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Great Plains Region

Audit Report

Animal and Plant Health Inspection Service

Controls Over Pilot Qualification and Suitability

Report No. 33099-8-KC
September 2009



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20250



DATE: September 30, 2009

REPLY TO
ATTN OF: 33099-8-KC

TO: Cindy J. Smith
Administrator
Animal and Plant Health Inspection Service

ATTN: Dr. Gregory Parham
Deputy Administrator
Marketing and Regulatory Programs Business Services

FROM: Robert W. Young /s/
Assistant Inspector General
for Audit

SUBJECT: Controls Over Pilot Qualification and Suitability

This report presents the results of the subject audit. Your response to the official draft report, dated September 30, 2009, is included as exhibit A. Your response and the Office of the Inspector General's position are incorporated into the Findings and Recommendations section of the report. Based on your response, we were able to reach management decisions on all of the report's four recommendations. Please follow your internal agency procedures in forwarding documentation for final action to the Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during this audit.

Executive Summary

Animal and Plant Health Inspection Service: Controls Over Pilot Qualification and Suitability (Audit Report 33099-8-KC)

Results in Brief

This report presents the results of our review of controls over the qualifications and suitability of pilots used by Animal and Plant Health Inspection Service (APHIS). APHIS uses owned, leased, or rented aircraft flown by its employees and contractors for conducting aerial hunting and administering pest control programs.

Our objective was to determine if APHIS had adequate controls to ensure that pilots flying agency owned or contracted aircraft are qualified and do not pose a security threat. As a result of our review, we concluded that APHIS had sufficient management controls to ensure that its employee and contracted pilots were properly qualified and trained to fly agency missions. However, we found that APHIS had not implemented controls to ensure that its pilots do not pose security risks because the U.S. Department of Agriculture (USDA) did not provide the specific department-wide guidance necessary for APHIS to establish effective controls over its pilot background investigation policies.

Specifically, we identified three weaknesses in APHIS' handling of background investigations for its employee and contract pilots:

- APHIS classified 119 of its employee and contracted pilots as non-sensitive positions¹ rather than the moderate level of risk² sensitivity recommended in a departmental report.³ In doing so, it subjected them to a level of background investigation lower than other USDA aviation programs, such as those operated by the Agriculture Research Service and Forest Service, required for their pilots. APHIS officials stated they were not aware of specific departmental guidance recommending that APHIS upgrade the risk sensitivity designations given to its pilots. Because APHIS' pilots perform duties comparable to pilots flying missions for other USDA agencies, we concluded they should also be designated as moderate risk and receive the appropriate corresponding background investigations.
- APHIS did not require either Wildlife Services' (WS) or Plant Protection and Quarantine's (PPQ) 81 contracted pilots who fly

¹ Non-sensitive, low risk positions involve duties and responsibilities of limited relation to an agency or program mission, so the potential for impact on the integrity and efficiency of the service is limited.

² Moderate risk positions have moderate to serious impact on the integrity and efficiency of the service. Duties involved are considerably important to the agency or program mission with significant program responsibility, or delivery of service.

³ "The Status of USDA Personnel Security: Working Towards an Effective Human Reliability Program," dated July 31, 2002.

missions in the United States to undergo background investigations. Officials in PPQ's aviation office informed us they were unaware of procedures requiring all contract pilots receive background investigations and appropriate clearances. Prior to our audit, WS officials did not realize their contract pilots should have received background investigations because they were unaware of guidance that required background investigations of its contract pilots.

- APHIS did not complete mandatory, lower level background investigations for 7 of 38 WS and PPQ employee pilots. At the time of our review, APHIS had not implemented a control to monitor personnel promoted into pilot positions and ensure they received the required background investigations. APHIS subsequently completed the background investigations for these seven employees.

Because of these oversights, we concluded that APHIS was not in compliance with USDA Departmental Administration recommendations, the Office of Personnel Management's (OPM) requirements for establishing the suitability of competitive (civil) service employees, and Homeland Security Presidential Directives (HSPD)-11 and -12.⁴

In response to our review, APHIS has taken prompt corrective action to complete background investigations for all of its employee pilots, and WS now requires background investigations for all contract pilots who meet or exceed an aggregate 180 days of flight time per year. PPQ continues to rely on the guidance of the contracting officer who advised that the Federal Acquisition Regulation did not require background checks for PPQ's contract pilots. This contract specialist further stated background checks are only added to an aerial service contract if requested by the program or the APHIS Security Officer, or required by HSPD-12. His understanding was that the flights were over rural areas and that these contract pilots rarely had access to Government buildings, equipment, or sensitive information; therefore, the aerial services contracts did not fall under HSPD-12. However, we determined that for one current PPQ contract, pilots both fly over residential areas and have access to Government facilities because their flights originate from an active Army airstrip.

During our review, USDA issued a Department Regulation (DR) and a Department Manual (DM)⁵ clarifying background investigation

⁴ HSPD-11, Comprehensive Terrorist-Related Screening Procedures; HSPD-12, Policy for a Common Identification Standard for Federal Employees and Contractors, signed by the President on August 27, 2004.

⁵ USDA DR 4620-2, "Common Identification Standard for U.S. Department of Agriculture Employees and Contractors," dated January 14, 2009. USDA DM 4620-2, "Common Identification Standard for U.S. Department of Agriculture Employees and Contractors," dated January 14, 2009.

requirements. However, APHIS will need to ensure that its employee and contracted pilots are classified consistent with other USDA aviation programs.

**Recommendations
In Brief**

We recommend that APHIS coordinate with USDA Departmental Administration to determine what level of background investigations are adequate for its employee and contracted pilots. Pending this coordination, APHIS should designate these positions as moderate risk and obtain that level of background investigation warranted. APHIS should also strengthen its procedures to ensure all of its employee and contractor pilots receive background investigations as applicable.

APHIS Response

APHIS generally agreed with the report's four recommendations. We have incorporated the APHIS response in the Findings and Recommendations section of the report, along with the Office of Inspector General (OIG) position. APHIS' response to the official draft report is included in its entirety as exhibit A.

OIG Position

Based on APHIS' response, we were able to reach management decision on all of the report's four recommendations.

Abbreviations Used in This Report

APHIS	Animal and Plant Health Inspection Service
CFR	Code of Federal Regulations
DM	Departmental Manual
DR	Departmental Regulation
FY	Fiscal Year
HRD	Human Resources Division
HSPD	Homeland Security Presidential Directive
LBI	Limited Background Investigation
MBI	Minimum Background Investigation
MRP-BS	Marketing and Regulatory Programs – Business Services
NACI	National Agency Check with Inquiries
OIG	Office of Inspector General
OPM	Office of Personnel Management
PDSO	Personnel and Document Security Division
PPQ	Plant Protection and Quarantine
USDA	U. S. Department of Agriculture
WS	Wildlife Services

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Background and Objectives

Background

The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) protects America's animal and plant resources by (1) safeguarding resources from exotic pests and diseases; (2) monitoring and managing agricultural pests and diseases existing in the United States; (3) resolving and managing trade issues related to animal and plant health; and (4) ensuring humane care and treatment of animals. To support its mission, the agency uses owned, leased, or rented aircraft flown by licensed pilots. Specifically, APHIS' Wildlife Services (WS) relies on aircraft for such activities as aerial hunting, conducting aerial censuses of waterfowl or other animals, and curtailing damage to agricultural products caused by wild mammals or birds. APHIS' Plant Protection and Quarantine (PPQ) uses aircraft to administer pest control programs, apply treatment for emergency pest outbreaks, and disperse sterile insects. A total of 38 employee and 81 contractor pilots flew missions for WS and PPQ in fiscal year (FY) 2006.

The Office of Personnel Management (OPM) requires APHIS' employee and contracted pilots, as well as all other individuals appointed to positions in the competitive (civil) service, to undergo an investigation and periodic reinvestigations to establish their suitability for employment or working for the Government under contract. Agencies are responsible for designating risk levels for every competitive service position within the agency. These determinations are based on the position's documented duties and responsibilities. Agencies are to ensure that employees or contractors have the appropriate background investigation commensurate with the position and subsequent reinvestigations. There are three categories of designations applicable to Federal agencies. Each position is designated at a low, moderate, or high risk level depending on the position's potential for adverse impact to the efficiency and integrity of the service.⁶ The first category or low risk level positions are non-sensitive positions involving duties and responsibilities of limited relation to an agency or program mission, so the potential for impact on the integrity and efficiency of the service is limited. Personnel in these positions are subject to a National Agency Check with Inquiries (NACI).

A NACI is the basic and minimum investigation required of all new Federal employees and contractors. It consists of searches of OPM's Security/Suitability Investigations Index,⁷ the Defense Clearance and

⁶ 5 Code of Federal Regulations (C.F.R.) § 731.106.

⁷ The Security/Suitability Investigations Index includes information from the subject, interviews of other individuals in relation to him or her, and other sources such as databases, websites, etc., to verify and confirm information provided by the subject.

Investigations Index,⁸ the Federal Bureau of Investigations Name Check, the Federal Bureau of Investigations National Criminal History Fingerprint check, the Federal Bureau of Investigations Terrorist Screening Database, and other files or indices when necessary. A NACI also includes written inquiries and searches of records covering specific areas of an individual's background during the past five years (i.e., current and past employers, schools attended, references, and local law enforcement authorities).

The second and third categories are moderate and high risk level positions and typically referred to as "Public Trust" positions.⁹ Personnel occupying public trust positions must undergo a minimum background investigation (MBI), a limited background investigation (LBI), or a background investigation.¹⁰ Moderate risk positions within this category have the potential for moderate to serious impact on the integrity and efficiency of the service because they involve duties of considerable importance to the agency or program mission. Employees holding moderate risk public trust positions must undergo either a MBI or LBI. Positions considered to be high risk within this category have the potential for exceptionally serious impact on the integrity and efficiency of the service. The duties involved are especially critical to the agency or program mission and carry with them a broad scope of responsibility and authority. Those in high risk public trust positions must undergo a background investigation.

In addition to passing the appropriate background investigation, pilots flying missions for APHIS must meet other requirements. While aircraft owned by the federal government and operated by government pilots are not subject to Federal Aviation Administration supervision, APHIS requires all of its pilots to have a current Federal Aviation Administration pilot certificate with appropriate qualification ratings for the equipment to be used, a current physical performed by a Federal Aviation Administration certified physician, and a biennial flight check. These requirements generally correspond to Federal aviation regulations for the lowest level of commercial pilots.¹¹ Additionally, to determine if a pilot is qualified to fly missions for APHIS, WS collects information on the pilot's medical certification, license, general aviation hours of flight, and hours flown at low altitudes. However, for pilots performing operations requiring other skills, such as bait distribution, Federal regulations for

⁸ The Defense Clearance and Investigation Index is composed of investigations conducted by Department of Defense investigative organizations, locator references to such investigations, and security clearances granted by Department of Defense components.

⁹ Public Trust positions may involve policy-making, major program responsibility, public safety and health, law enforcement duties, fiduciary responsibilities, or other duties demanding a significant degree of public trust.

¹⁰ A MBI covers the same areas as a NACI, but also includes a personal subject interview. In addition to all the features of MBI, LBI includes court records verification (e.g., any felony convictions, etc.), and a check of developed references, which are the names mentioned during an investigator's talks with the references provided by the person being investigated. A background investigation features the coverage of the LBI and a check of the individual's official personnel folder.

¹¹ 14 C.F.R. Part 91.

flying above 500 feet apply.¹² The requirements for higher altitude flying cover the piloting of larger aircraft and include an annual, as opposed to biennial, flight check. For its contracted pilots, WS either specifies minimum qualifications¹³ or the contractor is responsible for obtaining, at its expense, necessary permits and licenses to comply with the applicable Federal, State, and local laws and regulations. PPQ requires its pilots to have, at minimum, a Commercial Pilots license. The head of PPQ aviation maintains copies of the pilot's certificate, flight review (conducted every 24 months) and flight medical evaluation (every 12 months).

USDA issued the Integrated Physical Security Standards and Procedures Handbook on November 14, 2003. The handbook provides a general guide for the securing of USDA assets within the Department. Chapter 5, Personnel Security, disseminates procedures for mitigating risks and threats associated with contract employees who have the same level of access as USDA employees to USDA sites, information, and resources to determine their suitability for such access.

APHIS' Marketing and Regulatory Programs-Business Services (MRP-BS) managers and its Human Resources Division (HRD) personnel are responsible for determining the sensitivity of the agency positions and designating the risk level and minimum investigation needed of APHIS' positions (i.e., airplane pilot) and ensuring that employees have the appropriate background investigations commensurate with their positions. MRP-BS HRD Personnel Security Staff is responsible for collecting and reviewing all security clearance forms for accuracy and submitting them to USDA's Personnel and Document Security Division (PDS) or OPM. OPM performs the background investigation, but PDS is responsible for granting the appropriate security clearance to USDA employees or contractors.

At the request of the former Deputy Secretary, PDS completed the first ever Department-wide personnel security assessment. PDS's report "The Status of USDA Personnel Security: Working Towards an Effective Human Reliability Program," was issued on July 31, 2002, and contained a recommendation to upgrade the security risk designation of 93 of USDA's 95 pilots to a moderate risk designation.

In addition, like all other Federal employees and contractors, APHIS pilots are also subject to the policies established in Homeland Security Presidential Directive (HSPD)-11 and HSPD-12¹⁴ issued on

¹² 14 C.F.R. Part 135.

¹³ Minimum qualifications include a commercial pilot certificate, a second-class airman medical certificate, and the required number of flight hours. To be eligible for a second-class airman medical certificate, a pilot must be examined by an aviation medical examiner and satisfy the eye, ear, nose, throat, equilibrium, mental, neurologic, and cardiovascular standards, as well as other general medical standards detailed in 14 C.F.R. Part 67.

¹⁴ HSPD-11, Comprehensive Terrorist-Related Screening Procedures; HSPD-12, Policy for a Common Identification Standard for Federal Employees and Contractors, signed by the President on August 27, 2004.

August 27, 2004. During our review, USDA issued its Departmental Regulation (DR) and Departmental Manual (DM)¹⁵ providing the Department's specific policies and procedures regarding HSPD-12 compliance for personal identity verification.¹⁶ In accordance with requirements in the DM, employees and contractors must undergo a NACI, at a minimum.

Objective

We conducted this audit to determine if APHIS had adequate management controls to ensure that pilots flying agency owned or contracted aircraft are qualified and do not pose a security threat.

¹⁵ USDA DR 4620-2, "Common Identification Standard for U.S. Department of Agriculture Employees and Contractors," dated January 14, 2009. USDA DM 4620-2, "Common Identification Standard for U.S. Department of Agriculture Employees and Contractors," dated January 14, 2009.

¹⁶ HSPD-12 required a common identification standard for Federal employees and contractors, and directed the Department of Commerce to develop a Federal Information Processing Standards publication to define such a common identification credential. Federal Information Processing Standard 201, "Personal Identity Verification of Federal Employees and Contractors," was developed to satisfy the requirements of HSPD-12, approved by the Secretary of Commerce, and issued on February 25, 2006.

Findings and Recommendations

Section 1. APHIS Pilots Background Investigations Were Inadequate or Nonexistent

We identified three control weaknesses in APHIS' handling of background investigations for its employee and contracted pilots:

- APHIS improperly classified 119 pilots between FYs 2006 and 2008. These pilots received a lower risk designation than pilots who flew comparable missions for other USDA aviation programs, such as those operated by the Agriculture Research Service and Forest Service.
- APHIS did not ensure that contracted pilots received the lower level background investigations commensurate with the classification.
- APHIS did not ensure that employee pilots received the lower level background investigations commensurate with the classification.

This occurred because USDA did not provide the specific department-wide guidance APHIS needed to establish effective controls over its pilot background investigation policies. In its PDS report, the Department recommended that APHIS and Forest Service upgrade the sensitivity designation for nearly all of their pilots. Due to its sensitive nature, PDS limited distribution of the report, but provided instructions on how to obtain a copy in its newsletter. Because of the report's limited distribution and the method used to convey the instructions on how to obtain the report, responsible APHIS officials did not know about the report or its recommendation. As a result of these oversights, APHIS was not in compliance with OPM's requirements for establishing the suitability of competitive (civil) service employees or Presidential Directives and could not be confident that its pilots did not pose a security threat.

APHIS has since initiated corrective actions to address the weaknesses we identified.

Finding 1

APHIS Pilot Suitability Determinations Not Consistent With Other USDA Aviation Programs

We found that APHIS did not properly classify the sensitivity of the positions held by its employee and contracted pilots. Specifically, for FY 2006, it did not properly classify the 38 employee and 81 contracted pilots.¹⁷ Although the Department's PDS report recommended that

¹⁷ For FY 2008, APHIS had 37 employee pilots and 60 contracted pilots.

APHIS and Forest Service upgrade the sensitivity designation of all their pilots to moderate risk, APHIS only classified its pilots as non-sensitive, low risk positions.¹⁸ Therefore, APHIS did not ensure that its pilots received adequate background investigations like those received by pilots in other USDA aviation programs who fly comparable missions. APHIS officials stated they were not aware of the report, and we could not confirm that the Department communicated the recommendation to APHIS. As a result, APHIS was not in compliance with Department requirements for classifying employee and contract pilots and had reduced assurance that its pilots did not pose a security risk.

The Department's PDSO report, dated July 31, 2002, "The Status of USDA Personnel Security: Working Towards an Effective Human Reliability Program," provided the progress made on improving USDA's personnel security program and the challenges confronting the Department and its agencies in establishing an effective personnel security program. The analysis was presented in three descending sets of priorities. Priority I personnel were those involved in national or homeland security. Priority II personnel were those in Public Trust positions not associated with national or homeland security, and Priority III personnel included all other USDA personnel and contractors. The report noted that USDA had a total of 95 aircraft pilots of which 2 were designated as noncritical-sensitive positions¹⁹ and 93 were designated as non-sensitive, low risk positions. These 95 pilots included 32 APHIS pilots, 2 Agriculture Research Service pilots, and 61 Forest Service pilots. The report recommended that APHIS and Forest Service upgrade their 93 non-sensitive pilots to the moderate level of risk sensitivity and obtain MBI for them. However, the report did not provide any specific recommendations regarding the risk levels for contracted pilots or the type of background investigations required for them.

Forest Service now requires MBIs for its employee pilots, pilots contracted for more than 180 days, and pilots working under yearly exclusive use contracts. Because they fly over houses, and because of other mission requirements, Agriculture Research Service pilots must undergo a more intensive background investigation. However, we found that APHIS MRP-BS continued to classify the agency's pilots as low-risk non-sensitive positions requiring background investigations at the NACI level. The MRP-BS based these position designations on a matrix revised in April 2005 by OPM and findings reported by an APHIS aviation task force that met in 2005 to explore and implement medical, psychological, and background evaluations appropriate to WS aviation activities. In its

¹⁸ See footnote 1.

¹⁹ All positions with National Security duties and responsibilities must have a sensitivity level designation to assure that personnel receive the appropriate level of investigative screening. A sensitivity level designation is based on an assessment of the degree of damage that an individual could cause to National Security. Persons in noncritical-sensitive positions could inflict serious damage to National Security.

final report²⁰ to WS management, the task force recommended that APHIS pilots continue to undergo NACIs consistent with the low risk or non-sensitive position designation.

An official in the WS national office stated that personnel in the staff offices in Riverdale, Maryland, and the Aviation Training and Operations Center in Cedar City, Utah, were not provided the July 2002 report by PDSO. Therefore, APHIS was not aware of the report's recommended position designation for pilots. In addition, a MRP-BS classifier who served on APHIS' internal 2005 aviation task force told us that the PDSO's report's contents were not discussed during the meetings held for the APHIS study. The classifier further stated that he was unaware of the PDSO report and/or its recommendations until we questioned him about it during our audit. However, our review noted that although a USDA Personnel Security Newsletter provided a brief summary of the PDSO report in its FY 2002, fourth quarter issue, PDSO advised readers in the newsletter that it would not publish the report on its website because of the sensitive nature of its contents. Instead, it advised that those interested in receiving a copy could request one from PDSO. The PDSO official interviewed could not confirm whether the report, completed during her predecessor's term, had been distributed to USDA agencies, especially APHIS. However, the official said PDSO still agrees with the report's recommendation that APHIS needs to upgrade its pilots' position designations to the moderate level of risk sensitivity and request MBIs for them.

In contrast to APHIS, employee and contracted pilots for other USDA agencies receive more extensive background investigations because these agencies had designated their positions at higher sensitivity levels consistent with the cited PDSO report recommendations. For example, Forest Service designated all of its employee pilots and contract pilots of tankers as moderate level public trust positions and required these personnel to undergo MBIs to provide increased assurance that its pilots do not pose a security risk. Similarly, the Agriculture Research Service considers its pilots to hold moderate level Public Trust positions. Therefore, its pilots must pass a pre-employment special agreement check;²¹ after initial hiring, these pilots then must undergo a background investigation. According to an Agriculture Research Service's Human Resources specialist, the agency subjects its pilots to a more extensive review due to the pilots flying over congested or populated areas (houses), as well as other mission requirements.

²⁰ The report was not dated, but we were advised that it was issued on or about February 28, 2006.

²¹ Agencies use special agreement check forms to request limited investigations, or checks, of persons in positions for which there is a special agreement with OPM that permits and specifies alternative procedures to meet investigative requirements.

Recommendation 1

Coordinate with USDA Departmental Administration on (1) the proper risk level or position classification for pilots employed by or contracted for all APHIS aviation programs, and (2) complete the appropriate background investigations for the classification established.

APHIS Response.

APHIS agreed with the recommendation. APHIS plans to coordinate with USDA Departmental Administration to determine the proper risk level and/or position classification for pilots employed by or contracted for APHIS' aerial operations. APHIS' HRD and National Aviation Working Group will review the PDSR report. Further, APHIS HRD and the National Aviation Working Group will conduct a thorough review of applicable policy and/or guidance contained in current editions of the USDA Integrated Physical Security Standards and Procedures Handbook, HSPD 11 and HSPD 12, and the Federal Information Processing Standard 201. From this collaboration, the group will submit a report and recommendations to APHIS' management on pilot classifications. APHIS' HRD will complete the appropriate background investigations for the classification established. APHIS anticipates having the review and background investigations completed by January 29, 2010.

OIG Position.

We accept APHIS' management decision.

Recommendation 2

In the interim, designate the agency's present employee and contractor pilot positions as moderate risk and obtain at least an MBI level background investigation for them.

APHIS Response.

APHIS agreed in part with the recommendation. APHIS stated that the current level of background investigations, NACI, is currently used to review the proper risk level or position classification for employee pilots or contractor pilots. Once the review mentioned in response to Recommendation 1 is completed, and recommendations submitted and approved, APHIS will assign the appropriate level of risk and require the associated level of background investigation to be completed, by January 29, 2010. APHIS' view was that making a carte blanche designation across the board for all employee pilots and contractor pilots as moderate risk would not be prudent at this time because all of aerial

operations in the Western Region, and certain parts of the Eastern Region, are solely conducted with single-engine, two-place aircraft, or turbine helicopters and are flown solely over rural areas. APHIS stated that only one aerial operations program based in the Eastern Region conducts operations with a small to medium sized twin-engine aircraft, and is routinely flown over residential areas for approximately six months out of the year.

OIG Position.

Based on APHIS' planned corrective actions for Recommendation 1 to be completed by January 29, 2010, we accept the management decision.

Finding 2

Not All APHIS Contracted Pilots Received Background Investigations

In FY 2006, neither PPQ's nor WS' aviation programs required its contracted pilots flying missions in the United States to undergo background investigations. Officials in PPQ's aviation office informed us they were unaware of procedures requiring all contract pilots receive background investigations and appropriate clearances. Prior to receiving our engagement letter, WS officials did not realize their contract pilots had not received background investigations and/or clearances as required because they did not receive clear guidance on requirements for background investigations of contract pilots. As a result, APHIS had no assurance that the pilots their contractors provided did not pose security risks.

Federal Acquisition Regulations requires that all contractors that have routine access to a Federally-controlled facility or information system undergo a background investigation. In addition, USDA prepared an Agriculture Acquisition Regulation advisory²² as a supplement to the Federal Acquisition Regulation final rule, "Common Identification Standard for Contractors," that addresses contractor personal identification requirements outlined in HSPD-12 and Federal Information Processing Standard 201.²³ The Agriculture Acquisition Regulation required USDA agencies to ensure they have completed background investigations. It also requires contractor employees, such as pilots, to appear in person in front of a sponsor, who is generally the contracting officer's representative, and provide a number of documents evidencing

²² Agriculture Acquisition Regulation Advisory No. 81, "Common Identification Standard for Contractors," April 26, 2006.

²³ Federal Information Processing Standard 201, "Personal Identity Verification of Federal Employees and Contractors," was developed to satisfy the requirements of HSPD-12, approved by the Secretary of Commerce, and issued on February 25, 2005.

their fitness for employment.²⁴ The Federal Acquisition Regulation also requires the contracting officer to include an identity verification clause in solicitations and contracts.

In November 2003, USDA issued the Integrated Physical Security Standards and Procedures Handbook. The manual provides coordinated and uniform USDA procedures for requiring contractors performing work for USDA to obtain security clearances and/or suitability for employment determinations. Chapter 5 of the manual provides procedures for mitigating risks and threats associated with contract employees who have the same level of access as USDA employees to USDA sites, information, and resources to determine their suitability for such access. More specifically, Chapter 5 provides, in part, that contracting officers ensure that solicitations and procurement documentation contain language sufficient to require investigation of contractor employees, if required.

Our review showed that in FY 2006, PPQ did not require its 17 contracted pilots to undergo background investigations because aviation office officials said they were not aware of procedures requiring security clearances or suitability determinations. During our review, we noted that PPQ required pilot background investigations for only one of six contract solicitations for FY 2007 even though an APHIS contract specialist asserted he was including the clause requiring background checks in aerial services contracts. For FY 2008, this contract specialist stated background checks are only added to an aerial service contract if requested by the program or the APHIS Security Officer, or required by HSPD-12. His understanding was that the flights were over rural areas and that these contract pilots rarely had access to Government buildings, equipment, or sensitive information; therefore, the aerial services contracts did not fall under HSPD-12. However, one current PPQ contract that has been in effect since FY 2005 requires pilots to fly missions over houses and residential areas. In addition, pilots associated with this contract would have access to Government buildings, equipment, or sensitive information because flights originate from an active Army airfield.

WS officials stated that they had not received clear guidance from the Department on several issues regarding background investigations: (1) whether their contracted pilots needed background investigations; (2) what level of background investigation should be required if they were determined necessary; (3) whether background investigations for particular contracted pilots should be based on mission type, mission

²⁴ These documents include a Fair Credit Reporting Release, Fingerprint Charts (2 FD-258), two identity source documents, such as a current State Drivers License, a Declaration for Federal Employment (OF-306), and either a Questionnaire for Non-sensitive Positions (SF-85), Questionnaire for Public Trust Positions (SF-85P), or a Questionnaire for National Security Positions (SF-86).

location, or the length and dollar amount of the contract; and (4) how to respond to contractors questioning the need for their pilots to receive NACIs. While HSPD-12, the Agriculture Acquisition Regulation advisory, and the PDSR report address these issues, information relevant to APHIS aviation programs did not reach the WS Regional Director (acting National Aviation Coordinator during our fieldwork), the staff in the regional office, or the head of the PPQ aviation program. During FY 2007, APHIS personnel held discussions with WS Western Regional staff and determined that WS would follow HSPD-12 and require NACI background investigations on contract pilots if they worked over 180 days (6 months) as stated in the Agriculture Acquisition Regulation Advisory.

WS began requiring background investigations for its contracted pilots during our review, and they began including contract language in their solicitations requiring the contracted pilots to pass a NACI background investigation. With the exception of the one FY 2007 contract, PPQ continued to rely on the guidance of the contracting officer who advised that the Federal Acquisition Regulation did not require background checks for PPQ's contract pilots.

Recommendation 3

Develop and implement management controls to ensure all current and future aerial services contracts specify the background investigations and clearances needed in order to perform aerial services for APHIS.

APHIS Response.

APHIS agreed with the recommendation. Effective immediately, all new contracts written for aerial service operations will include the clauses required by Federal Acquisition Regulation Part 4, specifically subpart 4.13 and the Agriculture Acquisition Regulation that pilots must obtain and pass a background investigation prior to contract performance. Also, the Statement of Work for pilot qualifications will include the same language that pilots must obtain and pass a background investigation prior to contract performance. Previously written contracts will be modified to include this qualifications statement and the required Federal Acquisition Regulation and Agriculture Acquisition Regulation clauses. In addition, agency specific verification procedures will be included in all contracts by December 31, 2009.

OIG Position.

We accept APHIS' management decision.

Finding 3**APHIS Employee Pilots Did Not Receive Required Background Investigations**

We found that 7 of APHIS' 38 employee pilots had not undergone background investigations at the time of our on-site visit to MRP-BS in March 2007. This occurred because WS and PPQ relied on APHIS' HRD to monitor and complete background investigations for all employee pilots. Although APHIS implemented a control to monitor new pilots during our review, HRD's Personnel Security Office informed us that it did not have a control for monitoring personnel promoted into pilot positions that would ensure they received background investigations. However, APHIS has since completed background checks for these seven employee pilots, one of whom subsequently left APHIS in 2007 for the U.S. Department of Homeland Security. Until it completed all required background investigations, APHIS had reduced assurance that the pilots did not pose a security threat.

On January 30, 2007, APHIS MRP-BS, HRD classified the agency's Aviation Operations Series, which includes its employee pilots, as low-risk non-sensitive positions requiring background investigations at the NACI level.

Form AD-1197, Request for USDA Identification Badge, and its supplement provides that the request for USDA Identification Badge contain copies of two identity source documents and that fingerprint cards be submitted with the employee's new hire paperwork as instructed in the MRP-BS, Human Resources Guide to Submitting New-Hire Paperwork. Information on the form is then used to determine suitability for the issuance of a USDA Identification badge, as well as to identity proof²⁵ and register applicants as part of the government-wide personal identity verification process.²⁶ Employees initially hired for positions not requiring a background investigation, but who have been transferred or promoted to different appointments, are also to receive background investigations.²⁷

We determined that six WS employee pilots and one PPQ employee pilot were not asked to complete the paperwork to begin a background investigation and consequently had not undergone NACIs. According to WS Western Region officials, the six employees had been promoted from the position of Wildlife Biologist to positions within the aviation series, which require background investigations. These six employees were

²⁵ Identity proofing is the process of verifying an individual's information that he or she is that individual and no other (DR 4620-002 dated January 14, 2009).

²⁶ APHIS-MRP-BS HRD Human Resources Processing Section, "Guide to Submitting New-Hire Paperwork," March 2005.

²⁷ USDA-APHIS-HRD HR Broadcast newsletter January 2007.

hired before October 2005; prior to that time, APHIS had no formal process for monitoring pending investigations.

Since October 2005, the MRP-BS HRD Personnel Security Office has used an Excel spreadsheet to track the initiation of employee background investigations. The manager enters the new hire into the spreadsheet upon receipt of form AD-1197. This mechanism, however, did not alert MRP-BS when APHIS employees changed positions. Therefore, the MRP-BS HRD Personnel Security Office was not alerted when APHIS employees were promoted to pilot positions requiring background investigations.

To rectify the situation, WS Western Region sent its six employee pilots letters requesting they complete and return the paperwork necessary for beginning a background investigation. The Administrative Officer for WS Western Region also created a log to ensure that all steps leading up to a background investigation, such as the submission of proper fingerprint forms, are completed. Since we brought these oversights to the attention of WS, the six pilots received their background investigations.

In addition to the six WS pilots, one PPQ pilot also did not receive a background investigation. The head of PPQ aviation could not explain why the background investigation for the pilot had not been done. However, since we brought the oversight to the attention of PPQ, the pilot received the background investigation. Subsequently, in 2007 the pilot left APHIS for the U.S. Department of Homeland Security.

Recommendation 4

Strengthen procedures for personnel changes (i.e., promotions to pilot positions) to provide AD-1197 and supporting information to the Personnel Security Office, HRD, MRP-BS, to ensure background investigations are always obtained for all APHIS employee pilots.

APHIS Response.

APHIS agreed with the recommendation. APHIS stated that existing personnel procedures are in place to ensure all personnel hired as pilots must undergo, are subject to, and must pass a MBI. Such a requirement is posted in every pilot position description and job posting. Further, all current APHIS pilots and those hired directly as pilots, must at a minimum, meet the Individual Occupational Requirements for the General Schedule 2181 (Aircraft Operation Series), as established by OPM. With regards to the audit finding that six employees had been promoted from the wildlife biologist series to the aviation series without the proper

security clearances, no formal process for monitoring pending security investigations was in place at the time. However, since that time MRPBS HRD's Personnel Security Office began utilizing a system to track the initiation of employee background investigations. HRD Classification Office has reviewed all APHIS pilot personnel information to ensure sensitivity codes accurately reflect a MBI. If they do not, HRD is initiating background investigations at the required level.

OIG Position.

We accept APHIS' management decision.

Scope and Methodology

To accomplish our objective, we performed work at the APHIS National Office in Washington, D.C.; APHIS offices in Riverdale, Maryland; the WS Western Region office in Fort Collins, Colorado; the Aviation Training and Operations Center in Cedar City, Utah; and the MRP-BS office in Minneapolis, Minnesota. Fieldwork was conducted between January 2007 and February 2009.

As part of our fieldwork, we interviewed appropriate APHIS headquarters officials and reviewed program records. We also spoke with officials from OPM, USDA officials from PDS in Departmental Administration, Forest Service, Agriculture Research Service, and Farm Service Agency.²⁸ Additionally, we spoke with the WS State Directors of 12 States; the WS Assistant State Director of 1 State; PPQ officials; International Services officials in Guatemala, and Riverdale, Maryland; and a Federal Aviation Administration manager. The scope of our review was FY 2006.

We reviewed the following to obtain a better understanding of Federal personnel security requirements and APHIS aviation operations administration:

- USDA Integrated Physical Security Standards and Procedures Handbook, dated November 14, 2003.
- Agriculture Acquisition Regulation Advisory No. 81, “Common Identification Standard for Contractors,” April 26, 2006.
- USDA DR 4620-2, “Common Identification Standard for U.S. Department of Agriculture Employees and Contractors,” dated January 14, 2009.
- USDA DM 4620-2, “Common Identification Standard for U.S. Department of Agriculture Employees and Contractors,” dated January 14, 2009.
- Federal Aviation Regulations, located in 14 C.F.R. Parts 61, 91, 135, and 137.
- Federal Acquisition Regulation Subpart 4.13; Federal Acquisition Regulation Clause 52.204-9.
- 7 C.F.R. Part 731, Suitability.
- 50 C.F.R. Part 19, Airborne Hunting.
- The Economy Act of 1932 (31 United States Code § 1535 and 1536, as amended).

²⁸ Farm Service Agency’s Aerial Photograph Field Office does not require background investigations of contract pilots. Farm Service Agency aerial contracts are “Service and Supply” contracts, meaning the burden of Federal Aviation Administration compliance is on the contractor, not Farm Service Agency. Therefore, they are not included in the results of our review.

- Office of Management and Budget Circulars A-76, A-126, and A-11.
- APHIS Aircraft Operations Manual, APHIS 5400-4, dated August 20, 1999.
- APHIS Aviation Security Program, Directive 1650.2, issued February 28, 2006.
- WS Directive 2.260, “WS Aviation Safety and Operations,” revised December 4, 2006.
- WS Aviation Operations Manual, dated May 11, 2004.
- WS draft Security Directive, issued in 2006.
- WS Aviation Safety Manual, dated September 20, 2002.
- PPQ “Aerial Application Manual,” dated April 2002, and interim edition dated October 2006.
- HSPD-11, Comprehensive Terrorist-Related Screening Procedures, signed by the President on August 27, 2004.
- HSPD-12, Policy for a Common Identification Standard for Federal Employees and Contractors, signed by the President on August 27, 2004.
- Federal Information Processing Standard 201, “Personal Identity Verification of Federal Employees and Contractors,” issued on February 25, 2006.

We selected the WS aviation program for further review based on its larger number of employee pilots (33) compared to the PPQ aviation program (5) in FY 2006. We then selected the Western Region of the WS for review, rather than the Eastern Region, because all 33 WS employee pilots were based in the Western Region, and its Regional Director was then acting as the National Aviation Coordinator. We randomly selected employee and contract pilots in the Western Region for review of their qualification and training records. We also reviewed Western Region documents showing whether the 33 employee pilots had completed their NACI background investigations. We interviewed PPQ officials in Riverdale, Maryland, and Mission, Texas, to ascertain the requirements for qualifications and background investigations of their pilots.

We conducted this performance audit in accordance with government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Washington, DC
20250

MEMORANDUM

TO: Robert W. Young
Assistant Inspector General
For Audit

FROM: Cindy J. Smith
Administrator

Kevin Sheehy, 9/30/09

SUBJECT: Animal and Plant Health Inspection Service (APHIS)
Response and Request for Management Decisions on
Office of Inspector General (OIG) Report, "Animal and
Plant Health Inspection Service Controls Over Pilot
Qualifications and Suitability" (33099-08-KC)

Thank you for allowing APHIS to comment on the above OIG report. We have addressed each Recommendation with our corrective actions and timeframes for implementation of those actions. While the majority of the Agency's pilots are employed in our Wildlife Services, and Plant Protection and Quarantine program areas, we will ensure that all implemented corrective actions will pertain to all Agency pilots or contractor pilots.

Recommendation 1: Coordinate with USDA Departmental Administration on (1) the proper risk level or position classification for pilots employed by or contracted for all APHIS aviation programs, and (2) complete the appropriate background investigations for the classification established.

APHIS Response: APHIS agrees with this Recommendation. APHIS will coordinate with the Department to determine the proper risk level and/or position classification for pilots employed by or contracted for APHIS' aerial operations. APHIS' Human Resources Division (HRD), and National Aviation Working Group (within our Wildlife Services program area) will review the Department's July 31, 2002 report, "The Status of USDA Personnel Security: Working Towards an Effective Human Reliability Program," regarding the proper risk level or position classification for pilots. Further, HRD, and the National Aviation Working Group will conduct a thorough review of applicable policy and/or guidance contained in current editions of the USDA Integrated Physical Security Standards and Procedures Handbook, Homeland Security Presidential Directives (HSPD) 11 & 12, and the Federal Information Processing Standard 201. From this collaboration, the group will submit a report and recommendations to APHIS' Management on pilot classifications. APHIS' HRD will complete the appropriate background investigations for the classification established. We anticipate having the review, and background investigations completed by January 29, 2010.



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Recommendation 2: In the interim, designate the Agency's present employee and contractor pilot positions as moderate risk and obtain at least an MBI level background investigation for them.

APHIS Response: APHIS agrees with this Recommendation, in part. The current level of background investigations--the National Agency Check with Inquiries (NACI) level--is currently used to review the proper risk level or position classification for employee pilots or contractor pilots. Once the review mentioned in response to Recommendation #1 is completed, and recommendations submitted and approved, APHIS will assign the appropriate level of risk and require the associated level of background investigations to be completed, by January 29, 2010.

Further, due to the diverse nature of the Agency's aerial operations within both the Eastern and Western regions, it is the Agency's view that making a Carte Blanche designation across-the-board for all employee pilots and contractor pilot positions as moderate risk would not be prudent at this time because all of aerial operations in the Western Region, and certain parts of the Eastern Region, are solely conducted with single-engine, two-place aircraft, or turbine helicopters and are flown solely over rural areas. And only one aerial operations program based in the Eastern Region conducts operations with a small to medium sized twin-engine aircraft, and is routinely flown over residential areas for approximately six months out of the year.

Recommendation 3: Develop and implement management controls to ensure all current and future aerial services contracts specify the background investigations and clearances needed in order to perform aerial services for APHIS.

APHIS Response: APHIS agrees with this Recommendation. Effective immediately, all new contracts written for aerial service operations will include the clauses required by Federal Acquisition Regulation (FAR) Part 4, specifically subpart 4.13 and the Agriculture Acquisition Regulation (AGAR) that pilots must obtain and pass a background investigation prior to contract performance. Also, the Statement of Work for pilot qualifications will include the same language that pilots must obtain and pass a background investigation prior to contract performance. Previously written contracts will be modified to include this qualifications statement and the required FAR and AGAR clauses. In addition, Agency specific verification procedures will be included in all contracts by December 31, 2009.

Recommendation 4: Strengthen procedures for personnel changes (i.e., promotions to pilot positions) to provide AD-1197 and supporting information to the Personnel Security Office, HRD-MRP-BS, to ensure background investigations are always obtained for all APHIS employee pilots.

APHIS Response: APHIS agrees with this Recommendation. Existing personnel procedures are in place to ensure all personnel hired as pilots must undergo, are subject to, and must pass a minimum background investigation (MBI). Such a requirement is posted in every pilot position description and job posting. Further,

Exhibit A – Agency Response

all current APHIS pilots and those hired directly as pilots, must at a minimum, meet the Individual Occupational Requirements for the General Schedule 2181 (Aircraft Operation Series), as established by the United States Office of Personnel Management.

With regard to the audit finding that six employees had been promoted from the wildlife biologist series to the aviation series without the proper security clearances, no formal process for monitoring pending security investigations was in place at the time. However, since that time, MRPBS HRD's Personnel Security Office began utilizing a system to track the initiation of employee background investigations. HR Classification has reviewed all APHIS pilot personnel information to ensure sensitivity codes accurately reflect a MBI. If they do not, they are initiating background investigations at the required level.

Informational copies of this report have been distributed to:

Administrator, Animal and Plant Health Inspection Service	
Attn: APHIS Liaison Officer	(3)
Government Accountability Office	(1)
Office of Management and Budget	(1)
Office of the Chief Financial Officer	
Director, Planning and Accountability Division	(1)