

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

Statement of Larry Mitchell, Administrator Before the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Introduction

Mr. Chairman and Members of the Subcommittee, I am pleased to share with you the accomplishments of the Grain Inspection, Packers and Stockyards Administration (GIPSA), and discuss with you GIPSA's fiscal year (FY) 2017 budget proposal.

GIPSA plays an integral role in ensuring the economic viability of America's farmers and livestock producers, and, in turn, of rural America. GIPSA programs impact the livestock, poultry, and grain markets directly and GIPSA's work in the three key sectors of American agriculture ensures fair-trade practices and financial integrity for competitive markets, and promotes equitable and efficient marketing across the nation and around the world.

GIPSA administers two programs that are very important to American agriculture: the Packers and Stockyards Program (P&SP) and the Federal Grain Inspection Service (FGIS). P&SP protects fair trade practices, financial integrity, and competitive markets for livestock, meat, and poultry. FGIS facilitates the marketing of U.S. grains, oilseeds, and related agricultural products through a world-renowned grain inspection and weighing system. Moreover, FGIS maintains the integrity of the grain marketing system by developing unbiased grading standards and methods for assessing grain quality.

GIPSA's organizational structure is reflective of and is designed to support the fulfillment of its mission, goals, and initiatives. P&SP is headquartered in Washington, D.C., has staff in three regional offices located in Atlanta, Georgia; Denver, Colorado; and Des Moines, Iowa; and 54 front-line resident employees located throughout the United States who are the eyes and ears for our compliance and regulatory presence on the ground.

FGIS is also headquartered in Washington, D.C., with its National Grain Center located in Kansas City, Missouri. FGIS has seven field offices, three sub offices, and one Federal/State

office. These field offices are located in Grand Forks, North Dakota; Kansas City, Missouri; League City, Texas; New Orleans, Louisiana; Portland, Oregon; Stuttgart, Arkansas; and, Toledo, Ohio. The Federal/State office is located in Olympia, Washington. FGIS delivers official inspection and weighing services via a national inspection system, a unique public-private partnership of Federal, State, and private inspection personnel. Our partners include 50 State and private agencies authorized by the Secretary to provide official inspection and weighing services on GIPSA's behalf.

In addition to GIPSA's two program areas, three Washington D.C.-based units, the Civil Rights Staff, Information Technology Staff, and Management and Budget Services, provide the agency with management and technical support, as well as the leadership of key initiatives, such as Cultural Transformation, Employee Engagement, and Outreach.

Packers and Stockyards Program

Under the Packers and Stockyards Act (P&S Act), GIPSA's P&SP regulates businesses that market livestock, poultry, and meat. Enacted in 1921, the P&S Act promotes fair and competitive marketing in livestock, meat, and poultry for the benefit of American consumers and producers. Under the P&S Act, P&SP fosters fair competition, provides payment protection, and guards against deceptive and fraudulent trade practices in the livestock, meat, and poultry markets. By protecting fair-trade practices, financial integrity, and competitive markets, GIPSA promotes marketplace fairness for livestock producers, buyers, sellers, swine contract growers, and poultry growers, for the benefit of all market participants.

In carrying out our work, GIPSA works cooperatively with our sister agencies within USDA, particularly with the Agricultural Marketing Service, the Animal and Plant Health Inspection Service, the Economic Research Service, the National Agricultural Statistics Service, and the Food Safety and Inspection Service; and, with the Office of the General Counsel, the Office of the Chief Economist, and the Office of Inspector General. We also collaborate regularly with the Department of Justice, the Commodity Futures Trading Commission, and other State and local law enforcement agencies with their investigations.

P&SP regional offices initiate investigations when GIPSA receives information that a violation of the P&S Act is occurring or has occurred. The information may come from a complaint or from routine regulatory activity. For example, in December 2014, a P&SP agent

conducting a follow-up investigation at a livestock market, discovered scale tickets that appeared to have been altered. The P&SP agent alerted the state livestock board, and within weeks, a task force of law enforcement personnel from the livestock board, the district attorney's office, and P&SP agents executed a search warrant on the premises of the livestock market. The county grand jury indicted two of the individuals involved on 139 criminal charges including forgery, fraud, conspiracy, and racketeering. The Assistant U.S. Attorney brought federal charges that resulted in the federal magistrate finding that the market had "engaged in egregious, systematic violations of the [P&S Act] to such an extent that [the owner] and [the two individuals charged in state court] cannot be allowed to independently run the business."

Although fraud and deceit in the livestock industries are more common than we would prefer, more frequently, P&SP investigators find minor violations. In these instances, P&SP regional office employees work with the regulated entities to resolve compliance issues. When the violations are more serious, the regional offices issue a Notice of Violation. If the regulated entity fails to correct identified violations, the regional office refers the matter to P&SP's Litigation and Economic Analysis Division (LEAD) in Washington, D.C. LEAD may offer the entity the opportunity to stipulate to the violation and resolve the matter by paying a modest penalty. In FY 2015, 68 entities stipulated to penalties totaling \$158,950.

P&SP refers more serious violations and violations by repeat offenders to USDA's Office of the General Counsel (OGC) for hearing before a USDA Administrative Law Judge (ALJ). Last year, ALJ's levied \$499,300 in penalties for violations of the P&S Act. OGC refers matters that must be litigated in Federal Court to the Department of Justice (DOJ). Last year, DOJ attorneys obtained civil penalties totaling \$299,360.

GIPSA's P&SP has improved its operational performance over the last several years. A significant component to that improvement has been a business process re-engineering effort initiated in 2006 and subsequent management follow-up and refinement that continues today. P&SP developed processes and incorporated those processes into an electronic case management system that provides agents and auditors throughout the program consistent direction on the necessary steps to complete investigations successfully.

For example, in 2000, P&SP had 188 full-time employees, who closed a total of 579 investigations, resulting in 14 formal complaints decided by an ALJ. By comparison, at the end of 2015, P&SP had 141 full-time employees who closed 1,974 investigative files, more than

three times the number of cases closed in 2000. P&SP categorizes investigations as competition, financial, or trade practices. The competition category includes preferential treatment and restriction of competition. The financial category includes bond activities, solvency, custodial accounts, and failure to pay. Trade practices include registration, weighing practices, and unfair or deceptive practices.

As mentioned previously, most investigations uncover minor violations. P&SP works with the regulated entity to help them understand how to correct their procedures to bring their operation into compliance with the P&S Act and regulations. By investigating and reviewing the operations of regulated entities, P&SP is able to instill an expectation of compliance.

In addition to the cases closed by P&SP without referral, P&SP closed 57 cases that had been referred to OGC, including 14 that had been further referred to DOJ.

GIPSA works to maintain an effective presence at livestock markets around the country. GIPSA ensures that packers compete for slaughter animals. GIPSA reviews the records and contracts of live poultry dealers to ensure that the contracts with poultry growers comply with the P&S Act and that the weights of feed and birds that are used to calculate grower compensation are accurate.

GIPSA supplements the presence in the countryside with a toll-free hotline (800-998-3447) to receive complaints and other communications from livestock producers, poultry growers, and other members of the industry or general public. Hotline callers can voice concerns or file a complaint anonymously. The information obtained from hotline callers often alerts GIPSA to emerging issues. The sooner GIPSA is aware of an issue, the greater the probability of avoiding financial loss for producers.

Federal Grain Inspection Service

GIPSA's grain inspection program facilitates the marketing of U.S. grain, oilseeds, and related agricultural products by providing the market with the official U.S. grading standards, as well as methods to assess product quality; maintaining the integrity of the marketing system by enforcing the United States Grain Standards Act (USGSA) and the Agricultural Marketing Act of 1946 (AMA). The program also provides for America's national inspection system, a network of third-party Federal, State, and private laboratories that provide impartial, user-fee funded official inspection and weighing services under the authority of the USGSA and the AMA. In

2015, the national inspection system provided over 3.45 million inspections on 305.3 million metric tons of grain with a value of over \$100 billion.

GIPSA's grading standards help buyers and sellers efficiently identify the quality of grain and grain products and provide a common language for the trade. To ensure that U.S. standards for grain remain relevant, GIPSA regularly reviews the standards and seeks public input. In 2017, GIPSA will continue with its review of the barley standards, which were originally promulgated in 1926. Through a *Federal Register* notice of proposed rulemaking in 2014, GIPSA solicited barley stakeholder comments, which will be used as the basis for a final rule in the near future. In 2016, GIPSA has published Request for Information notices in the *Federal Register* asking stakeholders for comment on the United States standards for flaxseed, triticale, mixed grain, oats, rye, sorghum, and rice. GIPSA also published a Request for Information notice asking stakeholders what additional services or tests GIPSA should provide such as co-products of ethanol production, commonly referred to as distillers' grains.

FGIS supports the market development activities of U.S. grain trade associations to grow the international demand for U.S. grains. FGIS currently coordinates with representatives of the U.S. Wheat Associates and the U.S. Grains Council to conduct export wheat and corn surveys. FGIS assists with the wheat survey by collecting samples, providing inspection results, and performing additional tests for pesticide residues and heavy metals. FGIS has assisted with the wheat survey for over 30 years; 2012 was the first year of the corn survey. The two trade associations use the data to support their market development activities, advise importers worldwide on what is available for sale and its cost, and demonstrate the advantages of U.S. wheat and corn over the competition.

FGIS continues to support the grain industry's need for fast, reliable testing for mycotoxins in grains and oilseeds through the rapid test kit evaluation program. Since the program's inception, the needs of the industry have changed and the evaluation program has expanded to include additional mycotoxins as well as biotechnology-derived traits. Through this program, FGIS verifies the performance claims of test kit manufacturers and issues certificates for test kits meeting the performance claims. A recent innovation in this arena is the development of water-based test kits that are environmentally friendly and increase employee safety, as compared to traditional solvent-based kits.

FGIS is evaluating the use of LED lights for use in official inspection labs. There is great interest in converting to LED lights to take advantage of energy cost savings over time and to qualify as LEAD or “green” building status for energy efficiency. The type of light used for inspection is critical to receiving accurate results for the grade determining and other factors that assist our customers in evaluating grain quality. The color of the light and how color is perceived under different lighting conditions can impact the accuracy of determinations. FGIS has verified that LED lights can be created to meet inspection lighting requirements and is working with suppliers for options.

To better serve the dynamic grain marketing system, GIPSA remains attuned to changes in movement of U.S. grain and related products. The U.S. grain industry has experienced a significant increase in the demand for grain exported in shipping containers. A surplus of empty containers allows grain exporters to capitalize on opportunities to ship grain at a lower freight rate and deliver grain to small business entities around the world. Expansion of the containerized grain export market has exceeded most forecasts and has increased from 0.1 percent of total grain exported (metric tons) in 2002 to 3.3 percent of total grain exported (metric tons) in 2015.

GIPSA also continues to work with exporters, importers, and other end-users of U.S. grain around the world to facilitate the marketing of U.S. grain in global markets. GIPSA helps resolve grain quality and weight discrepancies, helps other countries develop domestic grain and commodity standards and marketing infrastructures, assists importers in developing quality specifications, and, to harmonize international trade, trains foreign inspectors in U.S. inspection methods and procedures. These activities foster a better understanding of the entire U.S. grain marketing system and serve to enhance purchasers’ confidence in U.S. grain. Ultimately, these efforts help move our nation’s harvest to end-users around the globe. During 2015, FGIS personnel briefed 74 teams from 43 countries.

FGIS’s continued success in fulfilling its mission of facilitating the marketing of U.S. grain is directly attributable to its exceptionally skilled, experienced, and dedicated workforce. With many of the original inspectors who were hired in the late 1970’s and early 1980’s retiring, succession planning is critical. FY 2014 was the first year for an FGIS Agricultural Commodity Grader Pathway Program. The Pathway Program recruits recent college graduates into the agricultural commodity grader positions. The recent graduates participate in an intensive six month training program conducted by FGIS field offices. During this training period, the

participants are paired with more experienced employees for the purpose of grain grading training and sharing knowledge of practices, policies and organizational culture. Upon successful completion of the training, the participants are relocated and assigned to field offices to begin their career in grain inspection. In FY 2016, FGIS already conducted targeted outreach for commodity graders under the Pathway Program at the Tuskegee University in Alabama and the University of Puerto Rico. In addition, in the very near future, FGIS's Science and Technology Division (TSD), located at GIPSA's National Grain Center in Kansas City, Missouri, plans to announce a Pathways position for engineers nationwide. The Pathway Program is a strong component for FGIS's succession planning to ensure that experienced staff are in place as more senior staff retire. FGIS's TSD also plans to have a strong presence at the Minorities in Agriculture, Natural Resources and Related Sciences conference scheduled in Florida from March 31 – April 2 as our next special emphasis recruitment event. FGIS intends to use all hiring avenues in order to maintain an educated and well-trained workforce in order to provide the highest quality services to the grain industry.

2017 Budget Request

To fund important initiatives and address GIPSA's core mission responsibilities, GIPSA requests \$43,482,000 for salaries and expenses for FY 2017. The budget includes additional funding to cover salary costs for the Packers and Stockyards Program and for the Grain Program. Maintaining base funding at this level is crucial to ensuring the continued success of the P&SP's and Grain Program's activities.

GIPSA's funding level request will enable the P&SP to enforce and promote compliance with the P&S Act. USDA's National Agricultural Statistics Service reported that in calendar year 2014, U.S. packers and live poultry dealers produced over 106 billion pounds of meat and poultry. P&SP ensured competitive markets, fair practices and prompt payment at a cost to U.S. taxpayers of about two one-hundredths of a cent per pound.

P&SP relies on 54 resident employees -- agents, auditors, market inspectors, and supervisors-- with assigned duty stations in their homes across the United States to conduct a large percentage of its front line regulatory inspections and investigations. These resident employees must travel to conduct regulatory and investigative field work. In addition to funding for salaries, benefits, and travel expenses, GIPSA must also furnish the necessary equipment and

supplies, such as computers and high speed scanners, to enable employees to successfully perform their jobs. By providing staff with resources to travel and the tools needed to successfully conduct their work, GIPSA expects to achieve a level of 83 percent industry compliance with the P&S Act in FY 2017.

GIPSA funding level request for the Grain Regulatory Program permits the exploration of new processes and technology to provide customers with information about the quality of all the grains and commodities tested within the national inspection system. In 2014, FGIS facilitated the export of approximately one out of every four rows of corn raised in the U.S.; one out of every two rows of soybeans; and, two out of every five truckloads of wheat. FGIS provides all of its services nationwide at a cost of just about a penny per bushel.

The requested funding for the Grain Regulatory Program will be used for the information technology support and equipment needed to ensure the seamless flow and capture of data within the national inspection system. Currently, individual test results are determined via analytical instruments or electronic scales; the new equipment, including barcode scanners, printers and computers, will capture information on the individual test results, who performed the test, equipment used on sample, as well as time and location of analysis. These enhancements will ensure that the results reported on FGIS inspection certificates for all commodities and grain tested are more accurate and the results (i.e., certificates) are available to customers in a more expeditious manner.

Finally, the President's budget request will contain legislative proposals to collect fees for the development of grain standards and to amend the P&S Act to provide authority to collect license fees to cover the cost of the program. These proposals are consistent with the overall effort to shift funding for programs to identifiable beneficiaries. The President's budget request will also propose the elimination of the obligation limitation on fees collected from inspection and weighing services, which will allow GIPSA to fully support FGIS' inspection and weighing program. It is important to note that GIPSA has executed various cost containment initiatives to limit obligations while meeting increased demand for services. GIPSA has limited supply and equipment purchases and changed hiring practices to optimize cost-efficient use of intermittent, part-time, and full-time employees to minimize overtime. Pursuant to the United States Grain Standards Act, as amended by the Agricultural Reauthorizations Act of 2015, GIPSA will annually adjust its export inspection fees based on a rolling 5-year average of the volume of

grain exports beginning in FY 2016. With such a cost-control mechanism in place, the elimination of the cap will provide GIPSA with the flexibility needed to respond to variations in market needs.

Conclusion

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to share some of the accomplishments of our dedicated staff and to highlight our plans to continue to facilitate the marketing of U.S. agricultural products and to promote fair and competitive trading practices for the overall benefit of consumers and American agriculture.

I would be pleased to address any issues or answer any questions that you may have.