

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL

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Committee on Agriculture, Nutrition, and Forestry

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Good morning, Chairwoman Stabenow, Ranking Member Roberts, and Members of the Committee. Thank you for the opportunity to testify about the Office of Inspector General's (OIG) work to help improve oversight and delivery of Department of Agriculture (USDA) programs and operations.

I will begin my testimony with a brief overview of OIG's mission and the work we do. Then, I will discuss examples of how our audit and investigative efforts can enhance the Department's performance and efficiency in three areas: strengthening communication and coordination, reducing improper payments, and increasing oversight and control.

OIG's Mission

As you know, OIG's mission is to promote the economy, efficiency, and effectiveness of USDA programs and operations by performing audits and investigations to reduce fraud, waste, and abuse. The Inspector General (IG) Act of 1978 established a dual reporting responsibility, whereby IGs report both to the head of their respective agencies and to Congress.¹ This unique relationship provides the legislative safety net that protects OIGs' independence and objectivity as we conduct our oversight responsibilities.

USDA OIG conducts audits designed to ascertain if a program is functioning as intended, if program payments are reaching those they are intended to reach, and if funds are achieving their intended purpose. When we find problems with the programs we assess, we make recommendations we believe will help the agency better fulfill its mission. We do not have regulatory authority over agencies or programs; instead, agencies are responsible for implementing our recommended corrective actions. We also conduct investigations of individuals and entities

¹ 5 U.S.C. app. 3, §§ 1-13.

that are suspected of abusing USDA programs—these investigations can result in fines and imprisonment for those convicted of wrongdoing in addition to agency disciplinary actions for USDA employees who are found to have engaged in misconduct.

In fiscal year (FY) 2010 through June 1, 2011, our audit and investigative work obtained potential monetary results totaling nearly \$256 million.² We issued 89 audit reports to strengthen the Department's programs and operations, which produced over \$46 million in potential results when program officials agreed with our recommendations. During the same period, OIG's investigations led to 743 convictions, with potential results totaling almost \$210 million.

Improving USDA Program Performance and Efficiency

The 2008 Farm Bill and the 2009 Recovery Act modified or provided additional funds for many existing USDA programs and created new ones for the Department to implement and administer.³ OIG has responded by conducting audits and investigations that help ensure proper benefit delivery; safeguard programs from fraud, waste, and abuse; and protect the health and safety of USDA personnel and the public.

² Audit monetary impacts derive from funds put to better use and questioned/unsupported costs as established by Congress in the IG Act, 5 U.S.C. app. 3 § 5. Investigation monetary impacts come from recoveries, court-ordered fines, restitutions, administrative penalties, and asset forfeitures.

³ Formally, the 2008 Farm Bill is titled the Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, 122 Stat. 923; and the 2009 Recovery Act is titled the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115.

Strengthening Communication and Coordination

USDA's need to coordinate activities among its agencies and programs is important. Several of its agencies provide payments to producers for programs that have complementary and interlocking missions, such as insurance payments for crop losses through the Risk Management Agency (RMA) and disaster assistance payments through the Farm Service Agency (FSA). Similarly, many USDA responsibilities involve coordination with other Federal Departments, State and local entities, and foreign countries, such as food safety inspection and global trade export initiatives. To deliver programs effectively, USDA agencies must understand how their programs interrelate, and they must work together to create a cohesive, integrated system of program administration and data. Such an approach will increase organizational communication, streamline operations, reduce spending, and improve program efficiency, compliance, and integrity. Examples of our work in this area include the following.

- Our audit of suspension and debarment at USDA showed that the Department could better protect its programs by debarring those individuals and entities that exploit programmatic vulnerabilities. Since debarred individuals and entities are prohibited from participating in Federal programs outside USDA, vigorous and appropriate use of suspension and debarment supports program integrity Governmentwide. Although the Department has authority to exclude those who commit crimes against its programs from doing business with the Government, our audit work showed that convicted program violators were rarely suspended or debarred.⁴ Between FYs 2004 and 2007, only 38 of 1,073 individuals convicted of crimes pertaining to USDA programs were debarred—less than 4 percent. USDA officials have

⁴ 50601-14-AT, *Effectiveness and Enforcement of Suspension and Debarment Regulations in the U.S. Department of Agriculture*, Aug. 2010.

agreed that suspension and debarment should be considered more frequently for convicted program abusers, and we are working together to determine the corrective actions needed to employ suspension and debarment more effectively.

- In an audit involving USDA’s relationship with another Department, we examined Food Safety and Inspection Service’s (FSIS) efforts in conjunction with the Department of Health and Human Services’ Food and Drug Administration (FDA) to integrate the nation’s food-testing laboratories into a network capable of responding to food contamination emergencies. Through a directive, the President established the Food Emergency Response Network (FERN).⁵ We assessed FSIS’ implementation of FERN and determined that the agency has made progress, including establishing standardized diagnostic protocols, but needs to take more steps to fully implement the program. We recommended that FSIS work with FDA to update their working agreements and strategy, ensure that there are enough laboratories to handle large-scale emergencies, and use targeted surveillance to improve FERN’s readiness to respond to threats to the nation’s food supply. FSIS agreed with our recommendations and has initiated a number of corrective actions.
- Coordination is also important within individual USDA agencies. For example, our audit of Forest Service’s (FS) invasive species program found that its general lack of internal controls could be traced back to fragmented authority, poor coordination, and inadequate communication.⁶ FS’ invasive species program is intended to protect U.S. lands and native species, but FS had not established many of the elements necessary to ensure it could do so, including: a proper control environment, an overall risk assessment, and adequate

⁵ Homeland Security Presidential Directive/HSPD-9—Defense of United States Agriculture and Food, 1 Pub. Papers 173 (January 30, 2004). Our audit is: 24601-6-AT, *Food Emergency Response Network*, Mar. 2011.

⁶ 08601-7-AT, *Forest Service Invasive Species Program*, Sep. 2010.

performance monitoring. Instead of implementing the program with a coherent strategy, FS relied on functional areas and field units that operated independently of one another. Further, FS divided responsibility for the program between three organizational areas, but gave none of them overall authority for the program. As a result, despite the work of dedicated personnel, FS' overall effort to combat invasive species was not cohesive, coordinated, or effectively aligned with agencywide goals. In general, FS agreed with our recommendation to establish a proper control environment with increased coordination and clear lines of communication.

Reducing Improper Payments

In FY 2010, USDA reported that 16 programs were vulnerable to significant improper payments (“high-risk” programs) and estimated \$5 billion in Departmentwide improper payments—a 5.4 percent error rate. This represents a significant reduction from FY 2009’s 5.92 percent error rate, but still leaves the Department with an opportunity to realize considerable cost savings by continuing to reduce its improper payments.

Governmentwide, the President’s 2009 Executive Order, *Reducing Improper Payments and Eliminating Waste in Federal Programs* (EO 13520), and the Improper Payments Elimination and Recovery Act of 2010 (IPERA) strengthen Federal improper payment reduction efforts by establishing rigorous accountability, reporting, and preventative requirements.⁷ For example, Federal Departments with high-priority or high-risk programs, such as USDA, are required to name accountable officials, establish goals for reducing improper payments, and issue quarterly

⁷ IPERA (31 U.S.C. § 3321 note) supplements the Improper Payments Information Act of 2002. The President also issued two Presidential memoranda expanding payment recovery audits and enhancing payment accuracy through a “Do Not Pay List.” The memoranda are: Memorandum on Finding and Recapturing Improper Payments, DAILY COMP. PRES. DOC., 2010 DCPD No. 00162 (March 10, 2010); and Memorandum on Enhancing Payment Accuracy Through a “Do Not Pay List,” DAILY COMP. PRES. DOC., 2010 DCPD No. 00512 (June 18, 2010).

high-dollar overpayment reports. These recent improper payment initiatives have also made OIG responsible for evaluating the Department's progress in implementing their requirements.

- As an example of our work in evaluating USDA's progress in meeting EO 13520's requirements, we have reviewed the Food and Nutrition Service's (FNS) accountable official report for its National School Lunch Program (NSLP) and Supplemental Nutrition Assistance Program (SNAP).⁸ According to the Department, improper payments for these programs in FY 2009 totaled nearly \$1.5 billion for NSLP and \$2.2 billion for SNAP, which means that reducing their improper payments can yield considerable cost savings for USDA.⁹ Our audit determined that FNS needs to improve its methodology for identifying and reporting improper payments within NSLP and that the agency's targeted 5 percent improper payment rate for SNAP was not aggressive enough. FNS generally agreed with our recommendations for both programs and has since lowered its target for SNAP to 4.36 percent.
- We are also reviewing USDA's quarterly high-dollar overpayment reports for FY 2010 to assess their compliance with EO 13520. Further, we will assess USDA's compliance with IPERA beginning in FY 2012 as required. As we continue to review how the Department identifies improper payments and the steps it takes to prevent them, we will assess improper payment trends, determine whether agency actions are effective and compliant, and make recommendations as warranted.

⁸ SNAP is still known as the "food stamp program" to many in the public, although it was officially renamed in 2008. (50024-2-FM, *Calendar Year 2010 Executive Order 13520, Reducing Improper Payments, Accountable Official Report Review*, Mar. 2011.)

⁹ USDA's *FY 2010 Performance and Accountability Report*.

- In addition to correctly identifying and reporting improper payment rates, our audit work has shown that ensuring participant eligibility is an important part of reducing improper payments. For example, we audited the Natural Resources Conservation Service's (NRCS) Conservation Security Program (CSP), which encouraged producers to reach "the pinnacle of good land stewardship" by entering into 5 to 10 year contracts that pay them for maintaining high conservation standards and enhancing existing practices.¹⁰ We concluded that NRCS did not adequately restrict participation to only those who were eligible because of their outstanding conservation practices. Instead, the agency awarded over half the contracts we examined (38 of 75) to participants who did not qualify for the program or did not merit their conservation payments. When implementing CSP, NRCS tried to maximize its restricted resources partly by determining producer eligibility based on unverified information that was provided by producers themselves. As a result, NRCS has paid about \$1.4 million for 38 questionable contracts for 2006 and 2007, and is expected to pay nearly \$4.3 million more throughout the contract period. We concluded that NRCS lacked assurance that the \$424 million paid to landowners through FY 2007 had been effectively used to reward and encourage excellent conservation. In general, NRCS concurred with our recommendations to strengthen its controls over the program and we continue to work with them on the corrective actions needed.

To help minimize improper payments, OIG has also audited the internal controls agencies have in place to ensure eligibility for and provide accountability over the \$28 billion in additional funding the 2009 Recovery Act provided for USDA programs in areas such as farm and housing loans.

¹⁰ The 2008 Farm Bill replaced CSP with the Conservation Stewardship Program, which shares a similar goal of encouraging producers to address resource concerns in a comprehensive manner. (10601-4-KC, *Natural Resources Conservation Service Conservation Security Program*, Jun. 2009.)

The 2009 Recovery Act included \$22.5 million for OIG over 5 years to oversee programs funded by the Act and administered by USDA. In response, OIG initiated a number of short- and long-term actions to provide timely and effective oversight of the Department's expenditure of Recovery Act funds. As of June 1, 2011, we have issued 29 audit and 11 investigative Recovery Act-related reports. Since providing timely information is a priority, we are also issuing short turnaround reports (known as "Fast Reports"), so USDA program managers can take corrective action as soon as we identify problems. As of June 1, 2011, we have issued 53 Fast Reports covering issues such as loan and grant program administration.

- One example of our work in this area involves auditing \$133 million of Recovery Act funds that financed over \$10 billion in single family housing loan guarantees in rural areas. Our statistical sample of 100 loans identified 28 loans where lenders had not fully complied with Federal regulations or Recovery Act directives in determining borrower eligibility.¹¹ We found borrowers who were ineligible for a variety of reasons such as having annual incomes that exceeded program limits. By guaranteeing loans for ineligible borrowers, other eligible borrowers may not have received guarantees that could have better achieved the goals of the Recovery Act. Based on the interim results of our statistical analysis, we estimate that 27,206 loans were ineligible for the program (over 33 percent of the portfolio)—with a projected total value of \$4 billion.¹²

¹¹ 04703-0002-CH(1), *Rural Development Guaranteed Single-Family Housing Loans Made by Lenders to Ineligible Borrowers*, Dec. 2010.

¹² We chose a sample size of 100 because we expected a moderate error rate and wanted the ability to report findings with a +/-10 percent precision (confidence interval) at a 95 percent confidence level.

In addition to programmatic improper payments, there are also individuals who seek to defraud programs, such as FNS' SNAP, of money intended to provide basic nutrition assistance to those most in need. Our investigative work on SNAP resulted in 212 convictions and approximately \$36 million in monetary results for FY 2010. Our main investigative focus is on fraud committed by retailers, primarily because FNS directly reimburses retailers, while States are responsible for ensuring that recipients are eligible. With few exceptions, our investigations yield tangible and direct benefits to the Government, including criminal prosecution, significant fines and penalties, and restitution. The most prevalent crime against SNAP is benefits trafficking, which involves a recipient exchanging benefits for less than face value with someone who then claims reimbursement for the full amount. The money involved in this type of SNAP fraud can be significant.

- For example, in Los Angeles, California, OIG and Secret Service agents executed four search warrants in November 2008 at a restaurant authorized to accept SNAP benefits from recipients in exchange for hot meals, as well as at the restaurant owner's home. They arrested the owner and seized over \$360,000 from multiple bank accounts. The investigation disclosed that the restaurant owner redeemed more than \$1.3 million in SNAP benefits using an electronic benefit transfer (EBT) terminal registered to the restaurant by depleting multiple EBT cards of their balances one cent at a time.¹³ In February 2011, the owner was sentenced in Federal court to 37 months' incarceration, followed by 2 years' supervised release, and was ordered to pay more than \$1 million in restitution.

¹³ SNAP recipients redeem their benefits through EBT cards that resemble other bank withdrawal cards.

Other USDA food programs are also at risk for fraud and abuse, such as the Child and Adult Care Food Program (CACFP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), which are both administered by FNS. In FY 2010, we opened 26 investigations in these areas and issued 9 investigative reports. This work led to 28 convictions and almost \$3 million in monetary results.

- For example, in one CACFP case, a joint investigation by OIG and the North Carolina State Bureau of Investigation determined that the executive director of a daycare in North Carolina submitted false claims and willfully misapplied program funds. The organization overstated its reimbursement claims to the North Carolina State Department of Health and Human Services and received more than \$240,000 in CACFP funds to which it was not entitled. In January 2011, the director was sentenced in Federal court to serve up to 18 months' imprisonment and 60 months' probation, and was ordered to pay over \$242,000 in restitution.
- In another CACFP investigation, a former program sponsor in Tuttle, Oklahoma, pled guilty to stealing \$1.6 million in program funds. In January 2010, the sponsor was sentenced in Federal court to 41 months' incarceration and ordered to pay full restitution. Our investigation determined that the sponsor inflated the number of meals reimbursed and then submitted the false claims to the State of Oklahoma. The sponsor was also ordered to forfeit all rights, title, and interest in \$1.6 million in assets, including vehicles, residential and commercial properties, and investment accounts, in an effort to recover the stolen funds.
- Retailers who abuse food assistance programs sometimes funnel their illegal proceeds out of the United States. A joint investigation between OIG and the Federal Bureau of Investigation identified a small Somali-owned store in Ypsilanti, Michigan, that was

trafficking in SNAP and WIC benefits, and then transferring money overseas, generally to persons located in the Middle East and the Horn of Africa. The storeowners and employees pled guilty to over \$750,000 in SNAP and WIC fraud. In May 2010, they were sentenced in Federal court to spend a total of 48 months in prison and pay almost \$2 million in restitution.

Several noteworthy OIG investigations involving other USDA benefit programs also resulted in significant monetary recoveries and restitution in FY 2010. For example, for FSA and RMA combined, we opened 76 cases and issued 49 investigative reports, which led to 35 convictions and over \$45 million in monetary results in FY 2010. OIG's investigations into fraudulent activities involving FSA and RMA are some of our most complex investigations because they often involve large monetary amounts and voluminous documentation.

- In a particularly complex FSA case, we determined that a woman who owned a grain trucking and marketing company in Missouri defrauded over 180 farmers out of at least \$27 million. Between 2002 and 2009, she marketed and sold grain for farmers above market prices. As a result, she quickly became one of the largest grain dealers in her State. However, we uncovered evidence to prove that she was operating what is known as a “Ponzi Scheme”—essentially, she was using the money from later sales to cover her previous above market prices. She eventually ran out of money and left her later customers unpaid. Due to our investigation, she pled guilty to fraud and transporting stolen property across State lines, among other crimes. In February 2010, she was sentenced in Federal court to serve 108 months in prison followed by 36 months' supervised release, and ordered to pay \$27.4 million in restitution.

- Working jointly with RMA's Special Investigations Branch and the Internal Revenue Service's Criminal Investigation Branch, OIG investigators found that a large number of farmers in North Carolina concealed their production and then subsequently filed false crop insurance claims based on non-existent losses. This was a far-reaching conspiracy, involving farmers, warehouse operators, insurance agents, and loss adjusters, all of whom assisted in filing false claims and concealing the farmers' actual production. To date, 24 individuals have pled guilty to various crimes in Federal court. These included a tobacco buyer who was sentenced to 18 months in prison and 3 years' probation after he pled guilty to charges of conspiracy to make materially false statements and to commit money laundering. He was ordered to pay \$10.3 million in joint and several restitution and to forfeit over \$647,000. A crop insurance agent also pled guilty to the same charges and was sentenced to 30 months in prison and 3 years' probation. He was ordered to pay \$16.6 million in restitution and to forfeit over \$366,000.

Increasing Oversight and Control

Federal managers are responsible for controlling the programs and operations they oversee through internal systems that bring about desired objectives, such as making payments accurately and administering programs correctly. Our audit work in this area helps USDA managers identify flaws that can lead to systemic program weaknesses. We also make recommendations for strengthening program control and integrity. However, there will always be individuals and entities bent on defrauding and abusing programs. Accordingly, our investigators work to identify such activity in order to protect USDA resources, Department employees, and the public.

- Our ongoing assessment of the recently implemented Biomass Crop Assistance Program (BCAP) demonstrates that integrating internal program control into a program’s design upfront is critical to its later success. Interim reports from our ongoing audit noted that BCAP suffered from hasty implementation, and did not have adequate management controls to prevent abuses particular to the program.¹⁴ The 2008 Farm Bill authorized BCAP, administered by FSA, to support renewable crops that can be used to produce energy. Despite spending over \$243 million to implement one section of the program, which supports the collection, harvest, storage, and transportation of biomass, we found wide-ranging problems, including inequitable treatment of program participants and improper payments. These issues occurred largely because FSA did not develop tools specific to the program’s needs, such as specialized guidance. Instead, the agency attempted to use guidance and oversight mechanisms designed for other programs, which left BCAP vulnerable. FSA has taken corrective action in response to our recommendations to develop program-specific guidance and to specify prohibited practices in its BCAP agreements.
- Effective internal controls covering all phases of a program are also important in safeguarding USDA funds. For example, FSA provides temporary financial assistance through direct operating loans to farmers and ranchers who are unable to secure credit at reasonable rates. The agency protects its investment by requiring adequate collateral. However, in our audit of FSA’s oversight and control of loan collateral, we found that while FSA’s direct operating loans were adequately secured upfront, 25 percent of the borrowers

¹⁴ 03601-28-KC(1), *Recommendations for Improving Basic CHST Program Administration, Biomass Crop Assistance Program Controls over Collection, Harvest, Storage, and Transportation Matching Payments Program*, Dec. 2010; and 03601-28-KC(2), *Recommendations for Preventing or Detecting Schemes or Devices, Biomass Crop Assistance Program Controls over Collection, Harvest, Storage, and Transportation Matching Payments Program*, Feb. 2011.

we visited had removed their collateral without authorization.¹⁵ We recommended that FSA strengthen its oversight of loan collateral to ensure that it is not removed without authorization, and, if it is, that the circumstances are documented and appropriate enforcement action is taken. FSA officials agreed with our recommendations.

- Ensuring programs are being administered properly is another key to protecting USDA resources, and our audits take notice when agencies are managing their programs adequately. For example, the 2008 Farm Bill directed OIG to examine FSA's loan foreclosure proceedings with respect to socially disadvantaged (SDA) farmers. Our resulting audit concluded that there was no significant statistical difference between FSA's loan foreclosure process for SDAs and other farmers.¹⁶ With some minor exceptions generally related to timing (e.g., late delinquency notification), we reported that FSA's foreclosure process conformed to applicable laws and regulations. We continue to undertake work related to civil rights, such as an audit we recently initiated at the Secretary's request that will address complaints related to alleged discrimination in USDA programs. Specifically, our audit will assess the Department's decisionmaking process for settling with complainants who allege discrimination.
- In addition to administering programs properly, USDA managers are responsible for acting ethically in overseeing programs under their authority. Our investigations also look into cases where Departmental personnel have not lived up to these responsibilities. In such instances, even when there is relatively little money at stake, the risk to the public's confidence in USDA remains high. Fortunately such cases are rare, but in one instance we found that a senior NRCS official applied for and received approximately \$13,000 in agency funds to build a water facility on his goat farm in Mississippi through a program that supports

¹⁵ 03601-18-CH, *FSA Loan Security*, Aug. 2010.

¹⁶ 03601-49-TE, *Farm Service Agency Socially Disadvantaged Borrower Foreclosures—Farm Program Loans*, Jun. 2009.

such activity. Our investigation disclosed that the official had no goats, but instead paid a contractor to build a recreational pond behind his second home. During our investigation, the official attempted to bribe the contractor with \$5,000 to convince him to provide false information about the project to OIG. In June 2011, in Federal Court, the official pled guilty to making false claims. Sentencing is set for September 2011.

- We also investigate false claims made by those doing business with USDA. For example, our investigation of two owners of a bioenergy company in Mississippi determined that they had submitted false claims in order to defraud the Commodity Credit Corporation of almost \$2.9 million in connection with 2004 and 2005 bioenergy program payments. The owners falsely stated they had used large amounts of soybean oil to make large quantities of biodiesel fuel. One owner was sentenced in Federal court in July 2010 to 60 months of incarceration followed by 60 months of supervised release. In September 2010, the other owner was sentenced in Federal court to 26 months of incarceration followed by 36 months of supervised release. Both were ordered to pay nearly \$2.9 million in joint and several restitution.
- Our investigations also disclosed that the managing owner of an organic company in Texas provided false statements and documents in order to conceal sales of nearly 4 million pounds of various agricultural products, such as pinto beans, which he falsely represented and sold as organic crops in 2005 and 2006. In February 2010, he was sentenced in Federal court to serve 24 months' imprisonment. As part of his sentence, he was also ordered to pay over \$523,000 in restitution and was barred from participating in USDA programs for 5 years.

Conclusion

In summary, OIG's work is designed to help USDA enhance performance and efficiency by strengthening communication and coordination to provide for more effective program administration; reducing improper payments to save taxpayer dollars; and increasing control over programs and operations to ensure they function as intended. Our audits and investigations illustrate OIG's continuing commitment to work collaboratively with the Department to improve program economy, efficiency, effectiveness, and integrity.

This concludes my testimony. Thank you again for inviting me to testify before the Committee, and I would be pleased to address any questions you may have.