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FEDERAL FARM PROGRAMS

USDA Needs to Strengthen Management Controls to Prevent Improper Payments to Estates and Deceased Individuals

Statement of Lisa Shames, Director
Natural Resources and Environment





Highlights of [GAO-07-1137T](#), a testimony before the Committee on Finance, U.S. Senate

FEDERAL FARM PROGRAMS

USDA Needs to Strengthen Management Controls to Prevent Improper Payments to Estates and Deceased Individuals

Why GAO Did This Study

Farmers receive about \$20 billion annually in federal farm program payments, which go to individuals and “entities,” including corporations, partnerships, and estates. Under certain conditions, estates may receive payments for the first 2 years after an individual’s death. For later years, the U.S. Department of Agriculture (USDA) must determine that the estate is not being kept open primarily to receive farm program payments.

This testimony is based on GAO’s report, *Federal Farm Programs: USDA Needs to Strengthen Controls to Prevent Improper Payments to Estates and Deceased Individuals* (GAO-07-818, July 9, 2007). GAO discusses the extent to which USDA (1) follows its regulations that are intended to provide reasonable assurance that farm program payments go only to eligible estates and (2) makes improper payments to deceased individuals.

What GAO Recommends

GAO recommended that USDA conduct all required annual estate eligibility determinations, implement management controls to verify that an individual receiving program payments has not died, and in cases of improper payments, recover the appropriate amounts. USDA agreed with these recommendations and has begun actions to implement them, such as directing its field offices to review the eligibility of all estates open for more than 2 years.

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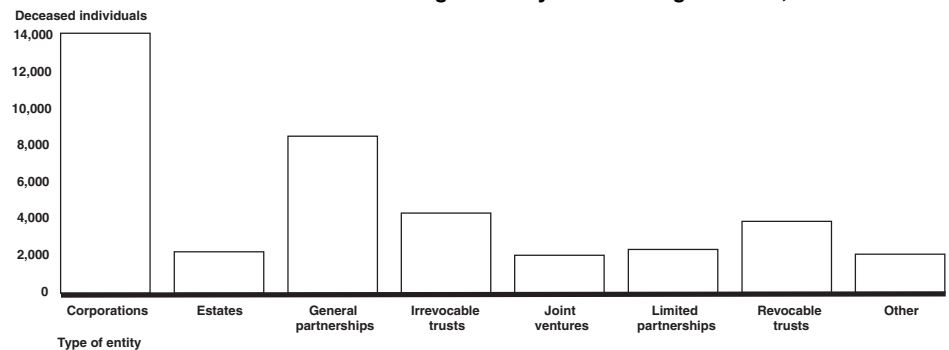
To view the full product, including the scope and methodology, click on the link above. For more information, contact Lisa Shames at (202) 512-3841 or shamesl@gao.gov.

What GAO Found

USDA has made farm program payments to estates more than 2 years after recipients died, without determining, as its regulations require, whether the estates were kept open to receive these payments. As a result, USDA cannot be assured that farm payments are not going to estates kept open primarily to obtain these payments. From 1999 through 2005, USDA did not conduct any of the required eligibility determinations for 73, or 40 percent, of the 181 estates GAO reviewed. Sixteen of these 73 estates had each received more than \$200,000 in farm payments, and 4 had each received more than \$500,000. Only 39 of the 181 estates received all annual determinations as required. Even when FSA conducted determinations, we found shortcomings. For example, some USDA field offices approved groups of estates for payments without reviewing each estate individually or without a documented explanation for keeping the estate open.

USDA also cannot be assured that it is not making improper payments to deceased individuals. For 1999 through 2005, USDA paid \$1.1 billion in farm payments in the names of 172,801 deceased individuals (either as an individual recipient or as a member of an entity). Of this total, 40 percent went to those who had been dead for 3 or more years, and 19 percent to those dead for 7 or more years. Most of these payments were made to deceased individuals indirectly (i.e., as members of farming entities). For example, over one-half of the \$1.1 billion in payments went through entities from 1999 through 2005. In one case, USDA paid a member of an entity—deceased since 1995—over \$400,000 in payments for 1999 through 2005. USDA relies on a farming operation’s self-certification that the information it provides USDA is accurate; operations are also required to notify USDA of any changes, such as the death of a member. Such notification would provide USDA with current information to determine the eligibility of the operation to receive payments. The complex nature of some farming operations—such as entities embedded within other entities—can make it difficult for USDA to avoid making payments to deceased individuals.

Number of Deceased Individuals Receiving Farm Payments through Entities, 1999-2005



Source: GAO’s analysis of USDA’s data.

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the U.S. Department of Agriculture's (USDA) actions to prevent improper payments to estates and deceased individuals. My testimony today is based on our report just released on this subject, which was requested by the Ranking Member of the Senate Committee on Finance.¹ Farmers receive about \$20 billion annually in federal farm program payments for crop subsidies, conservation practices, and disasters. The magnitude of these payments, along with our work showing that USDA's enforcement of support program rules is not always effective, is why we observed in November 2006, that USDA needs to provide better oversight of farm program payments.² Without better oversight to ensure that farm program funds are spent as economically, efficiently, and effectively as possible, we pointed out, USDA has little assurance that these funds benefit the agricultural sector as intended.

Currently, farm program payments go to 1.7 million recipients, both individuals and "entities," including corporations, partnerships, and estates. The Agricultural Reconciliation Act of 1987 (1987 Act) limits payments to individuals and entities that are "actively engaged in farming." We reported in 2004 that because USDA's regulations ensuring that recipients are actively engaged in farming do not specify measurable standards, they allow individuals with limited involvement in farming to qualify for farm program payments.³ Individuals may receive farm program payments indirectly through as many as three entities.⁴

¹GAO, *Federal Farm Programs: USDA Needs to Strengthen Controls to Prevent Improper Payments to Estates and Deceased Individuals*, [GAO-07-818](#) (Washington, D.C.: July 9, 2007).

²GAO, *Suggested Areas for Oversight for the 110th Congress*, [GAO-07-235R](#) (Washington, D.C.: Nov. 17, 2006).

³GAO, *Farm Program Payments: USDA Needs to Strengthen Regulations and Oversight to Better Ensure Recipients Do Not Circumvent Payment Limitations*, [GAO-04-407](#) (Washington, D.C.: April 30, 2004). We recommended that USDA strengthen its regulations for active engagement in farming.

⁴Under the "three-entity rule," a person—an individual or entity—can receive program payments through no more than three entities in which the person holds a substantial beneficial interest. A person can receive payments (1) as an individual and as a member of no more than two entities or (2) through three entities and not as an individual. FSA defines a substantial beneficial interest as 10 percent or more.

From 1999 through 2005, USDA, through its Farm Service Agency (FSA), made 124 million farm program payments totaling about \$130 billion. Over \$200 million of this amount went to nearly 42,000 estates. Under certain conditions, estates may receive payments for the first 2 years after an individual's death. For later years, FSA must determine that the estate is not being kept open primarily to receive farm program payments.

Today, I would like to discuss the two key findings in our report. First, FSA made farm program payments to estates more than 2 years after recipients had died without determining whether the estates were being kept open primarily for the purpose of receiving these payments, as its regulations require. As a result, FSA cannot be assured that farm program payments made to these estates are proper. According to FSA field officials, many eligibility determinations were either not done or not done thoroughly, in part because of a lack of sufficient personnel and time, as well as competing priorities for carrying out farm programs.

Second, we found that FSA unknowingly paid \$1.1 billion in farm program payments in the names of 172,801 deceased individuals (either as an individual or as a member of an entity) from 1999 through 2005. FSA cannot be assured that the farm payments it made are proper because it does not have management controls, such as computer matching, to verify that it is not making payments to deceased individuals. Instead, FSA relies on self-certifications by farming operations that the information provided is accurate and that the operations will inform FSA of any changes, including the death of an operation's member.

We have referred the cases of improper payments we identified to USDA's Office of Inspector General for further investigation. USDA agreed with our recommendations for improving USDA's ability to prevent improper payments to estates and deceased individuals and already has begun to take actions to implement them. In particular, USDA has directed its field offices to review the eligibility of all estates that have been open for more than 2 years and requested 2007 farm program payments.

We conducted our review from June 2006 through May 2007 in accordance with generally accepted government auditing standards. To perform our work, we reviewed a nonrandom sample of estates based, in part, on the amount of payments an estate received. We also compared the payment recipients in USDA's databases with individuals that the Social Security Administration has identified as deceased in its Death Master File.

FSA Does Not Systematically Determine the Eligibility of Estates for Farm Program Payments and Cannot Be Assured That Payments Are Proper

While many estates are kept open for legitimate reasons, we found that FSA field offices do not systematically determine the eligibility of all estates kept open for more than 2 years, as regulations require, and when they do conduct eligibility determinations, the quality of the determinations varies. Without performing annual determinations, an essential management control, FSA cannot identify estates being kept open primarily to receive these payments and be assured that the payments are proper.

Generally, under the 1987 Act, once a person dies, farm program payments may continue to that person's estate under certain conditions. For most farm program payments, USDA regulations allow an estate to receive payments for the first 2 years after the death of the individual if the estate meets certain eligibility requirements for active engagement in farming. Following these 2 years, the estate can continue to receive program payments if it meets the active engagement in farming requirement and the local field office determines that the estate is not being kept open primarily to continue receiving program payments. Estates are commonly kept open for longer than 2 years because of, among other things, asset distribution and probate complications, and tax and debt obligations. However, FSA must annually determine that the estate is still active and that obtaining farm program payments is not the primary reason it remains open.

Our review of FSA case file documents found the following.

First, we found FSA did not consistently make the required annual determinations. Only 39 of the 181 estates we reviewed received annual eligibility determinations for each year they were kept open beyond the initial 2 years FSA automatically allows, although we found shortcomings with these determinations, as discussed below. In addition, 69 of the 181 estates had at least one annual determination between 1999 and 2005, but not with the frequency required. Indeed, the longer an estate was kept open, the less likely it was to receive all required determinations. For example, only 2 of the 36 estates requiring a determination every year over the 7-year period, 1999 through 2005, received all seven required determinations.

FSA did not conduct any program eligibility determinations for 73, or 40 percent, of the 181 estates that required a determination from 1999 through 2005. Because FSA did not conduct the required determinations, the extent to which these estates remained open for reasons other than for obtaining program payments is not known. Sixteen of these 73 estates

received more than \$200,000 in farm program payments and 4 received more than \$500,000 during this period. In addition, 22 of the 73 estates had received no eligibility determinations during the 7-year period we reviewed, and these estates had been open and receiving payments for more than 10 years. In one case, we found that the estate has been open since 1973.

The following estates received farm program payments but did not receive FSA eligibility determinations for the period we reviewed:

- A North Dakota estate received farm program payments totaling \$741,000 from 1999 through 2003.
- An Alabama estate—opened since 1981—received payments totaling \$567,000 from 1999 through 2005.
- Two estates in Georgia—opened since 1989 and 1996, respectively—received payments totaling more than \$330,000 each, from 1999 through 2005.
- A New Mexico estate, open since 1991, received \$320,000 from 1999 through 2005.

Second, even when FSA conducted at least one eligibility determination, we found shortcomings. FSA sometimes approved eligibility for payments when the estate had provided insufficient information—that is, either no information or vague information. For example, in 20 of the 108 that received at least one eligibility determination, the minutes of FSA county committee meetings indicated approval of eligibility for payments to these estates, but the associated files did not contain any documents that explained why the estate remained active. FSA also approved eligibility on the basis of insufficient explanations for keeping the estate open. In five cases, executors explained that they did not want to close the estate but did not explain why. In a sixth case, documentation stated that the estate was remaining active upon the advice of its lawyers and accountants, but did not explain why.

Some FSA field offices approved program payments to groups of estates kept open after 2 years without any apparent determination. In one case in Georgia, minutes of an FSA county committee meeting listed 107 estates as eligible for payments by stating that the county committee approved all estates open over 2 years. Two of the estates on this list of 107 were part of the sample that we reviewed in detail. In addition, another 10 estates in

our sample, from nine different FSA field offices, were also approved for payments without any indication that even a cursory determination had been conducted.

Third, the extent to which FSA field offices make eligibility determinations varies from state to state, which suggests that FSA is not consistently implementing its eligibility rules. Overall, FSA field offices in 16 of the 26 states we reviewed made less than one-half of the required determinations of their estates from 1999 to 2005. The percentage of estates reviewed by FSA ranged from 0 to 100 percent in the states we reviewed.

Eligibility determinations could also uncover other problems. Under the three-entity rule, individuals receiving program payments may not hold a substantial beneficial interest in more than two entities also receiving payments. However, because a beneficiary of an Arkansas estate we reviewed received farm program payments through the estate in 2005, as well as through three other entities, the beneficiary was able to receive payments beyond what the three-entity rule would have allowed. FSA was unaware of this situation until we brought it to officials' attention, and FSA has begun taking steps to recover any improper payments. Had FSA conducted any eligibility determinations for this estate during the period, it might have determined that the estate was not eligible for these payments, preventing the beneficiary from receiving what amounted to a payment through a fourth entity.

We informed FSA of the problems we uncovered during the course of our review. According to FSA field officials, a lack of sufficient personnel and time, and competing priorities for carrying out farm programs explain, in part, why many determinations were either not conducted or not conducted thoroughly. Nevertheless, officials told us that they would investigate these cases for potential receipt of improper payments and would start collection proceedings if they found improper payments.

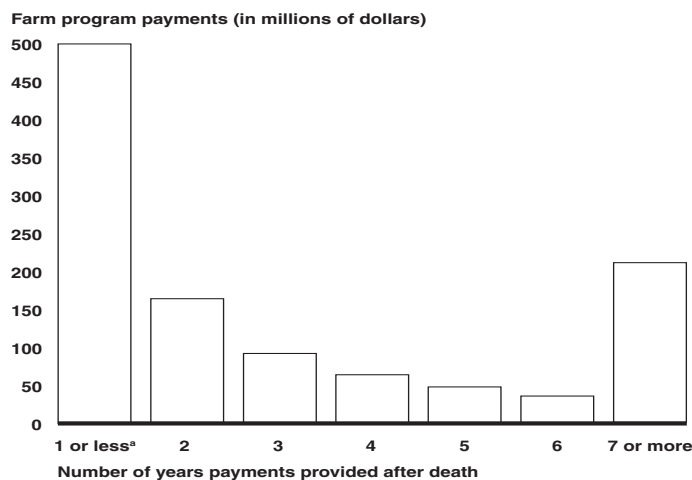
Without Appropriate Management Controls, FSA Cannot Be Assured That It Is Not Making Payments to Deceased Individuals

FSA cannot be assured that millions of dollars in farm program payments it made to thousands of deceased individuals from fiscal years 1999 through 2005 were proper because it does not have appropriate management controls, such as computer matching, to verify that it is not making payments to deceased individuals. In particular, FSA is not matching recipients listed in its payment databases with individuals listed as deceased in the Social Security Administration's Death Master File. In addition, complex farming operations, such as corporations or general partnerships with embedded entities, make it difficult for FSA to prevent improper payments to deceased individuals.

FSA Made Millions of Dollars in Farm Program Payments to Deceased Individuals from Fiscal Years 1999 through 2005

FSA paid \$1.1 billion in farm program payments in the names of 172,801 deceased individuals—either as individuals or as members of entities, from fiscal years 1999 through 2005, according to our matching of FSA's payment databases with the Social Security Administration's Death Master File. Of the \$1.1 billion in farm payments, 40 percent went to individuals who had been dead for 3 or more years, and 19 percent went to individuals who had been dead for 7 or more years. Figure 1 shows the number of years in which FSA made farm program payments after an individual had died and the value of those payments.

Figure 1: Number of Years and Value of Farm Program Payments Made after Individuals' Deaths, Fiscal Years 1999 through 2005



Source: GAO's analysis of FSA's and Social Security Administration's data.

Note: Farm program payments made through entities are based on program year data.

^aIncludes payments made 1 day after death to 1 year after death.

We identified several instances in which FSA's lack of management controls resulted in improper payments to deceased individuals. For example, FSA provided more than \$400,000 in farm program payments from 1999 through 2005 to an Illinois farming operation on the basis of the ownership interest of an individual who had died in 1995.⁵ According to FSA's records, the farming operation consisted of about 1,900 cropland acres producing mostly corn and soybeans. It was organized as a corporation with four shareholders, with the deceased individual owning a 40.3-percent interest in the entity. Nonetheless, we found that the deceased individual had resided in Florida. Another member of this farming operation, who resided in Illinois and had signature authority for the operation, updated the operating plan most recently in 2004 but failed to notify FSA of the individual's death. The farming operation therefore continued to qualify for farm program payments on behalf of the deceased individual. As noted earlier, FSA requires farming operations to certify that they will notify FSA of any change in their operation and to provide true and correct information. According to USDA regulations, failure to do so may result in forfeiture of payments and an assessment of a penalty. FSA recognized this problem in December 2006 when the children of the deceased individual contacted the FSA field office to obtain signature authority for the operation. FSA has begun proceedings to collect the improper payments.

USDA recognizes that its farm programs have management control weaknesses, making them vulnerable to significant improper payments. In its FY 2006 Performance and Accountability Report to the Office of Management and Budget, USDA reported that poor management controls led to improper payments to some farmers, in part because of incorrect or missing paperwork.⁶ In addition, as part of its reporting of improper payments information, USDA identified six FSA programs susceptible to significant risk of improper payments with estimated improper payments totaling over \$2.8 billion in fiscal year 2006, as shown in table 1.

⁵In addition, before the period of our review the operation received farm program payments on behalf of the deceased individual from 1995 through 1998.

⁶See U.S. Department of Agriculture, *FY 2006 Performance and Accountability Report* (Washington, D.C.: Nov. 15, 2006).

Table 1: USDA Estimates of Improper Payments, Fiscal Year 2006

Dollars in millions

Program	Estimated improper payments	Percent error rate
Direct and Counter-Cyclical Payments Program	\$424	4.96
Conservation Reserve Program	64	3.53
Disaster assistance programs ^a	291	12.30
Noninsured Assistance Program ^b	25	22.94
Loan deficiency payments provided under the Marketing Assistance Loan Program	443	9.25
Other benefits provided under the Marketing Assistance Loan Program	1,611	20.26
Total/average	\$2,858	11.17

Source: USDA's FY 2006 Performance and Accountability Report.

Note: USDA's estimates include improper payments made to deceased individuals but USDA does not separate these payments from other improper payments.

^aDisaster assistance payments are direct federal payments to crop producers when either planting is prevented or crop yields are abnormally low because of adverse weather and related conditions.

^bThe Noninsured Assistance Program provides financial assistance to producers of non-insured crops when low yields, loss of inventory, or prevented planting occur due to natural disasters. Assistance is limited to crops not eligible for coverage under the federal crop insurance program.

Complex Farming Operations Raise the Potential for Improper Payments to Deceased Individuals

Farm program payments made to deceased individuals indirectly—that is, as members of farming entities—represent a disproportionately high share of post-death payments. Specifically, payments to deceased individuals through entities accounted for \$648 million—or 58 percent of the \$1.1 billion in payments made to all deceased individuals from 1999 through 2005. In contrast, payments to all individuals through entities accounted for \$35.6 billion—or 27 percent of the \$130 billion in farm program payments FSA provided from 1999 through 2005.

The complex nature of some types of farming entities, in particular, corporations and general partnerships, increases the potential for improper payments. For example, a significant portion of farm program payments went to deceased individuals who were members of corporations and general partnerships. Deceased individuals identified as members of corporations and general partnerships received nearly three-quarters of the \$648 million that went to deceased individuals in all entities. The remaining one-quarter of payments went to deceased individuals of other types of entities, including estates, joint ventures,

limited partnerships, and trusts. With regard to the number of deceased individuals who received farm program payments through entities, they were most often members of corporations and general partnerships. Specifically, of the 39,834 deceased individuals who received farm program payments through entities, about 57 percent were listed in FSA's databases as members of corporations or general partnerships.

Furthermore, of the 172,801 deceased individuals identified as receiving farm program payments, 5,081 received more than one payment because (1) they were a member of more than one entity, or (2) they received payments as an individual and were a member of one or more entities.

According to FSA field officials, complex farming operations, such as corporations and general partnerships with embedded entities, make it difficult for FSA to prevent making improper payments to deceased individuals. In particular, in many large farming operations, one individual often holds signature authority for the entire farming operation, which may include multiple members or entities. This individual may be the only contact FSA has with the operation; therefore, FSA cannot always know that each member of the operation is represented accurately to FSA by the signing individual for two key reasons. First, it relies on the farming operation to self-certify that the information provided is accurate and that the operation will inform FSA of any operating plan changes, which would include the death of an operation's member. Such notification would provide USDA with current information to determine the eligibility of the operation to receive the payments. Second, FSA has no management controls, such as computer matching of its payment databases with the Social Security Administration's Death Master File, to verify that an ongoing farming operation has failed to report the death of a member.

Conclusions

FSA has a formidable task—ensuring that billions of dollars in program payments are made only to estates and individuals that are eligible to receive them. The shortcomings we have identified underscore the need for improved oversight of federal farm programs. Such oversight can help to ensure that program funds are spent as economically, efficiently, and effectively as possible, and that they benefit those engaged in farming as intended.

In our report, we recommended that USDA conduct all required annual estate eligibility determinations, implement management controls to verify that an individual receiving program payments has not died, and determine if improper payments have been made to deceased individuals or to

entities that failed to disclose the death of a member, and if so, recover the appropriate amounts. USDA agreed with these recommendations and has already begun actions to implement them.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions that you or other Members of the Committee may have.

Contact and Staff Acknowledgments

Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this testimony. For further information about this testimony, please contact Lisa Shames, Director, Natural Resources and Environment, (202) 512-3841 or shamesl@gao.gov. Key contributors to this testimony were James R. Jones, Jr., Assistant Director; Thomas M. Cook; and Carol Herrnstadt Shulman.

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