

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL

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Good morning, Chairman Fortenberry, Ranking Member Fudge, and Members of the Subcommittee. Thank you for the opportunity to testify about the Office of Inspector General's (OIG) recent oversight activities concerning Department of Agriculture (USDA) programs.

I will begin my testimony with a brief overview of OIG's mission and the work we do. Next, I will summarize our efforts to assess and improve the Department's programs and operations under the American Recovery and Reinvestment Act of 2009 (Recovery Act).¹ Then I will summarize, according to our major strategic goals, a number of the most important oversight projects and investigations we performed in fiscal years (FY) 2010 and 2011 to date.

OIG's Mission

As you know, OIG's mission is to promote the efficiency and effectiveness of USDA programs by performing audits and investigations to reduce fraud, waste, and abuse. The Inspector General (IG) Act established a dual reporting responsibility, whereby IGs report both to the head of their respective agencies and to Congress.² This unique relationship provides the legislative safety net that protects OIGs' independence and objectivity while carrying out our oversight responsibilities.

We perform 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 the purpose they were intended to accomplish. When we find problems with the programs we oversee, we make recommendations we believe will help the agency better fulfill its mission. The agencies are responsible for implementing the recommended corrective actions. We also conduct investigations of individuals who abuse USDA programs—these investigations can result in fines and imprisonment for those convicted of wrongdoing, or agency disciplinary actions for USDA employees who are found to have engaged in misconduct.

In FY 2010 through June 1, 2011, our audit and investigative work obtained potential monetary results totaling nearly \$256 million.³ 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

¹ Pub. L. No. 111-5, 123 Stat. 115.

² 5 U.S.C. app. 3, §§ 1-13.

³ 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.

our recommendations. During the same period, OIG investigations led to 743 convictions, with potential results totaling almost \$210 million.

OIG Oversight of USDA's Recovery Act Work

As part of the Recovery Act, USDA received \$28 billion in additional funding for areas including rural development, farm loans, and nutrition assistance. The Recovery Act also provided OIG with \$22.5 million 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 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, conservation work, and Forest Service (FS) capital improvement and maintenance projects. We will incorporate these into formal audit reports once we complete our work.

Our audit division is approaching its review of Recovery Act-funded programs in three phases. In the first phase, which we have nearly completed, we are reviewing USDA agencies' documented internal control procedures relating to Recovery Act programs. In the second phase, which is in progress, we are evaluating program delivery, reviewing participant eligibility, and ensuring that Recovery Act funds are being used for their intended purposes. To accomplish this, we are using statistical sampling where possible and cost effective. In the third phase, which will start in FY 2012, we will evaluate program performance measures, and accomplishments and results reporting.

Examples of our findings to date involving Recovery Act-funded programs include:

Eligibility Determinations for Single Family Housing (SFH) Guaranteed Loans

The Recovery Act included \$133 million to finance over \$10 billion in SFH 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.⁴ We found borrowers who were ineligible for a variety of reasons such as having annual incomes that exceeded

⁴ 04703-0002-Ch(1), *Rural Development Guaranteed Single-Family Housing Loans Made by Lenders to Ineligible Borrowers*, Dec. 2010.

program limits or being able to secure credit without a Government loan guarantee. 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.⁵

States' Supplemental Nutrition Assistance Program (SNAP) Fraud Detection

USDA's Food and Nutrition Service (FNS) administers SNAP through State agencies, which are primarily responsible for monitoring recipients' compliance with SNAP requirements along with investigating cases of alleged intentional program violation.⁶ We evaluated FNS' State-level controls to mitigate SNAP fraud, an area related to FNS' increased Recovery Act funding.⁷ We determined that although FNS performed reviews to evaluate how States manage SNAP, the agency's reviews did not target State fraud detection units. FNS indicated that such reviews were unnecessary because State annual activity reports were adequate to oversee State fraud detection; however, we found that these reports contained unreliable and unverified data. We also found that while FNS and State agency officials relied on hotline complaints and outside referrals to identify SNAP fraud, they did not make use of reports from electronic benefit processors that track participant and retailer activity to show potential fraud and misuse. FNS generally agreed with our findings and recommendations for those States we reviewed, but disagreed that they applied nationally. However, the agency did agree to review the electronic benefit reports and to encourage States to use them to identify SNAP fraud.

Our investigation division is also working to ensure the integrity of Recovery Act programs by taking up potential cases of fraud, pursuing prosecution where warranted, and investigating whistleblower allegations. As of June 1, 2011, OIG investigations staff have received 29 referrals relating to USDA Recovery Act contract awards and 54 hotline complaints.

⁵ 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.

⁶ SNAP, 7 U.S.C. § 2011 *et seq.*, is still known as the "food stamp program" to many in the public, although it was officially renamed in 2008.

⁷ The SNAP Recovery Act work summarized here can be found in: 27703-2-HY(1), *State Fraud Detection Efforts for the Supplemental Nutrition Assistance Program*, Jul. 2010; and 27703-2-HY(2), *State Fraud Detection Efforts for the Supplemental Nutrition Assistance Program – Use of EBT Management Reports*, Sep. 2010.

OIG's Major Strategic Goals

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

One of OIG's most important goals is strengthening USDA's ability to protect public health and provide wholesome food for consumers. To achieve this objective, our audit and investigative work in FYs 2010 and 2011 to date has focused on helping to improve the programs that safeguard our food.

For example, we audited FSIS' Food Emergency Response Network (FERN), which integrates the nation's food-testing laboratories into a network that can respond to food contamination emergencies.⁸ We concluded that FSIS has made progress with FERN, including establishing standardized diagnostic protocols, but needs to take more steps to implement the program fully. We recommended that FSIS ensure that there are enough laboratories to handle large-scale emergencies and that the agency use targeted surveillance to improve FERN's readiness to respond to threats to the nation's food supply. FSIS agreed with our recommendations.

As a result of the nationwide recall of over 500 million shell eggs in August 2010, we are assessing the controls USDA has in place to inspect them. Officials with the Agricultural Marketing Service (AMS, which shares inspection responsibilities) informed us during our review that over 270,000 adulterated shell eggs included in a November 2010 recall were granted an official USDA grademark by the agency.⁹ The producer had mistakenly shipped the eggs to another State's packing plant where an AMS official graded them without knowing they were under recall. In February 2011, we issued a Fast Report which recommended that the agency issue a notice to shell egg producers requiring them to inform AMS grading officials at their establishments when there are indications of contaminated eggs.¹⁰ AMS agreed with our recommendations.

Since knowing where food comes from and what it contains is critical to ensuring its safety, our investigations have addressed cases where companies resorted to a variety of schemes to mislead the public and the Government about the origin of marketed food. For example, we determined that one California company falsely claimed its products—chili peppers—were grown in the United States in order to obtain Federal clean health certificates from USDA. In fact, the peppers were imported from India and China, which would have made them subject to more stringent USDA inspections to ensure

⁸ 24601-6-AT, *Food Emergency Response Network*, Mar. 2011.

⁹ USDA and the Food and Drug Administration are responsible for ensuring the wholesomeness of shell eggs and egg products.

¹⁰ 50601-1-23, *Agricultural Marketing Service Needs Stronger Controls To Ensure the Wholesomeness of Shell Eggs Bearing USDA's Grademark*, Feb. 2011.

they did not carry foreign pests or diseases that could harm native species. In July 2010, a court fined the company \$50,000 and ordered 3 years' probation for making false statements.

Goal 2: Strengthening Program Integrity and Improving Benefit Delivery

OIG's work in this area is intended to save taxpayers' money by helping USDA programs deliver the correct benefits in the right amounts to eligible participants. Our efforts in achieving this objective range from advocating that USDA take vigorous enforcement action against those who abuse its programs to evaluating how effectively agencies are reducing improper payments.

For example, in our audit of USDA's suspension and debarment program, we determined that the Department should better protect its programs by debarring those individuals and entities that abuse them.¹¹ Although the Department has authority to exclude those who commit crimes against its programs from doing business with the Government, we found that convicted program violators were rarely suspended or debarred. Between FYs 2004 and 2007, only 38 of 1,073 individuals convicted of crimes against USDA programs were debarred—less than 4 percent. Since debarred individuals or entities are prohibited from participating in Federal programs outside USDA, vigorous and appropriate use of suspension and debarment provides for program integrity Governmentwide. USDA officials agree that suspension and debarment should be considered for convicted program abusers. Accordingly, we continue to work with the Department and its agencies to reach agreement on the corrective actions needed to employ suspension and debarment more effectively.

Our ongoing assessment of a recently implemented program, the Biomass Crop Assistance Program (BCAP), indicates that it suffered from hasty implementation that did not include management controls adequate to prevent abuses particular to the program.¹² The 2008 Farm Bill authorized BCAP, administered by the Farm Service Agency (FSA), to support renewable crops that can be used to produce energy.¹³ Despite spending over \$243 million to implement the handling aspects of the program, such as collecting and transporting biomass, FSA did not institute a suitable system to provide oversight and ensure program integrity.

¹¹ 50601-14-AT, *Effectiveness and Enforcement of Suspension and Debarment Regulations in the U.S. Department of Agriculture*, Aug. 2010.

¹² 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.

¹³ The Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, 122 Stat. 923; also known as the 2008 Farm Bill.

We found wide-ranging problems with BCAP, including inequitable treatment of program participants and improper payments. These issues occurred largely because FSA, in an effort to implement the program quickly, did not develop tools specific to the program's needs, such as specialized guidance. Instead, FSA attempted to use guidance and oversight mechanisms designed for other programs, which left BCAP vulnerable. For example, we found three cases where biomass suppliers and conversion facilities circumvented poorly written agreements to obtain payments to which they were not entitled. FSA has taken corrective action in response to our recommendations to develop program-specific guidance and to specify prohibited practices in its BCAP agreements.

Our audit work can also have ramifications outside USDA. For example, we determined that the Animal and Plant Health Inspection Service (APHIS) did not inform the Internal Revenue Service of nearly \$291 million in payments it made over several years to producers whose groves were contaminated by citrus canker, a plant disease that infects orange and other citrus trees.¹⁴ As a result, the Government lacks assurance that producers reported the payments, which may be taxable. In calculating payments, APHIS also did not fully account for insurance indemnities that producers may have received from the Risk Management Agency (RMA) for the same losses. Instead of verifying the indemnities with RMA, APHIS relied on producers who sometimes supplied incorrect information, which led APHIS to make over \$1 million in erroneous citrus-canker payments. APHIS agreed with our findings and recommendations and has begun to take corrective action.

OIG is also working to help USDA respond efficiently to future disasters by reviewing the adequacy of RMA's management controls over indemnity payments made to citrus growers in the wake of Hurricane Wilma. We have focused our work on how insurance providers processed the growers' claims and calculated the indemnity payments. Our work with the agency should offer an opportunity to strengthen how private insurance providers work with USDA to ensure accurate indemnity payments.

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

¹⁴ APHIS made the unreported payments between FYs 2001 and 2007. (50099-45-AT, *USDA Payments for 2005 Citrus Canker Tree Losses*, Mar. 2011.)

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 to serve 108 months in Federal prison followed by 36 months’ supervised release, and ordered to pay \$27.4 million in restitution.

Unfortunately, there are also individuals who seek to defraud USDA programs designed to provide basic nutrition assistance to those most in need, such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and the Child and Adult Care Food Program (CACFP), 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.

Since these programs work by reimbursing individuals or entities who provide benefits, one common abuse involves submitting inflated claims. For example, one investigation disclosed that an Oklahoma CACFP day care sponsor systematically claimed reimbursement for more meals than were served. The court ordered \$1.6 million in restitution and sentenced the sponsor to 41 months’ incarceration.

OIG investigations of criminal activity into another food program, FNS’ SNAP, resulted in 212 convictions and approximately \$36 million in monetary results in FY 2010. SNAP is USDA’s largest program, both in terms of the dollars spent and the number of participants. In FY 2010, recipients redeemed close to \$65 billion in benefits. The latest available data show that in February 2011 more than 40 million people received almost \$6 billion in SNAP benefits. SNAP is also an important part of the food safety net for Americans, especially during times of economic hardship. During the recent recession, SNAP participation increased by about 20,000 persons daily—the program helped feed one in eight Americans and one in four children.

Given the considerable participation and funds involved, OIG devoted about 40 percent of its investigative resources in FY 2010 to SNAP-related criminal investigations—this was our largest allocation of investigative resources. Our main 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, our analysis of two Florida stores' SNAP transactions identified approximately \$6.2 million in trafficking by their owners and other co-conspirators. Between March and May 2010, four defendants pled guilty to wire fraud and SNAP fraud, and were sentenced to prison terms ranging from 8 to 48 months along with restitution orders ranging from about \$350,000 to \$2.2 million.

In providing oversight to SNAP, OIG audit staff conducts reviews designed to improve FNS' overall management controls for this program and others. For example, after the President issued an executive order in 2009 to reduce improper payments in Federal programs, we evaluated FNS' compliance with reporting requirements as they relate to SNAP and the National School Lunch Program (NSLP).¹⁵ According to the Department, improper payments for these programs in FY 2009 cost taxpayers nearly \$2.2 billion for SNAP and \$1.5 billion for NSLP.¹⁶ In general, we concluded that FNS reported its improper payments correctly and has made significant progress in reducing them. For example, the agency has improved its controls over eligibility and payments in both programs to better ensure that qualified participants receive the correct benefits. We recommended that FNS continue to set aggressive reduction targets and work to refine the precision of its model for determining NSLP's improper payment rate. The agency agreed with our findings and recommendations for both programs.

Goal 3: OIG Work in Support of Management Improvement Initiatives

OIG continuously monitors risks to USDA programs in order to help the Department address programmatic concerns, and to improve overall Department management. For example, OIG is required to annually audit USDA and some of its agencies' financial statements as well as USDA's information technology system security.

¹⁵ Exec. Order No. 13,520, 74 Fed. Reg. 62,101 (Nov. 20, 2009).

¹⁶ USDA's FY 2010 Performance and Accountability Report.

- Pursuant to the Chief Financial Officers Act of 1990¹⁷ and guidance from the Office of Management and Budget, Federal OIGs are responsible for annual audits of Departmental and agency financial statements in order to provide reasonable assurance that the financial statements are free of material misstatements. USDA's FYs 2009 and 2010 consolidated financial statements received an unqualified opinion,¹⁸ as did the financial statements for five of six other USDA entities that are required to undergo a financial statement audit.¹⁹ The sixth lacked sufficient support for transactions and account balances, and so received a disclaimer on its financial statements because an audit opinion could not be given.²⁰
- As required by the Federal Information Security Management Act,²¹ OIG examined the security of USDA's information technology in FY 2010.²² We found that improvements have been made, but weaknesses remain. For example, the Department has not established a program to secure remote access to USDA information systems, or to oversee systems operated on USDA's behalf by contractors and other entities. In order to mitigate continuing material weaknesses, we recommended, and USDA agreed, that the Department rethink its policy of attempting to achieve numerous goals at the same time in short timeframes. Instead, USDA and its agencies should accomplish one or two critical objectives before moving on to the next set of priorities.

The Secretary of Agriculture also requested that we examine the Department's civil rights program. Accordingly, we recently initiated an audit of USDA's progress in addressing civil rights complaints related to alleged discrimination in its programs. Specifically, we will assess USDA's decisionmaking process for settling with complainants who allege discrimination. We will also followup on our prior recommendations to improve USDA's civil rights process.

In addition, OIG investigates potential criminal activity and allegations of employee misconduct. In FY 2010, our investigations included the following cases involving USDA employees and entities working with the Department.

¹⁷ Chief Financial Officers Act of 1990, 101 Pub. L. No. 576; 104 Stat. 2838.

¹⁸ 50401-70-FM, *Department of Agriculture's Consolidated Financial Statements for Fiscal Years 2010 and 2009*, Nov. 2010.

¹⁹ We issued the following financial statement audits in November 2010: 85401-18-FM, *Rural Development's Financial Statements for Fiscal Years 2010 and 2009*; 06401-25-FM, *Commodity Credit Corporation's Financial Statements for Fiscal Years 2010 and 2009*; 08401-11-FM, *Forest Service's Financial Statements for Fiscal Years 2010 and 2009*; 27401-35-Hy, *Food and Nutrition Service's Financial Statements for Fiscal Years 2010 and 2009*; and 05401-19-FM, *Federal Crop Insurance Corporation/Risk Management Agency's Financial Statements for Fiscal Years 2010 and 2009* (RMA operates and manages the Corporation, so they are included as a single entity for financial statement audits).

²⁰ 10401-4-FM, *Natural Resources Conservation Service's Financial Statements for Fiscal Year 2010*, Nov. 2010.

²¹ 44 U.S.C. § 3541 *et seq.*

²² 50501-02-IT, *U.S. Department of Agriculture, Office of the Chief Information Officer, Fiscal Year 2010 Federal Information Security Management Act*, Nov. 2010.

- Our investigations uncovered a scheme by a Nebraska FSA employee to embezzle funds. The employee entered false repayment rates and backdated repayment dates when servicing FSA loans made to her and her husband. In total, she defrauded the agency of more than \$44,000, which she agreed to repay as part of a plea agreement. In June 2010, she was sentenced to 8 months of house arrest and 36 months of probation. FSA no longer employs her.
- Working with other Federal investigators, OIG determined that a Massachusetts corporation collected millions of dollars from several Government agencies for services it never provided. The corporation offered training on computer software and other information technology. Using a pre-paid voucher system, several USDA agencies paid up front for training that the company never delivered. In April 2010, the corporation agreed in a settlement to return a total of \$4.5 million to the Government.
- In a joint investigation with other law enforcement units, we disclosed that, since 2001, a major shipping company had been miscoding its reasons for making late deliveries to USDA and several other Federal agencies in order to avoid penalty fees. The company falsely claimed that the delays were due to security measures. In April 2011, the company agreed to pay the United States \$8 million to resolve its alleged violations of the Federal False Claims Act.²³

Goal 4: Improving USDA's Stewardship of Natural Resources

USDA provides leadership to help America's private landowners and managers conserve soil, water, and other natural resources. Our goal in auditing these activities is to increase the efficiency and effectiveness of USDA stewardship over natural resources.

For example, FS is responsible for preventing the introduction of invasive species into the lands it manages and combating those that are already there. Though this affects hundreds of millions of acres, OIG determined that FS' invasive species program lacks many of the internal controls ordinarily associated with the effective stewardship of Federal resources, such as an overall risk assessment.²⁴ FS agreed with OIG's recommendation to establish a sound internal control structure.

²³ 31 U.S.C. §§ 3729–3733.

²⁴ 08601-7-AT, *Forest Service Invasive Species Program*, Sep. 2010.

In addition, over the last decade, FS has dealt with increasingly severe fire seasons and its firefighting costs have more than doubled, rising over \$1 billion in FY 2009. Thus, OIG has conducted a number of reviews intended to help FS better combat these natural disasters. In one audit, OIG assessed FS' succession plans for critical fire management positions, such as fire incident commanders.²⁵ In 2009, approximately 26 percent of these critical personnel were eligible to retire; in 5 years, 64 percent will be eligible; and in 10 years, 86 percent. We found that FS has not developed an adequate plan and training program to replace these critical personnel. We recommended that FS develop a national workforce plan that would proactively address openings in the agency's firefighting ranks. FS generally concurred.

OIG is also required to investigate the deaths of FS employees resulting from wildfire entrapment or burnover.²⁶ Our most recent investigation in this area addressed the deaths of five firefighters during the Esperanza Fire in California. Our report—published in December 2009—found no issues related to potential misconduct or unauthorized actions by FS personnel.

Conclusion

In summary, OIG's work ranges from overseeing Recovery Act funds to helping USDA promote public health and safety, strengthen programs, save taxpayer dollars, improve management, and conserve natural resources. Our audits and investigations illustrate OIG's continuing commitment to work collaboratively with the Department to improve program effectiveness and integrity. We focus our work to meet our mandated mission of promoting economy, efficiency, and effectiveness in USDA by preventing fraud, waste, and abuse.

This concludes my testimony. Thank you again for inviting me to testify before the Subcommittee. We would be pleased to address any questions you may have.

²⁵ 08601-54-SF, *Forest Service's Firefighting Succession Planning Process*, Mar. 2010.

²⁶ See 7 U.S.C. § 2270b.