U.S. Department of Agriculture
Office of Inspector General
Washington, D.C. 20250

DATE: March 15, 2010

REPLY TO
ATTN OF: 03703-2-Ch (2)

TO: Jonathan Coppess
Administrator
Farm Service Agency

ATTN: T. Mike McCann
Director
Operations Review and Analysis Staff

FROM: Gil H. Harden /s/
Acting Assistant Inspector General
for Audit

SUBJECT: Controls Over Aquaculture Grant Stimulus Funds – Phase 2

The American Recovery and Reinvestment Act of 2009 (Recovery Act) authorized up to $50 million to carry out the 2008 Aquaculture Grant Program (AGP) to assist aquaculture producers in recovering from losses associated with high feed costs during the 2008 calendar year and, thereby, help save jobs in the aquaculture industry. Congress, in enacting the Recovery Act, emphasized the need for accountability and transparency in the expenditure of these funds. Accordingly, the Office of Inspector General (OIG) initiated a two-phase audit of AGP. In the first phase, we determined if the Farm Service Agency (FSA) had established adequate processes and controls to implement the Recovery Act's aquaculture provisions in a timely and equitable manner. In this, the second phase, we determined if FSA and participating State Departments of Agriculture (hereinafter referred to as the States) were complying with agency procedures and with Recovery Act requirements.

Although FSA had over $8.5 million[1] in unused AGP funds available as of February 1, 2010, the agency had not yet begun the process for reallocating funds to eight participating States that had reported not having sufficient funds to pay eligible producers the full amounts they were determined eligible to receive. We attributed this, in part, to the fact that the Recovery Act did not outline any timeframes for this process. In addition, FSA officials believed that in order to ensure an equitable distribution of their available reserve funds, they needed to wait until all participating States had completed their programs and determined whether or not they would need additional funds. However, we believe this policy does not address the fact that producers in the eight affected States, whose funding shortages totaled $2.4 million, may already be in an

[1] Comprised of a $1 million reserve kept by FSA and $7.5 million returned by the States as of January 29, 2010. This included the nine States that had completed their AGP and returned over $6.9 million, and the six States that had dropped their AGP and returned their allocations totaling $0.6 million.

inequitable situation when compared to aquaculture producers in States that received sufficient funding to provide full payments. In addition, the delays in making full payments could have negative effects on the viability of participating producers in the eight affected States, some of whom have waited for periods of up to 5 months to receive their remaining payments.

When FSA initially distributed AGP funding, it based its decisions on the amount of aquaculture feed delivered to producers within each State during 2007. Since the States could not always predict how many producers would apply for benefits, some States had excess funds after paying all eligible applicants the full amounts to which they were determined eligible and other States did not have enough funds to pay all eligible producers even half of what they were eligible to receive.

For example, of the four States we visited, three—Alabama, Louisiana, and Mississippi—had more than enough funding and were able to return approximately $5.7 million to FSA. Texas, in contrast, spent the $1.7 million it had received, but needed an additional $2.1 million to fully fund all eligible producers. Given its funding limitations, Texas reduced the amount that each eligible producer would receive by 55 percent until the State received more funding; the unpaid portion, on average, would total over $31,000 for each of the State's 66 participating producers. Similarly, aquaculture producers in New Jersey (which received an allocation of only $3,791) received payments that were even smaller, only 15 percent of the amounts for which they were eligible. Nationwide, eight States lacked a total of $2.4 million in AGP funds to pay all eligible producers the grant amounts they were determined eligible to receive.

When we spoke to FSA officials about this problem, they stated that they planned to redistribute the unused money to the States that needed it. As of February 1, 2010, 17 of the 35 States participating in the program had reported back if they had extra funds or if they were short. Based on these reports, FSA had more than $8.5 million in reserve, but officials elected not to begin the process of reallocating these funds to the States until they could ascertain the total amount that needs to be reallocated, which they will be able to do once the remaining 18 States report.[2] FSA officials decided upon this approach because they believed that it was the only way they could redistribute funds in an equitable manner to all participating States.

In all, 17 States have completed their programs and have returned a net amount of $4.5 million[3] to FSA. If FSA immediately remedied the $2.4 million in presently-identified shortfalls, it would still have a remaining surplus of $6.1 million, an amount well in excess of the present allocations for the 18 States[4] that have yet to complete their programs and which should allow FSA to meet any funding shortfalls in those States. While we concur with FSA officials' intent to treat all participating States and producers in a fair and equitable manner, we believe that the first step should be to ensure that all currently participating aquaculture producers receive the full Recovery Act payments for which they have already been determined eligible, thus placing them

[2] Section E. 3 of the grant agreement FSA signed with each State requires the States to report, not later than 30 days after providing assistance to eligible producers, the amount of assistance provided per producer and aquaculture species, and to provide an update every 30 days until all the funds have been disbursed or all receivables collected.

[3] This includes the eight States that have asked for an additional $2.4 million, netted against the nine other States that returned over $6.9 million.

[4] The Arkansas allocation was not included here because State officials had told us that they had completed their program but had not yet reported and returned the remaining funds, estimated at $700,000, to FSA. The remaining 17 States' AGP allocations totaled only $3.2 million.

on an equal footing with participating producers in the other nine States that have completed their programs.

Recovery Act payments under the AGP were intended to assist producers in dealing with financial hardships caused by high feed prices, and some producers we interviewed believed that this assistance allowed them to stay in business. OIG believes that delays in making the remaining payments to the eligible producers in Texas and the other States experiencing shortfalls could negatively affect the viability of their businesses and could result in the inequitable treatment of these producers. Since the Recovery Act was intended, above all, to provide swift economic stimulus, FSA should take steps to rapidly redistribute its reserve funds to States that have not been able to provide aquaculture producers with the payments they are eligible to receive.

We are, therefore, recommending that FSA:

> Provide additional funds to those States that have reported shortfalls so that producers currently participating in the program receive the full benefits for which they are eligible in a timely manner.

Please provide a written response to this letter within five days, outlining your proposed actions. If you have any questions or concerns, please contact me at (202) 720-6945, or have a member of your staff contact Ernest M. Hayashi, Audit Director, Farm and Foreign Agricultural Division, at (202) 720-2887.

USDA'S

FARM SERVICE AGENCY

RESPONSE TO AUDIT REPORT

United States Department of Agriculture

Farm and Foreign Agricultural Services

Farm Service Agency

Operations Review and Analysis Staff

1400 Independence Ave, SW
Stop 0540
Washington, DC
20250-0501

March 29, 2010

TO: Director, Farm and Foreign Agriculture Division
Office of Inspector General

FROM: T. Mike McCann, Director **/s/ T. Mike McCann**
Operations Review and Analysis Staff

SUBJECT: Responding Your Memorandum Dated March 15: Controls Over Aquaculture Grant Recovery Act Funds Audit 03703-2-CH (2)

Attached is a copy of a memorandum dated March 29 from the Farm Service Agency's Deputy Administrator for Farm Programs, which responds to the subject's recommendation.

Attachment

United States Department of Agriculture

Farm and Foreign Agricultural Services

Farm Service Agency

1400 Independence Ave, SW
Stop-0517
Washington, DC 20250-0501

March 29, 2010

TO: Philip Sharp
Chief, Audits, Investigations, and State and County Review Branch

FROM: Brandon C. Willis /s/ Brandon C. Willis
Deputy Administrator for Farm Programs

SUBJECT: Response to the Office of the Inspector General (OIG) Memorandum, dated March 15, 2010, Controls Over Aquaculture Grant Recovery Act Funds – Phase 2, Audit 03703-2-CH (2)

This is in response to your memorandum of March 16, 2010, requesting a written response to the OIG memorandum dated March 15, 2010, Controls Over Aquaculture Grant Recovery Act Funds – Phase 2.

Provided below is the response to the one recommendation to the Deputy Administrator for Farm Programs provided in the OIG memorandum.

RECOMMENDATION:

Provide additional funds to those States that have reported shortfalls so that producers currently participating in the program receive the full benefits for which they are eligible in a timely manner.

RESPONSE TO RECOMMENDATION:

It is important to point out that Section 102(d), 2008 Aquaculture Assistance, of the American Recovery and Reinvestment Act of 2009 (Recovery Act), specifically provides the manner in which the 2008 Aquaculture Grant Program (AGP) funding is allocated among States. Section 102(d)(2)(c), Provision of Grants, provides:

> "The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2007 calendar year, as determined by the Secretary."

Therefore, FSA did not develop the method in which grant funding was originally allocated to the States. From the beginning of program implementation, FSA was aware that the funding allocated to States did not match the amount of compensation to be requested under AGP for losses relating to 2008 high feed input costs. FSA was also aware that in some States, the grant amounts would not cover all of the feed losses while in other States, grant amounts would exceed the amount of feed losses. However, FSA complied with the statutory provision cited above, when originally allocating grant funding to States.

RESPONSE TO RECOMMENDATION (CONTINUED):

With respect to the timing of reallocating grant funding to the States that had to apply a payment factor to AGP payments, Section 102(d) of the Recovery Act, specifically provides:

> "Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000, **to remain available until September 30, 2010**, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2008 calendar year."

FSA will timely provide additional AGP funding to those States that applied a factor to AGP payments, according to the Grant Agreement. FSA will have the additional funding obligated to the States by September 30, 2010, in order to be compliant with the Recovery Act.

There are several factors affecting the timing of reallocating additional AGP payments to States. Noted below are major factors that impact the timing in which additional funding is reallocated.

- **Process of ensuring compliance with Recovery Act provisions, grant regulations, and the AGP Grant Agreement** – FSA must coordinate with USDA's Office of General Counsel to ensure funding may legally be reallocated to the States and if so, ensure that the funding is reallocated according to all applicable laws and regulations. This may require modifications to the current grant agreements to reflect the allocation of additional grant funding. In addition, due to the transparency and accountability requirements of Recovery Act funding, there are additional steps that must be taken to ensure that USDA's Recovery Act Team approves the funding reallocation.

- **The Recovery Act did not provide States with administrative expenses for AGP implementation –** AGP implementation has been executed as timely as possible at the State Departments of Agriculture taking into consideration the staffing and budget constraints many States have faced. Due to staffing and budget constraints, several States did not provide AGP assistance to producers in their State until 2010. Until all States have completed program implementation, FSA is not able to accurately reallocate funding to States.

> To date, thirty-six of the thirty-seven participating States have completed making payments to producers. In addition to providing assistance to producers, States must refund unused grant funding to Commodity Credit Corporation (CCC). Currently, FSA is waiting for three States to refund unused grant funding to CCC.

FSA is exhausting all resources to ensure that the reallocation of grant funding is timely and accurately executed according to all applicable laws and regulations.