



November 2023

# EQUAL EMPLOYMENT OPPORTUNITY

## Additional Actions Would Improve USDA's Collection and Reporting of Key Data

Accessible Version

# GAO Highlights

Highlights of [GAO-24-106791](#), a report to the Secretary of Agriculture

## Why GAO Did This Study

The annual reports on employment discrimination complaint data that USDA submits to Congress play an important role in congressional oversight of USDA's compliance with federal laws. For effective oversight, the data in these reports need to be accurate, clear, and complete.

As part of a larger review in response to a provision in the Agricultural Improvement Act of 2018, GAO identified discrepancies in USDA's data and reporting on EEO discrimination complaints. This report is intended to bring these issues to the attention of USDA. In conducting its work, GAO compared data across the No FEAR Act, EEOC Form 462, and Farm Bill reports. GAO also reviewed USDA guidance and interviewed agency officials and representatives of the EEO database vendor.

## What GAO Recommends

GAO is making six recommendations to USDA to improve its collection and reporting of EEO data. These recommendations include that USDA should update its EEO database, provide transparency about past errors in No FEAR Act reports, develop a quality review process for the Farm Bill reports, and add a section to those reports explaining the department's methods and analyses. USDA agreed with all six recommendations.

View [GAO-24-106791](#). For more information, contact Steve D. Morris at (202) 512-3841 or [MorrisS@gao.gov](mailto:MorrisS@gao.gov).

November 2023

## EQUAL EMPLOYMENT OPPORTUNITY

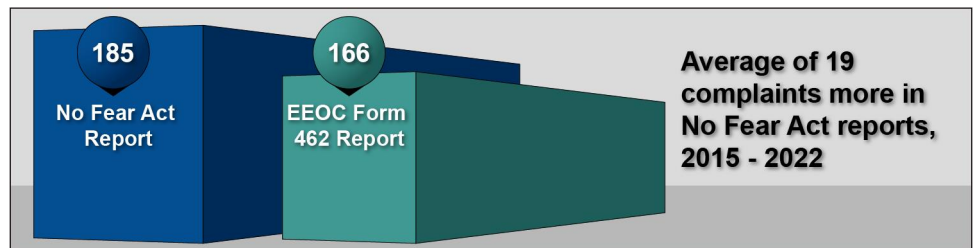
### Additional Actions Would Improve USDA's Collection and Reporting of Key Data

## What GAO Found

The U.S. Department of Agriculture (USDA) submits to Congress annual reports that contain information regarding equal employment opportunity (EEO) discrimination complaints made by USDA employees. GAO examined the EEO discrimination complaint data included in two types of public reports that USDA submits to Congress: the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) reports and the Food, Conservation, and Energy Act of 2008 (Farm Bill) reports. GAO also examined data in the nonpublic Equal Employment Opportunity Commission (EEOC) Form 462 reports that USDA files with EEOC.

When examining the No FEAR Act reports and the EEOC Form 462 reports, GAO found inconsistencies in the data. For example, the reports differed on total number of complaints by basis of race (see figure). Representatives from USDA's EEO database vendor investigated and found that sometime before 2015, a database user had manually added "Hispanic/Latino" as an option for race for the No FEAR Act reports. However, "Hispanic/Latino" should be reported as national origin, according to EEOC guidance. By updating the database so that "Hispanic/Latino" only appears on the list of options for complaints by the basis of national origin, USDA will better ensure its No FEAR Act reports are accurate and in line with EEOC guidance. Furthermore, by disclosing this error on its website for past reports, USDA will better ensure the information it publishes is transparent.

### USDA's Average Number of Complaints by Race Basis per Year, Fiscal Years 2015-2022



Source: GAO analysis. | GAO-24-106791

GAO also found errors, incomplete source information, and unexplained changes in sources regarding the EEO discrimination complaint data included in some of USDA's Farm Bill reports. For example, USDA's Office of the Assistant Secretary for Civil Rights (OASCR) changed a source for its analysis of per capita complaints but did not explain the change in the affected reports. Additionally, none of the Farm Bill reports GAO reviewed included an explanation of the methods OASCR used to conduct the analyses in these reports. OASCR also does not have a staff-level review process in which someone independent from the work itself verifies that key facts, figures, and findings in the reports align with the sources and are correct. By including a section in USDA's Farm Bill reports that explains the methods OASCR staff used to analyze EEO discrimination complaints and implementing a process to review the quality of information, as called for in USDA guidance, OASCR would better ensure the transparency, accuracy, clarity, and completeness of information in its reports.

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<b>Abbreviations</b>		
EEO	equal employment opportunity	
EEOC	Equal Employment Opportunity Commission	
No FEAR Act	Notification and Federal Employee Antidiscrimination and Retaliation Act	
OASCR	Office of the Assistant Secretary for Civil Rights	
OMB	U.S. Office of Management and Budget	
USDA	U.S. Department of Agriculture	

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November 2, 2023

The Honorable Tom Vilsack  
Secretary of Agriculture

Dear Mr. Secretary:

The U.S. Department of Agriculture (USDA) submits to Congress annual reports regarding employment discrimination complaints made by USDA employees. These required reports play an important role in congressional oversight of USDA's compliance with federal laws. These reports also help USDA management and the Equal Employment Opportunity Commission (EEOC) ensure the department provides an equal opportunity workplace for nearly 100,000 employees across 29 component agencies and offices. To support effective oversight and public accountability, the data in these reports need to be accurate, clear, and complete.

In response to a provision in the Agricultural Improvement Act of 2018 (2018 Farm Bill), we began a review of USDA's efforts to address discrimination (and discrimination complaints), among other things. As a part of our work to understand and describe the nature of equal employment opportunity (EEO) discrimination complaints by USDA employees, we began analyzing EEO data from USDA's public and nonpublic reports for fiscal years 2015 through 2022. During this work, we found inconsistencies as well as inaccurate, unclear, and incomplete data that we had to reconcile before we could complete our analysis. This report discusses these data discrepancies and provides our recommendations for executive action to address them.

During our review, we examined the data in three types of reports that USDA was required to submit annually for fiscal years 2015 through 2022. Specifically, we examined data in two types of public reports that USDA submitted to Congress: the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) reports and the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) reports.<sup>1</sup>

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<sup>1</sup>We did not review Farm Bill reports for fiscal years 2017 and 2022. Officials from USDA's Office of the Assistant Secretary for Civil Rights (OASCR) said that USDA did not submit a Farm Bill report for fiscal year 2017 to Congress, as required, because the department chose not to do so. USDA's fiscal year 2022 report was not yet available at the time of our review.

We also examined the data in the nonpublic EEOC Form 462 reports that USDA filed annually with EEOC. As we discuss in more detail later, the three types of reports provide information on the number and nature of employee EEO complaints, but each report has a different purpose and format.

In our analysis of each report, we focused on the data that described the total number of complaints “by basis” for race, age, disability, sex, and retaliation.<sup>2</sup> We selected these categories because they represented the five categories with the most frequent complaints across the years we reviewed. We compared the data across the No FEAR Act, Farm Bill, and EEOC Form 462 reports to verify that the numbers we intended to report were consistent with each other, accurate, clear, and complete. We reviewed the Farm Bill reports to identify the sources of their data on total number of complaints—USDA uses data from other sources, including the No FEAR Act and EEOC Form 462 reports, as sources for its Farm Bill reports. We also reviewed the Farm Bill reports’ analyses of per capita complaints to inform our own analysis of how USDA’s complaints compare with government-wide data.

After we identified discrepancies in the data between USDA’s No FEAR Act and EEOC Form 462 reports, we interviewed EEOC officials about the similarities and differences in how complaints are presented in the reports. We also interviewed officials from USDA’s Office of the Assistant Secretary for Civil Rights (OASCR) on actions taken across the department to collect and report these data. We interviewed USDA’s EEO data vendor about the reasons for data discrepancies in the reports. This data vendor is responsible for maintaining the EEO software database (icomplaints) that several federal agencies, including USDA, use to track, manage, and report on EEO complaints. Our interviews with OASCR also included discussions about how the office develops the Farm Bill reports, including the office’s quality review process.

We compared the actions that USDA and its agencies and offices took to collect and report these data with the department’s guidance on implementing the U.S. Office of Management and Budget’s (OMB) 2002

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<sup>2</sup>We use the term “by basis” which, according to EEOC, refers to the reason for which an employee makes a complaint of alleged discrimination. The “bases” (or protected groups) are race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), national origin, age (40 or older), disability, genetic information, or retaliation for engaging in protected activity. The No FEAR Act and Farm Bill reports use the term “retaliation,” while the EEOC Form 462 report uses the term “reprisal.” For the purposes of this report, we are using the term “retaliation.”

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guidelines for ensuring the quality of disseminated information.<sup>3</sup> During the course of our work, we communicated the observations described in this letter to OASCR management and program staff and USDA's EEO data vendor.

We conducted this performance audit from April 2023 to November 2023 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 obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## No FEAR Act and Farm Bill Reports Contain Several Issues with Key EEO Data

When we reviewed USDA's reports, we identified several issues with the EEO data in the No FEAR Act and Farm Bill reports. Specifically, we found inconsistencies in the data on the total number of complaints "by basis" of race between the No FEAR Act and EEOC Form 462 reports. We also found errors and incomplete information in some of the Farm Bill reports.

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### No FEAR Act and EEOC Form 462 Reports

When we reviewed USDA's No FEAR Act and EEOC Form 462 reports, we found that the data on total complaints by the bases of age, race, disability, sex, and retaliation were not always consistent. As previously mentioned, users of the reports would expect to see some differences because, although these reports contain some of the same information, they have different purposes, as figure 1 shows. According to EEOC, the EEOC Form 462 seeks more—and in many cases, different—information than is required to be included in the No FEAR Act reports.<sup>4</sup> For example, the EEOC Form 462 report presents a breakdown of complaints by basis of sex for male, female, and LGBT (Lesbian, Gay, Bisexual, and Transgender). In contrast, the No FEAR Act report does not present a

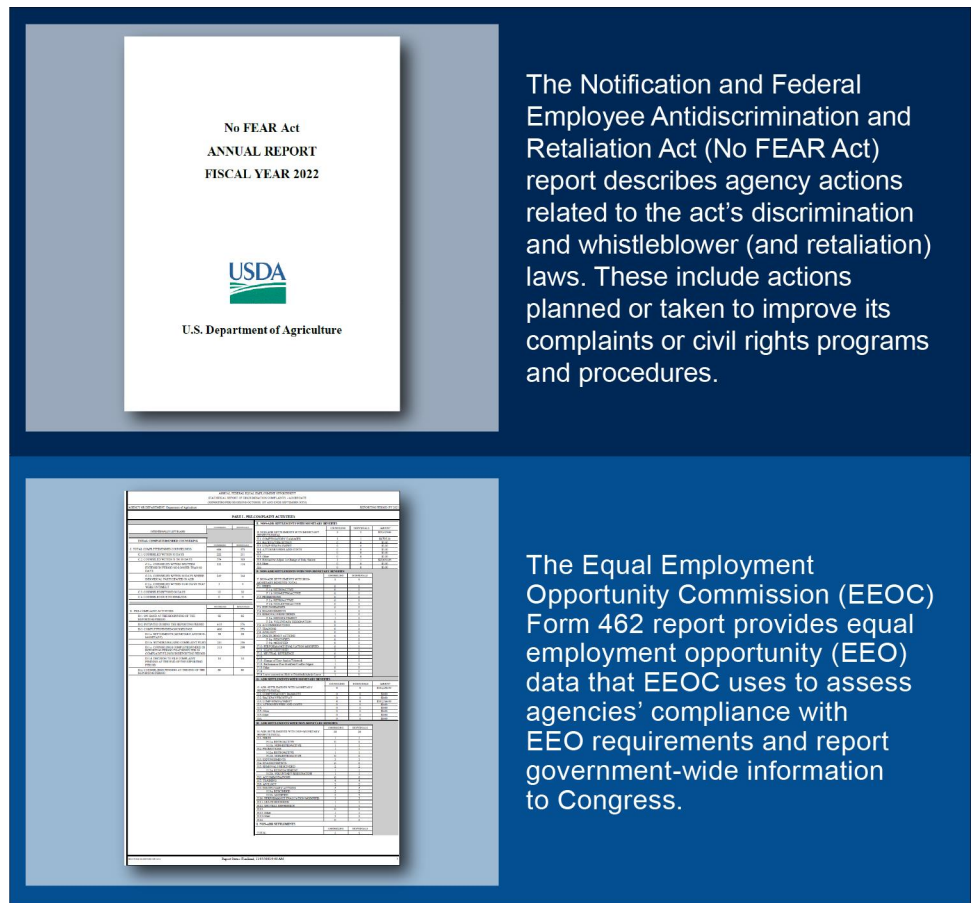
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<sup>3</sup>U.S. Office of Management and Budget, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies*, 67 Fed. Reg. 8,451 (Feb. 22, 2002).

<sup>4</sup>71 Fed. Reg. 43,643, 43,644 (Aug. 2, 2006).

breakdown of complaints by sex, although the report mentions that the category of sex includes sexual orientation.

**Figure 1: Purposes of the No FEAR Act and EEOC Form 462 Reports**



The Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) report describes agency actions related to the act's discrimination and whistleblower (and retaliation) laws. These include actions planned or taken to improve its complaints or civil rights programs and procedures.

The Equal Employment Opportunity Commission (EEOC) Form 462 report provides equal employment opportunity (EEO) data that EEOC uses to assess agencies' compliance with EEO requirements and report government-wide information to Congress.

Source: GAO analysis of U.S. Department of Agriculture's No FEAR Act report and EEOC guidance on EEOC Form 462 report. | GAO-24-106791

During our review of USDA's No FEAR Act and EEOC Form 462 reports, we found inconsistencies in the data they presented for each of the five categories. These inconsistencies in the total complaint numbers for any given year ranged from a difference of one complaint to a difference of 95 complaints. For example, for fiscal year 2017, USDA reported 185 USDA complaints on the basis of disability in the No FEAR Act report, while reporting 280 complaints on the basis of disability in the EEOC Form 462 report. On average, across the years we reviewed, we found small inconsistencies in complaints by the bases of age, sex, and retaliation. However, we found larger inconsistencies in the data for complaints by



the bases of disability and race. Table 1 shows differences in the average number of complaints per year for each complaint basis for the reports for fiscal years 2015 through 2022.

**Table 1: USDA’s Average Number of Complaints per Year by Complaint Basis and the Differences between USDA’s EEO Reports, Fiscal Years 2015–2022**

Complaint Basis	No FEAR Act Report Annual Average Number of Complaints	EEOC Form 462 Report Annual Average Number of Complaints	Difference of Annual Average between Reports
Disability	155	191	36
Race	185	166	19
Sex	174	176	2
Age	149	148	1
Retaliation	245	244	1

Source: GAO analysis. | GAO-24-106791

Officials from OASCR and representatives from USDA’s EEO data vendor noted that they generally expect some minor differences between the two reports in any given year. They told us that these differences could be, in part, due to USDA downloading the underlying data from its EEO database, icomplaints, at different times during the year that correspond with the deadlines for the final reports to Congress and EEOC.<sup>5</sup> However, officials from OASCR and representatives from the vendor acknowledged that they were not aware of the extent of the inconsistencies, particularly in the data for disability and race, between the two reports until we presented our preliminary observations. OASCR officials initially attributed the inconsistencies to the timing of the reports, and they noted that the reports count complaints differently (for example, No FEAR Act report data include class action complaints). However, OASCR officials could not fully explain the differences between the No FEAR Act and EEOC Form 462 reports in the number of complaints by basis of disability or race.

At our request, USDA’s EEO data vendor reviewed the underlying data in the icomplaints database. The vendor identified the causes of the

<sup>5</sup>The icomplaints database contains applications that USDA staff can use to download the specific information needed for the various reports. For the EEOC Form 462 reports, USDA officials told us that staff use icomplaints to generate the required data and submit a draft report to EEOC staff, who review the data for accuracy. For the No FEAR Act reports, USDA officials said that staff are responsible for reviewing the data for accuracy, clarity, and completeness prior to publication. According to USDA, icomplaints was replaced with Entellitrak-Equal Employment Opportunity (ETK-EEO) as of July 10, 2023.

inconsistencies in the data on total complaints by basis of disability and by basis of race.

- **Disability.** The inconsistency in the data on disability was because EEOC guidance for the EEOC Form 462 requires a breakdown of disability into complaints of mental and physical disability while the guidance for the No FEAR Act report does not. This generally aligned with OASCR officials' assumption that the reports counted complaints differently. The guidance for the No FEAR Act report requires agencies to count a single complaint made on the bases of both mental and physical disabilities as one complaint on the basis of disability. The guidance for EEOC Form 462 requires agencies to count such a complaint as two separate complaints, one on the basis of mental disability and the other on the basis of physical disability.
- **Race.** The inconsistency in the data on race was because of a user error in the database, according to the vendor. While reviewing data for fiscal year 2023, the vendor found that sometime prior to 2015, a user of USDA's icomplaints database manually added "Hispanic/Latino" as an option for race for the No FEAR Act reports.<sup>6</sup> The availability of an option for "Hispanic/Latino" in the drop-down menu for race contributed to some complaints being categorized by the basis of race instead of national origin, according to the vendor.<sup>7</sup> The vendor stated that this issue is limited to USDA and does not affect the data for other federal agencies.

While the inconsistency in the disability numbers was explained by a difference in the guidance for counting complaints, the inconsistency in the race numbers reflects an error. EEOC guidance defines how race and national origin are to be categorized for the No FEAR Act report and indicates that "Hispanic/Latino" should be reported as national origin. Representatives for the EEO vendor told us they would adjust the database's software to resolve the error related to race for future reports. By ensuring its vendor adjusts the database so that "Hispanic/Latino" only appears on the list of options for complaints by the basis of national

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<sup>6</sup>The vendor told us that this error occurred in 2005 but we were not able to verify this through documentation.

<sup>7</sup>USDA's vendor said this issue likely did not affect the reporting of race in the department's EEOC Form 462 reports. According to the vendor, unlike the No FEAR Act reports, its software did not recognize any selections of "Hispanic/Latino" as race for the EEOC Form 462 reports. However, it is possible that a complaint by the basis of "Hispanic/Latino" that was miscategorized as race would not appear in the count of complaints by the basis of national origin in both reports.

origin, USDA would better ensure its No FEAR Act reports are accurate and in line with EEOC guidance.

Although USDA's vendor intends to correct the issue in the icomplaints database software, USDA likely will not be able to update the data in prior No FEAR Act reports with corrected data. Specifically, according to the vendor, USDA is unable to assess the effect of the database error on prior reports because the data are continuously updated and may have changed since these reports were published. OASCR officials did not tell us how or whether the department would disclose to Congress or the public the error and its potential effect on prior No FEAR Act reports. According to OMB guidance, federal agencies should disclose the limitations of the data they disseminate to the public. By disclosing on its website that data for total complaints by the basis of race in prior No FEAR Act reports could contain errors because of inaccurate categorization, USDA would improve transparency to Congress and the public about the nature of employee complaints.

Furthermore, comparing data is one method USDA can use to identify inconsistencies in complaint data, as we found during our review. Specifically, we identified inconsistencies in the data by comparing the data in the No FEAR Act reports with the underlying data for the EEOC Form 462 reports. USDA guidance, *Information Quality Activities—Improving Implementation of the Information Quality Act*, which is based on OMB guidelines, directs agencies to review the quality of information before disseminating it. However, OASCR's process for compiling the reports does not include comparing the data (e.g., data on total complaints by bases), where appropriate, between the No FEAR Act and EEOC Form 462 reports. By implementing a process to review and compare selected data, such as data on total complaints by basis, USDA would better ensure OASCR staff identify and resolve, as needed, any significant inconsistencies before issuing No FEAR Act reports.

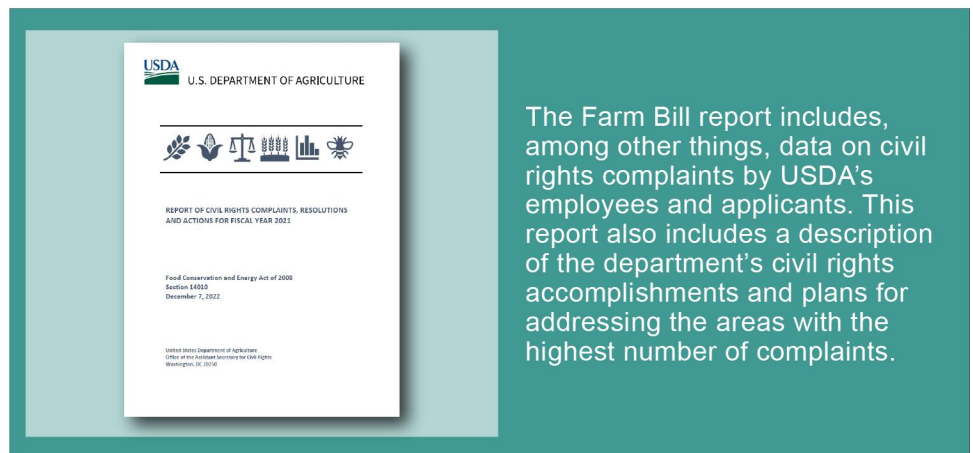
To effectively implement such a process, staff will need to understand which data should be similar and which might be expected to be different between the No FEAR Act and EEOC Form 462 reports, according to federal guidelines. For example, OASCR officials and the EEO vendor were not aware that EEOC guidance for the EEOC Form 462 reports directs agencies to count physical and mental disability complaints as separate if a complaint includes both types of disabilities. By developing internal guidance that outlines what OASCR officials should look for during these reviews, and why, USDA could better ensure the quality of

information in the various annual reports USDA is required to submit to Congress and EEOC.

## Farm Bill Reports

In our review of USDA's Farm Bill reports, we found inconsistencies and other issues related to the sources OASCR staff used, and that OASCR does not have a staff-level data quality review process. The Farm Bill reports use data primarily from USDA's No FEAR Act and EEOC Form 462 reports, but serve a different purpose and contain some information not included in the other two reports (see fig. 2). For example, each Farm Bill report includes analyses of changes in complaints from the prior year and a per capita analysis to compare USDA's complaints with government-wide data.

**Figure 2: Purpose of Food, Conservation, and Energy Act of 2008 (Farm Bill) Reports**



The Farm Bill report includes, among other things, data on civil rights complaints by USDA's employees and applicants. This report also includes a description of the department's civil rights accomplishments and plans for addressing the areas with the highest number of complaints.

Source: GAO analysis of the U.S. Department of Agriculture's (USDA) Farm Bill reports. | GAO-24-106791

## Issues with Information in Reports

We found that some Farm Bill reports contained errors, incomplete source information, and unexplained changes in sources. Furthermore, none of the reports we reviewed included an explanation of the methods OASCR used to conduct the analyses. For example:

- **Errors.** The report for fiscal year 2020 stated that total workforce data (which is a higher number because it includes temporary workers)

were used for its comparison of per capita complaints, but OASCR used only permanent workforce data for this comparison, according to our analysis.<sup>8</sup> As a result, the numbers for per capita complaints in the fiscal year 2020 Farm Bill report were inflated. Additionally, the reports for fiscal years 2020 and 2021 cited a source that OASCR officials told us they did not actually use for the analysis. OASCR officials acknowledged this error when we brought it to their attention.

- **Incomplete source information.** The reports for fiscal years 2015, 2016, and 2018 did not include sources for some data on total number of complaints by basis. For example, the fiscal year 2018 report did not list the data source for the number of complaints filed. Transparency about sources is important because, as previously described, the various reports OASCR uses as sources may use different methods to count complaint data.

- **Unexplained source change.** OASCR changed a source for its analysis of per capita complaints but did not explain the change in the affected reports. Specifically, OASCR used total workforce data in its analysis for the report for fiscal year 2019, but only permanent workforce data, a subset of total workforce data, in its analysis for the reports for fiscal years 2020 and 2021. As a result, the latter two reports contained a different type of comparison of per capita complaints between fiscal years 2019 and 2020, with no explanation.

In addition, until the fiscal year 2021 Farm Bill report, OASCR used the No FEAR Act reports as its primary data source for total complaints. Beginning with the fiscal year 2021 report, OASCR stated in the report that it used the EEOC Form 462 report as its source but did not explain the reason for this change in the report. This change would have implications for the Farm Bill reports' findings because, as described above, the No FEAR Act and EEOC Form 462 reports count certain complaints differently.

- **No discussion about methods.** As described above, none of the Farm Bill reports we reviewed included an explanation of the methods OASCR used to conduct the analyses. For example, the reports did not contain sections describing certain data sources or changes in sources OASCR staff used in any given Farm Bill report. OASCR officials said that, each year, OASCR staff reuse the prior year's report as a template and update the data. If a previous year's report did not have a methods section, staff would not add one, they told us.

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<sup>8</sup>Total workforce data includes temporary workers and is a higher number than permanent workforce data.

Errors, incomplete information, and unexplained changes in sources, as well as the omission of a discussion about methods, can affect how users interpret the analyses OASCR conducts for USDA's Farm Bill reports. For example, while a per capita analysis can enable users to more accurately compare agencies, using permanent workforce data in an analysis can produce higher complaint rates than using total workforce data—something a reader may not realize without an explanation. In another example, USDA's decision to change the primary data source from the No FEAR Act report to the EEOC Form 462 report could affect the Farm Bill reports' findings on most frequent complaints by basis. USDA officials told us, and stated in the fiscal year 2021 report, that they changed the source from the No FEAR Act report to the EEOC Form 462 report. However, according to our analysis, the data in its fiscal year 2021 report table about the most frequent alleged complaint bases are from the No FEAR Act report, not the EEOC Form 462 report.

Because USDA used the No FEAR Act report data, disability was not among the top three complaints highlighted in that Farm Bill report. If USDA had used the EEOC Form 462 data, as intended, disability would have appeared among the top three complaints in its fiscal year 2021 report. This has implications for USDA's EEO efforts across the department because USDA officials told us that they consider the most frequent complaints when making decisions about training and other antidiscrimination efforts.

USDA guidance directs agencies to provide transparent documentation of data sources, methods, and sources of error. By ensuring each Farm Bill report includes a section explaining the methods, including sources, used to conduct the data analyses for the complaints in each report, OASCR would increase the transparency—and therefore usefulness—of the information for Congress, USDA, and the public.

#### Limited Data Quality Review Process

OASCR does not have a staff-level review process, which limits its ability to ensure the quality of the information in its Farm Bill reports, including accuracy, clarity, and completeness. OASCR officials said they have a process for management, including the Office of the Secretary, to approve Farm Bill reports before they are issued. Prior to these management reviews, staff try to identify and correct errors, according to OASCR officials. However, according to these officials, the office does not have a staff-level quality review process before submitting the Farm Bill reports for management review. A staff-level review would include a

process in which someone, independent from the work itself, verifies that the key facts, figures, and findings align with the sources and are correctly reported. This type of review could occur prior to management reviews.

Furthermore, OASCR officials cited older standard operating procedures and staffing capacity as challenges to conducting quality reviews. Specifically, officials said that the standard operating procedures they previously used for analyzing data were outdated and they no longer use them. OASCR officials also said that the office has a quality review officer, but the lead author of the report also currently serves in this capacity. Having a person, independent of the work, to verify that information is correctly supported helps to ensure that the information is accurate, clear, and complete.

OASCR officials explained that the office uses most of its staffing resources to process complaints and does not have the staff it once had for developing its various reports. In the future, these officials said, the EEO vendor will be able to show all of the necessary data for Farm Bill reports. OASCR officials did not have a specific time frame for the application but said that when it is available, staff will no longer need to compile data from various sources for the reports. However, even with computer-generated data or analyses, a staff-level review would help ensure the information is correctly reported.

According to USDA guidance, its agencies and offices must strive to ensure that the information they disseminate is substantively accurate, reliable, and unbiased. USDA guidance also directs its agencies and offices to review the quality—including objectivity, utility, and integrity—of information before disseminating it. By implementing a process to review the quality of the information in its Farm Bill reports, as well as assigning the role of quality review officer to someone who does not participate in developing the report, OASCR would better ensure it identifies any errors and incomplete information that affect the quality and usefulness of the information in USDA's Farm Bill reports.

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## Conclusions

The information in USDA's EEO reports helps Congress and EEOC conduct their oversight responsibilities. It also ensures public accountability and provides benchmarks USDA and others can use to measure changes in complaints over time. OMB guidelines and USDA

guidance highlight steps agencies and offices should take to ensure transparency and that the information they disseminate is accurate, clear, and complete.

We identified actions USDA can take to better ensure the information in its EEO reports is of high quality and utility. For example, by updating the software for its EEO database to ensure users can only select the categories EEOC has specified for race, USDA will better ensure its No FEAR Act reports are accurate. Additionally, by disclosing on its website the potential for inaccurate data in prior No FEAR Act reports, USDA will ensure it is transparent about any issues with the quality of these data.

Furthermore, by implementing an internal process, with guidance for staff, to review and compare certain data in its No FEAR Act and EEOC Form 462 reports, USDA would better ensure OASCR staff identify and resolve any significant inconsistencies in future No FEAR Act reports. Similarly, by (1) including a section in USDA's Farm Bill reports that explains the methods OASCR staff used to analyze EEO complaints and (2) implementing a process to review the quality of information, OASCR would better ensure transparency as well as accuracy, clarity, and completeness of information in USDA's Farm Bill reports.

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## Recommendations for Executive Action

We are making the following six recommendations to USDA:

The Secretary of Agriculture should ensure that OASCR updates the software for USDA's EEO database so that database users can only select categories for race consistent with EEOC guidance.

(Recommendation 1)

The Secretary of Agriculture should ensure that OASCR updates USDA's website to note which of the department's No FEAR Act reports prior to 2022 may contain inaccurate data for complaints by the basis of race or national origin because of a data input error. (Recommendation 2)

The Secretary of Agriculture should ensure that OASCR documents and implements a process to review and compare selected complaint data in USDA's No FEAR Act and EEOC Form 462 reports, and identifies and resolves, as appropriate, any inconsistencies before issuing the No FEAR Act reports. (Recommendation 3)



The Secretary of Agriculture should ensure that OASCR develops internal guidance on how to compare the data in USDA's No FEAR Act and EEOC Form 462 reports when reviewing for inconsistencies during the data review process. (Recommendation 4)

The Secretary of Agriculture should ensure that OASCR adds a section to Farm Bill reports that explains the methods used to analyze EEO complaints, including data sources and any changes to those sources or related analyses that were made from the prior year. (Recommendation 5)

The Secretary of Agriculture should ensure that OASCR documents and implements an internal quality review process for Farm Bill reports to identify and correct any errors and incomplete information. This process should include assigning the role of quality review to someone, independent from the work itself, who verifies that the key facts, figures, and findings align with the sources and are correctly reported. (Recommendation 6)

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## Agency Comments

We provided a draft of this report to USDA and EEOC for review and comment. In its comments, reproduced in appendix I, USDA agreed with all six recommendations, stating that it welcomes GAO's recommendations for improving and strengthening its process and procedures related to EEO reporting. USDA provided a description of actions the department plans to take in response to each recommendation, and we believe these actions will address the issues we identified. USDA also provided technical comments, which we incorporated, as appropriate. EEOC also reviewed the draft and stated that it had no comments or concerns.

We are sending copies of this report to the appropriate congressional committees, the Chair of EEOC, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you and your staff have any questions, please contact me at (202) 512-3841 or [MorrisS@gao.gov](mailto: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 members who made major contributions to this report are listed in appendix II.

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Letter


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Sincerely yours,

A handwritten signature in black ink that reads "Steve D. Morris". The signature is written in a cursive, slightly slanted style.

Steve D. Morris  
Director, Natural Resources and Environment

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



**United States  
Department of  
Agriculture**

**Office of the  
Assistant Secretary  
for Civil Rights**

1400 Independence  
Avenue SW  
Washington, DC  
20250

October 17, 2023

Steve D. Morris  
Director  
Natural Resources and Environment  
Government Accountability Office  
441 G. Street NW  
Washington D.C. 20548

Dear Mr. Morris:

The United States Department of Agriculture (USDA) appreciates the opportunity to respond to the United States Government Accountability Office's (GAO) draft report titled, "USDA Equal Employment Opportunity, Additional Actions Would Improve USDA's Collection and Reporting of Key Data," GAO-23-106791.

We would like to provide the following technical comments below in addition to OASCR's previously submitted draft responses (enclosed as final) to GAO on September 28, 2023:

The Equal Employment Opportunity Commission (EEOC) Form 462, The Notification and Federal Employee Anti-discrimination and Retaliation Act (No FEAR Act), and Farm Bill reports and modules were developed as directed by the EEOC, Office of Personnel Management (OPM), and USDA, respectively. The requirements of the aforementioned reports are different in many areas. For example, the EEOC Form 462 Report counts each instance of disability for each issue while No Fear Act reports disability only once.

Section 203 of the No FEAR Act mandates that Federal Agencies report certain information such as the number of complaints filed with USDA alleging discrimination based on race, color, religion, national origin, sex, disability, genetics, age, reprisal, and violations of whistleblower protection laws. Alternatively, EEOC Regulation 29 C.F.R. §1614.602 requires Federal Agencies and Departments covered by 29 C.F.R. §1614.103(b), to report information concerning pre-complaint counseling, and the status, processing, and disposition of complaints under this part at such times and in such manner as the EEOC prescribes.

Finally, Section 14010 of the Food, Conservation, and Energy Act of 2008 mandates that USDA prepare an annual report outlining the number of filed civil rights program and employment complaints; the length of time USDA took to process each civil rights complaint; the number of proceedings brought against USDA, including the number of complaints resolved with a finding of discrimination or settlement; and the number and types of personnel actions taken by USDA following the resolution of civil rights complaints.

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**Appendix I: Comments from the U.S.  
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Steve D. Morris  
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The database (iComplaints) previously used to capture employment data was replaced with ETK/EEO as of July 10, 2023. This transition resulted in substantial changes to the way equal employment opportunity complaint activity is captured. Tyler Technologies is responsible for ensuring accuracy for over 250 agencies which utilize their applications and provides the ETK/EEO application through which the No FEAR Act report is run.

OASCR welcomes GAO's recommendations for improving and strengthening our processes and procedures related to EEO Reporting and would like to take this opportunity to provide detailed actions to be taken in response to the recommendations. Specifically, USDA will:

- update its internal guidance for developing the USDA's No FEAR Act and EEOC Form 462 reports to include detailed information reviewing inconsistencies within each of the reports;
- review the race and ethnicity categories available in ETK/EEO to ensure accurate and consistent reporting and compare complaint data in USDA's No FEAR Act and EEOC Form 462 Reports;
- consult with the OPM and EEOC requiring the No FEAR Act and 462 Reports to discuss potential areas of alignment;
- include a disclaimer on its [USDA No FEAR Act Report Information website](#) outlining the potential for inaccurate data due to a data input error categorizing Hispanic as race instead of ethnicity;
- add a section in the upcoming Farm Bill report explaining the methods used to analyze EEO complaints; and
- implement an internal quality review process to identify and correct errors and incomplete information in the upcoming Farm Bill reports.

Thank you again for the opportunity to review and respond to GAO's draft report titled, "USDA Equal Employment Opportunity, Additional Actions Would Improve USDA's Collection and Reporting of Key Data," GAO-23-106791.

Sincerely,

Penny Brown Reynolds, Ph.D.  
Deputy Assistant Secretary for Civil Rights

PENNY BROWN  
REYNOLDS  
Digitally signed by PENNY  
BROWN REYNOLDS  
Date: 2023.10.18 16:40:59  
-0400

Enclosure

**GAO-23-106791 – Equal Employment Opportunity  
Additional Actions Would Improve USDA’s Collection and Reporting of Key Data  
Recommendations for Executive Action**

- 1. The Secretary of Agriculture should ensure that OASCR updates the software for USDA’s EEO database so that database users can only select categories for race consistent with EEOC guidance. (Recommendation 1)**

**Response:** OASCR agrees with this recommendation and will review the race and ethnicity categories to ensure accurate and consistent reporting moving forward. OASCR made substantial changes to its program and employment complaint databases to process and track equal opportunity complaint activity. On July 10, 2023, OASCR transitioned from the iComplaints enterprise system to ETK-EEO. The requisite changes and updates will be implemented in USDA’s ETK-EEO database. Completion date: January 31, 2024.

- 2. The Secretary of Agriculture should ensure that OASCR updates USDA’s website to note which of the department’s No FEAR Act reports prior to 2022 may contain inaccurate data for complaints by the basis of race or national origin because of a data input error. (Recommendation 2)**

**Response:** OASCR agrees with this recommendation. The Office of the Assistant Secretary for Civil Rights will add a disclaimer on its [USDA No Fear Act Report Information website](#) outlining the difference between race and national origin data as set forth in the No FEAR Act report. Completion date: December 31, 2023

- 3. The Secretary of Agriculture should ensure that OASCR documents and implements a process to review and compare selected complaint data in USDA’s No FEAR Act and EEOC Form 462 reports, and identifies and resolves, as appropriate, any inconsistencies before issuing the No FEAR Act reports. (Recommendation 3)**

**Response:** OASCR agrees with this recommendation. The Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act), Public Law No. 107-174, Section 203 mandates that Federal Agencies report information such as the number of complaints filed with USDA alleging discrimination based on race, color, religion, national origin, sex, disability, genetics, age, reprisal, and violations of whistleblower protection laws. Alternatively, Equal Employment Opportunity Commission’s (EEOCs) Regulation 29 C.F.R. §1614.602 requires federal agencies and departments covered by 29 C.F.R. §1614.103(b), to report information concerning pre-complaint counseling, and the status, processing, and disposition of complaints under this regulation as the Commission prescribes.

OASCR will meet with representatives from the EEOC the Office of Personnel Management to identify and resolve discrepancies in the No FEAR Act data report and EEOC Form 462 report. Completion date: December 31, 2023

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**Appendix I: Comments from the U.S.  
Department of Agriculture**

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- 4. The Secretary of Agriculture should ensure that OASCR develops internal guidance on how to compare the data in USDA's No FEAR Act and EEOC Form 462 reports when reviewing for inconsistencies during the data review process. (Recommendation 4)**

**Response:** OASCR agrees with this recommendation and will ensure internal guidance in the form of Standard Operating Procedures (SOPs) will be developed for the USDA's No FEAR Act and EEOC Form 462 report. The SOPs will contain detailed information on identifying and resolving inconsistencies in both reports. Completion date: January 31, 2024.

- 5. The Secretary of Agriculture should ensure that OASCR adds a section to Farm Bill reports that explains the methods used to analyze EEO complaints, including data sources and any changes to those sources or related analyses that were made from the prior year. (Recommendation 5)**

**Response:** OASCR agrees with this recommendation and will add a section in the upcoming Report on Complaints, Resolutions and Actions (Farm Bill) explaining the methods used to analyze EEO complaints, including data sources and any changes to those sources or related analyses that were made from the prior year (2022). Completion date: December 31, 2023.

- 6. The Secretary of Agriculture should ensure that OASCR documents and implements an internal quality review process for Farm Bill reports to identify and correct any errors and incomplete information. This process should include assigning the role of quality review to someone, independent from the work itself, who verifies that the key facts, figures, and findings align with the sources and are correctly reported. (Recommendation 6)**

**Response:** OASCR agrees with this recommendation and will document and implement an internal quality review process to identify and correct errors, if any, in the upcoming Report on Complaints, Resolutions and Actions (Farm Bill report). The internal process will consist of a quality assurance review of the report by an independent employee or contractor selected by the Deputy Assistant Secretary for Civil Rights and reporting to the OASCR chief of Staff. Furthermore, OASCR will build a data validation quality control tool to enhance its ability to identify and correct errors. Completion date: December 31, 2023.

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

October 17, 2023

Steve D. Morris Director

Natural Resources and Environment Government Accountability Office 441 G. Street  
NW

Washington D.C. 20548 Dear Mr. Morris:

The United States Department of Agriculture (USDA) appreciates the opportunity to respond to the United States Government Accountability Office's (GAO) draft report titled, "USDA Equal Employment Opportunity, Additional Actions Would Improve USDA's Collection and Reporting of Key Data," GAO-23-106791.

We would like to provide the following technical comments below in addition to OASCR's previously submitted draft responses (enclosed as final) to GAO on September 28, 2023:

The Equal Employment Opportunity Commission (EEOC) Form 462, The Notification and Federal Employee Anti-discrimination and Retaliation Act (No FEAR Act), and Farm Bill reports and modules were developed as directed by the EEOC, Office of Personnel Management (OPM), and USDA, respectively. The requirements of the aforementioned reports are different in many areas. For example, the EEOC Form 462 Report counts each instance of disability for each issue while No Fear Act reports disability only once.

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Finally, Section 14010 of the Food, Conservation, and Energy Act of 2008 mandates that USDA prepare an annual report outlining the number of filed civil rights program and employment complaints; the length of time USDA took to process each civil

rights complaint; the number of proceedings brought against USDA, including the number of complaints resolved with a finding of discrimination or settlement; and the number and types of personnel actions taken by USDA following the resolution of civil rights complaints.

The database (iComplaints) previously used to capture employment data was replaced with ETK/EEO as of July 10, 2023. This transition resulted in substantial changes to the way equal employment opportunity complaint activity is captured. Tyler Technologies is responsible for ensuring accuracy for over 250 agencies which utilize their applications and provides the ETK/EEO application through which the No FEAR Act report is run.

OASCR welcomes GAO's recommendations for improving and strengthening our processes and procedures related to EEO Reporting and would like to take this opportunity to provide detailed actions to be taken in response to the recommendations. Specifically, USDA will:

- update its internal guidance for developing the USDA's No FEAR Act and EEOC Form 462 reports to include detailed information reviewing inconsistencies within each of the reports;
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- consult with the OPM and EEOC regarding the No FEAR Act and 462 Reports to discuss potential areas of alignment;
- include a disclaimer on its USDA No FEAR Act Report Information website outlining the potential for inaccurate data due to a data input error categorizing Hispanic as race instead of ethnicity;
- add a section in the upcoming Farm Bill report explaining the methods used to analyze EEO complaints; and
- implement an internal quality review process to identify and correct errors and incomplete information in the upcoming Farm Bill reports.

Thank you again for the opportunity to review and respond to GAO's draft report titled, "USDA Equal Employment Opportunity, Additional Actions Would Improve USDA's Collection and Reporting of Key Data," GAO-23-106791.

Sincerely,

Penny Brown Reynolds, Ph.D.



Deputy Assistant Secretary for Civil Rights Enclosure

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## GAO-23-106791 – Equal Employment Opportunity Additional Actions Would Improve USDA’s Collection and Reporting of Key Data Recommendations for Executive Action

1. The Secretary of Agriculture should ensure that OASCR updates the software for USDA’s EEO database so that database users can only select categories for race consistent with EEOC guidance. (Recommendation 1)

Response: OASCR agrees with this recommendation and will review the race and ethnicity categories to ensure accurate and consistent reporting moving forward.

OASCR made substantial changes to its program and employment complaint databases to process and track equal opportunity complaint activity. On July 10, 2023, OASCR transitioned from the iComplaints enterprise system to ETK-EEO. The requisite changes and updates will be implemented in USDA’s ETK-EEO database. Completion date: January 31, 2024.

2. The Secretary of Agriculture should ensure that OASCR updates USDA’s website to note which of the department’s No FEAR Act reports prior to 2022 may contain inaccurate data for complaints by the basis of race or national origin because of a data input error. (Recommendation 2)

Response: OASCR agrees with this recommendation. The Office of the Assistant Secretary for Civil Rights will add a disclaimer on its USDA No Fear Act Report Information website outlining the difference between race and national origin data as set forth in the No FEAR Act report. Completion date: December 31, 2023

3. The Secretary of Agriculture should ensure that OASCR documents and implements a process to review and compare selected complaint data in USDA’s No FEAR Act and EEOC Form 462 reports, and identifies and resolves, as appropriate, any inconsistencies before issuing the No FEAR Act reports. (Recommendation 3)

Response: OASCR agrees with this recommendation. The Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act), Public Law No. 107-174, Section 203 mandates that Federal Agencies report information such as the number of complaints filed with USDA alleging discrimination based on race, color, religion, national origin, sex, disability, genetics, age, reprisal, and violations of whistleblower protection laws. Alternatively, Equal Employment Opportunity Commission’s (EEOCs) Regulation 29 C.F.R. §1614.602 requires federal agencies and departments covered by 29 C.F.R. §1614.103(b), to report

information concerning pre-complaint counseling, and the status, processing, and disposition of complaints under this regulation as the Commission prescribes.

OASCR will meet with representatives from the EEOC the Office of Personnel Management to identify and resolve discrepancies in the No FEAR Act data report and EEOC Form 462 report. Completion date: December 31, 2023

4. The Secretary of Agriculture should ensure that OASCR develops internal guidance on how to compare the data in USDA's No FEAR Act and EEOC Form 462 reports when reviewing for inconsistencies during the data review process. (Recommendation 4)

Response: OASCR agrees with this recommendation and will ensure internal guidance in the form of Standard Operating Procedures (SOPs) will be developed for the USDA's No FEAR Act and EEOC Form 462 report. The SOPs will contain detailed information on identifying and resolving inconsistencies in both reports. Completion date: January 31, 2024.

5. The Secretary of Agriculture should ensure that OASCR adds a section to Farm Bill reports that explains the methods used to analyze EEO complaints, including data sources and any changes to those sources or related analyses that were made from the prior year. (Recommendation 5)

Response: OASCR agrees with this recommendation and will add a section in the upcoming Report on Complaints, Resolutions and Actions (Farm Bill) explaining the methods used to analyze EEO complaints, including data sources and any changes to those sources or related analyses that were made from the prior year (2022). Completion date: December 31, 2023.

6. The Secretary of Agriculture should ensure that OASCR documents and implements an internal quality review process for Farm Bill reports to identify and correct any errors and incomplete information. This process should include assigning the role of quality review to someone, independent from the work itself, who verifies that the key facts, figures, and findings align with the sources and are correctly reported. (Recommendation 6)

Response: OASCR agrees with this recommendation and will document and implement an internal quality review process to identify and correct errors, if any, in the upcoming Report on Complaints, Resolutions and Actions (Farm Bill report). The internal process will consist of a quality assurance review of the report by an independent employee or contractor selected by the Deputy Assistant Secretary for Civil Rights and reporting to the OASCR chief of Staff. Furthermore, OASCR will

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**Appendix I: Comments from the U.S.  
Department of Agriculture**

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build a data validation quality control tool to enhance its ability to identify and correct errors. Completion date: December 31, 2023.

# Appendix II: GAO Contact and Staff Acknowledgments

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## GAO Contact

Steve D. Morris, (202) 512-3841 or [MorrisS@gao.gov](mailto:MorrisS@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, major contributors to this report were Tahra Edwards Nichols (Assistant Director), Allen Chan (Analyst in Charge), Mikaela Chandler, Melissa Lefkowitz, and Kayla Smith. Other key contributors were Kevin Bray, Tara Congdon, Sarah Cornetto, Shirley Hwang, Katherine Lenane, Serena Lo, Lauren Sherman, and Brianna Taylor.