

2025 USDA EXPLANATORY NOTES – OFFICE OF HEARINGS AND APPEALS

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PREFACE

This publication summarizes the fiscal year (FY) 2025 Budget for the U.S. Department of Agriculture (USDA). Throughout this publication any reference to the “Budget” is in regard to the 2025 Budget, unless otherwise noted. All references to years refer to fiscal year, except where specifically noted. The budgetary tables throughout this document show actual amounts for 2022 and 2023, annualized Continuing Resolution levels for 2024, and the President’s Budget request for 2025. Amounts for 2024 estimated levels include: non-enacted amounts such as Full-Time Equivalent levels, fleet levels, information technology investment levels, recovery levels, transfers in and out, balances available end of year, and obligation levels.

Throughout this publication, the “2018 Farm Bill” is used to refer to the Agriculture Improvement Act of 2018. Most programs funded by the 2018 Farm Bill are funded through 2023. Amounts shown in 2024 and 2025 for most Farm Bill programs reflect those confirmed in the baseline.

Pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, sequestration is included in the numbers for mandatory programs in 2022, 2023, 2024 and 2025.

In tables throughout this document, amounts equal to zero (0) are displayed as dashes (-). Amounts less than 0.5 and greater than zero are rounded and shown as a zero (0). This display treatment is used to prevent the masking of non-zero amounts that do not round up to one (1).

AGENCY-WIDE

PURPOSE STATEMENT

The Office of Hearings and Appeals (OHA) consolidated the three previously separate entities of the National Appeals Division (NAD), the Office of the Administrative Law Judges (OALJ), and the Office of the Judicial Officer (OJO). Previously, OALJ and OJO were offices under Departmental Administration, and NAD was an independent agency that reports to the USDA Secretary.

The mission of OHA is to plan, coordinate, and provide administrative support for NAD, OALJ, and OJO. OHA promotes fairness, transparency, and consistency in NAD, OALJ, and OJO proceedings through the planning, coordination, and administration of office-wide activities and initiatives. OHA adjudicates first-and second-level hearings and appeals at USDA.

OHA Headquarters is located in Alexandria, Virginia. NAD, a division within OHA administers its appeals system through three regional offices located in Memphis, Tennessee; Indianapolis, Indiana; and Lakewood, Colorado. The NAD Administrative Judges are located in field locations throughout the United States and operate out of leased office space or home offices. OALJ and OJO are located in USDA’s South Building in Washington, DC.

As of September 30, 2023, there were 74 permanent full-time employees, comprising of 19 in Virginia and 55 in the field.

OHA did not have any Office of Inspector General or Government Accountability Office evaluation reports during the past year.

AVAILABLE FUNDS AND FTEs

Table OHA-1. Available Funds and FTEs (thousands of dollars, FTEs)

Item	2022		2023		2024		2025	
	Actual	FTEs	Actual	FTEs	Estimated	FTEs	Estimated	FTEs
Salaries and Expenses:								
Total Discretionary Appropriations	\$16,023	73	\$16,503	74	\$16,703	75	\$17,127	75
Total Adjusted Appropriation	16,023	73	16,503	74	16,703	75	17,127	75
Total Available	16,023	73	16,503	74	16,703	75	17,127	75
Lapsing Balances	-358	-	-239	-	-	-	-	-
Total Obligations, OHA	15,665	73	16,264	74	16,703	75	17,127	75
Total Available, OHA	16,023	73	16,503	74	16,703	75	17,127	75

PERMANENT POSITIONS BY GRADE AND FTEs

Table OHA-2. Permanent Positions by Grade and FTEs

Item	2022 Actual			2023 Actual			2024 Estimated			2025 Estimated		
	D.C.	Field	Total	D.C.	Field	Total	D.C.	Field	Total	D.C.	Field	Total
AD.....	1	1	2	1	1	2	1	1	2	1	1	2
AL.....	-	3	3	-	3	3	-	3	3	-	3	3
GS-15.....	3	3	6	2	4	6	2	4	6	2	4	6
GS-14.....	8	28	36	8	31	39	8	31	39	8	31	39
GS-13.....	5	3	8	5	-	5	5	-	5	5	-	5
GS-12.....	1	1	2	1	1	2	1	1	2	1	1	2
GS-11.....	-	5	5	-	5	5	-	5	5	-	5	5
GS-9.....	1	3	4	1	3	4	1	5	6	2	3	5
GS-8.....	1	4	5	1	5	6	-	5	5	1	5	6
GS-7.....	-	1	1	-	1	1	-	1	1	-	1	1
GS-6.....	-	1	1	-	1	1	-	1	1	-	1	1
Total Permanent..	20	53	73	19	55	74	18	57	75	20	55	75
Total Perm. FT												
EOY	20	53	73	19	55	74	18	57	75	20	55	75
FTE*	20	53	73	19	55	74	18	57	75	20	55	75

*Total FTEs are all inclusive of workforce categories including temporary positions.

SHARED FUNDING PROJECTS**Table OHA-3. Shared Funding Projects (thousands of dollars)**

Item	2022 Actual	2023 Actual	2024 Estimated	2025 Estimated
Working Capital Fund:				
Administrative Services:				
AskUSDA Contact Center.....	-	\$2	-	-
Human Resources Enterprise System Management.....	\$1	1	\$1	\$1
Integrated Procurement Systems.....	8	6	5	-
Mail and Reproduction Services.....	56	56	62	61
Materiel Management Service Center.....	9	6	7	6
Procurement Operations and Programs.....	16	17	14	15
Subtotal.....	90	88	89	83
Communications:				
Creative Media & Broadcast Center.....	-	3	15	1
Finance and Management:				
National Finance Center.....	226	290	488	487
Internal Control Support Services.....	-	-	13	11
Personnel and Document Security.....	-	4	4	4
Financial Management Support Services.....	78	49	72	59
Subtotal.....	304	343	577	561
Information Technology:				
Client Experience Center.....	381	332	329	319
Department Administration Information Technology Office.....	195	182	136	86
Digital Infrastructure Services Center.....	5	10	44	41
Enterprise Cybersecurity Services.....	-	21	39	43
Enterprise Data and Analytics Services.....	-	1	2	1
Enterprise Network Services.....	31	34	74	88
Subtotal.....	612	580	624	578
Correspondence Management Services.....	-	-	-	-
Office of the Executive Secretariat.....	9	12	13	11
Total, Working Capital Fund.....	1,015	1,026	1,318	1,234
Department-Wide Shared Cost Programs:				
Personnel and Document Security.....	5	-	-	-
Agency Partnership Outreach.....	5	5	6	6
Diversity, Equity, Inclusion and Accessibility.....	-	1	2	2
Medical Service.....	3	3	3	3
National Capital Region Interpreting Services.....	2	3	4	4
Office of Customer Experience.....	7	2	2	2
Physical Security.....	3	3	4	4
Security Detail.....	3	4	4	4
Security Operations.....	5	5	6	6
Talent Group.....	-	3	3	3
TARGET Center.....	1	1	1	1
USDA Enterprise Data Analytics Services.....	3	-	-	-
Employee Experience.....	-	3	3	3
Total, Department-Wide Reimbursable Programs.....	37	33	38	38
E-Gov:				
Geospatial Line of Business.....	13	13	13	13
Total, E-Gov.....	13	13	13	13
Agency Total.....	1,065	1,072	1,369	1,285

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ACCOUNT 1: SALARIES AND EXPENSES

APPROPRIATIONS LANGUAGE

The appropriations language follows (new language underscored; deleted matter enclosed in brackets):

Salaries and Expenses

For necessary expenses of the Office of Hearings and Appeals, [~~\$17,494,000~~]\$17,127,000.

LEAD-OFF TABULAR STATEMENT

Table OHA-4. Lead-Off Tabular Statement (In dollars)

Item	Amount
Estimate, 2024	\$16,703,000
Change in Appropriation	+ 424,000
Budget Estimate, 2025	<u>17,127,000</u>

PROJECT STATEMENTS

Table OHA-5. Project Statement on Basis of Appropriations (thousands of dollars, FTEs)

Item	2022		2023		2024		2025		FTE	
	Actual	FTEs	Actual	FTEs	Estimated	FTEs	Estimated	FTEs	Inc. or Dec.	Inc. or Chg Dec. Key
Discretionary Appropriations:										
Office of Hearings and Appeals										
	\$16,023	73	\$16,503	74	\$16,703	75	\$17,127	75	+\$424	- (1)
Subtotal	<u>16,023</u>	<u>73</u>	<u>16,503</u>	<u>74</u>	<u>16,703</u>	<u>75</u>	<u>17,127</u>	<u>75</u>	<u>+424</u>	<u>-</u>
Total Adjusted Approp	16,023	73	16,503	74	16,703	75	17,127	75	+424	-
Add back:										
Transfers In and Out,										
Rescissions	150	-	200	-	-	-	-	-	-	-
Total Appropriation	<u>16,173</u>	<u>73</u>	<u>16,703</u>	<u>74</u>	<u>16,703</u>	<u>75</u>	<u>17,127</u>	<u>75</u>	<u>+424</u>	<u>-</u>
Transfers Out:										
Working Capital Funds	-150	-	-200	-	-	-	-	-	-	-
Total Transfers Out	<u>-150</u>	<u>-</u>	<u>-200</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Available	16,023	73	16,503	74	16,703	75	17,127	75	+424	-
Lapsing Balances	<u>-358</u>	<u>-</u>	<u>-239</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Obligations	<u>15,665</u>	<u>73</u>	<u>16,264</u>	<u>74</u>	<u>16,703</u>	<u>75</u>	<u>17,127</u>	<u>75</u>	<u>+424</u>	<u>-</u>

Table OHA-6. Project Statement on Basis of Obligations (thousands of dollars, FTEs)

Item	2022		2023		2024		2025		Inc. or Dec.		FTE Inc. or Dec.	
	Actual	FTEs	Actual	FTEs	Estimated	FTEs	Estimated	FTEs	Dec.	Dec.	Key	
Discretionary Obligations:												
Office of Hearings and Appeals..												
	\$15,665	73	\$16,264	74	\$16,703	75	\$17,127	75	+\$424	-	-	-
Total Obligations	<u>15,665</u>	<u>73</u>	<u>16,264</u>	<u>74</u>	<u>16,703</u>	<u>75</u>	<u>17,127</u>	<u>75</u>	<u>+424</u>	<u>-</u>	<u>-</u>	<u>-</u>
Add back:												
Lapsing Balances	358	-	239	-	-	-	-	-	-	-	-	-
Total Available	<u>16,023</u>	<u>73</u>	<u>16,503</u>	<u>74</u>	<u>16,703</u>	<u>75</u>	<u>17,127</u>	<u>75</u>	<u>+424</u>	<u>-</u>	<u>-</u>	<u>-</u>
Less:												
Total Transfers Out	150	-	200	-	-	-	-	-	-	-	-	-
Total Appropriation	<u>16,173</u>	<u>73</u>	<u>16,703</u>	<u>74</u>	<u>16,703</u>	<u>75</u>	<u>17,127</u>	<u>75</u>	<u>+424</u>	<u>-</u>	<u>-</u>	<u>-</u>

JUSTIFICATION OF CHANGES**Office of Hearings and Appeals**

The base funds will continue to support the mission of OHA to promote fairness, transparency, and consistency in NAD, OALJ, and OJO proceedings through the planning, coordination, and administration of office-wide activities and initiatives.

1. An increase of \$424,000 (\$16,703,000 and 75 FTEs available in 2024).

The funding change is requested for the following items:

An increase of \$424,000 for pay costs. This increase will support an annualization of the 2024 5.2 percent Cost of Living pay increase and the 2025 2.0 percent Cost of Living pay increase. Without this funding the Office of Hearing and Appeals would have limited ability to meet the strict statutory deadlines for the National Appeals Division to hold hearings and issue appeal and review determinations. These mission area activities are performed by Administrative Judges and Appeals Officers, who are geographically dispersed throughout the United States and supported by three regional offices and a headquarters office. Similarly, Office of Administrative Law Judges conducts rulemaking and adjudicatory hearings throughout the country in proceedings that are subject to the Administrative Procedure Act, 5 U.S.C. § 551 et seq., under approximately 50 statutes administered by USDA agencies. The Office of Judicial Officer is delegated authority to act as the final deciding officer for the United States Department of Agriculture in adjudicatory proceedings listed in 7 C.F.R. § 2.35. Failure to receive this increase would prevent OHA from fully performing its mission, which is necessary to ensure continued support for the Department as well as meeting the needs of the Executive Office of the President and members of Congress. Over eighty percent of OHA’s appropriation comprises of salaries and benefits and although OHA will streamline and economize all activity areas, by statute OHA may not receive personnel, informational technology, and other support services except on a reimbursable basis.

GEOGRAPHIC BREAKDOWN OF OBLIGATIONS AND FTEs***Table OHA-7. Geographic Breakdown of Obligations and FTEs (thousands of dollars, FTEs)***

State/Territory/Country	2022		2023		2024		2025	
	Actual	FTEs	Actual	FTEs	Estimated	FTEs	Estimated	FTEs
Alabama	\$171	1	\$183	1	-	-	-	-
Arkansas.....	171	1	178	1	\$188	1	\$188	1
California	390	2	422	2	426	2	426	2
Colorado.....	1,426	8	1,519	10	1,708	10	1,750	10
District of Columbia	1,982	10	1,644	9	1,600	10	1,650	10
Florida.....	311	2	377	2	391	2	391	2
Georgia.....	164	1	-	-	-	-	-	-
Idaho	186	1	199	1	220	1	220	1
Indiana.....	1,093	7	1,113	7	1,200	8	1,270	8
Maryland.....	193	1	214	1	234	1	234	1
Minnesota.....	179	1	194	1	198	1	198	1
Mississippi	181	1	393	2	412	2	412	2
Missouri.....	325	2	358	2	368	2	368	2
New York.....	185	1	193	1	214	1	214	1
North Carolina	366	2	389	2	405	2	405	2
Ohio.....	188	1	196	1	221	1	221	1
Pennsylvania	181	1	189	1	196	1	196	1
Tennessee.....	1,384	8	1,074	7	1,162	7	1,162	7
Texas.....	369	2	356	2	360	2	360	2
Virginia	6,220	20	7,073	21	7,200	21	7,462	21
Obligations.....	15,665	73	16,264	74	16,703	75	17,127	75
Lapsing Balances	358	-	239	-	-	-	-	-
Total, Available.....	16,023	73	16,503	74	16,703	75	17,127	75

CLASSIFICATION BY OBJECTS

Table OHA-8 Classification by Objects (thousands of dollars)

Item No.	Item	2022 Actual	2023 Actual	2024 Estimated	2025 Estimated
Personnel Compensation:					
	Washington D.C	\$2,646	\$3,002	\$3,240	\$3,355
	Personnel Compensation, Field	6,854	7,011	7,039	7,314
11	Total personnel compensation	9,500	10,013	10,279	10,669
12	Personal benefits	3,326	3,480	3,608	3,691
13.0	Benefits for former personnel	28	16	35	20
	Total, personnel comp. and benefits	12,854	13,509	13,922	14,380
Other Objects:					
21.0	Travel and transportation of persons	108	159	160	150
22.0	Transportation of things	15	-	-	-
23.1	Rental payments to GSA	364	368	368	368
23.3	Communications, utilities, and misc. charges	377	351	351	350
24.0	Printing and reproduction	54	30	30	30
25.1	Advisory and assistance services	409	418	430	430
25.2	Other services from non-Federal sources	484	484	490	490
25.3	Other goods and services from Federal sources	882	870	880	880
25.5	Research and development contracts	3	3	-	-
26.0	Supplies and materials	47	37	37	25
31.0	Equipment	68	35	35	24
41.0	Grants, subsidies, and contributions	-	-	-	-
	Total, Other Objects	2,811	2,755	2,781	2,747
99.9	Total, new obligations	15,665	16,264	16,703	17,127
	DHS Building Security Payments (included in 25.3)	\$13	\$18	\$20	\$20
Information Technology Investments:					
Major Investment 1					
Legal Case Management					
	External Labor (Contractors)	100	100	104	106
25.2	Outside Services (Consulting)	431	411	500	515
	Total Major Investment 1	531	511	604	621
Mission Area Non-Major Investment Totals					
25.3	Mission Area WCF Transfers	683	876	919	965
	Total Non-Major Investment	683	876	919	965
	Total IT Investments	1,214	1,387	1,523	1,586
Position Data:					
	Average Salary (dollars), ES Position	\$178,348	\$182,807	\$198,904	\$206,860
	Average Salary (dollars), GS Position	\$114,059	\$116,910	\$134,811	\$140,204
	Average Grade, GS Position	13.4	13.4	13.4	13.4

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STATUS OF PROGRAMS**Current Activities**

NAD conducts fair and impartial administrative appeal hearings and reviews of adverse decisions by certain agencies within USDA, and issues determinations in an expeditious manner that reflect a thorough consideration of factual information that reach a proper conclusion. Adjudicative activities include:

- **Appealability Determinations:** The Director reviews hundreds of agency decisions when an agency notifies a participant that it does not believe an administrative decision is appealable.
- **Pre-Hearing Conferences:** NAD conducts pre-hearing conferences to identify and/or narrow the issues in the appeal and help parties understand the evidence they need to present at the hearing.
- **Hearings:** In the first-level appeals process, NAD Administrative Judges conduct impartial administrative hearings and issue determinations, which include decisions about attorney fees under the Equal Access to Justice Act that reflect a thorough consideration of factual and legal information.
- **Reviews:** On petition, in a second-level appeal, the NAD Director reviews Administrative Judge Appeal Determinations, renders second-level decisions about attorney fees under the Equal Access to Justice Act, and may grant equitable relief to the same extent, as such authority is provided to the Secretary.

OALJ conducts rulemaking and adjudicatory hearings nationwide under approximately 50 statutes that are subject to the Administrative Procedure Act (5 U.S.C. §§ 551 *et seq.*). Adjudicative activities include:

- **Initial Decisions:** Judges issue initial decisions and orders in disciplinary and enforcement proceedings, which become final decisions of the Secretary unless appealed to the Judicial Officer.
- **Consent Decisions:** Judges approve consent decisions entered by the parties, which resolve disputes by settlement.
- **Publication of Agricultural Decisions:** OALJ publishes *Agriculture Decisions*, the official compilation of decisions and orders issued in adjudicatory proceedings conducted for the Department.

OJO is delegated authority to act as the final deciding officer for the United States Department of Agriculture in adjudicatory proceedings listed in 7 C.F.R. § 2.35. Adjudicatory activities include:

- **Review of ALJ Decisions:** On petition for review, the Judicial Officer reviews initial adjudicatory decisions issued by USDA's Administrative Law Judges. This second-level review may include Administrative Law Judge decisions about attorney fees under the Equal Access to Justice Act.
- **Reparation Decisions:** The Judicial Officer issues reparation decisions under the Packers and Stockyards Act (P&S Act) and the Perishable Agricultural Commodities Act (PACA). Review of Decisions Subject to the APA: The Judicial Officer reviews decisions in adjudicatory proceedings that are subject to the Administrative Procedure Act, 5 U.S.C. §§ 556, 557.

Selected Examples of Recent Progress

In 2023, NAD:

- Processed 678 cases filed with NAD.
- Issued 55 appealability determinations when appellants challenged the agency's view that a decision was not appealable. Outcome was favorable to appellants in 98 percent of the cases.
- Conducted 356 in-person or telephonic hearings, videoconferences, and reviews of the record.
- Issued 724 determinations, of which 585 were issued by Administrative Judges and 139 were issued by the NAD Director. Outcome was favorable to appellants in 33 percent of the cases. In 48 Review Determinations, appellants were granted equitable relief.
- Increased transparency of the USDA appeals process by publishing more than 5700 determinations on the NAD website in 2023; over 25,300 have been published on the [USDA National Appeals Division website](#) since the program began.
- Accepted over 1,800 eFile requests, which have been processed since NAD introduced the option to electronically file requests in February 2013.

In 2023, OALJ:

- Opened 99 new cases.
- Closed 69 cases related to USDA programs involving the Agricultural Marketing Service (Federal Grain Inspection Service, Packers and Stockyards Division, and PACA Division); Animal and Plant Health Inspection Service; Farm Production and Conservation Business Center; Food Safety and Inspection Service; and Forest Service.
- Conducted formal adjudicative proceedings:
 - Conducted multiple pre-hearing and orientation conferences to prepare parties and participants for virtual hearings, which assisted the parties in settling cases.
 - Conducted 4 remote hearings via telephone conference and online platform.
 - Issued decisions in 6 cases without formal hearings, based on the written record only, via summary judgment.
- Conducted formal rulemaking proceeding hearings:
 - Conducted week-long public hearing in Tennessee regarding proposals to amend Appalachian, Southeast, and Florida Federal milk marketing orders (Docket No. 23-J-0019), initiated by the Agricultural Marketing Service.
 - Conducted 5 weeks of national public hearings in Indiana regarding proposals to amend pricing formulas in 11 Federal milk marketing orders (Docket No. 23-J-0067), initiated by the Agricultural Marketing Service.

In 2023 OJO:

- Issued 199 decisions that arose from administrative appeals of initial decisions of administrative law judges, questions of law certified to the Judicial Officer, and reparation complaints involving commercial transactions brought by private parties using USDA's dispute resolution mechanism.
- Matters decided involved a range of important agricultural requirements including measures to detect and prevent the spread of animal disease, determination of unfair and deceptive practices in agricultural commerce, sourcing of federal timber, and compliance with animal welfare and transportation requirements. Matters before OJO arose under numerous statutes including the Packers and Stockyards Act, Perishable Agricultural Commodities Act, Animal Welfare Act, Horse Protection Act, Commercial Transportation of Equines for Slaughter Act, Animal Health Protection Act, and Forest Resources Conservation and Shortage Relief Act. Decisions also addressed procedural requirements under the Rules of Practice and constitutional challenges.
- Resolved numerous reparation claims by private parties and ordered damages where appropriate for violations of statutory requirements under the Perishable Agricultural Commodities Act and Packers and Stockyards Act.
- Launched OJO's redesigned public facing website in collaboration with OHA to achieve 508 compliance and to improve accessibility to issued decisions and understanding of adjudicatory practices and procedures.