

**United States Department of
Agriculture**

**Independent Assessment of the
Delivery of Technical and Financial
Assistance**

Contract AG-3142-C-09-0049

“Civil Rights Assessment”

FINAL REPORT

March 31, 2011

**Prepared By:
Jackson Lewis LLP
Corporate Diversity Counseling
Group
“Assessment Team”**

EXECUTIVE SUMMARY

A. Introduction

The United States Department of Agriculture (“USDA”) awarded a competitive contract to the Jackson Lewis LLP Corporate Diversity Counseling Group (“Group” or “Assessment Team”) to conduct an Independent Assessment of the USDA Delivery of Technical and Financial Assistance to all Americans (“Civil Rights Assessment” or “Assessment”). The Contract sets forth the Scope of Work for this Assessment to address areas requiring Department-wide action, focused initially on four USDA Agencies: Farm Service Agency (“FSA”); Rural Development (“RD”); Natural Resources Conservation Service (“NRCS”); and Risk Management Agency (“RMA”). The essential objective of the Assessment is:

The Contractor shall . . . examine USDA’s program delivery at State and local levels . . . The Assessment shall focus on the effectiveness of USDA’s programs in reaching America’s diverse population in a non-discriminatory manner, with particular attention on accessibility, equity, fairness, and accountability. Based on this Assessment, the Contractor will develop recommendations of actions USDA can take to ensure its program delivery and organizational structure is providing all Americans with fair and equal access to USDA Programs.

RFP, p. 3 (C.2 Objectives). The key areas of analysis were specified as: “review of existing laws, policies, and procedures; an analysis of [USDA’s] current customer base and constituencies in comparison to the existing population; an evaluation of current outreach efforts; and reviews of cultural competencies and considerations.” As noted above, the key deliverable specified is “recommendations of actions USDA can take to ensure its programs provide fair and equal access.”

The Contract originally required interviews of Headquarters as well as State, county, and regional personnel of the four Agencies in six counties

in each of 14 States. The States selected by USDA (as subsequently modified)¹ were:

- | | |
|----------------|--------------------|
| 1. Arizona | 9. North Dakota |
| 2. California | 10. North Carolina |
| 3. Florida | 11. Oklahoma |
| 4. Georgia | 12. Pennsylvania |
| 5. Louisiana | 13. South Carolina |
| 6. Michigan | 14. Vermont |
| 7. Mississippi | 15. Washington |
| 8. New Mexico | |

B. Jackson Lewis Corporate Diversity Counseling Group/USDA Assessment Team

Jackson Lewis LLP (“JL”) is a law firm of more than 650 lawyers with 46 offices around the country. The JL Corporate Diversity Counseling Group consists of attorneys who specialize in addressing issues of diversity and inclusion, fairness, non-discrimination, equal treatment and access, and related matters. The entire JL USDA Assessment Team (“Assessment Team,” or “Team”) consists of a highly diverse and experienced group of 22 professionals,² led by Project Manager and senior partner Weldon H. Latham, nationally-recognized for his leadership and expertise in the areas of diversity, inclusion, equal opportunity, and civil rights matters; and Deputy Project Manager, partner John M. Bryson, II, who maintains responsibility for day-to-day project operations. Advising and consulting with the Team is a four-member Senior Leadership Oversight Team (“SLOT”) of professionals with significant high-level USDA experience, also led by Mr. Latham, and a number of consultants with additional USDA-related experience.

The SLOT is chaired by Mr. Latham and co-chaired by Mr. Bob Nash, a former USDA Rural and Community Development Under Secretary and former Assistant to President Clinton. The SLOT’s other members include Mr. Alvin Brown, former USDA Deputy Administrator for

¹ USDA originally selected 14 States; during the course of the Assessment, the Contract was modified to delete one State and add two others, for a total of 15 States to be included in the final Assessment.

² Of the 22 JL professionals (not including SLOT and other consultants), 50% are women and 59% are members of three different minority groups. The consultants include representatives of the fourth (Federally recognized) minority group.

Community Development, Senior Advisor to the Secretary of Commerce and Secretary of Housing and Urban Development, and Vice Chair of the Community Empowerment Board; and Mr. Larry Mitchell, former USDA FSA Deputy Administrator for Farm Programs (also a family farmer), and former Vice President of the National Farmers Union.

C. Methodology

Pursuant to the Contract requirements, the Team organized the Assessment into four Phases:

- Phase I: Orientation, Planning, Initial Meetings
- Phase II: Fact Gathering/Analysis: Headquarters/Field Assessments
- Phase III: Data Validation and Analysis
- Phase IV: Final Report Preparation and Submission

The Assessment Team created four Agency Teams, one to lead the assessment of each Agency.

1. Phase I: Initial Orientation and Planning

Phase I, Initial Orientation and Planning, commenced in October 2009 with planning and conducting a series of meetings with numerous officials of each of the four Agencies, and concluded on January 10, 2010.

2. Phase II: Headquarters/Field Assessments

Phase II, Headquarters/Field Assessments, commenced with field interviews of USDA employees in California on January 11, 2010. Field interviews concluded during the week of October 4, 2010, with interviews of USDA employees in South Carolina and Mississippi. The Assessment Team interviewed 1,752 USDA employees, including FSA County Employees and County Committee Members. As described below, due to various delays, Phase II continued until March 31, 2011.

The Contract directed that the Assessment Team obtain USDA *customer* input by written surveys which were originally scheduled to conclude in August 2010 for inclusion in the Final Report by October 26, 2010. During the course of the Contract, however, USDA decided that the

survey methodology was less likely to secure the type of reliable data necessary for this Assessment, and the Department replaced this approach with 30 customer Focus Groups in 10 of the 15 Assessment States, which required an extensive and time-consuming approval process by the Executive Office of the President, Office of Management and Budget (“OMB”). The OMB process delayed the Assessment Team’s efforts by at least 90 days. As a result, the Focus Group sessions began in Mississippi on January 6, 2011, and concluded in California, with the completion of the 30 sessions on February 3, 2011.

Focus Group recruiting was difficult in large part because of low interest, and attendance was generally below normal expectations. While helpful customer input was elicited from the Focus Groups, the Assessment Team recognized the need to supplement the Focus Group input by interviewing 30 Community-Based Organizations (“CBOs”) to obtain additional customer input, essential to the process but not originally required by the Contract.

3. Phases III and IV: Data Validation and Analysis And Final Report Preparation and Submission

Substantial time incurred in obtaining OMB, USDA Office of General Counsel (“OGC”), and other necessary approvals to conduct the Focus Groups necessitated a substantial revision to the schedule. The revision required the Focus Group process to be delayed by three months (originally scheduled to be completed in Phase II), and they were ultimately conducted during Phases III and IV, the Data Validation and Analysis/Final Report Preparation Phases, concurrently. This schedule compression slowed parts of the process and condensed time in the final weeks to finalize the report, after all data was provided. Due to the compression of the schedule, Phases II, III, and IV overlapped in January, February, and March 2011, with the Assessment Team continuing to obtain information from Focus Groups and CBOs while analyzing and validating data already received, receiving additional data and documents provided by USDA, working with USDA to obtain corrections of numerous errors in provided data, and simultaneously working to complete preparation of the Final Report. The Assessment Team received data from USDA as late as March 29, 2011, and it is reflected in this Final Report.

D. Approved Insurance Provider and Agent/Broker Interviews

The Assessment Team also secured OMB approval to interview four Approved Insurance Providers (“AIPs”) and 20 agents/brokers regarding 1) the AIPs’ non-discrimination policies, procedures, and practices; 2) recruitment of minority and female agents/brokers; 3) requirements/goals to sell risk management products to socially disadvantaged groups (“SDGs”); 4) incentives offered to encourage agents/brokers to outreach and sell insurance products to SDGs; and 5) level of sales to SDGs, among others.

E. Regular Communications with USDA During the Assessment

In addition to the Contracting Officer (“CO”) and Contracting Officer’s Technical Representative (“COTR”), the Assessment Team worked with additional USDA-designated “liaisons” for this Contract, the “Governing Council” (consisting of senior Department and Agency officials), and the “Working Group” (representatives of each of the four Agencies who worked directly with the Assessment Team on a regular basis to assist with daily activities). In addition to formal interviews with Department and Agency top officials, the Project Manager and Deputy Project Manager participated in formal meetings with the Secretary and Assistant Secretaries whenever they deemed necessary, usually for the purpose of progress reports.

F. Additional Activities in Support of the Assessment

In coordination with USDA, Assessment Team members attended a variety of additional meetings and conferences across the country, such as the USDA 2010 Cooperators Conference (St. Louis, Missouri), 2010 Professional Agricultural Workers Conference (Tuskegee, Alabama), and the 2010 Congressional Black Caucus Political Education and Leadership Institute Policy Conference (Tunica, Mississippi).

G. Department-wide Organization, Functions, and Equitable Access Performance

For USDA to effectively address its prime objective for this Assessment—reducing barriers to full program participation and achieving equitable access (both externally and internally)—it must make changes at both the Agency *and* Department level. The Secretary

recognizes the *critical importance of Departmental leadership to Departmental transformation*. His “New Civil Rights Era” Memorandum, the Cultural Transformation Initiative, and other initiatives at the Department level all have the capacity to profoundly impact the delivery of services in the field, when appropriately communicated, structured, monitored, and implemented.

The Final Report identifies 10 key areas for Department-wide change that are needed to assist in transforming the Department. These changes enhance the key elements of structure, accountability, incentives and penalties, cultural transformation, performance management, and other essential tools and measures of success. Equally importantly, the changes will assist in de-emphasizing the somewhat negative connotation of the historical term “Civil Rights,” by replacing it with the broader, more descriptive, positive aspirational goals of “diversity, inclusion, and accessibility” (“DIA”). While Civil Rights compliance and enforcement activities must and will continue as statutorily required, substantial other programmatic efforts to enhance DIA, outreach, and marketing must appropriately be carried out by others. Key recommendations to enhance Department-wide performance in equitable service delivery are:

1. Create an *external* DIA Executive Advisory Board, and an *internal* Executive DIA Leadership Council.
2. To achieve a dramatically enhanced diverse workforce, adopt new workforce analytical processes patterned after the U.S. Department of Labor Office of Federal Contract Compliance Programs (“OFCCP”) methodology, with goals and objectives to be included in managerial performance plans.
3. To enhance identification of and service to under-served populations, develop and conduct regular customer service Market Penetration Analyses and annual objectives for service to SDGs and other under-served groups; create performance plan requirements and oversight/accountability reporting mechanisms to ensure goal achievement.
4. To foster a customer-service imperative for USDA programs, aggressively expand upon, then implement the Cultural Transformation Initiative and dramatically upgrade mandatory

nationwide DIA in-person training, covering both the USDA workplace and marketplace.

5. To increase accountability for DIA results, design and incorporate specific, meaningful, measurable DIA objectives in all senior official and managerial performance plans, and use them to appropriately affect compensation, promotion potential, and other areas of performance and progression.
6. To resolve USDA's long-standing problem with unreliable data, organize and implement an intra-agency data validation and integrity team to verify/correct existing data, and dramatically improve integrity and maintenance of all future data gathered, including program race/ethnicity and gender performance statistics.
7. To increase public/Congressional awareness and institutional accountability, comply with statutory SDG reporting requirements for "Transparency and Accountability" (under the Farm Bills) with respect to program participation by SDGs, and institute additional Annual Reports to Congress on USDA DIA performance.
8. To further enhance accountability for results, require annual DIA Business Plans from all major Agency Headquarters and State Offices, with measurable metrics, deadlines, evaluations of performance against goals, and end-of-year reports to the Secretary.
9. Reconstruct the Program and EEO Complaint processes, eliminating complexity and unnecessary review levels, to expedite processing to no more than 60 days. Annually outsource to a highly-rated private sector entity 10% of Program and EEO complaints for investigations on 60-day tracks and compare the findings, timing, and hours invested per matter with USDA-conducted investigations, and take appropriate follow-up actions. Internally publicize documented, confirmed acts of USDA discrimination, harassment, and retaliation, and corresponding penalties (consistent with applicable law).
10. Complete the Secretary's 2009 re-organization of the Department, including creation of an Under Secretary for DIA, Civil Rights, and

Departmental Management position, and USDA Chief Diversity Officer position; create Chief Diversity Officer positions in each Agency and State Office, along with Offices of Emerging Customer Development.

H. Overview of Four Agency Assessments

During the first year of this Assessment, the Team spent much of its time interviewing 1,752 USDA and County System employees at both Headquarters and field offices. Notably, the Team obtained equally critical input from current and potential customers, primarily through Focus Groups and Community Based Organizations (“CBOs”), as well as from review and analysis of a wide range of USDA-provided Department-wide and selected Agency-related documents and data.

Data and information obtained during this Assessment, in addition to the lawsuit background and settlements, including customer input and USDA-provided objective data, substantiated claims of denial of equal program access and continuing institutional discrimination. Despite this background, the vast majority of USDA employees interviewed (in some Agencies, 80-90%) disclaimed knowledge of discriminatory practices or unequal treatment of SDG customers or potential customers. Clearly, significant numbers of USDA employees do not accept eradication of barriers to equal access or Agency discrimination as enforceable and important Department-wide priorities. *The very fact that so many USDA employees did not recognize the real problems of inequitable program delivery is a very serious concern, but may explain, in part, why previous efforts to address USDA discrimination problems have been less than fully successful.* As in any large organization, problems cannot be solved until recognition of the problems is generally accepted throughout the organization, and efforts to correct the problems are a clear and obvious executive priority.

The Assessment Team conducted 30 Focus Group sessions across 10 States, and interviewed leaders of 30 CBOs, representing a broad range of geographic and SDG farming, ranching, and rural interests. A number of customers and CBO representatives described a system where the deck was always stacked, not only against access to USDA programs, but also against their ultimate success solely due to their status as minorities or women. These are the same USDA programs that, over the past decades, have assisted in elevating thousands of majority farmers

and ranchers into their current successful status, internationally among the most professional, highly skilled, and productive farmers and agribusinesses in the world.

The Assessment Team's analysis of documents and data provided by USDA, along with other information, substantiated in part the anecdotal claims of neglect, at best, and wide-spread discrimination, at worst, that SDGs reported, including findings that SDGs are under-represented or under-served in many USDA programs. Customers and potential customers stated that USDA policies and practices, often unintentionally, and sometimes purposely by "bad actors," result in the unfair treatment and denial of program access which have had a broad and longstanding negative impact.

Sporadically over the last 15-18 years, USDA has begun to recognize and more effectively address these problems. Through actions such as the Civil Rights Action Team ("CRAT") Report in 1997 during the Clinton Administration, USDA has sought to acknowledge the discriminatory problems, dramatically improve Department performance and service delivery, and create an environment for positive SDG inclusive change, seeking to enhance program accessibility and more fairly deliver those programs to all Americans. In 2009, Secretary Vilsack took steps, on behalf of the Obama Administration, including accepting GAO recommendations to conduct this Independent Assessment, that demonstrate the Secretary's commitment to fairness and his efforts to create the "New Era of Civil Rights" at USDA. This Assessment focuses on what needs to be done and provides specific recommendations of actions to be implemented *immediately*. For this Assessment to fully achieve the goals sought by the Secretary, the Department *must* devote equal time, resources, and energy to implementing the Recommendations, as it did to the Assessment that created them. Otherwise, USDA will fail to make critically-needed programmatic changes, as it has after each of the previous similar studies, task forces, and action plans on discrimination and Civil Rights inadequacies.

The following four Sections summarize the results of the four Agency Assessments.

I. Farm Service Agency Assessment

1. Contract Objective

The FSA Assessment Team’s objective was to evaluate fairness and equity in delivery of financial and technical programs by FSA, with a particular emphasis on the equitable delivery of programs to SDGs.

2. Assessment Process

The Assessment Team (1) held 10 Focus Group sessions in 10 Assessment States with FSA customers, potential customers, and applicants whose applications for FSA program services were denied; (2) interviewed the leadership of 30 Community Based Organizations (“CBOs”) from around the country representing a variety of farming and ranching interests, with an emphasis on those focused on issues of importance to SDGs; (3) interviewed 738 FSA employees, including County employees and County Committee members/advisors in six counties in each of the 15 USDA-selected Assessment States (total of 90 counties) at both the Headquarters and field levels; and (4) reviewed and analyzed statutes, regulations, policies, handbooks, reports, statistical data, and other information and documents provided by USDA. In addition, the Assessment Team conducted research on a wide variety of topics, including, among others, the history of the Agency, media and other public reports of FSA activities, and the major class-action discrimination lawsuits filed on behalf of African American, Hispanic, Native American, and female farmers and ranchers.

Focus Group participants, CBOs, and FSA employees were asked a series of questions designed to ascertain facts and perceptions regarding, among others, the equitable delivery of services to SDG customers and potential customers in their particular State, District, or county.

3. Agency Mission

FSA’s mission is “to equitably serve all farmers, ranchers, and agricultural partners through the delivery of effective and efficient agricultural programs for all Americans.”³

³ www.fsa.usda.gov.

4. Key Barriers to Equitable Delivery of Programs

The Assessment Team's analysis highlights positive aspects of the Agency's performance along with potential and actual barriers to equitable participation in programs, including the following *key* barriers to equitable program delivery:⁴

- County Committee system regarded as discriminatory by many SDGs; some Committee members regarded as untrained, biased, and disconnected from concerns of SDGs.
- Workforce diversity issues: lack of diversity in the composition of certain offices, groups, and committees; extremely low diversity in County Employees who service Farm Programs; low to no recognition of diversity/civil rights issues by field staff.
- Strong perception among SDGs that FSA continues to discriminate against SDG customers and potential customers.
- Insufficient and ineffective SDG outreach; some field staff hostility to SDG outreach; ineffective assistance to SDGs; inadequate visibility in the SDG community.
- Complexity of the application process, particularly for SDGs.

5. Key Recommendations

1. Modify the FSA County Committee system to eliminate opportunities for bias in program delivery and build the perception and reality of FSA delivering programs on a fair and equitable basis.
2. Make workforce diversity and inclusion among FSA's highest priorities; in concert with the Department-wide recommendations, immediately adopt OFCCP-type workforce analytical tools, use results to create remedial plans, and enforce through serious,

⁴ The list of Key Barriers is not exhaustive. A more comprehensive list as well as a more detailed analysis are included in the FSA Assessment Section.

meaningful performance measures with appropriate rewards and penalties.

3. Develop aggressive national SDG marketing (replacing “outreach”) model, beginning with market penetration studies, and work with new State Offices of Emerging Customer Development to implement the model at the state and local levels. Require annual State SDG Marketing Plans with clear performance measures, quarterly progress reports, and end-of-year reports of performance against goals, with corrective action plans addressing areas of under-performance for the next year.
4. Conduct periodic disparity studies and adverse impact analyses on the Farm Loan Guaranteed Loan program, and all Farm Programs, to identify areas of disparate/adverse impact on SDGs. Develop corrective action plans to address disparate impacts.
5. Simplify Farm Loans and Farm Programs application forms for SDG user-friendliness and streamline the paperwork necessary to apply for Farm Loan Programs and Farm Programs, in part by eliminating requests for redundant information.

J. Rural Development Assessment

1. Contract Objective

The RD Assessment Team’s objective was to evaluate fairness and equity in the delivery of financial and technical programs by RD, with a particular emphasis on the equitable delivery of programs to SDGs.

2. Assessment Process

The Assessment Team (1) conducted 698 interviews of RD employees at Headquarters and in 15 USDA-selected states; (2) held Focus Group sessions in 10 Assessment States; (3) interviewed 30 CBOs across the country; and (4) reviewed and analyzed statutes, regulations, policies, manuals, reports, and documents provided by USDA. In addition, the Assessment Team conducted research on a wide variety of topics, including, among others, the history of the Agency, media and other public reports of RD activities, and the major class-action

discrimination lawsuits filed on behalf of African American, Hispanic, Native American, and female farmers and ranchers.

RD employees, Focus Group participants, and CBOs were asked a series of questions designed to ascertain facts and perceptions regarding, among others, fairness and equity in program delivery by RD, the work environment, practices and policies as they relate to outreach to SDGs, awareness of discriminatory conduct, and recommendations to improve program delivery and the working environment.

3. Agency Mission

The core mission of RD is to ensure that rural America thrives by improving the quality of life for *all* rural Americans. RD programs are delivered through three major program areas: 1) Rural Housing and Community Facilities; 2) Rural Business; and 3) Rural Utilities.

4. Key Barriers to Equitable Delivery of Programs

The Assessment Team's analysis highlights positive aspects of the Agency's performance along with potential and actual barriers to equitable participation in programs, including the following *key* barriers to equitable program delivery:

- SDG lack of knowledge and awareness regarding RD programs, eligibility requirements, application procedures, and terms and conditions of assistance.
- Multiple office staff workplace issues, including office-specific diversity concerns, which ultimately impact delivery of programs.
- Eligibility/qualification requirements, which may impede SDG participation in programs.
- Insufficient outreach to SDGs and other under-served groups.
- Geographic inaccessibility of office locations to many SDGs.

5. Key Recommendations

1. RD should establish a comprehensive education and information program to target under-served populations, particularly in areas with high SDG concentrations. The communication and education program should be multi-faceted, using the most cost-efficient

existing organizations, such as CBOs, 1890 Institutions, Tribal Colleges and Universities, public schools, churches, employers, military installations, and other Federal, state, and local government agencies to reach intended audiences. RD should provide information to these organizations and secure cooperation for them to disseminate broadly, to their employees, students, members, and other constituents.

2. In order to expand RD's presence and successful utilization of existing program dollars that are not reaching SDG communities, RD should seek organizations such as CBOs able to 1) identify RD programs appropriate for their constituents; 2) educate potential applicants to build capacity; 3) assist with the application process; and 4) work with borrowers to increase the likelihood of success after funding is provided. RD should create *certified* outreach partnerships by training organizations with technical and substantive knowledge as well as strong ties to SDGs, particularly in states that have not fully obligated funds or are serving under-served populations.
3. RD should reinstitute a Direct Lending Business Program to assist small and SDG-owned businesses, which often require smaller loans to facilitate growth and success.

K. Natural Resources Conservation Service Assessment

1. Contract Objective

The NRCS Assessment Team's objective was to evaluate fairness and equity in the delivery of financial and technical programs by NRCS, with a particular emphasis on the equitable delivery of programs to SDGs.

2. Assessment Process

The Assessment Team (1) conducted 540 interviews of NRCS employees in 15 USDA-selected states; (2) held Focus Group sessions in 10 Assessment States; (3) interviewed 30 CBOs across the country; and (4) reviewed and analyzed statutes, regulations, policies, manuals, reports, and documents provided by USDA. In addition, the Assessment Team conducted research on a wide variety of topics, including, among

others, the history of the Agency, media and other public reports of NRCS activities, and the major class-action discrimination lawsuits filed on behalf of African American, Hispanic, Native American, and female farmers and ranchers.

NRCS employees, Focus Group participants, and CBOs were asked a series of questions designed to ascertain perceptions regarding, among others, fairness and equity in NRCS's program delivery, the work environment, practices and policies as they relate to outreach to SDGs, awareness of discriminatory conduct, and recommendations to improve program delivery and the working environment.

3. Agency Mission

The core mission of NRCS is to provide conservation planning and assistance to landowners with a goal of protecting soil, water, air, plants, and animals. NRCS accomplishes its conservation goals by providing both financial and technical assistance to landowners to implement conservation practices on their land.

4. Key Barriers to Equitable Delivery of Programs

The Assessment Team's analysis highlights positive aspects of the Agency's performance along with potential and actual barriers to equitable participation in programs, including the following *key* barriers to equitable program delivery:

- Program design, ranking, and application processes favor larger producers over smaller producers, which are often SDGs.
- SDG customers are not kept informed of important program information and timelines.
- There is insufficient outreach/marketing to SDGs and other under-served groups.
- Application processes, eligibility requirements, technical practices, and timelines are inconsistent with unique needs of tribal and Native American customers.
- Minorities and females are under-represented in Headquarters, state- and field-level NRCS offices.

5. Key Recommendations

1. *Program design:* a) A specific conservation program should be designed and funded for SDG farmers and ranchers taking into account their unique characteristics as landowners; b) technical requirements of all programs should be reviewed and modified to ensure that they do not disparately impact and are not unnecessarily onerous to SDGs; and c) the Conservation Stewardship Program should not be funded at the expense of the Environmental Quality Incentives Program, which has higher levels of SDG participation and SDG eligibility.
2. a) Fund applications for SDG producers continuously; b) implement protocols for tracking applications, informing applicants of the status of their application in writing, giving reasons for rejected applications, and providing meaningful guidance for re-applying; c) ensure that all customer-facing NRCS employees are trained and knowledgeable about new programs and initiatives; and d) allow sufficient lead-time for distribution of handbooks, training materials, forms, and other documents before public announcements of new initiatives.
3. In concert with the Department-wide Recommendations, NRCS should a) establish the position of Chief Diversity Officer at the Agency and State levels, along with State Offices of Emerging Customer Development, to develop marketing plans, coordinate initiatives, report program participation results, and create annual corrective action plans for areas of under-performance; and b) develop metrics to track/quantify outreach/marketing efforts to assist in establishing concrete, meaningful performance measures with appropriate, enforced incentives and penalties.
4. NRCS should develop and fund a specific program for Native American land, taking into account the ownership structure of reservation land that makes it difficult to establish program eligibility, and addressing those parts of the application, particularly Adjusted Gross Income disclosures, that deter participation by Native Americans.
5. Make workforce diversity and inclusion among NRCS's highest priorities; in concert with the Department-wide recommendations,

immediately adopt OFCCP-type workforce analytical tools, use results to create remedial plans, and enforce through serious, meaningful performance measures with appropriate rewards and penalties.

L. Risk Management Agency Assessment

1. Contract Objective

The objective of the RMA Assessment was to evaluate fairness and equity in financial and technical delivery of programs by RMA, with a particular emphasis on the equitable delivery of programs to SDGs.

2. Assessment Process

The Assessment Team (1) conducted more than 155 RMA employee interviews throughout the Headquarters, Regional, Regional Compliance, and Product Management Division offices; (2) held Focus Group sessions in 10 Assessment States; (3) interviewed 30 CBOs across the country; (4) interviewed senior officials of four Approved Insurance Providers (“AIP”), and 20 agents/brokers who were associated with the four AIPs; and (5) reviewed and analyzed statutes, regulations, policies, manuals, handbooks, reports, and documents and data provided by USDA. In addition, the Assessment Team conducted research on a wide variety of topics, including the history of the Agency, media and other public reports of RMA activities, and the major class-action discrimination lawsuits filed on behalf of African American, Hispanic, Native American, and female farmers and ranchers.

RMA employees, Focus Group participants, and CBOs were asked a series of questions designed to ascertain facts and perceptions regarding fairness and equity in program delivery by or through RMA, the work environment, practices and policies as they relate to SDG targeted outreach, awareness of discriminatory conduct, and recommendations to improve program delivery and the working environment. The Assessment Team interviews of the AIPs and agents/brokers sought to learn about, among others, the AIPs’ non-discrimination policies, procedures and practices; recruitment of minority and women agents/brokers; requirements/goals to sell risk management products to SDGs; incentives offered to encourage agents/brokers to outreach and sell insurance products to SDGs; and the level of sales to SDGs.

3. Agency Mission

The mission of RMA is to help agricultural producers and ranchers (collectively “producers”) manage an array of natural, financial, and market risks by developing and making effective risk management solutions (such as crop and livestock insurance (collectively “crop insurance”)) and other risk management tools available to producers. Through the Federal Crop Insurance Corporation (“FCIC”), RMA makes crop insurance programs available to producers, with independent AIPs responsible for selling and administering RMA’s crop insurance programs.

4. Key Barriers to Equitable Delivery of Programs

The Assessment Team’s analysis highlights positive aspects of the Agency’s performance along with potential and actual barriers to equitable participation in programs, including the following *key* barriers to equitable program delivery:

- AIPs do not currently collect demographic data regarding applicants or customers and therefore do not know the extent to which they are serving SDGs.
- The Standard Reinsurance Agreement (“SRA”) with AIPs does not adequately ensure that AIPs and their agent/brokers sell crop insurance products to SDGs, and equitably service those products.
- AIPs and their agents/brokers conduct little outreach/marketing to SDGs; they have no additional monetary incentives to market/sell insurance products to SDGs.
- RMA’s crop insurance programs do not sufficiently meet the needs and practical realities of SDGs.

5. Key Recommendations

1. Require all AIPs to collect, maintain, and report (quarterly and annually) comprehensive demographic data, including at a minimum race/ethnicity and gender for all applicants, and all customers. Require annual analyses by AIPs of percent of applicants and customers that are SDGs compared with the AIPs’ service territory, and corrective action plans for identified under-representations.

2. Incorporate explicit, comprehensive, measurable SDG outreach/marketing requirements for AIPs into regulations and SRAs, and rigorously enforce the requirements; require annual reports from AIPs describing all outreach/marketing efforts, performance against goals, and corrective action plans for identified deficiencies.
3. Provide incentives, such as enhanced commissions and bonuses, for agents/brokers to sell RMA products to SDGs.
4. Develop, and encourage private entities to develop new, innovative, reasonably priced insurance products covering crops typically grown by SDGs.

M. Additional Assessments and Analyses

1. Internal and External Reports

The Contract required the Assessment Team to “Compile and examine internal and external reports that examine USDA program delivery’s impact on USDA customers and potential customers, including customers that have been denied services in the past.” Comprehensive research and requests to USDA generated a relatively small number of internal and external reports published in recent years which examine the equity and fairness of USDA program delivery for customers, potential customers, and customers that have been denied services. The Assessment Team included descriptions of 10 such reports in this Report, along with tangential but related reports (such as customer surveys). These reports range in time from the seminal 1997 “Civil Rights Action Team” (“CRAT”) Report, to a March 2011 Arkansas Community-Based Organization report. Each of the reports provides history, context, and background for this Assessment, and many, particularly the CRAT Report, included recommendations to address identified issues. Some of the various report recommendations have been implemented by USDA, and many others are currently under consideration for implementation. The Assessment Team took note of the recommendations, and some of them are included, in modified or updated form, in this Report.

2. USDA's Customer Base and Inclusion of SDGs: FSA, RD, and NRCS

The Contract required the Assessment Team to “Analyze USDA’s current customer base and constituencies in comparison to the existing population.” At the Assessment Team’s request, FSA, RD, and NRCS each provided information regarding customers for various programs by number of customers and dollars spent with/attributable to such customers, and race/ethnicity and gender data, where available, to enable a comparison with their respective population percentages. (Neither RMA nor the AIPs collect demographic information on applicants or insureds, so no such comparative data was available for RMA. Clearly, USDA should require the collection of this data as soon as authority to authorize it can be secured.)

The Assessment Team analyzed the information provided and compiled aggregate race/ethnicity and gender information for customers nationwide and by State, where data was available, along with associated numbers of transactions and associated dollars, for the 15 USDA-selected States covered in this Assessment. USDA-provided data was compared with appropriate population figures for each SDG; for example, in examining FSA loan data, the 2007 *AgCensus* Principal Operator data (the latest available) was used as the comparison population, because Principal Operators are those producers who apply for loans. The results are presented in this Report in a series of spreadsheet Exhibits for each of the three Agencies, FSA, RD, and NRCS.

Caveat: This Report includes repeated cautionary references to a *caveat* regarding the *unreliability of USDA data*. In addition to numerous past reports critical of the unreliability of USDA data (such as General Accountability Office and Office of Inspector General reports), the Assessment Team identified numerous errors, conflicts, inconsistencies, and omissions in the wide variety of data provided by USDA for this Assessment. Most of those problems were *apparently* corrected by provision of supplemental information, but some of them—such as inherent unreliability of race/ethnicity data collected by “physical observation”—could not be corrected or confirmed. Thus, all of the data analyzed and presented in this Report must be understood as based on questionable data.

Subject to that *caveat*, the following is a brief summary of the customer base comparisons for FSA, RD, and NRCS:

- a. **FSA:** FSA provided customer data for Farm Loans (Direct and Guaranteed Loans, FY 2010 and existing Portfolio), and Farm Programs.
 - 1) Direct Loans: SDG participation reasonably well reflected their respective Principal Operator populations, with the *exception of Female participation*, which was substantially less than the Female Principal Operator population.
 - 2) Guaranteed Loans: With the exception of Asians and Native Hawaiians/Pacific Islanders, SDG participation was less, and *with some SDGs substantially less*, than their respective Principal Operator populations.
 - 3) Farm Programs: *For all Farm Programs* on a nationwide aggregate basis, SDG participation was less, and *with some SDGs substantially less*, than their respective Principal Operator populations.
- b. **RD:** RD provided customer data for its FY 2010 Single Family Housing (“SFH”) Direct and Guaranteed Loans, and listings of “beneficiaries” (tenants) for its Multi-Family Housing Loans (which are made to entities, not individuals).
 - 1) SFH Direct Loans: SDG participation for all groups *exceeded* their respective rural populations, with some by substantial margins.
 - 2) SFH Guaranteed Loans: With the exception of Females and American Indians/Alaskan Natives, *SDG participation exceeded* the respective rural populations.
 - 3) MFH Loan “Beneficiaries”: All SDGs in FY 2010 were beneficiaries in percentages *greater* than their respective rural population percentages.

c. **NRCS:** NRCS provided customer data for several of its key programs. While some of the *data was inconsistent*, it appeared that:

- 1) Percentage participation by SDG groups (with the exception of Females) exceeded their respective Principal Operator percentages for most key programs.
- 2) One Easement Program (“Wetlands Reserve”) showed relatively low participation by race/ethnic SDGs (although the data is incomplete).

This Report provides a number of Recommendations for addressing both (a) data collection, recording, accessing, and reporting, and (b) improving areas of apparent under-service (based on population figures) to SDGs.

3. Statutory/Regulatory Policies

The Contract required the Assessment Team to “Identify statutory and regulatory policies that may lead to discrimination and bar individuals from participating.”

The Team identified, reviewed, and assessed hundreds of statutes, regulations, and handbooks (some of them comprehensive and lengthy, such as Farm Bills and regulations found in the Code of Federal Regulations). *The Team concluded that, while none of these sources are discriminatory against SDGs on their face*—indeed, some have special provisions for the benefit of SDGs—many allow discretion in decision-making in such a way as to permit the possibility for discrimination in the application of the statute, regulation, or handbook provisions. This Report provides Recommendations for addressing those discretionary opportunities for discrimination.

4. Program Information Technology Tools

The Contract required the Assessment Team to “Examine program delivery information technology tools to ensure equity and access. Systems to be reviewed are: Protracts, AERT, SCIMS, GLS, DLOS, and Farm Business Plans.” The Assessment Team reviewed the elements of these tools and compiled results of the USDA field employee interviews regarding their user-friendliness and any problems identified with using

them. (Customers are generally not familiar with USDA IT tools, so the Team did not receive comments on the tools from them.) *Less than seven percent of employees identified barriers associated with the IT tools.* Those employees that identified barriers focused on the complexity, unreliability, and other problems in using them, and on the unavailability of on-line forms to many SDGs, who do not have computers, or cannot access the web. This Report provides Recommendations for improving the tools and user-friendliness of the on-line forms for SDGs, including a Recommendation that field personnel proactively assist customers and applicants in completing forms and providing necessary data.

5. Program Office Staff Demographics

The Contract required the Assessment Team to “Assess program office staff demographics for areas served versus area census data, including demographics of committees used by USDA to implement programs, such as FSA county and state committees, local working groups, and State Technical Committees.” The intent of this task is to compare the demographics of the USDA workforce and committees with those of customers and other constituents, to determine the extent to which USDA “looks like the customer base it serves.”

The Assessment Team reviewed and evaluated a vast volume of data, including Department and Agency workforces, State, Regional, Area, and County workforces, and associated State and County Committees. The Team compared those results with the appropriate populations—in most instances, the 2000 Census U.S. Civilian Labor Force (“CLF”) (the latest available data). The results are presented in a series of spreadsheets, charts, and graphs, identifying “under-utilizations” of personnel: areas where the USDA workforce, or committees, have SDG representation less than the associated population. The results, summarized as follows (omitting minor under-representations), demonstrated several different types of diverse representation inadequacies by location:

- a. **FSA:** Under-representations in the National workforce include Minorities (as a group), Hispanics/Latinos, and Asians (as separate groups); under-representations in State Offices include Hispanics/Latinos and Blacks/African Americans in several States; *County (non-Federal) Employees include substantial under-representations of all race/ethnic SDGs*; other FSA employees (non-

State, non-County) in the 15 USDA-designated States include Females (*several States*), Hispanics/Latinos (*several States*), and Blacks/African Americans (*several States*).

- b. **RD:** Under-representations in the National workforce include Hispanics/Latinos, and Asians; under-representations in State Offices include Hispanics/Latinos; Area Personnel in the 15 USDA-selected States include Hispanics/Latinos (*several States/Areas*), and Blacks/African Americans (*several States/Areas*).
- c. **NRCS:** Under-representations in the National workforce include *Females, Minorities, Hispanics/Latinos, Blacks/African Americans, and Asians*; under-representations in State Technical Committees include Females (*several States*), Hispanics/Latinos (*several States*), and Blacks/African Americans (*Mississippi*); under-representations in State Conservationist Offices include Females (*several States*), Hispanics/Latinos (*several States*), and Blacks/African Americans (*several States*); Field employees in the 15 USDA-selected States include under-representations in Females (*numerous Areas*), Hispanics/Latinos (*numerous Areas*), Blacks/African Americans, Asians (*several Areas*), and American Indians/Alaskan Natives (*several Areas*).
- d. **RMA:** Under-representations in the National workforce include Minorities, Hispanics/Latinos, and Asians; under-representations in RMA Regional Offices include Females (*several Offices*), and Hispanics/Latinos (*several Offices*).

This Report includes numerous Recommendations for improving the diverse representation of the USDA and Agency workforces, and committees, the most important of which is to conduct utilization analyses using available labor pools, along with appropriate geography and job categories, to identify genuine under-utilizations, and prepare remedial plans with clear objectives included in hiring managers' performance plans. Obviously, to the extent any unfairness or bias exists within the USDA workforce, it adversely impacts USDA equitable program service delivery.

6. USDA Discrimination Complaint System

Although not required by the Contract, the Assessment Team determined that analysis of USDA's discrimination complaint system was important to this Report's findings and therefore conducted an overview assessment of USDA's discrimination complaint systems, including processes for (a) program, and (b) EEO workplace complaints. These two areas have been the subject of historic criticism for general ineffectiveness, arising out of (a) unreliable data, (b) delays in processing that allow backlogs to accumulate, and (c) at times, failure to investigate complaints.

The Assessment Team found some improvements in data collection and access, and slightly reduced processing times, but the persistent problem is the sheer complexity of the process, particularly in light of the simplicity of most of the claims, that inevitably leads to unnecessarily long investigation and adjudication periods—leading to what appears to be an almost foregone conclusion: in 97%+ of the claims, there is no finding of discrimination. Delays sabotage the very purpose of an internal complaint system, which is to demonstrate to employees and customers that USDA can provide swift, fair justice. Delays in and of themselves undermine confidence in the process, enable complainants to assume the worst, and damage the integrity of fact-finding (memories fade, witnesses become unavailable, documents and other physical evidence disappears).

Major corporations have adopted informal internal complaint processes over the past few decades, and have found that they can complete the process for most complaints in a matter of weeks, rather than months and years. The Assessment Team recommends a wholesale simplification of the process, along with a periodic auditing mechanism, that would lead to dramatically shortened processing times, and better results.

7. Protected Classes

The USDA RFP listed 19 separate characteristics (*e.g.*, race, color, gender, religion, parental status, marital status) with respect to which USDA seeks to provide “equal and fair access for all customers.” At the same time, USDA regulations, Departmental Regulations, Departmental Manuals, the website, civil rights compliance review criteria, and other

USDA sources cite varying numbers and differing descriptions of these “protected classes.” To avoid confusion by employees, customers, and other constituents, and avoidable difficulties in claims and litigation, the Assessment Team recommends that USDA, in consideration of applicable Federal statutes and regulations, along with internal policy considerations, decide upon a consistent approach to these protected classes, and reflect that decision in all pertinent publications.

**United States Department of
Agriculture**

**Independent Assessment
of the Delivery of Technical and
Financial Assistance
Contract AG-3142-C-09-0049**

“Civil Rights Assessment”

FINAL REPORT

March 31, 2011

**APPENDIX:
COMPILATION OF ALL CIVIL RIGHTS
ASSESSMENT FINAL REPORT
RECOMMENDATIONS**

APPENDIX:

COMPILATION OF ALL CIVIL RIGHTS ASSESSMENT FINAL REPORT RECOMMENDATIONS

The following is a list of all of the Recommendations contained in the Final Report, *i.e.*, a total of 234 Recommendations. The Recommendations are set forth in the following order:

- (1) Department-wide (“DW”) Recommendations, total of 60;
- (2) Farm Service Agency (“FSA”) Recommendations, total of 49;
- (3) Rural Development (“RD”) Recommendations, total of 28;
- (4) Natural Resources Conservation Service (“NRCS”) Recommendations, total of 27;
- (5) Risk Management Agency (“RMA”) Recommendations, total of 27;
and
- (6) General Recommendations (“GR”) from the Additional Analyses, total of 43.

Each Recommendation is listed as part of its respective Section, *e.g.*, DW-1 through DW-60; FSA-1 – FSA-49; RD-1... *etc.* As noted above, there are six separate Sections and a total of 234 Recommendations.

APPENDIX: COMPILATION OF ALL CIVIL RIGHTS ASSESSMENT FINAL REPORT RECOMMENDATIONS

(1) Department-wide (“DW”) Recommendations

- DW-1** Building on the cultural transformation message developed and disseminated by the Cultural Transformation Initiative Task Force, the Secretary’s entire senior team, including Under Secretaries, Assistant Secretaries, and Administrators, **should each personally lead a DIA communications campaign**—for example, “Re-birth of [All] the People’s Department”—**targeting selected key stakeholders** (for example, employees, customers, beneficiaries, CBOs), and the general public.
- DW-2** Building on the USDA Cultural Transformation Initiative Statement of Purpose, the Secretary’s Office should prepare and issue the Secretary’s **“Diversity, Inclusion, and Accessibility Statement”** to all employees, to be posted in all facilities, on the website, blog, and other prominent locations, and to be included in personal mailings to employee homes, such as the annual mailing of W-2 statements.
- DW-3** The Secretary should re-issue, and emphasize to all senior leadership and managers/supervisors (along with the entire workforce) **rigorous enforcement of a comprehensive USDA “Zero Tolerance” Policy**, clearly prohibiting all forms of discrimination, harassment, and retaliation, along with related standards of conduct, and including mandatory discipline for violations regarding both employment and program delivery.
- DW-4** The Secretary’s Office should develop, in writing, a customized persuasive *statement*, *i.e.*, “the business case,” **clarifying how effective DIA measures facilitate better achievement of the USDA Department-wide mission, vision, and strategic objectives**. Under Secretaries should

lead the development of “business cases” specific to each of their Agencies.

DW-5 The USDA ***Strategic Plan should include a section on DIA***, including measurable goals and objectives. Progress against the DIA components of the Strategic Plan should be reported at a minimum in USDA Annual Performance and Accountability Reports, and more often as appropriate.

DW-6 The Secretary’s Office should lead the development and implementation of a ***sustained employee DIA education/communications plan***, educating all employees about the business imperative of DIA at USDA via their customized Agency business cases, including each employee’s individual responsibilities.

DW-7 The Secretary’s Office should lead in the development and implementation of a ***sustained DIA public communications plan***, emphasizing the business imperative of DIA at USDA and how it serves the public interest.

DW-8 The Secretary’s Office should prepare a ***video on the Secretary’s DIA commitment***, featuring the Secretary and participation by a diverse group of senior USDA officials, for wide distribution at National, state, and local levels, on the USDA website, during employee on-boarding, and for other internal and external uses, maximizing distribution into rural communities (Community-Based Organizations, 4-H Clubs, Farm Bureaus, National Farmers Union, National Grange, 1890’s, Land-Grant Institutions, County Committees, Job Fairs, *etc.*).

DW-9 The Secretary’s Office should develop and implement the next phase of a “New Era of Civil Rights and DIA” ***OSEC Communications/Educational Campaign***, commencing no later than Fourth Quarter 2011. The Campaign should target

broadcast and narrow-cast media and be led by a diverse group including the Secretary, Under Secretaries, Administrators, and others focusing on outlets such as television, radio, print and web-based media, and other major outlets, such as *DiversityInc* (interview), regarding “turning the page” at USDA. Ensure that narrow-casting outlets include those relevant to African Americans, Hispanics/Latinos, Native Americans, Asians, Females, other groups, and the farming/ranching industry.

DW-10 To highlight implementation of these Recommendations, the Secretary should issue ***a Department-wide Memorandum (including distribution to all employees, key Congressional Committees, and concerned Caucuses) emphasizing the Secretary’s expectations with respect to the Report.*** The Secretary should also conduct DIA visits, no later than the First Quarter 2012, to the top 10 states with highest concentrations of under-served and socially disadvantaged populations, and involve key Congressional, state, and local participation from those Districts visited.

DW-11 Senior USDA leadership should assume an active role in the Federal Interagency Diversity Partnership, an organization dedicated to increasing diversity in the Federal workforce (in which USDA has had low-level participation, to date). Participation should be at the Assistant Secretary/Administrator level or above.

DW-12 **Create an external USDA Diversity, Inclusion, and Accessibility (“DIA”) Executive Advisory Board,** consisting of external stakeholders/experts to provide broad, independent advice on enhancing DIA efforts at USDA.

Board Members: Chaired by Secretary; Members drawn from notable CEOs and national constituent leaders from: national civil rights organizations such as Leadership Conference on Civil Rights; Community-Based Organizations; major agri-business companies; major

corporations; foundations and 1890's/Land Grants; and selected other Federal Departments/Agency senior officials with particular DIA experience; staffed by Jackson Lewis.

Objective: Obtain independent, objective advice and counsel from diverse, experienced professionals, including best practices from other organizations; achieve enhanced accountability for results; and create greater external and internal visibility of USDA DIA efforts.

DW-13 **Create an *internal* USDA Executive Diversity, Inclusion, and Accessibility Leadership Council** consisting of senior officials drawn from across USDA.

Council Members: Chaired by the Secretary or his designee; Members: all Under Secretaries, and select Agency Administrators (on rotating terms); Assistant Secretary for Administration; staff assistance from Assistant Secretary for Civil Rights and Jackson Lewis *ex officio*.

Objective: Internally elevate visibility and stature of DIA matters; “invest” and educate senior officials in USDA and Agency-specific DIA issues and solutions; provide senior-level oversight, advice, and counsel to the Secretary and Chief Diversity Officer; create consistency and strategic alignment in DIA practices across USDA; and enhance accountability for results.

DW-14 ***Supplementing the external Advisory Board, USDA should establish “strategic alliances” or informal “partnerships” with one or several nationally-recognized corporate diversity leaders, for regular exchange of information on policies and practices, particularly “best practices.”*** These public/private partnerships would specifically address issues of workforce and marketplace DIA; marketing to a diverse constituency; use of customer and workforce surveys; strategies for diverse and inclusive recruiting, retention, and advancement; most effective methods of monitoring,

reporting, and accountability; and other related topics. This relationship should include mutual workplace speaking engagements; co-authoring articles; joint sponsorships of DIA Conferences with multiple corporate and government sponsors, speakers, brainstorming workshops, and best practice sharing sessions; and other ongoing synergistic interactions.

DW-15 ***Establish by Secretarial Reorganization an Under Secretary for Diversity, Inclusion, and Accessibility; Civil Rights; and Departmental Management*** (see Exhibit 13, Proposed Organizational Chart). The combined and enhanced roles of the Assistant Secretary for Administration, which include human resources, budgeting, marketing, outreach, as well as civil rights enforcement and compliance, would be trifurcated under a new direct report to the Secretary, an Under Secretary position responsible for three functions: (1) Administration; (2) Civil Rights compliance and enforcement (under the OASCR); and (3) Diversity, Inclusion, and Accessibility led by the USDA “Chief Diversity Officer” (including the Office of Advocacy and Outreach, and an Office of Emerging Customer Development). Civil Rights and Administration would remain under an Assistant Secretary and DIA would report to a Chief Diversity Officer. The Secretary has already taken some preliminary actions in this direction, but more formal action is essential to send a strong positive message of priority to internal and external stakeholder groups.¹

DW-16 ***Appoint Chief Diversity Officers for every major Agency,*** reporting directly to the Agency Administrators/Chiefs, with matrix reporting to the USDA CDO and the Assistant Secretary for Civil Rights. Conduct monthly meetings with all Agency CDOs, chaired by the USDA CDO.

¹ According to the USDA Office of General Counsel, the Secretary can create the Under Secretary position and CDO positions under the authority granted to him by Section 4 of Reorganization Plan No. 2 of 1953; June 4, 1953, 18 F.R. 3219, 67 Stat. 633, as amended Oct. 15, 1982, Pub. L. 97-325, § 8(d), 96 Stat. 1606; Oct. 13, 1994, Pub. L. 103-354, title II, § 218(e)(1), 108 Stat. 3213.

- DW-17** ***Appoint Chief Diversity Officers in every State Office*** with dual diversity/compliance functions, with staffs and budgets, and direct reporting to State Directors and matrix reporting to the USDA CDO/ASA.
- DW-18** **Create within every major Agency CDO Office an “Office for Emerging Customer Development,”** to replace “outreach” positions.
- DW-19** Study optimal, most efficient means of staffing of both CDO and ASCR activities, both previously under-staffed in the field.
- DW-20** ***To improve and ensure enhanced accountability for diverse workforce representation, USDA and its Agencies should expand beyond the EEOC-required MD-715-01 analytical requirements and voluntarily utilize the more rigorous OFCCP-model Federal contractor self-evaluative requirements.*** This would include analyses of (a) current personnel utilizations against pertinent labor pools, and (b) potential adverse impacts of all key aspects of workplace DIA functions, including identifying under-representations and under-performances, and preparing and implementing specific remedial action plans, along with annual reports to senior management on progress against goals.² The effort

² Pursuant to 42 U.S.C. § 2000e-16; 5 U.S.C. s 901 et seq; Executive Order 11748; and Section 501 of the Rehabilitation Act of 1973, as amended by Pub. L. 99-506, 100 Stat. 1807, October 21, 1986, Equal Employment Opportunity Commission Management Directive 715 (MD-715) requires heads of all executive agencies to submit an annual report on their workforces that includes workforce demographic data, in an effort to ensure that all employment decisions are free from discrimination. Pursuant to Executive Order 11246 and implementing regulations, the Office of Federal Contract Compliance Programs (“OFCCP”) requires Federal contractors to annually conduct a workforce analysis, comparing incumbent personnel with “availability” in the relevant job categories and labor pools; if the analysis demonstrates that women and/or minorities are underrepresented, the contractor must implement affirmative action to increase the participation of minorities and women in the workplace. The regulations further require numerous analyses of applicant flow, hiring, promotions, terminations, and other aspects of workforce management, to detect any “adverse impacts,” and remediation of any such impacts disclosed. See Executive Order 11246; 41 CFR § 60; Section 503 of the Rehabilitation Act of

should commence with a planning process that designs geographically-based Annual Employment Action Plans for all Agencies and all Federal/State/Area/County offices, using appropriate job category populations.

- DW-21** ***USDA should hold all managers accountable for utilizing a diverse pool of applicants for all vacancies/promotions,*** with limited exceptions to be approved/denied by the USDA CDO. The CDO would direct follow-up actions to remedy the reasons for exceptions, where such exceptions are temporarily approved.
- DW-22** ***The scope of the USDA CDO responsibilities should include conducting, analyzing, and reporting on Annual Organizational Health surveys of all USDA employees.*** The Surveys must include comprehensive DIA questions (covering the workplace and “marketplace”), to broadly measure job satisfaction, morale, and effectiveness of USDA policies, programs, and performance. USDA should simultaneously establish a methodology for regular Department, Agency, and Office reviews, summaries, reports to the Secretary, feedback to the workforce, trend tracking, and responsive actions (such as setting supervisory performance objectives, as detailed above, and training).
- DW-23** ***USDA should enhance active recruitment from major corporations and other Federal Agencies for senior positions,*** including “Exchange” and “Lend an Executive” programs, and focus on diversity in such recruitment.
- DW-24** Following the model of President Obama’s May 2010 Memorandum mandating recruiting/hiring process changes (“Hiring Reform Action Plan,” see Exhibit 14), USDA should

1973; 38 U.S.C. § 4212. While OFCCP requirements apply only to Federal contractors, not to Federal departments and agencies, the Team recommends that USDA voluntarily adopt these well-established, effective methodologies and make them mandatory throughout the Department.

work with OPM as necessary to **re-assess and revise, as needed, all job descriptions in job categories of minority and female under-utilization**. The goal would be to ensure that job descriptions are not unduly restrictive in order to reduce instances of unfair disqualification of diverse applicants. This effort should begin at the senior and supervisory level.

- DW-25** In concert with the Secretary's Cultural Transformation training initiative and Recommendations in the Agency Assessment Sections, beginning with an RFP/RFI/RFQ process in FY 2011, **USDA should dramatically upgrade mandatory nation-wide DIA in-person training, covering both the workplace and the marketplace (customer service)**. The materials should include an educational module designed to counteract employee resistance to "targeting" under-served populations.
- DW-26** **USDA should establish a knowledge transfer/mentorship program** using, among others, senior/near-retirement USDA employees to transfer institutional knowledge and mentor rising high-potential minorities and women.
- DW-27** **USDA should implement a rigorous succession planning methodology** for incorporating minorities and women in higher positions at USDA.
- DW-28** **USDA should expand upon actions of the Cultural Transformation Initiative by designing and incorporating specific, meaningful, and measurable DIA objectives in all senior official and managers' performance plans, and using them to appropriately affect compensation, promotion potential, and other areas of employee performance and progression**. Standards will vary depending on job category (e.g., "bonus-eligible" positions), but new, specific DIA objectives will be impactful. (As noted above, with some exceptions, employees

generally do not regard the “Civil Rights/EEO” component of their performance evaluations as meaningful or having any positive or negative impact on their careers.)

DW-29 Building on the recent addition of a diversity category to the Secretary’s Honors Awards in 2010, ***regularly recognize and publicly reward outstanding performance in diverse workforce development and marketing practices*** and results at Departmental, Agency, and State levels.

DW-30 ***Organize and Implement an Intra-Agency Data Validation and Integrity Team*** to verify the validity of existing data, and dramatically improve the integrity of all data gathered in the future:

- a. Obtain the Race/Ethnicity/Gender OMB approval as soon as possible. Implement the requirements to collect such data from applicants and customers in the four USDA Agencies (FSA, RD, NRCS, and RMA), and other customer-service Agencies as appropriate. Provide necessary roll-out materials, training, and early monitoring of compliance to correct deficiencies. Regularly report to the Office of the Secretary on progress.
- b. Require AIPs and financial institutions with USDA-guaranteed loan programs to collect the same data from their applicants and customers, and design templates for recording and retrieving race/ethnicity and gender information about applicants and insureds.
- c. Establish a USDA management priority to improve data collection/retrieval throughout USDA.

DW-31 FSA, RD, NRCS, and RMA (and other customer-serving Agencies as appropriate) should ***develop a template (such as that used in this Assessment) for regularly collecting and reporting on customers served, by race/ethnicity and gender***. The information should be reported to the Agency

heads on a monthly basis, and the Secretary on a quarterly basis. It should be used to develop marketing plans (discussed below) and measures for performance evaluations.

DW-32 ***USDA should commence reporting to Congress under Section 14006 of the 2008 Farm Bill in FY 2011 using best available data, and prepare annual reports to Congress as required thereafter.*** USDA should provide not only numbers and percentages of customers by race/ethnicity and gender, but also dollars awarded/paid/obligated and percentages for each SDG, along with comparisons to the percentages of SDGs in the relevant populations. USDA should include customers for all Agencies and all programs, not just farmers and ranchers (as required by Section 14006).

DW-33 USDA should prepare ***Annual Reports to Congress*** (Senate/House Agriculture and other interested Committees) from the Secretary (prepared by the Under Secretary for DIA) covering:

- Employment diversity goals and performance/improvements;
- Under-served, including socially disadvantaged, customer service goals and performance/improvements;
- Civil rights employment complaint metrics, performance, and “lessons learned”;
- Program civil rights complaint metrics, performance, and “lessons learned”; and
- New initiatives to better serve the under-served.

DW-34 ***USDA should require Annual DIA Business Plans from all major Agency Headquarters and State/County Offices,*** showing goals/objectives for inclusion of under-served, including socially disadvantaged, populations, with metrics,

deadlines, evaluations of performance against goals, and end-of-year results reports to the Secretary.

DW-35 ***The ASCR should develop, institutionalize, and lead an ongoing annual process to review, analyze, and report on “lessons learned”*** from (a) EEO complaints, and (b) program complaints, closed during the year. This should include identification of recurring themes underlying the analysis of complaints, results of investigations (which often turn up areas for improvement in communications, training, and other areas even when there is no finding of discrimination, and certainly do so when there is such a finding), and recommendations for improving practices to avoid such complaints in the future. These reports should be distributed on the intranet to all employees, and to all USDA senior officials and managers.

DW-36 ***USDA should reconstruct the Program Complaint process, commencing with completing its implementation (already underway by ASCR) of a simple complaint form*** (rather than the current “letter” requirement), similar to the EEOC Charge Form, and simplifying all steps in the process, including eliminating unnecessary review levels, to enable more expedient investigations and decision-making. All Program Complaints should be filed at Headquarters, not at the State or local level (provide pre-paid envelopes addressed to USDA).

DW-37 ***USDA should install and widely publicize two toll-free Hotlines (one for employees; one for customers)***, integrated with the Complaint System, which would log in and create files for all complaints received, and follow normal processes for investigation and closure.

DW-38 ***USDA should annually outsource to a highly-rated private sector entity 10% of Program and EEO complaints*** for investigations on 60-day tracks and compare

the findings, timing, and hours invested per matter with USDA-conducted investigations. Take appropriate follow-up actions with respect to USDA practices.

- DW-39** Building on the EEO Accountability Program, recently established in OHRM through the Cultural Transformation Initiative, ***USDA should develop and produce a simplified policy manual for all employees, which includes permissible and effective methods to discipline employees*** who violate anti-discrimination, anti-harassment, and anti-retaliation laws and policies.
- DW-40** Following the IRS-announcement model (capitalizing on the deterrent effect of audits, prosecutions, and punishment), ***USDA should internally publicize documented, confirmed acts of USDA discrimination, harassment, and retaliation, and corresponding penalties consistent with applicable restrictions***, such as privacy laws, as a way of educating the workforce as to “real-world experiences,” recent developments, and reminding them of the importance of a shared commitment to DIA values and processes.
- DW-41** ***USDA should now and annually remind all Agencies of the fundamental requirements for Civil Rights Impact Statements (DR 4300-002) (“CRIS”)***—which have strong potential for integrating DIA in administrative policy and transformational change efforts—and OASCR and the Agencies should rigorously enforce those requirements, as appropriate, by requiring and providing additional information and concluding with denials, conditions, and monitoring of performance, as appropriate. OASCR should communicate as needed with the Department and Agencies as to lessons learned, evolving standards, and new initiatives regarding CRIS.
- DW-42** ***USDA should work with OPM and Congress as necessary to enable streamlined discipline for civil rights violators,***

including suspensions/terminations, to maximize availability of effective, message-sending disciplinary measures.

- DW-43** For a provisional, one-year-period (until confidence and trust is restored in USDA's operations), ***USDA should require immediate referral and review of all denied (and perhaps inordinately delayed) loan/program applications, and all foreclosures, of SDGs, at USDA CDO-Headquarters.***
- DW-44** ***USDA should re-establish a "Testing Program"*** (using accepted protocols of farmers and RD customers, such as HUD Testers) for customer service equity evaluations.
- DW-45** In concert with various moratoria on such foreclosures, ***USDA should create within the office of the Under Secretary for DIA responsibility for review of all proposed foreclosure actions impacting SDGs;*** USDA should take all reasonable steps to re-structure non-performing loans with, and avoid foreclosures against, SDGs whenever feasible.
- DW-46** Beginning in FY 2012, initiate "Rebirth of 'All The People's Department,'" or similarly-themed, messaging approach.
- DW-47** In addition to OSEC communications, the Office of Communications should establish and develop a high-volume "Model Department" Education/Communications Campaign designed to educate the public, customers, and potential customers about USDA vital programs and communicate a positive, proactive Departmental message and leverage the Secretary's "New Era of Civil Rights" (and now, DIA) mission.
- DW-48** Myth/rumor-busting: USDA should develop a strategy for improved information flow to anticipate and dispel key myths about and within USDA (examples of such *myths* include: FSA County Committees decide who get USDA loans; the

number of minority farmers is decreasing; “targeting” underserved populations is “reverse discrimination;” all minority farmers are small, *etc.*).

- DW-49** “Re-brand” and educate the public about USDA in *recruiting efforts* to SDGs and others by emphasizing not just agriculture but important USDA workforce skill sets such as asset management, finance and accounting, risk management, insurance, science and engineering, and economics.
- DW-50** USDA should apply for the designation “Best Federal Agencies” at *DiversityInc*—the result is a “free” analysis, comparisons with benchmarks, and suggestions for improvement, all which can be used as additional input for DIA enhancements at USDA. This effort should be led by the new USDA CDO.
- DW-51** USDA should adopt a semantic/philosophical change to eliminate negative and mis-impressions: for example, the term “outreach” should be expunged in favor of “marketing,” and “diversity” should be used in place of “civil rights” when the real intent is “diversity.”
- DW-52** Expanding upon current statutory requirements for assembling program customer data by race/ethnicity and gender (“Transparency and Accountability for Socially Disadvantaged Farmers and Ranchers”), ***USDA should develop a rigorous process for conducting annual utilization (“Market Penetration”) analyses of its customer base focusing on relevant SDG populations, including numbers, dollars, and types of assistance,*** and identifying under-utilizations to serve as the basis for Annual Marketing Plans (*see next Recommendation, below*).

- DW-53** Based on the results of the Market Penetration Analyses, **each Agency, State Office, and Region/Area/County Office as appropriate, should work collectively to prepare and implement Annual Marketing Plans**, including “outreach,” grants, and other goals, objectives, and corrective actions to remediate areas of under-service to SDGs (in a similar manner as the Team has proposed that USDA collect and analyze under-utilization data for USDA employment categories, with plans for corrective actions).
- DW-54** Based on each respective *Annual Marketing Plan*, **each Agency, State Office, and Region/Area/County Office as appropriate, should prepare Monthly and End-of-Year Performance Reports**, reflecting performance against goals and including actions to be taken in the next Annual Marketing Plan. Performance evaluations for leadership in each Agency should be positively (or negatively, as appropriate) and measurably affected by performance against goals.
- DW-55** USDA should establish and disseminate within each customer-serving Agency **annual customer satisfaction surveys**, including DIA questions. The USDA CIO and Agency leadership should analyze and publish the results, and work with the Department and all Agencies on needed improvements indicated from the surveys.
- DW-56** USDA should develop and implement, or facilitate/sponsor the implementation of, a *Mentor-Protégé Program* (similar to that in other Federal Departments, such as DOD) wherein “Mentors” provide **broad business advice and assistance to small/beginning/disadvantaged farmer/rancher/business owner “Protégés,”** to assist them in operating and growing their businesses.

- DW-57** The USDA CDO should ***study and develop a Model Marketing (formerly “outreach”) Program*** for each Agency, and provide the model to all State/local offices.
- DW-58** USDA should require ***NASS to send an Annual Report to all State and County Offices with their State/County statistics on socially disadvantaged farmers and ranchers*** (the “denominator” for market penetration analyses), requiring an acknowledgement of receipt.
- DW-59** Consistent with other Agency Section Recommendations herein and based in part upon the Market Penetration Analyses, ***USDA should create regular USDA Office Days*** (and/or “bookmobile” visits) in government-owned or other appropriate facilities *for all significant remote populations of under-served customers*, to be staffed on those days by existing employees.
- DW-60** ***USDA should establish a National Customer Hotline*** to assist all customers with applications processes and other requests for information and assistance. All hotline operators should be well-trained to answer questions or forward calls to knowledgeable Agency personnel.

APPENDIX: COMPILATION OF ALL CIVIL RIGHTS ASSESSMENT FINAL REPORT RECOMMENDATIONS

(2) Recommendations: Farm Service Agency

FSA-1 Recognizing that County Committees have played a valuable role in providing FSA and USDA with important technical assistance crucial to their decision-making, but do not appear to have kept pace with the changing demographics and demands of a growing America, the Team proposes restructuring the County Committee system as follows.

1. Change the role of County Committee members from having decision-making authority for Farm Programs to serving as “technical advisors.” See, e.g., NRCS Technical Advisors.³ Also, change the County Committee member selection process so that all members are appointed by the SED.
2. Transfer the County Committees’ authority to hire and supervise County Executive Directors (“CED”) to either the State Executive Directors or District Directors (“SED/DD”), as appropriate.
 - a. As part of this process, CEDs who retire or otherwise leave their positions will be replaced by a selection process where a diverse pool of candidates, reflecting the diversity of the local population, is submitted to the SED/DD, and the most qualified candidate is selected.
 - b. If at the end of a 3-year period, commencing when this restructuring is implemented, or such other period determined appropriate by the Secretary, the demographic composition of CEDs does not adequately reflect the diversity of the local population they represent, the Secretary may require individual remaining holdover CEDs to resign, according to a schedule established by the Secretary.
 - c. Before the effective date(s) of the resignations, the SEDs/DDs shall use a selection process whereby the candidates will reflect the diversity of the local populations they seek to

³ <http://www.nrcs.usda.gov/technical/>.

represent, which may include the resigning CED, and the most qualified candidate is selected.

3. All County employees should retain their positions. During the transition period, remaining holdover CEDs may fill vacancies only from a diverse pool of candidates reflecting the diversity of the local population, with all hiring decisions subject to pre-approval by the SED/DD.
4. In the jurisdictions where minority advisors exist or are appropriate, they should be selected by the CED (during the holdover period all selections should be reviewed by the SED/DD).
5. In Counties where there are minority advisors, the advisors should be granted an equal vote on all County Committee decisions and full signing authority.
6. To clarify the newly recommended status, authority, and responsibilities of County Committees:
 - a. A designated FSA official(s) should be assigned by Headquarters to attend the meetings of CBOs and other SDG organizations to explain the newly revised CED selection and reporting processes, the County Committee nominations and appointments processes, and the duties and responsibilities of County Committee members.
 - b. The perennial News Releases from FSA regarding County Committee nominations and USDA appointments should be elevated to the Secretary/Department-wide level to achieve more coverage in the agricultural media.

The Secretary should include a short explanation of the process as often as prudent to elevate the changes in the agricultural media.

FSA-2 Institute training/seminars for FSA employees explaining why programs designed to increase SDG participation are essential, *i.e.*, the Business Case for Diversity, Inclusion and Accessibility, since the future of America competing in a

global economy demands fairness for and inclusion of all Americans.

FSA-3 Take prompt remedial action to reinforce the severity of consequences associated with engaging in discriminatory conduct, where appropriate, and broadly inform local and national employees of the remedial actions taken (within the limits of privacy laws).

FSA-4 Working with the Offices of Advocacy and Outreach (“OAO”) and Communications,⁴ restore FSA’s image with the public, particularly SDGs. As outlined in the Department-wide recommendations, FSA should specifically engage in the following:

- 1) Work with OAO to initiate a campaign to SDGs regarding FSA programs.
- 2) Myth/Rumor busting: FSA should develop a strategy for improved information flow to dispel key myths and rumors about FSA.

FSA-5 Engage in aggressive recruitment efforts to obtain the best job candidates, drawing broadly from across the counties, states and the nation, to achieve fair and qualified representation. This will result in hiring more well-qualified SDG employees and increasing the proportion of SDGs in the Agency workforce.

FSA-6 Require all employment source selection boards to secure a diverse pool of candidates, unless an exception can be granted by the CDO of the Agency, where there is no under-utilization by race or gender for the job in question.

⁴ See Department-wide Recommendations regarding a new “Office of Diversity, Inclusion and Accessibility” and new State Field Offices of Emerging Customer Development.

- FSA-7** Require Farm Programs staff to establish SDG funding goals/benchmarks and be measured on performance similar to evaluations of the Farm Loan Programs staff.
- FSA-8** Cross-train employees on Farm Loan Programs and Farm Programs to better serve all customers and potential customers.
- FSA-9** Cross-train field personnel regarding programs available through other USDA Agencies (RMA, RD, and NRCS) to better serve all USDA customers and potential customers.
- FSA-10** Headquarters should develop a “Handbook on Outreach” (“marketing”).
- FSA-11** Track and provide to State and County Office employees, on an annual basis, not only the statistics of the demographics of their counties and states, but the names and contact information of SDG customers and potential customers in their counties and states.
- FSA-12** Whenever FSA officials deny SDG loan or program applications, they should be required to thoroughly explain to the applicants the reasons for denial *and* what the applicant can do to improve chances of securing FSA approval in subsequent applications. This includes referring them to the appropriate resources (such as a CBO that can assist in the process).
- FSA-13** Appoint Chief Diversity Officers at Agency and State Levels [see USDA-wide Recommendations in Section III] with responsibilities to enhance both SDG program access and employment representation consistent with the applicable representation in the population.

- FSA-14** Utilize an OFCCP-style model for workforce analysis [see USDA-wide Recommendations, Section III] to identify underutilized SDG members for which the Agency should be improving its recruitment, hiring and retention.
- FSA-15** Open additional County Offices in areas with high proportions of non-traditional crops to support Congress's and FSA's decision to cover non-traditional crops.
- FSA-16** Have a fully cross-trained Farm Programs Technician or Farm Loan Officer or other cross-trained representative on staff in every County Office.
- FSA-17** In areas where there is a critical mass of SDGs for whom English is a second language, to the maximum extent practicable, seek to have at least one fully cross-trained employee who is fluent in the language of that SDG group. Also, working with local resources, arrange for (for example, by referrals) more training of customers and potential customers in "English for business transactions."
- FSA-18** Create and make available forms that are translated into appropriate languages spoken by local FSA customers, not limited to Spanish, where there is a critical mass of any one individual SDG group in sufficient numbers to make the process cost efficient.
- FSA-19** Require State Executive Directors ("SEDs"), District Directors, and County Office employees to be "in the field" a specified percentage of their work time.

- FSA-20** To complement online *AgLearn* Civil Rights training, institute periodic in-person, interactive training on Civil Rights and diversity issues.
- FSA-21** Simplify application forms and streamline the paperwork necessary to apply for Farm Loan Programs and Farm Programs, including eliminating requests for unnecessary and redundant information.
- FSA-22** Require County Offices to submit a self-evaluation to the State Outreach Coordinator on an annual basis analyzing the effectiveness of their Outreach (“Emerging Customer Development”) efforts, and providing remedial plans to correct under-performances.
- FSA-23** Require each state to have a full-time State Outreach Coordinator (“Office of Emerging Customer Development”), who has a demonstrated track record and commitment to outreach.
- FSA-24** Require states to re-establish State Outreach Councils composed of USDA Agency representatives and other concerned stakeholders in the state.
- FSA-25** Once outreach (“marketing” or “Emerging Customer Development”) is established as a core component of the field operations mission, create incentives for employees to conduct effective marketing and disincentives for failing to adequately perform.
- FSA-26** Return authority and responsibility to County Offices for mailing post cards and other information to FSA customers and potential customers.

- FSA-27** Modify scope of SDG exception from Direct and Counter-Cyclical Program 10-acre rule to include not just the landowner, but also the Principal Operator.
- FSA-28** Increase the “term limits” for participation in Farm Loan Programs to improve producers’ chances to succeed. The eight-year term limit should be lengthened or eliminated altogether. Clear policy guidance should be given that, as the lender of last resort, FSA and the customers should be viewed as partners with a “mutual” interest in the customers’ long term success, not merely seeking loan repayment.
- FSA-29** Allow greater flexibility for borrowers to meet the 3-year experience requirement to be eligible for farm ownership loans (*i.e.*, allow college degree, “grew up on a farm,” and past work on a farm, *etc.* to be used to satisfy 3-year requirement) and re-visit the value of a 3-year versus a 2-year requirement. Determine whether there is a compelling “justifiable business necessity” for the rule, if not, modify the rule permanently to a lower justifiable number.
- FSA-30** Eliminate the 1-year experience requirement for eligibility for Farm Loans for beginning farmers and establish other basic criteria more likely to serve as reasonable indicators of likely success, such as college degree, practical training, and experience.
- FSA-31** Reduce the down payment requirement for guaranteed loans to beginning farmers.
- FSA-32** Modify the Noninsured Crop Disaster Assistance Program fee so that it varies depending on acreage.
- FSA-33** Issue a directive to every employee involved in the lending and/or outreach processes, clarifying what assistance they

can and cannot provide to customers and potential customers in connection with completing their applications, to avoid unequal treatment that could be construed by any customer or potential customer as discriminatory.

- FSA-34** Require employees who are unable to provide customers and potential customers with the level of service they require, beyond the scope of appropriate FSA Service, to refer customers to other Agencies, County Extension Service, or CBOs, that may be able to help.
- FSA-35** Provide Farm Programs personnel with tools (including OMB approval, forms, computerized data collection methods, *etc.*) needed to accurately capture customer demographics, as is done by Farm Loan Programs.
- FSA-36** Identify, develop, and fund improved, updated technology tools (office systems, telecommunications, *etc.*) in the State and County Offices.
- FSA-37** Implement a national marketing campaign for Farm Programs, designed to increase FSA's visibility among producers similar to the marketing campaign developed by Farm Loans Programs.
- FSA-38** Headquarters should collaborate and communicate better with the State and County Offices when conducting any event in that state and county.
- FSA-39** Offer training for farmers/producers regarding web-based programs and applications and access to equipment for CBOs, libraries, and 1890 colleges.

- FSA-40** Provide a dedicated computer terminal with internet access in each County Office dedicated, first, to those producers who have received Level 2 access and, second, to those who want to familiarize themselves with the website's contents and/or apply for program benefits.
- FSA-41** Reorganize the contents of the website by type of farm, making it more user-friendly. For example, provide an icon for information concerning crops, an icon for cattle, nursery owners, *etc.*
- FSA-42** Expand office hours in County Offices, especially during active seasons, so that they are more convenient for the schedules of farmers/ranchers.
- FSA-43** FSA employees should be trained to communicate in plain language. They should understand they are not communicating with co-workers and should not use acronyms; rather, they should speak at a level that can be understood by farmers/ranchers who know little about FSA or its programs.
- FSA-44** FSA should create "train the trainer" training programs for CBOs so that they can better train and explain FSA offerings to their constituents and assist in the application process.
- FSA-45** FSA should develop pilot programs for farmers/ranchers who are not "credit ready" and train CBOs or customers and potential customers on how to improve their credit.
- FSA-46** For applicants who are prescreened for programs, but do not actually submit an application, obtain and retain demographic information.

- FSA-47** Use testers, wherever possible, to determine if similarly situated minority, female, and majority loan and program applications result in differential treatment of SDG farmers and ranchers.
- FSA-48** If an applicant was delinquent on loan(s), but ultimately paid off the loan(s) in full, establish a time period after which FSA will not consider those delinquencies in making credit decisions.
- FSA-49** Once appropriate and accurate record-keeping is maintained, annually analyze the relative application, acceptance/denial, payment, delinquency, and default rates of various groups of borrowers to determine whether any inappropriate discriminatory criteria are being used.

APPENDIX: COMPILATION OF ALL CIVIL RIGHTS ASSESSMENT FINAL REPORT RECOMMENDATIONS

(3) Recommendations: Rural Development

- RD-1** RD should establish a comprehensive education and information program to target underserved populations, particularly in areas with high SDG concentrations. The communication and education program must be multi-faceted, using the most cost-efficient and existing organizations, such as CBOs, 1890 Institutions, Tribal Colleges and Universities, public schools, churches, employers, military installations, and other Federal, State, and Local Government Agencies to reach intended audiences. RD will provide information to these organizations and secure cooperation for them to disseminate broadly, to their employees, students, members and other constituents.
- RD-2** In order to expand RD's presence and successful utilization of existing program dollars that are not reaching SDG communities, RD should seek organizations such as CBOs able to 1) identify RD programs appropriate for their constituents; 2) identify eligible participants; 3) educate potential applicants to build capacity; 4) assist with the application process; and 5) work with borrowers to increase the likelihood of success after funding is provided. RD should create *certified* outreach partnerships by training organizations with technical and substantive knowledge, as well as strong ties to SDGs particularly in states that do not fully obligate funds or are serving underserved populations.
- RD-3** Reinstitute a Direct Lending Business Program to assist small and SDG-owned businesses, which often require smaller loans to allow them to be successful in the early and most crucial stage of business development.

- RD-4** Create a Task Force to adjust population criteria across program areas in order to address problems that are created by inconsistent population criteria, particularly in areas that are economically depressed.
- RD-5** RD should fund personal finance workshops in areas with high concentrations of SDGs, starting at the high school level to educate potential borrowers on basic principles that will enable them to participate in RD programs.
- RD-6** Develop a Leadership Institute for emerging leaders on rural economics and agriculture.
- RD-7** Create Uniform Policy Guidance to ensure consistency of program delivery across the states.
- RD-8** Share office space with other agencies with offices in areas that are geographically distant from RD customers and potential customers.
- RD-9** Ensure consistent use of “Office Days” in areas without an RD office presence.
- RD-10** Utilize flex-time policies; encourage the use of evening/weekend hours to ensure greater customer/potential customer access to programs.
- RD-11** Institute Customer Service/Cultural Awareness Training to improve employee responsiveness and interaction with all customers.

- RD-12** Enhance Memorandum of Understanding (“MOU”) with HUD to allow broader use of “testing” of Multi-Family Housing (“MFH”) complexes.
- RD-13** Increase marketing of MFH as a feeder to Single-Family Housing (“SFH”) program to enable renters an opportunity for home ownership. Additionally, target minority owners and developers for MFH projects.
- RD-14** There is inadequate funding for the 504 Grant Program. Increase funding allocations in this program to assist lower income customers.
- RD-15** Expand eligibility requirements for the 504 Grant Program to enable disabled customers under the age of 62 access to grant funds.
- RD-16** Create a “Reshaping Rural America Project Team” with other Federal, State and local agencies to develop joint plans for entire rural communities utilizing shared resources.
- RD-17** Create an SDG Advisory Board to advise the “Reshaping Rural America Projects Team” in developing ideas to reshape rural America with particular focus on issues involving SDG communities.
- RD-18** Establish formal cross-training initiatives to ensure employees have knowledge about all program areas and to allow female and minority employees opportunities for advancement within the Agency.
- RD-19** Develop an employee model marketing (outreach) program for all offices to increase participation, knowledge, and awareness of RD programs by SDGs.

- RD-20** Implement a structured award program as an employee incentive to target SDGs.
- RD-21** Ensure office accessibility to all customers/potential customers.
- RD-22** Create full-time Civil Rights Manager Position (“Chief Diversity Officer”)
- RD-23** Issue NOFAs earlier to ensure all customers have access to funding opportunities.
- RD-24** Evaluate the Prequalification Process to ensure that it is a timely and effective tool for customer planning and is used consistently throughout the states.
- RD-25** Address website accommodation issues for individuals with disabilities.
- RD-26** Where there is a critical mass of SDGs for whom English is a second language, to the maximum extent practicable, seek to have at least one fully cross-trained employee who is fluent in the language of that SDG group or ensure that all employees and customers have access to interpreter services. Also, working with local resources, arrange for more training of customer and potential customers in “English for business transactions”.⁵

⁵ See 28 CFR Section 42.405 (d)(1) Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program (*e.g.*, affected by relocation) needs service or information in a language other than English in order effectively to be informed of or to participate in the program, the recipient shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide information in appropriate languages to such persons. This requirement applies with regard to written material of the type which is ordinarily distributed to the public. (2) Federal agencies shall also take reasonable steps to provide, in languages other than English, information regarding programs subject to Title VI.

RD-27 Create and make available forms that are translated into appropriate languages spoken by local RD customers, not limited to Spanish, where there is a critical mass of any one individual SDG group in sufficient numbers to make the process cost efficient. SDGs for whom English is a second language also need access to English training, focused on improving their ability to engage in business transactions to increase U.S business acumen in the same manner USDA provides language training for overseas employees.

RD-28 Rural Utilities should 1) continue to hold educational workshops aimed at increasing minority participation in the Broadband Initiative Program (“BIP”); and 2) collect data to analyze impact of funding to SDGs.

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(4) Recommendations: Natural Resources Conservation Service

- NRCS-1** Appoint an NRCS Chief Diversity Officer (“CDO”), and CDOs for each State [consistent with Department-wide Recommendations].
- NRCS-2** Utilize an OFCCP-style model for workforce analysis and remedial action [consistent with Department-wide Recommendations].
- NRCS-3** Implement cross-training of field service personnel to deliver inter-agency products and inform customers of available programs.
- NRCS-4** Develop a written statement describing NRCS’s “Business Case” for DIA [consistent with Department-wide Recommendations].
- NRCS-5** Create consistent outreach (“marketing”) policies and tools at national and state levels.
- NRCS-6** Increase National Set-Aside for SDG farmers and ranchers for states where SDG concentrations justify increases.
- NRCS-7** Design and fund a specific conservation program for SDG farmers and ranchers.
- NRCS-8** Design and fund a specific conservation program for Native American tribal land.

- NRCS-9** Fund applications for SDG farms continuously.
- NRCS-10** In light of the complexity and number of NRCS programs and related initiatives—which many employees admit they do not understand—consider reducing the number of NRCS programs and initiatives, or otherwise addressing the complexity issue.
- NRCS-11** CSP should not be funded at the expense of EQIP.
- NRCS-12** Simplify application and program contracting processes.
- NRCS-13** A consistent protocol should be created and implemented in every field office for tracking applications, informing applicants of the status of their application in writing on a regular basis, providing customers with reasons as to why they are ineligible for programs or not funded, and providing guidance for future applications.
- NRCS-14** Review technical requirements to ensure that they are not unnecessarily onerous and stringent, preventing SDG farmers and ranchers from participating.
- NRCS-15** Clearly inform applicants when they apply, in plain language, what programs are available to them, the eligibility requirements, the application process, how long the process takes, what information is required to be submitted, and the benefits of program participation.
- NRCS-16** Ensure that NRCS employees are trained in and knowledgeable about new programs and initiatives before advertising programs to the public.

- NRCS-17** Allow sufficient lead-time for announcement of new initiatives, rules and regulations.
- NRCS-18** Outreach (“marketing”) practices should be greatly expanded, including, for example, periodic newsletters to constituents and after-hours seminars with farmers.
- NRCS-19** Customers and potential customers should be informed of deadlines for annual rankings and should be given sufficient notice of program rules, regulations, and new initiatives.
- NRCS-20** Every state should have a full-time outreach coordinator (“Office of Emerging Customer Development”).
- NRCS-21** National outreach (“marketing”) should assist in creating tools and data collection to assist states in outreach.
- NRCS-22** Outreach efforts and service to Socially Disadvantaged Groups should be a unique metric in performance plans.
- NRCS-23** National and state outreach plans should encourage partnerships with CBOs.
- NRCS-24** NRCS should create model outreach materials for distribution to SDGs in parallel with web-based initiatives.
- NRCS-25** Consistent training goals should be set at the national level, and tailored training should take place at the local level.

NRCS-26 NRCS should actively recruit bi-lingual employees and assist customers (for example, by referrals) in learning business English.

NRCS-27 All employees should be trained now and periodically regarding the program complaint process.

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(5) Recommendations: Risk Management Agency

- RMA-1** Require all AIPs to collect, maintain, and report (quarterly and annually) comprehensive demographic data, including at a minimum race/ethnicity, gender, and age, on all applicants, and all customers.
- RMA-2** Incorporate explicit, comprehensive, measurable outreach (“marketing”) requirements into regulations and SRAs, and rigorously enforce the requirements.
- RMA-3** Remove any disincentives and provide incentives to AIPs for their agents/brokers to sell crop insurance to SDG producers.
- RMA-4** Substantially enhance AIP Civil Rights training requirements for agents/brokers and loss adjustors.
- RMA-5** Require AIPs to maintain a comprehensive Civil Rights complaint file system and report all complaints immediately to RMA’s Civil Rights Department.
- RMA-6** Modify the SRAs to specifically require AIPs to use agents/brokers who speak the language of foreign speaking prospects, applicants, and policyholders, or alternatively provide language appropriate interpreters.
- RMA-7** Add Comprehensive Civil Rights requirements to the National Program Operations Reviews (“NPOR”) that are conducted annually by the Compliance Division.

- RMA-8** Add a Civil Rights position to RMA’s Compliance Division.
- RMA-9** RMA Outreach and Education grant recipients should be more regularly monitored by RMA Personnel to ensure effective outreach to SDGs and compliance with performance measures.
- RMA-10** RMA’s partnership application evaluation process should be revised to give greater credit to those applicants who demonstrate most specifically how they will use partnership funds to benefit SDGs.
- RMA-11** RMA’s partnership application evaluation process should place less emphasis on applicant grant writing abilities and provide greater access by smaller applicants with demonstrated access to and success with SDGs.
- RMA-12** Provide additional incentives for Outreach and Education Partners to conduct creative and effective outreach to SDG.
- RMA-13** Provide more funding for “small session” outreach grants.
- RMA-14** Offer incentives or rewards to RMA employees who “go above and beyond” with respect to their outreach efforts.
- RMA-15** Each Regional Office should have one individual in the position of Outreach (“Marketing”) Coordinator dedicated to performing outreach/marketing to SDGs.
- RMA-16** National Outreach should provide comprehensive guidance and direction to RMA Regional Offices.

- RMA-17** The Compliance and Product Management Divisions should communicate more effectively with RMA Regional Offices, specifically about the needs of SDGs.
- RMA-18** RMA should (a) ensure that program materials are available in languages spoken by substantial groups (“critical mass”) of producers, and (b) provide SDGs referrals, and support programs to, enhance “business English-language” skills of producers.
- RMA-19** RMA should increase development of programs for crops typically grown by SDGs.
- RMA-20** Eliminate, adjust, or make exceptions to recordkeeping requirements applicable to AGR, AGR-Lite and other, similar revenue-based programs for SDGs, to the extent possible.
- RMA-21** Reduce program complexity wherever possible.
- RMA-22** Utilize the Offices of other USDA agencies to promote and distribute informational materials about RMA’s programs and services.
- RMA-23** Increase the travel budget for Regional Office employees to reduce barriers caused by RMA Regional Office locations.
- RMA-24** Require AIPs to distribute annual surveys to SDGs to solicit information about their special needs, methods to address those needs, and general customer satisfaction.
- RMA-25** Using *AgCensus* figures for regions specific to each AIP, RMA should prepare annual SDG marketing targets for servicing SDGs, and include them in AIP performance requirements.

RMA-26 Require all AIPs to prepare annual reports to RMA, in a format to be prescribed by RMA, comprehensively analyzing and reporting on AIP SDG-marketing efforts, performance against goals, identification of under-performances, and remedial plans for achieving or exceeding goals in the next year.

RMA-27 Require all new applicants for AIP status to provide comprehensive information about the company and agent/broker demographics, as well as related information about the company's commitment to DIA and performance in this area.

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(6) General Recommendations from Additional Analyses (a) Required by the Contract, and (b) Not Required by the Contract (but essential to the Assessment)

Internal/External Reports Recommendations

- GR-1** As strategic DIA goals and objectives are developed for ensuring equitable delivery of services to SDGs in accordance with other Recommendations in this Report, they should be incorporated prominently in Strategic Plans, Annual Performance Plans, Annual Performance and Accountability Reports, OIG Major Management Challenge reviews, and other high-level reports, as well as in pertinent Congressional testimony and briefings.
- GR-2** USDA should obtain the East Arkansas Enterprise Community Final Report, following up on the March 2, 2011 Interim Report, when it is available and assess the report and its recommendations (including coordinating with the EAEC) for possible inclusion in USDA's DIA Implementation Plan.
- GR-3** USDA should provide a common contact or liaison (perhaps the Office of the Assistant Secretary for Administration, or Assistant Secretary for Civil Rights) for overseeing and monitoring the production of all studies, such as those prepared by CBOs, of USDA's service, and potential service, to SDGs, and ensure the incorporation on an ongoing basis of worthwhile observations, experiences, and recommendations into USDA's processes and other improvements to equitably serving SDGs.
- GR-4** USDA should provide, on its website and elsewhere, a "Suggestion Box" for both employees and producers to offer

ideas and innovations, and develop a process for appropriate Department, Agency, or Office personnel to review, evaluate, and implement useful suggestions.

- GR-5** Whenever conducting customer surveys pursuant to Executive Order 12628 (requiring customer surveys), USDA Agencies should: request demographics of respondents and include substantial equity/fairness/non-discrimination questions; compile, analyze, and publish the results; and take appropriate measures to address any issues uncovered in such surveys. The surveys and analyses should be designed to detect potential areas of disparate treatment, disparate impact, and discrimination, before these issues rise to the complaint level.
- GR-6** FSA should take advantage of its web survey reports and diligently and promptly follow up and correct all deficiencies identified therein. FSA should require the survey vendor to provide results by race/ethnicity, gender, age, and other characteristics provided by respondents, and should consider such results in revising its website and in communications with SDGs and CBOs regarding SDG website usage.
- GR-7** RD's Annual Progress Reports should include substantial information about service to SDGs and under-served constituents (including data on customer demographics for Single Family Housing Loans, Multi-Family Housing Beneficiaries, Rural Business Beneficiaries, and Rural Utilities customer demographics), and all such reports should be posted or linked on the USDA/RD website and provided to key Headquarters, and all State, Offices.
- GR-8** FSA, NRCS, and RMA should produce annual progress reports similar to RD's Annual Progress Reports, including substantial information about service to SDGs and under-served constituents, and all such reports should be posted or linked on the USDA/FSA, NRCS, and RMA websites and

provided to key Headquarters and all State (and RMA Regional) Offices.

Customer Base Recommendations

- GR-9** For purposes of this Report and subject to future development of more appropriate data and metrics, with respect to FSA loans, FSA should use the socially disadvantaged Farm Principal Operator percentages (national and State) as *minimal targets for demonstration of equitable access and participation*. (This is consistent with the statutory requirement for FSA to establish certain loan targets by population.) Failure to meet such targets would not automatically demonstrate discrimination, but would raise the presumption that more can be done to eradicate barriers and increase SDG participation, and therefore additional attention to such gaps, and creation of remedial measures as described elsewhere herein, would be needed.
- GR-10** With respect to FSA loans, FSA should *establish priorities* according to the degree of departure from target participation rates. These priorities should be based on national (using aggregate national data) and State (based on State-specific comparative data). Highest priorities and greatest resources should be applied to those (1) programs, (2) locations (national/State), and (3) SDGs (*e.g.*, Hispanic/Latino) showing the largest gaps compared with Principal Operator populations.
- GR-11** With respect to FSA loans, FSA should have periodic *disparity studies conducted by an independent organization* of any program showing significant departures from participation based on the targets—according to the analyses shown above, that would indicate studies of Guaranteed Loans. While FSA leadership has offered some reasons why it believes that, for example, Guaranteed Loan customer percentages show greater gaps from SDG population participation than Direct Loans, these reasons do not necessarily excuse or explain the

departures, nor satisfy Congressional intent regarding the importance of equitable access to these programs by SDGs. The disparity studies should indicate the extent to which existing barriers are irremediable and unrelated to race/ethnicity and gender, or implicate race/ethnicity and gender and thus require remediation.

GR-12 With respect to FSA loans, USDA should consider *interim remedial measures* to close gaps that, regardless of the reason, demonstrate significantly lower-than-expected SDG participation in loan-making. Guaranteed Loans made in FY 2010, for example, fall about \$300,000,000 short of expected loans to certain SDGs based on Principal Operator populations (as shown above). The Direct Loan program, on the other hand, appears, based on (possibly unreliable) data alone, to more effectively reach SDGs than the Guaranteed Loan program. (If USDA is correct, for Direct Loans creditworthiness is less of a factor, and more loan-making facilities (County Offices) are available closer to the farmers.) If up to \$300,000,000 can be shifted from another USDA program to Direct Loans to SDGs, it would allow the possibility of increasing SDG participation in overall loans through a mechanism—Direct Loans—of demonstrated success. This approach, or one approximating it, should be interim only, while the Guaranteed Loan program disparity studies are conducted and, perhaps, result in revisions to the program. Several additional changes to the Guaranteed Loan program, such as (a) increasing the guarantee to 100%, (b) waiving guarantee fees for SDGs, (c) revising the guaranteed low document program to include loans up to \$100,000, (d) including lease/purchases within the guarantee program for SDGs, and (e) providing hands-on training for SDG loan applicants, might assist in closing the Guaranteed Loan gap as well. Additionally, USDA should audit the commercial Guaranteed Loan providers for equal treatment of all applicants and customers.

GR-13 With respect to FSA loans, using OIG, GAO, Economic Research Service, and private contractors, USDA should

periodically audit both the Direct and Guaranteed programs for all indicators of potential differential treatment or impact, such as loan processing times, grants and denials, delinquency rates, modifications/restructurings granted, and foreclosures, and report results to the Office of the Secretary, the USDA CDO, and the FSA Administrator, for appropriate analysis and remedial actions, where indicated.

- GR-14** Based on this Report's analyses of FSA Farm Programs customer data, USDA should conduct a disparity study of all Farm Program programs to determine potential disparate impact or disparate treatment in administration of those programs, and make, or recommend to Congress as needed, appropriate adjustments to those programs to ensure that SDGs adequately, equitably, and fairly participate in these programs.
- GR-15** In connection with consideration of alternatives or modifications to existing eligibility and other Farm Program participation requirements, FSA should consider updating the bases for (or recommending to Congress as needed) support payments for SDGs, such as using current production figures, or using average yields and crop acreage bases of neighboring, non-SDG farms.
- GR-16** RD's substantial successes in equitably serving SDGs in both the SFH Direct/Guaranteed Loan Programs and the MFH Program (subject to the **caveat** regarding unreliability of USDA data) should be recognized and publicized by USDA (and RD, for example, in its Annual Progress Report).
- GR-17** While there are differences between the FSA and RD loan programs (customers, collateral, eligibility requirements, *etc.*), FSA and RD should develop a periodic communications tool (for example, quarterly meetings) for sharing of best practices and recent experiences.

- GR-18** RD should identify those few areas of under-performance (*e.g.*, by program (such as Guaranteed Loans), and by State) noted in the analyses in this Final Report for further review and follow-up action to improve performance (including, for example, as Elements in employees' Performance Plans).
- GR-19** Rural Utilities, in concert with Economic Research Service, should conduct a study of its potential rural service areas to determine those areas of significant SDG populations that are not currently being served (if any), and address any substantial under-servicing appropriately.
- GR-20** Rural Business and Cooperative Programs should compile and publish information relating to the demographics of beneficiaries of its programs.
- GR-21** Rural Business and Cooperative Programs should develop a comprehensive plan to reach out to minority and women-owned rural businesses ("MWBE"), including start-ups, to assist them in growing and developing their businesses. This effort should include compiling and reporting on the numbers and percentages of program dollars with MWBEs.
- GR-22** In connection with the Marketing Penetration Analyses recommended in the Department-wide Recommendations, NRCS should (a) reconcile the inconsistencies in the program customer/applicant data provided for this Assessment; (b) develop a standard template that shows not only aggregate participation by race/ethnicity but each as a separate category, and include a separate category for Females; and (c) organize the Easement program data, and validate it, for inclusion in the analysis.

Statutory/Regulatory/Handbook Recommendations

- GR-23** Establish express criteria: To the extent practicable, those statutes, regulations and handbook provisions which allow for the exercise of discretion, or call for decisions to be made on a case-by-case basis, should be revised to provide express, reviewable itemizations of those factors USDA deems important to decision-making.
- GR-24** Document decisions: Whether or not additional criteria are established for discretionary or case-by-case decisions, the analysis and reasons for such discretionary decisions should always be documented. Consideration of factors outside of those listed, which are “included, but not limited to,” should also be listed, explained, and documented to provide the reason(s) for considering additional factors. This documentation provides USDA with clear, contemporaneous information that can be evaluated whenever a decision is reviewed or questioned.
- GR-25** Conduct periodic disparate impact analyses: With documentation in place, case-by-case and discretionary decisions, and deviations from identified considerations, can be analyzed periodically to ensure that like situations are treated alike, regardless of the customers’ race/ethnicity or gender.

Office Locations Recommendation

- GR-26** With the rapidly changing U.S. demographic profile and particularly the rise in minority populations and the documented increases in SDG farmers and ranchers, USDA should have either Economic Research Service or an outside entity conduct an evaluation of the current locations of Field Service Centers/County Offices, as well as RD and NRCS offices, in comparison with the existing and emerging farm/ranch and rural populations. This evaluation should place special emphasis on locations of SDGs, who are less

likely to have or use web-based resources to learn more about, and apply for, USDA programs, and who are more likely to need the personal attention they can receive from a Field Service Center or other USDA office. USDA should then prepare and execute a plan for addressing the geographical barriers identified in the evaluation to increase the accessibility of USDA offices to SDGs, as indicated in the study.

Office Physical Accessibility Recommendation

GR-27 USDA should develop and execute a plan and schedule a Compliance Audit of all USDA facilities for accessibility in accordance with all applicable legal and USDA policy requirements. Prepare a list of non-compliances for all pertinent facilities and require remediation within 12 months of issuance of list. Conduct a closing Quality Assurance Audit to ensure full compliance.

Complaint Process Recommendation

GR-28 Revise both program and EEO complaint processing procedures (including all relevant manuals, handbooks, training materials, DMs, and DRs) by eliminating all unnecessary steps, including signoffs/approvals, streamlining the investigations and analytical steps, and otherwise permitting prompt conclusion of the process. Establish a two-track process, the first (Track I) for most complaints, the second (Track II) for complex complaints (for example, containing systemic allegations, multiple parties, and a significant volume of documents). Retain necessary components of the existing process for Track II complaints.

Workforce Diversity Recommendations

GR-29 In accordance with the Department-wide Recommendations above, USDA Agencies, starting with FSA, RD, NRCS, and RMA as pilots, incorporate Corporate America's practices

under OFCCP regulations, including the use of best-available Census occupational data, geographical divisions where appropriate, and analytical tools (such as adverse impact and compensation analyses) to (a) more accurately depict the availability of the market for positions specific to the Agencies, and (b) rigorously study recruiting (including applicant flow), hiring, promotions, compensation, discipline, awards, terminations, and other aspects of the workplace that might reveal correctible disparities.

- GR-30** Until it has completed its new workforce analyses noted directly above, FSA should aggressively seek to eliminate the under-representations identified in its MD-715-01 through all the methods identified in the MD-715-01.
- GR-31** FSA should follow up on a key deficiency, namely, failure to obtain, report on, and analyze applicant flow data. This is an important element in determining the extent to which FSA is adequately recruiting. FSA should complete this effort for reporting in the next MD-715-01.
- GR-32** FSA should immediately remedy any data deficiencies identified in its FY 2010 MD-715-01 Report.
- GR-33** Until it has completed its new workforce analyses noted directly above, RD should aggressively seek to eliminate the under-representations identified in its MD-715-01 through all the methods identified in the MD-715-01.
- GR-34** RD should follow up on a key deficiency, namely, failure to obtain, report on, and analyze applicant flow data. This is an important element in determining the extent to which RD is adequately recruiting. RD should complete this effort in time for reporting in the next MD-715-01.

- GR-35** RD should immediately remedy any data deficiencies identified in its FY 2010 MD-715-01 Report.
- GR-36** Until it has completed its new workforce analyses noted directly above, RMA should aggressively seek to eliminate the under-representations identified in its MD-715-01 through all the methods identified in the MD-715-01.
- GR-37** Until it has completed its new workforce analyses noted above, RMA should conduct the workforce trend analyses, and prepare the workforce demographic tables, omitted from its FY 2010 MD-715-01.
- GR-38** RMA should follow up on a key deficiency, namely, failure to obtain, report on, and analyze applicant flow data. This is an important element in determining the extent to which RMA is adequately recruiting. RMA should complete this effort in time for reporting in the next MD-715-01.
- GR-39** RMA should immediately remedy any data deficiencies identified in its FY 2010 MD-715-01 Report.

OASCR Recommendations

- GR-40** OASCR should fill in items missing from its program complaint log in the categories “Issues” and “Bases,” and with all future cases ensure that the entire log is completed.
- GR-41** OASCR, in consultation with OGC, should review and revise its process for administering program complaints to eliminate all unnecessary steps (including review levels), with a goal of completing the processing of and closing most complaints within 60 days.

USDA “Protected Classes” Recommendations

- GR-42** Applying appropriate policy and legal considerations in consultation with ASA, OASCR, OGC, and the Justice Department (as necessary), USDA should determine and adopt a consistent position with respect to protected characteristics in both programs and employment and ensure that all publications of that position (in regulations, manuals, handbooks, forms, websites, and other places) are consistent with that intent.
- GR-43** Applying appropriate policy and legal considerations in consultation with ASA, OASCR, and OGC, USDA should determine on which of those protected characteristics the Department will collect information from applicants and customers for monitoring, analytical, and reporting purposes; solicit any necessary approvals from the Office of Management and Budget for additional Information Collections; modify and revise all necessary regulations, manuals, handbooks, forms, and other documents accordingly; and proceed to collect, analyze, report on, and leverage such information in continuing to provide equitable services to all constituents.