United States Government Accountability Office

GAO

Report to Congressional Requesters

July 2012

FARM PROGRAMS

Direct Payments Should Be Reconsidered

G A O

Accountability * Integrity * Reliability

GAO-12-640

Highlights

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Accountability * Integrity * Reliability

Highlights of GAO-12-640, a report to congressional requesters

July 2012

FARM PROGRAMS

Direct Payments Should Be Reconsidered

Why GAO Did This Study

Through one facet of the farm safety net, USDA provides farmers and other producers with fixed annual payments, called direct payments, based on their farms' historical crop production. Direct payments do not vary with crop prices or crop yields. In March 2011, GAO reported on observations and options regarding direct payments and suggested to Congress that they be eliminated or reduced. GAO was asked (1) to provide information regarding the geographic distribution and ownership characteristics of payment recipients, as well as the dollar amount of direct payments made for farms with acreage that qualified, and the amount and types of crops grown on such acreage for years 2003 to 2011, and (2) to examine whether direct payments are aligned with principles significant to integrity, effectiveness, and efficiency in farm bill programs. To conduct this work, GAO analyzed USDA data and interviewed agency officials.

What GAO Recommends

Congress should consider eliminating or reducing direct payments. GAO also recommends that USDA take four actions to improve its oversight of direct payments including developing a systematic process to report on land that may no longer be usable for agriculture, and considering ways to increase the number of cases selected for end-of-year reviews and completing these reviews in a timely manner. USDA generally agreed with two of GAO's recommendations and disagreed with two others, stating that it believes its current processes or practices are adequate. GAO continues to believe that it is important for USDA to take the recommended actions.

View GAO-12-640. For more information, contact Lisa Shames at (202) 512-3841 or shamesl@gao.gov.

What GAO Found

From 2003 through 2011, the U.S. Department of Agriculture (USDA) made more than $46 billion in direct payments to farmers and other producers. These producers planted varying percentages of acres that qualified for payments based on their historical planting yields and designated payment rates (qualifying acres). Cumulatively, USDA paid $10.6 billion—almost one-fourth of total direct payments made from 2003 through 2011—to producers who did not, in a given year, grow the crop associated with their qualifying acres, which they are allowed to do. About 2,300 farms (0.15 percent of farms receiving direct payments) reported all their land as "fallow," and producers did not plant any crops on this land for each year for the last 5 years, from 2007 through 2011; in 2011, these producers received almost $3 million in direct payments.

Direct payments generally do not align with the principles significant to integrity, effectiveness, and efficiency in farm bill programs that GAO identified in an April 2012 report. These payments align with the principle of being "distinctive," in that they do not overlap or duplicate other farm programs. However, direct payments do not align with five other principles. Specifically, they do not align with the following principles:

- *Relevance:* When the precursors to direct payments were first authorized in 1996 legislation, they were expected to be transitional, but subsequent legislation passed in 2002 and 2008 has continued these payments as direct payments. However, in April 2012, draft legislation for reauthorizing agricultural programs through 2017 proposed eliminating direct payments.
- *Targeting:* Direct payments do not appropriately distribute benefits consistent with contemporary assessments of need. For example, they are concentrated among the largest recipients based on farm size and income; in 2011, the top 25 percent of payment recipients received 73 percent of direct payments.
- *Affordability:* Direct payments may no longer be affordable given the United States' current deficit and debt levels.
- *Effectiveness:* Direct payments may have unintended consequences. Direct payments may have less potential than other farm programs to distort prices and production, but economic distortions can result from these payments. For example, GAO identified cases where direct payments support recipients who USDA officials said own farmland that is not economically viable in the absence of these payments.
- *Oversight:* Oversight of direct payments is weak. With regard to oversight, USDA has not systematically reported on land that may no longer be eligible for direct payments because it has been converted to nonfarm uses, as required for annual reporting to Congress. In addition, GAO identified weaknesses in USDA's end-of-year compliance review process. For example, USDA conducts relatively few reviews and generally does not complete these reviews within expected time frames.

Continuing to provide payments that generally do not align with principles significant to integrity, effectiveness, and efficiency in farm bill programs raises questions about the purpose and need for direct payments.

Contents

Tables

Figures

Abbreviations

ACRE	Average Crop Revenue Election
CCC	Commodity Credit Corporation
FSA	Farm Service Agency
GDP	gross domestic product
OIG	Office of Inspector General
USDA	U.S. Department of Agriculture
2008 Farm Bill	The Food, Conservation, and Energy Act of 2008

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United States Government Accountability Office
Washington, DC 20548

July 3, 2012

Congressional Requesters:

From 2006 through 2010, the U.S. Department of Agriculture (USDA) spent about $13 billion annually on federal programs to support farm income, assist farmers after disasters, and conserve natural resources. Through one facet of this farm safety net, USDA provides farmers and other producers with fixed annual payments—called direct payments—based on their farms' historical crop production. USDA makes these payments regardless of whether these producers grow crops, as long as they and their farms meet certain eligibility criteria. Amounting to nearly $5 billion annually since 2002, direct payments do not vary with crop prices, crop yields, or producers' incomes.[1] Unlike other major farm programs, which compensate farmers for declines in price or for lost crops, direct payments go to farmers regardless of risk factors. Direct payments were most recently authorized in the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), and without future action, will expire in September 2012. USDA's Farm Service Agency (FSA) is responsible for administering direct payments and for ensuring that recipients of such payments meet eligibility criteria, and that payment limitations and other applicable provisions are applied.

Increased national budget deficits, record levels of farm income and prices for major crops, and sensitivity within the agricultural industry and among the public to potentially unnecessary budget outlays have heightened concerns about the viability of and need for direct payments. In March 2012, the President's fiscal year 2013 budget called for the elimination of direct payments, noting that more than 50 percent of direct payments go to farmers with more than $100,000 in income and questioning whether taxpayers should continue to "foot the bill."[2] For 2011, USDA reported that net farm income was a record $98.1 billion. For 2012, USDA estimates that net farm income will decline to $91.7 billion—

[1]Under the 2008 Farm Bill, a person or entity whose 3-year average farm income exceeds $750,000 and/or 3-year average non-farm income exceeds $500,000 is ineligible for direct payments.

[2]Office of Management and Budget, *Fiscal Year 2013 Budget: Cutting Waste, Reducing the Deficit, and Asking All To Pay Their Fair Share* (Washington, D.C.: Feb. 13, 2012).

still the second highest level on record. Moreover, according to USDA, the top 5 earnings years for the past 3 decades have occurred since 2004, attesting to the recent profitability of farming. Furthermore, farmland values, another measure of farm prosperity, increased by 85 percent from 2003 through 2011. Since August 2011, the trade associations of five major crops for which the bulk of direct payments are made—corn, cotton, wheat, rice, and soybeans—have stated that direct payments may need to be eliminated in favor of other elements of the government-subsidized farm safety net. In addition, in our March 2011 report on overlap and duplication in federal programs, we made several observations regarding direct payments, and we noted that GAO and others have proposed options to reduce or eliminate direct payments.[3]

In April 2012, we identified certain principles as applicable to Congress's deliberations for the 2012 farm bill and significant to the integrity, effectiveness, and efficiency of farm bill programs, such as direct payments.[4] Specifically, the principles we identified were (1) relevance of program purpose, (2) distinctiveness, (3) targeting benefits, (4) affordability, (5) effectiveness, and (6) oversight. See appendix II for the list of principles and associated key questions.

We have further reported that strengthened oversight of direct payments and other farm program payments can save taxpayer dollars. For example, we reported in July 2007 that USDA made $1.1 billion in potentially improper farm program payments, including direct payments,

[3]GAO, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (Washington, D.C.: Mar. 1, 2011). In February 2012, we reported that no legislative action was taken on this recommendation. See GAO, *Follow-up on 2011 Report: Status of Actions Taken to Reduce Duplication, Overlap, and Fragmentation, Save Tax Dollars, and Enhance* Revenue, GAO-12-453SP (Washington, D.C., Feb. 28, 2012). See also GAO, *2012 Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue*, GAO-12-342SP (Washington, D.C.: Feb. 28, 2012). Others who proposed such options included the National Commission on Fiscal Responsibility and Reform, the Debt Reduction Taskforce, the Administration, Members of Congress, and some farming groups.

[4]GAO, *Farm Bill: Issues to Consider for Reauthorization*, GAO-12-338SP (Washington, D.C.: Apr. 24, 2012). USDA's Office of Inspector General issued a companion report using these principles. See U.S. Department of Agriculture, Office of Inspector General, *Farm Bill: Issues to Consider for Reauthorization,* 50099-0001-10 (Washington D.C.: April 2012).

to more than 170,000 deceased individuals.[5] According to USDA officials, since 2007, they have begun taking additional steps to verify that payment recipients are alive, and if the payment is determined inappropriate, recover it. We also reported, in April 2004, that USDA was not effectively overseeing its farm program payments, including direct payments. In particular, we reported that FSA did not review a valid sample of producers' farm operating plans to ensure compliance with eligibility requirements and thus did not ensure that only eligible recipients received payments. Moreover, we found that FSA's reviews of these plans were often completed late.[6] USDA has since implemented some management controls in response to our recommendations.

Because the expected reauthorization of the farm bill this year provides an opportunity to reexamine direct payments, you asked us to review them. In this context, this report (1) provides information on the geographic distribution and ownership characteristics of payment recipients, the dollar amounts of direct payments made for farms with acreage that qualifies for such payments, and the amount and types of crops grown on such acreage from 2003 through 2011 and (2) examines whether direct payments are aligned with principles significant to integrity, effectiveness, and efficiency in farm bill programs.

To conduct this work, we analyzed USDA data, interviewed agency officials, and reviewed and updated our past work. Specifically, to provide information about the ownership characteristics and geographic distribution of payment recipients and determine the dollar amount of direct payments made for farms with qualifying acreage, we obtained USDA data indicating the number, amount, and recipient for direct payments made from program years 2003 through 2011—that is, from the program's first full year of operation through the most recent year for which complete program data are available.[7] We also obtained and analyzed data detailing the acreage

[5]GAO, *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).

[6]GAO, *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.: Apr. 30, 2004).

[7]A program year is the year for which the program runs and benefits may be received. For direct payments, the program year corresponds with the federal fiscal year.

of qualifying farms and the planting history for each farm for which direct payments were made and other records pertaining to the share of payments received by various individuals and entities. In particular, we obtained data from USDA's compliance share file that indicates how a producer—whether an individual or an entity—is involved and whether they own a particular farm field or area of land for which direct payments were made. Producers report they either (1) own and operate the farm ("owner-operators"), (2) operate but do not own the farm ("tenants"), or (3) are an owner of the farm ("other owners"). To assess the reliability of USDA's data, we (1) performed electronic testing of required data elements, (2) reviewed existing information about the data and the system that produced them, and (3) interviewed agency officials knowledgeable about the data. We found these data to be sufficiently reliable for the purposes of this report.[8] To examine whether direct payments are aligned with principles significant to integrity, effectiveness, and efficiency in farm bill programs, we reviewed our previous work in the area—in particular our March 2011 report on overlap and duplication of federal programs, which discussed observations regarding direct payments.[9] We also reviewed our April 2012 report, which reviewed our recent work on farm bill programs and identified the principles and associated key questions.[10] These principles may not represent all potential principles that could be considered. We collected additional data where possible to determine how circumstances regarding direct payments may have changed more recently and evaluated direct payments according to the principles identified in our earlier work. We spoke with officials in FSA headquarters, state, and county offices who are responsible for ensuring that direct payment recipients meet requirements for such payments. We also visited five selected FSA county offices located in Arizona and Louisiana. We selected these county offices because FSA data showed a relatively high number of end-of-year reviews of farming operations in these counties. In addition, some of these counties had experienced high levels of residential growth in recent years. During our visits, we reviewed case files, including those of farming operations that had undergone or were undergoing end-of-year reviews, and observed

[8]However, for years before 2008, USDA was unable to provide reliable address files for recipients, which we needed to determine the geographic distribution of direct payments. Therefore, we were unable to analyze the geographic distribution of direct payments before 2008.

[9]GAO-11-318SP.

[10]GAO-12-338SP.

some of these farms. Appendix I describes our objectives, scope, and methodology in more detail.

We conducted this performance audit from August 2011 to June 2012 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.

Background

Federal law mandates support for farmers through various programs, including direct payments. USDA, through its Commodity Credit Corporation (CCC),[11] calculates direct payments using a formula that factors in "base acres," a measure of a farm's crop production history based on the number of acres planted on the farm during certain past years. The term base acres refers to a farm's average planted acreage of specific crops during those years; the term does not refer to specific physical acres on that farm. The direct payment formula uses a fixed percentage of the average number of acres planted on the farm from 1998 through 2001 and multiplies that number by the farm's historical crop yield and a statutorily fixed payment rate.[12] The percentage and payment rates for each crop are specified in legislation, commonly referred to as farm bills, passed by Congress roughly every 5 years. For 2009 through 2011, this percentage was set at 83 percent; for 2012, it was set at 85 percent. Figure 1 illustrates the process for calculating a producer's direct payment.

[11]The CCC is a federally owned and operated corporation within USDA created to stabilize and support agricultural prices and farm income by making loans and payments to producers, purchasing commodities, and engaging in various other operations. The CCC handles all money transactions for agricultural price and income support and related programs. FSA distributes direct payments for the CCC.

[12]In 2002, producers were given the option of updating their base acre allocations based on the farm's production from 1998 through 2001. Producers who opted not to update at that time maintained base acre allocations based on the farm's production from earlier years.

Figure 1: How Direct Payments Are Calculated

	Basis for direct payment calculations							
Formula	Payment amount = $	# of base acres for the crop	X	(Historical yield per acre for the designated crop)	X	(Payment rate for the designated crop and year)	X	Fixed percentage
Definition or source	What producer receives (up to $40,000)	Based on historical production		Farm bill and administrative rules		Farm bill		Farm bill
Hypothetical examples	Producer A receives $29,920 =	Has 2,000 base acres of soybeans	X	40 bushels per acre	X	$0.44 per bushel	X	85%
	Producer B receives $39,270 =	Has 1,500 base acres of corn	X	110 bushels per acre	X	$0.28 per bushel	X	85%

Source: GAO.

Through this system, a producer's direct payments are based on the historical production of a particular crop. Moreover, producers have almost complete flexibility in deciding which crops to plant, and they receive payments as long as they meet eligibility criteria, even if they decide to plant different crops or not plant crops at all. In years in which they do not plant, however, the farm bill requires that the relevant land be maintained in accordance with sound agricultural practices. For example, producers must take steps to minimize the growth of weeds on the land. Producers also are required to report planting information each year on forms called acreage reports.[13] The United States has classified direct payments as meeting World Trade Organization rules for nontrade distorting payments; direct payments are not tied to specific production or prices, and they are generally deemed not to distort international agricultural markets.

[13]Such reporting is outlined in FSA guidance and program documents and required by the 2008 farm bill. See FSA, *Direct and Counter-Cyclical Payment Handbook, 1-DCP* (Washington, D.C.: Aug. 14, 2008), and FSA, *Direct and Counter-Cyclical Payment and Average Revenue Crop Election Contract, CCC-509* (Washington, D.C. Apr. 16, 2009). In addition, the acreage report that FSA uses to collect such production information is more specifically known as FSA's Form-578 "Report of Acreage."

After learning of instances where farm payments were made to individuals not involved in farming, Congress enacted the Agricultural Reconciliation Act of 1987, commonly referred to as the Farm Program Payments Integrity Act. The act, among other measures, sets eligibility criteria to ensure that only individuals and entities "actively engaged in farming" receive certain farm program payments.[14] Specifically, according to the 2008 Farm Bill, direct payments, Average Crop Revenue Election (ACRE), and counter-cyclical payment recipients are required to be actively engaged in farming.[15] FSA is responsible for ensuring that direct payment recipients meet program eligibility criteria. FSA carries out this responsibility through its headquarters office, 50 state offices, and approximately 2,200 county offices. Producers file with their local FSA county office a farm operating plan in which they document the number of recipients qualifying for payments, the name of each payment recipient, and each recipient's role in the farming operation and share of profits and losses. Producers must update this plan when a change in their operation occurs, such as a change in the farm's ownership.

FSA reviews these plans to determine, among other things, the number of recipients who qualify for payments and whether they are actively engaged in farming. To be considered actively engaged in farming, an individual recipient must make significant contributions to the farming operation in two areas: (1) capital, land, or equipment and (2) personal labor or active personal management. An entity, such as a corporation, limited partnership, or trust is generally considered actively engaged in farming if the entity separately makes a significant contribution of capital, land, or equipment, and its members collectively make a significant contribution of personal labor or active personal management to a farming operation. In 2010, FSA issued a rule stating that members of a legal entity are excepted from the requirement to make contributions of active personal labor or active person management if (1) at least 50 percent of the interest is held by members that are providing active personal labor or active personal management and (2) total payments, including direct payments, counter-cyclical payments, and ACRE payments are less than or equal to one

[14] We previously reported on USDA's enforcement of "actively engaged" provisions. See GAO-04-407.

[15] ACRE is a revenue-support program, under which payments are made based on a producer's production of certain crops and a crop price index. Counter-cyclical payments are price supports paid when the actual price of covered crops falls below a legislatively determined target price.

"payment limitation"—a statutorily set limit on the value of the payment made to the producer(s). FSA's regulations define active personal management to include such tasks as arranging financing for the operation, supervising the planting and harvesting of crops, and marketing crops. For both individuals and entities, their contributions to the farming operation must also be commensurate with their share of the farming operation's profits or losses.

To help oversee direct payments, FSA monitors farm operations' land usage through producers' acreage reports, and at the end of the year it conducts a detailed review of a sample of farm operating plans. Specifically, FSA field offices compare selected plans against supporting documentation to help monitor whether farming operations were conducted in accordance with their plans. These end-of-year reviews include an assessment of whether payment recipients met program requirements. FSA selects its sample of farming operations for these reviews on the basis of, among other criteria, the restructuring or formation of a farming operation in the past year and the number of farming operations in which an individual or legal entity is involved. According to FSA officials, the selection process emphasizes farm operations involving six or more producers.

Varied Producers, Who Are Geographically Concentrated, Received More Than $46 Billion in Direct Payments from 2003 through 2011

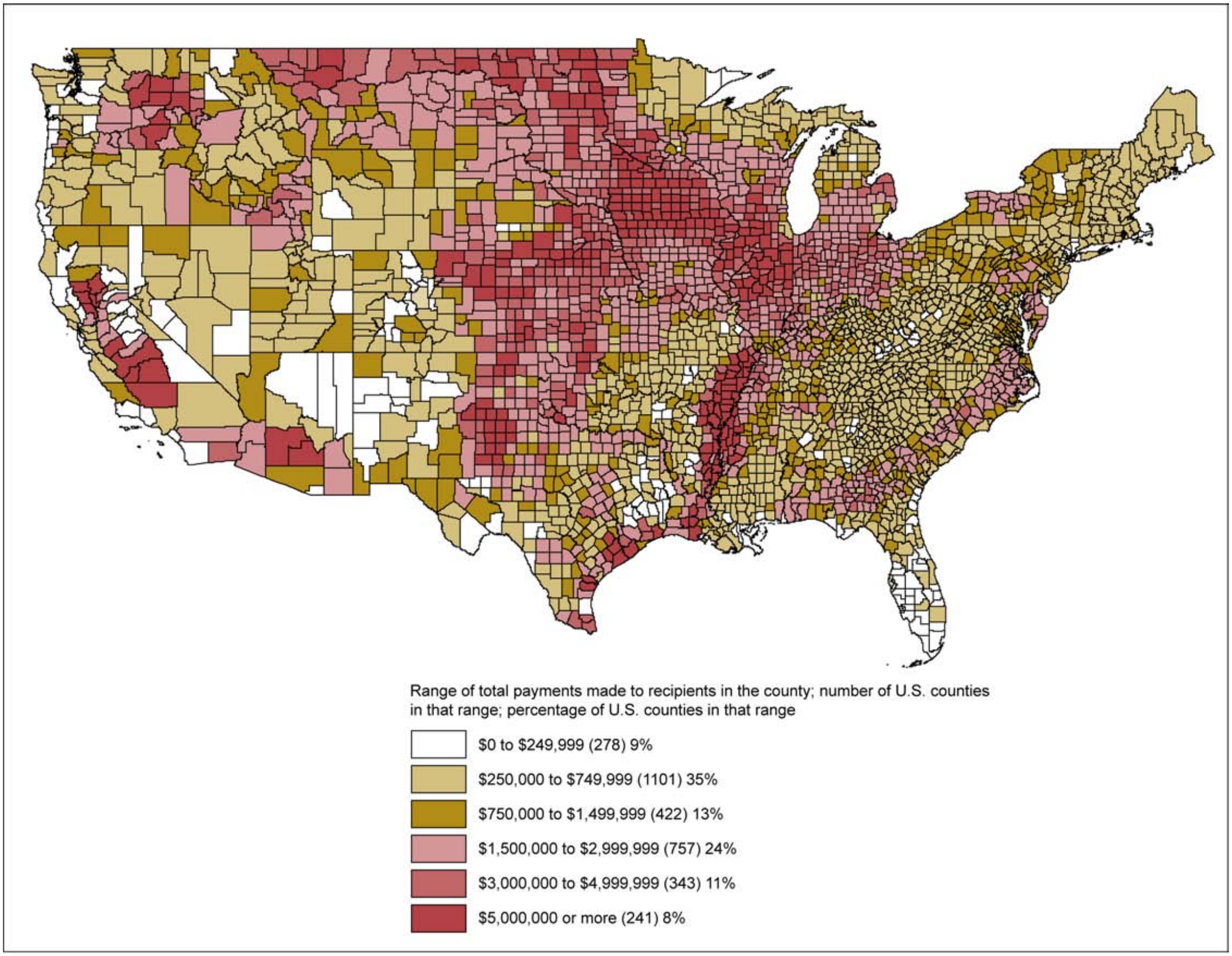
From 2003 through 2011, USDA made more than $46 billion in direct payments, which was concentrated among certain counties, among recipients located within 100 miles of farms qualifying for payments, and among certain types of producers. We also found that producers of different qualifying crops planted varying percentages of their base acres in those crops. Cumulatively, almost one-fourth of the total value of direct payments made during this period went to producers who did not, in a given year, grow any of the crop associated with their base acres—as they are allowed to do.

Payments Were Concentrated among Certain Counties, Recipients Located within 100 Miles of the Farm, and Certain Types of Producers

According to our analysis of USDA data, more than $46 billion in direct payments were made from 2003 through 2011,[16] with counties in the Midwest and Mississippi River Basin accounting for a large share of the value of payments made and smaller amounts distributed among other counties throughout the United States. In addition, our analysis showed that total payments varied widely by county: in 2011, about 9 percent of counties received less than $250,000 in payments countywide, and about 8 percent of counties received at least $5 million countywide. Figure 2 shows the distribution of direct payments in 2011, the most recent year for which data are available.

[16] We included all the direct payment crops in our analysis: barley, canola, corn, cotton (upland), crambe, flax, mustard, oats, peanuts, rapeseed, rice, safflower, sesame, sorghum, soybeans, sunflower, and wheat.

Figure 2: Direct Payments by County, 2011



Source: GAO analysis of USDA data.

Note: Data for Alaska and Hawaii indicate that all of the counties in these states fall in the lowest range. Therefore, we excluded these states from the map. However, the 278 counties listed for this dollar range include those in Alaska and Hawaii.

With regard to the geographic distribution of payment recipients, according to our analysis of USDA data, from 2008 through 2011,[17] about 97 percent of the value of payments, or about $18.8 billion, went to recipients located within 100 miles of the farm on which their direct payments were based. In addition, for that period, about 1.4 percent of the value, or about $269 million, went to recipients located 300 miles or more from the farm. Furthermore, our analysis shows that cumulatively from 2008 through 2011, 0.56 percent of direct payments, or $109 million, was made to recipients located 800 or more miles from the farm. For the complete results of our analysis on ownership characteristics of land for which direct payments were made, see appendix III.

With regard to the ownership characteristics of farms, direct payments may be made to producers with varying degrees of involvement in the farming operation, including individuals or entities that either (1) own and operate the farm (owner-operators), (2) operate but do not own the farm (tenants), or (3) are an owner of the farm (other owners).[18] According to our analysis of USDA data from 2003 through 2011, 86 to 88 percent of acreage for direct-payment eligible crops was operated by producers who were listed as owner-operators or tenants, while 12 to 14 percent of acreage was operated by producers who were listed as other owners—but not necessarily operators. In addition, we found that from 2003 through 2011, the share of acreage operated by owner-operators decreased and the share operated by tenants increased, while the share operated by other owners was relatively consistent. Specifically, from 2003 to 2011, the percentage of acreage, including acreage qualifying for direct payments, which was operated by owner-operators decreased from 77 million acres in 2003 (30 percent of all eligible acreage) to 67 million acres (26 percent) in 2011. Acreage operated by tenants increased from 145 million acres in 2003 (56 percent of eligible acreage) to 159 million acres (62 percent) in 2011. Meanwhile, the acreage operated by other owners decreased slightly, from 35 million acres in 2003 (14 percent of eligible acreage) to 30 million acres (12 percent) in 2011.

[17]USDA was unable to provide reliable address files for recipients for years before 2008. We obtained available data for the centroid point—the geometric center—of the county in which the farm resides and calculated the distance from it to the centroid point of the payment recipient's zip code.

[18]Producers report how they are involved in and whether they own a particular farm field or area of land in what is known as the compliance share file. FSA officials noted that producers may operate on more than one farm, in different capacities.

In addition, our analysis identified variation in the ownership characteristics of farms receiving direct payments, depending on crops grown. For example, owner-operators operated 12 percent of acreage, including base acreage, for cotton in 2011 and 44 percent of acreage for oats that year. Also in 2011, tenants operated 78 percent of the acreage for rice and 58 percent of wheat acreage. Other owners operated 5 percent of the acreage for oats, and 10 percent of corn acreage that year. For crop-specific analyses for corn, cotton, rice, soybeans, and wheat, see appendix III.

Producers Planted Varying Percentages of Base Acres

Since direct payments allow producers almost complete flexibility in which crops to plant, we analyzed USDA data to determine the type and quantity of crops that producers who received direct payments chose to grow. According to our analysis, from 2003 through 2011, producers planted from 2 to 126 percent of their base acres with the crop associated with their base acres. For example, over the period, producers with cotton base acres planted 59 percent of their base acres with cotton, whereas producers with soybean base acres planted soybeans on all of their base acres for soybeans, as well as on additional acres on their farms; in other words, they planted an area equivalent to 126 percent of their base acres with soybeans.[19] Specifically, our analysis showed that from 2003 through 2011, producers with cotton base acres cumulatively planted 100 million acres of their 169 million base acres with cotton, whereas producers with soybean base acres cumulatively planted 593 million acres, including 472 million base acres, with soybeans.[20] For the complete results of our

[19]USDA data do not differentiate between the program's qualifying acreage, or "base acres," and a farm's other acreage, and producers report one aggregated number of acres for each crop planted. In addition, the term base acres refers to a farm's average planted acreage of specific crops during certain past years; the term does not refer to specific physical acres on that farm. To determine the relative percentage of base acres planted in the base acre crop, we compared the acres of a farm planted in a particular crop with its base acres of that crop. Because a producer may plant 100 percent of the farm's base acres in any crop, *plus* additional acres on the farm in excess of the base acre amount, more than 100 percent of base acres may be planted with a certain crop.

[20]According to FSA officials, variation in planting decisions is to be expected for a number of reasons. For example, the practice of crop rotation between corn and soybeans is common. In addition, these officials said that producers in recent years are planting more corn and soybeans compared with wheat, whereas wheat was a relatively dominant crop when base acres were first established. In addition, according to FSA officials, the variation in planting may be attributable to other factors, such as the relative prices of various crops and local soil conditions.

analysis of the type and quantity of crops that producers who received direct payments chose to grow, averaged for years 2003 through 2011, of all crops and by crop type, see appendix IV.

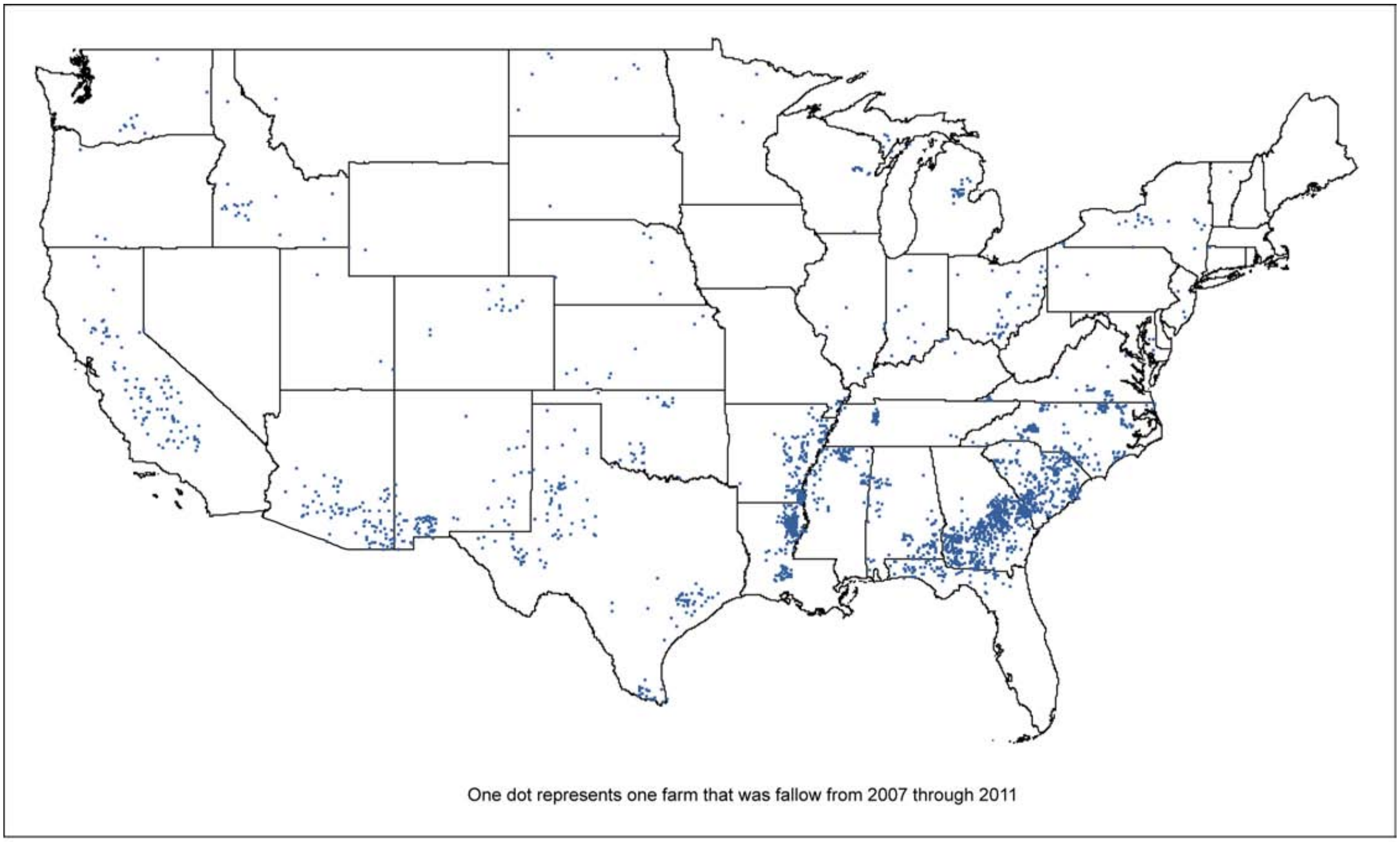
More Than $10 Billion in Payments Was Made for Base Acres That Did Not Grow the Base Acre Crop in a Given Year

In addition, we analyzed USDA data to determine the extent to which producers did not grow any of the crop for which their base acres were allocated—something they are allowed to do. Cumulatively, USDA paid $10.6 billion—almost one-fourth of total direct payments from 2003 through 2011—to producers who did not, in a given year, plant any of the crop for which they had base acres. Specifically, during this period, producers cumulatively did not plant more than 633 million acres with the crops associated with their base acres in a given year. This amounted to an average of 70 million acres each year, or 26 percent of the 268 million base acres on average that are annually eligible for direct payments. For the complete results of our analysis on the extent to which producers did not grow any of a crop for which they had base acreage in a given year, by crop, see appendix V.

About 2,300 Farms for Which Direct Payments Were Made Did Not Plant Any Crop of Any Type Each Year From 2007 through 2011

Also according to our analysis of USDA data, about 2,300 farms, or about 0.15 percent of the 1.6 million farms receiving direct payments in 2011, reported all their land as “fallow,” that is, producers did not plant any crops of any type on this land, for each year of the last 5 years (i.e., 2007 through 2011), as allowed under the farm bill. These producers received a total of about $2.9 million in direct payments in 2011. Our analysis of USDA data showed that these approximately 2,300 farms, comprising in total about 132,000 acres, were distributed among 402 counties in 40 states. In addition, according to our analysis, one county in Louisiana had the most farms (190) with all their acreage reported fallow from 2007 through 2011; producers on these farms received a total of about $203,000 in direct payments in 2011 for this land. For the results of our analysis, by state, of the number of fallow farms from 2007 through 2011 and the value of direct payments made for such farms in each state, see appendix VI. Figure 3 shows the geographic distribution of the farms that our analysis indicated had all their acreage as fallow each year from 2007 through 2011.

Figure 3: Distribution of "Fallow" Farms—Those That Did Not Grow Any Crop of Any Type—Each Year from 2007 through 2011 for Which Direct Payments Were Made



Source: GAO analysis of USDA data.

Notes: Data for Alaska and Hawaii indicate that none of the counties in these states had producers who received direct payments and reported all their acreage as fallow; we therefore excluded these states from the map.

In addition, according to our analysis of USDA data, 622 farms reported all of their farm's acreage as fallow for each of the previous 10 years, from 2002 through 2011. Those farms were distributed among 178 counties in 28 states.

Direct Payments Do Not Align with Certain Principles

Direct payments generally do not align with the principles significant to integrity, effectiveness, and efficiency in farm bill programs, identified in our April 2012 report, which could be used to guide implementation of the 2012 Farm Bill.[21] These payments align with the principle of being "distinctive," in that they do not overlap or duplicate other farm programs. However, they do not align with the five other principles. Specifically, (1) direct payments may no longer be relevant, (2) they do not appropriately target benefits, (3) they may no longer be affordable, (4) they may have unintended consequences, and (5) oversight of direct payments is weak.

Direct Payments May No Longer Be Relevant

Direct payments were expected to be transitional when first authorized and may no longer be relevant. According to the conference report accompanying the 1996 Farm Bill,[22] production flexibility contract payments—the precursors to direct payments, which were similar in design—were established to help farmers make a transition to basing their planting decisions on market signals rather than on government programs. Accordingly, production flexibility contract payments were scheduled to decrease over time and expire in 2002. Subsequent farm bills, however, including those passed in 2002 and 2008, have continued these payments as "direct payments." In a press statement released in February 2012, the Chairwoman of the U.S. Senate Committee on Agriculture, Nutrition and Forestry, referred to direct payments as "an indefensible program of the past." In April 2012, this committee's website posted draft legislation on the reauthorization of agricultural programs through 2017 that proposed eliminating direct payments.

In addition, direct payments may no longer be needed to comply with certain aspects of international trade agreements. Proponents of direct payments say that such payments help the United States meet certain commitments under international trade agreements, which set ceilings on government payments classified as trade distorting. Unlike other farm program payments, direct payments do not depend on current market prices or production, so the World Trade Organization generally considers them to be nontrade-distorting, and the United States does not count

[21] GAO-12-338SP.

[22] Federal Agricultural Improvement and Reform Act of 1996, Pub. L. No. 104-127, 110 Stat. 888.

them against these payment ceilings. In recent years of high crop prices, the United States has not been in danger of meeting or exceeding its limits for trade-distorting payments. For example, in 2009—the most recent year for which the United States notified the World Trade Organization of its use of subsidies—the United States used about $4.3 billion of its $19.1 billion authorized allocation of trade-distorting subsidies.

Direct Payments Do Not Appropriately Target Benefits

Direct payments do not appropriately target benefits (i.e., distribute benefits consistently with contemporary assessments of need) in three key ways. First, farmers receive direct payments even in years of record farm income. Production flexibility contract payments, the precursors to direct payments, were established after a period in the early 1990s of relatively low farm income. In August 2011, however, USDA reported that all three measures of farm-sector earnings—net farm income, net cash income, and the value of the farm sector's production of goods and services from farming versus its outlays to nonfarm sectors (i.e., "net value added") were forecast to rise more than 20 percent in 2011 over recent historical highs or near-highs. Second, according to USDA, the average income for farm households is higher than that of the average for U.S. households. For example, in 2010, average farm household income was 25 percent higher than that of the average U.S. household. Moreover, in 2008, we reported that individuals who receive farm program payments, including direct payments, were more than twice as likely as other tax filers to have higher incomes.[23] Third, direct payments are concentrated among the largest recipients—based on farm size and income—because the payments are tied to land and paid on a per-acre basis. According to our review of FSA direct payment data, in 2011, the top 10 percent of payment recipients received 51 percent of direct payments, and the top 25 percent of payment recipients received 73 percent of direct payments. In addition, according to USDA, larger farms, including those receiving direct payments, have higher operating profit margins. Specifically, in 2010, farms with $1 million or more in sales had a 24 percent operating profit margin, on average, whereas farms of any size had an 8.8 percent operating profit margin, on average.

[23]GAO, *Federal Farm Programs: USDA Needs to Strengthen Controls to Prevent Payments to Individuals Who Exceed Income Eligibility Limits,* GAO-09-67 (Washington, D.C.: Oct. 24, 2008). We defined "higher incomes" in this report as adjusted gross incomes of $500,000 or more per year.

Furthermore, according to USDA data, larger farms, including those receiving larger direct payments, are generally financially better able to cover their debt than smaller-sized farms. For example, according to USDA's Agricultural Resource Management Survey data for 2010, farms with sales of $1 million dollars or more were more highly leveraged (i.e., they had higher debt-to-asset ratios), but they had higher debt-coverage ratios (i.e., they had more financial capacity to cover interest and principal payments on debt) than "all farms" or farms in smaller economic size classes. Yet, as discussed, it is these larger farms that are receiving the preponderance of direct payments.

Direct Payments May No Longer Be Affordable

When direct payments were first authorized in 2002, the nation's annual deficit equaled 1.5 percent of gross domestic product (GDP), and debt was 59 percent of GDP, according to the Office of Management and Budget. In 2011, the deficit was projected to be 10.9 percent, and debt was projected to be 103 percent of GDP, respectively. In July 2003, we testified before the House Committee on Ways and Means about the need to improve the economy, efficiency, and effectiveness of government programs, policies, and activities and to undertake a fundamental reassessment of what government does and how it does it.[24] We stated that this undertaking would require looking at current federal programs in terms of their goals and results and determining whether (1) other approaches might succeed in achieving the goal, (2) taxpayers are getting a good "return on investment" from the program, and (3) the program's priority is higher or lower today given the nation's evolving challenges and fiscal constraints. In light of the nation's difficult fiscal situation and pressure to reduce government spending, the President's fiscal year 2013 budget proposes eliminating direct payments. In addition, USDA's Acting Undersecretary for Farm and Foreign Agricultural Services testified before the Senate Committee on Agriculture, Nutrition, and Forestry in March 2012 that eliminating direct payments could save $31.1 billion, over 10 years, while maintaining other farm programs that target assistance when and where it is most needed. In addition, in April 2012, the Congressional Budget Office estimated that repealing direct payments would save about $24.8 billion from fiscal year 2014 through fiscal year 2018.

[24]GAO, *Federal Budget: Opportunities for Oversight and Improved Use of Taxpayer Funds*, GAO-03-1030T (Washington, D.C.: July 17, 2003).

Direct Payments May Have Unintended Consequences

Studies by USDA have found that direct payments result in higher prices to buy or rent land because in some cases the payments go directly to landowners—raising land values—and in other cases the payments go to tenants, prompting landlords to increase cash rental rates. For example, in June 2009, USDA's Economic Research Service reported that the primary economic effects of direct payments are increases in producers' incomes and land values.[25] In this way, direct payments may compound challenges for beginning farmers. We reported in September 2007 that beginning farmers face multiple challenges, including a need for funds to purchase farmland.[26] In this regard, an increase in the price of land as a result of direct payments—or other farm program subsidies—may potentially raise the amount of debt beginning farmers need to incur to buy their own farm or additional farmland.

During the course of our work, we identified cases where direct payments support recipients who FSA officials said own farmland that would not be economically viable in the absence of these payments. For example, in 1 county, 190 farms were fallow—they did not grow any crop of any type—for 5 consecutive years, and producers claimed payments for these farms. According to FSA county officials, these recipients are unable to profitably farm their land or lease it to other producers because the land is of poor quality and lacks access to irrigation. Another FSA county official from another state said that the producers associated with the 32 farms in that county that were fallow for 5 consecutive years were generally unable to obtain financing for their farming operations and could not profitably farm their land. Nevertheless, these landowners remain eligible for direct payments under a provision of the 2008 Farm Bill known as the "landowner exemption."[27] Under this exemption, landowners can remain eligible for direct payments as long as the landowners' interest in their acreage depends directly on the output of that acreage. In practice, therefore, landowners can remain eligible if they (1) operate the land

[25] USDA Economic Research Service, *Farm and Commodity Policy: Program Provisions: Direct Payments* (Washington, D.C.: June 15, 2009).

[26] GAO, *Beginning Farmers: Additional Steps Needed to Demonstrate the Effectiveness of USDA Assistance,* GAO-07-1130 (Washington, D.C.: Sept. 18, 2007).

[27] Under the "landowner exemption," landowners are not required to contribute both (1) capital, equipment, or land and (2) personal labor or active personal management, as are other producers. However, landowners must make contributions that are at risk, and commensurate with their share of profits or losses in the farming operation.

themselves, (2) lease the land for a rent that depends on the production of a crop, or (3) do not lease or operate the land and therefore receive no production-related revenue from it. In practice, however, it appears the landowner exemption allows landowners to receive payments for land that is no longer economically viable for farming. Direct payments may have less potential than other farm programs to distort prices and production, but economic distortions can nonetheless result from these payments. Furthermore, a trade-off exists between being less market distorting—as direct payments are considered to be—and targeting benefits to adjust to need.

Oversight of Direct Payments Is Weak

During the course of our work, we identified several concerns with regard to FSA's oversight of direct payments: FSA has not developed a systematic process to report on acreage that may no longer be usable for agriculture and therefore ineligible for direct payments; FSA conducts relatively few end-of-year reviews and generally does not complete these reviews within expected time frames; and FSA has not kept data on enforcement.

FSA Has Not Systematically Reported or Corroborated Acreage No Longer Usable for Agriculture

FSA has not systematically reported or corroborated the extent to which land may no longer be eligible for direct payments because it has been converted to nonfarm uses. The 2008 Farm Bill instructed the Secretary of Agriculture to establish procedures to identify such land and each year, to "ensure, to the maximum extent practicable, that payments are received only by producers," submit to Congress a report describing the results of USDA's actions to identify and reduce base acres for land that has been subdivided and developed for nonfarm use. The 2008 Farm Bill uses base acres to determine direct payments, Average Crop Revenue Election (ACRE) payments, and counter-cyclical payments. FSA issued its first report in response to this mandate in September 2011, covering 2009 and 2010.[28] According to this report, about 190,000 acres—about 129,000 in 2009 and 61,000 in 2010—were converted to nonfarm use during this period. However, the report noted that these estimates were likely low, stating that USDA's periodic Natural Resources Inventory

[28]Farm Service Agency, *A Report to Congress on Base Acre Reduction When Base Acres Are Converted to a Non-Agricultural Use* (Washington, D.C.: September 2011).

estimated that an average of 440,000 cropland acres were converted to nonfarm uses annually from 1982 through 2007.[29]

FSA's report had several methodological limitations that we identified. For example, FSA relied exclusively on surveying the 50 FSA state offices for information on such conversions. It did not use or corroborate the state offices' results with other possible sources of information, including geospatial information on land use gathered by USDA's National Agriculture Imagery Program, which provides geospatial imagery data to support FSA compliance activities. FSA also did not provide its state offices with guidance for collecting information on such conversions. As a result, these offices, and their associated county offices, used a variety of methods to collect this information. For example, FSA officials in one county office said they identified base acreage reductions by consulting records of County Committee meetings.[30] In another case, FSA county office officials said they used Base Acreage Yield Adjustment reports to identify base acreage that was already permanently reduced, and Out of Balance Tracts reports to identify other base acreage that may signal the need for a base acreage reduction.[31] As a result of these varying methods and consequently unsystematic process, FSA may have underrepresented the extent to which land may no longer be eligible for direct payments because it has been converted to nonfarm uses in its required report to Congress.

FSA headquarters officials said that, because in the past they were not required to report land converted from agriculture to residential or other

[29]The National Resources Inventory is a statistical survey of land use and natural resource conditions and trends on nonfederal lands in the United States conducted by USDA's Natural Resource Conservation Service. Conversion rates of land from agricultural to nonfarm or commercial use may vary according to prevailing economic conditions. Specifically, when the profitability of land in agricultural use is high relative to other potential uses, conversion rates from agricultural to nonfarm or commercial use would likely be low. If, however, business conditions improve and demand for residential housing increases, then conversion rates could increase.

[30]FSA County Committees consist of farmers and ranchers elected by other producers to help deliver FSA programs in their local farming communities.

[31]FSA officials can query a database to identify a farm's acreage and base acreage and compare it with reports on yield for that farm. In some cases, Out of Balance Tracts reports may indicate that base acreage is greater than the yield, in which case the FSA official can determine whether further information is needed to confirm that the farm's reported base acreage is accurate.

nonfarm use, they had not systematically tried to track such land. They also stated that because producers, including direct payment recipients, are required to report planting information each year and certify the accuracy of this information, FSA has been able to identify land subject to base acre reductions manually through such reports.[32] These officials stated that FSA relied on such manual records to report on land that was converted to nonfarm uses in its September 2011 mandated report, and it has begun compiling data for the next report, covering 2011, using the same methodology. However, these officials noted that in October 2011 FSA updated its data collection systems to compile the mandated report covering 2012 base acre reductions through a computerized tracking system. This system includes a reporting code to identify whether the base acre reduction was made because land was converted to nonfarm uses, including residential or commercial uses.

All of the FSA county officials we spoke with said that geospatial imagery was very helpful in identifying land that may no longer be usable for agriculture, and some noted this was particularly so as budget constraints have precluded more frequent on-site farm inspections. For example, some of these officials spoke of instances where they knew from geospatial imagery that land had been converted from agricultural use, and the producer had not informed FSA. Nevertheless, officials said, the National Agriculture Imagery Program did not provide such imagery regularly and they received updated imagery only every few years, limiting their ability to identify land that may no longer be usable for agriculture—and therefore ineligible for direct payments. An imagery program official stated that the program had received inconsistent funding since its establishment in 2002. As a result, this official said, in 2008 the office began collecting imagery data in 3-year cycles rather than annually, as would meet program needs. The official stated that three USDA agencies and the Department of the Interior are funding the approximately $40-million-per-year effort. The official added that the

[32]In addition, as part of FSA's National Compliance Program, USDA's National Agricultural Statistics Service selects a statistical sample of 2,000 producers each year—including some of the approximately 1.6 million producers who receive direct payments—and FSA staff perform spot checks to verify that reported planting information is accurate. We note that based on this information, approximately 0.13 percent of producers receiving direct payments could potentially be selected to have their reported planting information verified each year through this process. FSA state and county offices may elect to spot check any producer if there is reason to question the producer's compliance with any program provision.

imagery program's own requirements and FSA's needs continue to call for collecting and reporting data annually, but funding constraints preclude the program from doing so.

FSA's End-of-Year Reviews Have Key Weaknesses

FSA's detailed end-of-year reviews, in which FSA officials assess whether direct payment recipients met program requirements, such as being actively engaged in farming, have key weaknesses. Specifically, FSA conducts relatively few end-of-year reviews, and generally does not complete these reviews within expected time frames.

FSA guidance states that the purpose of end-of-year reviews is to maintain the integrity of payment limitation and payment eligibility provisions by verifying that farming operations were carried out as producers reported on their farm operating plans. One such provision for direct payments is that all payment recipients be actively engaged in farming, which, according to the 2008 Farm Bill, generally includes making a "significant contribution" that is at risk and commensurate with the recipient's share of profits and losses from the farming operation. Recipients of payments under ACRE and counter-cyclical payment programs also are required to be "actively engaged" in farming. According to FSA officials, to verify the extent to which producers' contributions meet these, as well as other, eligibility requirements, FSA selects a judgmental sample of farming operations for review on the basis of, among other criteria, (1) whether the operation has undergone an organizational change in the past year by, for example, adding another entity or partner to the operation and (2) whether the operation receives payments above a certain threshold. FSA officials said that their selection process for end-of-year reviews is designed to direct limited resources toward categories of recipients among whom officials most expect to find wrongdoing such as fraud or other deliberate misrepresentation of a farming operation.[33] These officials explained that the recipient categories emphasized for review include joint operations, particularly those comprising three or more entities, because such operations offer more potential and incentive for partners to exaggerate their contributions.

[33]Misrepresentation could include exaggerating the number of participants in a farming operation, or the stake of any participant in the operation, to increase the amount of the payment received. Fraud may be falsifying documentation to circumvent provisions defining payment eligibility and payment limitations. According to FSA officials, the distinction between fraud and other misrepresentation is one of degree, where fraud is more serious.

Producers in farming operations selected for end-of-year review must provide documentation to verify that the information they report on their farm operating plan, including their contributions of land, capital, equipment, labor, and management, is accurate. By reviewing such documentation, FSA officials can determine whether the contributions, in terms of risk and share of profits and losses, made by each participant in a farming operation match the contributions reported for that participant on the farm operating plan. FSA officials said that end-of-year reviews are a key means of identifying potentially improper payments. In addition, some FSA county officials said end-of-year reviews were useful in identifying irregularities and fraud and cited cases in their experience where producers returned direct payments determined to have been erroneously disbursed. Nonetheless, we identified two key weaknesses in FSA's end-of-year review process.

First, FSA selects relatively few cases for annual end-of-year review. Our analysis of FSA data showed that in 2008 and 2009, FSA selected for review 0.04 percent of farming operations receiving direct payments. By comparison, for fiscal year 2010, the Internal Revenue Service selected at least 0.7 percent of taxpayers, from every income level—an average of 1.1 percent of all taxpayers—for examination. According to FSA headquarters officials, they would like to select additional cases for review, but the selection rate is relatively small because the reviews are resource intensive.[34] Increasing budget constraints and USDA's announced plans to close some of FSA's 2,200 county offices and reduce field staffing may further limit the number of cases for review the agency can select in the future. These officials said that, because of resource constraints, they select the sample according to categories of recipients where they most expect to find wrongdoing, and waive categories of recipients, such as landowners and spouses among whom they least expect to find misrepresentation. However, we found that when FSA waives reviews for some of the cases selected, the agency does not replace them with reviews of other cases, as we recommended in April 2004.[35] At the time, we reported that FSA was not reviewing a valid sample of farm operating plans to reasonably assess the overall level of

[34]FSA guidance allows state and county FSA officials to add cases for end-of-year reviews; however, FSA officials did not provide data regarding how often this has occurred in recent years.

[35]GAO-04-407.

compliance because its selection methodology did not replace waived cases, resulting in a smaller sample size that might have affected the validity of the sample results.[36] In response to our recommendation, FSA reduced the number of compliance reviews it waived each year but did not act to replace reviews that were waived with new cases. FSA continues to select a small sample of cases for review: in 2008 and 2009, respectively, 23 and 154, or just under 6 and 13 percent, of selected cases were waived, further decreasing the number of farming operations reviewed.

Second, FSA often completes end-of-year reviews late with respect to its own expected time frames. According to an FSA official in charge of selecting cases and monitoring the end-of-year review process, FSA headquarters generally selects cases for review within the first 6 months of the following year and generally expects county office staff to perform their assigned reviews within a year of receiving the cases selected.[37] As of September 2011, however, 271 of 380 pending reviews for 2008 (71 percent) were more than 6 months past the expected 18-month completion time frame, which includes the selection, assignment, and conducting of these reviews. In May 2012, FSA reported that as of February 2012, nearly 24 percent of pending reviews for 2008 were still incomplete. Table 1 summarizes the status of end-of-year reviews for 2008 and 2009, as of September 2011 and February 2012.[38]

[36]For example, for 2001, FSA developed a judgmental sample of 1,573 farm operating plans from the 247,831 entities (0.6 percent) that received federal farm payments. The sample selection included 966 farming operations that were waived for various reasons, leaving 523 farming operations to be reviewed (0.2 percent). See GAO-04-407.

[37]This schedule is informal and may vary. FSA's handbook on producer compliance states that FSA state directors will determine the official completion dates for end-of-year reviews but does not specify or suggest a particular time frame. In addition, FSA headquarters may not meet its target date of selecting end-of-year reviews within 6 months of the new calendar year. For example, FSA headquarters did not send 2010 cases selected for end-of-year reviews to states until December 2011, more than 5 months after the expected selection date according to nominal FSA time frames.

[38]The most recent years for which complete data were available were 2008 and 2009; FSA first provided these data as of September 2011, and, in May 2012, provided updated data as of February 2012. We are reporting the data as of September 2011 in addition to the most recent data to more fully illustrate the status of these reviews at a date 3 months past the expected time frame for completion. FSA provided data indicating that in 2006 and 2007, an average of 0.04 percent of cases were selected for review. FSA did not provide the number of cases waived or completion time frames for those years.

Table 1: Status of FSA's End-of-Year Reviews for 2008 and 2009, as of September 2011

	2008	2009	Total
Farming operations for which direct payments were made	1,815,520	1,654,200	**3,469,720**
Farming operations selected for review	403	1,208	**1,434**
Farming operations selected for review and waived	23	154	**177**
Reviews of farming operations completed	109	212	**321**
Percentage of farming operations receiving payments, selected for review	0.02%	0.06%	**0.04%**
Percentage of reviews completed as of September 2011	28.7%	20.1%	**22.4%**
Percentage of reviews completed as of February 2012	76.6%	55.0%	**60.7%**

Source: GAO analysis of USDA data.

In addition, in February 2012 FSA reported that county offices in three states—California, Louisiana, and Mississippi—had not completed some of their 2006 or 2007 end-of-year reviews.[39] FSA officials said they do not regularly collect data on the number of end-of-year reviews completed and pending. FSA officials also said that taking corrective action against payment recipients becomes more difficult as reviews are delayed. For example, with the passage of time, it is more difficult for FSA to collect evidence of potential misrepresentation or fraud, as well as for producers to provide the requested documentation. Furthermore, according to FSA officials, completed end-of-year reviews are needed for USDA's Office of Inspector General (OIG) to investigate cases of potential fraud or other illegal activity.

Federal internal control standards call for agencies to obtain, maintain, and use relevant, reliable, and timely information for program oversight and decision making, as well as for measuring progress toward meeting

[39]In May 2012, FSA provided updated information, reporting that California had completed its 2006 and all but two of its 2007 end-of-year reviews; Louisiana had completed all but one of its 2006 and all of its 2007 end-of-year reviews; and Mississippi had completed all its 2006 and all but two of its 2007end-of-year reviews. FSA officials said the five pending reviews for these states were due to pending appeal at the state or county level. FSA did not provide updated data regarding completion of 2008 or 2009 end-of-year reviews.

agency performance goals.[40] In addition, the Office of Management and Budget directs agency managers to take timely and effective action to correct internal control deficiencies.[41] Furthermore, FSA's handbook on determining eligibility for farm program payments states that "[d]etecting schemes, fraudulent representations, and other equally serious actions of persons and legal entities to circumvent payment eligibility and payment limitation provisions is **essential** for producer compliance."[42] The issues we identified in FSA's end-of-year compliance review process leave the agency with a less effective management oversight tool. For example, in light of these problems, FSA is less able to identify potential fraud, waste, and abuse; avert potentially improper payments; and enforce farm bill provisions and related implementing regulations.

USDA Has Not Kept Data on Enforcement

USDA does not have data to demonstrate that it is using available enforcement mechanisms against payment recipients found to have misrepresented their farming operation so as to increase their direct payments improperly, and the agency generally has not centrally tracked data on such cases of misrepresentation. Specifically, when asked, FSA officials were unable to provide the number of direct payment cases FSA has referred to OIG for further investigation and potential prosecution by U.S. Attorneys' Offices, but according to FSA officials, the number of such cases has been small. For example, regarding potential fraud, FSA officials cited only one case that was currently under active litigation. FSA state offices are required to report any known or suspected violations of criminal statutes to OIG for investigation, but according to OIG officials, their investigators will pursue cases of potential fraud only if they

[40] GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

[41] Office of Management and Budget, *Management's Responsibility for Internal Control*, OMB Circular No. A-123 (Washington, D.C.: Dec. 21, 2004).

[42] Farm Service Agency, *Payment Eligibility, Payment Limitation, and Average Adjusted Gross Income,* 4-PL, Amendment 10, Sec. 4 Para. 42.

anticipate a “good outcome,” that is, a successful prosecution.[43] The potential amount of funds to be recovered is another consideration. According to FSA officials, the number of cases accepted for investigation varies by region. For example, according to these officials, in regions with significant drug crime, such as southern Texas, U.S. Attorneys give priority to drug cases and accept virtually no farm program cases. This situation notwithstanding, OIG and FSA officials said that FSA offices in Texas refer very few compliance and payment limitation cases to OIG. According to OIG officials, depending on the circumstances, FSA may be able to take administrative action against a producer in an attempt to recover inappropriately disbursed funds even if the producer is not prosecuted by state or federal authorities for violations of law, by following its own procedures or consulting with the Office of General Counsel. However, both OIG and FSA officials said that, in cases of alleged fraud, the payment recipient may not be subject to additional enforcement mechanisms unless prosecuted and convicted. FSA regulations provide that any producer found to have committed fraud may be debarred from receiving further payments for up to 5 years.[44] These regulations also provide that any producer found to have engaged in misrepresentation may be debarred from receiving further payments for up to 2 years. However, if FSA does not maintain comprehensive data on payment recipients that may have misrepresented their farming operation, including by name of producers, it is unclear how it can consistently pursue and recover improper payments.

FSA headquarters officials stated that most payment recipients are honest and comply with direct payment eligibility requirements, and that the level of enforcement is appropriate. However, the officials could not

[43]For example, in a September 2005 report, we found that few suspicious crop insurance claims payments resulted in a conviction for fraud. We reported that, while the number of USDA OIG referrals to the Department of Justice on suspicious claims payments had increased, the Department of Justice declined more cases than it had accepted since 2000. According to Department of Justice officials, the factors considered when accepting a case include sufficiency of the evidence, complexity of the case, whether the fraudulent activity is part of a pattern or scheme, and workload and resources that would be needed to investigate and prosecute the case. With regard to crop insurance, these officials told us that fraud cases are highly complex and involve a significant number of documents that must be reviewed and presented in court and that the dollar value of such cases frequently is not as large as in other cases, such as drug trafficking or some white-collar crime. See GAO, *Crop Insurance: Actions Needed to Reduce Program’s Vulnerability to Fraud, Waste, and Abuse,* GAO-05-528 (Washington, D.C.: Sept. 30, 2005).

[44]See 7 C.F.R. 1400.5.

provide data on compliance. Some FSA county officials expressed concerns about discouraging producers from farming, should the producer be debarred from receiving further payments. They also said that they can and do recover improper payments from producers without pursuing potential prosecution. However, FSA's reluctance to pursue these cases and enforcement mechanisms could encourage some producers to engage in and profit from submitting false information with little fear of being caught or punished.

Moreover, FSA officials acknowledged that the agency lacks comprehensive data on its enforcement actions. Specifically, FSA officials said that the agency does not keep a centralized, national database or list of direct payment recipients found to be at fault for misrepresentation, including recipients convicted of fraud, debarred from future payments, referred to OIG for investigation, or found by county or state FSA offices to have received improper payments by misrepresenting their farming operation—including in cases in which these payments were later recouped. FSA does, however, maintain data at the national level on payments it reduced because it determined a certain producer was ineligible before making the payment. According to these data, in 2011 FSA reduced payments to certain direct payment recipients by almost $20 million for not being actively engaged in farming; by more than $89 million for exceeding payment limitations; by over $37 million for exceeding income limitations; and by $3,393 for fraud. Table 2 summarizes the amount of these reduced payments for 2010 and 2011.

Table 2: Amounts by Which FSA Reduced Direct Payments for Selected Reasons in 2010 and 2011

Dollars in millions

Reason for reduction	2010	2011
Producer not actively engaged in farming	$23.5	$19.9
Producer's payment would exceed payment limitations	80.8	89.2
Producer's income exceed income limitations	30.95	37.39
Fraud	0.05	0.0[a]
Total for these reasons	**$135.3**	**$146.5**

Source: GAO analysis of USDA data.

Note: These numbers include direct payments and counter-cyclical payments; as a point of reference, counter-cyclical payments averaged $1.45 billion annually from 2006 through 2010.

[a]In 2011, FSA reported reducing payments by $3,393 because of fraud.

Under the Improper Payments Information Act of 2002, as amended, federal agencies are required to estimate the level of improper payments in their programs.[45] In November 2011 USDA reported that its error rate for making direct and counter-cyclical payments was 0.05 percent, which was below its 2010 error rate of 0.96 percent and below its target of 0.40 percent.[46] However, because USDA does not keep comprehensive data on its enforcement actions or the amount of money it recovers after improper disbursements are made, the level of improper payments reported by FSA for the direct payments program may be understated.

Conclusions

Direct payments allow producers flexibility in the type and amount of crops to plant by making payments based on historical production trends, rather than current production. However, the fiscal health of our nation, recent and expected high national budget deficits, and pressures to reduce federal spending mean that every federal dollar should be scrutinized to ensure it is spent efficiently and for the most worthwhile purposes. Maintaining a safety net for farmers is worthwhile, but during times of record-high crop prices and farm incomes, providing payments that do not align with principles significant to integrity, effectiveness, and efficiency in farm bill programs raises questions about the continued need for direct payments. In a March 2011 report, we and others proposed options to reduce or eliminate direct payments.

FSA monitors land usage and conducts a detailed review of a sample of farm operating plans at the end of the year to help oversee direct payments and other farm programs, including ACRE and counter-cyclical payments, which require payment recipients to be actively engaged in farming. There have been proposals to eliminate direct payments, but as long as they remain in effect, it is worth noting several weaknesses concerning FSA's oversight of these programs that our work identified. First, because FSA does not have a systematic process to identify land that may no longer be usable for agriculture and therefore eligible for direct payments—or ACRE or counter-cyclical payments—FSA's reports to Congress may underreport the extent to which land may no longer be eligible for these payments. Second, because FSA does not regularly

[45]Pub. L. No. 107-300, 116 Stat. 2350 (2002), as amended by Pub. L. No. 111-204, 124 Stat. 2224 (2010).

[46]USDA, *2011 Performance and Accountability Report* (Washington, D.C.: Nov. 15, 2011).

update the geospatial imagery FSA county offices use to corroborate that direct payments are made only for lands usable for agriculture, FSA could potentially be making payments to individuals and entities that should not be receiving them. Third, because FSA's process for selecting and performing end-of-year reviews has key weaknesses, FSA is less able to identify potential fraud, waste, and abuse; avert potentially improper payments; and enforce farm bill provisions and related implementing regulations. We acknowledge the budget constraints that, according to FSA officials, make the case for a judgmental sample and limit the number of end-of-year reviews FSA conducts. However, similarly to what we reported in April 2004—that FSA was not reviewing a valid sample of farm operating plans to reasonably assess the overall level of compliance—FSA continues to select a small sample of cases to review and does not complete reviews in a timely manner, exposing the agency and taxpayers to potential waste, fraud, and abuse of taxpayer dollars.

While FSA officials state that most producers are honest and comply with eligibility requirements, it is in the interest of all producers, as well as taxpayers, to maintain the integrity of direct payments and other farm program payments. FSA regulations provide enforcement mechanisms for producers found to have engaged in misrepresentation or to have committed fraud, but FSA does not maintain comprehensive data on payment recipients that have misrepresented their farming operation, including data by producer name. As a result, it is unclear how consistently FSA has pursued and recovered improper payments. In sum, as a result of FSA's decision to not pursue a more comprehensive oversight process—including maintaining comprehensive data on misrepresentation and tracking the referral of cases for enforcement—the number and value of improper payments and program fraud may be underrepresented.

Matter for Congressional Consideration

In light of the need to identify potential savings in the federal budget and questions about the continued need for direct payments, Congress should consider eliminating or reducing these payments.

Recommendations for Executive Action

To help ensure that direct payments, while they remain in effect, and other farm programs, including ACRE and counter-cyclical payments, are made in a manner consistent with farm bill provisions and related implementing regulations, and to minimize the potential for improper payments, we recommend that the Secretary of Agriculture direct the Administrator of the Farm Service Agency to take the following four actions:

- Develop and implement a systematic process to report on land that may no longer be usable for agriculture, as required for annual reporting to Congress.
- Ensure the more timely and consistent regular collection and distribution of geospatial imagery needed to corroborate that payments are only made for lands usable for agriculture.
- Consider options within given budget constraints to improve FSA's end-of-year reviews by selecting a larger sample of cases to review and ensuring that these reviews are completed in a timely manner.
- Maintain comprehensive data on misrepresentation and enforcement actions taken nationwide, as needed for management oversight and reporting purposes.

Agency Comments and Our Evaluation

We provided a draft of this report to USDA for review and comment. In written comments, which are reproduced in appendix VII, USDA generally agreed with two of our recommendations and disagreed with two others. USDA also noted our Matter for Congressional Consideration to eliminate or reduce direct payments, stating that the President's financial year 2013 budget recommended eliminating direct payments while maintaining a strong safety net for farmers.

Regarding our first recommendation that USDA develop and implement a systematic process to report on land that may no longer be usable for agriculture, as required for annual reporting to Congress, USDA disagreed, stating that it considers its current process to be adequate. Among other points, USDA noted that it already selects a statistical sample of producers for spot checking to determine that all land reported as cropland remained in cropland status for the year the spot check was conducted. Nevertheless, as discussed in this report, only about 2,000 producers—and potentially 0.13 percent of the approximately 1.6 million producers receiving direct payments—could be selected for annual spot checks. Further, in a September 2011 report in response to a congressional mandate USDA stated that its estimates of base acres converted to nonfarm uses in 2009 and 2010 were likely understated. We also note, as discussed in the report, that USDA's current procedures to collect these data are subject to methodological limitations and inconsistencies in how its field offices collect these data. For example, USDA relied exclusively on surveying the 50 FSA state offices for information on such conversions, and did not use or corroborate the state offices' results with other possible sources of information, such as geospatial imagery. USDA also did not provide its state offices with guidance for collecting information on such conversions. As a result, these offices, and their associated county offices, used a variety of methods to collect this information. Given this very small sample and the department's likely underestimation of the extent of conversions to nonfarm uses, we maintain that development of an improved process is needed for identifying land that may no longer be usable for agriculture. For added clarity, we revised the report to make clear that USDA uses a statistical sample and that its field offices may spot-check other producers if there are concerns. In addition, USDA noted that the 2008 Farm Bill, among other sources requires producers to file acreage reports on all cropland on the farm. In response to USDA's comment, we added clarifying language to the report to identify the sources that USDA cites as requiring such reporting.

Regarding the second recommendation that USDA ensure the more timely and consistent collection and distribution of geospatial imagery needed to corroborate that payments are only made for lands usable for agriculture, USDA stated that it agrees that geospatial imagery is a useful tool to identify land use changes. It also said, however, that its ability to update this imagery more frequently would require increased funding from Congress. As discussed in the report, USDA already leverages resources from other agencies, such as the Department of the Interior, to help cover the costs of collecting this imagery. Further opportunities may exist to do so. In addition, USDA could consider options to reallocate more funding to geospatial imagery within its existing budget resources.

Regarding the third recommendation that USDA consider options within given budget constraints to improve FSA's end-of-year reviews by selecting a larger sample of cases to review and ensuring that these reviews are completed in a timely manner, USDA disagreed. USDA stated that it concurs that timely, high-quality end-of-year reviews are important; however, it also stated that its current practices already meet this standard. According to USDA, in the early 1990's its Office of Inspector General determined that a judgmental sample completed in USDA headquarters was the most consistent and beneficial in terms of detecting problematic issues and potential compliance problems. In addition, USDA said that, in consideration of efficiency, FSA has made a targeted selection and devoted its limited resources to identifying farming operations considered most likely to have potential payment eligibility and payment limitation compliance issues. However, as discussed in our report, USDA selects very few cases for end-of-year reviews. For example, in 2008 and 2009, only 0.04 percent of operations receiving direct payments were selected. In addition, as noted in the report, these reviews were often not done in a timely fashion as measured by USDA's own time frames. For example, as of September 2011, 271, or 71 percent, of 380 pending reviews for 2008 were more than 6 months past USDA's expected completion date. Given this very small sample and the lack of timeliness associated with many of these reviews, we continue to believe that USDA should consider options to increase the number and improve the timeliness of these reviews. To eliminate potential confusion about FSA's use of a judgmental sample, we revised our third recommendation by removing the words "the quantity and quality" from an earlier draft to clarify our emphasis on improving the scope and timeliness of these reviews.

Regarding the fourth recommendation that USDA maintain comprehensive data on misrepresentation and enforcement actions taken nationwide as needed for management oversight and reporting purposes, USDA agreed and stated there is value in maintaining data on misrepresentation and enforcement actions. It stated that the development of such a capability has been planned for a number of years but that other projects, such as the implementation of the 2008 Farm Bill and the development and implementation of a robust process for verifying producer compliance with adjusted gross income limits have taken precedence. We understand that USDA has many competing priorities, but its decision to not pursue a more comprehensive oversight process—including maintaining comprehensive data on misrepresentation and tracking the referral of cases for enforcement—means the number and value of improper payments and program fraud may be underrepresented.

We are sending copies of this report to the Secretary of Agriculture, appropriate congressional committees, and other interested parties. The report also is available at no charge on the GAO website at http://www.gao.gov.

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

Lisa Shames
Director
Natural Resources and Environment

List of Requesters

The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
United States House of Representatives

The Honorable Darrell E. Issa
Chairman
The Honorable Elijah Cummings
Ranking Member
Committee on Oversight
and Government Reform
United States House of Representatives

The Honorable Jim Cooper
Ranking Member
Subcommittee on Oversight
and Investigations
Committee on Armed Services
House of Representatives

The Honorable Earl Blumenauer
House of Representatives

The Honorable Ron Kind
House of Representatives

The Honorable Jeff Flake
House of Representatives

Appendix I: Objectives, Scope, and Methodology

The objectives of our review were to: (1) provide information regarding the geographic distribution and ownership characteristics of payment recipients, as well as the dollar amount of direct payments made for land with qualifying acreage and amount and types of crops grown on qualifying acreage from 2003 through 2011 and (2) examine whether direct payments are aligned with principles significant to integrity, effectiveness, and efficiency in farm bill programs.

To conduct this work, we analyzed U.S. Department of Agriculture (USDA) data, interviewed agency officials, reviewed applicable laws, regulations, and guidance, and reviewed and updated past GAO work. Specifically, to provide information about the geographic distribution and ownership characteristics of payment recipients and to determine the dollar amount of direct payments made for land with qualifying acreage, we obtained disaggregated data from USDA's Farm Service Agency (FSA) indicating the number, amount, and payee for direct payments made from program years 2003 through 2011—that is, from the program's first full year of operation through the most recent year for which complete program data are available.[1] In particular, we reviewed the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) to determine which crops are eligible for direct payments and determined that we would include barley, canola, corn, cotton (upland), crambe, flax, mustard, oats, peanuts, rapeseed, rice, safflower, sesame, sorghum, soybeans, sunflower, and wheat in our analysis. Further, we reviewed and evaluated USDA documents for collecting data from direct payment recipients regarding land usage, in particular the Farm Operating Plan for Payment Eligibility Review for individuals and entities, to identify appropriate data elements for use in our analyses. In particular, we obtained data from USDA's compliance share file that indicates how producers—whether individuals or entities—are involved and whether they own a particular farm field or area of land for which direct payments were made. Producers report they either (1) own and operate the farm ("owner-operators"), (2) operate but do not own the farm ("tenants"), or (3) are an owner of the farm ("other owners"). We also obtained disaggregated USDA data indicating the number of base acres and planting history for each farm for which direct payments were made. When analyzing direct payments spending, we assigned a payment

[1]A program year is the year for which the program runs and benefits may be received. For direct payments, the program year corresponds with the federal fiscal year.

according to its program year; that is, the year in which the payment was associated with since it is possible for payments to be made after the end of the program year for which they are made.

USDA does not collect the zip codes of farms with which direct payment are associated. We therefore obtained data for the centroid point—the geometric center—of the county in which the farm resides and calculated the distance from it to the centroid point of the payment recipient's zip code. In addition, USDA provided reliable address files for payees from 2008 through 2011. USDA data do not differentiate between the program's base acres and a farm's other acres, and producers report one aggregated number of acres for each crop planted. To determine the relative percentage of base acres planted with the base acre crops, we compared the acreage of a farm planted in a particular crop with its base acres of that crop. Because a producer may plant 100 percent of the farm's base acres in any crop, plus a portion of additional acres on the farm that exceeds the base acre amount, more than 100 percent of base acres may be planted in a certain crop. We assessed the reliability of USDA's data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of this report. We used geographic information system ("GIS") software to map selected results of our quantitative analyses. We also interviewed FSA officials regarding the results of our data analysis; these officials indicated that they generally found these results to be credible.

To examine whether direct payments are aligned with principles significant to integrity, effectiveness, and efficiency in farm bill programs, we reviewed our past work, particularly more recent work that identifies relevant principles to consider for farm bill reauthorization. These principles are relevance, distinctiveness, targeting, affordability, effectiveness, and oversight.[2] The resulting principles and associated key questions may not represent all potential principles that could be considered. We collected additional data where possible to determine how circumstances regarding direct payments may have changed more recently and evaluated direct payments according to the principles

[2]GAO-12-338SP.

identified for in our earlier work. We also reviewed our March 2011 report, which discussed observations regarding direct payments.[3] In applying the identified principles to direct payments, we considered information on the program's original purpose; its potential, if any, to duplicate payments under other programs; who benefits from the program; the nation's deficit and debt challenges; the program's potential, if any, to have unintended consequences; and program oversight measures taken by FSA. However, based on our past work, we believe these principles to be significant to integrity, effectiveness, and efficiency in farm bill programs since 2003, when much of the 2002 Farm Bill was implemented. Further, USDA's Office of Inspector General shares this point of view and issued a companion report to our report using the same principles and based on its own past work for this time frame.[4]

Regarding oversight, we interviewed FSA and Office of Inspector General officials and reviewed documentation FSA provided, including information related to investigations of potential fraud related to direct payments. We also visited several FSA county offices in each of two states—Arizona and Louisiana—to discuss oversight issues, review farm operating plan files, and observe the use of cropland in these counties associated with direct payments.[5] In addition, we interviewed officials by phone in FSA county offices in two other states—California and Mississippi—to discuss oversight issues.[6] In general, we judgmentally selected these offices because (1) the office has a relatively large number of end-of-year compliance reviews,[7] (2) the county has a relatively large number of farms with cropland associated with direct payments that has not been

[3]GAO-11-318SP.

[4]USDA Office of Inspector General, *Farm Bill: Principles to Help Guide Its Design and Implementation*, IG-50099-001-10 (Washington, D.C.: Apr. 20, 2012).

[5]In Arizona, we visited FSA county offices in Maricopa, Pima, and Pinal counties. In Louisiana, we visited FSA county offices in Madison, Morehouse, and Richland parishes.

[6]In California, we spoke by phone with FSA county office officials in Colusa and Fresno counties. In Mississippi, we spoke by phone with FSA county office officials in Bolivar and Coahoma counties.

[7]To ensure compliance with payment limitation and eligibility provisions (as provided in statute and regulation), FSA conducts end-of-year compliance reviews of some farming operations each year to determine that they were carried out as represented in their farm operating plans. This includes an assessment of whether individuals associated with a farming operation meet criteria for being actively engaged in farming.

planted with crops in recent years, and/or (3) the county is experiencing rapid urban development. The information gathered at these locations cannot be generalized to the experience of all FSA county offices.

We conducted this performance audit from August 2011 to June 2012 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.

Appendix II: Principles Significant to the Integrity, Effectiveness, and Efficiency of Farm Bill Programs

In April 2012 we identified certain principles as applicable to Congress's deliberations for the 2012 Farm Bill and significant to the integrity, effectiveness, and efficiency in farm bill programs, such as direct payments.[1] Specifically, we identified these principles to be relevance, distinctiveness, targeting, affordability, effectiveness, and oversight. Key questions associated with these principles are shown below. Our list of principles may not represent all potential principles that could be considered.

1. *Relevance:* Does the program concern an issue of national interest? Is the program consistent with current statutes and international agreements? Have the domestic and international food and agriculture sectors changed significantly, or are they expected to change, in ways that affect the program's purpose?

2. *Distinctiveness:* Is the program unique and free from overlap or duplication with other programs? Is it well coordinated with similar programs?

3. *Targeting:* Is the program's distribution of benefits consistent with contemporary assessments of need?

4. *Affordability:* Is the program affordable, given the nation's severe budgetary constraints? Is it using the most efficient, cost-effective approaches?

5. *Effectiveness:* Are program goals clear, with a direct connection to policies, resource allocations, and actions? Does the program demonstrate measurable progress toward its goals? Is it generally free of unintended consequences, including ecological, social or economic effects? Does the program allow for adjustments to changes in markets?

6. *Oversight:* Does the program have mechanisms, such as internal controls, to monitor compliance and help minimize fraud, waste, and abuse in areas where these are most likely to occur?

[1] GAO-12-338SP.

Appendix III: Ownership Characteristics of Land for Which Direct Payments Were Made

Data from USDA's compliance share file indicate how producers—whether individuals or entities—are involved and whether they own a particular farm field or area of land for which direct payments were made. Producers report they either (1) own and operate the farm ("owner-operator"), (2) operate but do not own the farm ("tenants"), or (3) are an owner of the farm ("other owners"). Our analysis of USDA data found that ownership characteristics of land for which direct payments were made have changed from 2003 through 2011, as shown in table 3.

Table 3: Changes in Ownership of Land for Which Direct Payments Were Made, All Covered Crops

Year	Millions of acres, owner-operators	Millions of acres, tenants	Millions of acres, other owners	Percentage, owner-operators	Percentage, tenants	Percentage, other owners
2003	76.76	144.65	35.16	29.92%	56.38%	13.70%
2004	73.87	146.83	33.46	29.07	57.77	13.16
2005	66.65	150.85	32.41	26.67	60.36	12.97
2006	57.85	154.53	30.64	23.81	63.59	12.61
2007	58.82	157.30	30.76	23.82	63.72	12.46
2008	60.64	161.74	31.02	23.93	63.83	12.24
2009	59.51	160.70	30.09	23.78	64.20	12.02
2010	66.39	153.48	29.32	26.64	61.59	11.77
2011	67.03	158.73	29.67	26.24%	62.14%	11.62%

Source: GAO analysis of USDA data.

Note: Numbers may not total 100 percent because of rounding.

Moreover, we found that the ownership characteristics regarding the operation of land for which direct payments were made varied according to which crops were grown. Table 4 shows these variations by crop, for all covered crops, corn, cotton, oats, rice, soybeans, and wheat in 2011.

Table 4: Ownership Characteristics, All Covered Crops, Corn, Cotton, Oats, Rice, Soybeans, and Wheat, 2011

Crop type	Millions of acres, owner-operators	Millions of acres, tenants	Millions of acres, other owners	Percentage, owner-operators	Percentage, tenants	Percentage, other owners
All covered crops	67.03	158.73	29.67	26.24%	62.14%	11.62%
Corn	25.48	56.79	9.64	27.73	61.79	10.49
Cotton (upland)	1.74	10.82	1.87	12.05	74.97	12.98
Oats	0.76	0.87	0.09	44.06	50.70	5.24
Rice	0.28	2.31	0.36	9.54	78.19	12.27
Soybeans	19.65	47.29	8.31	26.11	62.84	11.04
Wheat	15.97	32.47	7.79	28.39%	57.75%	13.86%

Source: GAO analysis of USDA data.

Note: Percentages may not total to 100 because of rounding.

Appendix IV: Analysis of Direct Payment Crops Grown Compared with Base Acreage Allocations

Our analysis of USDA data found variation in the extent to which producers grew the crop associated with their base acres. Table 5 depicts the results for each crop eligible for direct payments, as well as the totals for all eligible crops, from 2003 through 2011.

Table 5: Planted Acres of Base Acre Crop as a Percentage of Base Acres, from 2003 through 2011

Crop name	Millions of actual planted acres of base acre crop	Millions of base acres	Planting as percentage of base acres
Barley	27.61	79.39	34.78%
Canola	6.57	6.46	101.65
Corn	692.38	791.14	87.52
Cotton (upland)	100.42	169.00	59.42
Crambe	0.00	0.17	2.43
Flax	1.57	1.65	95.49
Mustard	0.10	0.27	35.13
Oats	15.74	29.19	53.91
Peanuts	6.89	13.67	50.38
Rapeseed	0.00	0.02	17.44
Rice	26.18	40.67	64.38
Safflower	0.61	0.95	63.73
Sesame	0.01	0.01	60.69
Sorghum	45.95	108.63	42.30
Soybeans	592.76	472.19	125.53
Sunflower	10.70	16.49	64.87
Wheat	488.14	685.18	71.24
	Total: 2,015.63	**Total: 2,415.08**	**Average: 83.46%**

Source: GAO analysis of USDA data.

Notes: (1) The millions of actual planted acres of base crop was more specifically 0.0042 million acres for crambe and 0.0058 for sesame; the planting as percentage of base acres was more specifically 2.4282 for crambe and 60.6945 for sesame. (2) Numbers may not add to totals because of rounding.

Appendix V: Analysis of Extent to Which Producers Did Not Grow Any of the Crop Associated with Their Base Acres in a Given Year

Our analysis of USDA data found that some producers chose to not grow any of the crop associated with their base acres in a given year—as they are allowed to do. Table 6 depicts our results of this analysis, by crop, and the corresponding value of direct payments made for each crop.

Table 6: Cumulative Value of Direct Payments Made for Which the Crop Associated with the Base Acres Was Not Grown in a Given Year from 2003 through 2011

Crop name	Millions of base acres for which no base acre crop was planted in a given year (cumulative)	Millions of base acres (cumulative)	Percentage of base acres not planted with any of the base acreage crop in a given year	Millions paid for base acres not planted with any base acre crop (cumulative)
Barley	54.07	79.39	68.11%	$457.13
Canola	3.75	6.46	58.02	23.82
Corn	138.91	791.14	17.56	2,659.77
Cotton (upland)	62.06	169.00	36.72	1,907.38
Crambe	0.17	0.17	98.88	1.22
Flax	1.16	1.65	70.20	4.99
Mustard	0.24	0.27	88.05	0.91
Oats	20.02	29.19	68.57	17.24
Peanuts	6.58	13.67	48.13	272.35
Rapeseed	0.01	0.02	89.67	0.09
Rice	10.64	40.67	26.17	885.49
Safflower	0.68	0.95	71.67	2.98
Sesame	0.01	0.01	77.69	0.01
Sorghum	70.04	108.63	64.47	1,098.26
Soybeans	73.71	472.19	15.61	732.21
Sunflower	10.97	16.49	66.50	73.37
Wheat	180.11	685.18	26.29	2,507.65
	Total: 633.11	**Total: 2,415.08**	**Average: 26.22%**	**Total: $10,644.88**

Source: GAO analysis of USDA data.

Notes: (1) The producer could have planted another crop, as they are allowed to do. (2) The millions of acres for which no base acre crop was planted in a given year (cumulative) was more precisely 0.169 for crambe and 0.007 for sesame; the millions of base acres (cumulative) for the period was more precisely 0.171 for crambe and 0.009 for sesame. (3) The dollar totals represent the amount paid for producers of a particular crop who did not plant any of the base acre crop in a given year, cumulative from 2003 through 2011. (4) Numbers may not add to the totals because of rounding.

Appendix VI: Analysis, by State, of the Number of Farms Fallow from 2007 through 2011 and the Value of Direct Payments Made to Producers for These Farms in 2011

According to our analysis of USDA data, 2,327 farms, or about 0.15 percent of the 1.6 million farms receiving direct payments in 2011, reported all their land as “fallow” from 2007 through 2011. That is, producers did not plant any crops of any type on this land in any year during this 5-year period, as they are allowed to do in accordance with planting flexibility rules. Table 7 presents the results of our analysis, by state, of the number of such fallow farms in each state, including the direct payments received by producers on these farms in 2011.

Table 7: Number of Farms Where Producers Planted No Crop of Any Type from 2007 through 2011 and Value of Direct Payments Received by These Producers in 2011, by State

State	Number of farms that reported all their land fallow from 2007 through 2011	Direct payments made in 2011 for such fallow farms (dollars)
Alabama	82	$44,105
Alaska	0	0
Arizona	85	750,531
Arkansas	124	135,216
California	85	307,182
Colorado	14	11,216
Connecticut	1	280
Delaware	0	0
Florida	60	25,716
Georgia	551	307,388
Hawaii	0	0
Idaho	20	17,726
Illinois	6	1,675
Indiana	13	3,668
Iowa	0	0
Kansas	8	4,957
Kentucky	1	144
Louisiana	322	346,514
Maine	0	0
Maryland	4	832
Massachusetts	0	0
Michigan	27	7,544
Minnesota	3	1,141
Mississippi	83	41,735

State	Number of farms that reported all their land fallow from 2007 through 2011	Direct payments made in 2011 for such fallow farms (dollars)
Missouri	7	2,758
Montana	1	1,693
Nebraska	4	2,441
Nevada	0	0
New Hampshire	0	0
New Jersey	3	1,007
New Mexico	68	204,381
New York	18	6,198
North Carolina	169	34,389
North Dakota	8	3,052
Ohio	32	11,840
Oklahoma	22	12,909
Oregon	3	984
Pennsylvania	5	2,004
Rhode Island	0	0
South Carolina	283	103,858
South Dakota	1	1,413
Tennessee	28	6,382
Texas	134	449,438
Utah	3	3,569
Vermont	1	334
Virginia	25	2,902
Washington	11	11,103
West Virginia	0	0
Wisconsin	11	6242
Wyoming	1	261
Total	**2,327**	**$2,876,728**

Source: GAO analysis of USDA data.

Note: We are reporting payments made in the most recent year for which data are available, 2011, to producers of farms that we identified as being fallow for 5 consecutive years, from 2007 through 2011.

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

USDA

United States Department of Agriculture

Farm and Foreign Agricultural Services

Farm Service Agency

1400 Independence Ave., SW
Stop 0501
Washington, DC
20250-0541

TO: Lisa Shames, Director
Food Safety and Agriculture Issues
Government Accountability Office

FROM: Bruce Nelson
Administrator

Bruce Nelson

JUN 22 2012

SUBJECT: Government Accountability Office (GAO) Draft Report Entitled, "FARM PROGRAMS: Direct Payments Should be Reconsidered", GAO-12-640

The U.S. Department of Agriculture (USDA) has reviewed the GAO report on Direct Payments and provides the response below.

USDA has noted GAO's recommendation to Congress to consider terminating or reducing direct payments. The President's Financial Year 2013 budget recommended eliminating the direct payment program while maintaining a strong safety net for farmers.

In response to GAO's recommendation that USDA implement a process to "report on land that may no longer be usable for agriculture," USDA considers that its current processes are adequate. USDA has a system in place to verify that all land with base acres and receiving a direct payment is used for agricultural purposes.

Section 1106(c)(1) of the Food, Conservation, and Energy Act of 2008, the Farm Service Agency (FSA) Handbook 1-DCP, and the CCC-509 Appendix (direct payment contract appendix) all require the reporting of all cropland on the farm. When the producers on a farm file an acreage report (FSA-578) on all cropland on the farm, that producer becomes subject to a spot check, according to FSA Handbook 2-CP.

FSA selects a statistical sample of producers for spot checking to determine that all land reported as cropland on the farm remained in cropland status for the year the spot check was conducted. If a producer is selected for spot check, the accuracy of the producer's acreage report is determined. Only the producers identified on the national producer selection list are required to be spot checked. However, State and County FSA Offices may elect to spot check any producer if there is reason to question the producer's compliance with any program provision.

FSA agrees with GAO that geospatial imagery is a useful tool to identify land use changes. GAO's recommendation to update geospatial imagery more frequently would require increased funding from Congress.

FSA

USDA is an equal opportunity provider and employer.

Lisa Shames, Director
Page 2

USDA concurs with GAO that timely, high quality end-of-year reviews to determine if recipients met program requirements are important. However, USDA contends that its current practices already meet this standard. It would not be feasible for an end-of-year review to be completed before the issuance of final direct payments for the year subject of the review. Final direct payments are issued October 1, or soon thereafter, of the calendar year in which the crop of the covered commodity is harvested. In many locations, the farming operation has not completed crop harvest and many other operations for the year. The end-of-year review is predicated on what occurred during the year in the farming operation as compared to the representations made at the time that payment eligibility and payment limitation determinations were made. Information concerning how the crops were marketed, how expenses were paid, and how profits or losses were divided simply cannot be provided until 'the dust has settled' for that particular year.

Different approaches have been utilized over the years in the methodology for sample selection. At the recommendation of the Office of Inspector General (OIG) in the early 1990's, a judgmental selection completed in Headquarters was determined as the most consistent and beneficial in terms of detecting problematic issues and potential compliance problems. FSA has always represented the sample as judgmental, not statistical or otherwise. As mentioned, OIG believed in the early 1990's that FSA was devoting too much time and resources in the review of farming operations that, in all likelihood, were not in a position to be potential payment eligibility or limitation problems. Thus, in consideration of efficiency, FSA has made a targeted selection and devoted its limited resources to identifying farming operations considered most likely to have potential payment eligibility and payment limitation compliance issues.

When the National Compliance Review process was being developed, the inclusion of end-of-year reviews in that process was considered. However, it was ultimately concluded that the nature of end-of-year reviews warranted continuation of selections made through the existing judgmental selection process.

USDA agrees that there is value in maintaining data on misrepresentation and enforcement actions taken. The development of such a capability has been planned for a number of years. However, other projects such as implementation of the 2008 Farm Bill and the development and implementation of a robust process for verifying producer compliance with Adjusted Gross Income limits– have taken precedence over the development of new informational tools and reporting enhancements.

Appendix VIII: GAO Contact and Staff Acknowledgments

GAO Contact

Lisa Shames, (202) 512-3841 or shamesl@gao.gov

Staff Acknowledgments

In addition to the individual named above, James R. Jones, Jr. (Assistant Director); Alisa Beyninson; Ellen W. Chu; Michael Kendix; and Michelle Munn made key contributions to this report. Important contributions were also made by Benjamin Bolitzer, Kevin Bray, Tom Cook, Melinda Cordero, Greg Dybalski, Barbara El Osta, Rebecca Makar, John Mingus, Susan Offutt, Anne Rhodes-Kline, Ardith A. Spence, Kiki Theodoropoulous, and Michelle K. Treistman.

Related GAO Products

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Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue GAO-11-318SP. Washington, D.C.: March 1, 2011.

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