



OFFICE OF INSPECTOR GENERAL
U. S. DEPARTMENT OF AGRICULTURE

COVID-19—Food Safety and Inspection Service Pandemic Response at Establishments



Inspection Report 24801-0001-23

July 2022

COVID-19—Food Safety and Inspection Service Pandemic Response at Establishments

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We reviewed the actions FSIS took relating to COVID-19 to ensure the continuation of inspection operations at meat and poultry slaughter and processing establishments, including to ensure the health and safety of FSIS inspectors and how FSIS spent the \$33 million in CARES Act funding.

OBJECTIVE

Our objective was to determine what actions FSIS took relating to COVID-19 to ensure the continuation of inspection operations at meat and poultry slaughter and processing establishments.

REVIEWED

We interviewed FSIS officials; reviewed notices related to COVID-19, agency directives, and other applicable Federal laws, guidance, and publicly available information; and reviewed financial system reports and inventory data. We also reviewed COVID-19 related FSIS forms 4791-27, “Report of Alleged Safety or Health Hazard,” as well as the agency’s process for monitoring this documentation, and executive orders.

RECOMMENDS

We recommend FSIS complete updates to the process for tracking and monitoring FSIS form 4791-27, “Report of Alleged Safety or Health Hazard,” and associated FSIS Directive 4791.12, Reporting and Correcting Occupational Hazards. Specifically, update the directive to include the practice of submitting all FSIS 4791-27 forms to the Safety and Physical Security Branch, where they can be centrally recorded.

WHAT OIG FOUND

The Food Safety and Inspection Service (FSIS) is the regulatory agency within the United States Department of Agriculture (USDA) responsible for protecting the public’s health by ensuring the safety of the Nation’s commercial supply of meat, poultry, and processed egg products. The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided FSIS with \$33 million, to remain available until September 30, 2021, to prevent, prepare for, and respond to the coronavirus disease 2019 (COVID-19) pandemic, domestically or internationally.

In response to a Congressional request, we conducted an inspection to determine what actions FSIS took relating to COVID-19 to ensure the continuation of inspection operations at meat and poultry slaughter and processing establishments.

As of March 1, 2022, FSIS had spent more than \$32 million of the CARES Act funding in response to COVID-19. Specifically, FSIS used this funding on items such as employee compensation and personal protective equipment (PPE). While Executive Order 13917 did not specifically direct FSIS to take action to ensure operations continued in agricultural establishments, FSIS did issue notices and guidance to promote health and safety during the pandemic. For example, FSIS promoted health and safety by ensuring PPE was available to inspection personnel and allowing them to use various types of leave. Additionally, the agency placed inspectors on temporary details to fill personnel shortages and ensure inspections continued at the establishments. If an FSIS inspector tested positive for COVID-19, FSIS had procedures in place to respond to the positive test result. The agency developed and used the Situation Report and Impact Summary for FSIS Leadership to track COVID-19 cases throughout the pandemic, including the status of employees who tested positive for COVID-19 and the total number of FSIS employees currently self-quarantining.

FSIS used an existing directive to provide inspectors with the process to report alleged safety or health-related hazards in establishments due to COVID-19. However, we found that FSIS was unable to provide us with an accurate count of the number of forms the agency received to capture this information. This occurred because the directive did not require FSIS field supervisors to send this form to the agency’s Safety and Physical Security Branch.

FSIS agreed with our recommendation, and we accepted management decision on this recommendation.



OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



DATE: July 26, 2022

INSPECTION

NUMBER: 24801-0001-23

TO: Paul Kiecker
Administrator
Food Safety and Inspection Service
Agency

ATTN: Cara LeConte
Chief Financial Officer
Food Safety and Inspection Service

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: COVID-19—Food Safety and Inspection Service Pandemic Response at
Establishments

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated excerpts from your response, and the Office of Inspector General's (OIG) position, into the relevant sections of the report. Based on your written response, we are accepting management decision for the audit recommendation in this report, and no further response to this office is necessary. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (OCFO).

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than OCFO, please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<https://usdaoig.oversight.gov>) in the near future.

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Background and Objectives

Background

The Food Safety and Inspection Service (FSIS) is the regulatory agency within the United States Department of Agriculture (USDA) responsible for protecting the public's health by ensuring the safety of the Nation's commercial supply of meat, poultry, and processed egg products.¹ FSIS employs more than 8,700 employees and regulates more than 6,500 establishments in all 50 States and United States territories.^{2, 3} Even though FSIS inspectors work in regulated establishments, they are not considered employees of those establishments.⁴ The safety and health of meat and poultry establishment employees falls under the authority of the United States Department of Labor (DOL) Occupational Safety and Health Administration (OSHA).⁵

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act⁶ was signed into law to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus disease 2019 (COVID-19)⁷ pandemic. This law provided \$33 million in funds, to remain available until September 30, 2021, to FSIS to prevent, prepare for, and respond to COVID-19, domestically or internationally.

On April 26, 2020, the Centers for Disease Control and Prevention (CDC) and OSHA issued interim guidance, which has been periodically updated, for meat and poultry processing facilities.⁸ According to an OSHA National News Release, the interim guidance includes information regarding: (1) cleaning of shared meatpacking and processing tools; (2) screening employees for COVID-19 before they enter work facilities; (3) managing workers who are

¹ FSIS operates under authorities from the Federal Meat Inspection Act (21 U.S.C. §§ 601-695), the Poultry Products Inspection Act (21 U.S.C. §§ 451-472), the Egg Products Inspection Act (21 U.S.C. §§ 1031-1056) and the Humane Methods of Slaughter Act (7 U.S.C. §§ 1901-1907).

² According to FSIS, this includes more than 7,700 FSIS inspectors. For the purposes of this report, "inspector" refers to food inspectors, consumer safety inspectors, supervisory consumer safety inspectors, public health veterinarians, and frontline supervisors. This also includes Animal and Plant Health Inspection Service (APHIS) and Agricultural Marketing Service (AMS) employees who provide temporary inspection coverage in establishments when FSIS inspectors were unavailable.

³ The words "establishments" and "plants" are used interchangeably with the word "facilities" in this report.

⁴ According to the 2021 FSIS budget explanatory notes, FSIS inspectors are required to be present for all domestic slaughter operations, inspect each livestock and poultry carcass, and inspect operations at each processing establishment at least once per shift.

⁵ The Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, 84 Stat. 1590 (Dec. 29, 1970) (hereafter OSHA Act), authorizes the Secretary of Labor to enforce the standards developed under the Act by "assisting and encouraging the States in their efforts to assure safe and healthful working conditions; and providing for research, information, education, and training in the field of occupational safety and health." Due to this authority, our objectives did not include establishment employees.

⁶ Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

⁷ According to CDC and OSHA interim guidance, COVID-19 is a respiratory illness caused by a virus called severe acute respiratory syndrome coronavirus 2. Symptoms often include a fever, cough, and shortness of breath and can range from very mild to severe. Some people become so sick they must be admitted to the hospital, and some people may die from the illness.

⁸ "Processing facilities" in this report includes both meat and poultry slaughter and processing establishments.

showing symptoms of COVID-19; (4) implementing appropriate engineering, administrative, and work practice controls; (5) using appropriate personal protective equipment (PPE);⁹ and (6) practicing social distancing.

In addition, on April 28, 2020, the President issued Executive Order (EO) 13917, via which he delegated authority to the Secretary of Agriculture to take appropriate action to ensure meat and poultry establishments continued operations consistent with CDC and OSHA guidance^{10, 11} Subsequently, on January 21, 2021, the President issued EO 13999, Protecting Worker Health and Safety, which directed the Secretary of Agriculture—along with the heads of other appropriate agencies—to explore mechanisms to protect workers not protected under the OSHA Act, so that unprotected workers would remain healthy and safe while performing their duties during the COVID-19 pandemic.^{12, 13}

FSIS inspectors are considered essential, critical infrastructure workers supporting the food and agricultural supply chain.¹⁴ Therefore, according to CDC and OSHA guidance, FSIS inspectors may be permitted to continue work following potential exposure to COVID-19, provided they remain asymptomatic.^{15, 16} In addition, the guidance stated that FSIS inspectors at meat and poultry processing facilities may substantially expose each other to COVID-19 due to the nature of the work environment, which includes, but is not limited to, distance between workers, duration of contact, and type of contact.

⁹ According to OSHA.gov, PPE is equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses. PPE may include items such as gloves; safety glasses; shoes; earplugs or muffs; hard hats; respirators; and coveralls, vests, and full body suits.

¹⁰ E.O. 13917 (Apr. 28, 2020).

¹¹ During our review, the CDC and OSHA released guidance, labeled as interim, on April 26, 2020; May 12, 2020; June 18, 2020; July 9, 2020; October 29, 2020; November 12, 2020; February 2, 2021; and February 6, 2021.

¹² E.O. 13999 (Jan. 21, 2021).

¹³ The OSHA Act established a separate program for Federal Government employees, making Federal agency heads responsible for providing a safe and healthy work environment. 29 U.S.C. § 668. As such, FSIS employees are protected workers.

¹⁴ The Cybersecurity and Infrastructure Security Agency (CISA) within the Department of Homeland Security (DHS) identified food and agriculture workers—including those at livestock and poultry establishments—as essential, critical infrastructure workers. DHS CISA, *Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response*, Version 3.0 (Apr. 17, 2020).

¹⁵ The COVID-19 outbreak in the United States was declared a national emergency as of March 1, 2020. *Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, 85 Fed. Reg. 15337 (Mar. 13, 2020).

¹⁶ Department of Health and Human Services, CDC, *Meat and Poultry Processing Workers and Employers*, Interim Guidance from CDC and OSHA (Apr. 26, 2020).



At an establishment on June 10, 2008 (prior to the pandemic), establishment employees dissect, sort, and separate meat parts. FSIS inspectors were on site to ensure the meat was processed in accordance with USDA FSIS regulations. Photo by Alice Welch from USDA's Flickr account. It does not depict any particular audit or investigation.

On August 11, 2020, Senator Michael Bennet requested that the Inspectors General for USDA and DOL investigate the Federal Government's actions in preventing the spread of COVID-19 in meat and other agricultural processing facilities, as well as the effect of the invocation of the Defense Production Act of 1950¹⁷ on workers' wellbeing and health.¹⁸ Therefore, we conducted an inspection to determine what actions FSIS took to ensure the continuation of inspection operations at meat and poultry slaughter and processing establishments, including the actions FSIS took to ensure the health and safety of FSIS inspectors and how FSIS spent the \$33 million in CARES Act funding.

In addition to this inspection, OIG released two other work products that reported on the Federal Government's response to COVID-19 in meat and other agricultural processing facilities. In June 2021, OIG's Office of Analytics and Innovation (OAI) released the results of a survey on

¹⁷ 50 U.S.C. §§ 4501-4568.

¹⁸ Letter from The Honorable Michael F. Bennet, member of the United States Senate Committee on Agriculture, Nutrition, and Forestry, to The Honorable Phyllis K. Fong (Aug. 2020). Senator Bennet's request included six specific areas of interest, which are highlighted in the Objectives section of this report.

how FSIS inspectors perceived COVID-19 safety in their work environments.¹⁹ In addition, in September 2020, OIG identified and documented the funding streams available to USDA agencies, including FSIS, to respond to COVID-19.²⁰

Objectives

Our objectives were to determine what actions FSIS took relating to COVID-19 to ensure the continuation of inspection operations at meat and poultry slaughter and processing establishments. Specifically, we determined:

1. how FSIS spent its \$33 million in CARES Act funding;
2. what actions FSIS took to ensure the health and safety of FSIS inspectors working at official establishments;
3. how FSIS ensured inspections continued at the establishments, including determining whether inspectors were transferred between establishments;
4. what actions FSIS took to communicate the Federal Government's authority, standards, and expectations with the State Departments of Health;
5. whether FSIS had sufficient critical resources to ensure reliable COVID-19 tests, personal protective equipment, hand sanitizer, soap and warm water, workplace dividers, and disinfectant were available to the inspectors at the establishments;
6. FSIS' protocols for when an FSIS or establishment employee tested positive for COVID-19; and
7. what actions FSIS took following the Executive Order issued on April 28, 2020, that affected outbreaks at meat and poultry processing and other agricultural facilities.

¹⁹ OAI Report 21-001-01, *Survey of Food Safety and Inspection Service Inspectors' Perceptions of COVID-19 Safety in the Work Environment*, June 2021.

²⁰ Non-Audit Service Report 50025-0001-23, *USDA Coronavirus Disease 2019 Funding*, Sept. 2020.

Section 1: CARES Act Funding

How did FSIS spend the \$33 million in CARES Act funds?

Under the CARES Act, FSIS received \$33 million to prevent, prepare for, and respond to COVID-19, domestically or internationally. This included funds for temporary and intermittent workers, inspector relocation, and overtime costs under the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act.^{21, 22} In September 2020, OIG reported that FSIS planned to use the CARES Act funding for salaries and expenses, and for the provision of specialized services.^{23, 24}

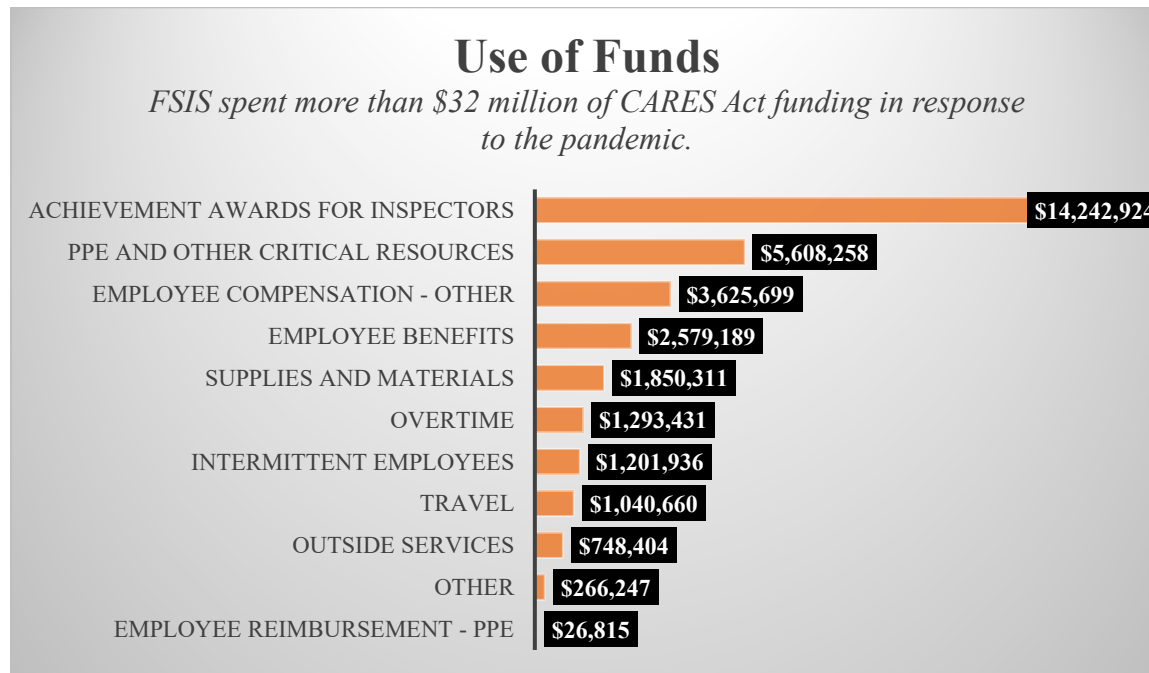


Figure 1: FSIS Use of CARES Act Funds (Infographic Created by OIG’s Office of Audit)

As of March 1, 2022, FSIS spent more than \$32 million in funding in response to COVID-19.^{25, 26} Specifically, more than \$20.3 million of the funds spent went towards FSIS

²¹ CARES Act, Pub. L. No. 116-136, tit. I, 134 Stat. 281 (2020).

²² FSIS operates under authorities from the Federal Meat Inspection Act (21 U.S.C. §§ 601-695), the Poultry Products Inspection Act (21 U.S.C. §§ 451-472), the Egg Products Inspection Act (21 U.S.C. §§ 1031-1056) and the Humane Methods of Slaughter Act (7 U.S.C. §§ 1901-1907).

²³ Non-Audit Service Report 50025-0001-23, *USDA Coronavirus Disease 2019 Funding*, Sept. 2020.

²⁴ “Provision of specialized services” are assistance listings that provide Federal personnel directly to perform certain tasks for the benefit of communities or individuals. These services may be performed in conjunction with non-Federal personnel, but involve more than consultation, advice, or counseling.

²⁵ In total, FSIS spent \$32,483,879.

²⁶ Appropriations represent legal authority granted by Congress to incur obligations and to make disbursements for the purpose, during the time periods, and up to the amount limitations specified in the appropriation acts. At the end of period of obligational availability, an appropriation “dies.” There is, however, an afterlife to the extent of any unexpended balances. Unexpended balances, both obligated and unobligated, retain a limited availability for

employee compensation, including various employee compensations, such as differential pay.²⁷ FSIS provided achievement awards to approximately 6,700 FSIS inspectors who performed in-plant inspections between March 2020 and June 2020, during the pandemic. Awards ranged from \$500 to \$4,000 per inspector, depending on the hours spent performing inspections. According to FSIS, the frontline employees who received achievement awards provided exceptional and essential inspection services throughout the pandemic, particularly in the spring of 2020, when the food supply chain was under stress. FSIS spent more than \$7.4 million on supplies and materials, which included PPE²⁸ and reimbursements to FSIS employees for self-procured PPE.^{29, 30} Employee benefits included FSIS' share of the Federal Employee Government Life Insurance, Federal Employees Health Benefits, and Thrift Savings Plan. In addition, FSIS paid for outside services, which included reimbursing APHIS for providing temporary inspection coverage in establishments when FSIS inspectors were unavailable.³¹ Further, FSIS paid the Material Management Service Center (MMSC)³² for storage services related to COVID-19 activities, including the handling and storage of hazardous material and flammable items. Finally, FSIS paid for other expenses for a variety of costs, including grants, subsidies, and contributions to States; equipment; messenger services; and freight services.

5 fiscal years following expiration of the period for which the source appropriation was made. At midnight on the last day of an appropriation's period of availability, the appropriation account expires and is no longer available for incurring new obligations. The expired appropriation remains available for 5 years for the purpose of paying obligations incurred prior to the account's expiration and adjusting obligations that were previously unrecorded or under recorded. After 5 years, the expired account is closed and the balances remaining are canceled.

²⁷ FSIS charged all additional salary and travel costs attributable to the COVID-19 pandemic to CARES Act funding. Additional costs included non-reimbursable overtime, compensation for intermittent staff, and travel. All expenditures normally charged, such as regular salaries paid to current employees, remained funded by FSIS through regular appropriations and were not charged to CARES Act funding.

²⁸ FSIS spent more than \$5.6 million in PPE and other critical resources, including gloves, masks, hand sanitizer, face shields, safety glasses, thirst quenchers, and wipes.

²⁹ Supplies and materials also include office supplies, pamphlets, clothing supplies, materials and parts, and scientific and experimental supplies.

³⁰ As the total for Supplies and Materials (\$7,485,385.85) and Employee Reimbursements (\$26,815.54) did not change from July 2021 to March 2022, we conclude that the amount of FSIS Procured PPE and Other Critical Resources (\$5,608,258.46) remained the same, as well resulting in Supplies and Materials for reporting purposes remaining \$1,850,311.85.

³¹ FSIS officials stated the agency used APHIS and AMS employees who had FSIS experience and were locally available to perform inspection tasks. FSIS had interagency agreements with both APHIS and AMS. However, during our review, FSIS did not reimburse AMS for inspection services.

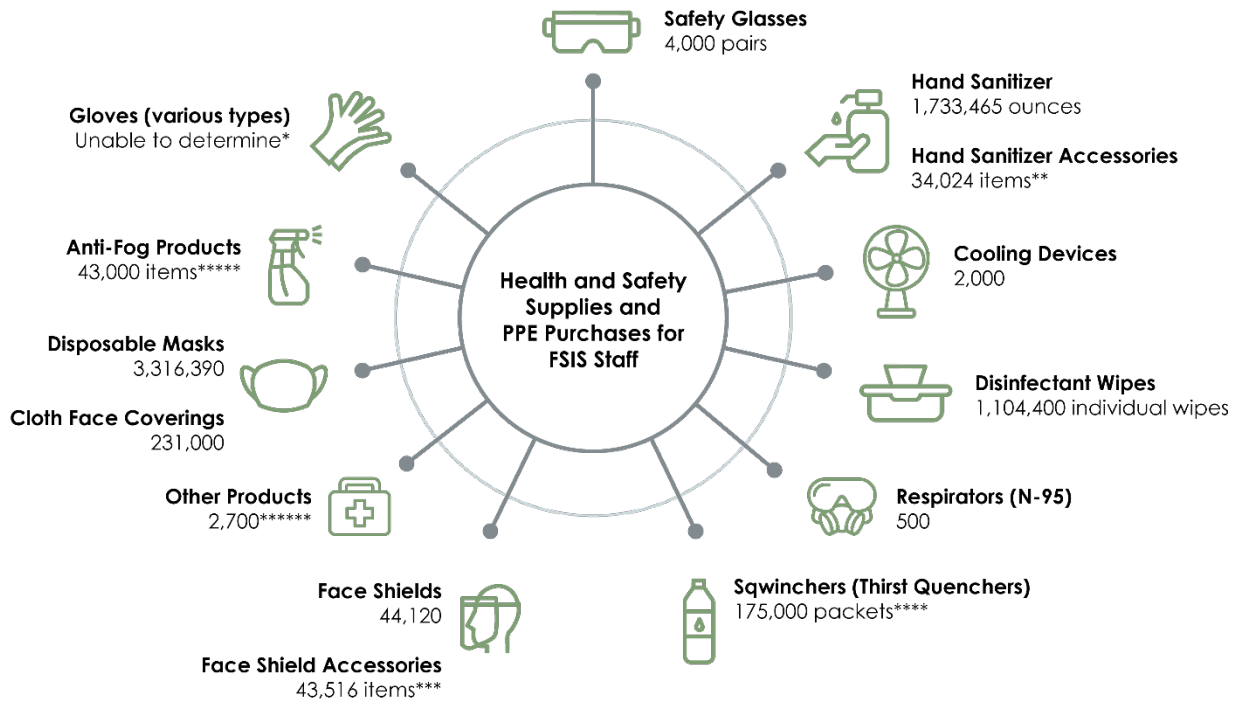
³² The MMSC, a Division within USDA's Office of Operations, provided supply and property management services to USDA and other Government agencies and/or organizations. The MMSC supported USDA and other agencies by providing inventory control by mutual agreement.

Did FSIS have sufficient critical resources to ensure reliable COVID-19 tests, personal protective equipment, hand sanitizer, soap and warm water, workplace dividers, and disinfectant were available to the inspectors at the establishments?

FSIS spent more than \$5.6 million of CARES Act funding on PPE and other critical resources, including gloves, masks, hand sanitizer, face shields, safety glasses, thirst quenchers, and wipes for its employees, of which more than 7,700 were inspectors.³³ According to FSIS, the agency assessed the feasibility and potential benefits of providing COVID-19 testing for its employees, but concluded the highly dispersed nature of the workforce did not allow for a comprehensive agency-wide testing program. Further, FSIS reimbursed \$26,815 to employees for self-purchased PPE, which is not included in the chart on the following page. According to FSIS, the agency developed projections and forecasted the quantities needed per employee to determine how much equipment to purchase. Once FSIS purchased PPE, the supplies were stored at the MMSC, and FSIS employees were able to place orders through the MMSC website or by email.

³³ According to FSIS, in addition to meeting the needs of the inspectors, the agency acquired personal protective equipment to cover the needs of employees based in the agency's three labs; Office of Investigation, Enforcement and Audit investigators in the field; and employees based in 59 office locations inside and outside of the National Capital Region.

Health and Safety Supplies and PPE Purchases for FSIS Employees



* From the information provided by the agency, FSIS spent \$807,974 on gloves. However, due to the various types and packaging of gloves, we were unable to determine the number of gloves purchased.
 ** This included 26,004 32-ounce spray bottles, 20 floor stand dispensers, and 8,000 funnels.
 *** This included brackets and adapters to connect face shields to the helmets.
 **** Sqwinchers are electrolyte fluid replacement drink mixes.
 ***** This included 36,000 packs of wipes (or 927,000 individual wipes) and 7,000 anti-fog sprays with cleaning cloth.
 ***** Other products consisted of first aid kits and helmets.

Figure 2: Health and Safety Supplies and PPE Purchases for FSIS Employees (Infographic Created by OIG’s OAI)

Section 2: Health and Safety of USDA Inspectors

What actions did FSIS take to ensure the health and safety of FSIS inspectors working at official establishments?

FSIS implemented a variety of actions to ensure the health and safety of more than 7,700 inspectors working at official establishments during the pandemic. Specifically, FSIS issued COVID-19 Situation and Impact Summary Reports (“situation report”) and 10 FSIS Notices related to COVID-19. In addition, FSIS ensured PPE and other critical resources, such as hand sanitizer and wipes, were available to personnel through the MMSC. Further, FSIS allowed employees to use various types of emergency and administrative leave, and had an established process for employees to report health-related hazards due to COVID-19.

FSIS COVID-19 Situation Reports

FSIS developed, and used, the situation report to track COVID-19 cases throughout the pandemic, including the status of employees who tested positive for COVID-19 and total number of FSIS employees currently self-quarantining. However, we did not assess the accuracy or timeliness of the data included with the COVID-19 situation reports.

FSIS Notices

FSIS Notices are time-sensitive materials issued to provide instruction in support of workplace policies, procedures, and food safety regulations. According to FSIS, between March 2020 and July 2021, the agency issued 10 notices, related to COVID-19, to address the health and safety of inspectors working at official establishments. (See Exhibit A). These notices, disseminated through email, provided FSIS employees with new or updated guidance from CDC and OSHA. FSIS also used these notices to inform employees of the availability of PPE. Additionally, FSIS communicated with all employees through a monthly employee newsletter and regular town hall meetings.

PPE

FSIS spent more than \$5.6 million of CARES Act funding on PPE and other critical resources, including gloves, masks, hand sanitizer, face shields, safety glasses, thirst quenchers, and wipes. (See Section 1). FSIS ensured employees had access to PPE and other critical resources through the MMSC. Specifically, the agency purchased supplies and shipped them to the MMSC for storage and distribution. Once supplies were available, employees or their supervisors placed orders either via the MMSC’s ordering site or by email.³⁴ FSIS stated that, by using multiple ordering methods, FSIS personnel experienced minimal delays in ordering and/or obtaining PPE. According to FSIS, MMSC orders shipped daily. FSIS provided instructions for ordering from the MMSC in several of the notices related to COVID-19.

³⁴ Program resource managers and pandemic coordinators could also place bulk orders for their respective program areas, labs, and/or offices.

When PPE was limited due to demand, as was the case in the early months of the pandemic, FSIS provided personnel with alternatives to acquire PPE. For instance, FSIS authorized personnel holding purchase cards to obtain PPE, such as spray bottles and funnels, locally to enable inspectors to begin using the authorized items as soon as possible. Alternatively, FSIS reimbursed \$26,815 to personnel for employee-purchased PPE.³⁵ For example, FSIS authorized a one-time reimbursement of up to \$50 for the purchase of face coverings or materials to make face coverings to all mission-essential³⁶ employees that performed essential duties outside of their residence. FSIS notices detailed the materials eligible for reimbursement and the process for submitting a claim.

Leave

FSIS granted employees the use of various types of leave, including emergency and administrative leave, in response to COVID-19.³⁷ For example, FSIS provided administrative leave to employees who self-certified to meeting the CDC criteria for being at higher-risk of severe illness with COVID-19.³⁸ In addition, FSIS encouraged employees to request leave if they were sick or became sick during work hours. If an FSIS employee received a positive test result for COVID-19 and was required to quarantine, supervisors granted administrative leave during the quarantine period. If an employee was telework-eligible, in each of the above instances, then the employee could telework with supervisory approval. FSIS issued guidance on the types of leave and telework options available for employees.³⁹

Reporting of COVID-19 Related Alleged Safety or Health Hazards

FSIS used an existing directive to provide inspectors with the process to report health-related hazards in establishments due to COVID-19 to their front line supervisor or district office. FSIS Directive 4791.12 encouraged employees to report the existence of, or potential for, unsafe or unhealthy working conditions by using FSIS form 4791-27: “Report of Alleged Safety or Health Hazard” (hereafter referred to as “FSIS form 4791-27”).⁴⁰ According to the directive, FSIS is responsible for ensuring that

³⁵ Employees would first receive authorization for purchases from their frontline supervisor or district office. FSIS personnel were to file claims by July 31, 2020, to qualify for the reimbursement.

³⁶ Mission-essential employees from every program area who performed essential duties outside of their residence qualified for reimbursement, including, but not limited to, Office of Field Operations; Office of Investigation, Enforcement and Audit; and Office of Public Health Science.

³⁷ We did not determine the dollar impact because the agency did not use COVID-19 funding to pay for this leave.

³⁸ Administrative leave was available for 30 days, during which time employees could pursue a Reasonable Accommodation request. A Reasonable Accommodation includes changes to the work environment, or to how the job is customarily performed, that allow a qualified, disabled individual to perform the essential functions of that job. A Reasonable Accommodation also includes changes that help a disabled employee enjoy equal benefits and privileges of employment as those enjoyed by other similarly situated employees without disabilities. (29 C.F.R. § 1630.2(o)(1)). Examples of reasonable accommodations include approving leave, as appropriate; acquiring or modifying equipment or providing auxiliary aids and devices; or permitting telework or telecommuting.

³⁹ USDA FSIS, *FSIS COVID-19 Information Sheet* (Mar. 2020).

⁴⁰ USDA FSIS, *Reporting and Correcting Occupational Hazards*, Directive 4791.12 (June 19, 1996).

inspectors' work environments are free from recognized safety and health hazards that may cause death or serious physical harm.

FSIS officials stated that they performed a data call to obtain all COVID-19 related FSIS form 4791-27s from the field;⁴¹ however, FSIS was unable to provide us with an accurate count of these forms. Under the FSIS directive 4791.12, the lead safety professional, at the agency's headquarters, did not learn of all COVID-19 related FSIS form 4791-27s until later in the tracking and monitoring process. This occurred because the directive did not require FSIS field supervisors to send these forms to the agency's Safety and Physical Security Branch.

According to FSIS officials, the agency is updating the process for tracking and monitoring FSIS form 4791-27 and placing the Safety and Physical Security Branch review at the beginning of the process. The Safety and Physical Security Branch will perform monthly reviews of FSIS form 4791-27s filed by FSIS inspectors and track the forms until closure. According to FSIS, this control will identify issues not addressed in the original process. The agency is developing an FSIS notice while a more comprehensive update to the agency's directive is forthcoming.

FSIS began to proactively address the concerns we identified during this inspection. However, we recommend that FSIS complete the updates to the process for tracking and monitoring the FSIS form 4791-27 and associated FSIS Directive 4791.12. By updating this process and the corresponding directive, FSIS can better ensure the agency receives and takes action on all COVID-19 related safety and health-related hazards.

Recommendation 1

Complete the updates to the process for tracking and monitoring the FSIS form 4791-27, "Report of Alleged Safety or Health Hazard" and associated FSIS Directive 4791.12. Specifically, update the directive to include the practice of submitting all FSIS form 4791-27s to the Safety and Physical Security Branch, where they can be centrally recorded.

Agency Response

In its June 1, 2022, response, FSIS stated:

FSIS will complete the updates to the process for tracking and monitoring FSIS Form 4791-27, Report of Alleged Safety or Health. The Agency will revise FSIS Directive 4791.12, Reporting and Correcting Occupational Hazards, to instruct FSIS employees to submit FSIS Form 4791-27 to the FSIS Safety and Physical Security Branch where the forms will be centrally recorded.

The estimated completion date is June 30, 2023.

⁴¹ FSIS performed this prior to our data request.

OIG Position

We accept management decision on this recommendation.

How did FSIS ensure inspections continued at the establishments, including determining whether inspectors transferred between establishments?

According to FSIS officials, the agency placed inspectors on temporary details to fill personnel shortages and ensure inspections continued at meat and poultry slaughter and processing establishments. FSIS officials stated that, prior to the pandemic, the agency used temporary details essentially on a daily basis, for instance, to cover inspectors on sick leave; however, the use of temporary details increased due to COVID-19. In response, the agency created the FSIS COVID-19 situation report to track and consolidate COVID-19 data.⁴² The situation report assisted FSIS officials in assigning employees to temporary details to perform inspection tasks and cover inspectors out on leave.

While establishments closed or reduced operations throughout the pandemic for a variety of reasons,⁴³ according to FSIS officials, no establishment closed due to a lack of USDA inspectors.^{44, 45} If an establishment temporarily closed, FSIS frontline supervisory personnel—with district management input, as needed—would assess the assignment workload of the FSIS inspectors covering the establishment to determine if an inspector needed to be temporarily detailed to another establishment. FSIS assessed adjacent and nearby assignments to determine whether there was a need for additional inspection coverage. If so, the applicable frontline supervisor would temporarily detail affected inspectors to the new assignment while their headquarters establishment was closed. If there was no need for additional inspection coverage, FSIS placed the inspector on administrative leave.

In addition, FSIS allowed all employees who met the CDC criteria for being at higher risk of severe illness with COVID-19 to self-certify their status with their supervisor. Supervisors approved telework for telework-eligible employees and granted paid administrative leave accordingly.⁴⁶ When additional FSIS employees, including inspectors, requested to self-certify, FSIS reached out to other agencies, including AMS and APHIS, for assistance. Through interagency agreements, these agencies provided inspection support for FSIS and helped fill critical personnel shortages at establishments. In these instances, FSIS officials stated the agency used APHIS and AMS employees who had FSIS experience and were locally available to perform inspection tasks.⁴⁷

⁴² FSIS officials stated these situation reports started in March 2020 but, at some point, the agency would no longer continue to prepare this documentation.

⁴³ An establishment might close or reduce operations due to a lack of plant employees, State or local public health restrictions, and lack of products or sales.

⁴⁴ CDC and OSHA have the authority and expertise relating to public health and worker safety issues for plant employees. Establishments need to follow protocols set by State and local health departments, which may vary.

⁴⁵ We did not confirm or corroborate this statement. However, FSIS provided situation reports, which stated there were zero establishments closed due to FSIS staffing shortages.

⁴⁶ After initial self-certification, employees were required to have a conversation with their supervisor at least once every 2-week pay period to discuss whether the employee needed to continue to self-certify based on their medical condition and the COVID-19 situation at their place of work.

⁴⁷ FSIS had interagency agreements with both APHIS and AMS. However, during our review, FSIS did not reimburse AMS for inspection services.

In addition, FSIS worked with local offices and establishment supervisors to share information about confirmed COVID-19 cases for trace back purposes and to follow appropriate CDC quarantine guidelines. FSIS officials stated that they also worked with the regulated industry to apply CDC-recommended mitigation steps in establishments to reduce the risk of inspectors contracting COVID-19. Specifically, this included ensuring FSIS inspectors submitted to body temperature monitoring, wore masks in the facilities, and had access to barriers (Plexiglass) at locations where keeping a 6-foot distance between personnel was not possible. The above actions allowed FSIS to ensure inspections continued at the establishments.

What protocols did FSIS have in place for when an FSIS or establishment employee tested positive for COVID-19?

If an FSIS inspector tested positive for COVID-19, FSIS officials expected the inspector or the local health department to notify the inspector's supervisor. FSIS officials would then notify the regulated establishment(s) where the inspector worked. FSIS permitted supervisors to grant administrative leave, during the period of quarantine, to FSIS inspectors not eligible to telework.^{48, 49} Outside of the period of quarantine, FSIS inspectors could use:

- accrued or advanced sick or annual leave;
- earned compensatory time off or travel compensatory time off;
- earned credit hours for employees who work a maxi-flex schedule; or
- leave without pay.⁵⁰

FSIS supervisors evaluated the inspector's individual circumstances to determine the appropriate type of leave.

When a regulated establishment employee tested positive for COVID-19, FSIS officials requested that establishment managers share the information with the agency because FSIS does not have the authority to require establishments to report this information. For instance, FSIS officials encouraged all regulated establishments to follow CDC and OSHA guidance and recommendations for reducing transmission of COVID-19, including implementing screening programs, when appropriate. For establishments that had such programs, FSIS instructed its employees, during town hall meetings, to comply with the screening and testing requirements.

⁴⁸ A telework-eligible employee may telework if able to do so and if they have supervisory approval.

⁴⁹ According to FSIS, administrative leave was not guaranteed.

⁵⁰ USDA FSIS, *FSIS COVID-19 Information Sheet* (Mar. 2020).

Section 3: FSIS' Communication with States

What actions did FSIS take to communicate the Federal Government's authority, standards, and expectations with the State Departments of Health?

In order to communicate the Federal Government's authority, standards, and expectations to State departments of health, FSIS:

- published the FSIS Human Pandemic Operations Plan;
- posted information in the publicly available FSIS *Constituent Update*; and
- provided information for the USDA COVID-19 Food Supply Chain website.

The FSIS Human Pandemic Operations Plan, published March 2020, contained several overarching principles, which included coordinating closely with local partners; stakeholders; State, local, and tribal governments; and health officials. Further, this plan outlined communication strategies and measures FSIS and its employees could implement during a human pandemic, including actions specific to communicating with State and industry officials. According to FSIS officials, the Human Pandemic Operations Plan helped eliminate chaos by providing a guide of what to do in given situations. FSIS officials stated that the plan was just a guide or framework, and that the agency documented its specific actions within FSIS notices. (See Exhibit A).

In addition, FSIS released information about COVID-19 through its publicly available FSIS *Constituent Update* newsletter.⁵¹ For example, these updates:

- addressed how FSIS was monitoring the evolving COVID-19 pandemic;
- provided employees and stakeholders with links to online resources; and
- discussed the implementation of EO 13917.

FSIS continues to release these constituent updates throughout the pandemic.

Further, FSIS created the COVID-19 Food Supply Chain website, which included questions and answers related to COVID-19 and USDA's food supply chain.⁵² This publicly available website included information on food access, critical infrastructure, food safety, and EO 13917. The COVID-19 Food Supply Chain website also included information regarding the Government's authority, standards, and expectations for operating during the COVID-19 pandemic, and included language on the responsibilities of State and local health departments. In addition, the COVID-19 Food Supply Chain website regularly directed readers to the CDC and OSHA guidance for meat and poultry processing establishments. FSIS used public channels, which

⁵¹ USDA-FSIS, *News and Events: News & Press Releases* (Mar. 24, 2021),

<https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates>.

⁵² USDA-FSIS, *Coronavirus: Food Supply Chain* (Feb. 1, 2021), <https://www.usda.gov/coronavirus/food-supply-chain>.

ensured State departments of health had access to up-to-date information regarding FSIS' standards and expectations for operating during the COVID-19 pandemic.

Section 4: Executive Order 13917

What actions did FSIS take following the Executive Order issued on April 28, 2020 (relating to the Defense Production Act with respect to Food Supply Chain Resources caused by COVID-19) that affected outbreaks at meat and poultry processing and other agricultural facilities?

EO 13917 did not specifically direct FSIS officials to take action to ensure operations continued in agricultural establishments.⁵³ However, FSIS did issue notices and guidance to employees to promote health and safety while performing inspection tasks during the COVID-19 pandemic.

EO 13917 delegated authority to the Secretary of Agriculture to take appropriate actions to ensure regulated establishments continued operations during the COVID-19 pandemic.⁵⁴ In response, on May 5, 2020, the Secretary of Agriculture issued two letters to the Nation's governors and the leadership of major meat and poultry processing companies establishing USDA's expectations for the implementation of the CDC and OSHA guidance for meat and poultry processing establishments.⁵⁵ Additionally, the Secretary of Agriculture used the letters to direct meat and poultry processing establishments contemplating reductions of operations or recently closed to submit written documentation of their operation and health and safety protocols.⁵⁶ The letters also stated that USDA would partner with the CDC and OSHA—Federally recognized public health and worker safety authorities—to work with State and local officials to ensure meat and poultry processing establishments implement best practices to mitigate the spread of COVID-19 while maintaining operations.

⁵³ According to EO 13917, the Secretary of Agriculture shall take all appropriate actions to ensure that meat and poultry processors continued to operate with the guidance issued by the CDC and OSHA.

⁵⁴ E.O. 13917 (Apr. 28, 2020).

⁵⁵ USDA, *Executive Order Delegating Authority Under the Defense Production Act with Respect to the Food Supply Chain Resources During the National Emergency Caused by the Outbreak of COVID-19*, Secretary Memorandum (May 5, 2020), <https://www.usda.gov/media/press-releases/2020/05/06/secretary-perdue-issues-letters-meat-packing-expectations>.

⁵⁶ Outbreaks of COVID-19 among workers at some processing facilities led to the reduction in some of those facilities' production capacity. In addition, actions in some States led to the complete closure of some large processing facilities.

Scope and Methodology

We conducted this inspection to determine what actions FSIS took related to COVID-19 to ensure the continuation of inspection operations at meat and poultry slaughter and processing establishments. Our inspection also included how FSIS spent \$33 million in CARES Act funding. Our inspection followed the Council of the Inspectors General on Integrity and Efficiency (CIGIE) *Quality Standards for Inspection and Evaluation*.⁵⁷ We performed our inspection remotely due to the COVID-19 pandemic. We conducted our fieldwork from December 2020 through March 2022.

Our inspection scope covered the actions taken by FSIS in response to the COVID-19 pandemic from March 2020 through July 2021.

To accomplish our inspection objectives, we:

- interviewed FSIS Office of Management and Office of Field Operations officials;
- reviewed the 10 FSIS notices related to COVID-19, agency directives, as well as other applicable Federal laws, guidance, and publicly available information;
- reviewed financial system reports and inventory data to identify how FSIS spent the \$33 million in CARES Act funding;
- reviewed reports of alleged safety or health hazards related to COVID-19, as well as the agency's process for tracking and monitoring this documentation;
- reviewed EOs related to worker health and safety⁵⁸ and the implementation of the Defense Production Act;⁵⁹ and
- coordinated with the Government Accountability Office and OIG's OAI about our respective work with FSIS.⁶⁰

We conducted this inspection in accordance with CIGIE's *Quality Standards for Inspection and Evaluation*. These standards require that we plan and perform the inspection to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions and recommendations based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions and recommendations based on our review.

⁵⁷ CIGIE, *Quality Standards for Inspection and Evaluation* (Jan. 2012). CIGIE updated these standards in December 2020. However, these standards were effective for inspections beginning on or after January 1, 2022, and as a result, did not apply to this inspection.

⁵⁸ E.O. 13999 (Jan. 21, 2021).

⁵⁹ E.O. 13917 (Apr. 28, 2020).

⁶⁰ OAI conducted a pulse survey of FSIS inspectors from February through March 2021 to obtain information about how FSIS frontline inspectors perceive COVID-19 safety in their work environments.

<https://www.usda.gov/oig/reports/survey-food-safety-and-inspection-service-inspectors-perceptions-covid-19-safety-work>.

Abbreviations

AMS	Agricultural Marketing Service
APHIS	Animal and Plant Health Inspection Service
CARES Act	Coronavirus Aid, Relief, and Economic Security Act
CDC	Centers for Disease Control and Prevention
C.F.R.	Code of Federal Regulations
CISA	Cybersecurity and Infrastructure Security Agency
CIGIE	Council of the Inspectors General on Integrity and Efficiency
COVID-19	coronavirus disease 2019
DHS	Department of Homeland Security
DOL	United States Department of Labor
EO	executive order
FSIS	Food Safety and Inspection Service
MMSC	Material Management Service Center
OAI	Office of Analytics and Innovation
OIG	Office of Inspector General
OSHA	Occupational Safety and Health Administration
PPE	personal protective equipment
U.S.C.	United States Code
USDA	United States Department of Agriculture

Exhibit A: FSIS COVID-19 Notices

This table lists and describes the 10 notices related to COVID-19 FSIS issued between March 2020 and July 2021. The FSIS notices were provided by FSIS, and are listed according to the date they were issued.

FSIS Notice Number	Title	Issue Date	Purpose
18-20	COVID-19 Funding Use for Payroll and Travel	4/3/2020	To outline the use of the COVID-19 funds for recording payroll time and attendance and travel expenditures.
19-20	Use of Protective Face Covering to Reduce the Spread of COVID-19	4/9/2020	To provide new guidance to FSIS employees from the CDC on the voluntary use of face coverings to reduce the spread of COVID-19.
24-20	The Families First Coronavirus Response Act Emergency Paid Sick Leave Act Provisions	5/7/2020	To provide FSIS employees with information on the Families First Coronavirus Response Act Emergency Paid Sick Leave Act provisions.
26-20	Availability of Hand Sanitizer	5/11/2020	To reiterate the availability of hand sanitizer at the MMSC, as announced via all-user notice on May 5, 2020. Inspection program personnel are to begin placing orders immediately.
27-20	FSIS Availability of Cloth Face Coverings, Disposable Masks, and Face Shields	5/11/2020	To reiterate the availability, as of May 1, 2020, of cloth face coverings, disposable masks, and face shields at the MMSC.
30-20	Update—Use of Protective Face Coverings by FSIS Personnel to Reduce the Spread of COVID-19	5/22/2020	To provide new instructions to FSIS employees from the CDC and USDA on the use of face coverings to reduce the spread of the COVID-19 virus. The notice updates and cancels FSIS Notice 19-20, Use of Protective Face Coverings to Reduce the Spread of COVID-19.
31-20	Instructions for Face Shields that Attach to the Helmet	5/22/2020	To notify employees of the availability of face shields that attach to the helmets and that comply with OSHA and CDC Meat and Poultry Packing Industry Interim Guidance.

32-20	Face Coverings, Disinfectant Wipes, and Hand Sanitizer for the Reopening of USDA and FSIS Facilities	6/5/2020	To announce that all employees engaged in in-person human interactions—including interactions with the public or with other USDA and FSIS employees will be required to wear disposable facemasks or cloth face coverings until further notice.
33-20	Corrected Item Numbers for Face Shields	6/17/2020	To correct the item numbers listed in FSIS Notice 31-20, Instructions for Face Shields that Attach to Helmets.
35-20	Preventing Heat Stress Illness	6/26/2020	To announce that inspection program personnel can order items from the MMSC to help prevent heat-stress illness.

**Food Safety and Inspection Service's
Response to Inspection Report**



United States Department of Agriculture

Food Safety and
Inspection Service

1400 Independence
Avenue, SW.
Washington, D.C.
20250

TO: Gil H. Harden
Assistant Inspector General
Office of Inspector General

FROM: Terri Nintemann /s/ 6 / 1 / 2022
Deputy Administrator
Food Safety and Inspection Service

SUBJECT: OIG Official Draft Report, COVID-19–Food Safety and
Inspection Service Pandemic Response at Establishments,
Inspection Number 24801-0001-23

Thank you for providing an opportunity for USDA’s Food Safety and Inspection Service (FSIS) to respond to the USDA Office of Inspector General (OIG) draft report entitled, “COVID-19–Food Safety and Inspection Service Pandemic Response at Establishments.”

This report describes the essential actions FSIS took throughout the coronavirus disease (COVID-19) pandemic to ensure the:

- Continuation of inspection operations at meat and poultry slaughter and processing establishments,
- Protection of the health and safety of FSIS inspectors, and
- Utilization of \$33 million in Coronavirus Aid, Relief, and Economic Security Act (also known as the CARES Act) funding.

Approximately eighty-five percent of FSIS employees work in the field and are involved in inspecting food products at over 6,500 regulated facilities. From the outset of the pandemic to the present, FSIS took actions to ensure the continuation of inspection operations at meat and poultry slaughter and processing establishments and undertook a proactive, multi-layered approach to protect its employees against the risks of contracting COVID-19.

Throughout the pandemic, FSIS rapidly adapted as Federal COVID-19 guidance from the Centers for Disease Control and Prevention, Occupational Safety and Health Administration, Office of Personnel Management, and the Safer Federal Workforce Task Force changed. The Agency effectively communicated up-to-date guidance to employees in a timely manner through multiple channels. In the 2021 Federal Employee Viewpoint Survey, the majority (76.8 percent) of FSIS employees who responded indicated that the Agency encouraged the use of personal protective

equipment or other safety equipment in the worksite.¹ FSIS regulated industry has since instituted engineering and administrative controls in response to COVID-19. In addition, the majority of FSIS employees are now fully vaccinated. Taken together, these factors have helped to significantly reduce the risk of FSIS employees being exposed to COVID-19 in the workplace.

FSIS has general comments followed by a response to the described recommendation. The general comments concern how FSIS tracked COVID-19 employee illness case counts, and the form used to report and abate hazards in the workplace.

FSIS General Comments

At the outset of the COVID-19 pandemic, FSIS monitored COVID-19 case counts at a local level to ensure that inspection could proceed at an establishment-by-establishment level. The Agency's Significant Incident Preparedness and Response Staff (SIPRS) tracked and reported the COVID-19 impact on FSIS employees and on the operations of more than 6,500 FSIS-regulated establishments. The Agency developed pandemic reporting protocols and COVID-19 illness tracking reports for employees who contracted COVID-19. To protect personally identifiable information, unique identifiers were assigned to each case and the Agency rolled up this data to track COVID-19 case counts and trends at a national level. SIPRS closely kept track of COVID-19 cases throughout the pandemic, populated accurate case counts in the USDA COVID-19 case tracker on a timely basis, and provided the USDA and FSIS senior leadership with visibility into the status of employees who tested positive for COVID-19 and/or were likely exposed to someone who tested positive.

The Agency uses FSIS Form 4791-27, Report of Alleged Safety or Health Hazard, to report and abate hazards in the workplace.² This form is intended for Agency employees to report and track their complaints of alleged hazards and be assured that the proper officials within the Agency have reviewed their statements. An FSIS employee reports an alleged hazard at an establishment by completing FSIS Form 4791-27 and submitting it to the supervisor or other Agency officials. The supervisor then either abates the hazard at their level or forwards the form to the FSIS Safety and Physical Security Branch. An assigned Safety Specialist ensures that the reported hazard is properly abated within the establishment. During the pandemic, some FSIS employees also used FSIS Form 4791-27 to report as hazards, incidents that could result in possible exposure to COVID-19.

¹Of the FSIS employees who responded to the 2021 Federal Employee Viewpoint Survey, an additional 18.5 percent indicated that, although the Agency encouraged the use of personal protective equipment or other safety equipment in the worksite, it was not needed to perform their jobs while 4.7 percent indicated it was needed but not available to them.

²This is just one part of FSIS' safety program and there are other ways for employees to report alleged hazards.

FSIS' Response to OIG's Recommendation

Objective 2: What actions did FSIS take to ensure the health and safety of FSIS inspectors working at official establishments?

Recommendation 1

Complete the updates to the process for tracking and monitoring the FSIS Form 4791-27, Report of Alleged Safety or Health Hazard, and associated FSIS Directive 4791.12. Specifically, update the directive to include the practice of submitting all FSIS 4791-27 forms to the Safety and Physical Security Branch where they can be centrally recorded.

FSIS Response

FSIS will complete the updates to the process for tracking and monitoring FSIS Form 4791-27, Report of Alleged Safety or Health Hazard. The Agency will revise FSIS Directive 4791.12, Reporting and Correcting Occupational Hazards, to instruct FSIS employees to submit FSIS Form 4791-27 to the FSIS Safety and Physical Security Branch where the forms will be centrally recorded.

Estimated Completion Date: June 30, 2023

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