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Proposed Relocation/Realignment of USDA's ERS and NIFA

Background

As part of the proposed reorganization of the U.S. Department of Agriculture (USDA), Secretary Perdue announced in August 2018 the department's intention to relocate the Economic Research Service (ERS) and the National Institute of Food and Agriculture (NIFA) outside the Washington, DC, metropolitan area. He also proposed realigning ERS from the Office of the Undersecretary for Research, Education, and Economics (REE) to the Office of the Chief Economist. Among the stated reasons for the agency relocations are (1) improving USDA's ability to attract and retain qualified staff without the burden of the high cost of living; (2) placing USDA resources closer to the many agricultural stakeholders who live and work outside the Washington, DC, area; and (3) creating departmental savings on high employment costs and rent.

In a subsequent *Federal Register* notice, USDA invited interested parties to make proposals for siting the relocated headquarters of ERS and NIFA. In October 2018, USDA announced that it had received 136 expressions of interest in 35 states. In early May, three sites were chosen for final determination: the Purdue University area (Indiana), Kansas City (Missouri), and Research Triangle (North Carolina). Two additional back-up sites were named: Madison, Wisconsin, and St. Louis, Missouri. On June 13, Secretary Perdue announced that the Kansas City region would be the new location for NIFA and ERS. A cost-benefit analysis of the relocation was also released with the announcement. USDA further announced that the department would not realign ERS with the Office of the Chief Economist but retain the agency under the REE mission area.

Current Status of the Proposed Relocation

With the June decision to relocate to the Kansas City region, current ERS and NIFA employees were given until July 15 to accept an offer to relocate or to separate from service with the agencies. As of that date, 72 ERS employees and 73 NIFA employees agreed to the move, and 250 (99 from ERS and 151 from NIFA) declined. Seventy-six ERS employees and 21 NIFA employees will remain in Washington, D.C.

In response to a letter from Representative Steny Hoyer and Delegate Eleanor Holmes Norton in late September 2018, USDA's Office of the Inspector General (OIG) began a review of the proposed relocation. The OIG report was released on August 5, 2019, and found that USDA had legal authority to realign ERS and relocate the agencies. However, OIG concluded that under the FY2018 Consolidated Appropriations Act (P.L. 115-141), there were certain limitations on USDA's budget authorities to realign or relocate their offices. The OIG found that USDA had not obtained Appropriations Committee approval, as

required by Section 717(a) of that act, nor had it complied with the reporting deadline requirement in Section 753 of the act. That same language was in the FY2019 appropriations bill and in the House-passed FY2020 bill.

In response, USDA stated its disagreement with the OIG's questioning its budget authorities regarding the relocation. The Department asserted that its actions fully comply with all applicable laws and that the budgetary provisions cited in the OIG report requiring committee approval are unconstitutional. OIG, in response, noted that USDA's position was not consistent with prior positions taken by the Department and recommended that USDA seek the Office of General Counsel's opinion regarding compliance with the relevant appropriations provisions, including whether there were any corresponding violations of the Antideficiency Act, which prohibits agencies from spending funds not appropriated.

Economic Research Service

ERS was founded in 1961 as the successor agency of the Bureau of Agricultural Economics, which was established in 1922. ERS conducts economic and statistical analyses on agricultural commodities, trade and international agriculture, rural demography, agricultural marketing, food price forecasting, surveys of farm and crop production practices, farm and rural labor and income analysis, food safety and nutrition, natural resources, and the environment. More recently, ERS has developed geospatial online mapping tools to integrate and display data and research results geographically.

National Institute of Food and Agriculture

A 2004 USDA task force report recommended the formation of a National Institute for Food and Agriculture. The task force recommended that such an institute should

- support fundamental research addressing the frontiers of knowledge while leading to practical results or further scientific discovery;
- distribute research grants through a competitive, peer-reviewed process and be solely a grant-awarding entity, not one that conducts its own in-house research;
- enhance, not replace, existing USDA research;
- receive oversight from committees of scientists and a council of advisors;
- achieve increasing annual appropriations over a five-year period until it received \$1 billion per year; and

- be located in Washington, DC, to be close to the other major federal science agencies.

NIFA was formally established four years later in the 2008 farm bill (Food Conservation and Energy Act, P.L. 110-234) as the successor agency of the Cooperative State Research, Education, and Extension Service (CSREES). Currently, NIFA administers both formula and competitive grant funds under the 1887 Hatch Act and the 1914 Smith-Lever Act and oversees a wide range of cooperative extension and education functions of the former CSREES.

External Response to the Proposed Relocation

Criticism of the proposed ERS and NIFA relocations and realignment began almost immediately. The American Statistical Association joined with 59 other organizations in sending a letter to House and Senate agriculture appropriations subcommittees on November 18, 2018, requesting that “no funding be used for relocation beyond that already provided for its relocation within the National Capital Region.” As stated in the letter, the signers’ “fundamental concern is that the proposed relocation and realignment will undermine the quality and breadth of the work these agencies support and perform—work that is vital to informing and supporting U.S. agriculture, food and rural economies.”

A second letter opposing the relocation and signed by 99 academic, statistical, research, and producer groups was sent March 25, 2019, to the House and Senate Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies. The letter was also sent to the chair and ranking members of the House and Senate Appropriation Committees. That letter requested that “no funding be used for relocation or reorganization of ERS and that no funding be used for the relocation of NIFA outside the National Capital Region.” The letter requested that any reprogramming requests from USDA to continue implementing the relocation be denied.

Congressional Response

Members of the minority on the House Agriculture Committee sent a letter on March 27, 2019, to the Subcommittee on Agriculture Appropriations supporting USDA’s relocation proposal, pointing out that key functions of USDA such as the Agricultural Research Service and the National Agricultural Statistics Service are already located outside the Washington area. The letter’s signers stated their support for the relocation as a means “to improve the agency’s ability to recruit top talent from universities across the nation while being closer to rural America and reducing taxpayer expenditures.” The letter noted the Secretary’s commitment that no ERS or NIFA employee would be involuntarily separated during the transition and that employees would be offered relocation assistance and receive the same base salary as before. Some employees who agreed to move may be permitted to telework for a period past the September reporting date.

Senators Pat Roberts and Debbie Stabenow—chair and ranking member, respectively, of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry—wrote

to Secretary Perdue September 7, 2018, pointing out that the “agencies play a critical role in advancing agricultural research and analysis on topics such as food and nutrition, food safety, global markets and trade, resources and environment and the rural and agricultural economy.” Senators Roberts and Stabenow asked 12 detailed questions regarding the proposed relocation and realignment.

On December 19, 2018, Representative Chellie Pingree introduced the Agriculture Research Integrity Act (115th Congress, H.R. 7330), which would have blocked the proposed relocation. The bill would have also retained ERS, NIFA, the National Agricultural Statistics Service, and the Agricultural Research Service within REE. No action was taken on the bill before closure of the 115th Congress. Representative Pingree reintroduced the bill (H.R. 1221) in the 116th Congress, and Senator Van Hollen introduced a companion bill in the Senate on May 23, 2019 (S. 1637).

The explanatory statement accompanying the FY2019 appropriations bill contained language directing USDA to “delay indefinitely” the proposal to reorganize ERS under the Office of the Chief Economist and to provide Congress with a “detailed analysis” and cost estimates of the proposed relocation of both ERS and NIFA. The statement called for cost estimates and a “detailed analysis of any research benefits” to be included in the Trump Administration’s FY2020 budget request. Similar language also appeared in the explanatory statement of the Senate agriculture appropriations bill for FY2019. These cost estimates were not included in the Administration’s FY2020 budget request.

The House Appropriations Subcommittee on Agriculture includes no funding for the proposed relocation in its 2020 appropriations bill (H.R. 3164). The bill’s accompanying report states that USDA “flatly refused numerous requests from this committee and other members of Congress to provide the initial cost benefit analysis that preceded the decision to go ahead with the proposal.”

With respect to realigning ERS under the Office of the Chief Economist, former USDA Undersecretaries for REE and directors of ERS at a March 28 hearing before the Subcommittee on Appropriations pointed to the fact that, as one of 13 “principal statistical agencies” of the Federal Statistical System, ERS subscribes to the Statement of Commitment to Scientific Integrity of the National Research Council’s (NRC) *Principles and Practices for a Federal Statistical Agency*. Four principles are noted as fundamental for a federal statistical agency: relevance to policy issues, credibility among data users, trust among data providers, and independence from political and other undue external influence. The federal statistical agencies may conduct analyses, but they do not advocate policies or take partisan positions.

Concern was expressed that a realignment of ERS under the Office the Chief Economist and away from the Washington region could raise questions about the independence and objectivity of future ERS analyses and might conflict with the NRC principles. The decision not to move forward with the realignment of ERS should reduce some of that concern.

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