UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL

STATEMENT OF THE HONORABLE PHYLLIS K. FONG
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Before the
Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies
Committee on Appropriations
U.S. House of Representatives

March 2, 2011
Good morning, Chairman Kingston, Ranking Member Farr, and Members of the Subcommittee. Thank you for the opportunity to testify about the Office of Inspector General’s (OIG) Fiscal Year (FY) 2012 Budget Request, and to provide information about our recent audit and investigative work. My testimony today will summarize a number of the most important oversight projects and investigations we performed in FYs 2010 and 2011 to date.

In FY 2010, our audit and investigative work obtained potential monetary results totaling nearly $184 million.¹ This includes 65 audit reports we issued to strengthen Department of Agriculture (USDA) programs and operations, which produced over $35 million in potential results when program officials agreed with our recommendations. In FY 2010, OIG investigations led to 459 convictions with potential results totaling almost $149 million.

I will begin my testimony with an overview of our work to assess and improve the Department’s programs and operations under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Next, I will cover our most significant recent audit and investigative activities under our major strategic goals. Then I will conclude with a summary of the President’s FY 2012 Budget Request for OIG.

**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.² With the support of this Subcommittee, 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 February 25, 2011, we have issued 27 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 February 25, 2011, we have also issued 48 Fast Reports, which we will incorporate into formal audit reports once we complete our work.

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¹ Audit monetary impacts derive from funds put to better use and questioned/unsupported costs as established by Congress in the Inspector General Act of 1978. Investigation monetary impacts come from recoveries, court-ordered fines, restitutions, administrative penalties, etc.

² This $28 billion includes funds paid directly to recipients for such things as nutrition assistance and funds used to finance loan-making. For example, the Recovery Act authorized $133 million to finance over $10 billion in single-family housing guaranteed loans.
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 reviewed USDA agencies’ documented internal control procedures relating to Recovery Act programs. In the second phase, which is in process, 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 when cost effective. In the third phase, which will start in FY 2012, we will evaluate program performance measures and the reporting of accomplishments and results.

Our investigation division is 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 February 25, 2011, OIG investigations staff have received 27 referrals relating to USDA Recovery Act contract awards and 49 hotline complaints.

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.\(^3\) We found borrowers who were ineligible for a variety of reasons such as having annual incomes that exceeded 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.\(^4\)

*Controls Over Rural Development’s Single-Family Housing Direct Loan Program*

We also assessed the oversight and control Rural Development maintained over almost $1.6 billion in Recovery Act-funded loans to very low-income borrowers through its single-family housing direct loan program.\(^5\) We found that the Rural Housing Service (RHS), which administers the program, did not

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\(^4\) 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.

ensure that calculations of borrower eligibility were current before closing loans. This increased the risk of making loans to ineligible borrowers if their circumstances changed. RHS reviewers also did not document the scope and timing of their second-party reviews. This reduced the effectiveness of the quality control process. We recommended that RHS ensure that supporting documents are updated before closing loans and that the scope and timing of reviews are specified.

We also found that comprehensive State office reviews of loan-making and loan-servicing were not being analyzed by RHS to identify nationwide trends in control weaknesses, or to track the effectiveness of corrective actions. We recommended that the reviews be aggregated into national, multi-year analyses, and that RHS train State staff to use the results to administer the program.

RHS has initiated corrective actions in response to our audit. Currently, we are conducting a related audit to determine if Rural Development’s staff is complying with internal control procedures designed to ensure that Recovery Act eligibility guidelines, such as income limitations, are being met.

**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 FNS performed reviews to evaluate how States manage SNAP, but the agency’s reviews did not target State fraud detection units. Although FNS indicated that such reviews were unnecessary because State annual activity reports were adequate to oversee State fraud detection, we determined 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.

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\(^6\) SNAP is still known as the “food stamp program” to many in the public, although it was officially renamed in 2008.

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 recently completed an audit that assessed how the Food Safety Inspection Service (FSIS) samples beef trim for *E. coli*, which can contaminate products such as ground beef. Currently, FSIS’ inspectors take 60 samples from large lots of beef trim to test. We found, however, that this procedure does not yield a statistical precision that is reasonable for food safety. Although 60 samples may be adequate to detect widespread contamination, more are needed when *E. coli* is less prevalent. FSIS’ current sampling methodology results in detection of *E. coli* less than half the time when it is present in 1 percent of a beef trim lot. Accordingly, we recommended that the agency place its testing process on sounder statistical ground by redesigning its sampling methodology to account for varying levels of contamination. FSIS generally agreed with our findings and recommendations. In related audit work, we have initiated a review of the agency’s *E. coli* testing protocols to ensure that beef trim is effectively collected and analyzed. Together, our beef trim sampling and testing audits should help bolster public confidence that FSIS’ tests are accurately identifying *E. coli* and ultimately preventing contaminated meat from being distributed and consumed.

In the wake of the multi-State egg recall in 2010, we have also initiated an audit to assess USDA’s system for detecting *Salmonella* in eggs. Our objectives are to evaluate USDA’s controls over in-shell eggs to detect *Salmonella* and other contaminants, and to evaluate the effectiveness of USDA’s coordination with FDA to ensure that eggs are wholesome.

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 should have made them subject to more stringent USDA inspections to ensure

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8 The particular strain of *E. coli*—i.e., *Escherichia coli*—that FSIS tests for is O157:H7, which causes about 70,000 illnesses a year, with 52 fatalities in 2009. (24601-9-KC, *Food Safety and Inspection Service N60 Testing Protocol for E. Coli, Phase I*, 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.

USDA also conducts research into genetically engineered animals and insects for a wide variety of purposes, such as increased productivity. From 2002 to 2009, USDA funded 63 research projects and grants, totaling over $22 million, which involved genetically engineered animals and insects. Our ongoing audit in this area is assessing whether USDA’s regulatory framework provides the Department sufficient authority to control the research under its purview. We are also evaluating USDA’s controls for preventing the inadvertent release of genetically engineered animals and insects.

**Goal 2: Strengthening Program Integrity and Improving Benefit Delivery**

OIG’s work in this area is intended to save taxpayers’ money by ensuring that 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. Our investigations also pursue cases against those who defraud the Department’s programs.

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. 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 FY’s 2004 and 2007, only 38 of 1,073 individuals convicted of crimes against USDA programs were debarred—less than 4 percent. In principle, USDA officials agree that suspension and debarment should be considered for convicted program abusers.

In practice, however, USDA had not implemented suspension and debarment in programs comprising $98 billion of the Department’s $124 billion budget in FY 2007. USDA has historically excluded most of its programs from suspension and debarment requirements. Agencies maintain that these exclusions are in the public’s best interest and are consistent with statutes and other guidelines balancing access to basic assistance, such as food, and enforcement against violators. However, agencies have not provided statutory language or program rationales that, in our analysis, justify all of their exclusions. We concluded that the public’s interest is best served by ensuring the integrity of funds and programs,

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9 50601-14-AT, Effectiveness and Enforcement of Suspension and Debarment Regulations in the U.S. Department of Agriculture, Aug. 2010.
10 Title 7 CFR 3017.
and by deterring program abuse. Further, 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. Accordingly, we continue to work with USDA 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), concluded that it suffered from hasty implementation that did not include management controls adequate to prevent abuses particular to the program. The 2008 Farm Bill authorized BCAP, administered by the Farm Service Agency (FSA), to support renewable crops that could be used to produce energy. 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.

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.

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 in ensuring accurate indemnity payments.

11 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.
I would also like to highlight for the Subcommittee several noteworthy OIG investigations involving USDA benefit programs that achieved significant sentencing and restitution orders in FY 2010.

For example, 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 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 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. Eventually, she 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 Women, Infants, and Children program (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 nearly $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
October 2010 more than 43 million people received almost $5.8 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 is 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, restitution, and asset forfeiture.

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 SNAP oversight, OIG audit staff also conducts reviews designed to improve FNS’ overall management controls for this program and others. Currently, we are auditing FNS’ compliance with reporting requirements related to reducing improper payments for SNAP and the National School Lunch Program (NSLP). 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. Our objective is to assess NSLP’s and SNAP’s level of risk for improper payments, determine the extent of oversight needed, and provide recommendations, as warranted, to improve how FNS identifies and reports improper payments, and the agency’s plan to reduce them.

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12 USDA’s FY 2010 Performance and Accountability Report.
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. As part of this effort, 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.

- 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 the Government for services it never provided. The corporation offered training on computer software and other information technology. Using a pre-paid voucher system, agencies paid up front for training that the company never delivered. We found that several USDA agencies were victimized by this scheme. In April 2010, the corporation agreed in settlement to return a total of $4.5 million.

- In response to requests, including those from a former Secretary of Agriculture and a U.S. Senator, OIG reviewed allegations against the United Soybean Board and the U.S. Soybean Export Council. In July 2010, we concluded that there was insufficient evidence to support the allegations, but recommended that the soybean board increase its oversight of the export council.

Along with our other work, OIG is required to annually audit USDA and some of its agencies’ financial statements as well as USDA’s information technology system security.

- Pursuant to the Chief Financial Officers Act of 1990 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 FY 2009 and 2010 consolidated
financial statements received an unqualified opinion, as did the FY 2009 and 2010 financial statements for five of six other USDA entities that are required to undergo a financial statement audit. 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.

- As required by the Federal Information Security Management Act, OIG examined the security of USDA’s information technology in FY 2010. 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 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 process. 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.

**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, we are auditing Natural Resources Conservation Service (NRCS) controls over the Farm and Ranch Lands Protection Program in Michigan. This program helps keep land in agricultural use by sharing easement purchase costs with cooperating entities, such as nonprofit organizations, to acquire easements that prohibit developing the land for other purposes. Since NRCS can fund up to

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half the cost, properly appraising the land beforehand is critical to ensuring that the agency pays its fair share. Accordingly, our audit is focusing on NRCS’ oversight of easement appraisals in addition to reviewing the agency’s controls to ensure that participants are eligible for the program and that the land is properly monitored.

OIG’s FY 2012 Budget Request

We appreciate this Subcommittee’s continuing interest in using the results of OIG audits and investigations to identify needed improvements in USDA programs. We also share your goal of preventing improper payments of any kind and saving taxpayer dollars by improving USDA program effectiveness and efficiency. So that we may continue to provide this type of work to the Subcommittee and to USDA decisionmakers, we are asking today for your support of our FY 2012 Budget Request.

Over the last 5 years (with total appropriations of approximately $413 million), OIG audits made 1,441 recommendations for needed program improvements, and $946 million in recommendations to question costs or to put funds to better use. OIG investigations resulted in 2,610 successful convictions, and $489 million in court-ordered fines, penalties, and restitutions.

The President’s $90.7 million budget request for OIG is conservatively set to support our current level of effort, with three relatively low dollar but high impact enhancements to our capabilities.

- $800,000 to support the costs involved in conducting audits that can statistically project the full dollar value of improper payments in programs under review. OIG’s recent Recovery Act audit of Rural Development’s SFH Guaranteed Loan Program—with a projected $4 billion in loans made to potentially ineligible borrowers—is a prime example of the benefit of statistical analysis. Because of the additional Recovery Act oversight funding, OIG was able to pay the additional staff hours and fieldwork required to use statistical sampling while evaluating this program. The requested funds will enable OIG to perform similar statistical audit work to identify the extent of improper payments in other USDA programs, such as SNAP, crop insurance indemnities, Rural Development loans, and payments resulting from the Department’s agreement to settle the Pigford discrimination lawsuit, which together total about $82 billion in annual expenditures.
$613,000 to provide oversight of USDA’s multi-billion dollar international programs. Due to limited resources, OIG has not been able to perform significant oversight of USDA international programs for several years. We are seeking $613,000 to cover the increased staff hours and travel costs necessary to audit and investigate these programs, which continue to grow in funding and strategic importance. The programs we are considering for review include the Department’s Food for Peace Program ($2.2 billion in FY 2010) and its Export Credit Guarantee Program ($3.1 billion in FY 2010). OIG is also required to provide oversight of approximately $100 million that the U.S. Agency for International Development has transferred to USDA over the past few years in support of reconstructing and strengthening agricultural and rural infrastructures in foreign countries.

$162,000 to support investigator training requirements, including Federal law enforcement training for new hires (OIG has experienced significant turnover due to investigators who have retired), training for peer counselors for OIG’s new Critical Incident Stress Management Program, and continuing legal training for special agents.

The President’s Budget Request for OIG also includes $455,000 for the Council of the Inspectors General on Integrity and Efficiency (CIGIE), a council of Federal IGs established by the Inspector General Reform Act of 2008. CIGIE’s mandated missions are to address integrity, economy, and effectiveness issues that transcend individual Government agencies, and to increase the professionalism and effectiveness of the IG workforce. The President’s Request proposes to fund CIGIE by adding $455,000 to the budget requests of the 15 largest OIGs (including USDA OIG), which will then transfer the funds to the council. As CIGIE’s first elected chair, I ask for the Subcommittee’s positive consideration of this portion of our request. CIGIE has already proven particularly useful in providing cost-effective professional training for OIG staff Governmentwide; enhancing cross-agency effectiveness through identifying best practices; and improving program integrity, efficiency, and cost-effectiveness throughout the Federal Government.

We would be happy to provide the Subcommittee with any additional information the Members and staff find useful in considering our FY 2012 budget request.

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.