www.gao.gov/new.items/d0967.pdf>) (Washington, D.C.: Oct. 24, 2008). Copies of the *Highlights* pages for these reports are attached to this statement.

Legislative and Regulatory Measures Reduce the Potential for Duplication Between CSP and Other Programs, but Duplicate Payments Have Occurred

EQIP provides assistance to farmers and ranchers to take new actions aimed at addressing identified conservation problems. CSP rewards farmers and ranchers who already meet very high standards of conservation and environmental management in their operations. Farm bill provisions and NRCS regulations are designed to reduce the potential for duplication between CSP and other USDA conservation programs, such as EQIP. For example, the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) and the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill):³

- provide that CSP may reward producers for maintaining conservation practices that they have already undertaken, whereas other programs generally provide assistance to encourage producers to take new actions to address conservation problems on working lands or to idle or retire environmentally sensitive land from agricultural production; and
- explicitly prohibit (1) duplicate payments under CSP and other conservation programs for the same practice on the same land and (2) CSP payments for certain activities that can be funded under other conservation programs, such as the construction or maintenance of animal waste storage or treatment facilities.

USDA has also issued CSP regulations that can prevent duplicate payments between CSP and other conservation programs. For example, the regulations:

- establish higher minimum eligibility standards for CSP than for other programs, which help to differentiate the applicant pool for CSP from the potential applicants for these other programs; and
- encourage CSP participants to implement conservation actions, known as enhancements, to achieve a level of treatment that generally exceeds the level required by other USDA conservation programs.

Despite these legislative and regulatory measures, we reported in 2006 that the potential for duplicate payments still existed because of similarities in conservation actions financed through CSP and other programs. At that time, we found that duplicate payments had occurred. Our analysis of Fiscal Year 2004 payments data showed 72 producers who received payments under CSP and EQIP that appeared to be for similar conservation actions. Of these, we examined 11 cases in detail and found duplicate payments had occurred eight times. For example, four of these duplicate payments were made to producers who received a CSP enhancement payment and an EQIP payment for conservation actions that appeared to be similar. In one of these cases, a producer received a CSP pest management enhancement payment of \$9,160 and an EQIP payment of \$795 on the same parcel of land for the same conservation action—conservation crop rotation.

NRCS state officials agreed that the payments made in these four cases were duplicates. They stated that they were unaware that such duplication was occurring and that they would inform their district offices of it. At the time of our report, NRCS headquarters officials stated that the agency lacked a comprehensive process to either preclude duplicate payments or identify them after a contract has been awarded. Instead, these officials said, as a guard against potential duplication, NRCS relied on the institutional knowledge of its field staff and the records they keep.

NRCS has the authority to recover duplicate payments. Under a CSP contract, as required in the 2002 and 2008 Farm Bills, a producer agrees that if the producer violates any term or condition of the contract, the producer is to refund payments and forfeit all rights to receive payments or is to refund or accept adjustments to payments, depending on whether the Secretary of Agriculture determines that termination of the contract and return of payments is or is not warranted, respectively.

Duplicate payments reduce program effectiveness and, because of limited funding, may result in some producers not receiving program benefits for which they are otherwise eligible. For these reasons, we recommended that the Secretary of Agriculture direct the Chief of NRCS to develop processes to review (1) CSP contract applications to ensure that CSP payments, if awarded, would not duplicate payments made by other USDA conservation programs and (2) existing CSP contracts

³The Conservation Security Program was originally authorized in the 2002 Farm Bill and included measures to reduce the potential for duplication with other USDA conservation programs. Similar measures are also included in the Conservation Stewardship Program authorized in the 2008 Farm Bill.

to identify cases where CSP payments duplicate payments made under other programs and take action to recover appropriate amounts and to ensure that these duplicate payments are not repeated in Fiscal Year 2006 and beyond.

Regarding the first recommendation, in July 2006, NRCS said it had created an automated system within its contracting software to conduct a comparison between new CSP applications and existing contracts for other conservation programs to reveal potential duplication. In addition, in October 2006, NRCS issued a national bulletin to its field staff describing measures needed to preclude duplicate payments. According to the bulletin, NRCS conducted a comparison between existing contracts for several conservation programs, including EQIP, and Fiscal Year 2006 CSP applications to identify potential duplication. This comparison found 81 potential duplicate payments for conservation practices. NRCS said it adjusted the CSP applications to prevent these duplicate payments. Furthermore, NRCS indicated that starting with the Fiscal Year 2006 CSP sign-up, it would require applicants to complete a form that asks an applicant to identify any payments the applicant receives under another conservation program on any of the land being offered for enrollment in CSP. While these actions are positive steps, we have not assessed their effectiveness.

Regarding the second recommendation, NRCS indicated it would use its contracting software to compare existing CSP contracts with existing contracts for EQIP and other conservation programs. Specifically, according to NRCS's national bulletin, its field offices are to compare CSP contract enhancement activities with the practices financed under other conservation program contracts to determine whether duplicate payments are planned in Fiscal Year 2007 and beyond, or if duplicate payments occurred during Fiscal Years 2004 through 2006. NRCS said that all identified duplicate payments would be dealt with according to the NRCS contracting manual. According to NRCS officials, the agency did not have a CSP sign-up in 2007, so there were no new applications that year. In 2008, NRCS received about 2,300 CSP applications, but agency officials said they did not have information on potential duplicate payments. For 2004 to 2006, NRCS officials said the agency found 371 duplicate payments between CSP and EQIP totaling about \$420,000. These officials did not have information on the amount of these payments recovered, but noted that they represented less than one percent of total CSP payments made during these years. Furthermore, NRCS officials stated the agency found 389 scheduled payments totaling about \$520,000 under these programs that would have been duplicates. NRCS was able to preclude these payments from being made.

NRCS's Process for Allocating EQIP Funds to the States Does Not Link to the Program's Purpose of Optimizing Environmental Benefits

In 2006, we reported that NRCS's process for providing EQIP funds to the states is not clearly linked to the program's purpose of optimizing environmental benefits. Specifically, we found that NRCS's general financial assistance formula, which accounts for approximately 2/3 of funding provided to the states, did not have a documented rationale for each of the formula's factors and weights, which are used to determine the allocation of funds to the states to address environmental issues. In addition, the formula sometimes relied on questionable and outdated data. As a result, NRCS may not have been directing EQIP funds to states with the most significant environmental concerns arising from agricultural production.

More specifically, in Fiscal Year 2006, approximately 65 percent of EQIP funds were allocated using a general financial assistance formula. This formula contained 31 factors related to the availability of natural resources and the presence of environmental concerns, such as acres of wetlands and at-risk species habitat, pesticide and nitrogen runoff, and the ratio of commercial fertilizers to cropland. NRCS assigns each of the formula's factors a weight. Factors with the highest weights included acres of highly erodible cropland, acres of fair and poor rangeland, the quantity of livestock, and the quantity of animal waste generated.

At the time of our report, NRCS had periodically modified factors and weights to emphasize different national priorities, such as in Fiscal Year 2004, following the passage of the 2002 Farm Bill. However, NRCS had not documented the basis for its decisions on the formula factors and weights or explained how they achieve the program's purpose of optimizing environmental benefits. Thus, it was not always clear whether the formula's factors and weights directed funds to the states as effectively as possible.

Small differences in the weights can shift the amount of financial assistance directed at a particular concern. For example, in 2006, if the weight of any of the 31 factors had increased by one percent, \$6.5 million would have been shifted at the expense of one or more other factors. The potential for the weights to significantly

affect the amount of funding a state receives underscores the importance of having a well-founded rationale for assigning them.

We also reported that weaknesses in the financial assistance formula were compounded by NRCS's use of questionable and outdated data. First, five of the 29 data sources in the financial assistance formula were used more than once for separate factors. Using the same data for multiple factors may result in more emphasis being placed on certain environmental concerns than intended. Second, NRCS could not confirm the source of data used in ten factors in the formula; as such, we could not determine the accuracy of the data, verify how NRCS generated the data, or fully understand the basis on which the agency allocates funding. Third, NRCS did not use the most current data for six factors in the formula.

Finally, we reported that NRCS had begun to develop more long-term, outcome-oriented performance measures to assess changes to the environment resulting from EQIP practices as part of its 2005 strategic planning effort. These measures included such things as reducing sediment runoff from farms, improving soil conditions on working cropland, and increasing water conservation. NRCS also included proposed targets for each measure to be achieved by 2010, such as reducing sediment runoff by 18.5 million tons annually. At the time of our report, NRCS told us it had developed baselines for these performance measures, and planned to assess and report on them once computer models and other data collection methods that estimate environmental change were completed.

Although we did not assess the comprehensiveness of the EQIP performance measures, the additional information they provide about the results of EQIP outcomes should allow NRCS to better gauge program performance. As a next step, such information could also help the agency refine its process for allocating funds to the states through its general financial assistance formula by directing funds toward practices that address unrealized performance targets and areas of the country that need the most improvement. The Chief of NRCS's Environmental Improvement Programs Branch agreed that information about program performance might eventually be linked to the EQIP funding allocation process. However, at the time of our report, the agency did not have plans to make this linkage.

Because of our concerns about the general financial assistance formula, we recommended that NRCS ensure its rationale for the factors and weights was documented and addressed program priorities, and the data sources used in the formula were accurate and current. We also recommended that the Secretary of Agriculture direct NRCS to continue to analyze current and newly developed long-term performance measures for EQIP and use this information to make further revisions to the financial assistance formula to ensure funds are directed to areas of highest priority.

Since our report, NRCS has made progress in implementing our recommendations by modifying its financial assistance formula for the Fiscal Year 2009 EQIP state allocation. In 2007, an outside consultant hired by NRCS concluded that NRCS should take a number of steps to improve its conservation program formulae, including improving their analytical soundness, making the process more transparent, and integrating performance information into the formulae. NRCS reviewed the EQIP formula and made changes prior to its 2009 allocation, including modifying the factors and weights, and updating some data sources. NRCS also described how factors in the formula relate to a number of EQIP and NRCS performance measures. While NRCS's actions are positive steps, we have not assessed whether they fully address our recommendations.

Additional USDA Management Controls Could Provide More Assurance of Conservation Program Integrity

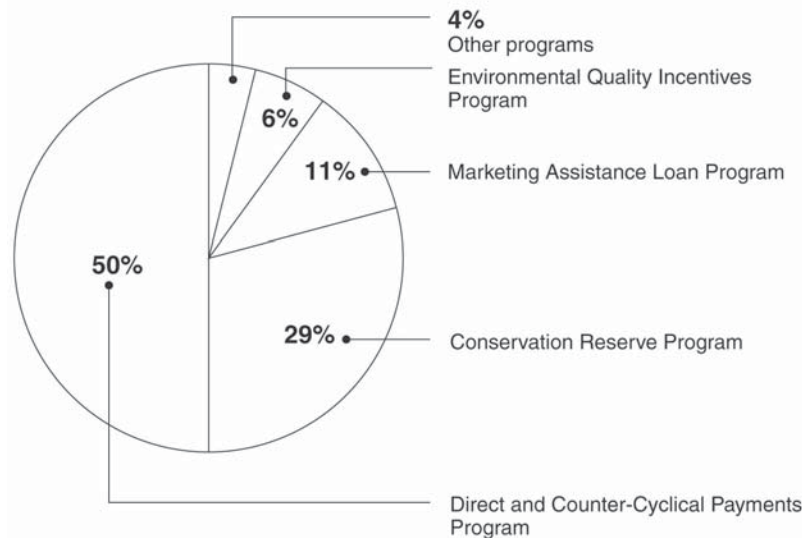
Additional management controls by USDA's FSA could provide more assurance of the conservation programs' integrity by ensuring conservation payments are awarded only to individuals who meet income eligibility requirements.⁴ In October 2008 we reported that USDA cannot be certain that millions of dollars in farm program payments it made are proper, because it does not have management controls, such as reviewing an appropriate sample of recipients' tax returns, to verify that payments were made only to individuals who did not exceed the income eligibility caps. We determined that \$49.4 million in farm payments were made to about 2,700 po-

⁴ Although these limits changed in the 2008 Farm Bill, under the 2002 Farm Bill, an individual or entity with an average adjusted gross income (AGI) of over \$2.5 million, over the previous 3 tax years immediately preceding the applicable crop year, was ineligible for farm program payments unless at least 75 percent or more of the average AGI was farm income, defined as income from farming, ranching, or forestry operations. The AGI provision of the 2002 Farm Bill covered crop years 2003 through 2008 and applied to most farm program payments, including those for crop subsidy payments (e.g., fixed payments based on historical production, known as direct payments, and price support payments), conservation practices, and disasters.

tentially ineligible individuals between Fiscal Year 2003 and Fiscal Year 2006. These recipients included a founder and former executive of an insurance company, an individual with ownership interest in a professional sports franchise, a top executive of a major financial services company, a former executive of a technology company, and individuals residing outside the United States.

As shown in *figure 1*, about six percent of the \$49.4 million was for EQIP payments and 29 percent was for the Conservation Reserve Program. Payments made under the “other programs” category included payments made for other NRCS conservation programs, such as CSP, the Grassland Reserve Program, Wetlands Reserve Program, and Wildlife Habitat Incentives Program.

Figure 1: Percentage of \$49.4 Million Paid to Potentially Ineligible Individuals, by Program, Fiscal Years 2003 through 2006



Source: GAO analysis of USDA data.

According to FSA officials, a number of factors—such as resource constraints that hamper its ability to examine complex tax and financial information and lack of authority to access and use IRS tax filer data for such purposes—contribute to its inability to verify that each individual who received farm program payments was eligible. We also found, however, that the sample FSA draws to check recipient eligibility does not test for income eligibility; instead, FSA reviews compliance with eligibility requirements other than income, such as how much a farming operation received in farm program payments in the previous year and whether it experienced a change in ownership. FSA therefore cannot ensure that only individuals who meet the income eligibility caps are receiving farm payments.

Without better management controls, USDA cannot be assured that millions of dollars in farm program payments, including conservation payments, are proper. This need for management controls will remain critical, since the 2008 Farm Bill lowered the income eligibility caps. This change makes the number of individuals whose adjusted gross income exceeds the caps likely to rise, which increases the risk that USDA could make improper payments to more individuals.

To ensure greater program integrity, we recommended that the Secretary of Agriculture direct FSA to work with IRS to develop a method for determining whether all recipients of farm program payments meet income eligibility requirements, and, if the Secretary finds that USDA does not have authority to obtain information from IRS, request the authority it would need from Congress. USDA agreed with our recommendations and, in a March 19, 2009, news release, the agency announced that it would work with IRS to ensure that high-income individuals and entities who request USDA payments meet income limits set forth in the 2008 Farm Bill. Specifically, in order to be eligible for USDA payments all recipients will be required to sign a separate form that grants IRS authority to provide income information to

USDA for verification purposes. According to USDA, once this verification system is fully operational, it should identify inappropriate payments before they are disbursed.

Conclusions

In conclusion, USDA conservation programs can play an invaluable role in encouraging farmers and ranchers to act as stewards of the nation's natural resources. However, the weaknesses we previously identified in the management of CSP and EQIP funds, as well as our concerns with controls related to farm program payments more generally, could undermine the effectiveness of USDA conservation programs. On a positive note, in response to our recommendations, USDA has taken a number of promising actions to eliminate duplicate payments between CSP and other programs, refine the EQIP allocation formula by updating its factors, weights, and data sources and, in some cases, identifying how the factors relate to long-term performance measures, and strengthen management controls over farm program payments. While these actions are positive, continued oversight of these programs, such as today's hearing, helps ensure funds are spent as economically, efficiently, and effectively as possible and benefit the agricultural sector as intended. Such oversight is especially critical in light of the nation's current deficit and growing long-term fiscal challenges.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions that you or other Members of the Subcommittee may have.

Contacts and Staff Acknowledgements

Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. For further information about this testimony, please contact Lisa Shames, Director, Natural Resources and Environment, [Redacted] or [Redacted]. Key contributors to this statement were James R. Jones, Jr., Assistant Director; Thomas M. Cook, Assistant Director; Kevin S. Bray; Gary T. Brown; Paige M. Gilbreath; Leslie V. Mahagan; and Carol Herrnstadt Shulman.

ATTACHMENT 1

Conservation Security Program

Despite Cost Controls, Improved USDA Management Is Needed to Ensure Proper Payments and Reduce Duplication with Other Programs

Highlights

Highlights of GAO-06-312 (<http://www.gao.gov/new.items/d06312.pdf>), a report to the Chairman, Committee on Appropriations, U.S. Senate.

Why GAO Did This Study

The Conservation Security Program (CSP)—called for in the 2002 Farm Bill and administered by the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS)—provides financial assistance to producers to reward past conservation actions and to encourage further conservation stewardship. CSP payments may be made for structural or land management practices, such as strip cropping to reduce erosion. CSP has raised concerns among some stakeholders because CSP cost estimates generally have increased since the 2002 Farm Bill's enactment. For example, the Congressional Budget Office's estimate increased from \$2 billion in 2002 to \$8.9 billion in 2004.

GAO determined (1) why CSP cost estimates generally increased; (2) what authority USDA has to control costs and what cost control measures exist; and (3) what measures exist to prevent duplication between CSP and other USDA conservation programs and what duplication, if any, has occurred.

What GAO Recommends

GAO recommends, in part, that NRCS review its state offices' wildlife habitat assessment criteria and develop a process to preclude and identify duplicate payments. NRCS generally agreed with GAO's findings and recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-06-312.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robert A. Robinson at [Redacted] or [Redacted].

What GAO Found

Various factors explain why estimates of CSP costs generally increased since the 2002 Farm Bill's enactment. Of most importance, little information was available regarding how this program would be implemented at the time of its inception in

2002. As more information became available, cost estimates rose. In addition, the time frames on which the estimates were based changed. While the initial estimates covered years in which the program was expected to be nonoperational or minimally operational, subsequent estimates did not include these years.

The farm bill provides USDA general authority to control CSP costs, including authority to establish criteria that enable it to control program participation and payments and, therefore, CSP costs. For example, NRCS restricts participation by limiting program enrollment each year to producers in specified, priority watersheds. NRCS also has established certain CSP payment limits at levels below the maximum allowed by the statute. However, efforts to control CSP spending could be improved by addressing weaknesses in internal controls and inconsistencies in the wildlife habitat assessment criteria that NRCS state offices use, in part, to determine producer eligibility for the highest CSP payment level. Inconsistencies in these criteria also may reduce CSP's conservation benefits.

The farm bill prohibits duplicate payments for the same practice on the same land made through CSP and another USDA conservation program. Various other farm bill provisions also reduce the potential for duplication. For example, as called for under the farm bill, CSP may reward producers for conservation actions they have already taken, whereas other programs generally provide assistance to encourage new actions or to idle or retire environmentally sensitive land from production. In addition, CSP regulations establish higher minimum eligibility requirements for CSP than for other programs. However, despite these legislative and regulatory provisions, the possibility that producers can receive duplicate payments remains because of similarities in the conservation actions financed through these programs. In addition, NRCS does not have a comprehensive process to preclude or identify such duplicate payments. In reviewing NRCS's payments data, GAO found a number of examples of duplicate payments.

Strip Cropping to Reduce Soil Erosion



Source: Photo courtesy of USDA NRCS.

Note: Strip cropping means growing row crops, forages, or small grains in equal width strips.

ATTACHMENT 2

Agricultural Conservation

USDA Should Improve Its Process for Allocating Funds to States for the Environmental Quality Incentives Program

Highlights

Highlights of GAO-06-969 (<http://www.gao.gov/new.items/d06969.pdf>), a report to the Ranking Democratic Member, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

Why GAO Did This Study

The Environmental Quality Incentives Program (EQIP) assists agricultural producers who install conservation practices, such as planting vegetation along streams and installing waste storage facilities, to address impairments to water, air, and soil caused by agriculture or to conserve water. EQIP is a voluntary program managed by the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS). NRCS allocates about \$1 billion in financial and technical assistance funds to states annually. About \$650 million of the funds are allocated through a general financial assistance formula.

As requested, GAO reviewed whether USDA's process for allocating EQIP funds to states is consistent with the program's purposes and whether USDA has developed outcome-based measures to monitor program performance. To address these

issues, GAO, in part, examined the factors and weights in the general financial assistance formula.

What GAO Recommends

GAO recommends, among other things, that NRCS document its rationale for the factors and weights in its general financial assistance formula and use current and accurate data. USDA agreed with GAO that the formula needed review. USDA did not agree with GAO's view that NRCS's funding process does not clearly link to EQIP's purpose of optimizing environmental benefits. It believes that the funding process clearly links to EQIP's purpose, but it has not documented the link.

www.gao.gov/cgi-bin/getrpt?GAO-06-969.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Daniel Bertoni at [Redacted] or [Redacted].

What GAO Found

NRCS's process for providing EQIP funds to states is not clearly linked to the program's purpose of optimizing environmental benefits; as such, NRCS may not be directing funds to states with the most significant environmental concerns arising from agricultural production. To allocate most EQIP funds, NRCS uses a general financial assistance formula that consists of 31 factors, including such measures as acres of cropland, miles of impaired rivers and streams, and acres of specialty cropland. However, this formula has several weaknesses. In particular, while the 31 factors in the financial assistance formula and the weights associated with each factor give the formula an appearance of precision, NRCS does not have a specific, documented rationale for (1) why it included each factor in the formula, (2) how it assigns and adjusts the weight for each factor, and (3) how each factor contributes to accomplishing the program's purpose of optimizing environmental benefits. Factors and weights are important because a small adjustment can shift the amount of funding allocated to each state on the basis of that factor and, ultimately, the amount of money each state receives. For example, in 2006, a one percent increase in the weight of any factor would have resulted in \$6.5 million more allocated on the basis of that factor and a reduction of one percent in money allocated for other factors. In addition to weaknesses in documenting the design of the formula, some data NRCS uses in the formula to make financial decisions are questionable or outdated. For example, the formula does not use the most recent data available for six of the 31 factors, including commercial fertilizers applied to cropland. As a result, any recent changes in a state's agricultural or environmental status are not reflected in the funding for these factors. During the course of GAO's review, NRCS announced plans to reassess its EQIP financial assistance formula.

NRCS recently developed a set of long-term, outcome-based performance measures to assess changes to the environment resulting from EQIP practices. The agency is also in the process of developing computer models and other data collection methods that will allow it to assess these measures. Thus, over time, NRCS should ultimately have more complete information on which to gauge program performance and better direct EQIP funds to areas of the country that need the most improvement.

ATTACHMENT 3

Federal Farm Programs

USDA Needs to Strengthen Controls to Prevent Payments to Individuals Who Exceed Income Eligibility Limits

Highlights

Highlights of GAO-09-67 (<http://www.gao.gov/new.items/d0967.pdf>), a report to the Ranking Member, Committee on Finance, U.S. Senate.

Why GAO Did This Study

Farmers receive about \$16 billion annually in Federal farm program payments. These payments go to about two million recipients, both individuals and entities. GAO previously has reported that the U.S. Department of Agriculture (USDA) did not consistently ensure that these payments went only to those who meet eligibility requirements.

GAO was asked to evaluate (1) how effectively USDA implemented 2002 Farm Bill provisions prohibiting payments to individuals or entities whose income exceeded \$2.5 million and who derived less than 75 percent of that income from farming, ranching, or forestry operations, (2) the potential impact of the 2008 Farm Bill's income eligibility provisions on individuals who receive farm payments, and (3) the distribution of income of these individuals compared with all 2006 tax filers. GAO

compared USDA data on individuals receiving payments with the latest available Internal Revenue Service (IRS) data on these individuals.

What GAO Recommends

GAO recommends that USDA work with IRS to develop a system for verifying the income eligibility for all recipients of farm program payments. If USDA determines that it needs authority to work with IRS, it should seek this authority from Congress, as appropriate. In commenting on a draft of this report, USDA agreed with these recommendations but disputed some of the findings. GAO believes that the report is fair and accurate.

To view the full product, including the scope and methodology, click on GAO-09-67 (<http://www.gao.gov/new.items/d0967.pdf>). For more information, contact Lisa Shames at [Redacted] or [Redacted].

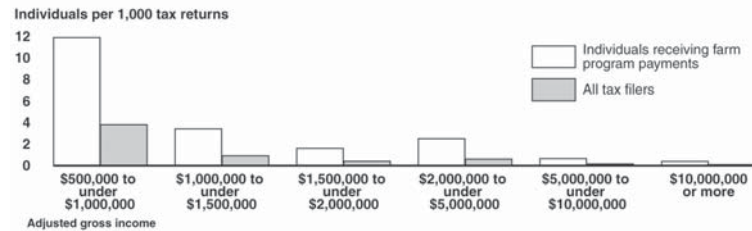
What GAO Found

USDA does not have management controls, such as reviewing an appropriate sample of recipients' tax returns, to verify that payments are made only to individuals who do not exceed income eligibility caps and therefore cannot be assured that millions of dollars in farm program payments it made are proper. GAO found that of the 1.8 million individuals receiving farm payments from 2003 through 2006, 2,702 had an average adjusted gross income (AGI) that exceeded \$2.5 million and derived less than 75 percent of their income from farming, ranching, or forestry operations, thereby making them potentially ineligible for farm payments. Nevertheless, USDA paid over \$49 million to these individuals. According to USDA officials, a number of factors—such as resource constraints that hamper its ability to examine complex tax and financial information as well as a lack of authority to obtain and use IRS tax filer data for such purposes—contribute to the department's inability to verify that each individual who receives farm program payments complies with income eligibility provisions. However, USDA does not routinely sample individuals receiving farm payments to test for income eligibility; instead, its annual sample selected for review is based primarily on compliance with eligibility requirements other than income. The 2008 Farm Bill directs USDA to use statistical methods to target those individuals most likely to exceed income eligibility caps.

The 2008 Farm Bill will increase the number of individuals likely to exceed the income eligibility caps. That is, with lower income eligibility caps under the 2008 Farm Bill, the number of individuals whose AGI exceeds the caps will rise, increasing the risk that USDA will make improper payments to more individuals. For example, had the new farm bill been in effect in 2006, as many as 23,506 individuals who received farm program payments would likely have been ineligible for crop subsidy and disaster assistance payments totaling as much as \$90 million.

Compared with all tax filers, individuals who participated in farm programs in 2006 are more likely to have higher incomes. For example, as shown in the figure below, 12 of every 1,000 individuals receiving farm program payments reported AGI between \$500,000 and \$1 million compared with about four of all tax filers who reported income at this level.

Distribution of Income of Individuals Receiving Farm Program Payments and All Tax Filers, 2006



Source: GAO analysis of USDA and IRS data.

The CHAIRMAN. Thank you, Ms. Shames.
Mr. Jurich.

**STATEMENT OF JOHN J. JURICH, INVESTIGATOR, COMMITTEE
ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.**

Mr. JURICH. Thank you. Chairman Holden, Members of the Committee, my name is John Jurich and I work as an Investigator for the House Agriculture Committee. I am pleased to testify before you this morning about a review of conservation programs that was performed this past year. The review is still in progress and the findings are of an interim category.

The review entailed examination of more than 100 Wetlands Reserve Program and Wildlife Habitat Incentives Program project files from 20 states along with interviews of senior program managers in Washington, D.C., and St. Paul, Minnesota. These projects spanned a timeframe of about 10 years from 1998 until last year, 2008, and were focused primarily on the larger easements and restoration agreements in the program both in dollar amount and acreage. The files that were examined represented payments and restoration costs totaling over \$150 million.

The primary focus of the review was to examine program eligibility requirements, whether the land as well as the landowners met the basic requirements for participation in WRP and WHIP. Briefly stated, the results of the review disclosed that NRCS was very careful to demonstrate the eligibility of the land with various wetland requirements, as well as establishing legal ownership of the land, clear title and the absence of any encumbrances. However, the agency was often in poor compliance with AGI requirements set in the 2002 Farm Bill. NRCS also routinely ignored or excused its noncompliance with 12 month ownership requirement of earlier legislation.

With respect to AGI compliance, the files demonstrated the general failure of the agency personnel either to request the required financial checks, or to adequately document that such checks had been performed. The initial set of state files that were reviewed contained 63 easements or long-term agreements executed between 2003 and 2008. Of the 63 files, only eight contained either signed certifications or database printouts documenting program eligibility. A second set of files comprising 35 Minnesota contracts contained just three examples of AGI eligibility documentation. Both the national office in Washington and Minnesota State office in St. Paul sought additional certifications and printouts for some of the missing documents, but in many instances the certifications had not been requested by NRCS at the time of application and were missing from the FSA program database.

The program management also calls into question the effectiveness of the 12 month ownership requirement. A number of conservation and wildlife protection partner organizations, both governmental and non-governmental, worked out mutual understandings with landowners and NRCS to acquire private land along with the WRP easements. These agreements were made sometimes with and sometimes without waivers of the 12 month ownership requirement by State Conservationists. The partners purchased properties from private landowners at the same time as NRCS placed easements on the land, or shortly before the easements were filed. Legal agreements among the parties in many instances made clear

that the easement funds from NRCS were part and parcel of down payments for land acquisition by the partners without which the agreements would be voided. Irrespective of the waivers, the acquisitions appeared to be an end run around the 12 month ownership requirement. In many of these cases, the conservation partner was enrolling the land in a preexisting refuge, a water storage area of a wildlife district. NRCS in these instances simply became a cash cow, enabling the partner organizations to acquire private lands at discount prices. In some of the instances, there was simultaneous closing. The land was sold from the private landowner to the partner organization at the same time that NRCS placed the easement on the land. In these instances, there was not 12 months of ownership. The agency was lucky if there was 12 minutes.

Additional program management issues such as project implementation, billing and regular project oversight were also raised during this review. NRCS was generally quick to schedule and pay for the cost of appraisals, land surveys and title work of projects, but it appeared somewhat sluggish in beginning the actual restoration work. Some WRP projects had anywhere from 18 months to a 2 year lag between the filing of the easement or long-term agreement and the start of restoration work. A few projects, according to the file documentation, underwent no restoration work whatsoever. I will comment briefly on some of the more egregious examples. The NRCS signed a long-term cost-share agreement with one of the water districts down in south Florida. The cost-share agreement for more than \$1 million was signed in 2003. In 2004, nothing was done. In 2005, 2006, 2007, nothing was done. In 2008, NRCS and the partner organization, the water district, basically agreed to disagree. They decided they couldn't come together and get a common restoration plan and the agreement was cancelled. For 5 or 6 years then you had \$1 million in program funds sitting on the books and obligations, and nothing being done with the money.

Billing for restoration work was also at times severely delayed. This happened often in larger contracts with partner organizations, but in some cases applied to contracts with individual landowners. Some of these billings and payments reached into six figures and were submitted up to a year or more after the restoration work in question had begun. Such delays defeat any kind of real oversight over the performance of the work and the accuracy of the amount being billed.

The monitoring of restoration projects was uneven and appeared to follow no set plan. The regulations required annual reviews with at least one actual site visit every 3 years until the conservation practices were established. Some states completed annual status reviews both during and after restoration. Other states did little, if anything, to evaluate program compliance once the easements were filed and restoration work had begun. In these instances, it is not difficult to understand why OIG went out a couple of years ago and found 40 percent of the easements they visited in non-compliance with one or more of the easement restrictions.

The program files, as I mentioned, were very uneven in terms of documentation. Only a handful of agency offices noted the completion of restoration work in the project files. A few states did an ex-

cellent job in documenting the files, most notably, Indiana, Nebraska and Louisiana. The state office in Minnesota also had excellent files. However, many other states did not, and absent from many of the states files were the normal documentation of financial eligibility, highly erodable land determinations, site monitoring, cultural and historical site reviews.

I appreciate the opportunity to discuss the results of this review with you and look forward to any of your questions. Thank you.

[The prepared statement of Mr. Jurich follows:]

PREPARED STATEMENT OF JOHN J. JURICH, INVESTIGATOR, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

Subcommittee Chairman Holden, Ranking Member Goodlatte, and Members of the Subcommittee, I am pleased to testify before you today about the review of two Federal conservation programs that was performed this past year.

This review entailed an examination of more than 100 Wetlands Reserve Program (WRP) and Wildlife Habitat Incentives Program (WHIP) project files from twenty states, along with interviews of senior program managers in Washington, D.C., and St. Paul, Minnesota.

These projects spanned a time frame of 10 years, from 1998 to 2008, and were focused primarily on the larger easements and restoration agreements in the program, both in dollar amount and acreage. The files that were examined represented easement payments and restoration costs totaling over \$150 million.

The primary focus of the review was to examine program eligibility requirements—whether the land as well as the landowners met the basic requirements for participation in WRP and WHIP. Briefly stated, the results of the review disclosed that the Natural Resources Conservation Service (NRCS) was very careful to demonstrate the eligibility of the land with various wetlands requirements, as well as establishing the ownership of the land as a legal possession. However, the agency was often in poor compliance with the adjusted gross income (AGI) requirements set in the 2002 Farm Bill. NRCS also routinely ignored, or excused its non-compliance with, the twelve month ownership requirement of earlier legislation.

The file review also demonstrated problems with the timely attention to restoration activities once an easement had been filed or a restoration plan had been agreed to. Both the actual startup work and the subsequent submission of billings or invoices by participants and contractors were often delayed. Finally, the files were frequently lacking documentation of the annual monitoring of the easements and restoration projects required by both programs.

With respect to AGI compliance, the files demonstrated a general failure of agency personnel, either to request the required financial checks, or to adequately document that such checks had been performed. The initial set of state files that were reviewed contained sixty-three easements or long-term agreements executed between 2003 and 2008. Of these sixty-three files, only eight contained either signed certifications or SCIMS database printouts documenting program eligibility. A second set of files, comprising thirty-five Minnesota contracts, contained just three examples of AGI eligibility documentation. Both the national office in Washington and the Minnesota State office in St. Paul sought additional certifications and printouts for some of the missing documents. But in many instances, the certifications had not been requested by NRCS at the time of application. The certifications were not only missing from agency files but never entered into the FSA program database.

The program management also calls into question the effectiveness of the twelve month ownership requirement. A number of conservation and wildlife protection partner organizations, both governmental and non-governmental, worked out mutual understandings with landowners and NRCS to acquire private land along with WRP easements. These agreements were made sometimes with and sometimes without waivers of the twelve month ownership requirement by the state conservationists. The partners purchased properties from the private landowners at the same time as NRCS placed easements on the land or shortly before the easements were filed. Legal agreements among the parties in many instances made clear that the easement funds from NRCS were part and parcel of down payments for the land acquisitions by the partners without which the agreements would be voided.

Irrespective of the waivers, the acquisitions appeared to be an end run around the 12 month waiting requirement. In many of these cases, the conservation partner was enrolling the land in a pre-existing refuge, water storage area, or wildlife dis-

tract. NRCS, in these instances, simply became a cash cow enabling partner organizations to acquire private lands at discount prices.

Additional program management issues, such as project implementation, billing, and regular project oversight, were also raised during this review. While NRCS was generally quick to schedule and pay for the costs of appraisals, land surveys, and title work of projects, it appeared somewhat sluggish in beginning the actual restoration work. Some WRP projects had anywhere from an 18 month to 2 year lag between the date of easement or long term agreement and the start of restoration work. A few projects, according to the file documentation, underwent no restoration work whatsoever.

In a few instances, the agency wholly deferred the management and oversight of restoration work and easement sites to certain partner organizations, such as the U.S. Fish & Wildlife Service, state conservation agencies, and others. In these cases, it was impossible to tell if any restoration work had been done at all. If NRCS has no intention of overseeing a WRP conservation easement to ensure compliance with program requirements, then it should not be filing one.

Billings for restoration work were also at times severely delayed. This happened often in large contracts with partner organizations, but in some cases applied to contracts with individual landowners. Some of these billings and payments reached into six figures and were submitted up to a year or more after the restoration work in question had begun. Such delays defeat any kind of real oversight over the performance of the restoration work and the accuracy of the amounts being billed.

The monitoring of restoration projects was uneven and appeared to follow no set plan. The regulations required annual reviews with at least one actual site visit every 3 years until the conservation practices were established. Some states completed annual status reviews, both during and after restoration. Other states did little, if anything, to evaluate program compliance once the easements were filed and restoration work had begun.

The program files were also uneven in terms of documentation. Only a handful of agency offices noted the completion of restoration work in the project files. A few states did an excellent job in documenting the files, most notably Indiana, Nebraska, and Louisiana. Many other states, however, did not. Absent from many of the state files were documentation of financial eligibility, highly erodible land determinations; site monitoring; and the cultural and historical site reviews.

Occasionally absent were other required forms such as the program applications, conservation plans, schedules of operation, cost estimates, certificates of ownership and possession, hazardous substance and environmental reviews, or compatible use agreements. Some files lacked even the basic contractual agreements between the landowners and the government, the easements, or the long term restoration contracts.

I appreciate the opportunity to discuss the results of the review of these conservation programs and look forward to answering any of your questions.

Thank you.

The CHAIRMAN. Thank you, Mr. Jurich. First of all, how long have you been working for the Committee?

Mr. JURICH. Eight years.

The CHAIRMAN. Well, you must be doing your job down at the Department out in the field, because I don't believe we ever met before.

Mr. JURICH. They don't let me in the Longworth Building. I am over in the Ford Building.

The CHAIRMAN. Mr. Jurich, during your investigation with field staff, where do you think the breakdown in communication occurred? Does the field staff not have enough guidance from the Department or is there just not enough staff to get the job done well?

Mr. JURICH. I think that they have the proper guidance from the headquarters staff. I think that the implementation at the state and the district level is catch as catch can. Some of them follow the guidance, others don't. The files were very, very, very uneven. You had a couple of states where you had everything that you would want to see in the file. In other states, you were hard pressed to understand what had happened.

The CHAIRMAN. So you gave some egregious examples of using the NRCS as a cash cow. I wonder if you had any more that you wanted to add besides the one you mentioned, and more importantly, what are the penalties for the actors? Are there criminal penalties, civil penalties? What do we do, just say don't do that again?

Mr. JURICH. Exactly. I am not sure if there would be any kind of civil or criminal remedy. The Florida water districts were the more egregious examples. There was 10s, if not 20s of millions of dollars basically entered into these joint agreements with them, and it appeared to me that the water districts had a different agenda than NRCS. The water districts wanted to use the land basically for economical purposes, whereas, of course, NRCS was interested in the conservation impacts of the land. Consequently, when you look at what happened afterwards, the water districts wanted to continue grazing on the upland portions of the land. They wanted to continue haying. They wanted to continue also in some instances rentals for farming. And you could see where NRCS was hard pressed to say no. In some instances they issued compatible use authorizations. In other instances they simply noted the violation in the site reviews and did virtually nothing about it.

The CHAIRMAN. Ms. Shames and Ms. Tighe, is there an audit for FSA conservation programs and how do we ensure the issues we are confronting with NRCS are not occurring right now at FSA?

Ms. SHAMES. Mr. Chairman, we have not done the work so at this point we can't say. We can't speak to how FSA has been implementing the AGI provision, and what I can say is that given the new farm bill requirements and the lower eligibility limit, that it is going to put even further pressure to ensure that there is AGI compliance.

The CHAIRMAN. Ms. Tighe?

Ms. TIGHE. I can tell you that we are in the final stages of doing a review of CSP. I can tell you just generally that we have found issues in terms of eligibility and at the point the audit should be out, I would say in the next month or so, and we will be able to come up and talk a little more in detail on it at that point. We are in the beginning stages of doing an audit ourselves on AGI. We had started it when GAO was sort of looking at it, and we are looking at it from a different sort of viewpoint. We are looking at it for purposes of looking at NRCS's controls over AGI.

The CHAIRMAN. And I don't know if either one of you can explain the audit process at USDA. Why did NRCS have to do their own audit? I guess it was the last farm bill. How does this compare to the process at FSA or other USDA agencies?

Ms. TIGHE. The process differs a little. FSA is included in our consolidated financial statement as was NRCS up until a few years ago when OMB essentially mandated that they have a stand-alone audit. So that is why, and that process began in a very brief way in 2007 where we reviewed, or KPMG reviewed, a few line items on the financial statements. The first full-blown stand-alone audit was 2008.

The CHAIRMAN. Why did OMB do that? Why did they determine that?

Ms. TIGHE. I am assuming they had concerns over NRCS's financial reporting that caused them to want to have that.

The CHAIRMAN. Thank you.

The gentleman from Pennsylvania, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman.

Actually this question is for all the panel to respond to. You know, each of you testified to accounting errors or program documentation errors by the NRCS. Are these mistakes out of the ordinary compared to other agencies such as FSA?

Ms. TIGHE. I will go ahead and take that. The issue with NRCS—is because they weren't used to doing this themselves and didn't have financial expertise, they weren't doing it all that well. We do have an order of magnitude different than, say, FSA, who does have accounting professionals doing the work at the local levels where they need to have it done. We found significant number—I mean, we have talked about deobligations and what those are. In the 2007 review, there was hundreds of millions of dollars in deobligations. I mean, things weren't being done very well. Now, they are certainly working on it and we have every reason to think, as Mr. White said, that the problem can be fixed but they still have a way to go.

Mr. THOMPSON. Any other panelists have thoughts or opinions on that?

Mr. JURICH. I am familiar with the investigative files of OIG both as an agent and as a supervisor, and you would not see in an OIG file that kind of incomplete documentation.

Mr. THOMPSON. Thank you. In terms of follow-up, the amounts that are reflected as to resources or preparation: Of the recommendations that came out of these investigations, are there organizational and structural changes to the agencies as not to address the current problems that obviously need to be addressed that you have kind of drilled down and found, but to prevent going forward this type of waste of resources?

Ms. SHAMES. We have made the specific recommendations that could improve the programs as they were being implemented. We do keep track of these recommendations to see the extent of actions that have been taken, and as I said in my short statement, they are promising, these initial steps, but it would require GAO to do further audit work to really test the effectiveness of them. After 4 years, our feeling is, if an agency hasn't implemented our recommendations, we basically write them off. If they are not done in 4 years, our experience is that they are just not done.

Mr. THOMPSON. So to date then with the findings, your opinions are, has NRCS taken the proper measures to correct the issues?

Ms. TIGHE. I think as to the financial statements, yes, I mean, they correctly stated we did look at their action plan and thought it looked good. Now, it is too early to say whether it is ultimately going to be effective. I mean, the financial statement work for this year is just underway, and I think that although KPMG has been asked to look at the corrected procedures, which we will fold that into their current audit work, I don't think we know at this point whether it is going to be effective.

Mr. THOMPSON. During your audits and investigation, did anyone find what they viewed as corrupt behavior or anything other than administrative error?

Ms. TIGHE. We did not.

Ms. SHAMES. Nor did we.

Mr. JURICH. No, sir.

Mr. THOMPSON. Very good. Mr. Chairman, I will yield back my time.

The CHAIRMAN. The chair thanks the gentleman and recognizes the gentlewoman from Illinois, Mrs. Halvorson.

Mrs. HALVORSON. Thank you, Mr. Chairman.

Thank you, panelists, for being here. I have a very rural district in Illinois, and I feel very strongly about the fact that my farmers and farming is a risky business. I also think that proper conservation is also necessary for good environmental stewardship. However, from what I am hearing, is that there has been a lot of duplication and maybe people are receiving payment for doing both. When there is talk from the Administration that they want to cut some of these safety net subsidies, I guess is what they are calling them, I have stood strong with my farmers saying that we are not going to do that. When people are ruining the system by collecting probably duplicative payments, I think the problems are coming from the Department or organizations within the Department that aren't talking to each other. What could somebody give us as some of the suggestions on how to coordinate so that we are not duplicating services, and what could possibly fix the problems, if there are any? From what I am hearing, there may be, so I don't know who wants to answer that one.

Ms. TIGHE. I can certainly speak initially on it. It is certainly one of our concerns within USDA as a whole that the different agencies don't communicate effectively. That is one of our management challenges that we report to you all every year. That has been a consistent one for a while. In the context of these conservation programs, some of our audits have pointed to problems certainly where NRCS needed to give information on the fact that a conservation easement was effected to FSA, and that ensures then that producer isn't getting paid for subsidy payments, when in fact they are getting paid conservation payments. So we need good communication. It is still a work in progress in many respects for NRCS and FSA both, but all of our reports that we do in some fashion make recommendations to try to make improvements in that.

Mrs. HALVORSON. But what are your suggestions? I mean, it is a work progress, I mean, but how do we get there? I mean, is it better IT, it is—

Ms. TIGHE. Well, some of it is certainly better IT systems. I think that is a good and logical thing to work on. And there was some discussion in Mr. White's testimony about some of the work they have done along those lines to automate certain things, and that is all good.

Mrs. HALVORSON. Thank you.

I yield back.

The CHAIRMAN. The Ranking Member, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Let me ask all the panelists if they can comment on the conflict between trying to make NRCS programs work region by region, state by state, and having to administer a national program. They take pride in making programs work to fit the different conservation priorities of different regions or different states. Do you believe there is an inherent conflict in having a decentralized culture while trying to uniformly administer a national program?

Ms. TIGHE. Well, I think there certainly can be a conflict in that area. You know, you want to have, in certain cases national priorities set. If I can move briefly out of the conservation area into the dam audit we just did, it was our view that having national priorities instead of local actions would have ensured that these high-risk dams were in fact being targeted. But without that, I think you need—I do understand what you say. You need to have sort of local input, but there are certain cases where you really have to look nationally.

Mr. GOODLATTE. Thank you.

Ms. SHAMES. We certainly saw in the EQIP program that there was not a link to national priorities, and in those instances, there is a risk that perhaps monies could be spent in an environment area that has greater need of those funds. That is why we found it was so important that these factors and weights be based on accurate data, current data, and also that there be a discussion why there are these factors and why there are these weights. So, that there is a better understanding and improved transparency in terms of where the funds are going to ensure that they are truly optimizing those environmental areas of greatest need.

Mr. GOODLATTE. Thank you.

Mr. Jurich?

Mr. JURICH. There was an extreme difference between the conservation practices that were being installed down in the Everglades *versus* the prairie pothole region up in Minnesota and North Dakota. I don't see how you can do it at a national level. You have to have state and local input.

Mr. GOODLATTE. Do you find that there is a cultural problem with NRCS officials who are suited to provide technical assistance, but may have difficulty providing program administration? And if so, can this be corrected without hiring additional administrative employees?

Ms. TIGHE. Well, we certainly found that when you are relying on people with scientific and technical expertise to do other sorts of functions, I mean, we certainly found a problem with the financial statements because accounting expertise is not something you can usually train a more science-oriented person to have. I mean, you need a lot of training to do that and a degree in accounting and some experience in that area. I think that probably goes over to some of the other administrative sort of functions, procurement and some other things that I don't think you can avoid hiring that expertise.

Mr. GOODLATTE. Ms. Shames?

Ms. SHAMES. While we did not look at the culture specifically at NRCS, I should note that human capital is a government-wide issue to make sure that we do have the right expertise with the

right skills to make sure that the sort of deficiencies that we have all reported don't happen.

Mr. GOODLATTE. Thank you.

Mr. Jurich?

Mr. JURICH. In Minnesota, the state office had a financial wizard there who basically controlled the payment of expenses for the conservation practices, and what I saw there was very, very, very good controls over not only the—well, over the payment of the conservation practices and it was sadly missing from many of the other states. I think they need financial expertise at the state level more than anything else.

Mr. GOODLATTE. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the Ranking Member.

The gentlewoman from Pennsylvania, Mrs. Dahlkemper.

Mrs. DAHLKEMPER. Thank you, Mr. Chairman.

Mr. Jurich, you indicate that in some cases the NRCS deferred management to other government agencies. Are you saying that the NRCS contracted out to the U.S. Fish and Wildlife Service and others, and if so, did they get any money for this?

Mr. JURICH. There was no contract but there was an agreement between NRCS and the Fish and Wildlife Service where NRCS basically allowed Fish and Wildlife Service to take over the total management of the easement and they were not going to have any part and parcel of it thereafter. My question in that instance, why even have payment for the easement if you are not going to supervise the easement guidelines.

Mrs. DAHLKEMPER. And so was there any—

Mr. JURICH. There was no payment. There was no payment with a Memorandum of Understanding between the two agencies.

Mrs. DAHLKEMPER. Okay. Also, your investigation covered projects that spanned from 1998 to 2008, and over this timeframe did you see any trends in the documentation oversight of projects that would be helpful for the Committee?

Mr. JURICH. The trend was to improve. The WHIP contracts that I looked at were much better than the earlier WRP contracts, so the states started to do a better job in assembling and documenting things that they should be doing normally.

Mrs. DAHLKEMPER. Any suggestions going forward here for us?

Mr. JURICH. I am waiting for the second round of files from NRCS. When I get those, I will be prepared to give you a recommendation.

Mrs. DAHLKEMPER. Thank you very much.

The CHAIRMAN. The chair thanks our witnesses. Under the rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witnesses to any questions posed by a Member.

This hearing of the Subcommittee on Conservation, Credit, Energy, and Research is adjourned.

[Whereupon, at 12:00 p.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUBMITTED QUESTIONS

Response from Robert Stephenson, Acting Deputy Administrator for Field Operations, Farm Service Agency; and Dave White, Chief, Natural Resources Conservation Service, U.S. Department of Agriculture

Question 1. Can you please explain how the agencies work together in administering conservation programs? Please outline exactly what each agency does.

Answer.

Conservation Reserve Program and Emergency Conservation Program

At the national, state, and local levels, FSA and NRCS meet regularly to discuss program needs and plan future actions. FSA is generally responsible for all program facets and it arranges for technical assistance which is generally provided by NRCS, and to a lesser degree state foresters and local conservation districts. NRCS uses FSA data in Adjusted Gross Income (AGI) determinations. The agencies also share the Service Center Information Management System (SCIMS) database to obtain producer information.

FSA's tasks include making policy determinations at the program and producer levels including the obligation of funding and making payments. NRCS and other providers of technical assistance, apply CRP practice standards, make or recommend technical determinations, develop the conservation plans, and perform any necessary follow-up through the term of the contract.

Grassland Reserve Program

FSA and NRCS jointly administer the GRP. Generally, NRCS is responsible for the administration of easements and FSA is responsible for rental contracts. NRCS also provides the technical assistance and FSA issues payments.

Voluntary Public Access and Habitat Improvement Program

FSA implements this grant program to states and Tribes.

Grass Roots Source Water Program

FSA implements this grant program through State Rural Water Associations.

Conservation Compliance

FSA provides enforcement of the conservation compliance provisions by determining whether persons are eligible for USDA program benefits. NRCS makes technical determinations under highly erodible land and wetland conservation compliance provisions. FSA maintains records and provide reports related to conservation compliance activities. FSA county committees may hear appeals on individual cases.

Question 2. Is there anything in your rules that requires the adjusted gross income limitation to be verified in order for payments to be issued?

Answer. Section 1400.502 of the payment limitation regulations (7 CFR Part 1400) provides that, to comply with the average adjusted gross income limitation, a person or legal entity, including all interest holders in a legal entity, general partnership, or joint venture, must provide annually, as required by CCC, "authorization for CCC to obtain tax data from the Internal Revenue Service for purposes of verification of compliance [with the average AGI limitations]."

Question 3. Although not addressed in GAO's testimony today, GAO reported in September 2007 that farm support programs and conservation programs may be working at cross-purposes. For example, the farm support programs may be encouraging conversion of grasslands, such as pasture, range, and native prairie, to cropland by reducing a landowner's financial risk, while some conservation programs, such as the Conservation Reserve Program, pay farmers to take cropland out of production and establish a perennial vegetation cover—usually grasses—on this land. What steps has USDA taken to reconcile this contradiction?

Answer. For cropland to be eligible for enrollment in CRP, the land must be cropped 4 of the 6 years from 1996 to 2001. This prevents producers from tilling native sod and later enrolling in CRP. Though the 2008 Farm Bill updated this to say that the land must be cropped 4 of 6 years preceding the date of the 2008 Farm Bill enactment, FSA must complete a revised Environmental Impact Statement on CRP prior to implementing this change.

2008 Farm Bill Section 12020 "Crop Production on Native Sod" also addresses the cross-purpose question. This section prohibits the agricultural producers from receiving crop insurance benefits and noninsured crop assistance on native sod acreage during the first 5 years of tilling native sod for annual crop production in Prairie Pothole National Priority Areas with the election of the governor of the respective state.

Native sod is defined as land on which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing or browsing;

and that has never been tilled for the production of an annual crop as of the date of enactment.

In addition, to better determine the extent to which farm programs (e.g., crop insurance) and conservation programs (e.g., CRP) may be working at cross purposes, the Administrator of the Economic Research Service, the Administrator of the Farm Service Agency, and the Chief of the Natural Resources Conservation Service have developed a 2 year research plan that was forwarded to the Secretary in November 2008. The first part of the study includes a description of whether and where grassland conversions are taking place; the second part involves determining what the causes are of any such conversions. ERS is starting to do modeling for the plan based on 2003 NRI data and is awaiting the availability of 2007 NRI data necessary to complete the analysis.

Response from Dave White, Chief, Natural Resources Conservation Service, U.S. Department of Agriculture

Question 1. What actions have been taken to address the OIG Financial Audit? Is it now complete? If not, when will the information be made available?

Answer. The financial audit is an annual requirement now that the agency has been designated as a stand-alone entity by Office of Management and Budget (OMB). Up through Fiscal Year (FY) 2007, the NRCS financial information was part of the USDA consolidated audit. In FY 2008, NRCS underwent its first stand-alone audit, where an independent auditor conducted a separate audit of NRCS financial information. As a result, a disclaimer of opinion was issued.

Immediately following the issuance of the audit report, NRCS initiated aggressive action to address the deficiencies which included five material weaknesses:

- Amounts for obligations were not recorded in the accounting system for some goods and services ordered by the agency. In some instances, obligations could not be supported; orders of goods or services NRCS furnished for other government agencies on a reimbursable basis (unfilled customer orders);
- expenses that NRCS incurred but had not yet paid (accrued expenses);
- NRCS' knowledge of how much property owned and its total value (accounting for property, plant and equipment);
- financial reporting to provide reliable information to the President, the Congress, and the public.

Auditors also found two significant deficiencies (general controls over the information technology environment, and a lack of controls over purchase and fleet card transactions), and areas of non-compliance with accounting standards, financial systems requirements, and proper use of the U.S. Standard General Ledger for recording financial transactions. In addition, auditors determined that NRCS does not obligate all transactions required by appropriations law and does not substantially comply with the Federal Financial Management Improvement Act of 1996.

Two specific actions were taken to address issues with the FY 2008 ending balances. We hope they will improve our preparedness for the FY 2009. First, we developed a comprehensive Corrective Action Plan, approved by USDA OIG, that included a comprehensive review to determine the correct balance of obligations and accruals as reported in the beginning balance. Agency personnel completed this review of over 160,000 transactions and certified to its accuracy as of December 31, 2008. Second, we used the results of the obligation review along with additional work on reimbursable agreements and accounting for leases to prepare draft restatement of the beginning balances for FY 2009 for the auditors. An independent audit firm is currently reviewing our proposed revised beginning balances, with results expected in mid-May.

Additional corrective actions, including the development of financial policies and procedures, requirements for review and certification of financial information, training, changes in business processes, and the strengthening of internal controls are underway. Progress is reported monthly to the USDA Office of Inspector General.

In addition to the work on the beginning balances, independent auditors have begun the FY 2009 financial audit. The FY 2009 audit will be completed in October 2009, followed closely by issuance of the audit report and conclusions in November 2009.

Question 2. After the audit, NRCS sent employees out to survey the contracts. Are you able to tell us what you found during that period?

Answer. Beginning on December 1, 2008, NRCS dispatched a team of oversight specialists to 19 states and six other NRCS entities to review and evaluate the corrections made during the open obligations review. Over a 3 week period, the team reviewed 865 open obligation samples where determinations were considered com-

plete by twenty different states and other entities such as our Centers. The team identified deficiencies in the samples, mainly due to insufficient file and contract documentation and monitoring, as well as misinterpretation of review questions and procedures. The team reviewed samples for validity of obligations and the proper execution of accruals. As a result of the review, additional clarification was provided to the states to reduce the overall deficiency rate. Our evaluation teams are continuing to carry out quality assurance reviews throughout the year.

Question 3. A key point of the audit was that NRCS had a problem with open obligations. How much money was left open and/or unspent?

Answer. The issue is not with NRCS' ability to obligate funds, but rather its ability to obligate funds in a way that results in accomplishing effective conservation. Though NRCS has a high initial rate of fund obligation—for example, at the end of Fiscal Year 2008, the agency had only \$17 million of FY 2008 Farm Bill funds unobligated (an obligation rate of more than 99 percent of apportioned funds)—NRCS has deobligated over \$1.4 billion since the open obligation review began in 2007. Most of the issues surrounding open obligations occur subsequent to the initial obligations. Some of these are due to issues outside of NRCS control and some small level of deobligations is inevitable. However, NRCS recognizes that this level of deobligation is clearly unacceptable and that many deobligations were a result of faulty program implementation. As a result, NRCS is taking aggressive action by analyzing and rewriting policy and procedures for program, administrative, and financial aspects of our business to ensure that all responsible parties understand what is required. In addition, we have begun an initiative to redesign and streamline our business processes.

Question 4. Would you say NRCS has been a good manager of the conservation programs?

Answer. NRCS is proud of what it has accomplished with the significant increases in funding and new authorities provided by Congress since the 1996 Farm Bill. From the 1996 to 2002 Farm Bills, conservation program investments were increased by more than \$17 billion over the previous baseline of spending, with programs such as EQIP receiving over a billion dollars in annual spending. NRCS has worked with farmers, ranchers and other private landowners to develop and implement approximately 313,000 EQIP contracts, applying conservation practices on 145 million acres. More than 2 million acres have been enrolled in the Wetlands Reserve Program. NRCS also manages more than 10,000 individual easements.

But while the results of conservation program investments have reshaped the landscape, we know that just getting conservation on the ground is not the full measure of program success. NRCS recognizes that we need to put as much effort in financial management as we do in conservation planning and conservation practice implementation. To that end, we have made great strides and improvements in financial and programmatic controls in recent years, including improvements to our ProTracts contracting system, development of the Practice Payment Schedule, and development of the soon-to-be-released Easement Business Tool. These changes and others institute financial controls and business practices that respond directly to audit findings and strengthen NRCS' financial management going forward.

Question 5. When did NRCS know they had problems with tracking and documenting contacts? Was there steps taken to improve this prior to the 2008 audit? If so, how or why was this audit unable to be completed?

Answer. Soon after implementation of the 2002 Farm Bill, NRCS recognized that the paper-based system used to manage our cost-share programs was inadequate for properly tracking and managing conservation contracts. At that point, we designed and implemented our ProTracts contracting system, which manages contracts for EQIP, WHIP, AMA, and CSP. Because ProTracts interfaces with FSA's program eligibility tool and USDA's financial accountability systems, we have been able to nearly eliminate improper payments as reflected in our reporting under the Improper Payments Improvement Act. In the near future, the USDA Office of Inspector General (OIG) will release an audit on the Conservation Security Program (CSP). The potential for improper payments in CSP is one of the issues being looked at by the OIG.. We are currently developing a software tool similar to ProTracts, to be rolled out this fall, for our easement programs.

ProTracts, despite its many virtues, was not a broad-based panacea for all problems associated with our financial management system. In FY 2007, the Office of Management and Budget (OMB) expressed concern regarding our open obligations and deobligations, especially with regard to NRCS easement programs, which were being reported to OMB on a quarterly basis. As a result, we contracted with an independent audit firm to perform a review of NRCS obligations. The audit firm issued a report in FY 2007, citing issues with open obligations and recording

amounts payable for delivered orders not yet paid. NRCS initiated several corrective actions in FY 2007.

Despite these actions, however, and following significant work conducted by the independent audit firm in FY 2008, the auditors were unable to express an opinion on NRCS' consolidated financial statements. This is called a "disclaimer", and it means that the supporting documentation provided by NRCS was nonexistent or did not satisfy audit standards and that the auditors could not determine whether NRCS' statements of its FY 2008 financial information were accurate and complete.

Question 6. Do you feel confident NRCS can implement the proper internal controls to ensure the next audit can and will be complete?

Answer. Yes, we believe that over time we will satisfy the audit requirements. The goal of the agency is to position itself to be "audit ready." To achieve this goal, NRCS has taken aggressive action to address the deficiencies and weaknesses disclosed in the financial audit. We submitted a Corrective Action Plan to the USDA Office of the Inspector General (OIG), which approved all actions and timelines we have planned to correct the reported weaknesses and deficiencies. NRCS' goal is that the results of our proposed corrective actions, which include updates, communication, training, and monitoring of updated policy, procedures, and processes, will help position the agency for future audits.

Question 7. Another key component of the financial audit was that the financial reporting and documentation was bad. Given this, are you confident improper payments have not been made?

Answer. NRCS performs testing and analysis in compliance with the Improper Payments Act and OMB Circular A-123 Appendix B. The documented rate of improper payments for Fiscal Years 2006, 2007 and 2008 on our farm bill programs was 0.22%, 0.47% and 0.00% respectively. We are also anticipating the release of an audit on the Conservation Security Program in the near future which may address improper payments in that program.

Question 8. Over the course of the audit, has NRCS had to cancel some contracts because the landowner was getting paid for work not done? If so, how many?

Answer. The audit firm did not find any evidence of this type of improper payment. Our policy, processes, and tools are designed to prevent this. Before payments are made to a contract holder, the conservation practices are certified by a qualified NRCS employee to ensure they meet our technical standards and specifications. This certification is necessary before our ProTracts contracting system will process a payment.

Question 9. What direction were State Conservationists given in regard to their ability to waive the previous 1 year land ownership requirement for WRP? Did anyone at the national office keep track of how many waivers were taking place? If no, why not and do you plan to track them in the future?

Answer. The WRP Policy Manual is the document that provides direction to State Conservationists and their staff in all aspects of program implementation. The manual in effect for the implementation of the 2002 Farm Bill stated the following with regard to landowner eligibility:

To be eligible for easements, an applicant must have:

Owned the land for 12 months before submitting an application, unless:

- *the land was acquired by will or succession as a result of the death of the previous owner,*
- *ownership changed due to foreclosure on the land and the owner exercises a right of redemption from the mortgage holder in accordance with state law, or*
- *the State Conservationist determines the new owner did not acquire the land for the express purpose of placing it in WRP.*

Note: Persons who acquire land after an eligible application to participate has been accepted by NRCS but before the easement is recorded may participate in WRP if a transfer agreement is completed between the seller and buyer and the State Conservationist agrees to work with the new landowner. Transfer agreements include NRCS-LTP-152 or other private agreements.

- *clear title to the land and be able to provide consent or subordination agreements from each holder of a security interest in the land, and*
- *a recorded right of way that provides access to the easement area from a public road.*

The national office did not keep track of the number of waivers granted by State Conservationists to the 2002 Farm Bill's 1 year land ownership requirement.

The new WRP Policy Manual currently being developed to implement the 2008 Farm Bill is more explicit. It states the following:

To be eligible to enroll land in a permanent or 30 year easement in WRP, the land must have been owned by the applicant for at least the 7 years prior to application. A waiver to this requirement may only be granted by the Chief. The Chief will evaluate each application taking into consideration the following:

- 1. Whether the land was acquired by will or succession as a result of the previous landowner; or*
- 2. the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with state law; or*
- 3. the landowner provides adequate assurances that the land was not acquired for the express purpose of enrolling it in WRP. The Chief's determination of adequate assurances shall consider the management of the property since it was purchased, documentation provided by the Landowner, or any personal or financial circumstances of the Landowner at the time of application. The following conditions constitute examples of adequate assurances for consideration of a waiver:*
 - a. Change in ownership was due to retirement of the current landowner and the land will remain in the family; or*
 - b. Land has been owned and operated for production of food or fiber by the current landowner, application would only enroll a portion of the land owned by the applicant, and the remainder of the land will continue to be operated by the current landowner for the production of food or fiber; including forest production lands; or*
 - c. Land is in joint ownership and one or more of the owners is buying out one or more of the other owners; or*
 - d. Lands adjacent to an existing easement or pending easement application that are essential to the successful restoration of that easement; or*
 - e. Other special circumstances such as impact to threatened and endangered species or other critical environmental protection.*

The Manual now gives a clear description of adequate assurances that must be provided by the landowner to request a waiver from the Chief. In the future, the Agency will track all requests for waivers whether granted or not.

Question 10. On page 10 of your testimony you mentioned a new WRP business model that will result in improved payment controls and fewer deobligations. What is the business model, and why do you think it will offer improvements?

Answer. The new WRP business model describes the actions in the WRP contracting process from the initial application, through easement acquisition, restoration and easement monitoring, management and enforcement. The new business process moves the preliminary title searches and hazardous records search forward in the process, right after the application is filed. This will eliminate the fallout of projects because of the discovery of undisclosed hazardous materials or encumbrances on the title that would prevent NRCS from restoring and managing the easement at the least expense to the taxpayer. We anticipate that this action will also help reduce WRP deobligations.

The new business process also moves the point at which the funds are obligated. In the previous model, the obligation of restoration funds occurred at the same time as the acquisition. In the new model, the obligation of restoration occurs after the development of final restoration plans. Previously, restoration funds were obligated early in the process based on a very preliminary restoration plan. Obligating restoration funds after the development of the final restoration plan will help ensure there is a well documented need for every obligation. We anticipate this will help reduce the amount of WRP deobligations.

Question 11. Your testimony outlines several initiatives to reduce the rate of deobligations, does NRCS have target for an acceptable rate of deobligations?

Answer. NRCS does not have an established acceptable rate of deobligations. We are implementing business practices and financial controls to reduce to the greatest extent possible the type of deobligations due to NRCS contract management or program policies. Many deobligations, however, occur because of change of land ownership, death, hardship, economic changes, climate, and/or natural disasters. The extent of this type of deobligation will vary. The Economic Research Service has estimated that the average annual exit rate for farms is nine to ten percent per year.

The estimated cancellation rate for EQIP contracts has been approximately thirteen percent annually.

Question 12. The 2008 Farm Bill includes several provisions in farm and conservation programs to assist beginning and socially disadvantaged farmers and ranchers. Understanding that contracts with beginning and socially disadvantaged farmers may have a higher rate of deobligation, do you think that NRCS has the flexibility to reobligate these funds for beginning and socially disadvantaged farmers and ranchers in the case of a deobligation?

Answer. Any deobligations that occur in the current year of the obligation for beginning and socially disadvantaged farmers and ranchers can only be re-obligated into new contracts for beginning and socially disadvantaged farmers and ranchers in that same year. These are annual funds and obligation can only occur within the same year as the original obligation. Use of available funds in expired years is limited to items such as within scope modifications and cost overruns.

Question 13. In some of the testimony that follows, there is a lot of discussion about the length of time it takes to start restoration work on WRP and then whether the landowner lives up to the terms of the easement. Given that this was an issue even before the financial audit, how is the agency trying to ensure that the taxpayers get what they're paying for in terms of the expected conservation benefits?

Answer. NRCS has a number of initiatives in place to redesign and streamline our business process. The new Easement Business Tool to be released this fall will improve the efficiency and effectiveness with which we manage the more than 10,000 easements currently in our portfolio. Many of the processes that currently have to be done by hand will be fully automated. In addition, the tool will store in one virtual location all the documents, maps and data related to an easement. It also will provide real time access to this information for properly trained and authorized NRCS personnel. It will ensure monitoring is completed on a timely basis, and by being linked to the Agency's financial and procurement systems it will speed up acquisition and restoration and ensure fund accountability.

Question 14. Can you elaborate on how the day-to-day operations have changed for NRCS field office staff since the audit?

Answer. The audit has created a much greater awareness among all NRCS employees about the importance of financial management and contracting policies and procedures designed for our conservation programs. Proper implementation of these policies and procedures has been emphasized through training, additional guidance, quality reviews, and the quarterly review of open obligations. Additionally, many NRCS State Offices have instituted a second-level review process in which any contract modifications completed by the field office for a participant's contract are reviewed at the next higher administrative level for approval.

To emphasize the importance of the issues raised by the financial audit, a stand alone performance element addressing these issues has been added to the employee evaluations for state and national leaders for FY 2009.

Question 15. Are you able to tell the Committee how much mandatory farm bill conservation spending was returned to the Treasury because of contracts that weren't completed?

Answer. Since the 2002 Farm Bill, \$301,426,814.43 in farm bill funds have been cancelled and are to be returned to the Treasury. These funds were cancelled because their period of availability expired and are no longer available for any purpose.

Questions Submitted by Hon. Betsy Markey, a Representative in Congress from Colorado

Response from Dave White, Chief, Natural Resources Conservation Service, U.S. Department of Agriculture

Question 1. During the NRCS audit process, how many contracts did NRCS cancel with producers because restoration was not taking place? What is the rate of deobligations?

Answer. Cancellation of WRP contracts because restoration was not taking place was not a significant contributor to our deobligations. A significant amount of WRP deobligations occurred because of business practices that have since been modified. Between Fiscal Years 2002 and 2008, out of a total of nearly \$1.7 billion obligated in WRP contracts, just over \$250 million has been deobligated.

Conservation Security Program (CSP)

Question 2. How does NRCS verify the accuracy of the information provided by CSP applicants and contract holders, including information on other program pay-

ments they may be receiving on land being offered for CSP enrollment, to ensure that CSP payments are made in accordance with program rules?

Answer. NRCS implemented policy during the Fiscal Year 2008 CSP sign-up requiring documentation of self-assessment verifications for all FY 2008 CSP. A field visit was required to verify all information and situations described on the self-assessment and benchmark condition inventory for 100 percent of the FY 2008 CSP contracts. A discrepancy in the contract because of no fault of the participant could be remedied by the participant by correcting the deficiency within a reasonable period of time.

For Fiscal Year 2008, NRCS created an automated internal control system within our Programs Contracting System (ProTracts) contracting software. This system alerts users to check all applicants with CSP applications against contract databases for WHIP, AMA, and EQIP. This system was designed to uncover potential areas of overlapping practices and prevent duplicate payments from occurring.

Question 3. GAO has testified that NRCS identified about \$420,000 in actual duplicate payments between CSP and EQIP, but that NRCS headquarters does not have information on how much of this money was recovered. What are the steps to recover duplicate payments? And, if NRCS headquarters does not track recovered amounts, how does it ensure that the field offices have followed through to make these recoveries?

Answer. The steps to recover duplicate payments are outlined in national NRCS policy. When the State Conservationist initiates a cost recovery, NRCS must notify the participant in writing. If the participant fails to make all payments to NRCS within the requested timeframe, the receivables account will be transferred to claims status. After the requested timeframe has expired, the original demand letter will become the basis for a bill. State Conservationists and Directors of the Caribbean and Pacific Islands Areas have been directed to recover the costs of duplicate payments made to program participants.

NRCS has instituted policies, procedures, and automated systems to limit to the greatest extent possible future duplicative payments. NRCS State Offices do have the capability to track recovery activities, but an automated national tracking system is not currently available.

Question 4. NRCS received about 2,300 CSP applications in Fiscal Year 2008. Of these, how many potential duplicate payments did you find and what actions were taken to preclude these payments from being made?

Answer. For Fiscal Year 2008, NRCS created an automated internal control system within our ProTracts contracting software. This system alerts users to check all applicants with CSP applications against contract databases for WHIP, AMA, and EQIP. This system was designed to uncover potential areas of overlapping practices and prevent duplicate payments from occurring.

Question 5. What is the status of USDA efforts to develop implementing regulations for the Conservation Stewardship Program (formerly the Conservation Security Program)? Will there be a sign-up in Fiscal Year 2009 for this new program? Are there any new measures planned in this program to preclude the potential for duplicate payments?

Answer. The interim final rule for the new Conservation Stewardship Program is currently in the Executive Branch clearance process. NRCS will continue to use the internal controls implemented in the fall of 2006 as a result of the GAO audit to ensure that duplicate payments do not occur.

Environmental Quality Incentives Program (EQIP)

Question 6. Regarding the Fiscal Year 2009 program, GAO's testified that NRCS has made some progress in documenting how funding formula factors contribute to accomplishing program goals, updating data sources, and describing how formula factors relate to long-term performance measures. What additional steps does NRCS plan to take in the 2010 program to further this progress?

Answer. Since Fiscal Year (FY) 2006, the Natural Resources Conservation Service (NRCS) has utilized allocation models for its conservation programs. These program-specific allocation models are designed to have a natural resource objective foundation that is consistent with each program's statutory purpose. They reflect national program priorities in a state-specific manner and are transparent and the resulting allocations are reproducible. Also, program allocation models are designed to improve the relationship between fund distribution and conservation needs, and thus create an opportunity to build programs in all states where there is a corresponding conservation need regardless of historical program activity. NRCS recently undertook a comprehensive review of all allocation models, which resulted in substantial changes and improvements. Some of these improvements are described below:

- **Optimizing Factors**—NRCS has changed the number of factors in the allocation formulae to increase transparency and understanding and to better address Program priorities and Legislative intent. Redundant factors were removed and more relevant factors were added.
- **Outcome Based Performance**—Using the GAO EQIP audit as a guide and considering external recommendations, NRCS has incorporated outcome-based performance measures where possible in allocation formulae. As new data on environmental outcomes becomes available, it will be evaluated for inclusion in program formulae.
- **Consistency**—NRCS has worked to ensure consistency in formulae for like programs by using the same factors and data to represent similar resource conservation needs.
- **Enhanced State Specificity**—NRCS has incorporated state specific data, including Activity Based Cost (ABC) data, to capture differences in state Technical Assistance requirements in some factors.
- **Cost of Programs Model**—NRCS has incorporated new data from the Cost of Programs Model to determine Financial and Technical Assistance proportional requirements for mandatory programs.
- **Data Definitions and Sources**—NRCS has worked to ensure the most appropriate and current validated data, with common and agreed upon definitions, are the basis of our allocation formulae.
- **Improved Documentation**—In an effort to increase transparency and facilitate understanding of our allocation formulae, NRCS has worked to improve the explanations of our formulae and methodologies for FY 2009.
- **Factor Weighting Methodology**—To increase transparency, NRCS has utilized “Paired Comparison,” a scientifically based methodology, as part of the process to determine Program formula factor weights.

In 2007, NRCS contracted with World Perspectives, Inc. to conduct an independent evaluation of its allocation formulae. The report stated:

“In a broader context, it should be noted that all Federal agencies are facing increasing demands for information about how they measure performance, how they allocate funds, and how they assure accountability. We talked with a number of other agencies and found a consistency of effort at better rationalizing actions in these areas, though we did not find any effort as comprehensive as that being undertaken by the NRCS.”

NRCS will continually examine its conservation program models and seek additional improvements. NRCS program allocation formulae, their factors, and data sources are all posted on the NRCS website at <http://www.nrcs.usda.gov/programs/>.

Question 7. What specific long-term, outcome-oriented performance measures has NRCS established for EQIP, and how has the agencies funding allocation process been linked to these measures?

Answer. following long-term performance measures have been established for EQIP:

- Working cropland with improved soil condition.
- Potential sediment delivery from agricultural operations reduced.
- Potential nitrogen delivery from agricultural operations reduced.
- Water conservation: Improve irrigation water use efficiency.
- Grassland condition, health, and productivity improved.
- Habitat for at-risk species improved.

The national EQIP allocation formula is based on natural resource needs (e.g., cropland eroding above the tolerable limit, irrigated cropland, livestock animal units, grazing land, impaired streams, and at-risk species) that are consistent with EQIP national priorities and the statutory purpose of the program. These same priorities are reflected in the annual and long-term performance measures developed for EQIP.

**Response from Robert Stephenson, Acting Deputy Administrator for Field Operations, Farm Service Agency, U.S. Department of Agriculture
National Agricultural Imagery Program (NAIP)**

Question 1. For the future, how crucial do you see Geospatial Information Systems built on programs like NAIP for conducting either conservation programs under

NRCS or farm, programs under FSA? I see it becoming an essential tool for doing business. Do you agree?

Answer. NAIP is currently a critical component of an effective GIS because it provides the up-to-date imagery that is the base data layer used by all applications. It will become an increasingly essential business tool as GIS is more fully integrated into daily business operations and decision making processes. Further, imagery is the base reference layer in almost any GIS, USDA or government-wide; the benefits are felt well past FSA and USDA.

Question 2. You mention the use of geospatial information system as a useful tool for managing and understanding land information that enables more efficient management of conservation programs. Can you elaborate on how you use this technology? Is it available to everyone? And how will you spend the recent appropriations of \$24M?

Answer. GIS supports daily business operations, decision making and problem solving, and display of geographic resources. It is used for a host of program administration activities, including farm record maintenance, crop reporting, compliance and crop monitoring activities, conservation practice planning and management, and disaster response and recovery.

GIS technology has been made available to USDA Service Center agencies through enterprise hardware and software purchases and through the IT Budgets of USDA agencies. Base imagery is acquired through FSA's NAIP and distributed via the USDA Geospatial Data Gateway to USDA agencies as well as to other Federal, state and local agencies and the public.

NAIP is becoming the *de facto* standard base imagery for other Federal agencies as well as state and local governments. A standard base image helps ensure that data sets developed and maintained by USDA agencies registers geographically and temporally with data sets from other Departments and agencies. This increases the return on investment for USDA by facilitating data sharing and collaboration with other agencies.

In addition, NAIP and other unrestricted geospatial data collected and maintained by USDA, such as Soils and the Common Land Unit, is being made available through public facing web services that can be accessed and viewed through web browsers and/or free GIS applications that can be downloaded from commercial and public sites.

The FY 2009 Omnibus Appropriations report language directed FSA to apply \$24 million to NAIP; in addition to any partnership funding that is received. Because FSA finances NAIP out of the agency's salaries and expenses allocation, implementing this direction may impact FSA's ability to meet other needs and discretionary funding requirements.

Question 3. Again, for the future, I understand you supply these images free of charge to the public and other Federal agencies, including many large private firms like Google Earth and universities, totaling tens of thousands of internet downloads each year. How much of NAIP's total budget is paid for by these outside users? Do you have legal authority to charge outside users for downloading these images?

Answer. It has been an FSA policy decision to make versions of compressed mosaics of individual county wide imagery available to the public at no charge through download. Larger, uncompressed copies of the imagery are available to the public on media at reproduction cost.

NAIP partners receive copies of the imagery as part of the partnership agreement and many host websites that make the imagery available to the public free of charge. In addition, because the imagery is in the public domain, other non-partner sites also host this imagery. While FSA has authority to charge fees for recovering reproduction costs for the imagery, including downloads, this nominal fee will only recover reproduction costs and will not generate additional funds for acquisition purposes.

None of the NAIP budget is paid for by public users discussed above. FSA does not have legal authority to recover anything beyond reproduction and processing costs associated with dissemination of the data.

Question 4. Is it important to obtain a line-item statutory authorization for the NAIP program for the future, to assure that its funding become stable and does not compete for operating appropriations within the Farm Service Agency?

Answer. Yes. While NAIP has been an example of successful inter-governmental partnerships and effective program management, the "roller-coaster"-style funding pattern that has been the norm since the program began has constrained the program's full potential. With stable funding through a line item statutory authorization that did not compete with operating appropriations, FSA would be able to focus on continued program improvements rather than on program survival. This would

also facilitate the ability to establish additional Federal, state and local partnerships because acquisition plans would be predictable, allowing partners to budget for partnership contributions. Stabilizing the program in this manner would also assist contractors involved in NAIP to secure funding to make capital investments and improve efficiency, creating a win-win situation for both the government and industry.

Current funding supports NAIP acquisition for the continental U.S. on a 3 year cycle. This represents minimum requirements for FSA, if not other agencies. There is ample evidence from user surveys and requirements studies that indicate acquisition on an annual cycle would produce additional value.

FSA on income eligibility determinations

Question 5. USDA's March 19, 2009, News Release describes USDA plans for income verification system that includes obtaining income information from IRS. How does USDA envision such a system will operate?

Answer. The specifics of the system are still being developed. However, it is envisioned that, for a high percentage of participants, IRS will be able to verify that the average AGI limitations have not been exceeded. USDA does not plan on obtaining actual tax returns or specific income information from IRS, routinely. We anticipate that IRS can provide an indication whether the average AGI limitation may have been exceeded. In those cases, additional information may be requested from the producer to ensure that the average AGI limitation has not been exceeded.

Question 6. Given the complex definitions and multiple caps for farm and nonfarm income in the 2008 Farm Bill, who will actually conduct the income eligibility determinations for individuals and entities applying for Federal farm program payments?

Answer. USDA will make the actual determinations.

Question 7. In its testimony and related report, GAO said that about \$49.4 million in farm payments were made to about 2,700 potentially ineligible individuals between Fiscal Year 2003 and Fiscal Year 2006. What plans does USDA have to further investigate these individuals and seek recovery of any improper payments?

Answer. GAO did not identify these "potentially ineligible" individuals. We are currently working on trying to identify these individuals and will seek recovery of any improper payments.

Question 8. Although not addressed in GAO's testimony today, GAO reported in July 2007 that about \$1.1 billion in farm program payments, including conservation payments, were made in the names of nearly 173,000 deceased individuals during the period, Fiscal Year 1999 through Fiscal Year 2005. What specific steps has USDA taken to identify payments made to deceased individuals, determine whether these payments are improper, and, if improper, recover these funds? How much as been recovered to date?

Answer. FSA implemented a data-matching process between program payment recipients and the Social Security Administration's Death Master File. The process identifies any payments issued to an individual after the date of death as reported to the Social Security Administration. Reports are generated on a quarterly basis. State FSA offices were instructed to initiate collection of any amounts determined to be an improper payment. We do not have information available on what amounts have actually been recovered to date. However, a FSA review of FY 2007 payments issued to individuals identified as deceased found that 98.1 percent of the payments were properly issued.

Question 3. Is there a land ownership requirement for acreage being enrolled in the Conservation Reserve Program?

Answer. Generally, an owner is ineligible to offer land for enrollment in CRP unless the land was owned or operated for at least 12 months. An exception may be authorized if the land was acquired, through death, or certain foreclosures and the new owner did not acquire the land for the express purpose of enrolling the land in CRP.