

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

**STATEMENT OF THE HONORABLE PHYLLIS FONG
INSPECTOR GENERAL**

Submitted to

The Subcommittee on Agriculture, Rural Development,
Food and Drug Administration, and Related Agencies

Committee on Appropriations

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Good morning, Chairman Aderholt, Ranking Member Farr, and Members of the Subcommittee. I would like to thank you for the opportunity to testify regarding the Office of Inspector General's (OIG) fiscal year (FY) 2017 budget request. My statement will provide the Subcommittee with the highlights of OIG's recent audit and investigative work, as well as preview oversight initiatives we plan to complete in the future.

In FY 2015, OIG concluded significant audits and investigations that helped improve how the Department administers its annual budget of \$136.5 billion. As you know, we not only work to deter and detect instances of fraud, waste, and abuse, but we also make recommendations that improve how programs will function in the future. Our audit and investigative work last year obtained potential monetary results totaling over \$1.24 billion. We issued 38 audit reports and made 205 recommendations to strengthen USDA programs and operations, which produced about \$815 million in potential results. OIG investigations led to 817 convictions with potential results totaling over \$431 million.

In my statement, I will discuss the outcomes of our audit and investigative efforts, organized under our major strategic goals. My statement concludes with a discussion of the return on investment Congress receives from our work, as well as details about future initiatives to improve our oversight.

Goal 1—Safety and Security

One of OIG's most important oversight responsibilities is helping USDA ensure public safety and the security of the U.S. food supply. We continue to conduct audits and investigations designed to accomplish this goal.

In August 2010, a nationwide outbreak of *Salmonella enteritidis* was traced back to an Iowa egg company. The company recalled 550 million eggs, which sparked a criminal investigation into the food poisoning case. Our investigation revealed that employees at the company's egg processing facilities affixed labels to egg shipments that indicated false expiration dates with the intent to mislead State regulators and retail customers regarding the true age and freshness of the eggs. We also found that the company's former marketing manager bribed an Agricultural Marketing Service (AMS) employee to ignore these improper practices. The company pled guilty to introducing misbranded eggs into interstate commerce with the intent to defraud. In April 2015, the owner and the chief operating officer were each sentenced to serve 3 months in prison and pay a fine of \$100,000; the former marketing manager pled guilty to bribing a public official and was sentenced to 48 months of probation. The company was

sentenced to serve 36 months of probation and was ordered to pay a fine of \$6.79 million and restitution of \$83,008.

Controls of Genetically Engineered Organisms

OIG audits also contribute to the safety and security of the food supply. For example, our review of how the Animal and Plant Health Inspection Service (APHIS) oversees the environmental release of genetically engineered (GE) organisms found weaknesses in APHIS' regulations and internal management controls. Those weaknesses increased the risk that regulated GE organisms would persist in the environment before they were deemed safe to grow without regulation. Our current review found that APHIS does not have adequate controls to monitor field trial locations or adequately use information on past performance to evaluate permit applications. Overall, we concluded that APHIS needs to take steps to tighten its control and oversight over the release of GE organisms into the environment. Agency officials agreed with our recommendations.

Safety of Ground Turkey

OIG reviewed how the Food Safety and Inspection Service (FSIS) oversees the safety of ground turkey products, and found that the agency could improve how it monitors these products' safety. Three turkey plants that participated in the *Salmonella* Initiative Program either did not increase pathogen sampling when they exceeded the allowable number of *Salmonella* positive test results, or they did not implement pathogen interventions at the control limits. Further, we identified that FSIS noncompliance records adequately documented failures to comply with regulations. However, the records were not always adequate indicators of potential problems with the plants' food safety system because they were not tallied based on frequency, severity, and risk. Additionally, we found that FSIS could improve its pathogen sampling system. FSIS' current sampling approach did not allow FSIS to regularly sample over 60 percent of all U.S. turkey slaughter plants, over 75 percent of the active processing plants, or imported ground turkey products. The agency agreed with our recommendations to correct these weaknesses.

Animal Welfare

In response to this Committee's concerns after *The New York Times* published an article critical of how animals were being treated at a research facility, OIG began a review of the U.S. Meat Animal Research Center's research practices and operations. We identified 33 statements from the article to determine their

veracity. Our work is ongoing, but in September 2015, we provided an interim report describing our preliminary results with regard to 22 of the 33 statements. We expect to complete this work in 2016.

This year, OIG expects to publish significant reports on how AMS procures processed fruits and vegetables, how USDA is responding to the major issues and challenges associated with livestock's growing resistance to antibiotics, and how the Agricultural Research Service handles sensitive or dual-use research and technology.

Goal 2—Integrity of Benefits

Another of OIG's most important goals is helping USDA reduce vulnerabilities and strengthen integrity in the delivery of program assistance. For several years, OIG has focused on assisting the Department in improving the integrity of the Supplemental Nutrition Assistance Program (SNAP), as well as other food assistance programs. Accounting for \$69.66 billion in FY 2015 benefits, or 51 percent of USDA's budget, SNAP is among the Federal Government's largest programs. Accordingly, helping to ensure its integrity is one of OIG's most important responsibilities.

Food Assistance

In FY 2015, about 58.6 percent of OIG's investigative resources was devoted to SNAP-related criminal investigations; these investigations resulted in 583 convictions and monetary results totaling \$122.7 million. As an example, OIG determined that three co-owners of a market in Grand Rapids, Michigan, routinely exchanged cash for SNAP benefits and for vouchers issued through the Special Supplemental Nutrition Program for Women, Infants, and Children. During a January 2015 trial, one of the co-owners of the market pled guilty to conspiracy to commit SNAP fraud, as well as fraud against other Federal programs. In June 2015, in U.S. District Court, Western District of Michigan, this defendant was sentenced to 34 months in prison. In July 2015, the remaining two co-owners were sentenced to 30 and 27 months in prison, respectively. One co-owner who was a naturalized U.S. citizen had his citizenship revoked. Two store employees who trafficked in SNAP benefits were sentenced to 12 months and 1 day and 18 months in prison, respectively; all the defendants were ordered to jointly pay restitution of \$1.2 million.

OIG has also completed important audits related to food assistance. For example, OIG reviewed the quality control (QC) process that the Food and Nutrition Service (FNS) and the States use to determine

SNAP error rates. States determine household eligibility for SNAP and calculate and issue benefits. FNS and State agencies have QC processes to review these determinations. States review a sample of their SNAP cases and FNS verifies a sub-sample of these. The results are used to calculate State error rates; the national error rate is a weighted average of State rates. We found that States weakened the QC process by using third-party consultants and error review committees to mitigate individual QC-identified errors rather than improving eligibility determinations. FNS' two-tier QC process is vulnerable to State abuse due to conflicting interests between (1) accurately reporting error rates and incurring penalties or (2) mitigating errors and receiving a bonus. Further, States' QC reviews did not meet SNAP regulatory requirements, and Federal oversight of State QC was inadequate. Finally, FNS' Broad-Based Categorical Eligibility policy to determine eligibility was not consistent with SNAP regulations. Thus, we questioned over \$184 million in program funding and concluded that FNS' QC process tends to understate the national SNAP error rate. We accepted management decision on 10 recommendations, and we continue to work with FNS on the 9 remaining recommendations.

In a separate review, we examined how FNS has attempted to lower the error rates for the National School Lunch and Breakfast Programs. During school year 2012-2013, school food authorities reduced or eliminated benefits for 107,974 of the 199,464 sampled households because household income was unsupported or excessive. Nevertheless, we estimated that FNS may have spent nearly \$12.5 million during school year 2012-2013 on lunches for students who later had benefits reduced or denied after being selected for verification. Further, at least 97 percent of the households determined to be eligible for benefits based on household applications are not selected for verification and receive benefits based on self-reported income. We recommended that FNS strengthen controls over the programs, and officials generally agreed.

OIG is currently performing work on an audit of SNAP's administrative costs. Our work is designed to determine if States with county-administered programs are effectively and efficiently controlling costs. Other ongoing OIG food assistance-related reviews include an audit designed to determine whether only eligible able-bodied adults without dependents are receiving SNAP benefits, and a review assessing States' implementation of and compliance with the certification of households as eligible for SNAP.

Farm Programs

OIG has completed several significant fraud investigations in USDA's farm programs. One such case led to an insurance company agreeing to pay \$44 million to settle allegations that it knowingly falsified

documents and issued insurance policies that were ineligible under USDA's Federal Crop Insurance Program. The specific allegations were that company employees backdated policies, forged farmers' signatures, accepted late and altered documents, altered dates and signatures, and signed documents after relevant deadlines. The investigation was coordinated out of North Carolina, but also involved policies that were issued in California, Mississippi, North Dakota, Texas, Washington, and Kansas.

As a result of another investigation, a jury in North Dakota found two brothers who farmed potatoes guilty on charges of conspiracy to commit fraud in connection with Federal Crop Insurance and Federal Crop Disaster Programs. In March 2015, the two brothers were sentenced to 48 months and 18 months of incarceration, respectively, and ordered to pay \$932,776 in restitution. The brothers' scheme, carried out over a period of years from as early as 2002, involved intentionally destroying and damaging potato crops in order to obtain Federal crop insurance indemnities and Federal crop disaster benefits. The brothers and their farming operations received millions of dollars in Federal crop insurance indemnities, subsidized crop insurance premiums, and Federal disaster benefits.

Another investigation determined that a producer who operated a vineyard in Ohio made false statements on loan applications to obtain Farm Service Agency (FSA) loans to purchase farmland, and operating loans to buy grapes, equipment, and other essentials for the vineyard. The producer also falsified an application for an emergency loan to refinance debts. The investigation revealed that, since 2007, he illegally sold property that was mortgaged to FSA to secure the loans. In June 2015, the producer was sentenced to 15 months in prison and ordered to pay \$447,406 in restitution and a \$10,000 fine.

OIG audits also contribute to improving the integrity of USDA's farm programs. The Risk Management Agency (RMA) strives to ensure that producers, insurance companies, and insurance agents comply with the requirements of the Federal Crop Insurance Program. RMA's National Program Operations Review (NPOR) is one of the agency's primary tools for ensuring that private insurance companies that directly insure farmers comply with laws and regulations. Our analysis of 50 NPOR reviews of crop insurance policies found instances of incomplete checklists, undocumented computations and assessments of the accuracy of indemnities paid by private insurers, no evidence of verification of the actual production history yields, and instances of company noncompliance. As a result, RMA cannot ensure that private companies are providing insurance according to the agreements they have signed with the Government. RMA agreed with our findings and recommendations.

Another audit of RMA's internal compliance activities found that RMA has not developed an overall formal strategy for supervising and overseeing the compliance case management activities of its regional compliance offices. Specifically, we found that RMA's national office was not fully utilizing the Compliance Activities and Results System's capabilities to identify key performance indicators and generate reports to monitor and oversee compliance activities. As a result, RMA is unable to effectively measure its performance to ensure the integrity of the Federal Crop Insurance Program. RMA generally agreed with our recommendations.

Conservation Programs

OIG has dedicated significant resources to help the Natural Resources Conservation Service (NRCS) improve oversight of its programs. NRCS provides Federal funds for conservation programs to maintain or enhance land to benefit agriculture and the environment. NRCS pays up to 50 percent of the fair market value for conservation easements through its Farm and Ranch Lands Protection Program, and up to 100 percent for land under the Emergency Watershed Protection Program and Wetlands Reserve Program. We found that NRCS' control environment for land valuation did not meet Government Accountability Office standards. As a result, NRCS was unable to prevent program officials from paying for easements with insufficiently supported easements of over \$43 million. NRCS agreed with our findings and we accepted management decision on 9 of the 10 recommendations.

OIG has a number of upcoming reports related to NRCS conservation programs, including our evaluation of how NRCS is administering wetland conservation provisions in the Prairie Pothole Region, as well as how NRCS and FSA are working to oversee land that is considered highly erodible.

Goal 3—Management Improvement Initiatives

OIG works to improve the systems the Department needs to function effectively, ranging from management controls to information technology (IT) systems. In recent years, USDA has worked to modernize its IT infrastructure, which must manage vast amounts of data associated with its many programs and operations. OIG audits have helped the Department make progress in this area.

Information Technology

Our annual review required by the Federal Information Security Modernization Act of 2014¹ found that, although USDA continues to improve the security posture of its IT infrastructure and associated data, many longstanding weaknesses remain. In FYs 2009-2014, OIG made 57 recommendations for improving the security of USDA's systems, but the Department implemented corrective action for only 31. Security weaknesses still exist in 3 of the 31 closed recommendations. We noted the Office of the Chief Information Officer is taking positive steps to improve its security, such as improving its incident response and Risk Management Framework. However, the individual USDA agencies included in this review have not implemented all of the requirements for security training, remote access management, and contingency planning. It is now critical that agencies create and implement agency-specific procedures to ensure compliance with USDA policy and improve the Department's future security posture.

Despite this progress, other OIG audits point to ongoing problems with IT systems at USDA. For example, our review of FSA's Modernize and Innovate the Delivery of Agricultural Systems (MIDAS) effort found that MIDAS was 2 years overdue, approximately \$140 million over budget, and had not delivered the promised enterprise solution. As of April 1, 2015, FSA had obligated over \$444 million to this project and had retired only 1 of the 66 applications that were to be replaced by MIDAS. By 2022, the program is projected to have a total cost of nearly \$824 million. In July 2014, the Secretary of Agriculture directed that future MIDAS development cease. OIG attributes MIDAS' shortcomings to ineffective management. FSA agreed with our recommendations to reevaluate this project and consider alternatives.

We have also found that FSIS faced challenges when implementing its web-based Public Health Information System (PHIS), which was intended to collect and analyze near real-time food safety data. OIG identified weaknesses during PHIS' design and implementation, including cost overruns during PHIS development, inconsistent plant internet connections, and inaccurate establishment profiles. We also found that inspectors were not utilizing a function in PHIS that allowed them to record the reasons that inspection tasks were incomplete. These problems occurred because FSIS did not implement internal controls to effectively monitor and evaluate the performance of PHIS. Moreover, FSIS did not ensure that the system was accessible, that it was operating as designed, and that its information was both complete

¹ Pub. L. No. 113-283, 128 Stat. 3073.

and accurate. Although FSIS expressed concerns with our findings, the agency has agreed to implement all of our recommendations.

Financial Management

OIG has also made significant recommendations aimed at helping the Department improve its financial management, an area where the Department is experiencing challenges. In performing our annual review required by the Improper Payments Information Act (IPIA), as amended,² we found that USDA did not comply with improper payment requirements for a fourth consecutive year. The Department reported mandatory improper payment information for 20 programs identified as susceptible to significant improper payments (high-risk). We found that USDA complied with 3 of 6 requirements, but 8 of 20 high-risk programs did not publish an improper payment estimate as required, meet annual reduction targets, or publish gross improper payment rates of less than 10 percent. During this fourth review, we determined that it is critical for the Office of the Chief Financial Officer and senior officials for each noncompliant component agency to set aggressive goals to help USDA achieve compliance with IPIA, as amended. The Department generally agreed with our findings and recommendations.

The Office of Management and Budget (OMB) granted USDA's request for an extension for USDA's FY 2015 Agency Financial Report, which includes the consolidated financial statements. OMB extended the deadline to February 12, 2016, to provide an opportunity for the Commodity Credit Corporation (CCC) and its auditor, KPMG, to audit parent-child accounting activity between CCC and the U.S. Agency for International Development, in addition to accounting for accruals and potential Farm Bill liabilities. As this is USDA's second audit extension in 2 years, OMB has requested that USDA provide a comprehensive corrective action plan for any FY 2015 audit findings. OMB will then work with USDA to monitor the corrective actions and prevent the need for future extensions. Upon completion of CCC's financial statement audit, OIG will be able to complete our audit of USDA's consolidated financial statements.

Investigations

In the area of management improvement, OIG investigates matters involving the potential misconduct of USDA employees. Within personnel misconduct investigations there is a subset of cases OIG is

² Pub. L. No. 107-300, 116 Stat. 2350. As amended by the Improper Payments Elimination and Recovery Act of 2010 (Pub. L. No. 111-204, 124 Stat. 2224) and by the Improper Payments Elimination and Recovery Improvement Act of 2012 (Pub. L. No. 112-248, 126 Stat. 2390).

statutorily required to investigate. These investigations include Forest Service wildland fire fatality investigations³ and whistleblower allegations involving contract employees.⁴ Due to an active wildfire season, OIG has two ongoing investigations into the fatalities of Forest Service firefighters who died as a result of a burn-over or entrapment while fighting wildland fires. Also, OIG has received four whistleblower complaints that allege reprisal against USDA contractors. These whistleblower investigations are at various stages in the investigative process.

Civil Rights and Outreach

OIG also performs reviews intended to help the Department reach underserved populations, such as new farmers. Although the Secretary of Agriculture has emphasized providing assistance to beginning farmers, we found that the Department had not developed an integrated and coordinated strategy to ensure that the Secretary's direction was effectively implemented during the time period of OIG's review. As a result, USDA cannot ensure that the \$3.9 billion of beginning farmers' assistance in FYs 2012 and 2013 has achieved effective and measurable outcomes. However, USDA is moving in the right direction. In early 2014, the Deputy Secretary brought together representatives from across the Department to focus on developing a unified strategy for assisting beginning farmers and ranchers. USDA also unveiled a new website that provides a centralized, one-stop resource where beginning farmers and ranchers can explore the variety of USDA assistance designed to help them succeed. The Department generally agreed with our findings and recommendations.

Our review of FSA's controls for marketing and administering microloans in order to make credit available to eligible producers concluded that FSA's controls appear adequate to achieve the program's goals. Nonetheless, we found that opportunities exist to improve operations in areas where FSA required excessive security for loans, inconsistently filed security liens, and inconsistently established microloan repayment terms. We also found that FSA could not demonstrate that it had successfully reached out to some target audiences. As a result, FSA may not fully achieve its objective of providing support to current and prospective producers, including underserved groups and veterans. If the agency does not market its programs effectively to all producers, including underserved groups, then some producers may not receive the information and assistance they need to succeed, and those producers may perceive that FSA is treating them inequitably. FSA generally agreed with our findings.

³ Pub. L. No. 107-203, 116 Stat. 774. 7 U.S.C. §§ 2270b and 2270c.

⁴ Pub. L. No. 112-239, 126 Stat. 1632. 41 U.S.C. § 4712.

We have also recently conducted a performance audit of the completed claims process for the *In re* Black Farmers Discrimination Litigation settlement based on statistical samples of adjudicated claims. We concluded awards were granted to eligible claimants in accordance with the settlement agreement.

In 2016, OIG expects to complete and publish an audit concerning whether the claims review process for Hispanic and women farmers was designed adequately and functioning to ensure that funds were distributed only to eligible applicants.

OIG's FY 2017 Budget Request

We would like to thank the Subcommittee for its support in recent fiscal years. That support has enabled us to perform work that identifies potential improvements in the wide array of USDA's programs.

The total appropriation for OIG over the last 5 fiscal years was approximately \$441 million. For this period, the potential dollar impact of OIG's audits and investigations was \$8.9 billion, resulting in cost savings and recoveries of over \$20 for every dollar invested. During this same 5-year period, OIG made 1,472 audit recommendations, some of which carry no monetary value, per se, but can significantly improve safety, security, and public health. It is also noteworthy that OIG investigations resulted in 2,964 successful convictions in the last 5 fiscal years.

OIG continues to look for innovative and effective ways to accomplish our mission. During FY 2015, OIG formed a pilot Office of Data Sciences (ODS) to provide data mining and analysis support to our investigative staff for activities involving potential fraud in USDA programs. During its first 9 months of operation, ODS made significant contributions to ongoing OIG investigative efforts involving active investigations and case development.

The requested increase in OIG's FY 2017 budget will allow us to provide even more effective oversight of USDA programs. We are asking for a total increase of \$5.2 million—\$1.1 million and 8 staff years will be devoted to providing increased oversight of USDA's IT investments and another \$1.6 million will be used to establish an Audit Center of Excellence designed to enhance our oversight of improper payments. We are also requesting \$1.4 million for increased rental payments and funds to continue downsizing our current space needs, which will result in long-term rent savings to OIG. The remaining funds will be used to pay increased FY 2017 salary costs.

This concludes my testimony. I would be pleased to address any questions you may have.