

**UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL**

***STATEMENT OF THE HONORABLE PHYLLIS K. FONG
INSPECTOR GENERAL***

Before the
HOUSE APPROPRIATIONS SUBCOMMITTEE
ON
AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG
ADMINISTRATION,
AND
RELATED AGENCIES

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**For release only by the House
Committee on Appropriations**

Good morning, Mr. Chairman and Members of the Subcommittee. Thank you for inviting me to testify before you today to discuss the activities of the Office of Inspector General (OIG) and to provide you information from our work pertaining to the programs and operations of the U.S. Department of Agriculture.

I would like to introduce the members of my senior management team who are here with me today: Joyce Fleischman, Deputy Inspector General; Robert Young, Assistant Inspector General for Audit; Mark Woods, Assistant Inspector General for Investigations; and Walt Kowal, Director of our Business Management and Procurement Division.

I am pleased with the opportunity to provide the Subcommittee with some of the highlights of our audit and investigative activities over the past year, inform you about the results we achieved, and give you a preview of projects of interest that are pending or are planned for FY 2005.

To ensure that our audit and investigative resources are directed at the most important challenges facing USDA, we have begun planning, organizing, and budgeting our work according to three major objectives that define our priorities.

My testimony today will be focused on our work directed towards the major challenges facing the Department in the areas of Safety, Security and Public Health; Program Integrity; and Management of Public Resources.

I. Safety, Security, and Public Health

The highest priority for our audit and investigative work is to support USDA in the enhancement of effective safety and security measures to protect USDA and our nation's agricultural resources.

Food Safety: Improving USDA Oversight and Inspection Systems

Ensuring a safe domestic food supply and providing effective and reliable system of import safeguards for foreign-produced food products is a vital responsibility of the Department. Public and congressional concerns continue regarding the ramifications of *Bovine Spongiform Encephalopathy* (BSE) in Canada's cattle herd and its impact on the U.S. cattle market. We are continuing our work on the Department's surveillance efforts to detect and estimate the prevalence of BSE in the U.S. cattle herd. We are focusing our efforts on whether USDA has established effective management control processes over inspection-related activities, including animal disease surveillance programs. OIG will devote significant audit and investigative resources to BSE and other Food Safety issues in FY 2005 to assist the Department as it addresses the challenging questions that have arisen.

Investigating the USDA Response When BSE-Suspect Cattle Are Identified

Last year I advised the Subcommittee that OIG was investigating allegations surrounding the health status of the BSE-positive cow found in Washington State in December 2003. Allegations were raised in the media pertaining to the potential falsification of USDA inspection records that described the cow's condition before its BSE status was confirmed. OIG investigated whether any USDA personnel or private parties provided false information or engaged in any intentional misconduct. We also examined whether USDA personnel and employees of the beef processing facility followed proper procedures during the inspection of the BSE-positive cow, and during their collection, handling, and delivery of tissue samples from the infected cow.

In July 2004 testimony before a joint hearing of the House Agriculture and Government Reform Committees on BSE issues, I reported that we found no instances where USDA personnel knowingly conveyed false information or engaged in intentional misconduct. APHIS and the Canadian Food Inspection Agency (CFIA) concluded that they accurately identified the BSE-positive cow. We examined their work and agreed with their conclusion. OIG discovered no evidence that USDA personnel falsified any records pertaining to the condition of the BSE cow at the time of inspection. Our investigation also found that the former employee of the facility, who alleged that the BSE-positive cow was ambulatory and healthy when it arrived at the facility, described a different animal from the one that arrived in the same trailer and later tested BSE-positive.

A second OIG investigation into the handling of a BSE-suspect cow by Department officials resulted from the premature condemnation of a cow in San Angelo, Texas. On May 4, 2004, the FSIS Acting Regional Director in Dallas, Texas reported that a cow identified as having Central Nervous System (CNS) symptoms by an FSIS veterinarian at a beef processing facility in San Angelo, Texas was not tested for BSE after it had been slaughtered. The initial decision by the FSIS Veterinary Medical Officer (VMO) on-site at the facility to test the cow for BSE was overturned by a senior APHIS official and the cow's carcass was subsequently sent to a rendering plant.

OIG investigated whether an APHIS official in Austin, Texas, provided a false statement to USDA FSIS investigators during their inquiry into his decision not to test the animal at the facility. The OIG investigation found no evidence that any of the USDA officials responsible for the decision not to take brain tissue samples from the cow for BSE testing, or any other USDA personnel, provided false information or engaged in intentional misconduct. The cow did not enter the food supply; its carcass was disposed of at a local landfill in accordance with applicable environmental standards.

After the incident, FSIS and APHIS Veterinary Services announced a new joint policy regarding BSE sampling of condemned cattle at slaughter plants. The policy establishes protocols for the agencies' responsibilities to obtain samples from condemned cattle exhibiting signs of CNS disorders, regardless of age.

The USDA BSE Surveillance Plan and BSE Enforcement Issues

The Department's testing of cattle for BSE had centered on high-risk cattle—those that exhibit a CNS disorder or died from unclear causes. After the discovery of a BSE-infected animal in Washington State December 2003, APHIS expanded its surveillance program beginning June 1, 2004.

As I testified last year, we initiated an audit to assess whether the surveillance program in place in December 2003 had been adequately implemented, and whether the expanded program would accomplish its stated goal to determine if "...BSE is actually present in the population and if so, at what level." We concluded that several limitations inherent in the expanded sampling plan needed to be clarified to convey what the results of the testing actually imply. Among the major issues we identified were: sampling was not truly random because participation in the program is voluntary; APHIS could not obtain a statistically appropriate geographical representation of the U.S. cattle population, so the chances of detecting BSE, if it exists, would be reduced; and the projected maximum BSE prevalence rate may be unreliable.

Our review also determined that cattle condemned at slaughter plants for CNS disorders were not always tested for BSE. The Department needed to increase testing of rabies-negative brain samples from animals that exhibit clinical signs not inconsistent with BSE. At the time of our review, a process for obtaining samples from cattle that "died on the

farm” had not been developed. USDA also needed to standardize the age requirement for BSE testing.

Based on our audit findings, we recommended that APHIS fully disclose the assumptions behind its sampling plan, clarify the limitations, and ensure that all high-risk animals are sampled and tested in accordance with USDA policy and the 2004 Surveillance Plan. We also recommended that APHIS expedite development of a new system to track and report accomplishments, and implement performance measures and a continuous risk assessment. APHIS agreed with all of our recommendations and advised OIG it is moving to correct the weaknesses we identified.

Currently, OIG has four audits in progress pertaining to BSE. In our *BSE Surveillance Program – Phase II* audit, OIG is monitoring the Department’s implementation of its BSE Expanded Surveillance Program, involving both APHIS and FSIS. This audit will evaluate the effectiveness of APHIS’ expanded BSE Surveillance program; whether BSE laboratories are meeting their objectives and are in compliance with program policies and procedures for conducting tests on submitted BSE samples and reporting test results to APHIS and stakeholders; and if APHIS and FSIS took prompt and proper corrective actions in response to recommendations in the *BSE Surveillance Program - Phase I* audit report previously cited.

In our *Phase III* review we will evaluate whether the USDA enforcement of the ban on specified risk materials (SRMs) in meat products and controls to prevent central nervous

system (CNS) tissue in advanced meat recovery (AMR) product have been effectively implemented. The review will also cover FSIS ante mortem condemnation procedures and procedures for obtaining brain tissue samples from condemned cattle for BSE testing. Our target date for completing these two efforts is early summer, 2005.

This week, we released our audit of the Department's (APHIS, FSIS) Oversight of the Importation of Beef Products from Canada. In May 2003, USDA halted imports of live cattle, ruminants, and ruminant products from Canada after a Canadian cow tested positive for BSE. In August 2003, the Department announced that it would allow the importation of low-risk beef and other ruminant products from Canada. In response to Congressional concerns, we evaluated APHIS' oversight of Canadian beef imports and whether proper controls were established to ensure that only low-risk product entered the U.S. Among our key objectives were to determine whether APHIS met existing regulatory and policy requirements regarding permits that allowed the importation of some Canadian beef products; and whether APHIS properly considered and implemented risk-mitigation measures for animal and public health. We found that while APHIS allowed the import of beef products they considered low risk in an attempt to further trade, they did not publicly communicate or explain their actions to all interested parties. APHIS changed its policies relating to required risk mitigation measures to allow the import of low-risk product produced at facilities that also handled higher risk product, thereby increasing the potential risk for cross-contamination. OIG made a number of recommendations that would strengthen the USDA process for communicating such changes in policy and improve controls over Canadian beef product imports. The

Department has generally agreed with our recommendations and has identified a number of positive actions to address these concerns.

Finally, we are completing an audit to evaluate the adequacy of a recall of ineligible product from Canada and will be reporting our results to you.

Food Contamination and Recall Activities

In my testimony before the Subcommittee for the last two years, I discussed OIG work regarding FSIS recall operations that involved the adulteration of ground beef products by *Escherichia coli* (*E. coli*) in a Colorado plant. Our audit of the Colorado facility determined that the facility and FSIS had not fulfilled their responsibilities under the Hazard Analysis and Critical Control Point (HACCP) system. OIG made extensive recommendations to improve their inspection processes and recall procedures in this audit. As a result, FSIS directed plants to reassess their HACCP plans for raw ground beef products and issued a directive requiring inspectors to obtain processing plants' pathogen test results at least on a weekly basis. FSIS issued a second directive that clarified when 'trace-back' samples should be taken, and that suppliers shall be notified of test results.

At the time of my testimony last year, two audits on *Listeria* adulteration recalls were still underway. In two audit reports issued in June 2004, we determined that similar to the Colorado recall incident, weaknesses in FSIS' management control and oversight of the recall process were again evident. In response to our recommendations, FSIS issued a

new directive on recall procedures, which implemented a process for selecting customers for effectiveness checks, and enhanced instructions to agency personnel for performing effectiveness checks on products distributed to the National School Lunch Program. We are still working with FSIS to address the development of a supportable methodology for determining the success, or failure, of a recall.

Regarding our investigative work on incidents of food adulteration, we investigated the owner of a California food service management storage and distribution business for supplying 47 California school districts with poultry products containing rodent hair, feces, and signs of being gnawed by rodents. The owner and plant manager were convicted, placed on probation, and fined over \$10,000.

Controls Over Germplasm Storage Material and Genetically Engineered Organism

Field Testing

USDA plays a major role in regulating and monitoring genetically engineered organisms (GEOs), ranging from the storing of germplasm used to produce seeds for such crops, to approving field tests of genetically engineered crops, to monitoring the movement and import of GEO crops. In March 2004, we issued a report on the adequacy of USDA controls over the identification, accountability, and security of plant germplasm at USDA facilities. We found that guidance and policies were lacking and that inventory accountability and physical security needed improvement. The agencies responsible for

storing germplasm and controlling its movement (ARS and APHIS), agreed to take action on our recommendations.

Because of the sensitivity and potential impact biotechnology has on U.S. trade, we are continuing our work in this area. We have an audit that is nearing completion that will report our evaluation of USDA controls over field tests and movements of GEOs. We are examining APHIS' procedures for approving, controlling, and monitoring field tests of genetically engineered crops to prevent the inadvertent release of GEOs in the environment. Uncontrolled and inadvertent release of GEOs, particularly high-risk GEOs such as those containing pharmaceutical and industrial compounds, can not only seriously impact the safety of the food supply, but adversely impact trade. Further, the genetic diversity of plant life can be compromised. We expect to issue a final report on our work by late spring.

Homeland Security and Program Implementation

We place a high priority on work that will assist USDA officials in strengthening the Department's defenses against threats to our nation's food supply, production agriculture, and Federal facilities.

We reviewed the Department's progress in addressing the specific security, inventory, and access deficiencies identified in a previous OIG report on USDA research laboratories, and examined its implementation of new policies to improve controls on inventories and biosecurity. To do so, OIG made unannounced visits to 16 laboratories

previously identified as having deficiencies. We found that while agency officials had made great progress to implement biosecurity measures, particularly for BSL-3 laboratories, further improvement is needed with respect to accountable records, internal reviews, and cybersecurity.

Our work has shown that subjects of OIG investigations are also of interest to other members of the Federal Bureau of Investigation (FBI) Joint Terrorism Task Forces. This has led to several recent cases. OIG participated in the FBI's JTTF in Columbus, Ohio, and we assisted in the investigation of an individual for providing material support to the al Qaeda terrorist network. The individual pled guilty in the Eastern District of Virginia to one count of conspiracy to provide material support and resources to al Qaeda, and one count of Providing Material Support and Resources to al Qaeda. He was sentenced to 20 years in prison.

OIG created a nationwide task force in order to coordinate with Federal, State and local law enforcement agencies in identifying and prosecuting violators who steal infant formula from large chain stores. Stolen infant formula is a nationwide problem due to the resale value of the merchandise on the black market and the potential for overseas transfers of the illegal proceeds. OIG is particularly concerned with the health and wholesomeness of the stolen infant formula because previous investigation indicates it is often relabeled and resold in smaller grocery stores – often through the Women, Infants, and Children (WIC) program. We have found that expired, stolen infant formula is often relabeled with new expiration dates and some of the relabeled formula does not contain

the nutrients/ingredients listed on the label. Currently, we have 14 open investigations involving stolen infant formula. We are working with JTTFs in order to assist other federal and local law enforcement agencies and to insure that this issue remains an investigative priority.

Evaluation of the Implementation of the Listed Agent or Toxin Regulations

Select agents or toxins are those biological agents listed by APHIS as having the potential to pose a severe threat to animal and plant health or to animal and plant products. APHIS is required by The Public Health Security and Bioterrorism Preparedness and Response Act to ensure that anyone possessing, using, or transferring these agents is registered with the Government.

We are examining whether adequate controls are in place at APHIS headquarters to ensure that entities known to use or store listed agents or toxins are registered, that laboratory reported security measures are assessed, and that movement of select agents between scientists and laboratories can be documented and tracked. We are also participating in an Interagency Working Group reviewing the export licensing process for biological and chemical commodities. The Interagency Working Group is interested in the responsibilities and actions of APHIS concerning the possession, use, and transfer of biological agents and toxins and their relationship to export licensing.

Homeland Security-Related Audit Work Planned in FY 2005

We have several security-related audits that we expect to begin work on in FY 2005.

OIG will conduct an audit on the Department's implementation of the Bioterrorism Act of 2002. This Act requires, in part, that warehouses and elevators that are used to store government-owned commodities register with the Food and Drug Administration (FDA) and establish and maintain records that can be used to identify producers. We will assess whether USDA has properly verified or required FDA registration and compliance prior to entering into storage agreements with warehouse and elevator firms. We will also follow-up on our prior audit of Forest Service (FS) security over explosives/munitions magazines located within the National Forest System (NFS). We will assess FS' action to implement our prior recommendations and determine if explosives/munitions magazines are adequately secured.

Protecting the Safety of USDA Employees

A fundamental duty of OIG is to expeditiously investigate any incidents of violence or threats of violence against USDA employees. USDA employees must be protected against harassment or intimidation as they discharge their duties, whether they are engaged in protecting public safety as food inspectors, or serving as law enforcement personnel in our National Forests. Last fall, OIG helped secure a conviction for a crime that took the lives of two dedicated FSIS employees. In October 2004, after a 6-month

jury trial in Alameda County, California, the owner of a sausage factory was convicted of homicide with special circumstances (1st degree murder) for the murder of two FSIS Compliance Officers and one California Department of Food and Agriculture Investigator while they were on official business at his facility in June 2000. In January, the jury recommended that the owner be sentenced to death for this crime. An OIG Special Agent played a primary role in investigating the murders and assisting the prosecution's case. Sentencing by the judge is imminent.

Last week, OIG submitted our statutorily-mandated investigative report to Congress pertaining to the deaths of two FS employees who died fighting the Cramer Fire in the Salmon-Challis National Forest (Idaho). OIG found that certain FS personnel at the Fire, primarily the Incident Commander, failed to comply with established FS firefighting policies and tactics. Our investigation found that the contract firefighting teams who were brought in to assist FS firefighters performed poorly. Therefore, we initiated a review of FS' use of private contract crews, to determine the effectiveness of FS' procedures and oversight pertaining to the contract crews' readiness, training certifications, and communication proficiencies, among other issues.

II. Reducing USDA Program Vulnerabilities and Enhancing Program Integrity

OIG's second priority is to help USDA reduce vulnerabilities and ensure or restore integrity in the various benefit and entitlement programs of USDA, including a variety of

programs that provide payments directly and indirectly to individuals or entities.

Targeting Risk and Improper Payments Within USDA

The Improper Payments Information Act of 2002 (IPIA) requires the head of each agency to annually review all programs and activities the agency administers to identify those that may be susceptible to significant improper payments. Once these programs are identified, the agencies must estimate the annual amount of improper payments and, if the estimate is over \$10 million and greater than 2.5 percent of program payments, report the estimate to Congress along with the actions the agency is taking to reduce those improper payments. The Department's farm programs and food and nutrition programs, which amounted to \$34 billion and \$46 billion respectively last year, are subject to this statute's requirements. Three primary agencies (Risk Management Agency (RMA), Farm Service Agency (FSA), and the Natural Resources Conservation Service (NRCS)) administer USDA's crop insurance, crop disaster, and conservation programs, respectively, while the feeding programs are administered by the Food and Nutrition Service (FNS). We audited implementation of the IPIA in these agencies.

We found that FNS had available information from numerous sources to establish baseline information the agency could have used to establish error rates for feeding programs in response to OMB's data request for improper payment information.

However, the agency did not believe the information was statistically valid and therefore could not be used to report on improper payments.

Our review of IPIA implementation in FSA and NRCS disclosed little progress being made. The agencies did not take necessary action to comply with the Act and implement OMB's guidance. The agencies stated the guidance provided by OMB and the Department's Office of Chief Financial Office (OCFO) was unclear and therefore they were unsure of what actions to take. Our audit of the OCFO's implementation measures disclosed that OCFO's direction and guidance to the agencies needs to be strengthened, in order to provide reasonable assurance that program areas vulnerable to improper payments are fully identified. We will continue to monitor the Department's implementation of the IPIA.

We have initiated a multi-faceted and comprehensive review of USDA's farm programs to identify improper payments and address fraud and abuse. This initiative is now focusing on crop insurance, disaster payments, and payment limitations, but will be expanded to other USDA farm programs. Our audit and investigative staffs, which have extensive experience with these programs, are now reviewing previously conducted audits and investigations and compiling data on program vulnerabilities and their causes. Efforts will then shift to the development of innovative solutions and the means to identify abuse. OIG is working with RMA this year to access and learn how to better use data mining tools that will help us proactively target crop insurance fraud by farmers, agents, and adjustors involving suspicious patterns of claims. Our computer forensics

unit will play a major role in the latter phase as it will use its recently enhanced capability to develop processes that will analyze, manipulate, and cross-match computer data in the various agencies' databases and detect those most likely to be involved in abuse. We were very successful in our initial development of computerized targeting of fraud in the Food Stamp Program and hope to achieve similar success with USDA's farm programs. We also plan to work with RMA to enhance our ability to use satellite imagery to strengthen the hard evidence used in crop insurance fraud cases.

Food and Nutrition Programs

OIG has continued to work with FNS to improve program integrity and to identify improvements in program administration. In FY 2004, we evaluated internal controls related to National School Lunch Program (NSLP) meal accountability, procurement, and accounting systems in six States. We identified control weaknesses in meal accountability procedures, including lack of proper edit checks to ensure the accuracy of the daily meal counts and claims for reimbursement, and procurement procedures. For instance, in the 2000 school year, the Philadelphia school district claimed reimbursement for 241,852 meals served in excess of students in attendance, 147,954 meals in the incorrect reimbursement category, and 109,778 more free and reduced-price meals than could be supported by approved applications and direct certifications. This resulted in excess reimbursements of over \$800,000. In Chicago, nearly 27 percent of the 598 schools in the district submitted undetected inflated meal claims, over-claiming 642,102 breakfasts and lunches in the period of October 2003 – May 2004. Due to the school

district's limited oversight, we questioned over \$1.2 million in program funds, and recommended collection of over \$650,000.

In FY 2004, FNS received about \$5 million to enhance program integrity in Child Nutrition Programs by expanding assessment of certification accuracy in the school meals programs. FNS is using this funding to conduct a study aimed at providing a reliable, national estimate of over and under payments in the NSLP and the School Breakfast Program (SBP). The study will analyze data for school year 2005-2006 and we will monitor the study results to assure it meets its intended purpose. Depending on the significance of the error rates that will be identified by the study, FNS should be better able to determine whether changes are needed in eligibility requirements for NSLP and SBP to reduce ineligible participation.

OIG also conducted investigations involving over \$1 million dollars in false claims involving inflated meal claims for reimbursement from the NSLP and the Child and Adult Care Feeding Program. Through court actions we have recovered \$570,000 in California, Louisiana, and Wisconsin, and have \$1 million in claims pending in a New York case along with three persons sentenced from 6 to 30 months in prison.

Food Stamp Program Investigations

Illegal trafficking in Food Stamp Program (FSP) benefits, whether issued through electronic benefits transfers (EBT) systems or food coupons, continues to be a major area

of concern. Over the last year, we spent approximately 20 percent of our investigative time on investigations of FSP fraud. The use of EBT systems to deliver FSP benefits, in addition to saving administrative program costs by eliminating costs of printing, issuing, and reconciling millions of paper food stamps every month, has also provided a wealth of electronic data of enormous benefit in detecting and investigating suspicious patterns of activity and in compiling evidence that is used to successfully prosecute corrupt retailers.

Using the Computer Forensic Unit's (CFU) capabilities, we can analyze the EBT database and track recipient and store redemption patterns to prove fraud and determine the total amount of money involved. The investigation of an authorized store in Chicago illustrates how we are able to use the data. The subjects of the investigation had moved the authorized point of sale device to different locations in Chicago so they could exchange cash for EBT benefits away from the authorized store. We were able to analyze the EBT data to track recipient and store redemption patterns to prove the fraud as well as determine the total amount of fraud involved in the case. For example, recipients redeemed benefits in two stores that were miles apart and physically impossible to travel to in the time indicated in the redemption data. Our work resulted in four individuals being sentenced to serve from 15 to 57 months in prison and ordered to pay \$29.1 million in restitution.

RMA: Reducing IT Security and Operations Vulnerabilities

The Risk Management Agency administers the Federal Crop Insurance Corporation

(FCIC) and oversees all programs authorized under the Federal Crop Insurance Act. RMA's FY 2004 crop year potential liability exceeded \$46 billion. FCIC's 2004 crop year premium subsidy and producer-paid premiums are \$2.5 billion and \$1.6 billion, respectively. As of August 30, 2004, insurance indemnities paid on the 2003 crop year were \$3.2 billion.

We audited RMA's IT security and operations, which disclosed serious internal control weaknesses in the overall management and organizational structure for these activities. RMA's IT environment is highly vulnerable due, in part, to the overall control of IT operations by production managers who also control the financial commitments and outlays. This vulnerability resulted in material noncompliance with OMB and Presidential Decision Directives. Our electronic vulnerability scans of RMA's network revealed over 300 high- and medium-risk vulnerabilities, insufficient system policy settings, and serious and recurring access control weaknesses, compounded by inadequate firewalls and intrusion detection devices. Overall, RMA managers did not adhere to the Department's system development lifecycle methodology for software application development, installation, and/or maintenance.

We recommended that RMA provide sufficient resources to its new Chief Information Officer to effectively oversee IT security and preclude undue influence by production managers. We, additionally, recommended that RMA include the noted material control weaknesses in its Federal Managers' Financial Integrity Act (FMFIA) report, take immediate action to eliminate the vulnerabilities noted, and establish appropriate policies,

procedures, and controls for the agency's IT operations. We also recommended that RMA obtain background investigations for all IT contractor employees before access to systems, hardware, and facilities is authorized. RMA officials have indicated that they plan to take aggressive action by prioritizing the recommendations and acting first on those that will mitigate the FMFIA material internal control weakness. We will follow-up to see that corrective actions will be taken.

RMA: Investigations Into Crop Insurance Payment Fraud

We have a number of investigations ongoing into crop insurance fraud, as well as disaster payment fraud. Most of these investigations involve substantial dollar amounts. For example, in two of our cases, OIG investigated 9 persons who schemed to gain over \$20 million in fraudulent RMA and FSA payments. The investigations have resulted in forfeiture of \$13 million in cash and property to the government in order to recoup some of these losses. One of the persons has been sentenced to 60 months in prison and the others pled guilty and are waiting to be sentenced.

FSA: Investigations into Payment Limitation Fraud

In addition to fraud cases involving crop insurance and disaster payments, we have a number of open investigations pursuing fraud involving payment limitations. Our investigations have found variations of a common scheme, such as: fraudulently including the names of individuals on farm operating plans who do not meet FSA's

requirement that one be “actively engaged in farming operations”; establishing farming partnerships where alleged partners do not actually share in the farming operation; failing to disclose that partners in one farming partnership have an interest in another farming operation; and falsifying documents to hide the fact that the financial accounts are actually commingled with those of another farming entity.

As an example, OIG investigated a case of fraud committed by one of Mississippi’s largest farmers and his brother. This resulted in both of them pleading guilty in June 2004 to conspiracy to defraud FSA of \$11.2 million in subsidy program payments, submitting false statements to FSA, wire fraud, mail fraud, money laundering, and witness tampering. The plea agreement included the criminal forfeiture of approximately 400 acres and one of the farmer’s houses that had been built with the proceeds from this scheme. The farmer’s accountant actively participated in the conspiracy and also pled guilty. From 1999 through 2001, the conspirators created 13 partnerships and 64 different corporations to fraudulently obtain payments from FSA and RMA. They recruited and paid individuals for the use of their names and Social Security numbers to secure enough stockholders for each entity and misrepresented those names to FSA to obtain the subsidy payments. The conspirators also attempted to persuade those individuals to testify falsely before a Federal grand jury and to OIG agents. The farmer was sentenced to 5 years imprisonment and ordered to repay \$11.2 million to the government in restitution. The brother was fined \$5,000 and sentenced to 2 years probation. The accountant was sentenced to 7 months imprisonment and fined \$20,000.

Natural Resources Conservation Service (NRCS)

We are also evaluating the potential for improper payments in NRCS conservation programs, as well as determining the impact of any improper payments on other farm program payments. Under various conservation programs administered by NRCS, the Government pays landowners to take marginal agricultural land out of production and put it into environmentally friendly conservation uses. At the same time, FSA agricultural programs provide payments to eligible producers predicated on the number of crop-specific “base acres” on the farm used for agricultural activities, as determined by FSA. In general, producers are prohibited from receiving both an NRCS conservation easement payment and FSA agricultural program payments on the same base acres. Landowners are also paid for conservation easements based on agency appraisals. If appraised values are not properly established, significant overpayments can be made for conservation easements. We are finalizing our work and expect to release a report by late spring, 2005.

III. USDA’s Management of Public Resources

OIG conducts audits and investigations that focus on improved financial management and accountability, information technology security and management, protection of public assets, employee corruption, Forest Service resources, and rural development programs, among others.

Financial Management and Accountability

Both the Congress and the President's Management Agenda have placed emphasis on improving financial management in all Federal Departments. Improvements made by the Department to its financial systems have allowed USDA to maintain an unqualified opinion on its consolidated financial statements for the third consecutive year. While this is a major achievement, the Department still needs to improve its financial management processes to correct internal control weaknesses. Strong financial management is required to ensure the availability of accurate and timely financial data needed to properly manage USDA programs.

Information Technology (IT), Security, and Management

In 2004, we assessed the adequacy of IT security in the Rural Development (RD) mission area; Risk Management Agency; APHIS; the Economic Research Service; the Grain Inspection, Packers and Stockyards Administration (GIPSA); the Office of Budget and Program Analysis; and the Office of the Chief Economist. Advances in technology have increased the Department's vulnerability to unlawful destruction and penetration by hackers and other individuals. USDA agencies manage multi-billion dollar programs that are integral to homeland security, food safety, and critical infrastructure that must be protected. We found weaknesses in IT security programs due to inadequate implementation at each agency we reviewed. IT security improvements are still needed at USDA's second largest

data center, the Office of the Chief Information Officer/National Information Technology Center's (OCIO/NITC). We recommended improvements in access controls, security plans, risk assessments, disaster recovery plans, and identification and correction of potential system vulnerabilities. OCIO stated that corrective action either has been taken or is underway to address each issue.

IV. FY 2006 BUDGET REQUEST

We are very proud of the accomplishments of OIG and pleased to report that in FY 2004 we continued to more than pay our own way. In the investigations arena, OIG issued 425 investigative reports that resulted in 370 indictments and 350 convictions. These actions resulted in \$292.9 million in fines, restitutions, other recoveries, and penalties during the year. In the audit arena, we issued 97 audit reports and management made decisions based on 77 of the reports. Our audits resulted in questioned and unsupported costs of \$15.2 million. Of this, management agreed to recover \$9.2 million. In addition, management agreed to put another \$748.2 million to better use. Equally as important, implementation of our recommendations by USDA managers will result in more efficient and effective operations of USDA programs.

During the past year, we have continued to review and evaluate OIG activities and made changes as needed to provide the most effective support to the Department's programs and operations. One of our most critical efforts continues to be in our information technology (IT) arena. With the essential funding provided by this Committee, we were able to continue rebuilding our crucial IT infrastructure. Specifically, the agency was

able to continue improvements and updates to the network operating system and associated software. In addition, new servers were acquired for headquarters and each regional office. These servers include remote management capabilities, which should allow quicker resolution and more efficient use of resources. We have also successfully mirrored our program databases at two locations. This balances workload during normal operations and provides a real-time backup if a major outage or emergency would occur at one of the sites.

We are continuing to see results through improvement in our audit processes and our investigative forensic efforts. The new IT equipment and specialized software has continued to help OIG complete its audits faster and target its analyses to the highest USDA risk areas. The reduced staff time allows OIG to review additional high-risk or vulnerable programs and operations. As I mentioned earlier, we also plan to continue to increase our use of our IT capabilities to further our effort in the improper payments area.

For example, we use automated data mining and analysis software to extract, sort, analyze, and summarize large volumes of financial and program data to support our opinions on USDA agency and consolidated financial audits. In contrast, in a manual environment, analysis of such large volumes of data would not be feasible for OIG due to resource constraints and mandatory audit deadlines.

On the Investigations side, the IT funding has allowed our Computer Forensics Unit (CFU) to process cases utilizing the most up-to-date forensic hardware and software

tools. The CFU has also designed and developed its own specialized software, for example, to analyze millions of food stamp EBT transactions in order to identify fraud in this program. An example of the CFU's capabilities was demonstrated during the investigation of a recent \$3 million rural development business and industrial loan fraud investigation. During the execution of a search warrant, a laptop was seized and the subjects stated that the laptop had been "reformatted" and that nothing would be found on the laptop. Through CFU analysis, a copy of Quick Books was found on the restored computer; once recovered, we were able to prove how the fraud was committed. Hardware and software used in CFU allow servers and workstations to be restored in a forensics laboratory setting, meeting required professional and judicial standards in a manner that maintains the integrity of the data so that they can be used in a court of law. These forensic tools must be regularly upgraded and replaced in order to keep pace with the ever-changing IT hardware and software standards and investigative needs.

Again, I want to especially thank the Committee for its support in this area.

The President's FY 2006 request of \$81 million for OIG provides for an increase of \$1.6 million for mandatory pay costs and \$1.7 million for program changes. The program change increases are \$1.1 million to fund the Nationwide Emergency Response Program, \$300,000 for continued improvements to the CFU, and \$300,000 for secure IT communications at the "secret" level. The increase for the Emergency Response Program will allow OIG to staff, train, and equip specially trained, quick-response teams to investigate biohazard threats against American agriculture and, as mandated by

P.L. 107-203, the duty-related deaths of FS firefighters. The increase for the CFU will be primarily for a storage network to efficiently store voluminous amounts of electronic evidence that can potentially translate to higher case convictions. The increase for secure communications will allow OIG to target IT investments to enable our special agents and auditors to access Homeland Security information at the “secret” level.

I believe adequate funding for our OIG activities makes good sense. OIG audits and investigations save money for the taxpayers, help ensure the safety and wholesomeness of the Nation’s food supply, promote USDA Homeland Security efforts, and ensure the integrity of USDA programs. As such, I support the President’s budget request for OIG.

This concludes my statement, Mr. Chairman. I appreciate the opportunity to appear before you today and would be pleased to respond to any questions you and the Committee may have at this time.

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