

# Rules and Regulations

Federal Register

Vol. 65, No. 240

Wednesday, December 13, 2000

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 2

#### Revision of Delegations of Authority

**AGENCY:** Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to make delegations of authority to the Chief Information Officer (CIO) designated pursuant to the provisions of the Clinger-Cohen Act. This document also revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect a reorganization in the offices reporting to the Assistant Secretary for Administration. This document also transfers some offices and functions which previously reported to the Assistant Secretary for Administration to the CIO.

**EFFECTIVE DATE:** December 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Edwardene Pitcock, Office of Human Resources Management, Department of Agriculture, Room 309 W Jamie L. Whitten Federal Building, Washington, DC 20250, telephone 202-720-3635.

**SUPPLEMENTARY INFORMATION:** In order to centralize and standardize the Department's Information Technology (IT) systems, procurement and training, the Secretary has named a Department CIO pursuant to the provisions of the Clinger-Cohen Act, Pub. L. No. 104-106. The CIO is responsible for Departmentwide IT system architecture, standardization, guidance, and training. The Office of Information Systems Management, which previously reported to the Assistant Secretary for Administration (hereinafter referred to

as the Assistant Secretary), now reports to the CIO.

The Assistant Secretary has reorganized the offices which report to him to better utilize the resources of those offices. This reorganization restructured the functions of these offices so they can carry out their missions in a more effective and efficient manner as they meet the needs of their customers both within the Department of Agriculture and in the private sector.

The Assistant Secretary has consolidated all Departmentwide civil rights functions in an Office of Civil Rights. This office is headed by a Director who reports to the Assistant Secretary and who has responsibility for leadership, coordination, and direction related to both civil rights programs and equal employment opportunity complaints.

The Assistant Secretary has consolidated all Departmentwide personnel functions in an Office of Human Resources Management. This Office, headed by a Director who reports to the Assistant Secretary and who is responsible for establishing personnel policy for the entire Department of Agriculture (USDA), also provides operational support to specified organizations within USDA.

Also, as part of this reorganization, the Assistant Secretary has been named the Director of Small and Disadvantaged Business Utilization. The Office of Small and Disadvantaged Business Utilization now reports to the Assistant Secretary. This Office previously reported to the Deputy Secretary of Agriculture.

Additionally, an Office of Procurement, Property, and Emergency Preparedness has been established. The Office is headed by a Director who reports to the Assistant Secretary. The Director is responsible for establishing policy related to procurement and property management, and for providing services relating to procurement operations for projects having a nationwide scope and for assigned Departmental offices. The Director is responsible for coordinating the Department's programs related to emergency preparedness, national security, and disaster emergency response. The Director also is responsible for designating a competition advocate to promote

competition in Departmental acquisitions.

This document revises the delegations of authority to authorize the Assistant Secretary for Administration to obtain and furnish excess personal property to the 1890 Land Grant Institutions, 1994 Land Grant Institutions and the Hispanic-Serving Institutions, in support of research, educational, technical, and scientific activities or for related programs.

This document removes from the Assistant Secretary for Administration authority related to advisory committees. Responsibility for advisory committee management will remain within the Office of the Secretary.

Further, an Office of Planning and Coordination has been established. The Office is headed by a Director who reports to the Assistant Secretary. The Director is responsible for providing budget and financial management coordination, strategic planning support, and quality management to the Assistant Secretary for Administration, and the Director is also responsible for issuing policy and guidance related to conflict resolution programs.

Additionally, an Office of Ethics has been established. The Office is headed by a Director who reports for administrative purposes to the Assistant Secretary. The Director is responsible for the Department's worldwide ethics program which includes providing advice to all levels of management on ethics issues, and developing and disseminating policy and guidance on ethics and conflicts of interest.

Lastly, an Office of Outreach has been established. The Office is headed by a Director who reports to the Assistant Secretary. The Director is responsible for ensuring that opportunities are available for the provision of information, technical assistance, and training to USDA customers with emphasis on under-served populations. The Director is responsible for coordinating efforts to ensure that USDA customers have access to all the Department's programs and services.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to

internal agency management, it is exempt from the provisions of Executive Order Nos. 12866 and 12988. In addition, this action is not a rule as defined by Pub. L. No. 96-354, the Regulatory Flexibility Act, and, thus, is exempt from the provisions of that Act. Accordingly, as authorized by section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, this rule may be made effective upon publication in the **Federal Register**.

#### List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

### PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 continues to read as follows:

**Authority:** Sec. 212(a), Pub. L. 103-354, 108 Stat. 3201, 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR, 1949-1953 Comp., p. 1024.

#### Subpart A—General

##### § 2.4 [Amended]

2. Section 2.4 is amended by adding “Chief Information Officer;” after “Chief Financial Officer;”.

3. Section 2.24 is amended by revising paragraphs (a)(2) through (a)(13), adding paragraphs (a)(14) through (a)(17), and revising paragraph (b) to read as follows:

##### § 2.24 Assistant Secretary for Administration.

(a) \* \* \*

(2) *Related to small and disadvantaged business utilization.* (i) In compliance with Public Law 95-507, the Assistant Secretary for Administration is designated as the Department's Director for Small and Disadvantaged Business Utilization. The Director of Small and Disadvantaged Business Utilization has specific responsibilities under the Small Business Act, 15 U.S.C. 644(k). These duties include being responsible for the following:

(A) Administering the Department's small and disadvantaged business activities related to procurement contracts, minority bank deposits, and grants and loan activities affecting small and minority businesses including women-owned business, and the small business, small minority business and small women-owned business subcontracting programs;

(B) Providing Departmentwide liaison and coordination of activities related to small, small disadvantaged, and women-owned businesses with the Small Business Administration and others in public and private sector;

(C) Developing policies and procedures required by the applicable provision of the Small Business Act, as amended to include the establishment of goals; and

(D) Implementing and administering programs described under sections 8 and 15 of the Small Business Act, as amended (15 U.S.C. 637 and 644).

(3) *Related to equal opportunity in programs and employment.* (i) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery, compliance, and equal employment opportunity, with emphasis on the following:

(A) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in Federally assisted programs;

(B) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment;

(C) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department;

(D) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department;

(E) Actions to enforce Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA programs and activities funded by the Department;

(F) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA conducted programs.

(G) Actions to enforce Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12131, *et seq.*, prohibiting discrimination against individuals with disabilities in State and local government services.

(H) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate;

(I) Actions to develop and implement the Department's Federal Women's Program; and

(J) Actions to develop and implement the Department's Hispanic Employment Program.

(ii) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(iii) Provide leadership and coordinate Departmental agencies and systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

(iv) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of USDA programs on a nondiscriminatory basis.

(v) Coordinate with the Department of Justice on matters relating to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*), and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(vi) Coordinate with the Department of Health and Human Services on matters relating to the Age Discrimination Act of 1975, 42 U.S.C. 6102, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(vii) Order proceedings and hearings in the Department pursuant to §§ 15.9(e) and 15.86 of this title which concern consolidated or joint hearings within the Department or with other Federal departments and agencies.

(viii) Order proceedings and hearings in the Department pursuant to § 15.8 of this title after the program agency has advised the applicant or recipient of his or her failure to comply and has determined that compliance cannot be secured by voluntary means.

(ix) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to part 15 of this title; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his or her recommended findings and proposed action.

(x) Authorize the taking of action pursuant to § 15.8(a) of this title relating to compliance by “other means authorized by law.”

(xi) Make determinations required by § 15.8(d) of this title that compliance

cannot be secured by voluntary means, and then take action, as appropriate.

(xii) Make determinations, after legal sufficiency reviews by the Office of the General Counsel, that program complaint investigations performed under § 15.6 of this title establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate;

(xiii) Perform investigations and make final determinations, after legal sufficiency reviews by the Office of the General Counsel, on both the merits and required corrective action, as to complaints filed under part 15d of this title.

(xiv) Conduct investigations and compliance reviews Departmentwide.

(xv) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(xvi) Coordinate the Department's affirmative employment program, special emphasis programs, Federal Equal Opportunity Recruitment Program, equal employment opportunity evaluations, and development of policy.

(xvii) Provide liaison on equal employment opportunity programs and activities with the Equal Employment Opportunity Commission and the Office of Personnel Management.

(xviii) Monitor, evaluate, and report on agency compliance with established policy and Executive Orders which further the participation of historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

(xix) Is designated as the Department's Director of Equal Employment Opportunity with authority to perform the functions and responsibilities of that position under 29 CFR part 1614, including the authority to make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's program for Equal Employment Opportunity (EEO), to provide equal employment opportunity services for managers and employees, and to make final agency decisions, after legal sufficiency reviews by the Office of the General Counsel, on EEO complaints by Department employees or applicants for employment and order such corrective measures in such complaints as may be considered necessary, including the recommendation for such

disciplinary action as is warranted when an employee has been found to have engaged in a discriminatory practice.

(xx) Maintain liaison with historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment, and assist Department agencies in strengthening such institutions by facilitating institutional participation in Department programs and activities and by encouraging minority students to pursue curricula that could lead to careers in the food and agricultural sciences.

(xxi) Administer the Department's EEO Program.

(xxii) Oversee and manage the EEO counseling function for the Department.

(xxiii) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, or other outside authority.

(xxiv) Process formal EEO discrimination complaints by employees or applicants for employment.

(xxv) Investigate Department EEO and program discrimination complaints.

(xxvi) Make final decisions, after legal sufficiency reviews by the Office of the General Counsel, on both EEO and program discrimination complaints, except in those cases where the Assistant Secretary has participated in the events that gave rise to the matter.

(xxvii) Order such corrective measures in EEO complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to engage in a discriminatory practice.

(xxviii) Provide liaison on EEO matters concerning complaints and appeals with the Department agencies and Department employees.

(xxix) Make final determinations, or enter into settlement agreements, after legal sufficiency reviews by the Office of the General Counsel, on discrimination complaints in conducted programs subject to the Equal Credit Opportunity Act. This delegation includes the authority to make compensatory damage awards whether pursuant to a final determination or in a settlement agreement under the authority of the Equal Credit Opportunity Act and the authority to obligate agency funds, including CCC and FCIC funds to satisfy such an award.

(xxx) Require corrective action on findings of discrimination on program complaints and recommend to the Secretary that relief be granted under 7 U.S.C. 6998(d), notwithstanding the finality of National Appeals Divisions decisions.

(xxxi) Provide civil rights and equal employment opportunity support services, with authority to take actions required by law or regulation to perform such services for:

(A) The Secretary of Agriculture;

(B) The general officers of the Department;

(C) The offices and agencies reporting to the Assistant Secretary for Administration; and

(D) Any other offices or agencies of the Department as may be agreed.

(4) *Related to outreach.* (i) Develop policy guidelines and implement a Departmental outreach program which delivers services to the traditionally under-served customers.

(ii) Administer and provide leadership, direction, coordination, and monitoring for the Small Farmer Outreach Training and Technical Assistance program, *i.e.* Outreach and Technical Assistance Grants to Socially Disadvantaged Farmers and Ranchers Program, including the authority to make grants and enter into contracts and other agreements pursuant to 7 U.S.C. 2279(a).

(iii) Develop a strategic outreach plan for the Department which coordinates the goals, objectives, and expectations of mission area outreach programs.

(iv) Coordinate the dissemination/communication of all outreach information from the Department and its mission areas ensuring its transmission to as wide a public spectrum as possible.

(v) Serve as the Department's official outreach spokesperson.

(vi) Provide coordination and oversight of agency outreach activities including the establishment of outreach councils.

(vii) Develop a system to monitor the delivery of outreach grants and funding.

(viii) Report agency outreach status and accomplishments, and make recommendations to the Secretary.

(5) *Related to operations.* (i) Provide services for the Department in the following areas:

(A) Acquiring, leasing, utilizing, constructing, maintaining, and disposing of real and personal property, including control of space assignments, in the Washington, D.C. metropolitan area;

(B) Acquiring, storing, distributing, and disposing of forms; and

(C) Mail management and all related functions.

(ii) Operating centralized Departmental services to provide printing, copy reproducing, offset composing, supplies, mail, automated mailing lists, excess property pool, resource recovery, shipping and receiving, forms, labor services, issuing of general employee identification cards, supplemental distributing of Department directives, space allocating and management, and related management support.

(iii) Providing property management, space management, messenger, and other related services with authority to take actions required by law or regulation to perform such services for:

- (A) The Secretary of Agriculture;
- (B) The general officers of the Department;
- (C) The offices reporting to the Assistant Secretary for Administration;
- (D) Any other offices or agencies of the Department as may be agreed; and
- (E) Other federal, state, or local government organizations on a cost recovery basis.

(iv) Represent the Department in contacts with other organizations or agencies on matters related to assigned responsibilities.

(v) Promulgate Departmental regulations, standards, techniques, and procedures and represent the Department in maintaining the security of physical facilities, self-protection, and warden services, in the Washington, D.C. metropolitan area.

(vi) Provide internal administrative management and support services for the defense program of the Department.

(6) *Related to human resources management.* (i) Formulate and issue Department policy, standards, rules, and regulations relating to human resources management.

(ii) Provide human resources management procedural guidance and operational instructions.

(iii) Set standards for human resources data systems.

(iv) Inspect and evaluate human resources management operations and issue instructions or take direct action to insure conformity with appropriate laws, Executive Orders, Office of Personnel Management rules and regulations, and other appropriate rules and regulations.

(v) Exercise final authority in all human resources matters, including individual cases, that involve the jurisdiction of more than one General Officer or agency head.

(vi) Receive, review, and recommend action on all requests for the Secretary's approval in human resources matters.

(vii) Make final decisions on adverse actions, except in those cases where the

Assistant Secretary for Administration has participated.

(viii) Represent the Department in human resources matters in all contacts outside the Department.

(ix) Exercise specific authorities in the following operational matters:

- (A) Waive repayment of training expenses where an employee fails to fulfill service agreement;
- (B) Establish or change standards and plans for awards to private citizens; and
- (C) Execute, change, extend, or renew:
  - (1) Labor-Management Agreements; and
  - (2) Associations of Management Officials' or Supervisors' Agreements.

(D) Represent any part of the Department in all contacts and proceedings with the National Offices of Labor Organizations;

(E) Change a position (with no material change in duties) from one pay system to another;

(F) Grant restoration rights, and release employees with administrative reemployment rights;

(G) Authorize any mass dismissals of employees in the Washington, D.C., metropolitan area;

(H) Approve "normal line of promotion" cases in the excepted service where not in accordance with time-in-grade criteria;

(I) Make the final decision on all classification appeals filed with the Department of Agriculture;

(J) Authorize all employment actions (except nondisciplinary separations and LWOP) and classification actions for senior level and equivalent positions including Senior Executive Service positions and special authority professional and scientific positions responsible for carrying out research and development functions;

(K) Authorize all employment actions (except LWOP) for the following positions:

- (1) Schedule C;
- (2) Non-career Senior Executive Service or equivalent; and
- (3) Administrative Law Judge.

(L) Authorize adverse actions for positions in GS-14-15 and equivalent and, as appropriate, redelegate this authority to Heads of Department agencies;

(M) Authorize adverse action for positions in the career senior executive service or equivalent, and as appropriate, redelegate this authority on a case by case basis to the Heads of Departmental agencies;

(N) Approve the details of Department employees to the White House;

(O) Authorize adverse actions based in whole or in part on an allegation of violation of 5 U.S.C. chapter 73,

subchapter III, for employees in the excepted service;

(P) Authorize long-term training in programs which require Departmentwide competition;

(Q) Initiate and take adverse action in cases involving a violation of the merit system.

(x) As used in this section, the term human resources includes:

- (A) Position management;
- (B) Position classification;
- (C) Employment;
- (D) Pay administration;
- (E) Automation of human resources data and systems;
- (F) Hours of duty;
- (G) Performance management;
- (H) Promotions;
- (I) Employee development;
- (J) Incentive Programs;
- (K) Leave;
- (L) Retirement;
- (M) Human resource program management evaluations;
- (N) Social security;
- (O) Life insurance;
- (P) Health benefits;
- (Q) Unemployment compensation;
- (R) Labor management relations;
- (S) Intramanagement consultation;
- (T) Security;
- (U) Discipline; and
- (V) Appeals.

(xi) Provide human resources services, as listed in paragraph (a)(6)(x) of this section, and organizational support services, with authority to take actions required by law or regulation to perform such services for:

- (A) The Secretary of Agriculture;
- (B) The general officers of the Department;

(C) The offices and agencies reporting to the Assistant Secretary for Administration; and

(D) Any other offices or agencies of the Department as may be agreed.

(xii) Maintain, review, and update Departmental delegations of authority.

(xiii) Authorize organizational changes which occur in:

- (A) Departmental organizations:
  - (1) Agency or office;
  - (2) Division (or comparable component); and
  - (3) Branch (or comparable component in Departmental centers, only).
- (B) Field organizations:
  - (1) First organizational level; and
  - (2) Next lower organizational level required only for those types of field installations where the establishment, change in location, or abolition of same, requires approval in accordance with Departmental internal direction.

(xiv) Formulate and promulgate departmental organizational objectives and policies.

(xv) Approve coverage of individual law enforcement and firefighter positions under the special retirement provisions of the Civil Service Retirement System and the Federal Employees Retirement System.

(xvi) Establish Departmentwide safety and health policy and provide leadership in the development, coordination, and implementation of related standards, techniques, and procedures, and represent the Department in complying with laws, Executive Orders and other policy and procedural issuances related to occupational safety and health within the Department.

(xvii) Represent the Department in all rulemaking, advisory, or legislative capacities on any groups, committees, or Governmentwide activities that affect the Department's Occupational Safety and Health Management Program.

(xviii) Determine and provide Departmentwide technical services and regional staff support for the safety and health programs.

(xix) Administer the computerized management information systems for the collection, processing and dissemination of data related to the Department's occupational safety and health programs.

(xx) Administer the administrative appeals process related to the inclusion of positions in the Testing Designated Position listing in the Department's Drug-Free Workplace Program and designate the final appeal officer for that Program.

(xxi) Administer the Department's Occupational Health and Preventive Medical Program, as well as design and operate employee assistance and workers' compensation activities.

(xxii) Provide education and training on a Departmentwide basis for safety and health-related issues and develop resource and operational manuals.

(xxiii) Oversee and manage the Department's administrative grievance program.

(xxiv) Make final decisions in those cases where an agency head has appealed the recommended decision of a grievance examiner.

(7) *Related to procurement and property management.* (i) Promulgate policies, standards, techniques, and procedures, and represent the Department, in the following:

(A) Acquisition, including, but not limited to, the procurement of supplies, services, equipment, and construction;

(B) Socioeconomic programs relating to contracting;

(C) Selection, standardization, and simplification of program delivery processes utilizing contracts;

(D) Acquisition, leasing, utilization, value analysis, construction, maintenance, and disposition of real and personal property, including control of space assignments;

(E) Motor vehicle and aircraft fleet and other vehicular transportation;

(F) Transportation of things (traffic management);

(G) Prevention, control, and abatement of pollution with respect to Federal facilities and activities under the control of the Department (Executive Order 12088, 3 CFR, 1978 Comp., p. 243);

(H) Implementation of the Uniform Relocation Assistance and Real Property Policies Act of 1970 (42 U.S.C. 4601, *et seq.*); and

(I) Development and implementation of energy management and environmental actions related to acquisition and procurement, real and personal property management, waste prevention and resource recycling, and logistics. Maintain liaison with the Office of the Federal Environmental Executive, the Department of Energy, and other Government agencies in these matters.

(ii) Exercise the following special authorities:

(A) Designate the Departmental Debarring Officer to perform the functions of 48 CFR part 9, subpart 9.4 related to procurement activities, except for commodity acquisitions on behalf of the Commodity Credit Corporation (7 CFR part 1407); with authority to redelegate suspension and debarment authority for contracts awarded under the School Lunch and Surplus Removal Programs (42 U.S.C. 1755 and 7 U.S.C. 612c);

(B) Conduct liaison with the Office of Federal Register (1 CFR part 16) including the making of required certifications pursuant to 1 CFR part 18;

(C) Maintain custody and permit appropriate use of the official seal of the Department;

(D) Establish policy for the use of the official flags of the Secretary and the Department;

(E) Coordinate collection and disposition of personal property of historical significance;

(F) Make information returns to the Internal Revenue Service as prescribed by 26 U.S.C. 6050M and by 26 CFR 1.6050M-1 and such other Treasury regulations, guidelines or procedures as may be issued by the Internal Revenue Service in accordance with 26 U.S.C. 6050M. This includes making such verifications or certifications as may be required by 26 CFR 1.6050M-1 and making the election allowed by 26 CFR 1.6050M-1(d)(5)(1);

(G) Promulgate regulations for the management of contracting and procurement for information technology and telecommunication equipment, software, services, maintenance and related supplies; and

(H) Represent the Department in contacts with the General Accounting Office, the General Services Administration, the Office of Management and Budget, and other organizations or agencies on matters related to assigned responsibilities.

(iii) Serve as the Acquisition Executive in the Department to integrate and unify the management process for the Department's major system acquisitions and to monitor implementation of the policies and practices set forth in Circular A-109, Major Systems Acquisitions, with the exception that major system acquisitions for information technology shall be under the cognizance of the Chief Information Officer. This includes the authority to:

(A) Insure that OMB Circular A-109 is effectively implemented in the Department and that the management objectives of the Circular are realized;

(B) Review the program management of each major system acquisition, excluding information technology;

(C) Designate the program manager for each major systems acquisition, excluding information technology; and

(D) Designate any Departmental acquisition as a major system acquisition, excluding information technology, under OMB Circular A-109.

(iv) Pursuant to Executive Order 12931, 3 CFR, 1994 Comp., p. 925, and sections 16, 22, and 37 of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. 414, 418(b), and 433, designate the Senior Procurement Executive for the Department and delegate responsibility for the following:

(A) Prescribing and publishing Departmental acquisition policies, regulations, and procedures;

(B) Taking any necessary actions consistent with policies, regulations, and procedures with respect to purchases, contracts, leases, and other transactions;

(C) Designating contracting officers;

(D) Establishing clear lines of contracting authority;

(E) Evaluating and monitoring the performance of the Department's procurement system;

(F) Managing and enhancing career development of the Department's acquisition work force;

(G) Participating in the development of Governmentwide procurement policies, regulations, and standards, and determining specific areas where

Governmentwide performance standards should be established and applied;

(H) Developing unique Departmental standards as required;

(I) Overseeing the development of procurement goals, guidelines, and innovation;

(J) Measuring and evaluating procurement office performance against stated goals;

(K) Advising the Secretary whether goals are being achieved;

(L) Prescribing standards for agency Procurement Executives and designating agency Procurement Executives when these standards not are met;

(M) Redelegating as appropriate, the authority in paragraph (a)(6)(iv)(A) of this section to agency Procurement Executives or other qualified agency officials with no power of further redelegation; and

(N) Redelegating the authorities in paragraphs (a)(6)(iv)(B), (C), (D), (F), and (G) of this section to agency Procurement executives or other qualified agency officials with the power of further redelegation.

(v) Represent the Department in establishing standards for acquisition transactions within the electronic data interchange environment.

(vi) Pursuant to the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901–5909), establish and maintain a Preference List for selected products developed with commercialization assistance under 7 U.S.C. 5905.

(vii) Designate the Departmental Task Order Ombudsman pursuant to 41 U.S.C. 253j.

(viii) Serve as Departmental Remedy Coordination Official pursuant to 41 U.S.C. 255 to determine whether payment to any contractor should be reduced or suspended based on substantial evidence that the request of the contractor for advance, partial, or progress payment is based on fraud.

(ix) Promulgate Departmental policies, standards, techniques, and procedures, and represent the Department in maintaining the security of physical facilities nationwide.

(x) Review and approve exemptions for USDA contracts and subcontracts from the requirements of the Clean Air Act, as amended (42 U.S.C. 7401, *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, *et seq.*), and Executive Order 11738, 3 CFR, 1971–1975 Comp., p. 799, when he or she determines that the paramount interest of the United States so requires as provided in these acts and Executive Order and the regulations of

the Environmental Protection Agency (40 CFR 32.2155(b)).

(xi) Promulgate policy concerning excess Federal personal property in accordance with section 923 of Public Law 104–127, to support research, educational, technical and scientific activities or for related programs, to:

(A) Any 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note));

(B) Any Institutions eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321, *et seq.*) including Tuskegee University; and

(C) Any Hispanic-serving Institutions (as defined in sections 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c (b)).

(xii) Issue regulations and directives to implement or supplement the Federal Acquisition Regulations (48 CFR Chapters 1 and 4).

(xiii) Issue regulations and directives to implement or supplement the Federal Property Management Regulations (41 CFR chapters 101 and 102).

(xiv) Serve as a USDA Environmental Executive responsible for coordinating waste prevention, recycling, and the procurement, acquisition and use of recycled products and environmentally preferable products, including biobased products, and services pursuant to Executive Order 13101.

(xv) Provide administrative support to the USDA Hazardous Materials Management Group.

(xvi) In accordance with Public Law 95–91, section 656 and pursuant to Executive Order 13123, serve as the Department's principal Energy Conservation Officer.

(xvii) Exercise full Departmentwide contracting and procurement authority.

(xviii) Conduct acquisitions with authority to take actions required by law or regulation to procure supplies, services, and equipment for:

(A) The Secretary of Agriculture;

(B) The general officers of the Department;

(C) The offices and agencies reporting to the Assistant Secretary for Administration;

(D) Any other offices or agencies of the Department as may be agreed; and

(E) For other federal, state, or local government organizations on a cost recovery basis.

(8) *Related to competition advocacy.*

(i) Pursuant to the Office of Federal Procurement Policy Act (Act), as amended (41 U.S.C. 401, *et seq.*), designate the Department's Advocate for Competition with the responsibility for section 20 of the Act (41 U.S.C. 418), including:

(A) Reviewing the procurement activities of the Department;

(B) Developing new initiatives to increase full and open competition;

(C) Developing goals and plans and recommending actions to increase competition;

(D) Challenging conditions unnecessarily restricting competition in the acquisition of supplies and services;

(E) Promoting the acquisition of commercial items; and

(F) Designating an Advocate for Competition for each procuring activity within the Department.

(9) *Related to emergency preparedness:* (i) Administer the Department Emergency Preparedness Program. This includes the:

(A) Coordination of the assignments made to the Department by Executive Order 12656, November 18, 1988,

“Assignment of Emergency Preparedness Responsibilities,” 3 CFR, 1988 Comp. p. 255, to ensure that the Department has sufficient capabilities to respond to any occurrence, including natural disaster, military attack, technological emergency, or any other emergency.

(B) Management of the Department Emergency Coordination Center and alternate facilities;

(C) Development and promulgation of policies for the Department regarding emergency preparedness and national security, including matters relating to anti-terrorism and agriculture-related emergency preparedness planning both national and international;

(D) Providing guidance and direction regarding issues of emergency preparedness, disaster assistance, and national security to the agencies, mission areas, and the State and County Emergency Boards;

(E) Representing and acting as liaison for the Department in contacts with other Federal entities and organizations, including the Federal Emergency Management Agency and the National Security Council, concerning matters of assigned responsibilities; and

(F) Oversight of the Department continuity of operations, planning, and emergency relocation facilities to ensure that resources are in a constant state of readiness.

(ii) Provide guidance and direction to the Department Emergency Coordinator, who, along with the Chief Economist, is responsible for coordinating the preparation of Department estimates of agricultural losses from natural disaster.

(iii) Coordinate Department responsibilities under disaster assistance authorities, including the Chemical Stockpile Emergency Preparedness Program, the Federal

Radiological Emergency Response Plan, the Federal Response Plan, the National Oil and Hazardous Substance Pollution Contingency Plan, and other Federal emergency response plans.

(10) *Related to compliance with environmental laws.* With respect to facilities and activities under his or her authority, to exercise the authority of the Secretary of Agriculture pursuant to section 1-102 related to compliance with applicable pollution control standards and section 1-601 of Executive Order 12088, 3 CFR, 1978 Comp., p. 243, to enter into an inter-agency agreement with the United States Environmental Protection Agency, or an administrative consent order or a consent judgment in an appropriate State, interstate, or local agency, containing a plan and schedule to achieve and maintain compliance with applicable pollution control standards established pursuant to the following:

(i) Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as further amended by the Hazardous and Solid Waste Amendments, and the Federal Facility Compliance Act (42 U.S.C. 6901, *et seq.*);

(ii) Federal Water Pollution Prevention and Control Act, as amended (33 U.S.C. 1251, *et seq.*);

(iii) Safe Drinking Water Act, as amended (42 U.S.C. 300f, *et seq.*);

(iv) Clean Air Act, as amended (42 U.S.C. 7401, *et seq.*);

(v) Noise Control Act of 1972, as amended (42 U.S.C. 4901, *et seq.*);

(vi) Toxic Substances Control Act, as amended (15 U.S.C. 2601, *et seq.*);

(vii) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136, *et seq.*); and

(viii) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601, *et seq.*).

(11) *Related to management.* (i) Administer a productivity program in accordance with Executive Order 12089, 3 CFR, 1979 Comp., p. 246, and other policy and procedural directives and laws to:

(ii) Develop strategies to improve processes with respect to administrative and associated financial activities of the Department and make recommendations to the Secretary.

(iii) Improve Departmental management by: performing management studies and reviews in response to agency requests for assistance; enhancing management decision making by developing and

applying analytic techniques to address particular administrative operational and management problems; searching for more economical or effective approaches to the conduct of business; developing and revising systems, processes, work methods and techniques; and undertaking other efforts to improve the management effectiveness and productivity of the Department.

(iv) Coordinate Departmental Administration strategic planning and budget coordination activities on behalf of the Assistant Secretary.

(12) *Related to conflict management.* (i) Designate the senior official to serve as the Department Dispute Resolution Specialist under the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571, *et seq.*, and provide leadership, direction and coordination for the Department's conflict prevention and resolution activities;

(ii) Issue Departmental regulations, policies, and procedures relating to the use of Alternative Dispute Resolution (ADR) to resolve employment complaints and grievances, workplace disputes, Departmental program disputes, and contract and procurement disputes;

(iii) Provide ADR services for:

(A) The Secretary of Agriculture;

(B) The general officers of the

Department;

(C) The offices and agencies reporting to the Assistant Secretary for Administration; and

(D) Any other officer or agency of the Department as may be agreed.

(iv) Develop and issue standards for mediators and other ADR neutrals

utilized by the Department;

(v) Coordinate ADR activities

throughout the Department; and

(vi) Monitor Agency ADR programs

and report at least annually to the

Secretary on the Department's ADR

activities; and

(13) *Related to ethics.* The Ethics function in the U.S. Department of Agriculture is under the authority of the Assistant Secretary for Administration for purposes of general supervision only. The Assistant Secretary does not have any authority over the functions exercised by the Director, Office of Ethics, pursuant to the Director's responsibilities as Designated Agency Ethics Official under the Office of Government Ethics regulations at 5 CFR part 2638.

(14) *Related to budget and finance.* Exercise general financial and budget authority over all organizations assigned to the Assistant Secretary for Administration.

(15) *Related to defense.* Provide internal administrative management and support services for the defense program of the Department.

(16) *Related to the Board of Contract Appeals.* Provide administrative supervision of the Board of Contract Appeals. No review by the Assistant Secretary for Administration of the merits of appeals or of decisions of the Board is authorized and the Board shall be the representative of the Secretary in such matters.

(17) *Related to hazardous materials management:* (i) Serve on the USDA Hazardous Materials Policy Council.

(ii) Recommend actions and policies that enable USDA offices of assigned responsibility to comply with the intent, purposes, and standards of environmental laws for pollution prevention, control, and abatement.

(iii) Consult with the United States Environmental Protection Agency and other appropriate Federal agencies in developing pollution prevention, control, and abatement policies and programs relating to matters of assigned responsibility.

(iv) Present, in coordination with the Chairman of the USDA Hazardous Materials Policy Council, the USDA Hazardous Waste Management Appropriation budget request to the Office of Management and Budget and to Congress.

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) *Related to human resources management.* Make final determinations in the following areas:

(i) Separation of employees for security reasons;

(ii) Restoration to duty of employees following suspension from duty for security reasons;

(iii) Reinstatement or restoration to duty or the employment of any person separated for security reasons; and

(iv) Issuance of temporary certificates to occupy sensitive positions.

(2) [Reserved]

#### § 2.28 [Amended]

4. Section 2.28 is amended by revising the reference in paragraph (b)(5)(ii) "the Office of Information Resources Management" to read "the Office of the Chief Information Officer."

5. In subpart E, § 2.37 is removed, and subpart E is reserved; and in subpart D, a new § 2.37 is added to read as follows:

#### § 2.37 Chief Information Officer.

(a) *Delegation.* The Chief Information Officer, under the supervision of the Secretary, is responsible for executing the duties enumerated in Public Law

104–106 for agency Chief Information Officers, as follows:

(1) Reporting directly to the Secretary of Agriculture regarding information technology matters.

(2) Overseeing all information technology and information resource management activities relating to the programs and operations of the Department and component agencies. This oversight includes approving information technology investments, monitoring and evaluating the performance of those investments and information resource management activities, approval of all architectures and components thereto and determining whether to continue, modify, or terminate an information technology program or project.

(3) Providing advice and other assistance to the Secretary and other senior management personnel to ensure that information technology is acquired and managed for the Department consistent with chapter 35 of title 44, United States Code (Coordination of Federal Information Policy).

(4) Developing, implementing, and maintaining a sound and integrated Departmentwide information technology architecture.

(5) Promoting the effective and efficient design and operation of all major information resources management processes for the Department, including improvements to work processes of the Department.

(6) Approving the acquisition or procurement of information technology resources by, or on behalf of, any Department agency or office.

(7) Providing guidance and assistance to Department procurement personnel with respect to information technology acquisition strategy and policy.

(8) The Chief Information Officer is designated the Major Information Technology Systems Executive in USDA to integrate and unify the management process for the Department's major information technology system acquisitions and to monitor implementation of the policies and practices set forth in Circular A–109, Major Systems Acquisitions, for information technology. This includes the authority to:

(i) Ensure that OMB Circular A–109 is effectively implemented for information technology systems in the Department and that the management objectives of the Circular are realized;

(ii) Review the program management of each major information technology system acquisition;

(iii) Approve the appointment of the program manager for each major

information technology systems acquisition; and

(iv) Designate any Departmental information technology acquisition as a major system acquisition under OMB Circular A–109.

(9) On an annual basis:

(i) Assessing Departmentwide personnel requirements regarding knowledge and skill in information resources management, and the adequacy of such requirements, to achieve the performance goals established for information resources management.

(ii) Developing strategies and specific plans for hiring, training, and professional development at the executive and management level to meet personnel information technology personnel requirements.

(iii) Reporting to the Secretary on progress made in improving information resources management capability.

(10) The Chief Information Officer is designated as the senior official to carry out the responsibilities of the Department under chapter 35 of title 44, United States Code (Coordination of Federal Information Policy), including:

(i) Ensuring that the information policies, principles, standards, guidelines, rules and regulations prescribed by the Office of Management and Budget are appropriately implemented within the Department;

(ii) Reviewing proposed Department reporting and record keeping requirements, including those contained in rules and regulations, to ensure that they impose the minimum burden upon the public and have practical utility for the Department;

(iii) Developing and implementing procedures for assessing the burden to the public and costs to the Department of information requirements contained in proposed legislation affecting Department programs; and

(iv) Assisting the Office of Management and Budget in the performance of its functions assigned under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), including review of Department information activities.

(11) The Chief Information Officer is responsible for:

(i) Providing Departmentwide guidance and direction in planning, developing, documenting, and managing applications software projects in accordance with Federal and Department information processing standards, procedures, and guidelines;

(ii) Providing Departmentwide guidance and direction in all aspects of information technology, including feasibility studies; economic analyses;

systems design; acquisition of equipment, software, services, and timesharing arrangements; systems installation; systems performance and capacity evaluation; and security. Monitoring these activities for agencies' major systems development efforts to assure effective and economic use of resources and compatibility among systems of various agencies when required;

(iii) Managing the Department Computer Centers, with the exception of the National Finance Center, including setting rates to recover the cost of goods and services within approved policy and funding levels;

(iv) Reviewing and evaluating information technology activities related to delegated functions to assure that they conform to all applicable Federal and Department information technology management policies, plans, standards, procedures, and guidelines;

(v) Designing, developing, implementing, and revising systems, processes, work methods, and techniques to improve the management and operational effectiveness of information resources;

(vi) Administering the Departmental records, forms, reports and Directives Management Programs;

(vii) Managing all aspects of the USDA Telecommunications Program including planning, development, acquisition, and use of equipment and systems for voice and data communications, excluding the actual procurement of data transmission equipment, software, maintenance, and related supplies;

(viii) Managing Departmental telecommunications contracts;

(ix) Providing technical advice throughout the Department;

(x) Implementing a program for applying information resources management technology to improve productivity in the Department;

(xi) Planning, developing, installing, and operating computer-based systems for message exchange, scheduling, computer conferencing, and other applications of office automation technology which can be commonly used by multiple Department agencies and offices;

(xii) Representing the Department in contacts with the General Accounting Office, the General Services Administration, the Office of Management and Budget, the National Institute for Science and Technology, and other organizations or agencies on matters related to delegated responsibilities; and

(xiii) Review, clear, and coordinate all statistical forms, survey plans, and

reporting and record keeping requirements originating in the Department and requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

(12) Implementing policies established pursuant to paragraphs (a)(1) through (11) of this section by:

(i) Disposing of information technology that is acquired by a Department agency in violation of procedures or standards for the Department Information Systems Technology Architecture;

(ii) Establishing information technology and information resources management performance standards for agency Chief Information Officers, information resources managers, and project managers to be used in the performance appraisal process;

(iii) Approving the selection of agency Chief Information Officers and agency major information technology system project managers in accordance with criteria to be promulgated by the Chief Information Officer;

(iv) Provide recommendations to Agency Heads for the removal or replacement of information technology project managers, when, in the opinion of the Chief Information Officer, applicable laws and policies are being violated, or, when the cost, schedule, or performance of an information technology project would indicate management deficiencies;

(v) Withdrawing agencies' authority to obligate funds on Information Technology programs or projects if the agency violates the Chief Information Officer policies, standards, or Department Information Systems Technology Architecture;

(vi) Requiring agencies to validate and verify major information technology systems through the use of an existing contract for such purpose designated by the Chief Information Officer; and

(vii) Requiring approval by the Chief Information Officer of any proposed acquisition of information technology (whether through the award or modification of a procurement contract, a cooperative or other agreement with a non-Federal party, or an interagency agreement) to ensure technical conformance to the Department technical architecture.

(13) Provide management and operational support to the Secretary of Agriculture; the general staff offices; the offices and agencies reporting to the Assistant Secretary for Administration and for any other offices or agencies of the Department as may be agreed. As used in this section, such support services shall include:

(i) Information technology services, as listed in paragraph (a)(11)(v) of this section with authority to take actions required by law or regulation to perform such services; and

(ii) Forms management, files management, and directives management with authority to take actions required by law or regulation to perform such services.

(b) [Reserved]

#### **Subpart P—Delegations of Authority by the Assistant Secretary for Administration**

6.–7. A new § 2.88 is added to read as follows:

##### **§ 2.88 Director, Office of Small and Disadvantaged Business Utilization.**

(a) *Delegations.* Pursuant to § 2.24 (a)(3), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Small and Disadvantaged Business Utilization:

(1) The Director, Office of Small and Disadvantaged Business Utilization, under the supervision of the Assistant Secretary for Administration, has specific responsibilities under the Small Business Act, 15 U.S.C. 644(k). These duties include being responsible for the following:

(i) Administering the Department's small and disadvantaged business activities related to procurement contracts, minority bank deposits, and grants and loan activities affecting small and minority businesses including women-owned business, and the small business, small minority business, and small women-owned business subcontracting programs;

(ii) Providing Departmentwide liaison and coordination of activities related to small, small disadvantaged, and women-owned businesses with the Small Business Administration and others in public and private sector;

(iii) Developing policies and procedures required by the applicable provision of the Small Business Act, as amended, to include the establishment of goals; and

(iv) Implementing and administering programs described under sections 8 and 15 of the Small Business Act, as amended (15 U.S.C. 637 and 644).

(b) [Reserved]

8. Section 2.89 is revised to read as follows:

##### **§ 2.89 Director, Office of Civil Rights.**

(a) *Delegations.* Pursuant to § 2.24 (a)(4), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Civil Rights:

(1) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery compliance and equal employment opportunity, with emphasis on the following:

(i) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in federally assisted programs;

(ii) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment;

(iii) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department;

(iv) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department;

(v) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA programs and activities funded by the Department;

(vi) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA conducted programs;

(vii) Actions to enforce Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12131, *et seq.*, prohibiting discrimination against individuals with disabilities in State and local government services.

(viii) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate;

(ix) Actions to develop and monitor compliance in the Department's Federal Women's Program; and

(x) Actions to develop and monitor the Department's Hispanic Employment Program.

(2) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(3) Provide leadership and coordinate Department agencies and systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

(4) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of USDA programs on a nondiscriminatory basis.

(5) Coordinate with the Department of Justice on matters relating to Title VI of

the Civil Rights Act of 1964 (42 U.S.C. 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*), and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(6) Coordinate with the Department of Health and Human Services on matters relating to the Age Discrimination Act of 1975, 42 U.S.C. 6102, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(7) Order proceedings and hearings in the Department pursuant to §§ 15.9(e) and 15.86 of this title which concern consolidated or joint hearings within the Department or with other Federal departments and agencies.

(8) Order proceedings and hearings in the Department pursuant to § 15.8 of this title after the program agency has advised the applicant or recipient of his or her failure to comply and has determined that compliance cannot be secured by voluntary means.

(9) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to part 15 of this title; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his or her recommended findings and proposed action.

(10) Authorize the taking of action pursuant to § 15.8(a) of this title relating to compliance by "other means authorized by law."

(11) Make determinations required by § 15.8(d) of this title that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(12) Make determinations, after legal sufficiency reviews by the Office of the General Counsel, that program complaint investigations performed under § 15.6 of this title establish a proper basis for findings of discrimination, and that actions taken to correct such findings are adequate.

(13) Perform investigations and make final determinations, after legal sufficiency reviews by the Office of the General Counsel, on both the merits and required corrective action, as to complaints filed under part 15d of this title.

(14) Conduct investigations and compliance reviews Departmentwide.

(15) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(16) Coordinate the Department's affirmative employment program, special emphasis programs, Federal Equal Opportunity Recruitment Program, equal employment opportunity evaluations, and development of policy.

(17) Provide liaison on equal employment opportunity programs and activities with the Equal Employment Opportunity Commission and the Office of Personnel Management.

(18) Monitor, evaluate, and report on agency compliance with established policy and Executive Orders which further the participation of historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

(19) Is designated as the Department's Director of Equal Employment Opportunity with authority to perform the functions and responsibilities of that position under 29 CFR part 1614, including the authority to make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's program for Equal Employment Opportunity, to provide equal employment opportunity services for managers and employees, and to make final agency decisions, after legal sufficiency reviews by the Office of the General Counsel, on EEO complaints by Department employees or applicants for employment and order such corrective measures in such complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to have engaged in a discriminatory practice.

(20) Maintain liaison with historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment, and assist Department agencies in strengthening such institutions by facilitating institutional participation in Department programs and activities and by encouraging minority students to pursue curricula that could lead to careers in the food and agricultural sciences.

(21) Administer the Department's EEO Program.

(22) Oversee and manage the EEO counseling function for the Department.

(23) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, or other outside authority.

(24) Process formal EEO discrimination complaints, up to the appellate stage, by employees or applicants for employment.

(25) Investigate Department EEO and program discrimination complaints.

(26) Issue Departmental regulations, policies and procedures relating to the use of Alternative Dispute Resolution to resolve employment and program discrimination complaints.

(27) Make final decisions, after legal sufficiency reviews by the Office of the General Counsel, on both EEO and program discrimination complaints, except in those cases where the Director, Office of Civil Rights, has participated in the events that gave rise to the matter.

(28) Order such corrective measures in EEO complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to engage in a discriminatory practice.

(29) Provide liaison on EEO matters concerning complaints and appeals with Department agencies and Department employees.

(30) Make final determinations, or enter into settlement agreements, after legal sufficiency reviews by the Office of the General Counsel, on discrimination complaints in conducted programs subject to the Equal Credit Opportunity Act.

(31) Require corrective action on findings of discrimination on program complaints and recommend to the Secretary that relief be granted under 7 U.S.C. 6998(d), notwithstanding the finality of National Appeals Divisions decisions.

(32) Provide civil rights and equal employment opportunity support services, except for the equal employment opportunity support services provided by the Office of Human Resources Management, with authority to take actions required by law or regulation to perform such services for:

- (i) The Secretary of Agriculture;
- (ii) The general officers of the Department;
- (iii) The offices and agencies reporting to the Assistant Secretary for Administration; and

(iv) Any other offices or agencies of the Department as may be agreed.

(b) [Reserved]

9. Section 2.90 is revised to read as follows:

**§ 2.90 Director, Office of Outreach.**

(a) *Delegations.* Pursuant to § 2.24 (a)(5), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Outreach.

(1) Develop policy guidelines and implement a Departmental outreach program which delivers services to the traditionally under-served customers.

(2) Administer and provide leadership, direction, coordination, and monitoring for the Small Farmer Outreach Training and Technical Assistance program, *i.e.* Outreach and Technical Assistance Grants to Socially Disadvantaged Farmers and Ranchers Program, including the authority to make grants and enter into contracts and other agreements pursuant to 7. U.S.C. 2279 (a).

(3) Develop a strategic outreach plan for the Department which coordinates the goals, objectives and expectations of mission area outreach programs.

(4) Coordinate the dissemination/communication of all outreach information from the Department and its mission areas ensuring its transmission to as wide a public spectrum as possible.

(5) Serve as the Department's official outreach spokesperson.

(6) Provide coordination and oversight of agency outreach activities including the establishment of outreach councils.

(7) Develop a system to monitor the delivery of outreach grants and funding.

(8) Report agency outreach status, accomplishments and make recommendations to the Assistant Secretary for Administration.

(b) [Reserved]

10. Section 2.91 is revised to read as follows:

**§ 2.91 Director, Office of Operations.**

(a) *Delegations.* Pursuant to § 2.24 (a)(6), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Operations:

(1) Provide services for the Department in the following areas:

(i) Acquiring, leasing, utilizing, constructing, maintaining, and disposing of real and personal property, including control of space assignments, in the Washington, D.C. metropolitan area.

(ii) Acquiring, storing, distributing, and disposing of forms; and

(iii) Mail management and all related functions.

(2) Operating centralized Departmental services to provide printing, copy reproducing, offset composing, supplies, mail, automated mailing lists, excess property pool, resource recovery, shipping and receiving, forms, labor services, issuing of general employee identification cards, supplemental distributing of Department directives, space allocating and management, and related management support.

(3) Providing property management, space management, messenger, communications, and other related services with authority to take actions required by law or regulation to perform such services for:

(i) The Secretary of Agriculture;

(ii) The general officers of the Department;

(iii) The offices and agencies reporting to the Assistant Secretary for Administration;

(iv) Any other offices or agencies of the Department as may be agreed; and

(v) Other federal, state, or local government organizations on a cost recovery basis.

(4) Represent the Department in contacts with other organizations or agencies on matters related to assigned responsibilities.

(5) Promulgate Departmental regulations, standards, techniques, and procedures and represent the Department in maintaining the security of physical facilities, self-protection, and warden services, in the Washington, D.C. metropolitan area.

(6) Provide internal administrative management and support services for the defense program of the Department.

(b) [Reserved]

11. Section 2.92 is revised to read as follows:

**§ 2.92 Director, Office of Human Resources Management.**

(a) *Delegations.* Pursuant to § 2.24 (a)(7), subject to reservations in § 2.24(b)(1), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Human Resources Management:

(1) Formulate and issue Department policy, standards, rules and regulations relating to human resources management.

(2) Provide human resources management procedural guidance and operational instructions.

(3) Set standards for human resources data systems.

(4) Inspect and evaluate human resources management operations and

issue instructions or take direct action to insure conformity with appropriate laws, Executive Orders, Office of Personnel Management rules and regulations, and other appropriate rules and regulations.

(5) Exercise final authority in all human resources matters, including individual cases, that involve the jurisdiction of more than one General Officer, or agency head.

(6) Receive, review, and recommend action on all requests for the Secretary's or Assistant Secretary for Administration's approval in human resources matters.

(7) Make final decisions on adverse actions except in those cases where the Assistant Secretary for Administration or the Director, Office of Human Resources Management, has participated.

(8) Represent the Department in human resources matters in all contacts outside the Department.

(9) Exercise specific authorities in the following operational matters:

(i) Waive repayment of training expenses where an employee fails to fulfill service agreement;

(ii) Establish or change standards and plans for awards to private citizens; and

(iii) Execute, change, extend, or renew:

(A) Labor-Management Agreements; and

(B) Associations of Management Officials' or Supervisors' Agreements.

(iv) Represent any part of the Department in all contacts and proceedings with the National Offices of Labor Organizations.

(v) Change a position (with no material change in duties) from one pay system to another;

(vi) Grant restoration rights, and release employees with administrative reemployment rights;

(vii) Authorize any mass dismissals of employees in the Washington, DC metropolitan area;

(viii) Approve "normal line of promotion" cases in the excepted service where not in accordance with time-in grade criteria;

(ix) Make the final decision on all classification appeals filed with the Department of Agriculture;

(x) Authorize all employment actions (except nondisciplinary separations and LWOP) and classification actions for senior level and equivalent positions including Senior Executive Service positions and special authority professional and scientific positions responsible for carrying out research and development functions;

(xi) Authorize all employment actions (except LWOP) for the following positions:

(A) Schedule C;  
 (B) Non-career Senior Executive Service or equivalent; and  
 (C) Administrative Law Judge.  
 (xii) Make final decisions on adverse actions for positions in GS-14 and 15 or equivalent and, as appropriate, redelegate this authority to the Heads of Departmental agencies;  
 (xiii) Authorize adverse action for positions in the career Senior Executive Service or equivalent and, as appropriate, redelegate this authority on a case by case basis to Heads of Departmental agencies;  
 (xiv) Approve the details of Department employees to the White House;  
 (xv) Authorize adverse actions based in whole or in part on an allegation of violation of 5 U.S.C. chapter 73, subchapter III, for employees in the excepted service;  
 (xvi) Authorize long-term training in programs which require Departmentwide competition; and  
 (xvii) Initiate and take adverse action in cases involving a violation of the merit system.  
 (10) As used in this section, the term human resources includes:  
 (i) Position management;  
 (ii) Position classification;  
 (iii) Employment;  
 (iv) Pay administration;  
 (v) Automated human resources data and systems;  
 (vi) Hours of duty;  
 (vii) Performance management;  
 (viii) Promotions;  
 (ix) Employee development;  
 (x) Incentive programs;  
 (xi) Leave;  
 (xii) Retirement;  
 (xiii) Human resource program management evaluation;  
 (xiv) Social security;  
 (xv) Life insurance;  
 (xvi) Health benefits;  
 (xvii) Unemployment compensation;  
 (xviii) Labor management relations;  
 (xix) Intramanagement consultation;  
 (xx) Security;  
 (xxi) Discipline; and  
 (xxii) Appeals.  
 (11) Provide human resource services, as listed in paragraph (a)(10) of this section; and organizational support services; with authority to take actions required by law or regulation to perform such services for:  
 (i) The Secretary of Agriculture;  
 (ii) The general officers of the Department;  
 (iii) The offices reporting to the Assistant Secretary for Administration; and  
 (iv) Any other officer or agency of the Department as may be agreed.

(12) Maintain, review, and update Departmental delegations of authority.  
 (13) Recommend authorization of organizational changes which occur in:  
 (i) Departmental organizations:  
 (A) Agency or office;  
 (B) Division (or comparable component); and  
 (C) Branch (or comparable component in Departmental centers, only).  
 (ii) Field organizations;  
 (A) First organizational level; and  
 (B) Next lower organizational level—required only for those types of field installations where the establishment, change in location, or abolition of same requires approval in accordance with Departmental internal direction.  
 (14) Formulate and promulgate Departmental policies regarding reorganizations.  
 (15) Establish Departmentwide safety and health policy and provide leadership in the development, coordination, and implementation of related standards, techniques, and procedures, and represent the Department in complying with laws, Executive Orders and other policy and procedural issuances and related to occupational safety and health within the Department.  
 (16) Represent the Department in all rulemaking, advisory, or legislative capacities on any groups, committees, or Government wide activities that affect the USDA Occupational Safety and Health Management Program.  
 (17) Determine and provide Departmentwide technical services and regional staff support for the safety and health programs.  
 (18) Administer the computerized management information systems for the collection, processing, and dissemination of data related to the Department's occupational safety and health programs.  
 (19) Administer the administrative appeals process related to the inclusion of positions in the Testing Designated Position listing in the Department's Drug-Free Workplace Program and designate the final appeal officer for that Program.  
 (20) Administer the Department's Occupational Health and Prevention Medical Program, as well as design and operate employee assistance and workers' compensation activities.  
 (21) Provide education and training on a Departmentwide basis for safety and health-related issues and develop resource and operational manuals.  
 (22) Oversee and manage the Department's administrative grievance program.  
 (23) Make final decisions in those cases where an agency head has

appealed the recommended decision of a grievance examiner.

(b) *Reservation.* The following authority is reserved to the Assistant Secretary for Administration:  
 (1) Authorize organizational changes occurring in a Department agency or staff office which affect the overall structure of that service or office; *i.e.*, require a change to that service or office's overall organization chart.  
 (2) [Reserved]

12. A new § 2.93 is added to read as follows:

**§ 2.93 Director, Office of Procurement, Property, and Emergency Preparedness.**

(a) *Delegations.* Pursuant to §§ 2.24 (a)(8), (a)(9), (a)(10), and (a)(11), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Procurement, Property, and Emergency Preparedness:

(1) Promulgate policies, standards, techniques, and procedures, and represent the Department, in the following:  
 (i) Acquisition, including, but not limited to, the procurement of supplies, services, equipment, and construction;  
 (ii) Socioeconomic programs relating to contracting;  
 (iii) Selection, standardization, and simplification of program delivery processes utilizing contracts;  
 (iv) Acquisition, leasing, utilization, value analysis, construction, maintenance, and disposition of real and personal property, including control of space assignments;  
 (v) Motor vehicle and aircraft fleet and other vehicular transportation;  
 (vi) Transportation of things (traffic management);  
 (vii) Prevention, control, and abatement of pollution with respect to Federal facilities and activities under the control of the Department (Executive Order 12088, 3 CFR, 1978 Comp., p. 243);  
 (viii) Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, *et seq.*); and  
 (ix) Development and implementation of energy management and environmental actions related to acquisition and procurement, real and personal property management, waste prevention and resource recycling, and logistics. Maintain liaison with the Office of the Federal Environmental Executive, the Department of Energy, and other Government agencies in these matters.  
 (2) Exercise the following special authorities:  
 (i) The Director, Office of Procurement, Property, and Emergency

Preparedness is designated as the Departmental Debarring Officer and authorized to perform the functions of 48 CFR part 9, subpart 9.4 related to procurement activities, except for commodity acquisitions on behalf of the Commodity Credit Corporation (7 CFR part 1407), with authority to redelegate suspension and debarment authority for contracts awarded under the School Lunch and Surplus Removal Programs (42 U.S.C. 1755 and 7 U.S.C. 612c);

(ii) Conduct liaison with the Office of Federal Register (1 CFR part 16) including the making of required certifications pursuant to 1 CFR part 18;

(iii) Maintain custody and permit appropriate use of the official seal of the Department;

(iv) Establish policy for the use of the official flags of the Secretary and the Department;

(v) Coordinate collection and disposition of personal property of historical significance;

(vi) Make information returns to the Internal Revenue Service as prescribed by 26 U.S.C. 6050M and by 26 CFR 1.6050M-1 and such other Treasury regulations, guidelines or procedures as may be issued by the Internal Revenue Service in accordance with 26 U.S.C. 6050M. This includes making such verifications or certifications as may be required by 26 CFR 1.6050M-1 and making the election allowed by 26 CFR 1.6050M-1(d)(5)(1).

(vii) Promulgate regulations for the management of contracting and procurement for information technology and telecommunication equipment, software, services, maintenance and related supplies; and

(viii) Represent the Department in contacts with the General Accounting Office, the General Services Administration, the Office of Management and Budget, and other organizations or agencies on matters related to assigned responsibilities; and

(ix) Redelegate, as appropriate, the authority in paragraph (a)(10) of this section to agency Property Officials or other qualified agency officials with no power of further redelegation.

(3) Exercise authority under the Department's Acquisition Executive (the Assistant Secretary for Administration) to integrate and unify the management process for the Department's major system acquisitions and to monitor implementation of the policies and practices set forth in OMB Circular A-109, Major Systems Acquisitions, with the exception that major system acquisitions for information technology shall be under the cognizance of the Chief Information Officer. This delegation includes the authority to:

(i) Insure that OMB Circular A-109 is effectively implemented in the Department and that the management objectives of the Circular are realized;

(ii) Review the program management of each major system acquisition, excluding information technology;

(iii) Designate the program manager for each major system acquisition, excluding information technology; and

(iv) Designate any Departmental acquisition, excluding information technology, as a major system acquisition under OMB Circular A-109.

(4) Pursuant to Executive Order 12931, 3 CFR, 1994 Comp., p. 925, and sections 16, 22, and 37 of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. 414, 418(b), and 433, serve as the Senior Procurement Executive for the Department with responsibility for the following:

(i) Prescribing and publishing Departmental acquisition policies, regulations, and procedures;

(ii) Taking any necessary actions consistent with policies, regulations, and procedures, with respect to purchases, contracts, leases, and other transactions;

(iii) Designating contracting officers;

(iv) Establishing clear lines of contracting authority;

(v) Evaluating and monitoring the performance of the Department's procurement system;

(vi) Managing and enhancing career development of the Department's acquisition work force;

(vii) Participating in the development of Governmentwide procurement policies, regulations and standards, and determining specific areas where Governmentwide performance standards should be established and applied;

(viii) Developing unique Departmental standards as required,

(ix) Overseeing the development of procurement goals, guidelines, and innovation;

(x) Measuring and evaluating procurement office performance against stated goals;

(xi) Advising the Assistant Secretary whether procurement goals are being achieved;

(xii) Prescribing standards for agency Procurement Executives and designating agency Procurement Executives when these standards are not met;

(xiii) Redelegating, as appropriate, the authority in paragraph (a)(5)(i) of this section to agency Procurement Executives or other qualified agency officials with no power of further redelegation; and

(xiv) Redelegating the authorities in paragraphs (a)(5)(ii), (iv), (vi), and (vii)

of this section to agency Procurement executives or other qualified agency officials with the power of further redelegation.

(5) Represent the Department in establishing standards for acquisition transactions within the electronic data interchange environment.

(6) Pursuant to the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901-5909), establish and maintain a Preference List for selected products developed with commercialization assistance under 7 U.S.C. 5905.

(7) Designate the Departmental Task Order Ombudsman pursuant to 41 U.S.C. 253j.

(8) Promulgate Departmental policies, standards, techniques, and procedures and represent the Department in maintaining the security of physical facilities nationwide.

(9) Review and approve exemptions for USDA contracts and subcontracts from the requirements of the Clean Air Act, as amended (42 U.S.C. 7401, *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, *et seq.*), and Executive Order 11738, 3 CFR, 1971-1975 Comp., p. 799, when he or she determines that the paramount interest of the United States so requires as provided in these acts and Executive Order and the regulations of the Environmental Protection Agency (40 CFR 32.215 (b)).

(10) Promulgate policy and obtain and furnish excess Federal personal property in accordance with section 923 of Public Law 104-127, in support research, educational, technical and scientific activities or for related programs, to:

(i) Any 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994, (Public Law 103-382; 7 U.S.C. 301 note));

(ii) Any Institutions eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 *et seq.*) including Tuskegee University; and

(iii) Any Hispanic-serving Institutions (as defined in sections 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c (b))).

(11) Issuance of regulations and directives to implement or supplement the Federal Acquisition Regulations (48 CFR chapters 1 and 4).

(12) Issuance of regulations and directives to implement or supplement the Federal Property Management Regulations (41 CFR chapters 101 and 102).

(13) Exercise full Departmentwide contracting and procurement authority.

(14) Conduct acquisitions with authority to take actions required by law or regulation to procure supplies, services, and equipment for:

- (i) The Secretary of Agriculture;
- (ii) The general officers of the Department;
- (iii) The offices and agencies reporting to the Assistant Secretary for Administration;
- (iv) Any other offices or agencies of the Department as may be agreed; and
- (v) For other federal, state, or local government organizations on a cost recovery basis.

(15) Pursuant to the Office of Federal Procurement Policy Act (Act), as amended (41 U.S.C. 401, *et seq.*), designate the Department's Advocate for Competition with the responsibility for section 20 of the Act (41 U.S.C. 418), including:

- (i) Reviewing the procurement activities of the Department;
- (ii) Developing new initiatives to increase full and open competition;
- (iii) Developing goals and plans and recommending actions to increase competition;
- (iv) Challenging conditions unnecessarily restricting competition in the acquisition of supplies and services;
- (v) Promoting the acquisition of commercial items; and
- (vi) Designating an Advocate for Competition for each procuring activity within the Department.

(16) *Related to emergency preparedness:*

(i) Administer the Department Emergency Preparedness Program. This includes the:

(A) Coordination of the assignments made to the Department by Executive Order 12656, November 18, 1988, "Assignment of Emergency Preparedness Responsibilities," 3 CFR, 1988 Comp., p. 255, to ensure that the Department has sufficient capabilities to respond to any occurrence, including natural disaster, military attack, technological emergency, or any other emergency.

(B) Management of the Department Emergency Coordination Center and alternate facilities;

(C) Development and promulgation of policies for the Department regarding emergency preparedness and national security, including matters relating to anti-terrorism and agriculture-related emergency preparedness planning both national and international;

(D) Providing guidance and direction regarding issues of emergency preparedness, disaster assistance, and national security to the agencies, mission areas, and the State and County Emergency Boards;

(E) Representing and acting as liaison for the Department in contacts with other Federal entities and organizations, including the Federal Emergency Management Agency and the National Security Council, concerning matters of assigned responsibilities; and

(F) Overseeing Department continuity of operations, planning, and emergency relocation facilities to ensure that resources are in a constant state of readiness.

(ii) Provide guidance and direction to the Department Emergency Coordinator, who, along with the Chief Economist, is responsible for coordinating the preparation of Department estimates of agricultural losses from natural disaster.

(iii) Coordinate the Department responsibilities under disaster assistance authorities, including the Chemical Stockpile Emergency Preparedness Program, the Federal Radiological Emergency Response Plan, the Federal Response Plan, the National Oil and Hazardous Substance Pollution Contingency Plan, and other Federal emergency response plans.

(17) With respect to facilities and activities under his or her authority, to exercise the authority of the Secretary of Agriculture pursuant to section 1-102 related to compliance with applicable pollution control standards and section 1-601 of Executive Order 12088, 3 CFR, 1978 Comp., p. 243, to enter into an inter-agency agreement with the United States Environmental Protection Agency, or an administrative consent order or a consent judgment in an appropriate State, interstate, or local agency, containing a plan and schedule to achieve and maintain compliance with applicable pollution control standards established pursuant to the following:

(i) Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as further amended by the Hazardous and Solid Waste Amendments, and the Federal Facility Compliance Act (42 U.S.C. 6901, *et seq.*);

(ii) Federal Water Pollution Prevention and Control Act, as amended (33 U.S.C. 1251, *et seq.*);

(iii) Safe Drinking Water Act, as amended (42 U.S.C. 300F, *et seq.*);

(iv) Clean Air Act, as amended (42 U.S.C. 7401, *et seq.*);

(v) Noise Control Act of 1972, as amended (42 U.S.C. 4901, *et seq.*);

(vi) Toxic Substances Control Act, as amended (15 U.S.C. 2601, *et seq.*);

(vii) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136, *et seq.*); and

(viii) Comprehensive Environmental Response, Compensation, and Liability

Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601, *et seq.*).

(b) [Reserved]

13. A new § 2.94 is added to read as follows:

**§ 2.94 Director, Office of Planning and Coordination**

(a) *Delegations.* Pursuant to § 2.24 (a)(12) and (a)(13), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Planning and Coordination:

(1) Administer a productivity program in accordance with Executive Order 12089, 3 CFR, 1979 Comp., p. 246, and other policy and procedural directives and laws to:

(2) Develop strategies to improve processes with respect to administrative and financial activities of the Department and make recommendations to the Secretary.

(3) Improve Departmental management by: performing management studies and reviews in response to agency requests for assistance; enhancing management decision making by developing and applying analytic techniques to address particular administrative operational and management problems; searching for more economical or effective approaches to the conduct of business; developing and revising systems, processes, work methods and techniques; and undertaking other efforts to improve the management effectiveness and productivity of the Department.

(4) Coordinate Departmental Administration strategic planning and budget activities on behalf of the Assistant Secretary.

(5) Oversee the Conflict Prevention and Resolution Center, the Director of which:

(i) Serves as the Department's Dispute Resolution Specialist under the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571, *et seq.*, and provides leadership, direction and coordination for the Department's conflict prevention and resolution activities;

(ii) Provides ADR services for:

(A) The Secretary of Agriculture;

(B) The general officers of the

Department;

(C) The offices and agencies reporting to the Assistant Secretary for Administration; and

(D) Any other officer or agency of the Department as may be agreed.

(iii) Develops and issues standards for mediators and other ADR neutrals utilized by the Department.

(iv) Coordinates ADR activities throughout the Department; and

(vi) Monitors Agency ADR programs and reports at least annually to the Secretary on the Department's ADR activities.

(b) [Reserved]

14. A new § 2.95 is added to read as follows:

**§ 2.95 Director, Office of Ethics.**

(a) *Delegations.* Pursuant to the Office of Government Ethics regulations at 5 CFR part 2638, and the Delegations of Authority from the Secretary dated April 28, 1998, the Director, Office of Ethics, shall be the USDA Designated Agency Ethics Official and shall exercise all authority pursuant to that designation.

(b) [Reserved]

15. A new Subpart Q is added to read as follows:

**Subpart Q—Delegations of Authority by the Chief Information Officer**

**§ 2.200 Deputy Chief Information Officer.**

Pursuant to § 2.37, the following delegation of authority is made by the Chief Information Officer to the Deputy Chief Information Officer, to be exercised only during the absence or unavailability of the Chief Information Officer: perform all duties and exercise all powers which are now or which may hereafter be delegated to the Chief Information Officer.

For Subpart C:  
Dated: November 28, 2000.

**Dan Glickman,**  
*Secretary of Agriculture.*

For Subpart E:  
Dated: November 28, 2000.

**Richard E. Rominger,**  
*Deputy Secretary of Agriculture.*

For Subpart P:  
Dated: November 28, 2000.

**Paul W. Fiddick,**  
*Assistant Secretary for Administration.*

For Subpart Q:  
Dated: November 28, 2000.

**Ira L. Hobbs,**  
*Acting Chief Information Officer.*  
[FR Doc. 00-31513 Filed 12-12-00; 8:45 am]  
**BILLING CODE 3410-01-P**

**DEPARTMENT OF AGRICULTURE**

**Food and Nutrition Service**

**7 CFR Part 246**

**RIN 0584-AC93**

**Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Final Rule—WIC Nondiscretionary Funding Modifications of P.L. 106-224**

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the WIC Program regulations to incorporate two nondiscretionary funding provisions mandated by the Agricultural Risk Protection Act of 2000. The first change modifies the methodology used to calculate the national administrative grant per person, which is used to determine the amount of WIC funds to be used for food benefits and nutrition services and administration (NSA). The second change provides greater flexibility for State agencies in noncontiguous States containing a significant number of remote Indian or Native villages by permitting them to convert food funds to cover allowable NSA costs incurred in providing services and breastfeeding support to those areas.

**EFFECTIVE DATE:** This rule is effective October 1, 2000.

**FOR FURTHER INFORMATION CONTACT:** Patricia Daniels, (703) 305-2746.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Why Is This Rule Being Promulgated?*

The Agriculture Risk Protection Act of 2000 (Pub. L. 106-224), was enacted on June 20, 2000, and, among other things, mandates two modifications to WIC funding procedures. The first change modifies the methodology used to calculate the national administrative grant per participant, which is used to determine the amount of WIC funds to be used for food benefits and NSA. This change calls for a revision of the inflation rate calculation methodology. The second change provides greater flexibility for State agencies in noncontiguous States containing a significant number of remote Indian or Native villages by permitting them to convert food funds to cover allowable NSA costs incurred in providing services and breastfeeding support to those areas. This provision recognizes the higher costs associated with service delivery to these remote sites.

*Why Are no Comments Being Taken on This Rule and Why Is It Effective October 1, 2000?*

The changes to the WIC regulations made by this rule are mandated by Congress and require no Agency discretion. Further, section 263 of Pub. L. 106-224 requires that FNS promulgate regulations to implement these provisions as soon as practicable after the date of enactment without regard to the Administrative Procedure Act's notice and comment provisions at 5 U.S.C. 553; the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804, July 24, 1971), relating to notices of proposed rulemaking and public participation in rulemaking; and the Paperwork Reduction Act at 44 U.S.C. chapter 35. In addition, section 172 of Pub. L. 106-224 requires us to promulgate rules to carry out the Act and its amendments not later than 120 days after the date of enactment. For these reasons, we are not taking public comment prior to promulgating this rule. Finally, section 244(f)(2) of Pub. L. 106-224 provides that the WIC funding changes take effect on October 1, 2000. Accordingly, this rule is effective October 1, 2000.

*Why Is This Rule and Preamble in Question and Answer Format?*

We have used this opportunity to rewrite the affected provisions in a question and answer format to improve readability. This approach also complies with the President's Executive Memorandum requiring all Federal regulations published after January 1, 1999 to be in Plain Language, as recommended by the National Partnership for Reinventing Government.

*What Is the Change to the Calculation of the National Administrative Grant Per Participant?*

The national administrative grant per person (AGP) is used in the WIC funding formula to determine the amount of funds allocated for: (1) Food benefits; and (2) NSA costs. The Child Nutrition and WIC Reauthorization Act of 1989 (Pub.L. 101-147), amended section 17(h)(1) of the Child Nutrition Act of 1966 (CNA) to require a specific methodology be used to calculate the AGP. (Section 17 of the CNA is codified at 42 U.S.C. 1786.) This legislation required the AGP for any fiscal year to be calculated by adjusting the actual national average per participant grant for fiscal year 1987 to reflect the percentage change between: (1) the value of the index for State and local government purchases (S&LP), using the