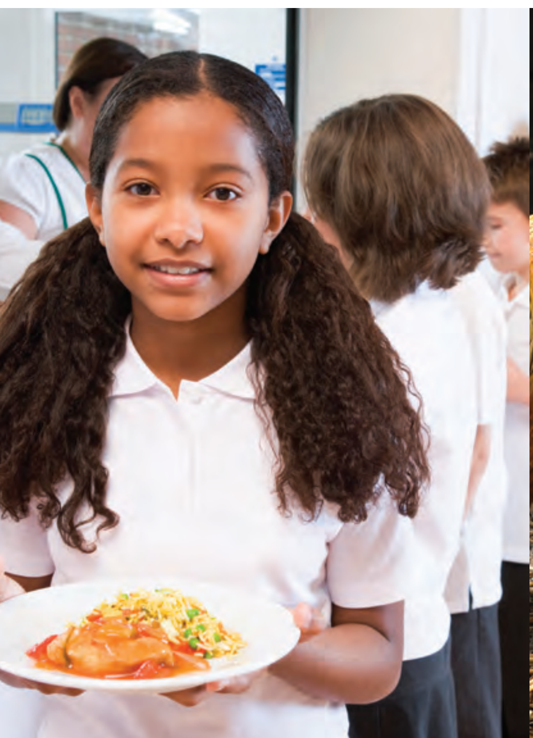
United States Department of Agriculture
Office of Inspector General

Farm Service Agency, 2008 Farm Bill's Changes to Payment Limitation



Audit Report 03601-0050-Te

June 2012

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

DATE: June 20, 2012

AUDIT NUMBER: 03601-0050-Te

TO: Bruce E. Nelson
Administrator
Farm Service Agency

ATTN: Philip Sharp
Director
Operations Review and Analysis Staff

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: 2008 Farm Bill's Changes to Payment Limitation

This report presents the results of the subject audit. Your written response to the official draft report is included at the end of the report. As no recommendation was made in the report, no further response for this audit is necessary.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions.

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2008 Farm Bill's Changes to Payment Limitation

Executive Summary

The 2008 Farm Bill made significant changes in how the United States Department of Agriculture would administer payment limits and determine who is eligible for payments.[1] Specifically, beginning with the 2009 crop, fiscal, or program year, as applicable, payments made to entities, such as farming corporations, were tracked (attributed) to the owners of those entities, while the payment limits that applied to the entities themselves under the 2002 Farm Bill were retained. Direct attribution had the potential for some reduction in Government outlays, but it was expected that such reductions would diminish as farmers reorganized their operations in order to capture the highest possible payments. For the 2010 program year, Farm Service Agency (FSA) paid out over $4.7 billion in program payments subject to limitation.[2]

We initiated this audit to determine whether FSA's internal controls were adequate to ensure that any increase in the number of payment limitations for a farming operation was bona fide and substantive. However, we were unable to test the controls for compliance and answer our objective because FSA's data were not sufficiently reliable for us to identify the universe of farming operations that had an increase in the number of payment limitations for program year 2010.

During the course of the audit, we provided FSA information on our noted concerns regarding the quality of its data system and other issues that arose during our review.[3] FSA acknowledged our concerns, took some corrective action during the audit, and generally stated that deployment of its new web-based system would address data concerns. Accordingly, we did not make any recommendations in this report.

The Agency's written response to the draft report is included at the end of this report. In its response, the agency acknowledged that its entity database was not sufficiently reliable for OIG to identify farming operations with increases in the number of persons for payment limitations, and then asserted that it has internal controls in place if there is an increase in the number of persons or legal entities subject to payment limitation in a farming operation. As we could not identify the universe of farming operations that had an increase in the number of payment limitations, we performed no testing on these controls.

[1] Public Law 110-246.
[2] This $4.7 billion includes only Direct and Counter-cyclical Program payments.
[3] Such concerns and issues included (1) joint ventures that were not recorded in FSA's database, (2) multi-county farming operations' members' shares that differed from county to county in the database, (3) substantive change flags that were used to reduce payments for reasons other than those related to substantive change, and (4) payment limitation and payment eligibility determinations for farming operations with six or more members that were not made at the correct (FSA State office) level.

Background and Objectives

Background

FSA administers and manages farm commodity, conservation, disaster, and loan programs as laid out by Congress through a network of Federal, State, and county offices.[4] Limitations on the total annual payments that a "person" may receive under such programs have been in effect since enactment of the Agriculture Act of 1970.[5]

Beginning in 2009, the 2008 Farm Bill established a system of "direct attribution" to match program payments with a natural person—i.e., the total amount of payments must be attributed (linked) to an individual by taking into account the individual's direct and indirect ownership interest in a legal entity—while retaining the payment limits that applied to the entities themselves. Therefore, every payment made directly to a person is combined with that person's pro rata interest in payments received by a legal entity in which the person has an ownership interest, and every payment made to a legal entity is attributed to those persons with an ownership interest in the entity.

The new regulations effective for 2009 and subsequent years also provide more restrictive payment eligibility requirements for new persons and legal entities that are added to an existing farming operation. The 2008 Farm Bill provides that any change in a farming operation that otherwise will increase the number of persons to which the payment limitations are applied may not be approved unless the change is bona fide and substantive. Generally, if bona fide, the following will be considered to be a substantive change in the farming operation: the addition of a family member, a change from cash rent to share rent, an increase in base acres, a change in ownership of land, or a change in ownership of equipment. Such substantive change determinations are to be made by FSA county offices for farming operations with five or less members and by FSA State offices for operations with six or more members.

FSA records in its automated subsidiary files information used by various processes to determine whether applicants are eligible for program benefits and the amount of the program benefits that can be issued. This information includes but is not limited to a farming operation's member information and substantive change determinations made by FSA.

Objectives

Our audit objective was to determine whether FSA's internal controls were adequate to ensure that changes in farming operations that otherwise would increase the number of persons to which the limitation applied were bona fide and substantive.

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[4] FSA's national administrative functions are managed in Washington, D.C. Implementation of farm policy through FSA programs is the responsibility of field offices based in States, counties, and territories.
[5] Public Law 91-524.

Scope and Methodology

We conducted our audit of FSA's substantive change controls at the FSA national office, at the Louisiana and Texas State offices, and at four FSA county offices in Texas.[6] In addition, we interviewed officials and reviewed records from 22 additional FSA county offices (see exhibit A). Our audit covered changes in farming operations for 2010 that increased the number of persons to which the payment limitations were applied.

To accomplish our objective, we:

- reviewed relevant laws, regulations, and guidance, including FSA handbooks and FSA national notices;
- interviewed FSA personnel and reviewed records at FSA's national, State, and county offices;
- obtained and reviewed a copy of FSA's 2009 and 2010 entity files, to identify changes in farming operations from 2009 to 2010; and
- obtained and reviewed FSA-generated nonpayment reports.

We found that FSA's entity database, as it was provided to the Office of Inspector General, was not sufficiently reliable for us to identify farming operations with increases in the number of persons for payment limitation purposes. This determination is based on our site visits to and review of records maintained at the Louisiana and Texas State offices and four Texas county offices (see exhibit A) and interviews with FSA's national office personnel.

Specifically, we learned that joint ventures without permanent identification numbers were not recorded in FSA's entity database,[7] and multi-county farming operations' members' shares differed from county to county in the database.[8] In addition, we found that payment limitation

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[6] We selected the Louisiana and Texas State offices for review because of their physical proximity to our field office and to limit overall travel cost. In addition, we identified Texas as one of the three States with the largest number of farming operations with increases in the number of persons. At the State offices, we reviewed records for farming operations with six or more members. In Texas, we selected three of the counties for review based on their large numbers of farming operations with increases in persons and their proximity to each other. We selected the fourth Texas county based on its physical proximity to our office.
[7] FSA policy does not require a joint venture to obtain a tax identification number to participate in FSA programs. For a joint venture without a permanent identification number, FSA enters into the Service Center Information Management System separate "customer core data" (name and address data) records for the joint venture and for each of its members, to include the customer's identification number, if any; the members sign contracts, applications, and other program forms; and FSA issues all program payments to the members, not to the joint venture. The joint venture is not recorded in FSA's (entity file) database.
[8] Member data should be consistent regardless of the number of counties where the farming operation participates. In May 2009, FSA issued a Notice (Public Law-191) to State and county offices alerting them to situations where member data were recorded differently from county to county for multi-county farming operations ("shares differ by county"); notifying them of an available report of affected farming operations; instructing county offices to correct the share errors by September 1, 2009; and notifying State and county offices that, for a multi-county farming operation, FSA's software systems read member data from only the farming operation's control/recording county. Despite the Notice's deadline for resolution of identified differences, there were still differences during the period of our review. According to FSA, this issue of "shares differ by county" is resolved with deployment of FSA's new

and payment eligibility determinations for farming operations with six or more members were not made at the correct (FSA State office) level.

As an alternative approach to identify farming operations with increases in persons for 2010, we requested FSA provide a report of 2009 and 2010 farming operations whose payments were reduced because of the substantive change provisions.[9] The report listed only 11 operations for 2009 and 6 operations for 2010; 1 operation was on the list for both years. We contacted 22 county offices in 11 States (several of the operations on the list were multi-county) to verify the substantive change determinations. We obtained and reviewed FSA's records for the farming operations and found that in only 1 of the 17 cases had FSA determined the operation did not meet the substantive change provisions. In all other cases, the county offices had either inadvertently flagged the operation as not having met substantive change provisions or used the substantive change flag to effect payment reductions for other reasons.

As a last resort, we asked FSA if it could provide us with a list of all farming operations with increases in persons for 2010 payment limitation purposes. FSA was unable to provide a list at that time.

We conducted this performance audit from March 2010 through February 2012, in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. After substantial testing of FSA's data, we concluded it was not sufficiently reliable for us to identify the universe of farming operations that had an increase in the number of payment limitations for program year 2010. Therefore, we were unable to accomplish the audit objective and thus terminated the audit.

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web-based subsidiary system business file (in which only the recording county will have the ability to update subsidiary customer records).

[9] When FSA receives a new farm operating plan that reflects an increase in the number of limitations for payment from the previous year, it determines if there was a substantive change in the operation to support the increase. As FSA county office staff enter information from, and determinations based on, the new plan, there is a database field for them to enter "Y" (yes) or "N" (no) to answer if the operation has met substantive change requirements relative to the new member(s)/limitation(s). Entering "no" precludes the new member(s) from receiving an FSA program payment for that operation because substantive change requirements were not met.

Abbreviations

FSA ………………… Farm Service Agency

Exhibit A: FSA Offices Visited and Contacted

State	FSA Office Visited
Louisiana	State Office, Alexandria
Texas	State Office, College Station
	Bell County Office, Belton
	Hale County Office, Plainview
	Lubbock County Office, Lubbock
	Terry County Office, Brownfield

State	FSA Office Contacted[10]
Arkansas	Desha County Office, McGehee
	Lincoln County Office, Star City
California	Kern County Office, Bakersfield
Colorado	Prowers County Office, Lamar
Georgia	Early County Office, Blakely
	Miller County Office, Colquitt
	Seminole County Office, Donalsonville
Illinois	Bureau County Office, Princeton
	Henry County Office, Cambridge
	Jo Daviess County Office, Elizabeth
Iowa	Calhoun County Office, Rockwell City
	Clay County Office, Spencer
	Palo Alto County Office, Emmetsburg
	Pocahontas County Office, Pocahontas
Louisiana	Acadia County Office, Crowley
	Vermilion County Office, Abbeville
Minnesota	Norman County Office, Ada
	Roseau County Office, Roseau
Nebraska	Kearney County Office, Minden
Oklahoma	Texas County Office, Guymon
Wisconsin	Lafayette County Office, Darlington
	Washington County Office, West Bend

[10] We contacted these offices regarding 2009 or 2010 substantive change flags that effected reductions in farming operations' payments.

USDA'S
FARM SERVICE AGENCY
RESPONSE TO AUDIT REPORT

USDA

United States Department of Agriculture

Farm and Foreign Agricultural Services

Farm Service Agency

Operations Review and Analysis Staff

1400 Independence Ave., SW
Stop 0540
Washington, DC 20250-0541

DATE: June 6, 2012

TO: Director, Farm and Foreign Agriculture Division
Office of Inspector General

FROM: Philip Sharp, Director
Operations Review and Analysis Staff

SUBJECT: Response to Official Draft Report, Farm Bill Payment Limitation Provisions – Changes in Farming Operations, Audit 03601-0050-TE

The Farm Service Agency (FSA) has reviewed the subject audit report. The Office of Inspector General (OIG) reported that they were unable to test the controls for compliance because FSA's data was not sufficiently reliable for OIG to identify the universe of farming operations that had an increase in the number of payment limitations for program year 2010. FSA would like to submit the following comments pertaining to this OIG audit report.

Even though FSA's entity database was not sufficiently reliable for OIG to identify farming operations with increases in the number of persons for payment limitations, internal controls are in place if there is an increase in the number of persons or legal entities subject to payment limitation in a farming operation. Participants are advised that actively engaged in farming determinations remain in effect for the current and subsequent years and a new farm operating plan is not required unless a change occurs in the farming operation that would affect those determinations. An increase in the number of persons in a farming operation would require participants to submit a new farm operating plan for a new actively engaged in farming determination by FSA, and if substantive change provisions are not met, then the new persons or legal entities are ineligible for payment.

FSA has successfully established an automated system of direct attribution to match program payments with a natural person as indentified in the OIG audit report, and every payment made directly or indirectly is attributed for payment limitation purposes as required by the 2008 Farm Bill. With the deployment of the business file functionality for FSA County Offices to record farm operating plans and actively engaged in farming determinations through a web-based application process, an automated system in place that only allows only the recording county to update eligibility and payment limitation data. The recording county is the County Office assigned the specific responsibilities for updating the eligibility and payment limitation data for a participant.

As pointed out above, web-based system controls have been deployed and changes to a farming operation have and continue to require a determination by FSA to the participant regarding their eligibility for FSA payments.

Informational copies of this report have been distributed to:

Administrator, Farm Service Agency (2)
Attn: Director, Operations Review and Analysis Staff

Government Accountability Office

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Director, Planning and Accountability Division

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