United States Government Accountability Office

Report to the Honorable Charles E. Grassley, President Pro Tempore, U.S. Senate

October 2020

# FARM PROGRAMS

# USDA Has Improved Its Completion of Eligibility Compliance Reviews, but Additional Oversight Is Needed

Accessible Version

GAO-21-95

GAO Highlights

Highlights of GAO-21-95, a report to the Honorable Charles E. Grassley, President Pro Tempore, U.S. Senate

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# FARM PROGRAMS

## USDA Has Improved Its Completion of Eligibility Compliance Reviews, but Additional Oversight Is Needed

### Why GAO Did This Study

Each crop year, USDA distributes billions of dollars in payments to farmers through programs that, by law, require payment recipients to be actively engaged in farming. These programs provide income support to producers of key crops such as corn, cotton, and soybeans. In September 2013, GAO found weaknesses in how FSA implemented regulations to ensure that farmers meet the criteria for being actively engaged and do not receive payments above program limits. GAO recommended that FSA set a plan and time frame for using its tracking system to monitor compliance reviews, which FSA did.

GAO was asked to review FSA's progress in implementing the regulations. This report examines, among other things, (1) FSA's progress in completing and reporting on reviews of compliance with rules for being actively engaged in farming and (2) FSA's use of interviews to verify claims of active engagement. GAO reviewed FSA procedures, analyzed FSA data on compliance reviews, examined compliance review files, and interviewed FSA officials.

### What GAO Recommends

GAO is making five recommendations, including that FSA improve the accuracy and monitoring of its compliance review tracking system data and that FSA examine compliance review teams' use of interviews, or documentation for not conducting them, and provide additional guidance or training, as necessary. USDA generally agreed with the recommendations.

View GAO-21-95. For more information, contact Steve Morris at (202) 512-3841 or Morriss@gao.gov.

### What GAO Found

Since GAO last reported in 2013, the U.S. Department of Agriculture (USDA) has made progress in completing and reporting on reviews to determine if recipients of farm program payments comply with requirements for being actively engaged in farming, including contributions shown in the table.

**Contribution Requirements for Farming Operation Members to Be Actively Engaged in Farming**

| Input contribution and | Service contribution |
|---|---|
| Significant contribution to the farming operation of one or a combination of<br>• capital,<br>• land, or<br>• equipment. | Significant contribution to the farming operation of one or a combination of<br>• active personal management or<br>• personal labor. |

Sources: GAO analysis of the Farm Program Payments Integrity Act of 1987 and Farm Service Agency guidance. | GAO-21-95

Note: A farming operation is a business enterprise that may include multiple farms.

However, USDA did not systematically monitor its performance of compliance reviews, which are the responsibility of state offices in USDA's Farm Service Agency (FSA). FSA state offices are to report completed reviews to FSA headquarters. GAO found:

- FSA state offices improved their completion of compliance reviews for 2015 and 2016—the most recent years for which data were available at the time of GAO's review—relative to their completion of 2009 and 2010 reviews. FSA officials attributed this progress to their use of a tracking system.
- However, the tracking system data had errors. For example, 76 of 251 reviews from 2010 through 2015 were marked as waived because of prior reviews within the last 3 crop years, but the data did not show prior reviews.
- FSA headquarters did not systematically monitor the status of state offices' compliance reviews in the tracking system. For example, after GAO requested information on reviews, FSA headquarters officials found that three state offices had not completed any of their reviews for certain years.

Improving the accuracy and monitoring of tracking data would enable management to better oversee state offices' timely completion of assigned reviews to ensure that farming operation members who receive federal payments comply with requirements to be actively engaged in farming.

FSA state offices varied in their use of interviews to determine whether farming operation members were actively engaged in farming. FSA guidance emphasizes the importance of interviews to verify contributions of active personal management and, if an interview is not done, forms the teams must fill out ask for a reason the team did not. GAO examined 27 compliance review records and found that six included interviews. Of the remaining 21 records, 16 documented reasons for not conducting interviews, but five did not do so. Officials told GAO that review teams may not have documented these reasons because of inadequate training and oversight. By examining review teams' use of interviews, or documentation for not conducting them, and providing additional training as necessary, FSA management would be better assured that FSA is accurately determining whether individuals are eligible for farm program payments.

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**Abbreviations**

| | |
|---|---|
| CFAP | Coronavirus Food Assistance Program |
| COVID-19 | Coronavirus Disease 2019 |
| FSA | Farm Service Agency |
| MFP | Market Facilitation Program |
| USDA | U.S. Department of Agriculture |

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
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October 30, 2020

The Honorable Charles E. Grassley
President Pro Tempore
United States Senate

Dear Mr. Grassley:

For each crop year, the U.S. Department of Agriculture (USDA) distributes billions of dollars in payments to farmers through farm programs that require payment recipients to be “actively engaged in farming.”[1] These programs provide income support to producers of key crops, including corn, cotton, peanuts, rice, soybeans, and wheat. The largest of these programs in terms of payments are the Price Loss Coverage program and the Agriculture Risk Coverage program.[2] Recipients of payments through such programs can be individuals or entities such as partnerships, corporations, and trusts.[3] Under amendments made in the Agricultural Act of 2014 (2014 Farm Bill),[4] each member (individuals or entities) in a farming operation that is a general partnership or a joint venture can generally receive up to $125,000 per year, directly or indirectly, through the applicable programs if the member meets eligibility requirements, including being determined to be actively

[1]For these programs, USDA makes payments by crop year. According to USDA, a crop year is the 12-month period starting with the month when the harvest of a specific crop typically begins. Being actively engaged in farming is not required for numerous USDA program benefits, such as payments from USDA’s disaster assistance programs or for participation in USDA’s federal crop insurance program. In addition, being actively engaged in farming is generally not a requirement under the Coronavirus Food Assistance Program, which made payments to farmers to compensate them for losses related to Coronavirus Disease 2019 (COVID-19).

[2]Price Loss Coverage payments are based on a crop’s market price. Agriculture Risk Coverage program payments are triggered when a crop’s revenue (i.e., the amount produced multiplied by the market price) is below a guaranteed level.

[3]Entities also include other legal organizations such as joint ventures, limited liability companies, limited partnerships, estates, and charitable organizations.

[4]Agricultural Act of 2014, Pub. L. No. 113-79. 128 Stat. 649.

engaged in farming.[5] The requirement to be actively engaged in farming has also applied to certain payments through the Market Facilitation Program (MFP), which USDA initiated to compensate farmers for 2018 and 2019 crop year losses due to trade tariffs.

Eligibility criteria limiting receipt of certain farm program payments to individuals and entities that are “actively engaged in farming” were established in the Agricultural Reconciliation Act of 1987, commonly referred to as the Farm Program Payments Integrity Act.[6] Congress passed the act after publicized instances of farm program payments going to individuals not involved in farming. For an individual to meet the criteria for being actively engaged in farming under the amended act, the individual must make significant contributions to a farming operation in two areas:

1. Capital, land, or equipment (or a combination of these)
2. Active personal management or personal labor (or a combination of these)

USDA regulations define active personal management to include such tasks as arranging financing for the operation, making the planting and harvesting decisions, and marketing the crops.

For an entity such as a corporation to meet the criteria for being actively engaged in farming, it must separately make a significant contribution of capital, land, or equipment, and its members must collectively make a significant contribution of active personal management or personal labor

[5] A farming operation is a business enterprise engaged in the production of agricultural products, commodities, or livestock that is operated by an individual, legal entity, or joint operation. A farming operation member can be either an individual or an entity. According to a Farm Service Agency (FSA) handbook, a general partnership is composed of two or more individuals or entities, formed under state law and subject to the terms of a formalized agreement. In a general partnership, members combine or jointly acquire assets, share in the profits and losses, and are held jointly responsible for the obligations of the general partnership. A joint venture is a short-term association of individuals or entities, where the association exists without an actual partnership. Entities other than general partnerships and joint ventures are limited to a single $125,000 payment limit, regardless of the number of members they have.

[6] The Agricultural Reconciliation Act of 1987 was enacted as Title I of the Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, 101 Stat. 1330. The relevant provisions of the act became effective in the 1989 crop year.

to the farming operation.[7] For both individuals and entities, their share of a farming operation's profits or losses must be commensurate with their contributions to the farming operation, and those contributions must be at risk, according to USDA regulations.

USDA's Farm Service Agency (FSA) is responsible for ensuring that farming operation members meet the actively engaged in farming criteria and do not receive payments above program payment limits. FSA officials in FSA's state or county offices examine the operating plans of all farming operations that apply for farm program payments and make an initial determination of whether the members in the plans meet the requirements for being actively engaged in farming.[8] In addition, FSA headquarters annually selects certain farming operations for compliance reviews to determine whether they carried out their operating plans as represented when FSA made its initial determinations.[9] FSA headquarters notifies FSA's state offices about which farming operations it selected for compliance reviews, and these state offices establish review teams composed of FSA state or county officials to conduct the reviews, according to FSA officials.[10] FSA's handbook on payment eligibility and payment limits[11] directs state offices to report compliance review results in the End-of-Year Review Tracking system (compliance review tracking system) and in compliance review summary forms that the offices are to submit to headquarters annually.[12] FSA headquarters expects FSA state

[7]According to an FSA handbook, a significant contribution of personal labor must be an amount that is the smaller of 1,000 hours annually or 50 percent of the total hours that would be required to conduct a farming operation comparable in size to a farming operation member's commensurate share in the farming operation.

[8]The operating plans include the name of each farming operation member, the number of members applying for payments, the members' share of profits and losses, and the members' claimed contributions.

[9]The criteria that FSA headquarters uses to select farming operations for compliance reviews include payment amounts and whether a farming operation has undergone an organizational change in the past year.

[10]According to FSA's website, national farm program development and oversight functions are managed in Washington, D.C., and implementation of farm policy through FSA programs is the responsibility of state and field offices based in counties and U.S. territories.

[11]Farm Service Agency handbook, *Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income - Agricultural Act of 2014*, 5-PL, Amendment 5.

[12]The End-of-Year Review Tracking system is a web-based system to which state and county FSA offices report information and results related to annual compliance reviews.

offices to complete and report their assigned compliance reviews to headquarters through the compliance review tracking system within 12 months of being notified as to which farming operations to review.

In September 2013, we found that FSA state offices were often not completing and reporting compliance reviews within FSA's expected 12-month time frame—and often were not completing and reporting reviews more than a year after the end of the 12-month time frame.[13] We also found that the broad definition of active personal management made it difficult for FSA to determine whether an individual made a significant contribution. In addition, we found that, under this broad definition, management responsibilities could be distributed among farming operation members to increase the number of individuals who could claim eligibility for payments based on management contributions.

For farming operations not composed entirely of family members (nonfamily farming operations), the 2014 Farm Bill directed USDA to determine whether it would be appropriate to establish limits on the number of persons per farming operation who may be considered actively engaged in farming based on a significant contribution of active personal management.[14] USDA's subsequent 2015 regulation limits nonfamily farming operations—specifically general partnerships and joint ventures—to no more than three members qualifying for payments by contributing active personal management or a combination of management and labor. Farming operations composed entirely of family members are exempt from these limits.[15]

You asked us to update information from our September 2013 report. Our objectives were to examine (1) FSA's progress in completing and reporting reviews of compliance with actively engaged in farming rules and monitoring the results of its reviews; and (2) FSA's compliance reviews of farming operation members' claimed contributions of active personal management, its use of interviews to verify such claims, and its documentation of review findings. We also examined changes in USDA payments, numbers of members, and member contributions for the farming operations with the highest payments after USDA implemented

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[13]GAO, *Farm Programs: Changes Are Needed to Eligibility Requirements for Being Actively Involved in Farming*, GAO-13-781 (Washington, D.C.: Sept. 26, 2013).

[14]Agricultural Act of 2014, Pub. L. No. 113-79, 128 Stat. 649.

[15]USDA estimated that the new regulations on nonfamily general partnerships and joint ventures would affect about 3,200 operations for the 2016 through 2018 crop years.

its regulation in response to the 2014 Farm Bill provision noted above. (See apps. IV, V, and VI.)

To address each of the objectives, we reviewed the provisions in the 2014 Farm Bill and 2018 Farm Bill on actively engaged in farming, as well as relevant USDA regulations and FSA's handbook on payment eligibility and payment limits.[16] We visited FSA offices in four states—Arkansas, Georgia, Louisiana, and Texas—and interviewed FSA state officials in those offices and in one additional state—Mississippi—as well as FSA headquarters officials in charge of the program. These five states had the highest number of compliance reviews assigned and completed for 2015.

To address the first objective, we obtained and analyzed FSA electronic data from the compliance review tracking system on the results of state offices' compliance reviews of farming operations and their members. To assess the reliability of the data, we (1) interviewed FSA officials knowledgeable about the compliance review tracking system, (2) performed logic tests of relevant data elements, and (3) reviewed related documentation. We found errors in the data concerning whether certain reviews had been completed, as we explain later in this report. We discussed these errors with FSA officials and adjusted the data accordingly for our analysis. We determined that the data were sufficiently reliable for the purposes of determining the number of compliance reviews that FSA state offices were notified to complete and report to FSA headquarters for 2015 and 2016 and the number of these reviews that the state offices completed and reported.

In addition, we obtained and reviewed state offices' compliance review summary forms submitted to FSA headquarters. To examine FSA's completion and reporting of reviews, we compared the 2009 and 2010 results that we reported in September 2013 with the 2015 and 2016 results from the compliance review tracking system. We selected 2009 and 2010 results because they were the most recent available at the time of our reviews in June 2013. As of August 2019, the most recent years for which results were available were 2015 and 2016. We used data that were available as of August 2019 to determine the completion rates for 2015 and 2016 compliance reviews. We also compared FSA's monitoring of the accuracy of the review data and status of the reviews with federal

[16]U.S. Department of Agriculture, Farm Service Agency, *Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income - Agricultural Act of 2014,* 5-PL, Amendment 5.

standards for internal control activities,[17] as well as with instructions in FSA's handbook on payment eligibility and payment limits.

To address the second objective, we selected compliance reviews for examination based on the number of farming operation members and the relative amount of the farm program payments to the operation. Specifically, we selected farming operations that received over $500,000 in payments in either 2014 or 2015, had six or more members, or that we discussed with FSA officials. The files for these compliance reviews included supporting documents submitted by farming operations that described their members' contributions to the farming operation in the areas of active personal management and personal labor; the files also included FSA forms documenting compliance review processes and results. We also discussed compliance review processes and results with FSA officials during our site visits and interviews. Information from the FSA state offices and compliance review files is illustrative and not generalizable to all FSA offices or compliance review files for the 2014 and 2015 crop years.

To examine changes in USDA payments for the farming operations with the highest payments, we obtained and analyzed FSA data on applicable farm program payments to farming operations for the 2015 through 2018 crop years as well as farming operations' numbers of members, farming operation type, state, and primary crops.[18] To assess the reliability of the FSA data, we reviewed our previous assessments of the data's reliability. In addition, we (1) performed electronic tests of pertinent data elements, (2) reviewed management controls over the information systems that maintain the data, and (3) interviewed agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of determining the distribution and amount of payments to farming operations and the number of farming operation members.

To obtain information about the number of members who claimed contributions of management or labor to the 20 farming operations that received the highest payments for the 2015, 2016, and 2017 crop years, we contacted the 10 FSA state offices responsible for administering payment eligibility requirements for these farming operations. To assess

[17]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

[18]The 2018 crop year was the most recent year for which data were available when we obtained data for our analysis.

the accuracy of the information that we obtained from FSA state offices, we compared it with our analysis of FSA data on farming operations. Appendix I presents more information on our objectives, scope, and methodology.

We conducted this performance audit from May 2018 to October 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

For an individual or an entity to be considered actively engaged in farming, the Farm Program Payments Integrity Act requires that individual or entity to provide the farming operation with a significant contribution of capital, land, or equipment, as well as a significant contribution of personal labor or active personal management. As stated in FSA's handbook on payment eligibility and payment limits, to satisfy the actively engaged in farming criteria, an active personal management contribution must, among other things, be critical to the profitability of the farming operation. For personal labor, the contribution is to be an amount that is the smaller of 1,000 hours annually or 50 percent of the total hours that would be required to conduct a farming operation comparable in size to the individual's or legal entity's commensurate share in the farming operation.

In addition to meeting the above contribution requirements, under current regulations, a farming operation member's contributions to the farming operation must be in proportion to the member's share of the operation's profits and losses, and the contributions must be "at risk." For a member's contribution to be considered at risk, there must be a possibility that the member could suffer a financial loss. For example, if a member of a general partnership or joint venture receives a guaranteed payment for any part of a contribution of labor or management, that contribution is not at risk and is to be excluded in determining whether that member is actively engaged in farming.

In addition to the requirements specified in the Farm Program Payments Integrity Act, FSA's handbook on payment eligibility and payment limits provides direction for state and county officials making actively engaged in farming determinations involving spouses. According to the handbook, if spouses are farming together in a general partnership or joint venture, and FSA determines that one spouse is making a significant contribution of active personal management, the other spouse is also credited with a significant contribution of active personal management. The other spouse would still have to meet other requirements, such as making a significant contribution of land, capital, or equipment, according to FSA's handbook.

## Types of Payments That Required Recipients to Be Actively Engaged in Farming

Table 1 shows the farm programs and types of payments that required payment recipients to be actively engaged in farming, as well as the payment limits for these programs set in response to the 2014 Farm Bill. An eligible individual or entity can receive payments from one or more of these programs. Each payment limit shown in the table is a separate limit. For example, an individual could receive $125,000 for crops other than peanuts and an additional $125,000 for peanuts.

**Table 1: Farm Programs and Types of Payments That Required Recipients to Be Actively Engaged in Farming, and Limits for These Payments, Crop Years 2015 through 2018**

| Farm programs/payment types | Annual limit per recipient (dollars) |
|---|---|
| Agriculture Risk Coverage, Price Loss Coverage, loan deficiency payments, marketing loan gains[a] | |
| • for peanuts | 125,000 |
| • for crops other than peanuts | 125,000 |
| Cotton Transition Assistance Program[b] | 40,000 |
| Cotton Ginning Cost-Share Program[c] | 40,000 |
| Market Facilitation Program for 2018[d] | 125,000 |

Source: GAO analysis of Farm Service Agency documents. | GAO-21-95

Notes: The payment limit for general partnerships and joint ventures is per member or partner who meets payment eligibility requirements, including being actively engaged in farming. The payment limit for corporations, limited liability companies, and other entity types is per entity that meets payment eligibility requirements. An eligible individual or entity can receive payments up to the limit from one or more of the programs for which being actively engaged in farming is a requirement.

For these farm programs, the U.S. Department of Agriculture (USDA) makes payments by program, or crop, year—that is, the year in which the crop is harvested. According to USDA, a crop year is the 12-month period starting with the month when the harvest of a specific crop typically begins.

[a]A farming operation realizes a marketing loan gain if it repays a marketing assistance loan at less than the amount of the loan principal.

[b]Cotton Transition Assistance Program payments were available for the 2014 crop year and, for certain counties, the 2015 crop year.

[c]Cotton Ginning Cost-Share Program payments were available for the 2015 and 2016 crop years.

[d]Market Facilitation Program payments were part of a trade aid package for 2018 production of certain crops. For five “nonspecialty” crops (corn, cotton, sorghum, soybeans, and wheat), USDA required that payment recipients be actively engaged in farming.

For the 2015, 2016, and 2017 crop years, farm program payments that required recipients to be actively engaged in farming totaled $8.4 billion, $7.4 billion, and $3.1 billion, respectively, according to our analysis of FSA data. For these years, total payments under the Agriculture Risk Coverage program and Price Loss Coverage program made up 95 percent, 95 percent, and 100 percent of the payments subject to being actively engaged in farming, respectively.[19]

Farm program payments that required recipients to be actively engaged in farming decreased for crop years 2015 through 2017, but these payments increased substantially for crop year 2018. In July 2018, USDA

[19]The 2018 crop year was the most recent crop year for which Agriculture Risk Coverage and Price Loss Coverage payments data were available at the time of our review. USDA disbursed 2018 crop year payments for these programs in fiscal year 2020.

announced that it would make MFP payments to farmers as part of a trade aid package for 2018 production of certain commodities; such payments assist farmers whose commodities are, according to USDA, directly impacted by foreign retaliatory tariffs, resulting in the loss of traditional export markets. USDA disbursed MFP payments for 2018 production that totaled $8.6 billion. For five “nonspecialty” crops (corn, cotton, sorghum, soybeans, and wheat), USDA required that payment recipients be actively engaged in farming and set the 2018 MFP payment limit at $125,000 per individual or entity.[20] In addition, Agriculture Risk Coverage and Price Loss Coverage payments for 2018 totaled $2.6 billion.

Appendix II provides information on payments for crop years 2016 through 2018 that required recipients to be actively engaged in farming. The payments are listed by type of farming operation receiving the payments.

In May 2019, USDA announced that it would make MFP payments for 2019 production of certain commodities. MFP payments for 2019 totaled $14.4 billion. For nonspecialty crops, USDA required that payment recipients be actively engaged in farming, and it set the 2019 MFP payment limit at $250,000 per individual or entity, or double the 2018 payment limit.[21] The eligible nonspecialty crops were corn, cotton, sorghum, soybeans, wheat, and more than 20 other crops.[22]

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[20]In addition, USDA set the 2018 MFP payment limit for specialty crops (almonds and cherries) at $125,000 per individual or entity and the payment limit for hogs and milk at $125,000. The overall maximum was $375,000. For specialty crops and hogs and milk, USDA did not require that payment recipients be actively engaged in farming. For specialty crops and hogs and milk, total 2018 MFP payments were $76 million and $352 million, respectively. For nonspecialty crops, total 2018 MFP payments were $8.2 billion.

[21]In addition, USDA set the 2019 MFP payment limit for specialty crops (fruit and tree nuts) at $250,000 per individual or entity and the payment limit for hogs and milk at $250,000. For the three commodity categories, nonspecialty crops, specialty crops, and hogs and milk, the overall maximum payment limit was $500,000. For specialty crops and hogs and milk, USDA did not require that payment recipients be actively engaged in farming. For specialty crops and hogs and milk, total 2019 MFP payments were $311 million and $571 million, respectively. For nonspecialty crops, total 2019 MFP payments were $13.5 billion.

[22]USDA exempted two nonspecialty crops, alfalfa hay and triticale, from the actively engaged in farming requirement.

In April 2020, USDA announced the Coronavirus Food Assistance Program (CFAP), which is to provide $16 billion in payments to farmers and ranchers to address revenue losses in 2020 related to the coronavirus pandemic. According to a May 2020 USDA rule,[23] USDA plans to provide payments for losses associated with the production of livestock (i.e., cattle and hogs), nonspecialty crops, specialty crops (i.e., almonds, carrots, and oranges), dairy, and other agricultural production. USDA set the CFAP payment limit at $250,000 per individual or entity. This amount is also the overall maximum payment limit per individual or entity across all commodity categories. USDA has not required recipients to be actively engaged in farming to receive such payments. However, corporate entities—such as corporations and limited liability companies—may receive up to $750,000 based upon the number of shareholders (not to exceed three shareholders) who are contributing substantial labor or management with respect to the operation of the corporate entity. In June 2020, USDA announced it recently began to disburse CFAP payments.

## Potential Farm Program Payments to Large Farming Operations

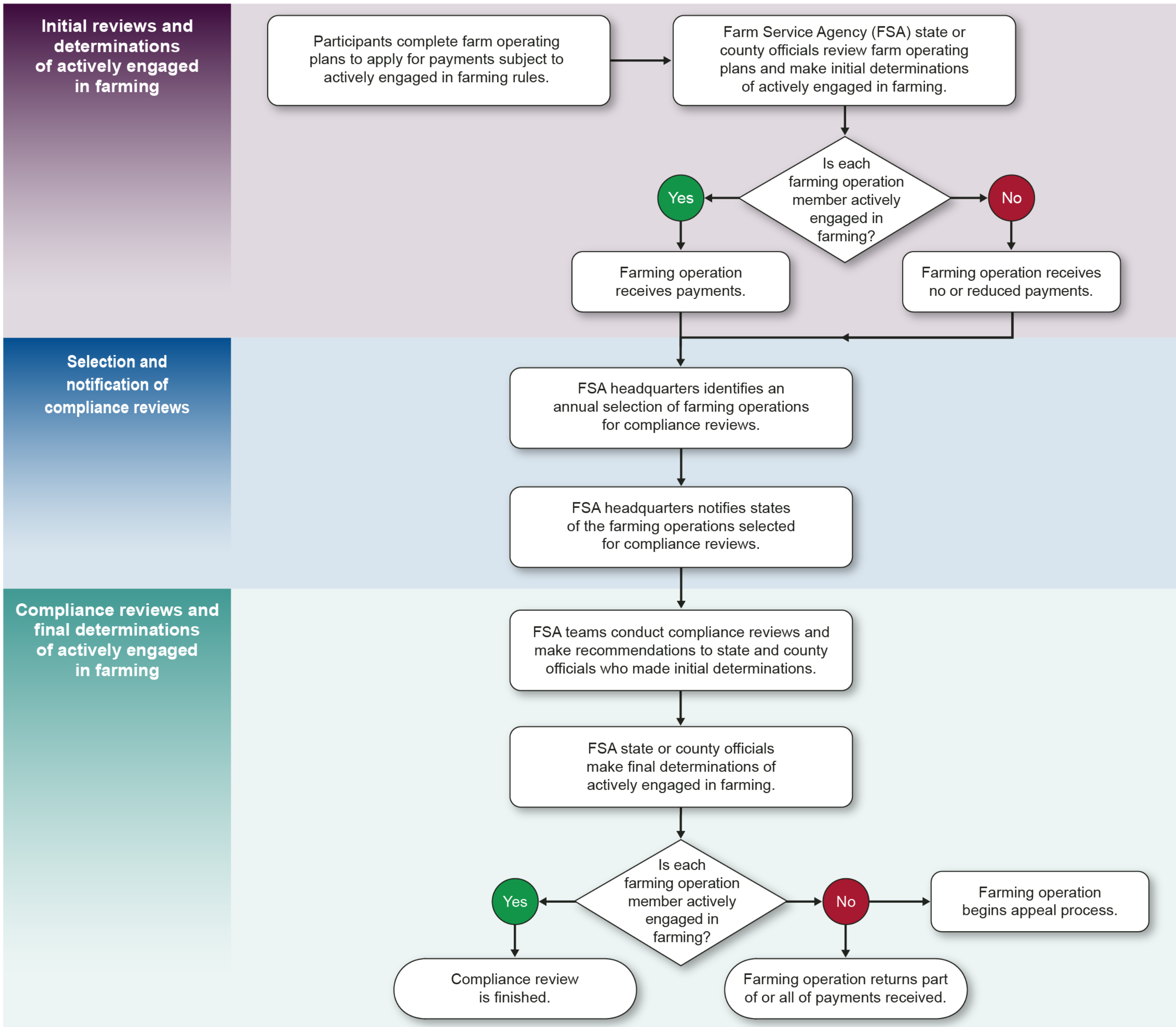
For a farming operation with a large number of crop acres, the potential payments may be substantially more than the $125,000 payment limit for a member of that operation. A farming operation organized as a general partnership or joint venture can receive payments up to the payment limit for each farming operation member. The actual payments would depend on the number of farming operation members who meet payment eligibility requirements. For example, a 12,500-acre farming operation that was organized as a general partnership or joint venture—with a farm program payment rate of $80 per acre—has the potential to receive up to $1 million in payments. If this general partnership had eight members (e.g., four individuals and four spouses) who met payment eligibility requirements, it would receive $1 million (i.e., $125,000 for each of the eight members). By contrast, if this farming operation had only one member (e.g., one individual with no spouse) who met payment eligibility requirements, it would receive $125,000.

[23]Coronavirus Food Assistance Program; 85 Fed. Reg. 30825 (May 21, 2020).

## FSA's Process for Reviewing Farms' Operating Plans

All participants (individuals or legal entities) in programs subject to the actively engaged in farming requirements must complete a USDA form known as a farm operating plan. The information disclosed about the farming operation on this form becomes the basis for the determination of payment eligibility. The farm operating plan documents the name of each farming operation member, the number of members applying for farm payments, the members' agreed-upon shares of profits and losses, and the members' roles in the farming operation and their claimed contributions. FSA's process for reviewing farm operating plans is shown in figure 1.

**Figure 1: FSA's Process to Review Farm Operating Plans**




Source: GAO. | GAO-21-95

Note: For farming operations that have six or more members, an FSA state office makes the initial determination of whether the members meet requirements for being actively engaged in farming. For farming operations that have fewer than six members, an FSA county office makes the initial determination. According to FSA officials, after FSA headquarters selects certain farm operations for compliance reviews, FSA state offices then establish review teams composed of state or county officials to conduct the reviews.

After farming operations submit completed farm operating plans for farm program payments, officials from FSA state or county offices examine the operating plan and make an initial determination of the number of farming operation members that qualify for payments and whether the members meet requirements for being actively engaged in farming. For farming operations that have six or more members, an FSA state office makes the initial determination. For farming operations that have fewer than six members, an FSA county office makes the initial determination.

Each year, FSA headquarters selects certain farm operations for a more detailed examination, called an “End-of-Year Review” (i.e., compliance review) to evaluate whether farming operations were conducted as represented in the farm operating plan, including determining whether each member of the selected farming operations was actively engaged in farming. FSA headquarters selects farming operations for compliance reviews based on, among other criteria, whether the operation has (1) undergone an organizational change in the past year, and (2) received payments greater than a specified amount.[24] These selection criteria target FSA’s limited resources to those operations for which payment limitations are most relevant. FSA headquarters selected 305 farming operations for 2015 compliance reviews and 489 for 2016 compliance reviews. According to FSA officials, given resource constraints, FSA limits the number of farming operations selected for compliance reviews to enable state offices to be more thorough in conducting assigned reviews.

FSA headquarters notifies FSA state offices of the farming operations selected for compliance reviews. According to FSA’s handbook, state offices may waive compliance reviews under certain circumstances. For example, a waiver may be granted if a farming operation selected for a compliance review involved only a husband and a wife. In addition, a waiver may be granted if a farming operation was reviewed within the previous 3 crop years.[25] For example, if a farming operation was selected

[24]According to an FSA official, this amount was $125,000 for 2015. FSA state and county offices may choose to conduct additional compliance reviews of farming operations not selected by headquarters in certain situations, such as when FSA has reason to believe a farm operating plan was not followed as represented.

[25]Specifically, a waiver may be granted if a farming operation was previously reviewed in the last 3 years, did not receive an adverse determination, and the reviewing authority has determined that there have been no changes that affect the original determinations.

for the 2015 crop year, the review may be waived if FSA completed a review of that operation for the 2012, 2013, or 2014 crop years.[26]

In performing compliance reviews, FSA's handbook on payment eligibility and payment limits directs FSA staff to inspect key documents that farming operations provided, such as partnership agreements, canceled checks and loan documents showing the signature of the applicable farming operation members, and narrative summaries of the members' management duties. If the documents provided do not adequately establish a significant management contribution for a member, a form that is called for in the FSA handbook instructs FSA staff to interview the member to assess the member's knowledge of the farming operation commensurate with the member's claimed contribution of management. According to FSA officials, to assess claims of significant contributions of personal labor, FSA staff are to determine whether the member lived near the farming operation and could have provided the claimed labor, as well as to review documents such as records of hours worked. In addition, FSA staff are to review evidence supporting members' claims of the other types of contributions: capital, equipment, and land.

## Completing and Reporting Compliance Reviews

FSA headquarters expects state offices to complete and report their assigned compliance reviews within 12 months of notification from headquarters of which farming operations to review. However, in September 2013, we found that FSA state offices were often not completing and reporting compliance reviews within FSA's expected 12-month time frame and were often not completing and reporting reviews more than a year after the end of the 12-month time frame.[27] For example, by August 1, 2011, the end of the 12-month time frame for 2009 reviews, the state offices together had completed and reported 24 percent of reviews and, as of June 2013, they had completed 29 percent of assigned 2009 reviews.

[26]After FSA state offices waived reviews for 2015 and 2016, the assigned compliance reviews that remained were 256 reviews for 2015 and 327 reviews for 2016. As a point of reference, about 27,000 general partnerships and joint ventures received payments that were subject to actively engaged in farming requirements in 2015, according to our analysis of FSA data.

[27]GAO-13-781.

We recommended that, to better monitor the status of compliance reviews, among other things, the Secretary of Agriculture direct the Administrator of FSA to establish a plan and a time frame for using the compliance review tracking system to conduct oversight and support programmatic decisions, including to generate reports from specific queries. In a July 2014 letter responding to this recommendation, USDA stated that it agreed with the recommendation and had made enhancements in the tracking system database for recording compliance review results and reporting capabilities. These enhancements were fully implemented in March 2014 and allow FSA to generate reports on the status of compliance reviews and the results of completed reviews at any given time.

## Previous Report Findings on Difficulty in Determining Active Personal Management

In September 2013,[28] we reported that FSA compliance reviews of farming operation members' claims of eligibility to receive payments for being actively engaged in farming were hindered by (1) a broad definition of active personal management, (2) subjective requirements of what constitutes significant contributions of management, and (3) difficulty verifying individuals' evidence of claimed contributions of active personal management. We said that these factors make it difficult for FSA to determine whether an individual had made a significant contribution of active personal management, potentially allowing individuals who may have had limited involvement in a farming operation to receive payments. We also noted that FSA officials said that making such a determination is difficult and subject to interpretation.

Among other things, for that report, we analyzed 2009 and 2010 compliance review results that selected FSA state offices reported. These reviews found that farming operation members almost always met the requirements for a significant contribution of active personal management, as they had claimed. For example, the 2010 reviews found that of the 534 farming operation members claiming a significant contribution of active personal management, 523 (98 percent) met the requirements for that claim. Six of the nine state offices whose results we reviewed reported that all of the farming operation members claiming active personal management met the requirements. We noted that the

[28] GAO-13-781.

broad definition of active personal management is difficult for FSA to apply in compliance reviews of farming operations.

To reduce the risk that individuals with little involvement in farming qualify for payments, we suggested that Congress consider making the criteria for active personal management activities clearer and more objective. Members of Congress cited our findings numerous times in its debate of the 2014 Farm Bill and in the final bill directed USDA to revise the criteria for nonfamily farming operations. In 2015, USDA issued a regulation establishing the criteria for nonfamily farming operations. Among other things, this regulation added a new, more specific definition for active personal management. This definition includes a list of critical management activities that qualify as a significant contribution if such activities are annually performed to either of the minimum levels established (500 hours or 25 percent of the total management hours required for the operation). As mentioned earlier, USDA's 2015 regulation also limited nonfamily farming operations—specifically general partnerships and joint ventures—to no more than three members qualifying for payments by contributing active personal management or a combination of management and labor.

The 2014 Farm Bill and USDA's 2015 regulation did not change the active personal management criteria for family farming operations, which are farming operations composed solely of family members. That is, there is no limit on the number of family members who can qualify for payments by contributing active personal management or a combination of management and labor. However, a 2018 Farm Bill provision expanded the definition of family member in a family farming operation to include nieces, nephews, and first cousins, in addition to, among other things, siblings and spouses. In August 2020, USDA issued a regulation to implement this expansion. In addition, this regulation extended to family farming operations the 2015 regulation's minimum annual hours for management activities (500 hours or 25 percent of the total management hours required for the operation).

## FSA Made Progress in Completing and Reporting Reviews of Farms' Compliance with

## Actively Engaged in Farming Rules but Did Not Systematically Monitor Reviews

Since we last reported in September 2013, FSA state offices made progress in their rate of completing and reporting reviews of farming operations' compliance with actively engaged in farming rules, based on our analysis of FSA data. However, FSA did not systematically monitor the accuracy of data in the compliance review tracking system or the status of reviews.

### State Offices Improved Their Rate of Completing and Reporting on Compliance Reviews for 2015 and 2016 Compared with 2009 and 2010

Since we last reported in September 2013, FSA state offices improved their rate of completing and reporting on compliance reviews. FSA headquarters expects state offices to complete and report their assigned compliance reviews within 12 months of FSA headquarter's notification of which farming operations to review.[29] We analyzed August 2019 compliance review tracking system data for 2015 and 2016 compliance reviews—the most recent years for which information was available—and found that FSA state offices improved relative to their completion of 2009 and 2010 compliance reviews.[30]

Table 2 shows the percentage of reviews completed and reported within 12 months after FSA headquarters assigned the reviews to state offices for 2009, 2010, 2015, and 2016, respectively.

[29]U.S. Department of Agriculture, Farm Service Agency, *Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income - Agricultural Act of 2014, 5-PL*, Amendment 5.

[30]As of June 2013, 2009 and 2010 were the most recent years for which information was available. As of August 2019, 2015 and 2016 were the most recent years for which information was available.

**Table 2: Status of Assigned Compliance Reviews of Farming Operations 12 Months after Farm Service Agency (FSA) Headquarters Assigned the Reviews to State Offices, 2009, 2010, 2015, and 2016**

| Review year | Reviews assigned to state offices by headquarters | Assigned reviews completed and reported by state offices | Percentage of assigned reviews completed and reported by state offices |
|---|---|---|---|
| 2009 | 889 | 215 | 24 |
| 2010 | 305[a] | 44 | 14 |
| 2015 | 256 | 101 | 39 |
| 2016 | 327 | 197[b] | 60 |

Source: GAO analysis of FSA data. | GAO-21-95

Note: We compared the 2009 and 2010 results that we reported in September 2013 with 2015 and 2016 results from the compliance review tracking system. We selected these years because they were the most recent available at the time of our reviews. As of June 2013, 2009 and 2010 were the most recent years for which information was available. As of August 2019, 2015 and 2016 were the most recent years for which information was available.

According to FSA's handbook, state offices may waive compliance reviews under certain circumstances. In this table, the number of reviews that headquarters assigned to state offices excludes those that were waived.

[a]According to FSA officials, the decrease in the number of reviews assigned from 2009 to 2010 was because 2009 was the first year after the 2008 Farm Bill was enacted, necessitating the U.S. Department of Agriculture's revisions of its regulations for payment limits and payment eligibility. As a result, FSA directed all farming operations to provide updated farm operating plans for 2009. FSA officials said that, after 2009, FSA only required updated farm operating plans from farming operations that underwent an organizational change during the year.

[b]For 2016, the number of assigned reviews completed and reported is as of 13 months after FSA headquarters assigned the reviews to state offices. Because FSA state offices had an increased workload in the summer of 2019 as a result of the Market Facilitation Program, FSA headquarters extended the time frame for the completion of 2016 reviews to 13 months.

We also compared state offices' completion and reporting of 2009 and 2015 reviews at least 2 years after the reviews were assigned and found substantial improvement.[31] As of June 2013, 34 months after the reviews were assigned, state offices had completed and reported 29 percent of 2009 reviews.[32] In contrast, as of August 2019, 25 months after the reviews were assigned, state offices had completed and reported 91 percent of 2015 reviews. FSA officials told us that they attributed this progress to the use of the compliance review tracking system. Prior to the system's implementation, state offices mailed or faxed the results of their assigned reviews to FSA headquarters. An FSA official also said the

[31]At the time we were obtaining information for our September 2013 report, 2009 was the most recent year for which information was available at least 2 years after the reviews were assigned. For the 2009 reviews, we obtained data in June 2013, 34 months after the reviews were assigned to the FSA state offices. At the time we were obtaining information for this report, 2015 was the most recent year for which information was available at least 2 years after those reviews were assigned. For the 2015 reviews, we obtained data in August 2019, 25 months after the reviews were assigned.

[32]GAO-13-781.

lower number of reviews assigned for 2015 relative to 2009 was likely a factor in the improved completion rate.

## FSA Management Did Not Systematically Monitor Accuracy of Data or the Status of Reviews

FSA's handbook on payment eligibility and payment limits directs FSA state offices to report compliance review results both in the compliance review tracking system and in compliance review summary forms that the offices are to submit to headquarters annually. The offices are to report in the compliance review tracking system whether assigned reviews were completed or waived and in the summary forms the number of reviews assigned and completed.

We reviewed data in the compliance review tracking system as of January 2019 for compliance reviews conducted for 2010 through 2015—the most recent years for which data were available at that time—and found errors. According to our analysis of the data, FSA headquarters assigned 1,782 compliance reviews to FSA state offices during this time frame.[33] Errors we identified in the data include the following:

- For the 1,782 compliance reviews assigned for 2010 through 2015, FSA state offices waived reviews of 251 farming operations across 29 states on the grounds that a prior review had been done within the previous 3 years, which was a criterion FSA used to waive reviews. However, for 76 of these 251 waived reviews (30 percent) across 13 states from 2013 through 2015, the compliance review tracking system did not show that reviews of those farming operations were completed for any of the previous 3 crop years.[34] In these 76 instances, according to FSA officials, either the data entry of a waiver was erroneous or a review that had been completed during the 3 previous years was not entered into the system.
- For compliance reviews conducted for 2010 through 2015, 30 FSA state offices waived reviews of 313 farming operations for any of the

[33]As a point of reference, the number of general partnerships and joint ventures that received a payment for 2015 was 27,658. The number of general partnerships and joint ventures that receive payments fluctuates from year to year.

[34]Data were not available to assess waived reviews for 2010 through 2012. Assessing these reviews would require data for the previous 3 crop years—2007, 2008, and 2009—which were not included in the compliance review tracking system.

reasons that state offices can grant waivers, including whether a review was completed within the previous 3 years. FSA state offices marked 32 of the 313 reviews (10 percent) across 12 states as both waived and completed, which is contradictory. FSA officials attributed these errors to FSA staff misunderstanding compliance review tracking system instructions. FSA officials said these reviews should have been marked as waived only and that it was incorrect to mark them as completed.[35]

We discussed the data errors in the compliance review tracking system with FSA headquarters officials, who attributed the errors to four issues: (1) the compliance review tracking system not being user friendly, (2) the system not having sufficient electronic safeguards to help ensure the production of reliable data,[36] (3) instructions for using the compliance review tracking system contained in the FSA handbook not being current, and (4) FSA staff not having been trained on the use of the system.

FSA officials stated that the accuracy of the data contained in the system could be improved and that they intend to train their state and county office staff on the tracking system. However, training alone will not ensure data accuracy as long as the compliance review tracking system does not have certain electronic safeguards, such as preventing a compliance review from being entered as both waived and completed. Under federal standards for internal control, management should design the entity's information system and related control activities to achieve objectives and respond to risks, such as by designing control activities over the information technology infrastructure.[37] For example, electronic safeguards can support the completeness and accuracy of information processing. By establishing controls to improve the accuracy of compliance review tracking system data, including electronic safeguards, FSA would have better assurance that management has the accurate data it needs to oversee state offices' timely completion of reviews to

[35]We adjusted the August 2019 data accordingly for the purpose of determining how many reviews had been completed, as discussed above. That is, for reviews that FSA state offices marked as both waived and completed, we did not count these reviews as completed.

[36]Electronic safeguards include automatic features that are intended to ensure the reliability and accuracy of the data entered into a system. For example, FSA officials said the compliance review tracking system could be modified to prevent a compliance review from being entered as both waived and completed.

[37]GAO-14-704G.

ensure that farmers who receive federal payments comply with requirements to be actively engaged in farming.

In addition to finding errors in the data, we found that FSA headquarters did not systematically monitor state offices' status in completing compliance reviews, either through spot checks of the compliance review tracking system or the compliance review summary forms that the state offices are to submit to headquarters annually. In 2014, FSA implemented enhancements in the compliance review tracking system to allow headquarters and state offices to, at any given time, generate reports on the status of compliance reviews and the results of completed reviews. Furthermore, FSA's handbook states that the Administrator of FSA shall provide general supervision and direction for the administration of the handbook, which means, among other things, that headquarters is responsible for ensuring that the state offices complete and report compliance reviews. However, when we requested summary forms in February 2019, FSA headquarters officials told us they had not been tracking these forms and could only provide us with 23 of the 82 summary forms that we requested for crop years 2011 through 2015.[38]

After receiving our request for information on the status of compliance reviews and realizing that FSA headquarters did not have all of the summary forms, an FSA official reviewed the compliance review tracking system and contacted state offices to determine if state offices had completed reviews and to request that they provide the missing forms. As a result of this effort, FSA headquarters found that three states had not completed any of their assigned reviews for certain years.[39] For those states that had not completed their assigned reviews, an FSA official directed them to do so.

[38]For the 2011 crop year, FSA headquarters selected farming operations in 33 states for compliance reviews. For 2012, 2013, 2014, and 2015, FSA headquarters selected farming operations in 34 states, 33 states, 21 states, and 26 states, respectively. We judgmentally selected 35 summary forms from 2011 through 2013 to request based on states with a relatively high percentage of compliance reviews not recorded as completed in the tracking system or with individual reviews marked as both waived and completed. We also requested all of the summary forms from 2014 (21) and 2015 (26). These year-state combinations total 82.

[39]These include the Arizona state office (46 reviews for 2012 and 2013), North Carolina (26 reviews for 2012 and 2013), and Oregon (six reviews for 2012 and 2013). In addition, we found 13 other state offices did not complete any of their assigned reviews for certain years, according to the compliance review tracking system. These state offices include California (2012-2013), Louisiana (2012-2013), Minnesota (2011), North Dakota (2011-2013), Oklahoma (2012-2013), and Washington (2010-2015).

We discussed the insufficient monitoring with FSA headquarters officials, who stated that personnel changes at FSA headquarters limited their ability to monitor the status of compliance reviews. FSA officials also said, however, that they plan to improve monitoring of the status of compliance reviews. For example, officials said they plan to stop using the summary forms and instead rely solely on the compliance review tracking system to monitor the status of compliance reviews, thus eliminating a redundant reporting step. The officials said this change will enable more focus on the compliance review tracking system. In addition, they said FSA plans to assign a staff member to monitor the compliance review tracking system.

However, FSA has not provided specific instructions in the handbook on the information to check or how frequently to do so when monitoring the status of compliance reviews. Under federal standards for internal control, management should design control activities to achieve objectives and respond to risks, such as by clearly documenting internal control in management directives, administrative policies, or operating manuals.[40] By providing additional guidance in FSA's handbook as part of its ongoing efforts to improve the monitoring of the compliance review tracking system data, FSA could better ensure sufficient management oversight of state offices' completion and reporting of compliance reviews to determine if farming operation members meet the actively engaged in farming criteria. Additional guidance could include specifying (1) how to periodically run reports on the status and results of compliance reviews, (2) the types of information to examine during periodic checks of these reports, and (3) how frequently to perform these checks.

## FSA Found Farming Operation Members Almost Always Met Claimed Management Contributions, and FSA Varied in Using Interviews and Documenting Findings

FSA's compliance reviews found that farming operation members almost always met the requirements for a significant contribution of active personal management, as they had claimed. In addition, FSA compliance

[40]GAO-14-704G.

review teams varied in their use of interviews to verify such claims and in their documentation of review findings.

## FSA's Compliance Reviews Found That Farming Operation Members Almost Always Met Claimed Management Contributions

Our analysis of 2015 compliance reviews found that FSA state offices reported that members of farming operations almost always met the requirements for a significant contribution of active personal management, as the members had claimed.[41] Table 3 shows the results of the 2015 compliance reviews completed by state offices and reported in FSA's compliance review tracking system, as of August 2019.[42] The compliance reviews found sufficient support for 1,067 of 1,102 (97 percent) claimed contributions of active personal management.[43] Among the 10 states reporting the most compliance reviews, five states reported that 100 percent of the farming operation members claiming active personal management met the requirements.

[41]We used 2015 data because it was the most recent year for which over 90 percent of reviews had been completed at the time of our review.

[42]At the time of our review, 2015 was the most recent year for which nearly all assigned compliance reviews had been completed. As of August 2019, state offices had completed 96 percent of assigned 2015 compliance reviews.

[43]If any partner, stockholder, or member with an ownership interest in a farming operation does not meet the actively engaged in farming requirements, farm program payments are to be reduced by the corresponding share held by that partner, stockholder, or member. FSA is then responsible for recovering the payments that are subject to actively engaged in farming requirements.

**Table 3: Members' Contributions of Active Personal Management in Reviewed Farming Operations That Farm Service Agency (FSA) State Offices Reported, 2015**

| State | Number of compliance reviews reported | Active personal management contribution (members claiming) | Active personal management contribution (members meeting) | Percentage meeting |
|---|---|---|---|---|
| Alabama | 7 | 25 | 25 | 100 |
| Arkansas | 36 | 155 | 155 | 100 |
| Minnesota | 6 | 25 | 25 | 100 |
| Mississippi | 20 | 112 | 112 | 100 |
| North Dakota | 9 | 34 | 34 | 100 |
| Texas | 45 | 189 | 185 | 98 |
| Georgia | 31 | 146 | 142 | 97 |
| Illinois | 13 | 56 | 53 | 95 |
| Indiana | 14 | 96 | 90 | 94 |
| Louisiana | 17 | 108 | 101 | 94 |
| Other states[a] | 35 | 156 | 145 | 93 |
| Total | 233 | 1,102 | 1,067 | 97 |

Source: GAO analysis of FSA data. | GAO-21-95

[a]These other states reported from one to five compliance reviews. They were Colorado, Idaho, Iowa, Kansas, Michigan, Missouri, Montana, Nebraska, North Carolina, Ohio, South Carolina, South Dakota, and Wisconsin.

In assessing the high percentage of farming operation members that FSA determined to have met claims of active personal management, the following points provide perspective.

- FSA's handbook on payment eligibility and payment limits states that it is difficult to measure what constitutes a management contribution and that such a contribution must be critical to the profitability of a farming operation. In addition, a report by a USDA commission on payment limits noted the difficulty of measuring and determining active personal management and stated that the criterion for providing management may present a very low threshold for qualifying for payments.[44]
- As noted earlier, we reported in September 2013 that a broad definition of active personal management, subjective requirements of what constitutes significant contributions of management, and difficulty in verifying individuals' evidence of claimed management contributions make it difficult for FSA to determine whether an individual had made a significant contribution of active personal management.[45] We also reported that FSA officials said making such a determination is subject to interpretation. With respect to family farming operations, these findings are still applicable because the relevant statutes and regulations have not changed. For this report, we discussed with FSA officials the difficulty in making active personal management determinations for family farming operation members.
- Several FSA officials said that large farming operations receive assistance from consulting firms to help them comply with active personal management criteria. For example, a state office official said the documentation that consulting firms prepare for farming operations is consistently sufficient to support a determination of active personal management.

[44]U.S. Department of Agriculture, Office of the Chief Economist, Commission on the Application of Payment Limitations for Agriculture, *Report of the Commission on the Application of Payment Limitations for Agriculture* (Washington, D.C.: August 2003).

[45]GAO-13-781.

## Compliance Review Teams Varied in Their Use of Interviews and Their Documentation of Review Findings

One of the tools available to compliance review teams to verify a farming operation member's claimed management contribution is to interview the member to obtain information about the member's knowledge of the farming operation and the claimed contribution. FSA's handbook calls for a form that is a record of a compliance review. This form instructs compliance review teams to interview farming operation members to confirm their claimed contributions to the farming operation unless the reason for not doing an interview is obvious based on documents that the farming operation provides to the compliance review team. In addition, a 2017 guidance document posted on FSA's intranet by a headquarters official emphasizes the importance of conducting interviews with farming operation members.

We examined records for 27 compliance reviews conducted for 2014 and 2015 across five states.[46] For six of the 27 reviews, we found that the review team documented that they conducted interviews of farming operation members. We spoke with officials from these five state offices. Officials from four of the five state offices said their compliance review teams conducted interviews for at least some of their 2014 and 2015 compliance reviews.

While acknowledging the value of doing interviews, officials from one of the four state offices that did interviews told us of a compliance review in which they did not interview members even though they considered the documentation that the farming operation provided for six members' management claims to be insufficient. The officials said they did not interview the six members because interviews require time and resources, and the officials believed that, in this case, the interviews would not result in FSA ultimately finding that the members did not make significant management contributions. The officials explained that, based on their experience, they believed that if the compliance review determined the six members were not making significant management contributions, this determination would be appealed by the farming operation and overturned by the FSA state executive committee or USDA's National Appeals Division. We did not examine the extent to

[46]We examined 27 compliance review records from a nongeneralizable sample of farming operations that received over $500,000 in either 2014 or 2015, had at least six members, or that we discussed with FSA officials.

which review determinations were being overturned, but in our September 2013 report, we noted three examples of review teams' determinations being overturned in the appeals process.

In addition, officials we interviewed from the fifth state office did not interview any farming operation members for 2015. This state had a relatively large number of reviews for that year. According to a state office official, review teams in this state historically have not done interviews based on an assessment that doing interviews will not change review teams' determinations. The official added that there is no written state office policy against doing interviews.

However, FSA officials in the other four state offices told us that interviews with farming operation members have been critical in verifying claimed management contributions, noting that interviews provide information about a member's knowledge of the farming operation and claimed management responsibilities. For example, FSA officials from one state told us that in 2018, based on an interview of an adult child who lived hundreds of miles away from the farming operation, a review team found that this person was not making a claimed management contribution and determined that the person was not eligible for payments.

Moreover, if the review team does not interview farming operation members, the compliance review record form that is called for in the FSA handbook instructs the review team to document the reason for not doing interviews.[47] For example, this reason could be that the farming operation provided adequate documents to support the claimed contribution. For 21 of the 27 compliance review records that we examined, the review team did not interview farming operation members. For five of these 21 records, the review team did not document a reason for not interviewing farming operation members. FSA headquarters officials told us that review teams may not have documented these reasons due to inadequate training and a lack of oversight from FSA state officials.

As noted earlier, according to FSA's handbook and guidance posted on FSA's intranet, compliance review teams are strongly encouraged to interview farming operation members to confirm their claimed contributions to the farming operation. FSA officials told us they have not

[47]The compliance review record details review actions that the compliance review team performed and the results of the review.

examined the teams' use of interviews or their documentation of the reasons for not doing an interview. By examining compliance review teams' use of interviews of farming operation members and documentation of the reasons for not doing an interview, and providing additional guidance or training as necessary, FSA management would have more reasonable assurance that compliance review teams are appropriately using this key tool when determining whether farm program payment recipients are eligible to receive payments.

In addition, FSA's handbook provides direction to review teams on preparing a compliance review record. A compliance review record includes the following:

1. A checklist identifying the documents that the farming operation provided to the review team
2. A completed template that guides the review team to assess the information supporting the determination, and a summary of the facts involved in the determination of whether the claimed contribution was a significant contribution to the farming operation
3. A completed template that provides an overview of the review team's findings

According to the handbook, the compliance review record is the basis for determinations of whether a farming operation is eligible for payment.

We found that three of the 27 compliance review records that we examined were either incomplete or provided inconsistent information. For example, a compliance review team did not complete the section of a record where the team was to document how it determined whether the farming operation's claim of management qualified as a significant contribution. Another review record did not include a summary of the facts involved in the determination of management contributions. In addition, a review record provided inconsistent information about whether the farming operation made a significant management contribution. This review record stated that active personal management was not claimed by farming operation members, but it also stated that the review determined that all eight members provided significant contributions of active personal management.

When we asked FSA headquarters officials if FSA compliance review teams have been provided with training on how to complete compliance review records, the officials said FSA had not provided such training in recent years. FSA officials also told us they have not examined the teams' completion of compliance review records. By examining compliance review teams' completion of compliance review records and providing additional guidance or training as necessary, FSA management could better ensure there is a sound basis for determinations of whether farming operation members are eligible for payments.

## 2018 Farm Bill Provision Expanded the Definition of Family Member

A 2018 Farm Bill provision expanded the definition of family member in a family farming operation to include nieces, nephews, and first cousins, in addition to, among others, siblings and spouses.[48] Under the 2018 Farm Bill, FSA was to implement this expansion for the 2019 crop year. To verify that a person listed on a farm operating plan is a family member and, thus, eligible to receive payments, FSA typically relies on county office officials' personal knowledge of family members and the farming operation's self-certification on its farm operating plan, according to FSA officials.

However, FSA state office officials from each of the five state offices we contacted said that, with the expansion of the family member definition, county office officials would be unlikely to have knowledge of all family members who meet the definition and are listed on farm operating plans. In addition, we found that the information that farming operations self-certify on farm operating plans regarding family members is not always accurate. As illustrated in FSA's handbook, a farm operating plan is required to identify any minor child as such. However, we found that farm operating plans do not always identify minor children. (More information on this analysis is in app. III.) In July 2019, we discussed these findings with FSA officials, who told us that FSA did not plan to develop a process for verifying that a person is a family member. We contacted these officials again in December 2019, and they told us that they considered and subsequently developed a process to verify family membership. In August 2020, an FSA official said FSA plans to issue a handbook revision advising FSA state and county officials to request that farming operations provide FSA with documentation on family relationship when needed.

[48]The Congressional Budget Office estimated that this expanded definition of family member would increase government costs by $4 million per year.

## Conclusions

For farm programs that require payment recipients to be actively engaged in farming, FSA is responsible for ensuring that farming operation members meet the criteria and do not receive payments above program payment limits. Payments under these programs total billions of dollars per crop year and seek to strengthen farm household incomes and the economy of rural areas by providing support to producers of key crops. Since we last reported in 2013, FSA state offices have made progress in their rate of completing and reporting on their compliance reviews of farming operations. However, FSA did not systematically monitor the accuracy of data in its compliance review tracking system or the status of reviews. FSA officials acknowledged that the accuracy of the data in the compliance review tracking system could be improved and said that they intend to train their state and county office staff on the system.

However, training alone will not ensure the accuracy of the data. By establishing controls to improve data accuracy, including electronic safeguards, FSA would have better assurance that management has the accurate data it needs to oversee state offices' timely completion of reviews to ensure that farmers who receive federal payments comply with requirements to be actively engaged in farming. Officials also stated they plan to improve monitoring of the tracking system data and the status of compliance reviews by eliminating a redundant reporting step to enable more focus on the tracking system and to use more staff resources to monitor the system. Building upon these efforts—by updating the FSA handbook to specify how to periodically run reports on the status and results of compliance reviews, the types of information to examine during periodic checks of these reports, and how frequently to perform these checks—would better ensure sufficient management oversight of state offices' completion and reporting of compliance reviews to guard against improper payments.

Interviews are an important tool to provide information about a member's knowledge of the farming operation and claimed contributions to the operation, but FSA compliance review teams varied in their use of interviews to verify claims of active personal management. For example, teams in one state have historically not done interviews. Teams also did not always document reasons why interviews were not conducted, even though a documented reason is required if a team does not conduct an interview. By examining compliance review teams' use of interviews of farming operation members and documentation of the reasons for not doing an interview and providing additional guidance or training as necessary, FSA management would have more reasonable assurance that FSA is accurately determining whether farm program payment recipients are eligible to receive payments. Also, by examining compliance review teams' completion of compliance review records and providing additional guidance or training as necessary, FSA management could better ensure there is a sound basis for determinations of whether farming operation members are eligible for payments.

## Recommendations for Executive Action

We are making the following five recommendations to FSA.

The FSA Administrator should improve the accuracy of compliance review tracking system data by establishing controls, including electronic safeguards such as preventing a compliance review from being entered as both waived and completed. (Recommendation 1)

The FSA Administrator should build upon ongoing efforts to improve the monitoring of the compliance review tracking system data by updating the FSA handbook to specify how to periodically run reports on the status and results of compliance reviews, the types of information to examine during these periodic checks on these reviews, and how frequently to perform these checks. (Recommendation 2)

The FSA Administrator should examine compliance review teams' use of interviews of farming operation members and provide additional guidance or training as necessary. (Recommendation 3)

The FSA Administrator should examine the extent to which compliance review teams documented the reasons for not doing an interview and provide additional guidance or training as necessary. (Recommendation 4)

The FSA Administrator should examine compliance review teams' completion of compliance review records and provide additional guidance or training as necessary. (Recommendation 5)

## Agency Comments and Our Evaluation

We provided a draft of this report to the Secretary of Agriculture for review and comment. In USDA's comments, reproduced in appendix VII, the agency concurred with our findings and recommendations. USDA acknowledged that improvements are needed in program policy, tracking system controls, conducting and documenting compliance reviews and training to ensure members of farming operations are eligible for payments. For each of our five recommendations, USDA provided a response describing the action that it plans to take or is considering.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 17 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Agriculture, and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or morriss@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VIII.

Sincerely yours,

Steve Morris
Director, Natural Resources and Environment

# Appendix I: Objectives, Scope, and Methodology

The objectives of our review were to examine (1) the U.S. Department of Agriculture's (USDA) Farm Service Agency's (FSA) progress in completing and reporting reviews of compliance with actively engaged in farming rules and monitoring the results of its reviews; and (2) FSA's compliance reviews of farming operation members' claimed contributions of active personal management, its use of interviews to verify such claims, and its documentation of review findings. We also examined changes in USDA payments, numbers of members, and member contributions for the farming operations with the highest payments after USDA implemented its regulation in response to the Agricultural Act of 2014 (2014 Farm Bill) provision limiting the number of nonfamily farming operation members who can claim a contribution of active personal management.

To address each of the objectives, we reviewed the provisions in the 2014 Farm Bill and 2018 Farm Bill on actively engaged in farming, as well as relevant USDA regulations and FSA's handbook on payment eligibility and payment limits.[1] We visited FSA offices in four states—Arkansas, Georgia, Louisiana, and Texas—and interviewed FSA state officials in those offices and in one additional state—Mississippi—as well as FSA headquarters officials in charge of the program. These five states had the highest number of compliance reviews assigned and completed for 2015.

To address the first objective, we obtained and analyzed FSA electronic data from the compliance review tracking system on the results of state offices' compliance reviews of farming operations and their members. To assess the reliability of the data, we (1) interviewed FSA agency officials knowledgeable about the compliance review tracking system, (2) performed logic tests of relevant data elements, and (3) reviewed related documentation. We found errors in the data concerning whether certain reviews had been completed, as explained in the report. We discussed these errors with FSA officials. We adjusted the data accordingly for our analysis. We determined that the data were sufficiently reliable for the

[1] U.S. Department of Agriculture, Farm Service Agency, *Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income - Agricultural Act of 2014, 5-PL*, Amendment 5.

purposes of determining the number of compliance reviews that FSA state offices were notified to complete and report to FSA headquarters for 2015 and 2016 and the number of these reviews that the state offices completed and reported.

In addition, we obtained and reviewed state offices' compliance review summary forms submitted to FSA headquarters. To examine FSA's completion and reporting of reviews, we compared the 2009 and 2010 results that we reported in September 2013 with the 2015 and 2016 results from the compliance review tracking system. We selected 2009 and 2010 results because they were the most recent available at the time of our reviews in June 2013. As of August 2019, the most recent years for which results were available were 2015 and 2016. We used data that were available as of August 2019 to determine the completion rates for 2015 and 2016 compliance reviews. We also compared FSA's monitoring of the accuracy of the review data and status of the reviews with federal standards for internal control activities, as well as with instructions in FSA's handbook on payment eligibility and payment limits.

To address the second objective, we examined selected files of 2014 and 2015 compliance reviews and discussed compliance review processes and results with FSA officials during the site visits and interviews. These files included supporting documents submitted by farming operations that described their members' contributions to the farming operation in the areas of active personal management and personal labor; the files also included FSA forms documenting compliance review processes and results. We selected compliance reviews for examination based on the number of farming operation members and the relative amount of the farm program payments to the operation. Specifically, we selected farming operations that received over $500,000 in payments in either 2014 or 2015, had six or more members, or that we discussed with FSA officials. Information collected from the FSA state offices and derived from the compliance review files is illustrative and not generalizable to all FSA offices or compliance review files for the 2014 and 2015 crop years. In addition, to determine whether farm operating plans included undisclosed minor children, we obtained and analyzed data from the Social Security Administration and compared these data against FSA data.[2] To assess the reliability of the Social Security Administration data, we reviewed our previous assessment of the data's reliability. We determined that the data

[2]FSA's handbook directs the completion of forms that would list a minor child on a farm operating plan as a minor child. A payment to a minor child is attributed to the parents of the child.

were sufficiently reliable for the purpose of determining whether farm operating plans included undisclosed minor children.

To examine changes in USDA payments for the farming operations with the highest payments, we obtained and analyzed FSA data on applicable farm program payments to farming operations for the 2015 through 2018 crop years as well as farming operations' number of members, farming operation type, state, and primary crops.[3] These farm program payments included Agriculture Risk Coverage, Price Loss Coverage, Cotton Ginning Cost-Share Program, Cotton Transition Assistance Program, and loan deficiency payments. These payments were subject to actively engaged in farming requirements. In addition, our analysis included Market Facilitation Program payments. USDA required that individuals and entities be actively engaged in farming to be eligible for Market Facilitation Program payments for nonspecialty crops. To assess the reliability of the FSA data, we reviewed our previous assessments of the data's reliability. In addition, we (1) performed electronic tests of pertinent data elements, (2) reviewed management controls over the information systems that maintain the data, and (3) interviewed agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of determining the distribution and amount of payments to farming operations and the number of farming operation members.

To obtain information about the number of members who claimed contributions of management or labor to the 20 farming operations that received the highest payments for crop years 2015, 2016, and 2017, we contacted the 10 FSA state offices responsible for administering payment eligibility requirements for these farming operations. To assess the accuracy of the information that we obtained from FSA state offices, we compared it with our analysis of FSA data on farming operations.

We conducted this performance audit from May 2018 to October 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

[3]The 2018 crop year was the most recent year for which data were available when we obtained data for our analysis.

the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: Farm Program Payments for Crop Years 2016 through 2018, by Type of Farming Operation

Tables 4, 5, and 6 below show payments, for crop years 2016 through 2018, respectively, that required recipients to be actively engaged in farming. Crop year 2018 was the most recent year for which Agriculture Risk Coverage and Price Loss Coverage payments data were available at the time of our review. The U.S. Department of Agriculture began disbursing 2018 crop year payments for these programs in October 2019. Payments are listed by type of farming operation receiving the payments.

**Table 4: Farm Program Payments That Required Recipients to Be Actively Engaged in Farming, by Type of Farming Operation, for Crop Year 2016**

| Type of farming operation | Members (number) | Members (percentage) | Farming operations (number) | Farming operations (percentage) | Payments in dollars (total) | Payments in dollars (percentage) | Payments in dollars (average) |
|---|---|---|---|---|---|---|---|
| General partnerships | 75,335 | 7.5 | 22,538 | 3.0 | 1,334,233,688 | 18.0 | 59,199 |
| Joint ventures | 13,529 | 1.3 | 4,622 | 0.6 | 215,350,732 | 2.9 | 46,593 |
| Individuals | 600,289 | 59.8 | 600,289 | 78.8 | 4,111,222,271 | 55.4 | 6,849 |
| Corporations[a] | 122,263 | 12.2 | 41,781 | 5.5 | 943,820,329 | 12.7 | 22,590 |
| Limited liability companies | 92,303 | 9.2 | 35,612 | 4.7 | 501,426,046 | 6.8 | 14,080 |
| Revocable trusts | 34,114 | 3.4 | 29,593 | 3.9 | 142,318,988 | 1.9 | 4,809 |
| Irrevocable trusts | 32,232 | 3.2 | 15,459 | 2.0 | 52,645,387 | 0.7 | 3,405 |
| Limited partnerships | 24,009 | 2.4 | 5,685 | 0.7 | 62,438,890 | 0.8 | 10,983 |
| Estates | 6,513 | 0.6 | 2,533 | 0.3 | 8,439,178 | 0.1 | 3,332 |
| Individuals operating as small businesses | 2,090 | 0.2 | 2,088 | 0.3 | 39,071,329 | 0.5 | 18,712 |
| Churches, charities, and nonprofit organizations | 1,158 | 0.1 | 1,157 | 0.2 | 4,231,465 | 0.1 | 3,657 |
| Public schools | 245 | 0.0 | 245 | 0.0 | 4,260,561 | 0.1 | 17,390 |
| Indian tribal ventures[b] | 66 | 0.0 | 66 | 0.0 | 7,091,942 | 0.1 | 107,454 |
| Other[c] | 346 | 1 | 346 | 1 | 0 | 0 | 0 |
| **Total** | **1,004,501** | **100.0**[d] | **762,023** | **100.0** | **7,426,550,807** | **100.0** | **9,746** |

Source: GAO analysis of Farm Service Agency data. | GAO-21-95

Notes: The farm program payments in this table are the payments that are subject to actively engaged in farming requirements. This table excludes marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data that the Farm Service Agency provided did not include them.

Farming operations that did not receive a payment are not included in this table.

[a]Corporations include subchapter S corporations.

[b]"Indian tribal ventures" is the business type that the Farm Service Agency uses to identify Indian tribes and tribal ventures.

[c]Includes financial institutions and state and local governments.

[d]The percentages may not total to 100 because of rounding.

**Table 5: Farm Program Payments That Required Recipients to Be Actively Engaged in Farming, by Type of Farming Operation, for Crop Year 2017**

| Type of farming operation | Members (number) | Members (percentage) | Farming operations (number) | Farming operations (percentage) | Payments in dollars (total) | Payments in dollars (percentage) | Payments in dollars (average) |
|---|---|---|---|---|---|---|---|
| General partnerships | 60,387 | 8.0 | 18,121 | 3.2 | 593,329,094 | 19.0 | 32,743 |
| Joint ventures | 10,151 | 1.3 | 3,701 | 0.7 | 94,126,745 | 3.0 | 25,433 |
| Individuals | 443,268 | 58.6 | 443,268 | 78.1 | 1,692,459,026 | 54.3 | 3,818 |
| Corporations[a] | 93,697 | 12.4 | 31,446 | 5.5 | 393,645,503 | 12.6 | 12,518 |
| Limited liability companies | 78,297 | 10.3 | 30,992 | 5.5 | 215,140,928 | 6.9 | 6,942 |
| Revocable trusts | 23,200 | 3.1 | 20,430 | 3.6 | 55,307,536 | 1.8 | 2,707 |
| Irrevocable trusts | 21,723 | 2.9 | 10,624 | 1.9 | 20,627,907 | 0.7 | 1,942 |
| Limited partnerships | 18,624 | 2.5 | 4,501 | 0.8 | 27,646,184 | 0.9 | 6,142 |
| Estates | 4,214 | 0.6 | 1,685 | 0.3 | 3,475,876 | 0.1 | 2,063 |
| Individuals operating as small businesses | 1,750 | 0.2 | 1,749 | 0.3 | 16,339,300 | 0.5 | 9,342 |
| Churches, charities, and nonprofit organizations | 718 | 0.1 | 718 | 0.1 | 1,689,336 | 0.1 | 2,353 |
| Public schools | 176 | 0.0 | 176 | 0.0 | 1,966,811 | 0.1 | 11,175 |
| Indian tribal ventures[b] | 64 | 0.0 | 64 | 0.0 | 3,318,238 | 0.1 | 51,847 |
| Other[c] | 234 | 0.0 | 234 | 0.0 | 0 | 0 | 0 |
| Total | 756,509 | 100.0 | 567,715 | 100.0 | 3,119,072,484 | 100.0 | 5,494 |

Source: GAO analysis of Farm Service Agency data. | GAO-21-95

Notes: The farm program payments in this table are the payments that are subject to actively engaged in farming requirements. This table excludes marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data that the Farm Service Agency provided did not include them.

Farming operations that did not receive a payment are not included in this table.

[a]Corporations include subchapter S corporations.

[b]"Indian tribal ventures" is the business type that the Farm Service Agency uses to identify Indian tribes and tribal ventures.

[c]Includes financial institutions and state and local governments.

**Table 6: Farm Program Payments That Required Recipients to Be Actively Engaged in Farming, by Type of Farming Operation, for Crop Year 2018**

| Type of farming operation | Members (number) | Members (percentage) | Farming operations (number) | Farming operations (percentage) | Payments in dollars (total) | Payments in dollars (percentage) | Payments in dollars (average) |
|---|---|---|---|---|---|---|---|
| General partnerships | 68,908 | 7.2 | 20,481 | 2.9 | 1,680,091,331 | 15.5 | 82,032 |
| Joint ventures | 11,697 | 1.2 | 3,863 | 0.5 | 229,300,005 | 2.1 | 59,358 |
| Individuals | 563,146 | 59.0 | 563,146 | 78.6 | 6,332,477,189 | 58.6 | 11,245 |
| Corporations[a] | 117,910 | 12.4 | 40,328 | 5.6 | 1,342,862,585 | 12.4 | 33,299 |
| Limited liability companies | 98,377 | 10.3 | 37,831 | 5.3 | 798,065,006 | 7.4 | 21,096 |
| Revocable trusts | 31,263 | 3.3 | 26,490 | 3.7 | 204,874,754 | 1.9 | 7,734 |
| Irrevocable trusts | 32,432 | 3.4 | 14,987 | 2.1 | 76,810,186 | 0.7 | 5,125 |
| Limited partnerships | 21,268 | 2.2 | 4,796 | 0.7 | 73,901,946 | 0.7 | 15,409 |
| Estates | 5,788 | 0.6 | 1,979 | 0.3 | 11,196,740 | 0.1 | 5,658 |
| Individuals operating as small businesses | 1,845 | 0.2 | 1,844 | 0.3 | 48,100,925 | 0.4 | 26,085 |
| Churches, charities, and nonprofit organizations | 947 | 0.1 | 946 | 0.1 | 5,706,198 | 0.1 | 6,032 |
| Public schools | 103 | 0.0 | 103 | 0.0 | 1,280,771 | 0.0 | 12,435 |
| Indian tribal ventures[b] | 67 | 0.0 | 67 | 0.0 | 3,950,403 | 0.0 | 58,961 |
| **Total** | **953,751** | **100.0[c]** | **716,861** | **100.0[c]** | **10,808,618,039** | **100.0[c]** | **15,078** |

Source: GAO analysis of Farm Service Agency data. | GAO-21-95

Notes: The farm program payments in this table are the payments that are subject to actively engaged in farming requirements.

The Market Facilitation Program payments included in this table are nonspecialty crop payments. This table excludes marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data that the Farm Service Agency provided did not include them.

Farming operations that did not receive a payment are not included in this table.

[a]Corporations include subchapter S corporations.

[b]"Indian tribal ventures" is the business type that the Farm Service Agency uses to identify Indian tribes and tribal ventures.

[c]The percentages may not total to 100 because of rounding.

# Appendix III: Identification of Minor Children in Farm Operating Plans

The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) requires that payments received by a child under the age of 18 be attributed to the parents of the child, except as the Secretary may specify in regulation.[1] According to the U.S. Department of Agriculture, the regulations the agency promulgated to implement the 2008 Farm Bill requirement prevent actions to evade the payment limitation provisions through manipulation of the attribution of payments received by minor children.[2]

As illustrated in the Farm Service Agency's (FSA) handbook on payment eligibility and payment limits, a farm operating plan is required to identify any minor child as such. Because payments received by a minor child must, with few exceptions, be attributed to the parents of the child, having a minor child as a member of a farming operation cannot add to the maximum payment that the farming operation could receive if the minor child is identified as such in the farm operating plan. For example, if a general partnership's farm operating plan discloses three members—a married couple and a minor child of the couple—the maximum payment that the general partnership could receive would be $250,000 (two multiplied by the $125,000 per person payment limit). However, if the general partnership's farm operating plan includes three members—a married couple and a third individual—but does not identify that the third individual is a minor child, the maximum payment that the general partnership could receive may exceed $250,000. If FSA viewed the minor child as an adult, the maximum payment would be $375,000 (three multiplied by the $125,000 per person payment limit).

[1]Food, Conservation, and Energy Act of 2008, Pub. L. 110–246, § 1603(b)(2), 122 Stat. 1651, 1733 (codified at 7 U.S.C. 1308(f)(1)(A)).

[2]Payment Eligibility and Payment Limitation; Miscellaneous Technical Corrections, 75 Fed. Reg. 887, 890 (Jan. 7, 2010).

We analyzed FSA farm operating plan data and Social Security Administration date-of-birth data to determine if farm operating plans included undisclosed minor children. According to our analysis, 4,426, 5,771, and 5,938 Social Security numbers included in farm operating plans for 2014, 2015, and 2016, respectively, were associated with minor children. During these 3 years, 125, 197, and 213 minor children, respectively, were members of general partnerships or joint ventures.[3] The corresponding numbers of farming operations (general partnerships or joint ventures) for the 3 years were 65, 67, and 74, respectively. From these farming operations, we selected a judgmental sample of 62 operations across nine states. We then reviewed these operations' farm operating plans to determine whether the plans included undisclosed minor children.

We found that 15 of the 62 farm operating plans included undisclosed minors. For example, a farming operation's farm operating plans for 2014 and 2015 included an undisclosed minor child (15 years old as of June 1, 2014). Payments attributed to this undisclosed minor child for 2014 and 2015 were about $7,000 and $12,600, respectively. However, these payments did not result in this farming operation's total payments exceeding its payment limit of $125,000 per member.

[3] General partnerships and joint ventures are the types of farming operations that may be able to increase their farm program payments by including an undisclosed minor on a farm operating plan.

# Appendix IV: Information on Select Farming Operations Since Implementation of a USDA Regulation on Management Contributions

We found, based on our analysis of Farm Service Agency (FSA) data and discussions with FSA officials, that some farming operations changed their operations after the U.S. Department of Agriculture's (USDA) regulation responding to the Agricultural Act of 2014 (2014 Farm Bill) provision limited the number of members who can claim management contributions to a nonfamily farming operation. FSA issued a regulation in response to the provision in 2015, began implementing the regulation during the 2016 crop year, and fully implemented it during the 2017 crop year;[1] this regulation limits the number of members who can claim a contribution of active personal management to no more than three for nonfamily operations.[2] Our key findings, discussed in greater detail below, include the following:

- Comparing across the 20 general partnerships and joint ventures that received the highest payment amounts for 2015, the 20 highest for 2016, and the 20 highest for 2017, there were decreases in the average payment amount, average number of members, and average number of individuals claiming active

[1]The 2015 regulation applies to eligibility for payments earned for the 2016 crop year for farming operations with only 2016 spring-planted crops and to eligibility for payments for the 2017 and subsequent crop years for all farming operations (those with either spring- or fall-planted crops).

[2]The 2014 Farm Bill directed USDA to promulgate regulations that define the term significant contribution of active personal management for a farming operation member for nonfamily farming operations. Under the regulations, nonfamily farming operations are limited to one, two, or three managers, depending on the farming operation's size and complexity. Family operations are not subject to the regulation.

personal management. Conversely, the average number of individuals contributing personal labor increased.

- Most of the general partnerships and joint ventures receiving the highest payments for 2016 and 2017 were family farming operations and thus did not have a limit on the number of members who can claim a contribution of active personal management.[3]
- Among the 20 general partnerships and joint ventures receiving the highest payments for 2015, 10 operations reduced their number of members who contributed active personal management for 2016 or 2017.

In examining the initial effects of USDA's 2015 regulation responding to the 2014 Farm Bill provision, we compared information on the 20 general partnerships and joint ventures that received the highest payment amounts for 2015, the 20 highest for 2016, and the 20 highest for 2017.[4] Over these 3 years, the average payment amount, average number of members, and average number of individuals claiming active personal management decreased, as shown in table 7.[5]

[3]Complete and accurate information on whether an operation is a family farming operation is not available for years before the 2016 crop year.

[4]For 2015, the general partnerships and joint ventures included in this analysis are the ones that received the highest payments for 2015, as we reported in GAO, *Farm Programs: Information on Payments,* GAO-18-384R (Washington, D.C.: May 18, 2018). As mentioned in that report, we did not obtain information for one of these farming operations because the applicable FSA state office was experiencing an unusually heavy workload at the time we contacted the state offices in February 2018. Since then, we were able to obtain information about that remaining operation.

[5]The decline in payments to farming operations receiving the highest payments is consistent with a decline in payments to all farming operations from 2015 to 2017. USDA farm program payments subject to being actively engaged in farming were $8.4 billion, $7.4 billion, and $3.1 billion in 2015, 2016, and 2017, respectively.

**Table 7: Average Payments, Number of Members, and Contributions for the 20 General Partnerships and Joint Ventures Receiving the Highest Payments for 2015, 2016, and 2017**

In 2016, FSA began implementing limits in response to the 2014 Farm Bill on the number of members who can claim management contributions to a nonfamily farming operation; it fully implemented the limits in 2017.

| na | na | na | Average number of individuals contributing management or labor, by type[a] | | |
|---|---|---|---|---|---|
| Year | Average payment per general partnership or joint venture (dollars) | Average number of members[b] | Active personal management only | Personal labor only | Combination of active personal management and personal labor |
| 2015 | 1,110,454 | 10.6 | 6.3 | 0.2 | 1.9 |
| 2016 | 1,041,712 | 9.1 | 3.3 | 1.2 | 2.4 |
| 2017 | 691,198 | 8.0 | 3.6 | 1.8 | 1.3 |

Source: GAO analysis of Farm Service Agency (FSA) data. | GAO-21-95

Notes: For 2015, the general partnerships and joint ventures included in this analysis are the ones that received the highest payments for 2015, as we reported in GAO, *Farm Programs: Information on Payments*, GAO-18-384R (Washington, D.C.: May 18, 2018).

As mentioned in that report, we did not obtain information for one of these farming operations because the applicable FSA state office was experiencing an unusually heavy workload at the time we contacted the state offices in February 2018. Since then, we were able to obtain information about that remaining operation.

The farm program payments in this table are payments that are subject to actively engaged in farming requirements. However, we did not include marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data we received from FSA did not include them.

While the farm program payments that these operations received decreased from 2015 through 2017, the total payments nationwide also decreased during this period. For the 2015, 2016, and 2017 crop years, farm program payments subject to being actively engaged in farming were $8.4 billion, $7.4 billion, and $3.1 billion, respectively.

[a]Spouses who are credited with a contribution of management or labor are not included in these amounts.

[b]The number of members consists of the number of entities and individuals who are members of the general partnership or joint venture. The number of members is not equal to the sum of active personal management only, personal labor only, or a combination of the two because the number of members includes (1) entities—entities cannot provide management or labor—and (2) individuals who did not contribute active personal management or personal labor. For example, if spouses are farming together in a general partnership, and one spouse is determined to be making a significant contribution of active personal management, the other spouse is credited with a significant contribution of active personal management.

Most of the general partnerships and joint ventures receiving the highest payments for 2016 and 2017 were family farming operations, which do not have a limit on the number of members who can claim a contribution of active personal management. Among the 20 general partnerships and joint ventures receiving the highest payments for 2016, 12 were family farming operations, and eight were nonfamily farming operations. Among the 20 general partnerships and joint ventures receiving the highest payments for 2017, when the new regulation was fully implemented, 17 were family farming operations and three were nonfamily farming operations. For two of these nonfamily farming operations, all of the individual members contributed personal labor only.

We also examined changes made for 2016 and 2017 by the 20 general partnerships and joint ventures that received the highest payment amounts for 2015.[6] These operations' average payment amount, average number of members, and average number of individuals claiming active personal management decreased for 2016 and 2017 relative to 2015, as shown in table 8. The average number of members decreased by 3.1, and the average number of individuals claiming active personal management decreased by 3.6.

[6]As previously mentioned, the general partnerships and joint ventures included in this analysis are the ones that received the highest payments for 2015, as we reported in May 2018 in GAO-18-384R. Also, for 2017, one of the farming operations did not participate in the applicable farm programs. The averages included in this analysis for 2017 are based on the 19 remaining operations.

**Table 8: Average Payments, Number of Members, and Contributions for the 20 General Partnerships and Joint Ventures Receiving the Highest Payments for 2015**

| na | na | na | Average number of individuals contributing management or labor, by type[a] | | |
|---|---|---|---|---|---|
| Year | Average payment per general partnership or joint venture (dollars) | Average number of members[b] | Active personal management only | Personal labor only | Combination of active personal management and personal labor |
| 2015 | 1,110,454 | 10.6 | 6.3 | 0.2 | 1.9 |
| 2016 | 815,750 | 7.9 | 3.3 | 0.1 | 2.4 |
| 2017[c] | 456,156 | 7.5 | 2.7 | 1.2 | 1.8 |

Source: GAO analysis of Farm Service Agency data. | GAO-21-95

Notes: The general partnerships and joint ventures included in this analysis are the ones that received the highest payments for 2015, as we reported in GAO, *Farm Programs: Information on Payments*, GAO-18-384R (Washington, D.C.: May 18, 2018). As mentioned in that report, we did not obtain information for one of these farming operations because the applicable Farm Service Agency state office was experiencing an unusually heavy workload at the time we contacted the state offices in February 2018. Since then, we were able to obtain information about that remaining operation.

The farm program payments in this table are payments that are subject to actively engaged in farming requirements. However, we did not include marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data we received from the Farm Service Agency did not include them.

While the farm program payments that these operations received decreased from 2015 through 2017, the total payments nationwide also decreased during this period. For the 2015, 2016, and 2017 crop years, farm program payments subject to being actively engaged in farming were $8.4 billion, $7.4 billion, and $3.1 billion, respectively.

[a]Spouses who are credited with a contribution of management or labor are not included in these amounts.

[b]The number of members consists of the number of entities and individuals who are members of the general partnership or joint venture. The number of members is not equal to the sum of active personal management only, personal labor only, or a combination of the two because the number of members includes (1) entities—entities cannot provide management or labor—and (2) individuals who did not contribute personal management or personal labor. For example, if spouses are farming together in a general partnership, and one spouse is determined to be making a significant contribution of active personal management, the other spouse is credited with a significant contribution of active personal management.

[c]For 2017, one of the farming operations did not participate in the applicable farm programs. The averages included in this table for 2017 are based on the 19 remaining operations.

Among these 20 operations

- eight operations reduced their number of members for either 2016 or 2017, and seven of these operations reduced their number of members who contributed active personal management. In addition, seven of these eight operations were family farming operations as of 2017 and thus did not have a limit on the number of members who can claim a contribution of active personal management;

- seven operations did not change their number of members for either 2016 or 2017, and four of these operations were family farming operations as of 2017 and thus did not have a limit on the number of members who can claim a contribution of active personal management;
- four operations increased their number of members for either 2016 or 2017, and all of these operations were family farming operations as of 2017 and thus did not have a limit on the number of members who can claim a contribution of active personal management; and
- the other operation did not change its number of members for 2016 and did not participate in the applicable farm programs for 2017.

Among the 19 operations that participated in the programs for 2017, 15 were family farming operations. The other four were nonfamily farming operations, and for two of these operations, all of the individual members contributed labor.

Examples of the changes made by two of the farming operations that received the highest 2015 payments are described below. In both examples, the farming operation made changes that resulted in the operation not being impacted by the regulation limiting the number of individuals who can claim active personal management.

One of the operations was a general partnership that received the highest total payments for 2015—$3.7 million. After 2015, it made significant changes in how it was organized. For 2015, it had 35 individual members with 25 individuals contributing active personal management and 10 spouses. For 2016, this operation separated into three operations: (1) a family operation that had eight individual members, (2) a nonfamily operation that had 10 individual members, and (3) a nonfamily operation that had nine individual members. Collectively, these three operations had 27 individual members; they received about $2.8 million for 2016 and then $1.7 million for 2017.[7] In the first operation, all eight members contributed active personal management for 2016 and 2017.[8] Because it was a family farming operation, this operation did not have a limit on the number of its members who can claim active personal management. In the second and third operations (nonfamily operations), all of the individual members contributed personal labor for 2016 and 2017.[9] As a result, these operations were not affected by the regulation limiting the number of individuals who can claim active personal management.

By separating into three operations as described above, the farming operation that existed in 2015 also increased its maximum potential payments. If the operation had made no changes, it would have been a nonfamily farming operation, and USDA's 2015 regulation would have limited it to three individuals contributing active personal management plus three spouses. Thus, the farming operation's maximum potential payments would have been $750,000. The maximum potential payments of the three farming operations that were created totaled $3,375,000: $1,000,000 for the family farming operation; $1,250,000 for the first nonfamily farming operation; and $1,125,000 for the second nonfamily farming operation. Actual payments to these operations for 2017, the first year that USDA's 2015 regulation applied to them, were $1.7 million—which was less than the maximum potential payments. However, if the

[7]For 2018, these three operations collectively received $4.8 million—$2.8 million through the Market Facilitation Program (MFP) and $2.0 million through Price Loss Coverage and Agriculture Risk Coverage payments. For 2019, these three operations collectively received $4.4 million through MFP. Price Loss Coverage and Agriculture Risk Coverage payments for 2019 are scheduled to be disbursed in fiscal year 2021.

[8]Five individuals contributed active personal management, and the other three were spouses who were credited with contributing active personal management.

[9]For one of these operations, seven individuals contributed active personal management, and the other three were spouses who were credited with contributing personal labor. For the other operation, six individuals contributed personal labor, and the other three were spouses who were credited with contributing personal labor.

2015 operation had not made any changes,[10] it could not have received more than $750,000.

Another of the farming operations that was among the 20 farming operations receiving the highest 2015 payments was a general partnership that received about $850,000 and $1.1 million in payments for 2015 and 2016, respectively, with nine members. For 2017, this general partnership had eight members. According to FSA state office officials, a nonfamily member was removed from the operation. Thus, for 2017, the farming operation was a family farming operation and did not have a limit on the number of its members who can claim active personal management. For 2017, four of the members claimed contributions of active personal management, and the other four were spouses. If it had been a nonfamily farming operation, it would have been limited to a maximum of three claims of active personal management, which would have reduced its potential payments.

[10]In the 2015 operation, all members contributed active personal management, and none of them contributed personal labor. For 2017, as a nonfamily farming operation, if any of the members had contributed personal labor, they could have increased their potential payments beyond $750,000. There is no limit on the number of members who can contribute personal labor, but they do have to meet FSA's personal labor requirements (the smaller of 1,000 hours annually or 50 percent of the total hours that would be required to conduct a farming operation comparable in size to a farming operation member's commensurate share in the farming operation).

# Appendix V: Information on the 20 General Partnerships and Joint Ventures That Had the Highest Payments, 2016 and 2017

Table 9 provides information on the 20 general partnerships and joint ventures that received the highest payments for the 2016 crop year.

**Table 9: Payments, Number of Members, and Contributions of Management and Labor for the 20 General Partnerships and Joint Ventures Receiving the Highest Payments for 2016**

| na | na | na | na | na | Number of individuals contributing management or labor by type[a] | | |
|---|---|---|---|---|---|---|---|
| **Farming operation** | **Census Bureau region[b]** | **Payments (dollars)** | **Primary crops** | **Number of members[c]** | **Active personal management only** | **Personal labor only** | **Combination of active personal management and personal labor** |
| 1 | Midwest and South | 1,389,537 | Rice, corn, wheat | 12 (10 corporations and 2 individuals) | 0 | 0 | 10 (plus 2 spouses) |
| 2 | South | 1,332,626 | Peanuts, corn, wheat | 9 (all individuals) | 8 | 0 | 1 |
| 3 | South | 1,248,643 | Rice, corn, soybeans | 11 (all LLCs) | 10 (plus 2 spouses) | 0 | 0 |
| 4 | South | 1,165,000 | Rice, wheat, sorghum | 10 (all individuals) | 0 | 0 | 5 (plus 5 spouses) |
| 5 | South | 1,111,471 | Rice, corn, soybeans | 9 (all corporations) | 5 (plus 4 spouses) | 0 | 0 |
| 6 | South | 1,097,571 | Peanuts, corn, wheat | 9 LLCs | 0 | 0 | 5 (plus 4 spouses) |
| 7 | South | 1,078,815 | Corn, wheat, sorghum | 10 (all individuals) | 0 | 0 | 8 (plus 2 spouses) |
| 8 | South | 1,067,463 | Rice, corn, sorghum | 10 (all individuals) | 1 (plus 1 spouse) | 4 (plus 4 spouses) | 0 |
| 9 | South | 1,036,752 | Rice, corn, wheat | 9 (all corporations) | 0 | 7 (plus 3 spouses) | 0 |
| 10 | South | 1,016,773 | Rice, sorghum, soybeans | 9 (all corporations) | 11 (plus 4 spouses) | 0 | 0 |
| 11 | South | 958,556 | Corn, wheat, sorghum | 8 (all individuals) | 0 | 0 | 5 (plus 3 spouses) |
| 12 | South | 942,772 | Sorghum, corn, wheat | 10 (all individuals) | 0 | 0 | 6 (plus 4 spouses) |
| 13 | Midwest | 940,962 | Corn, wheat, sorghum | 10 (all individuals) | 5 (plus 5 spouses) | 0 | 0 |
| 14 | South | 931,924 | Rice, soybeans, wheat | 8 (all individuals) | 4 (plus 4 spouses) | 0 | 0 |

| na | na | na | na | na | Number of individuals contributing management or labor by type[a] | | |
|---|---|---|---|---|---|---|---|
| Farming operation | Census Bureau region[b] | Payments (dollars) | Primary crops | Number of members[c] | Active personal management only | Personal labor only | Combination of active personal management and personal labor |
| 15 | South | 931,881 | Rice, soybeans, corn | 8 (all individuals) | 4 (plus 4 spouses) | 4 (plus 4 spouses) | 0 |
| 16 | South | 931,855 | Rice, wheat, soybeans | 8 (all individuals) | 4 (plus 4 spouses) | 0 | 0 |
| 17 | South | 928,547 | Rice, wheat, corn | 8 (6 corporations and 2 individuals) | 5 (plus 3 spouses) | 0 | 0 |
| 18 | South | 927,221 | Rice, wheat, corn | 8 (all LLCs) | 4 (plus 4 spouses) | 0 | 0 |
| 19 | Midwest and South | 922,462 | Rice, corn, wheat | 8 (6 corporations and 2 individuals) | 5 (plus 3 spouses) | 0 | 0 |
| 20 | Midwest and South | 873,416 | Corn, rice, wheat | 8 (all corporations) | 0 | 6 (plus 3 spouses) | 0 |

Legend: LLC = limited liability company

Sources: Farm Service Agency state office officials and GAO analysis of Farm Service Agency data. | GAO-21-95

Notes: We analyzed Farm Service Agency data to identify the 20 general partnerships and joint ventures that received the highest payments for 2016. The table does not include marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data we received from the Farm Service Agency did not include them.

Members of a general partnership or joint venture can be individuals or entities (e.g., corporations or limited liability companies). Each member represents one limitation for payment limitation purposes.

Both spouses may be considered "actively engaged in farming" and qualify for farm program payments if one spouse makes the requisite contributions to meet the actively engaged in farming requirements.

Eight of the operations—numbers 1, 3, 5, 7, 8, 9, 13, and 20—were nonfamily farming operations. The other 12 were family farming operations.

The primary crops are ordered by payment amount.

[a]Individuals claim contributions of active personal management and personal labor and can provide these contributions on behalf of entities within a general partnership or joint venture.

[b]The U.S. Census Bureau divides the 50 states among four regions—Northeast, South, Midwest, and West. The Northeast region includes Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. The South region includes Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The Midwest region includes Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. The West region includes Alaska, Arizona, California, Colorado, Hawaii, Idaho, Nevada, New Mexico, Montana, Oregon, Utah, Washington, and Wyoming.

[c]The number of members consists of the number of entities and individuals who are members of the general partnership or joint venture.

Table 10 provides information on the 20 general partnerships and joint ventures that received the highest payments for the 2017 crop year.

**Table 10: Payments, Number of Members, and Contributions of Management and Labor for the 20 Farms Receiving the Highest Payments for 2017**

| Farming operation | Census Bureau region[b] | Payments (dollars) | Primary crops | Number of individuals contributing management or labor, by type[a] (Number of members[c]) | Number of individuals contributing management or labor, by type[a] (Active personal management only) | Number of individuals contributing management or labor, by type[a] (Personal labor only) | Number of individuals contributing management or labor, by type[a] (Combination of active personal management and personal labor) |
|---|---|---|---|---|---|---|---|
| 1 | South | 891,803 | Wheat, sorghum, corn | 8 (all individuals) | 0 | 0 | 5 (plus 3 spouses) |
| 2 | Midwest and South | 851,597 | Rice, wheat, sorghum | 12 (10 corporations and 2 individuals) | 0 | 10 (plus 2 spouses) | 0 |
| 3 | South | 843,654 | Rice, soybeans, wheat | 9 (8 corporations and 1 individual) | 6 (plus 3 spouses) | 0 | 0 |
| 4 | South | 781,444 | Rice, sorghum, soybeans | 9 (6 corporations and 3 individuals) | 11 (plus 4 spouses) | 0 | 0 |
| 5 | Midwest and South | 762,855 | Rice, wheat, corn | 8 (6 corporations and 2 individuals) | 5 (plus 3 spouses) | 0 | 0 |
| 6 | South | 758,552 | Peanuts, corn, oats | 6 (all individuals) | 6 | 0 | 0 |
| 7 | South | 719,832 | Rice, wheat, oats | 10 (all individuals) | 5 (plus 5 spouses) | 5 (plus 5 spouses) | 0 |
| 8 | South | 701,338 | Rice, sorghum, wheat | 6 (3 corporations and 3 LLCs) | 3 (plus 3 spouses) | 3 (plus 3 spouses) | 0 |
| 9 | South | 698,593 | Rice wheat sorghum | 10 (all individuals) | 0 | 0 | 5 (plus 5 spouses) |
| 10 | South | 698,250 | Corn, sorghum, wheat | 6 (all individuals) | 4 (plus 2 spouses) | 0 | 0 |
| 11 | South | 643,967 | Peanuts, sorghum, wheat | 9 (all individuals) | 8 | 0 | 1 |

| Farming operation | Census Bureau region[b] | Payments (dollars) | Primary crops | Number of individuals contributing management or labor, by type[a] (Number of members[c]) | Number of individuals contributing management or labor, by type[a] (Active personal management only) | Number of individuals contributing management or labor, by type[a] (Personal labor only) | Number of individuals contributing management or labor, by type[a] (Combination of active personal management and personal labor) |
|---|---|---|---|---|---|---|---|
| 12 | South | 643,503 | Rice, Corn, wheat | 9 (9 corporations) | 0 | 7 (plus 3 spouses) | 0 |
| 13 | South | 633,434 | Rice, wheat | 7 (all individuals) | 4 (plus 3 spouses) | 0 | 0 |
| 14 | South | 632,046 | Rice, wheat | 8 (all individuals) | 4 (plus 4 spouses) | 0 | 0 |
| 15 | South | 625,634 | Rice, sorghum | 8 (all individuals) | 4 (plus 4 spouses) | 4 (plus 4 spouses) | 0 |
| 16 | South | 606,099 | Rice, sorghum, wheat | 10 (all individuals) | 2 (plus 1 spouse) | 4 (plus 4 spouses) | 0 |
| 17 | South | 584,416 | Peanuts, wheat, soybeans | 5 (all individuals) | 0 | 0 | 5 |
| 18 | West | 583,734 | Wheat barley, corn | 6 (all trusts) | 0 | 0 | 6 |
| 19 | South | 581,875 | Rice, soybeans, corn | 5 (all individuals) | 3 (plus 2 spouses) | 0 | 0 |
| 20 | West | 581,336 | Wheat, corn, barley | 9 (all LLCs) | 6 | 0 | 0 |

Legend: LLC = limited liability company

Sources: Farm Service Agency state office officials and GAO analysis of Farm Service Agency data. | GAO-21-95

Notes: We analyzed Farm Service Agency data to identify the 20 general partnerships and joint ventures that received the highest payments for 2017. The table does not include marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data we received from the Farm Service Agency did not include them.

Members of a general partnership or joint venture can be individuals or entities (e.g., corporations or limited liability companies). Each member represents one limitation for payment limitation purposes.

Both spouses may be considered “actively engaged in farming” and qualify for farm program payments if one spouse makes the requisite contributions to meet the actively engaged in farming requirements.

Three of the operations—numbers 2, 12, and 16—were nonfamily farming operations. The other 17 were family farming operations.

The primary crops are ordered by payment amount.

[a]Individuals claim contributions of active personal management and personal labor and can provide these contributions on behalf of entities within a general partnership or joint venture.

[b]The U.S. Census Bureau divides the 50 states among four regions—Northeast, South, Midwest, and West. The Northeast region includes Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. The South region includes Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The Midwest region includes Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. The West region includes Alaska, Arizona, California, Colorado, Hawaii, Idaho, Nevada, New Mexico, Montana, Oregon, Utah, Washington, and Wyoming.

[c]The number of members consists of the number of entities and individuals who are members of the general partnership or joint venture.

# Appendix VI: Information on the 20 General Partnerships and Joint Ventures That Had the Highest Payments, 2018

Table 11 provides information about the payments that required recipients to be actively engaged in farming and the number of members for each of the 20 general partnerships and joint ventures that received the highest payments for 2018. The table includes Agriculture Risk Coverage payments, Price Loss Coverage payments, and Market Facilitation Program nonspecialty crop payments.

**Table 11: Payments and Number of Members for the 20 General Partnerships and Joint Ventures Receiving the Highest Payments for 2018**

| Farming operation | Census Bureau region[a] | Payments in dollars (total) | Payments in dollars (agriculture risk coverage program) | Payments in dollars (price loss coverage program) | Payments in dollars (market facilitation program[b]) | Number of members[c] | Primary crops |
|---|---|---|---|---|---|---|---|
| 1 | Midwest and South | **1,845,421** | 54,382 | 803,271 | 987,768 | 8 | Rice, seed cotton, wheat |
| 2 | South | **1,770,823** | 354,031 | 457,715 | 959,077 | 8 | Corn, sorghum, wheat |
| 3 | South | **1,584,161** | 27,323 | 737,468 | 819,370 | 9 | Rice, seed cotton, sorghum |
| 4 | South | **1,574,289** | 25,346 | 645,835 | 903,108 | 10 | Sorghum, seed cotton, rice |
| 5 | Midwest and South | **1,486,271** | 72,587 | 868,956 | 544,728 | 12 | Rice, wheat, soybeans |
| 6 | South | **1,428,348** | 183 | 687,160 | 741,005 | 6 | Seed cotton, rice, wheat |
| 7 | South | **1,416,151** | 18,174 | 643,833 | 754,144 | 8 | Rice, seed cotton, wheat |
| 8 | Midwest and South | **1,401,509** | 45,270 | 380,614 | 975,625 | 8 | Rice, seed cotton, wheat |
| 9 | South | **1,335,277** | 15,126 | 445,309 | 874,842 | 7 | Seed cotton, wheat, sorghum |
| 10 | South | **1,292,636** | 4,327 | 544,140 | 744,169 | 6 | Seed cotton, rice, sorghum |
| 11 | South | **1,275,149** | 8,403 | 521,528 | 745,218 | 6 | Rice, seed cotton, wheat |
| 12 | South | **1,212,676** | 9,686 | 870,299 | 332,691 | 9 | Rice, wheat, sorghum |
| 13 | South | **1,199,138** | 1,126 | 579,262 | 618,750 | 5 | Rice, sorghum, seed cotton |
| 14 | South | **1,179,381** | 34 | 461,831 | 717,516 | 6 | Rice, seed cotton, corn |
| 15 | South | **1,179,129** | 47,335 | 920,304 | 211,490 | 10 | Rice, soybeans, wheat |
| 16 | South | **1,176,926** | 74,146 | 505,390 | 597,390 | 5 | Rice, wheat, seed cotton |
| 17 | South | **1,173,933** | 9,121 | 367,860 | 796,952 | 8 | Rice, seed cotton, wheat |
| 18 | South | **1,154,731** | 26,662 | 213,916 | 914,153 | 8 | Seed cotton, soybeans, wheat |

| Farming operation | Census Bureau region[a] | Payments in dollars (total) | Payments in dollars (agriculture risk coverage program) | Payments in dollars (price loss coverage program) | Payments in dollars (market facilitation program[b]) | Number of members[c] | Primary crops |
|---|---|---|---|---|---|---|---|
| 19 | South | **1,147,614** | 1,192 | 305,798 | 840,624 | 16 | Seed cotton, peanuts, wheat |
| 20 | South | **1,131,338** | 4,160 | 502,178 | 625,000 | 5 | Rice, seed cotton, wheat |

Sources: GAO analysis of Farm Service Agency data. | GAO-21-95

Notes: We analyzed Farm Service Agency data to identify the 20 general partnerships and joint ventures that received the highest payments for 2018.

The table does not include marketing loan gains—gains that a farming operation realizes if it repays a marketing assistance loan at less than the amount of the loan principal—because the data we received from the Farm Service Agency did not include them.

Members of a general partnership or joint venture can be individuals or entities (e.g., corporations or limited liability companies). Each member represents one limitation for payment limitation purposes.

Both spouses may be considered “actively engaged in farming” and qualify for farm program payments if one spouse makes the requisite contributions to meet the actively engaged in farming requirements.

The primary crops are ordered by payment amount.

[a]The U.S. Census Bureau divides the 50 states among four regions—Northeast, South, Midwest, and West. The Northeast region includes Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. The South region includes Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The Midwest region includes Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. The West region includes Alaska, Arizona, California, Colorado, Hawaii, Idaho, Nevada, New Mexico, Montana, Oregon, Utah, Washington, and Wyoming.

[b]The Market Facilitation Program payments in this table are nonspecialty crop payments.

[c]The number of members consists of the number of entities and individuals who are members of the general partnership or joint venture.

# Appendix VII: Comments from the U.S. Department of Agriculture

USDA

United States Department of Agriculture

Farm Production and Conservation

Farm Service Agency

Office of the Administrator

1400 Independence Ave, SW
Stop 0501
Washington, DC 20250-0501

Voice 202-720-6215
Fax 202-720-9105

The U.S. Department of Agriculture (USDA) appreciates the opportunity to respond to the U.S. Government Accountability Office (GAO) draft report:

**FARM PROGRAMS – USDA Has Improved Its Completion of Eligibility Compliance Reviews, but Additional Oversight is Needed**
**GAO-21-95 (October 2020)**

USDA generally agrees with the findings, conclusions and recommendations in the GAO draft report. We would like to provide the following comments, in addition to technical comments previously provided to GAO.

**1) General Comments**

Since 2013, USDA has improved its process for ensuring timely completion of the compliance reviews of farming operations seeking program benefits, subject to payment limitation and payment eligibility requirements. This improvement was largely in part due to development of the web-based End-of-Year Review Tracking (EYRT) System.

USDA acknowledges GAO's recommendation for improving upon the accuracy and monitoring of the compliance review tracking system data, a need for further examination of FSA's compliance review team's use of interviews and the need for training. USDA recognizes that interviewing members of a farming operation is an integral element in verifying a member's contributions of either labor or management to a farming operation. Labor and management are critical components in being determined "actively engaged in farming" and are difficult to measure and verify.

USDA also acknowledges an educational effort is needed to provide training to State Office Specialists responsible for compliance review team oversight. State Office Specialists must ensure the review teams are thorough in documenting the findings of a member's contributions to the farming operation, including contributions of labor and/or management.

**2) USDA's responses to GAO's recommendations**

Recommendation No.1 – **The FSA Administrator should improve the accuracy of compliance review tracking system data by establishing controls, including electronic safeguards such as preventing a compliance review from being entered as both waived and completed.**

Currently, FSA uses the EYRT (End-of-Year Review Tracking) System as a reporting database on a SharePoint platform for:

- Identifying farming operations selected for a compliance review
- Recording findings, results and determinations of the reviewing authority as result of the compliance review.

- A source of data for status reports on the completion of the reviews
- Providing analytical data for use in evaluating the application and effectiveness of current payment eligibility and payment limitation provisions.

The current EYRT System provides authorized USDA employees access to add, modify or delete data relevant to the determinations of the compliance review. The EYRT System does not currently contain controls or safeguards recommended by GAO.

As an alternative to improving the archaic EYRT System, USDA is considering the use of a newly developed web application for use in documenting the results of the End-of-Year Compliance review.

In FY2020, the FSA developed an Internal Review and Documentation Tracking System (IRDTS) web application designed specifically for use in conducting program oversight reviews. The IRDTS software is a web-based application designed specifically for documenting reviews, collecting review results, monitoring completion of reviews, and provides analytical reports on the information collected. The IRDTS software contains the controls and safeguards that will address GAO's concerns.

FSA will evaluate use of the new IRDTS software application for use by:

- review teams to document the review team's findings; and
- State Offices to document the determination results of the determining authority as result of the compliance review.

<u>**Recommendation No. 2 –**</u> **The FSA Administrator should build upon ongoing efforts to improve the monitoring of the compliance review tracking system data by updating the FSA handbook to specify how to periodically run reports on the status and results of compliance reviews, the types of information to examine during these periodic checks on these reviews, and how frequently to perform these checks.**

FSA will review and amend current Handbook 5-Payment Limitation (PL) policies relative to monitoring the results of the compliance reviews. Concerns to be addressed include:

- monitoring the timely completion of reviews
- data errors
- data reliability
- improved guidance for the EYRT System users

<u>**Recommendation No. 3 –**</u> **The FSA Administrator should examine compliance review teams' use of interviews of farming operation members and provide additional guidance or training as necessary.**

Because of the subjective nature and difficulty in measuring what constitutes a significant contribution of labor or management to a farming operation, it is important that review teams consider conducting interviews of the members of the farming operation. Absent supporting documentation or evidence, the interview process is the only means to ascertain whether the member's involvement in the labor or decisions affecting the profitability of the operation are significant.

FSA currently utilizes the CCC-900 series worksheets for use by review teams to document:

- whether information provided by the producer adequately establishes the members contributions
- whether an interview is necessary
- testimony provided by the member of the farming operation
- why an interview was not conducted

Additional guidance will be provided in an amendment to 5-PL emphasizing the need to conduct interviews when the documentation provided by the producer does not adequately establish the member's contributions to a farming operation. FSA will also provide training to State Office Specialists responsible for review team oversight to ensure review teams are adequately documenting the findings from the compliance review.

**Recommendation No. 4 – The FSA Administrator should examine the extent to which compliance review teams documented the reasons for not doing an interview and provide additional guidance or training as necessary.**

FSA will amend 5-PL to require State Office Specialists ensure review teams are adequately documenting why an interview of the producer is not required. Without adequate documentation from the review teams, the COC or other determining authority is unable to affirm the contributions to the farming operation are significant. Training provided to State Office Specialists will emphasize the importance of providing oversight of the review teams and the need for adequately documenting the findings in the compliance review.

**Recommendation No. 5 - The FSA Administrator should examine compliance review teams' completion of compliance review records and provide additional guidance or training as necessary.**

FSA will review and amend the current policies in 5-PL to ensure State Office Specialist responsible for payment limitation and payment eligibility oversight are requiring review teams to adequately document the findings from the review, including whether or not an interview of the farming operation members is required. FSA acknowledges the importance of adequately documenting the findings of the review for the reviewing authority to affirm the producer's eligibility for program benefits.

**Substantive Comments needing to be addressed.**

FSA acknowledges that improvements are needed in program policy, tracking system controls, conducting and documenting compliance reviews and training to ensure members of farming operations are eligible for payments.

FSA respectfully requests the names of the farming operations referenced in the analysis outlined in Appendix IV.

Thank you again for the opportunity to review and respond to the GAO draft report.

Sincerely,

Administrator
Farm Service Agency

USDA is an equal opportunity, provider, employer, and lender

# Appendix VIII: GAO Contact and Staff Acknowledgments

## GAO Contact

Steve Morris, (202) 512-3841 or morriss@gao.gov

## Staff Acknowledgments

In addition to the contact named above, Thomas Cook (Assistant Director), Gary Brown (Analyst-in-Charge), John Barrett, Kevin Bray, Tara Congdon, Justin Fisher, Stephanie Gaines, John Mingus, Cynthia Norris, and Vasiliki Theodoropoulos made key contributions to this report.

# Appendix IX: Accessible Data

## Agency Comment Letter

### Accessible Text for Appendix VII: Comments from the U.S. Department of Agriculture

Page 1

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Page 2

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Page 3

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Sincerely,

Administrator

Farm Service Agency

# Related GAO Products

*Farm Programs: Information on Payments.* GAO-18-384R. Washington, D.C.: May 18, 2018.

*Farm Programs: Changes Are Needed to Eligibility Requirements for Being Actively Involved in Farming.* GAO-13-781. Washington, D.C.: September 26, 2013.

*Farm Programs: Additional Steps Needed to Help Prevent Payments to Participants Whose Incomes Exceed Limits.* GAO-13-741. Washington, D.C.: August 29, 2013.

*Federal Farm Programs: USDA Needs to Strengthen Controls to Prevent Payments to Individuals Who Exceed Income Eligibility Limits.* GAO-09-67. Washington, D.C.: October 24, 2008.

*Farm Program Payments: USDA Should Correct Weaknesses in Regulations and Oversight to Better Ensure Recipients Do Not Circumvent Payment Limitations.* GAO-04-861T. Washington, D.C.: June 16, 2004.

*Farm Program Payments: USDA Needs to Strengthen Regulations and Oversight to Better Ensure that Recipients Do Not Circumvent Payment Limitations.* GAO-04-407. Washington, D.C.: April 30, 2004.

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