



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20250



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REPLY TO

ATTN OF: 50701-2-KC

TO: Sheryl Maddux  
Acting Director  
Office of Homeland Security

ATTN: Justin Huff  
Audit Liaison

FROM: Robert W. Young  
Assistant Inspector General  
for Audit

SUBJECT: USDA Homeland Security Initiatives and Directives

We want to alert you to the potential issues we identified during our review of the status of the U.S. Department of Agriculture's (USDA) implementation of select provisions (sections 17 and 8(b)) of Homeland Security Presidential Directive-9 (HSPD-9) (hereinafter referred to as the directive). This directive established a national policy to protect the U.S. agriculture and food system in the event of emergencies such as bioterrorist attacks or major disasters. Section 17 requires USDA to make recommendations to the Department's Homeland Security Council about financial risk management tools that encourage self-protection for vulnerable agriculture and food enterprises; section 8(b) emphasizes the need for monitoring and surveillance programs to track commodities.

We also determined USDA's role in implementing a requirement of the Public Health Security and Bioterrorism Preparedness Response Act of 2002 (hereinafter referred to as the act) that would facilitate the tracing of commodities back to the original vendor/facility in the event of a disaster. The act requires food facilities to register with the Food and Drug Administration (FDA).

We interviewed officials from FDA and other involved agencies, including the U.S. Department of Health and Human Services' Office of Inspector General, to discuss its efforts in implementing the act. We also assessed the processes and responsibilities of USDA agencies regarding these homeland security initiatives and directives.

USDA has completed actions required by sections 17 and 8(b) of the HSPD-9.

#### HSPD-9, Section 17

The directive required USDA to study and make recommendations to the Homeland Security Council about financial risk management tools that encourage self-protection for agricultural and food enterprises vulnerable to terrorism. To fulfill this requirement, the Risk Management Agency (RMA) commissioned a private company to conduct a study and prepare a report for USDA. The report focused on several hypothetical terrorist attacks and the harm that could result. It also identified the following statutory constraint on RMA's ability to obviate or respond to terrorism:

Legislation will be required to effect the necessary authorization for coverage, rating, and funding of losses associated with terrorism. The legislative review should encompass an evaluation of access to adequate financial reserves to meet obligations in the event of a terrorist act. The legislation will have to either redefine or eliminate language with respect to actuarial soundness for any terrorism insurance coverage. Without legislation, the RMA, through Federal Crop Insurance Corporation, is not authorized to provide specific protection against acts of terrorism.

USDA officials indicated that they reviewed the report and provided it to the Homeland Security Council as required. At this point, we are not aware of any action being taken to draft legislation that would provide RMA the authority to provide insurance for terrorist attacks or whether the Homeland Security Council still considers this a Homeland Security initiative that should be pursued.

#### HSPD-9, Section 8(b)

In response to section 8(b) of the directive, a rapid alert component was integrated into the Electronic Commodity Ordering System (the system). The system is an internet-based system that all States use to submit commodity food orders to the Food and Nutrition Service (FNS). The system gives users information about food availability, delivery order status, commodity recalls, complaints, etc. According to FNS officials, the system provides the ability to rapidly notify States and other system users about potential food safety/biosecurity alerts (as well as holds and recalls). FNS further claims that the system significantly improves notification times and will ultimately record the user's receipt of such notification. The commodity complaint and rapid alert components were completed in December 2005 and are fully operational. We were not able to observe the operation of this rapid alert function since no incidents occurred during the limited time we performed fieldwork at this agency.

#### Public Health Security and Bioterrorism Preparedness Response Act of 2002

The act requires, in part, that food facilities register with FDA so that it can trace commodities back to the original vendor/facility in the event of a disaster such as a food-borne illness. FDA's

ability to trace and monitor commodities is partly tied to registration. The more facilities that register with FDA, the more effectively FDA can identify and contain threats to our agriculture and food system. Since many of the food facilities that are monitored by FDA also conduct business with USDA, we believe USDA must obtain assurance that those facilities storing USDA commodities register with FDA and should coordinate with, or provide information to FDA, on those food facilities that have not registered.

However, a USDA Office of the General Counsel official cautioned that the Department can neither require facilities to register with FDA nor prevent them from contracting with USDA if they have not registered (i.e., this would be a de facto debarment action). While we recognize that USDA does not have the authority to enforce FDA's requirements, it would be prudent for USDA to have a process in place to provide assurance that facilities doing business with USDA can trace food back to its source in the event of an emergency, in accordance with the requirements of the act.

We are bringing these matters to your attention for action, as you deem appropriate. We are closing our audit and no response to our office is necessary. If you need additional information or clarification concerning our review, please contact me at 720-6945, or have a member of your staff contact Ernest M. Hayashi, Director, Farm and Foreign Agricultural Division, at 720-2887.

