

UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL

STATEMENT OF THE HONORABLE PHYLLIS K. FONG  
INSPECTOR GENERAL

Before the  
Subcommittee on Agriculture, Rural Development, Food  
and Drug Administration, and Related Agencies  
Committee on Appropriations

U.S. Senate

May 9, 2013



Good morning, Chairman Pryor, Ranking Member Blunt, and Members of the Subcommittee. Thank you for the opportunity to testify concerning the oversight the Office of Inspector General (OIG) provides to Department of Agriculture (USDA) programs and operations. As you know, OIG's mission is to promote economy, efficiency, effectiveness, and integrity in the delivery of USDA's programs.

OIG conducts audits designed to ascertain if a program is functioning as intended, if program payments are reaching intended recipients, and if funds are achieving their intended purpose. Our audits make recommendations we believe will help USDA better accomplish its mission. We do not have programmatic or operating authority over agencies or programs; instead, agencies are responsible for implementing our recommended corrective actions. We also conduct investigations of individuals and entities suspected of abusing USDA programs—these investigations can result in fines and imprisonment for those convicted of wrongdoing, disqualification from USDA programs, and agency disciplinary actions for USDA employees found to have engaged in misconduct.

In fiscal year (FY) 2012, OIG's activities resulted in potential monetary results totaling over \$1.5 billion. We issued 76 audit reports intended to strengthen USDA programs and operations, which produced about \$1.4 billion in potential results. OIG investigations led to 538 convictions with potential results totaling over \$106 million.

Today I will discuss our most significant recent audits and investigations under our major strategic goals, which provide a framework for prioritizing OIG's continually changing portfolio of oversight work. We will summarize our remaining work overseeing the Department's administration of American Recovery and Reinvestment Act of 2009 (Recovery Act) funds.<sup>1</sup> Finally, we will conclude with a description of the cost saving actions that OIG is taking in FY 2013 to live within its budget constraints, as well as a summary of the President's FY 2014 budget request for OIG.

### **Goal 1: Strengthen USDA's Safety and Security Measures for Public Health**

To support USDA's mission to ensure the wholesomeness of the U.S. food supply, OIG conducts audits and investigations intended to ensure that U.S. consumers purchase safe, high quality products.

---

<sup>1</sup> Pub. L. No. 111-5, 123 Stat. 115 (2009).

### *The Animal and Plant Health Inspection Service (APHIS) and Smuggling Interdiction*

APHIS' Smuggling, Interdiction and Trade Compliance (SITC) unit prevents the unlawful entry and distribution of prohibited agricultural products that may harbor plant and animal pests, diseases, or invasive species. These prohibited products and pests cause billions of dollars in lost revenue and millions in cleanup costs. We found that SITC's control environment did not include a system of management accountability that would foster efficiency, adequacy, or accuracy in achieving its core mission and reporting its results. For example, 90 percent of SITC's market surveys (intended to seize prohibited products and investigate their origins) were not successful at either seizing a prohibited product or in generating a trace back to identify the importer of a prohibited product. For the surveys that were successful in these two areas, SITC did not take further action to stop future shipments for 96 percent of the higher-risk imported prohibited products it seized. We recommended that APHIS assess the effectiveness of SITC's mission, and the agency agreed.

### *The Food Safety and Inspection Service (FSIS) and Meat Inspection*

OIG has also published several recent audits intended to help improve the quality of inspections FSIS performs at meat processing plants around the country. One audit set out to determine if FSIS has sufficient inspection personnel to adequately monitor establishments that process meat and poultry products.<sup>2</sup> Although FSIS requires inspectors to visit slaughter establishments at least once per day, and at least once per operating shift, we noted that inspectors did not always comply due to events such as inclement weather, traffic delays, inspector delays at prior establishments, and unscheduled leave by inspectors. When such unexpected events occurred, FSIS had not established mitigating procedures for inspectors to use during the next scheduled visit to ensure that meat and poultry products were processed on the missed date in a safe and sanitary manner. We recommended that FSIS develop mitigating procedures for inspectors to perform when they miss scheduled inspections at processing establishments and require supervisors to analyze data from followup visits. FSIS generally agreed with our recommendations.

OIG also reviewed how effectively FSIS tests boxed beef items that downstream processors used for ground beef production and found that the agency needs to re-evaluate its *E. coli* testing methodology as it relates to the downstream processing of boxed beef products. While FSIS tests product

---

<sup>2</sup> Because FSIS did not track whether establishments missed scheduled procedures due to unavailable inspectors, we were unable to reach a conclusion on the sufficiency of FSIS' inspection staff level.

designated as ground beef or likely to become ground beef, it does not sample all boxed beef product. Some downstream processors grind such boxes of cuts of beef without sampling it for *E. coli* prior to grinding. Similarly, “retail exempt establishments”—such as grocery stores, restaurants, hotels, butcher shops—often grind their own ground beef; but unlike Federally inspected plants, FSIS does not sample and test bench trim at these establishments for *E. coli*. We recommended that FSIS take additional steps to ensure that beef to be ground throughout the production process—from Federally inspected slaughter establishments to local grocery stores—be subject to FSIS sampling and testing for *E. coli*, and the agency agreed.

Several recent OIG investigations have also highlighted the need for continued vigilance in the area of food safety. In May 2012, a Kansas food company was convicted and sentenced to pay \$480,282 in restitution to the U.S. Bureau of Prisons for selling misbranded meat products. From August 2006 through July 2007, the manufacturer caused more than 1 million pounds of beef trim to become adulterated and misbranded; it then sold, transported, and delivered this beef to Federal correction institutions located in several States.

Other investigations have helped protect the USDA organic label from individuals who would abuse it. In April 2012, an Oregon man who sold 4.2 million pounds of conventionally grown corn falsely labeled as USDA-certified organic corn was sentenced to 27 months in prison and 36 months of supervised release for wire fraud. This corn had been fed to cattle, and the resulting beef and dairy products were sold to consumers as USDA-certified organic. Similarly, in November 2012, the owner of a large volume organic products company was sentenced in California to 78 months in Federal prison for selling fertilizer falsely represented as organic. He was also ordered to pay \$9 million in restitution.

## **Goal 2: Strengthening Program Integrity and Improving Benefit Delivery**

One of OIG’s most important goals is helping USDA safeguard its programs and ensuring that benefits are reaching those they are intended to reach. Given the size of the Food and Nutrition Service’s (FNS) Supplemental Nutrition Assistance Program (SNAP)—\$82 billion in FY 2012—OIG has made a concerted effort to oversee compliance within that program.

OIG continues to direct a large percentage of its investigative resources to combatting the trafficking of SNAP benefits.<sup>3</sup> In FY 2012, OIG devoted about 52 percent of its investigative resources to SNAP-related criminal investigations, which resulted in 342 convictions and monetary results totaling \$57.7 million. In a recent example, a north Texas grocery store owner pled guilty to SNAP trafficking, wire fraud, and running an illegal money transmitting business. The store owner was sentenced in January 2013 to 57 months of imprisonment and ordered to pay restitution of \$1.4 million. During the investigation, SNAP recipients admitted to exchanging SNAP benefits for cash and to using SNAP benefits to wire money to friends and family members in North Africa.

We also continue to work closely with State and local law enforcement agencies to prosecute SNAP recipients who abuse benefits. For instance, in March 2012, when a Texas store owner was convicted of trafficking \$1.3 million in SNAP benefits in his convenience store, OIG worked with local authorities to pursue the recipients as well. These individuals used their benefits to buy various ineligible items including gasoline, tobacco products, and alcohol, and also to play video poker at the store. To date, the local district attorney has accepted referrals of over 100 SNAP recipients for prosecution by the State of Texas.

OIG audits have shown that FNS can improve its controls over SNAP. One audit analyzed SNAP-related databases at Federal and State levels to identify anomalies that may result in ineligible individuals receiving SNAP benefits. We found that, while FNS and States do have tools for ensuring applicant eligibility and detecting fraud, States either do not make full use of the tools, or cannot rely on the data provided by the tools to take actions related to benefits. While our data mining reviews found a relatively low percentage of potentially ineligible recipients receiving SNAP benefits (just 0.20 percent), that percentage represents large sums in a program of SNAP's size—about \$3.7 million per month. OIG recommended that FNS make full use of the fraud detection tools it already has, as well as strengthen its fraud reduction efforts. FNS agreed to our recommendations.

#### *Other Food Assistance Programs*

Of course, SNAP is not the only food assistance program that can benefit from improved oversight. The National School Lunch Program contracts with food service management companies to serve 31 million children lunch each day, with total disbursements of approximately \$11 billion. Our review

---

<sup>3</sup> Trafficking is the illegal exchange of SNAP benefits for cash or other ineligible items. See 7 U.S.C. § 2024(b) and 7 C.F.R. § 271.2.

of 18 school food authorities showed that 11 did not exercise sufficient management oversight to ensure they received the full benefits of purchase discounts and rebates and the value of USDA-donated foods. As a result, we questioned almost \$1.7 million in unallowable costs and USDA-donated foods that could not be accounted for. We recommended that FNS improve its controls over these contracts and agency officials generally agreed.

An OIG investigation revealed that an organized group of individuals opened 13 storefront operations in Georgia to defraud SNAP and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). From February 2009 to June 2011, this group illegally exchanged over \$5 million in benefits for cash. To date, 16 individuals have been charged with conspiracy or theft of Government funds. In FY 2012, 13 individuals were sentenced to incarceration periods ranging from 9 to 63 months and were ordered to pay a total of \$6.3 million in restitution. Three individuals are scheduled for trial in June 2013.

An OIG audit of FNS' controls over vendor management and participant eligibility in WIC found that the agency's management evaluations did not identify and correct significant issues in the vendor management processes at two State agencies operating WIC. State agencies in Illinois and Florida lacked sufficient controls to track vendor violations for 42 vendors, and ensure timely and appropriate sanctions. As a result, these vendors were not disqualified as required by FNS regulations, and could redeem an estimated \$6.6 million in WIC benefits during their required periods of disqualification. We recommended that FNS improve its controls over WIC, and the agency generally agreed.

### *Farm Programs*

OIG also works to help ensure the integrity of USDA farm programs. A recent audit reviewed how the Farm Service Agency (FSA) determines the soil rental rates used for payments in its Conservation Reserve Program (CRP)—a program that provides annual payments to producers who agree to maintain conservation practices such as establishing grass cover on farms to prevent soil erosion and reduce chemical runoff. We found that FSA did not use the National Resources Conservation Service's (NRCS) most up-to-date measure of soil productivity, which uses scientific data relating directly to the ability of soils, landscapes, and climates to foster crop productivity on non-irrigated soil. Additionally, FSA did not use the National Agricultural Statistics Service's (NASS) statistically valid survey of county average rental rates for cropland and pastureland, and instead allowed States and counties to submit alternate rates, which were not always supported. OIG questioned these rates and

determined that FSA's rates exceeded NASS' by about \$127 million over the 10-year life of the CRP contracts. We recommended that FSA improve how it determines these rates, and the agency generally agreed.

#### *The Risk Management Agency (RMA) and Crop Insurance*

OIG has recently completed work on how RMA operates the crop insurance programs that U.S. farmers and ranchers rely on. One of our audits reviewed how RMA reinsures private insurance companies (known as approved insurance providers (AIP)) when they insure new producers. Such "new producers"—defined as those who have no more than 2 years of history farming a specific crop—are considered higher risk and RMA therefore reinsures the AIPs at a higher rate. We determined that 154 of 176 new producer-designated crop insurance policies in our sample were sold to insured producers who were not eligible for new producer status—57 of these policies resulted in indemnities totaling \$2.4 million and \$910,000 in associated costs. We recommended that RMA improve how AIPs determine if a producer should be considered new or not, and the agency generally agreed with our recommendations.

Our review of how RMA is overseeing Federal crop insurance coverage for organically produced crops found that transitional yields offered to organic producers overstated actual production capabilities of farmers producing crops using organic farming practices. We determined that this error resulted in excessive insurance coverage and higher indemnity payments for 35 of 48 crop policies with losses. Because the policies guaranteed excessive yields, at least \$952,000 of the \$2.56 million that RMA paid in indemnities were excessive. We recommended that RMA reduce transitional yields for crops produced using organic farming practices, and the agency agreed.

Several recent OIG investigations have also involved farm programs. In one case, RMA and OIG worked together to determine that a farmer in Illinois underreported his crop production in 2009 and 2010, thereby defrauding the Government of more than \$500,000. The farmer pled guilty to money laundering and bankruptcy fraud, and was sentenced to 51 months of imprisonment and restitution totaling \$1.8 million.

I would also like to draw the Committee's attention to a particularly noteworthy investigation involving widespread crop insurance fraud for tobacco in North Carolina, which has resulted in several cases. In one case an insurance agent was sentenced to 108 months of imprisonment and \$8.3 million

in restitution. In a second case a crop adjuster was sentenced to 48 months imprisonment and \$21 million in restitution jointly and severally with the other subjects of the investigation. OIG's ongoing investigation of this conspiracy has resulted in a total of 40 convictions, 28 years' prison time, and \$55 million in restitution, to date.<sup>4</sup>

### **Goal 3: OIG Work in Support of Management Initiatives**

OIG is also working to aid the Department in improving the processes and systems it needs to function effectively. Bringing its information technology (IT) systems into line with Federal standards has been a significant challenge for USDA. Over the last 4 years, OIG has made 49 recommendations in our FY 2009-2012 Federal Information Security Management Act (FISMA) audits to improve the overall security of USDA's systems.<sup>5</sup> The Office of the Chief Information Officer (OCIO) has completed action to resolve 14, and USDA is taking steps to resolve the remaining recommendations.

In FYs 2010 and 2011, OCIO received about \$66 million to fund additional IT security projects to address some of these system weaknesses. OIG reviewed the use of these funds and found that the office did not prioritize its efforts to mitigate IT security weaknesses and accomplish a manageable number of the highest priority projects before proceeding to the next set of priorities. Instead, we found that several of OCIO's projects did not meet the purposes outlined in the Congressional request for funding or address the Department's most critical IT security concerns. For example, OCIO exceeded proposed budgets for projects, did not allot sufficient funding to key security areas, and did not completely implement the projects it started. We recommended that OCIO document the prioritization of projects Departmentwide, and the agency agreed to take the appropriate action.

#### *Reducing Improper Payments at USDA*

The Improper Payments Elimination and Recovery Act of 2010 (IPERA) requires OIG to determine whether USDA complies with IPERA annually.<sup>6</sup> For FY 2012, OIG determined that USDA did not comply with IPERA for a second consecutive year. USDA made progress in improving its processes to substantially comply with IPERA, but the Department was not compliant with three of the seven IPERA requirements, including reporting sufficient estimates for high-risk programs, reporting error rates below specific thresholds, and meeting annual reduction targets. By meeting reduction targets,

---

<sup>4</sup> These results include both cases.

<sup>5</sup> 44 U.S.C. §§ 3541 et seq.

<sup>6</sup> Pub. L. No. 111-204, 124 Stat. 2224 (2010).



USDA could have avoided making approximately \$74 million in improper payments. As required, OIG must report to Congress that USDA did not comply with IPERA. For those programs that did not comply for two consecutive fiscal years, USDA must consult with the Office of Management and Budget to discuss further actions. We briefed USDA officials on our results, and they generally concurred with our findings and recommendations.

As part of the effort to eliminate payment error, waste, fraud, and abuse in Federal programs, OIG reviewed USDA's compliance with the executive order on improper payments and found that USDA has made significant improvements in identifying high-dollar overpayments within its 16 high-risk programs.<sup>7</sup> However, we noted that the component agencies' submissions to the Department did not always completely and accurately account for high-dollar overpayments and corrective actions, and that the Department did not submit these reports until 23 to 99 days after the required due date. We recommended that OCFO improve its oversight of this process, and the agency agreed.

At NRCS, OIG reviewed the steps the agency has taken to ensure that its conservation programs are reaching the intended participants and achieving their intended results. We found that NRCS has not implemented a comprehensive, integrated compliance strategy designed to verify that its \$3.6 billion in conservation programs are being used as intended. Over the past decade, a number of OIG audits have demonstrated that NRCS has long-standing problems with verifying the eligibility of participants, participant compliance with conservation agreements, and the valuation of easements. We recommended that NRCS perform a risk assessment of its vulnerabilities and focus its compliance activities on areas of program weaknesses, such as eligibility. Agency officials generally agreed.

#### *Investigations of Wrongdoing by USDA Employees*

When a USDA employee is accused of criminal activity, OIG is responsible for performing investigations of any wrongdoing. An OIG investigation found that a former FSA county committee member and her husband conspired to defraud USDA by stealing the identities of unsuspecting parties and submitting false and fraudulent claims. Ultimately, they caused FSA to make approximately \$1 million in fraudulent payments. In August 2012, the former FSA county committee member and her husband were sentenced to 52 and 57 months in prison, respectively. In addition, they were jointly ordered to pay \$802,490 in restitution.

---

<sup>7</sup> Exec. Order No. 13,520, 74 Fed. Reg. 62,201 (Nov. 25, 2009).

#### **Goal 4: Improving USDA's Stewardship of Natural Resources**

Since USDA is entrusted with hundreds of billions of dollars in fixed public assets, such as 193 million acres of national forests and grasslands, OIG performs reviews to ensure that the Department is acting as an effective steward of these natural resources. One review found that the Forest Service (FS) allocated Recovery Act grants for wildland fire management (WFM) activities—such as hazardous fuels reduction, forest health, and ecosystem improvements—without the necessary controls to ensure that the grant funds were both properly accounted for and used for their intended purpose. These findings apply not just to Recovery Act grants, but to the entire FS WFM grant program. We also found that FS did not enhance its existing controls, despite the Recovery Act's requirements for greater transparency and accountability. As a result, grant recipients charged a total of \$92 million in unallowable and questionable costs to both Recovery Act and non-Recovery Act grants. Additionally, FS staff did not take necessary steps to ensure that the agency met the Recovery Act's overall objective of maximizing job creation and retention in the most cost effective manner possible. FS generally concurred with all of our audit recommendations.

#### **OIG's Oversight of Recovery Act Programs**

We are working to finish our remaining oversight work directed towards ensuring that the \$28 billion in funds USDA received from the Recovery Act served their intended purposes. Because many of our recommendations concerning Recovery Act funds also apply to regular USDA programs, our work will have lasting importance long after Recovery Act funding has been expended.

##### *RD's Single Family Housing (SFH) Guaranteed Loan Program*

In order to provide low- and moderate-income people who live in rural areas with an opportunity to own homes, the Federal Government guarantees loans and reimburses up to 90 percent of the original loan amount if a borrower defaults on a loan. Given increases in such loss claims—from \$103 million in FY 2008 to \$295 million in FY 2011—OIG reviewed the program and determined that RD needs to better identify loans with questionable eligibility prior to paying loss claims, reduce loss claims when lenders improperly serviced loans, and pay lenders only for eligible expenses. We estimate that the agency paid about \$87 million in loss claims that were at risk of improper payments due to questionable loan eligibility, and paid about \$254 million in loss claims for loans that were at risk of improper payments due to questionable lender servicing. We recommended that RD improve its loss

claims process to address these circumstances, and the agency generally agreed with our recommendations.

Most of our remaining Recovery Act projects involve assessing agency determinations of program effectiveness through analysis of Recovery Act performance measures.

### **OIG's FY 2014 Budget Request**

OIG continues to offer Congress an excellent return on its oversight investment, per dollar spent. From FY 2007 to FY 2012, the potential dollar impact of OIG audits and investigations has been \$6.9 billion, while our appropriations have been \$508 million. For every dollar invested, we realized potential cost savings and recoveries of about \$13.66. This calculation does not include the value of our food safety work and program improvement recommendations, which are extremely important to USDA's mission and the welfare of the general public, but are not easily quantified.

We have also streamlined our operations in an effort to work as efficiently as possible. For example, in FY 2012, OIG conducted a functional analysis to ensure that we, as an agency, are tying our resources to what is most critical to meeting our mission and are positioned to operate as efficiently and effectively as possible. Based on this analysis, we are taking the following steps to build a leaner and more effective agency:

- offering Voluntary Early Retirement Authority and Voluntary Separation Incentive Payments (39 employees separated pursuant to these authorities);
- increasing the use of video and teleconferencing to reduce travel costs;
- reviewing leases and office structure, resulting in savings from steps such as office consolidation;
- allowing employees to fill GS-14 and GS-15 positions without moving, which has reduced relocation costs; and
- shifting Investigations and Audit employees away from headquarters and to the field, which puts more resources into activities that directly accomplish our mission.

Although these steps have enabled OIG to continue performing its oversight role despite a restricted budget, we note that OIG is presently functioning at its lowest level of authorized staffing since 1963. The availability of staff and travel resources has become a key consideration in determining which audit and investigative matters OIG can undertake.

We ask that you support the President's FY 2014 budget request of \$89.9 million for OIG, which would enable us to provide effective oversight of USDA programs and help ensure that tax dollars are being well spent. The President's budget includes modest increases in areas where we should be able to produce a high-value return for a relatively small investment:

- \$785,000 to support statistical sampling that would accurately project the extent of improper payments in audits of USDA benefit programs. This multiplies our work's range and effectiveness, especially for very large programs like SNAP.
- \$620,000 to fund enhanced audit and investigations oversight of USDA's international programs.
- \$1,217,000 for investigative initiatives to address SNAP fraud on the part of both retailers and recipients involved in benefit trafficking.
- \$468,000 for the Council of the Inspectors General on Integrity and Efficiency by funding Government-wide activities to identify vulnerabilities in Federal programs.
- \$667,000 for increased pay costs to support and maintain current staffing levels to meet the demands and statutory requirements of OIG. Approximately 86 percent of OIG's budget supports personnel compensation.

This concludes my testimony. Thank you for the opportunity to testify, and I would be pleased to address any questions you may have.