





# Adjusted Gross Income Compliance Verification Process

## Audit Report 50024-0003-22

OIG reviewed FSA's compliance with income verification process requirements and NRCS' recovery of improper payments identified as a result of that process.

### OBJECTIVE

To determine FSA's compliance with income verification process requirements to ensure payment accuracy for USDA farm and conservation programs. Specifically, we: (1) assessed the adequacy of FSA's compliance reviews of tax returns, and certified public accountants' and attorneys' statements to determine income eligibility of each participant; (2) determined if participants' review files contained required documentation; (3) determined if participants met income eligibility limits; and (4) determined if NRCS sought recovery of ineligible payments.

### REVIEWED

We reviewed relevant laws, regulations, policies, and procedures; interviewed FSA and NRCS officials; and analyzed the fiscal year 2017 AGI compliance review files for FSA and the payment recovery files for NRCS from October 1, 2013, to May 2, 2018.

### RECOMMENDS

FSA should provide AGI compliance review training for State offices. Additionally, NRCS should revise internal controls and implement guidance for identifying AGI ineligible participants and the timely recovery of improper payments.

### WHAT OIG FOUND

The Agricultural Act of 2014 established that participants whose average adjusted gross income (AGI) exceeds \$900,000 are not eligible to receive payments or benefits from most programs administered by the Department of Agriculture's (USDA) Farm Service Agency (FSA) and Natural Resources Conservation Service (NRCS). FSA has the administrative responsibilities for collecting and maintaining program participants' data, and NRCS has access to that information for collecting improper payments.

We reviewed FSA's compliance with income verification process requirements and found that FSA State offices did not consistently follow FSA's AGI handbook instructions for ensuring required elements are included in certification statements and all required documentation is included in the participants' compliance review file. This occurred because the FSA State officials responsible for conducting the AGI compliance reviews have not received formal training regarding this process and its requirements. Further, we found that NRCS is not accurately and timely identifying improper payments made to AGI participants whose income exceeds the AGI limit. This occurred due to weaknesses in the internal controls designed to identify AGI ineligible participants in FSA's eligibility system. Additionally, NRCS only identifies and collects improper payments on an annual basis, which does not update the system to reflect program participants' eligibility status in real time.

FSA and NRCS agreed with our findings and recommendations, and we were able to accept management decision on all four recommendations.





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



DATE: June 24, 2019

AUDIT  
NUMBER: 50024-0003-22

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ATTN: Perry Thompson

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FROM: Gil H. Harden  
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SUBJECT: Adjusted Gross Income Compliance Verification Process

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated excerpts from your response and the Office of Inspector General's (OIG) position into the relevant sections of the report. Based on your written response, we are accepting management decision for all four audit recommendations in the report, and no further response to this office is necessary. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (OCFO).

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than OCFO, please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.



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# Background and Objectives

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## Background

The Farm Service Agency's (FSA) mission is to serve all farmers, ranchers, and agricultural partners through the delivery of effective and efficient agricultural programs. FSA is part of the Department's Farm Production and Conservation (FPAC) mission area, which implements programs designed to mitigate the significant risks of farming through crop insurance services; conservation programs and technical assistance; and commodity, lending, and disaster programs. FSA delivers programs through 2,175 State and county offices, including offices in U.S. territories. The implementation of farm policy through FSA programs is the responsibility of the State and field offices based in these counties and U.S. territories. The national administrative functions are managed in Washington, D.C., and the computational and statistical work is performed in Kansas City, Missouri.

The Natural Resources Conservation Service's (NRCS) mission statement is "Helping People Help the Land." This statement highlights NRCS' mission to develop and deliver high-quality products and services that enable people to be good stewards of the Nation's soil, water, and related natural resources on non-Federal lands. NRCS is also part of the Department's FPAC mission area, and the agency delivers programs through 2,900 offices nationwide. NRCS' line of authority extends from the Chief (who heads the agency) to regional conservationists, then State offices, area offices, and field offices. The point of contact for NRCS customers and the public is the field office, which is headed by a district conservationist.

Adjusted gross income (AGI) is the amount reported on the appropriate tax filing documents to the Internal Revenue Service (IRS). The IRS defines AGI as gross income minus adjustments to income. The Agricultural Act of 2014 (2014 Farm Bill)<sup>1</sup> established that participants whose average AGI exceeds \$900,000 are not eligible to receive payments or benefits from most programs administered by FSA and NRCS.<sup>2, 3</sup> This threshold is referred to as the average AGI limitation provision. All persons and legal entities requesting certain program payments, either directly or indirectly, are subject to the average AGI limitation provision.

FSA has the administrative responsibilities for collecting and maintaining data that include the name and address of the participant, information about the participant's farming operation, and information about the participant's annual income. FSA uses this information to make determinations of the participant's eligibility for program payments and uses a web-based eligibility system, Subsidiary Systems,<sup>4</sup> to record the participant's AGI determination. NRCS

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<sup>1</sup> Agricultural Act of 2014, Pub. L. No. 113-79, 128 Stat. 649.

<sup>2</sup> An average AGI is calculated for the 3 complete taxable years immediately preceding the year for which payments or benefits are requested.

<sup>3</sup> This is a change from the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) which had established three AGI income thresholds based on the different farm and conservation programs. The 2014 Farm Bill simplified the determination by condensing the three thresholds into one AGI income threshold of \$900,000 for all applicable farm and conservation programs.

<sup>4</sup> We refer to this system throughout the report as FSA's eligibility system.



has access to FSA's current AGI data on all program participants and uses an application, Fund Manager,<sup>5</sup> to provide an interface between its contract management system, ProTracts,<sup>6</sup> and FSA's eligibility system.

Participants in programs subject to average AGI rules must annually certify their eligibility to receive program benefits. The IRS requires written consent from the individual or legal entity before it can provide the Department of Agriculture (USDA) with verification of the individual or legal entity's certification of compliance with average AGI income limitation provisions. As required by law, producers must sign form CCC-941 to grant the IRS the authority to use tax information for the purpose of AGI compliance verification requested by USDA.<sup>7</sup> If participants fail to provide the certification and consent, they will be determined ineligible for payment and will be required to refund applicable program payments received from FSA and NRCS.

In 2009, USDA and the IRS developed an electronic information exchange process strictly for the purpose of average AGI certification verification. This process involves a series of IRS calculations of specific line items on IRS tax forms for the applicable 3-year period. These calculations are used to determine the average AGI amount. The IRS then compares this value to the average AGI income limitation and provides USDA with the results of this comparison. The IRS does not make a final determination about whether a participant exceeds the AGI limitation.<sup>8</sup> Instead, the IRS provides USDA with an indicator of whether the program participant, based on IRS tax forms, exceeded the AGI limitation amount of \$900,000. USDA does not receive any actual tax data from the IRS.

Participants who have an AGI below the limitation will remain eligible for program benefits, and no further actions are necessary for the year. For any participant the IRS has indicated exceeds the average AGI limitation, FSA State office personnel will evaluate that participant's average AGI certification further. FSA notifies the participant of the results of the IRS comparison in writing and requests the participant provide additional information to the applicable FSA office within 30 days so FSA can make a determination for AGI eligibility. Participants can provide one of two items for this determination: (1) a certification statement from a certified public accountant (CPA) or attorney that demonstrates the participant has not exceeded the AGI limit; or (2) copies of the complete Federal tax returns filed with the IRS for the applicable tax years under review.

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<sup>5</sup> We refer to this application as NRCS' interface application.

<sup>6</sup> ProTracts is the web-enabled software application NRCS uses to manage contract activities from initiation through program completion. We refer to this system throughout the report as NRCS' contract system.

<sup>7</sup> The CCC-941 form, "Average Adjusted Gross Income Certification and Consent to Disclosure of Tax Information," provides participants' certification that the average AGI for the year that payments are requested is either below or above the \$900,000 average AGI limit. The form also provides consent for the IRS to disclose to FSA if participants met the average AGI limit for the year.

<sup>8</sup> One example of why the IRS does not make a final determination whether a participant is over the AGI limitation is that the AGI limitation is applicable to only the individual participant's AGI. This application permits joint tax filers to allocate the total of their reported AGI between filers. By calculating separate AGIs, a spouse may fall below the \$900,000 limit (and thereby qualify for programs), even if the joint tax filers' AGI exceeds the \$900,000 limit.

FSA's handbook provides guidance for State officials when reviewing the CPA or attorney certification statements program participants submit for AGI compliance. Certification statements will only be accepted from a CPA or attorney. The guidance instructs State officials to review the certification statements for certain required elements, including the CPA or attorney's license number, explanation of the certification statement, and other paperwork. The handbook also provides template letters for CPAs and attorneys to use when certifying program participants' compliance with AGI limitation requirements. These sample letters contain all the elements State officials should review.

In addition to the items above, FSA's instructions require State office personnel to include other documents, such as all documentation received from the person or legal entity, copies of the participant's report from FSA's eligibility system during the AGI compliance review process, and several other required documents.

FSA will notify participants determined not to be in compliance with the AGI limitation of their right to appeal the determination to either FSA or the National Appeals Division (NAD).<sup>9</sup> Participants who do not respond to written notices of average AGI noncompliance or who are determined noncompliant will be notified of the requirement to refund the applicable program payments. Although FSA determines the eligibility for participants in both NRCS and FSA programs, each agency is responsible for initiating collections of their own improper payments. Once FSA determines that the participant's AGI makes them ineligible for program payments, the NRCS process for collections of improper payments requires the agency to send the participant an AGI ineligible letter (collections letter).<sup>10</sup> This letter informs the participant of the AGI process and states the participant has been found ineligible for program payments. The letter further offers the participant options to appeal the determination and identifies the amount of the improper payment received. Although the letter is not a bill for collection, it also provides instructions for repaying the program payments received.

## Objectives

Our overall objective was to determine FSA's compliance with income verification process requirements to ensure the accuracy of payments for USDA farm and conservation programs. Specifically, we: (1) assessed the adequacy of FSA's compliance reviews of tax returns, and CPAs' and attorneys' statements to determine income eligibility of each participant; (2) determined if participants' review files contained required documentation; (3) determined if participants met income eligibility limits; and (4) determined if NRCS sought recovery of ineligible payments.

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<sup>9</sup> NAD conducts impartial administrative appeals hearings and reviews of adverse program decisions made by officers, employees, or committees of designated USDA agencies.

<sup>10</sup> In general, an improper payment is any payment that should not have been made and includes any payment made to an ineligible recipient. The Improper Payments Information Act of 2002 requires each agency to annually review all programs and activities that it administers, identify those susceptible to significant improper payments, and submit to Congress an estimate of the annual amount of improper payments.

We had no reportable findings for Objective 3. This report and its findings address actions FSA and NRCS should take to improve the income verification process and seek recovery of ineligible payments

## Section 1: FSA Compliance Reviews

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### Finding 1: FSA Needs to Provide Training to Ensure Consistent AGI Compliance Reviews

We found that FSA State offices did not consistently implement the AGI compliance review process for 213 of 232 compliance files we reviewed.<sup>11</sup> Specifically, we found that State offices did not always follow FSA's AGI handbook instructions for ensuring required elements were included in certification statements and all required documentation was included in each participant's compliance review file. This occurred because the FSA State officials responsible for conducting the AGI compliance reviews have not received training regarding this process and its requirements. As a result, FSA has reduced assurance that program participants are complying with AGI limitation requirements and receiving payments from farming and conservation programs to which they are entitled.<sup>12</sup>

FSA conducts AGI compliance reviews to ensure program participants comply with AGI limitation requirements established by the 2014 Farm Bill. Federal regulations provide the authority for administering the average AGI limitation provision.<sup>13</sup> FSA also provides the State office with template certification statements to be used by CPAs and attorneys to certify participants' AGI compliance in order to help ensure uniformity. FSA Handbook 5-PL details the required certification statement elements and required documentation for compliance review files.<sup>14</sup>

We reviewed 232 AGI compliance review files for FY 2017 to assess the adequacy of FSA's compliance reviews of participants' tax returns and certification statements prepared by CPAs and attorneys.<sup>15</sup> In addition, we reviewed the compliance review files to confirm they contained all required documentation. During our review we did not identify any participants exceeding the AGI limit and receiving program payments; however, we believe FSA can make improvements to its process to increase its overall assurance that eligible participants are receiving program payments. The issues we found are described in more detail below.

#### *Required Elements Missing from Certification Statements*

Of the 232 files we reviewed, 120 included a certification statement from a CPA or attorney. Of those 120 statements, 84 were missing at least one of the required elements to be included in an acceptable certification statement for AGI compliance.<sup>16</sup>

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<sup>11</sup> During our review of AGI compliance review files, we determined 213 of 232 files either had a missing required element in a certification statement or had a missing document in the compliance review file.

<sup>12</sup> During this audit, we did not identify any ineligible participants that were determined AGI eligible and received program payments.

<sup>13</sup> 7 C.F.R. pt. 1400.

<sup>14</sup> USDA FSA, *Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income—Agricultural Act of 2014*, FSA Handbook 5-PL, Par. 294 C, and Par. 308 C, (April 24, 2014).

<sup>15</sup> See Scope and Methodology for more detail on the selection of AGI compliance review files.

<sup>16</sup> AGI certification statement requirements are described in FSA Handbook 5-PL Par. 294 C.

According to FSA's guidance, statements certifying AGI compliance on behalf of a person or legal entity will only be accepted from CPAs or attorneys and must include the following:

- CPA's or attorney's license number;
- explanation for the reasons for the statement;
- acknowledgement of having reviewed and agreed to the following conditions:
  - average AGI limitations, definitions, programs involved, and compliance requirements in 7 CFR Part 1400 regulations;
  - the CPA or attorney has made inquiries and understands the tax years used to calculate the average AGI for applicable years;
  - the Government may rely on representations made in the statement to allow participants to retain or receive program benefits and that a false certification can result in sanctions, including criminal sanctions for persons associated with the false representations;
  - USDA may request additional information, conduct a review, and make further inquiry to the IRS to assure that all information filed with USDA by all parties is true, correct, and complete;
- relevant information on the most recently filed tax returns for the period in question; and
- if applicable, a detailed explanation of how the applicable average AGI limitations were not exceeded, even though the information on the tax returns indicates otherwise.

The table on the next page illustrates the required elements that were missing in the statements.

**Table 1: Breakdown of Missing Elements from Statements**

Required Element Missing	Affected Statements
Required terms and conditions agreement	11
Tax information	4
Detailed explanation of participant not exceeding AGI limitation <sup>17</sup>	44
Multiple missing elements in statements <sup>18</sup>	25

In our review of the FSA compliance review process, we did not identify any significant issues related to FSA's review of participants' tax returns.<sup>19</sup> However, we did find that FSA's review of certification statements did not always comply with agency guidance. FSA issued guidance that outlines the requirements of an acceptable certification statement, but State office officials did not always ensure that these elements were included in the statements during its compliance reviews.

State officials told us that they were aware of the guidance, but they were unsure if all the elements in the guidance needed to be in the certification statement for AGI compliance. State officials also told us that, when reviewing certification statements during the compliance review, they did not go through the statements line-by-line. Rather, the officials concluded that the statement met AGI compliance verification requirements if it included the elements they deemed important. In all 11 State offices that we visited, the State officials told us that they have not received any formal training on the AGI compliance review process. Furthermore, due to staff turnover, many State officials that we spoke with were new to the AGI compliance review process. As such, OIG maintains that most of the documentation issues discussed in this finding could be corrected with more staff training on the process and its requirements.

Because FSA relies on certification statements from CPAs and attorneys to determine participants' compliance with AGI limits, it is important that all required elements are included in the statements. FSA should issue a notice to the State offices to emphasize the requirements of an acceptable certification statement and provide training to State officials on these requirements.

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<sup>17</sup> A detailed explanation of income for joint filers typically included attached documentation submitted with the certification statement whereby the CPA or attorney breaks out joint filers' income separately into different income categories. An FSA official said he would expect to see a detailed breakout of income for a joint filer separate from the certification statement, and the participant's AGI should match the AGI on the certification statement.

<sup>18</sup> We reviewed 25 certification statements that had more than one required element missing. The missing elements for the 25 certification statements included: 8 license numbers, 9 required terms and conditions agreements, 18 tax information, and 22 detailed explanations of participants not exceeding AGI limitations.

<sup>19</sup> We reviewed 25 tax returns that participants submitted to FSA State offices for AGI compliance verification. For the 25 tax returns that we reviewed, we found that one program participant received an inaccurate AGI compliance determination.



### *FSA's AGI Compliance Files Did Not Contain All Required Documentation*

We found that 185 of the 232 compliance review files we tested were missing at least one document required in FSA guidance. In 118 compliance review files, more than one of the required documents were missing from the file.

FSA's handbook requires seven specific documents in an AGI compliance review file. These documents include:

- all documentation (CPA or attorney statement, or tax information) received from the person or legal entity;
- a copy of the eligibility system report for participant before completing the review;
- a copy of the original AGI certification (CCC-941 or CPA or attorney certification);
- a copy of the average AGI calculation worksheet;
- a copy of the eligibility system report for participant after the SED determination was updated in the web eligibility file, if applicable;
- a copy of the written notice of determination or completion of the review sent to the person or legal entity; and
- the AGI compliance review checklist.

The table below illustrates the required documents that were missing from the compliance review files.

**Table 2: Number of Missing Documents from OIG's Review of AGI Compliance Files**

<b>Missing Document</b>	<b>Number of Instances</b>
AGI Compliance Review Checklist	24
Participant Report in FSA's Eligibility System Before State Office Determination	5
Original AGI Certification Statement from the Participant	16
Average AGI Calculation Worksheet	16
Participant Report in FSA's Eligibility System After State Office Determination	6
Multiple Missing Documents in Compliance Review Files <sup>20</sup>	118

<sup>20</sup> We reviewed 118 AGI compliance review files that had more than one document missing from the file. The missing documents from the 118 AGI compliance review files included: 78 AGI compliance review checklists; 85 participant reports in FSA's eligibility system before State office determination; 57 original certification statements from the participant; 32 average AGI calculation worksheets; 35 participant reports in FSA's eligibility system after

State office officials told us that they have not received training on the requirements for the AGI compliance review process. Furthermore, many State officials stated that they were new to the AGI compliance review process due to staff turnover. Therefore, officials interpreted the documentation requirements for compliance review files in FSA's handbook differently. For example, officials at one State office told us that they did not believe the average AGI calculation worksheet was required due to the changes made to AGI requirements in the 2014 Farm Bill. Officials at two State offices did not provide determination letters to participants because they believed that AGI compliance files remain open indefinitely for participants who did not respond to FSA's AGI letters. Officials at other State offices were unsure as to when an AGI compliance review checklist was actually required and did not complete the checklist for participants who did not respond to FSA AGI letters. Although the lack of documentation did not result in an inaccurate determination, there is the potential for FSA staff to make an inaccurate determination, thus allowing participants either to be improperly denied or to receive payments for which they are not eligible.

In conclusion, we found that the FSA compliance review process adequately ensured the participants reviewed met income eligibility limits, as we did not identify any ineligible participants deemed eligible for payments. However, we found that FSA State offices did not consistently implement the AGI compliance review process. Specifically, State offices did not consistently follow FSA's AGI handbook instructions for ensuring required elements were included in certification statements and all required documentation was included in the participants' compliance review files. Therefore, we believe FSA can strengthen controls to provide greater assurance that program participants are complying with AGI limitation requirements by taking actions such as issuing a notice and providing training to the State offices. FSA officials generally agreed with our finding and recommendations.

## **Recommendation 1**

FSA should issue a notice to the State offices to emphasize the requirements of an acceptable certification statement.

## **Agency Response**

In its June 6, 2019, response FSA stated:

FSA issued procedure Notice PL-277 on August 3, 2018, in response to a Government Accountability Office audit that had similar findings. Notice PL-277 provided a reminder to State FSA offices that re-emphasized the key elements that make an acceptable CPA or attorney certification statement for AGI purposes.

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State office determination; 8 FSA determination notices to participant; and 1 documentation received from participant.

## **OIG Position**

We accept management decision on this recommendation.

## **Recommendation 2**

FSA should provide training to the State office staff who conduct AGI reviews to ensure they understand the requirements of the AGI compliance review process. At a minimum, this training should communicate element requirements for an acceptable certification statement and documents that should be included in an AGI compliance review file.

## **Agency Response**

In its June 6, 2019, response FSA stated:

FSA is planning to conduct training with the State FSA Office Specialists prior to December 31, 2019, on all aspects of AGI rules, including conducting AGI compliance reviews. The method of training will likely be a webinar with a prepared presentation.

## **OIG Position**

We accept management decision on this recommendation.

## Section 2: NRCS Identification and Recovery of Improper Payments

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### Finding 2: NRCS Needs to Revise Procedures for Identifying AGI ineligible Participants and Recovering Improper Payments

NRCS did not have adequate procedures to accurately identify AGI participant eligibility and timely recover improper payments made to participants whose income exceeded the AGI limit. This occurred due to weaknesses in NRCS' controls over the program staff's process of updating AGI eligibility information. As a result, NRCS lacks assurance that it has identified all improper payments to be recovered, which hampers the agency's timely collection of these improper payments.

Guidance on internal control was issued by GAO in September 2014, when it published the *Standards for Internal Control in the Federal Government*.<sup>21</sup> These standards provide program managers with criteria for designing, implementing, and operating an effective system of internal control. Principle 16 of those standards states that management should establish and operate activities to monitor the internal control system and evaluate the results. OMB Circular A-123 provides guidance to Federal managers on improving the accountability and effectiveness of Federal programs and operations by identifying and managing risks, and establishing requirements to assess, correct, and report on the effectiveness of internal controls.<sup>22</sup> The circular states that management is also responsible for establishing and maintaining internal controls to achieve specific internal control objectives related to operations, reporting, and compliance.

For individuals participating in NRCS conservation programs, noncompliance with program regulations governing the average AGI limitation results in ineligibility for all program benefits.<sup>23</sup> Program benefits received by ineligible participants are considered improper payments. The Improper Payments Information Act of 2002 defines an improper payment as any payment that should not have been made and includes any payment to an ineligible recipient.<sup>24</sup>

To evaluate NRCS' process for identifying and recovering improper payments, we requested that NRCS provide applicable guidance governing the process and a complete list of participants who had been determined AGI ineligible yet received payments in FYs 2014–2018. We determined that NRCS' process was to issue annually a national bulletin that required the State and local offices to identify AGI ineligible participants, determine payment collection amounts, send collection letters to the participants, and collect the improper payments.<sup>25</sup>

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<sup>21</sup> GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Sep. 2014).

<sup>22</sup> OMB, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Circular A-123 (July 15, 2016).

<sup>23</sup> 7 CFR §1400.502(c).

<sup>24</sup> Improper Payments Information Act of 2002, Pub. L. No. 107-300, 116 Stat. 2350.

<sup>25</sup> The most recent national bulletin during our review was NRCS National Bulletin 440-17-15, *Adjusted Gross Income Eligibility Determination Changes for Programs Managed in ProTracts*, issued Aug. 30, 2017, and expiring Jan. 31, 2018.

NRCS provided a list of 60 participants the NRCS contract system identified as AGI ineligible and that had received payments. In our review of NRCS guidance and the 60 identified ineligible participants who received payments, we found that internal control weaknesses existed in the identification and recovery process that resulted in inaccurate participant eligibility status information and delays in the collection process:

#### *Eligible Participants Inaccurately Reflected as Ineligible in the NRCS Contract System*

We found 33 of the 60 participants identified by NRCS as ineligible participants receiving payments were actually eligible, meaning that they were in compliance with AGI program limitations. This occurred due to a delay in NRCS program staff updating the NRCS contract system once FSA completed its AGI compliance review process.<sup>26</sup> We found that, while NRCS' national bulletin indicated that new AGI/IRS verifications and State Executive Director (SED) determinations will automatically be updated in the NRCS contract system, the eligibility status information is not updated in the NRCS system until NRCS program staff opens a contract. Once the contract is opened, the NRCS program staff must then select the option to update eligibility and retrieve the data from the FSA eligibility system. Because NRCS program staff accesses contracts only during certain contract activities, such as when applications are signed or funded and when payments are made, NRCS program staff does not always timely update eligibility status in the NRCS contract system. As a result, in these 33 cases, participants were eligible to receive payments, as they had an AGI eligible status in the FSA eligibility system. However, the NRCS system identified them as ineligible, and NRCS considered their payments as improper.

#### *Delays in Identifying and Recovering Improper Payments*

For the remaining 27 participants, we found 5 cases where collection of the improper payment was not necessary or appropriate.<sup>27</sup> We found that in 21 of the 22 remaining cases,<sup>28</sup> NRCS did not seek timely recovery of improper payments.<sup>29</sup> The agency averaged 422 days between FSA's final AGI determination and NRCS' notification to the participant seeking recovery. We determined the primary reason for the delays was due to NRCS' policy to only perform collection efforts annually for identified improper payments. In addition, we determined that, in other cases, the annual process did not effectively identify an improper payment for recovery. For example, one participant was determined to be ineligible on September 14, 2015. However, NRCS did not send the repayment request to the participant until June 19, 2018—a delay of 1,009 days. We

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<sup>26</sup> Although NRCS can make payments to participants once they sign the contract and self-certify on the CCC-941 that they are below the AGI limit, the process is designed so that if FSA later identifies a participant with the AGI status as *ineligible* during its AGI compliance review process, NRCS will seek recovery of the improper payment.

<sup>27</sup> For the five participants, two participants had their improper payments waived by a State conservationist. For the other three participants, an AGI determination (eligible/ineligible) had not been rendered at the time of our review.

<sup>28</sup> One case involved a 2016 participant whose AGI status was *Not Filed*. The NRCS State office told us that it was unaware that AGI eligibility had not been established for the participant. The State office indicated it was considering forgiving repayment of this improper payment received by the participant due to NRCS errors.

<sup>29</sup> We found that NRCS collected improper payments from 11 of the 21 participants for a total of \$274,105.

determined that, at a minimum, one annual collection process occurred between the date of ineligible determination and the repayment request.

Furthermore, in our review of the NRCS national bulletin, we noted the agency did not oversee or monitor the accuracy of the results from the process for identifying and recovering improper payments. Specifically, the process placed the burden of the identification and collection of improper payments on the local field office without effective monitoring or evaluating from the NRCS National office for the results of those activities.

We acknowledge that NRCS, once it was made aware of these issues, timely responded by developing and implementing a new process with the National, State, and local offices to identify improper payments due to AGI noncompliance. In August 2018, NRCS issued a new national bulletin setting forth revised controls and procedures that addressed the issues found in the OIG review.<sup>30</sup> While we note the new guidance is not permanent and will expire if not renewed, this revised guidance provides for a number of improvements over the previous process. Rather than place responsibility on the State and local field offices for the identification of AGI ineligible participants, the National office will issue AGI compliance reports on a monthly basis. In addition, the new guidance states that the States will be required to document AGI collections on a shared web-based site accessible by both the National office and State offices. The National office will monitor the shared site on a monthly basis and follow up with any State not completing timely collections of improper payments due to AGI noncompliance.

We conclude that while the new national bulletin of revised controls and procedures is an improvement in addressing the issues OIG found, NRCS would further benefit by issuing permanent guidance for these controls. Additionally, we believe that NRCS would benefit from improved National office oversight of the AGI ineligible identification and collections process conducted at the State and local field office levels. NRCS agreed that it should implement a more frequent process for identifying and collecting improper payments, and increase its National office oversight of this process.

### **Recommendation 3**

NRCS should develop permanent guidance that implements a process more frequently than annually to identify and collect improper payments due to AGI ineligibility. This process should include more frequent updates to AGI eligibility in the NRCS system based on when determinations are made as opposed to when contract actions are taken.

### **Agency Response**

In its June 6, 2019, response NRCS stated:

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<sup>30</sup> NRCS, *PGM—Adjusted Gross Income Eligibility Determination Changes for Programs Managed in ProTracts*, National Bulletin: 440-18-22 (issued Aug. 27, 2018, and expiring Jan. 31, 2020).



The NRCS agrees with the recommendations 3 and 4 and has posted National Instructions (NI) 440-308 '*Adjusted Gross Income (AGI) Determination Changes for Programs Managed in ProTracts*' to the eDirectives website on May 30, 2019, at: <https://directives.sc.egov.usda.gov/default.aspx>. The national instruction identifies that the NRCS National Headquarters (NHQ) office will run the report monthly to identify participants whose AGI eligibility has changed to an ineligible status. States are then responsible for completing reviews for the identified participants. If an improper payment is identified, the state must initiate collections and document the status for all contracts listed on the AGI Ineligible Report. NHQ will review this report monthly to verify that States are pursuing timely collection of improper payments.

## **OIG Position**

We accept management decision on this recommendation.

## **Recommendation 4**

NRCS should implement National office oversight of the AGI ineligible collection process conducted at the State and local field office level.

## **Agency Response**

In its June 6, 2019, response NRCS stated:

The NRCS agrees with the recommendations 3 and 4 and has posted National Instructions (NI) 440-308 '*Adjusted Gross Income (AGI) Determination Changes for Programs Managed in ProTracts*' to the eDirectives website on May 30, 2019, at: <https://directives.sc.egov.usda.gov/default.aspx>. The national instruction identifies that the NRCS National Headquarters (NHQ) office will run the report monthly to identify participants whose AGI eligibility has changed to an ineligible status. States are then responsible for completing reviews for the identified participants. If an improper payment is identified, the state must initiate collections and document the status for all contracts listed on the AGI Ineligible Report. NHQ will review this report monthly to verify that States are pursuing timely collection of improper payments.

## **OIG Position**

We accept management decision on this recommendation.

## Scope and Methodology

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We conducted this audit to evaluate FSA's compliance with the income verification process requirements to ensure the accuracy of payments for USDA's farm and conservation programs. Specifically, we developed audit steps to assess the adequacy of FSA's compliance review process and determine if NRCS sought recovery of ineligible payments.

The scope of this audit was to review FSA's compliance with the income verification requirements to ensure the accuracy of FY 2017 payments for USDA's farm and conservation programs. In addition, we reviewed NRCS' process for recovery of ineligible payments since FY 2014.<sup>31</sup> Overall, we received compliance review files from 31 FSA State offices and payment recovery files from 19 NRCS State offices. We conducted fieldwork onsite at the FSA and NRCS national offices in Washington, D.C., 11 FSA State offices, and 3 NRCS State offices from January through August 2018. The remaining 20 FSA and 16 NRCS State offices were not visited by the audit team. Exhibit A provides a breakout of the State offices.

The audit team defined the audit universe comprising 4,076 AGI compliance reviews. The audit team non-statistically selected 89 participants. Of the remaining 3,987 participants, the audit team selected a random sample of 200 participants.<sup>32</sup> For NRCS, we reviewed all 60 participants covering 19 State offices identified in the universe provided by NRCS.

Of the 289 participants selected for FSA covering 31 State offices, not all reviews had received an AGI determination from FSA and would, therefore, be considered to have a complete compliance file. We found 57 compliance review files that did not constitute a complete review.<sup>33</sup> Based on all of these factors, when we discuss compliance files reviewed, the universe is 232 of those 289 total participants sampled.

To accomplish our objectives, we performed the following audit procedures:

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<sup>31</sup> The scope of our review of NRCS' recovery of ineligible payments expanded covering from only those made in FY 2017 to including those made between October 1, 2013, to May 2, 2018, to adjust for the length of time necessary to complete the appeals and recovery of ineligible payments processes.

<sup>32</sup> See Exhibit B for more detail on sampling methodology.

<sup>33</sup> We found 36 files in our sample in which participants submitted their CCC-941 to FSA certifying they were below the AGI income limit; however, when the IRS checked these participants, they found that they exceeded AGI limits. These participants then admitted to the FSA State office, after receiving FSA's AGI notification letter, that they exceeded AGI limits. Therefore, no compliance reviews were conducted for these participants. In addition, we found 20 files in which reviews were still in process and the participants had not received an AGI determination from FSA during the time of our review. For one file in our sample, the State office determined compliance without conducting an AGI compliance review because it was a new limited liability corporation formed in 2017 with no prior tax submissions.

At FSA, we:

- Reviewed laws, regulations, policies, procedures, and other published guidance governing the AGI verification process;
- Interviewed FSA officials to understand the agency's policies, procedures, and practices for the compliance process for AGI verification;
- Obtained and analyzed farm and conservation program compliance reviews data subject to the AGI requirements as outlined in the Agricultural Act of 2014; and
- Selected a sample of FSA's compliance review files, based on the analysis done during the survey phase, to evaluate FSA State offices' compliance with agency guidance and to understand the offices' rationale for their eligibility determinations.

At NRCS, we:

- Reviewed laws, regulations, policies, procedures, and other published guidance governing the AGI verification process;
- Identified and collected nationwide NRCS data on recovery of ineligible payments;
- Performed analysis of system controls for updating AGI eligibility in the NRCS contract system using the FSA Subsidiary Systems eligibility web service;
- Analyzed the recovery of ineligible payments by NRCS; and
- Interviewed NRCS officials to understand the agency's policies, procedures, and practices used to recover ineligible payments.

We relied on the work of specialists to develop the sampling methodology and select a statistical sample of participants subject to AGI eligibility limits. We obtained documentation to ensure these specialists were qualified professionally, competent in the work we relied upon, and met independence standards.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform this audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Abbreviations

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AGI .....	Adjusted Gross Income
CCC.....	Commodity Credit Corporation
CPA.....	Certified Public Accountant
FY .....	fiscal year
FSA .....	Farm Service Agency
FPAC.....	Farm Production and Conservation
GAO .....	Government Accountability Office
IRS .....	Internal Revenue Service
NAD .....	National Appeals Division
NRCS .....	Natural Resources Conservation Service
OIG .....	Office of Inspector General
SED .....	State Executive Director
USDA.....	Department of Agriculture

## Exhibit A: Listing of State Offices

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We obtained information from 31 FSA and 19 NRCS State offices during the review. The tables below show the listing of those offices visited on-site versus those the audit team did not travel to for fieldwork.

We conducted site visits at the following 11 FSA and 3 NRCS State offices during the review. The table is divided by agency and location of the office visited.

<b>FSA State Offices</b>	<b>Location</b>
Alabama	Montgomery, AL
Illinois	Springfield, IL
Iowa	Des Moines, IA
Kansas	Manhattan, KS
Louisiana	Alexandria, LA
Minnesota	St. Paul, MN
Mississippi	Jackson, MS
Nebraska	Lincoln, NE
North Dakota	Fargo, ND
Oklahoma	Stillwater, OK
Texas	College Station, TX
<b>NRCS State Offices</b>	<b>Location</b>
Alabama	Auburn, AL
Mississippi	Jackson, MS
Texas	Temple, TX

The remaining 20 FSA and 16 NRCS State offices provided information used during the engagement, but were not visited in person. We have sorted the list by agency.

<b>FSA State Offices</b>	<b>NRCS State Offices</b>
Arizona	California
Arkansas	Colorado
California	Florida
Colorado	Iowa
Florida	Kansas
Georgia	Maine
Hawaii	Maryland
Idaho	Massachusetts
Indiana	Missouri
Kentucky	New Mexico
Maine	New Jersey
Maryland	North Carolina
Michigan	Pennsylvania
Missouri	Rhode Island
New Mexico	Tennessee
Ohio	Wisconsin
South Dakota	
Tennessee	
Wisconsin	
Wyoming	



## **Exhibit B: Sampling Methodology for Adjusted Gross Income Compliance Verification Process**

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### **Objective**

This statistical sample was designed to support OIG Audit 50024-0003-22. The objectives of this audit were to evaluate FSA's compliance with the income verification process requirements to ensure the accuracy of payments for USDA's farm and conservation programs. Specifically, the objectives were as follows:

- (1) Assess the adequacy of FSA's compliance reviews of tax returns and CPAs' and attorneys' statements to determine income eligibility of each participant;
- (2) Determine if participants' review files contained required documentation;
- (3) Determine if participants met income eligibility limits; and
- (4) Determine if NRCS sought recovery of ineligible payments.

Since we reviewed all of NRCS' ineligible payments, sampling was not needed to achieve objective 4. To help achieve the other objectives, we developed a representative statistical random sample of FSA's AGI compliance reviews.

### **Audit Universe**

The population of interest was comprised of 4,076 AGI compliance reviews with codes on March 28, 2018, indicating one of the following conditions:

- A. IRS failed to verify but FSA eventually determined the recipients did or did not comply with AGI limits (29); or
- B. IRS determined the recipients were probably not compliant with AGI limits (4,047).

### **Sample Design**

We reviewed the following:

- All of the 29 in category A;
- All 3 of the 4,047 in category B that FSA classified as mismatch verified;
- All 57 in category B residing in Alabama; and
- A sample of 200 of the remaining 3,987 ( $= 4,047 - 57 - 3$ ) in category B not residing in Alabama and not classified by FSA as mismatch verified.

In summary, we reviewed a census of 89 ( $= 29 + 3 + 57$ ) and sample of 200.

We considered various designs for the sample of 200 and ultimately chose to select them randomly without replacement.<sup>34</sup>

The sample size was determined based on the following factors:

- Number in audit universe eligible for selection: 3,987 AGI compliance reviews;
- Confidence level: We wanted to report two-tailed 95 percent confidence intervals (CI);
- Precision: We wanted to report CI no wider than 20 percent (for example, precision is  $\pm 10$  percent if CI is symmetrical around point estimate) and anticipating the need to estimate several proportions simultaneously;<sup>35</sup> and
- Expected exception rate: Except for Alabama, we did not have reliable historical information to help estimate exception rates, and, as anticipated, these rates varied significantly across States.

## Results

Since FSA State offices did not consistently implement the AGI compliance review process, exception rates varied significantly across States but very little within any individual State. Because these exception rates depend so heavily on which State office conducted the AGI compliance reviews, we decided not to statistically project average exception rates for the Nation as a whole.

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<sup>34</sup> These correspond with the first 200 random numbers selected with ACL's "Generate Random Numbers" tool with the following choices: seed 847, minimum 1, maximum 3987, and unique. The seed of 847 was obtained with MS Excel's randbetween function.

<sup>35</sup> See §5.4 of *Sampling* Third Ed. (2012) by Steven K. Thompson for elaboration on sample sizes for estimating CI for several proportions simultaneously.



**AGENCY'S  
RESPONSE TO AUDIT REPORT**



Farm Production  
and Conservation

Performance,  
Accountability  
and Risk  
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**DATE:** June 6, 2019

**TO:** Yaris Rivera Rojas  
Acting Assistant Inspector General for Audit  
Office of Inspector General

**FROM:** Kenneth Hill, Director /s/  
Performance, Accountability, and Risk Division

**SUBJECT:** Response to Official Draft – Audit 50024-0003-22:  
Adjusted Gross Income Compliance Verification Process

**Recommendation 1 to Farm Service Agency (FSA)**

FSA should issue a notice to the State offices to emphasize the requirements of an acceptable certification statement.

**FSA Response**

FSA issued procedure Notice PL-277 on August 3, 2018, in response to a Government Accountability Office audit that had similar findings. Notice PL-277 provided a reminder to State FSA Offices that re-emphasized the key elements that make an acceptable CPA or attorney certification statement for AGI purposes.

**Recommendation 2 to FSA**

FSA should provide training to the State office staff who conduct AGI reviews to ensure they understand the requirements of the AGI compliance review process. At a minimum, this training should communicate element requirements for an acceptable certification statement and documents that should be included in an AGI compliance review file.

**FSA Response**

FSA is planning to conduct training with the State FSA Office Specialists prior to December 31, 2019, on all aspects of AGI rules, including conducting AGI Compliance Reviews. The method of training will likely be a webinar with a prepared presentation.

**Recommendation 3 to Natural Resources Conservation Service (NRCS)**

NRCS should develop permanent guidance that implements a process more frequently than annually to identify and collect improper payments due to AGI ineligibility. This process should include more frequent updates to AGI eligibility in the NRCS system based on when determinations are made as opposed to when contract actions are taken.

**Recommendation 4 to NRCS**

NRCS should implement national office oversight of the AGI ineligible collection process conducted at the State and local field office level.

**NRCS Response**

The NRCS agrees with the recommendations 3 and 4 and has posted National Instructions (NI) 440-308 '*Adjusted Gross Income (AGI) Determination Changes for Programs Managed in ProTracts*' to the eDirectives website on May 30, 2019, at: <https://directives.sc.egov.usda.gov/default.aspx>. The national instruction identifies that the NRCS National Headquarters (NHQ) office will run the report monthly to identify participants whose AGI eligibility has changed to an ineligible status. States are then responsible for completing reviews for the identified participants. If an improper payment is identified, the state must initiate collections and document the status for all contracts listed on the AGI Ineligible Report. NHQ will review this report monthly to verify that States are pursuing timely collection of improper payments.



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