

**Statement by
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Submitted to the Subcommittee on Agriculture, Rural Development,
Food and Drug Administration, and Related Agencies
Committee on Appropriations, U.S. House of Representatives**

Introduction

Good morning, Chairman Bishop, Acting Ranking Member Harris, and Members of the Subcommittee. Thank you for the opportunity to testify about the Office of Inspector General's (OIG) fiscal year (FY) 2021 oversight results and our plans for FY 2022. As you know, OIG's mission is to promote economy, efficiency, effectiveness, and integrity in the delivery of the U.S. Department of Agriculture's (USDA) programs; we conduct audits, inspections, data analytics, and reviews and make recommendations to help improve how USDA's programs operate in order to execute this mission. We also conduct investigations of individuals and entities suspected of engaging in criminal, civil, and/or administrative wrongdoing involving USDA programs and operations. My statement will address OIG's work regarding oversight of USDA's more than \$210 billion in annual appropriations, \$77.5 billion for pandemic response activities, and over \$8.3 billion in infrastructure investments.

It has been more than 2 years since the start of the coronavirus disease 2019 (COVID-19) pandemic. For most of that time, OIG has worked in a maximum telework setting, and our leadership and staff have continued to demonstrate flexibility and innovation. We have recently begun a phased reentry process for those who will be returning to OIG offices. Our results for FY 2021 demonstrate that OIG has continued to achieve substantial and significant results.

In FY 2021, our oversight work resulted in monetary results totaling over \$686 million. We published 33 reports from audit engagements (audits, inspections, etc.) and made 133 recommendations to strengthen and improve USDA programs and operations. Overall, our audit work during this period has identified \$350.4 million in questioned costs and funds that could be put to better use. Our investigative work during the same period led to 228 convictions, with monetary results totaling approximately \$336.5 million.

Our data analytics initiatives empower OIG to leverage data and information proactively in order to promote efficiency and effectiveness and modernize the way OIG does business and conducts its

oversight and operations. In FY 2021, our analytics and innovation staff participated in a total of 46 projects for audits and investigations and issued 2 analytics products.

COVID-19 Oversight

OIG received more than \$3.2 million to oversee the more than \$77.5 billion in USDA funding related to the COVID-19 response. To provide oversight of USDA funding received in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, OIG received \$750,000, almost all of which was expended by the start of calendar year 2021. OIG also received \$2.5 million for oversight of USDA funding associated with the American Rescue Plan of 2021. As of the end of FY 2021, these OIG oversight funds were nearly expended. As we address our oversight portfolio of ongoing USDA programs, our approach is to rely on the best available data to conduct risk assessments of USDA programs and activities to prioritize our resources.

One of our FY 2021 COVID-19 projects was to review the Food and Nutrition Service's (FNS) controls over the Supplemental Nutrition Assistance Program (SNAP) Online Purchasing Pilot in response to the pandemic. Initiated in 2014, the SNAP Online Purchasing pilot allowed households to make online purchases using SNAP electronic benefits transaction (EBT) cards. In response to the COVID-19 pandemic, FNS expanded the pilot from 6 States in March 2020 to 46 States by the end of December 2020. By the end of December 2020, online SNAP purchase transactions increased to more than \$1.5 billion cumulatively. We found that FNS used the same approval criteria it used for the original pilot selections when adding additional States and retailers. We also identified that FNS had not updated its risk assessment of the SNAP Online Purchasing Pilot since creating the pilot in 2014. Lastly, although we found FNS had established criteria and program requirements for retailers to be eligible to participate in the pilot, FNS did not establish controls to effectively monitor, evaluate, or document how participating retailers protect SNAP participants' online personal information. OIG also issued two interim reports in relation to The Emergency Food Assistance Program (TEFAP), which provides supplemental food assistance to persons in need. The first report assessed risks related to TEFAP program operations, including changing conditions that could impact the integrity of the program. We concluded that FNS had not established a formal enterprise risk management process to continuously identify and assess risks related to TEFAP program operations and did not formally evaluate what impact the COVID-19 pandemic could have on the safe and efficient distribution of food assistance to States. The second report reviewed the criteria FNS used to approve States for food and administrative funds provided under the Families First Coronavirus Response (FFCR) and CARES Acts. We concluded that the FFCR and

CARES Acts did not change regulatory requirements to allocate TEFAP food funds and administrative funds. However, FNS implemented an additional eligibility requirement. All states complied with the requirement and we did not find any indication that it negatively impacted the integrity of the program. FNS generally agreed with our recommendations to strengthen SNAP online purchasing and TEFAP, and we reached agreement on the planned corrective actions to address the report's recommendations.

OIG's Office of Analytics and Innovation (OAI) published a USDA COVID-19 Funding Dashboard, which allows stakeholders to track the sources and uses of USDA's COVID-19 funding. This interactive dashboard displays the amounts of USDA COVID-19 funding enacted, budgeted, obligated, and spent, by appropriations act, agency, program area, and use of funds. OAI also published the responses to a survey of Food Safety and Inspection Service (FSIS) inspectors' perceptions of COVID-19 safety in the work environment. OIG's Office of Investigations continues to receive complaints and referrals related to allegations associated with COVID-19 pandemic relief from the public, USDA employees, and agencies. In fact, in coordination with the U.S. Attorney's Office in the Northern District of Georgia and the Internal Revenue Service – Criminal Investigations, OIG had its first successful prosecution of a USDA Coronavirus Food Assistance Program (CFAP) investigation. A Georgia man was sentenced to 30 months in prison and ordered to pay \$248,739 in restitution for submitting false claims related to livestock through the CFAP.

We anticipate completing a number of COVID-19 related projects in FY 2022. One ongoing inspection focuses on AMS' administration of the Farmers to Families Food Box Program. We also expect to conclude a review that examines whether the Farm Service Agency (FSA) provided timely and accurate CFAP direct payments to eligible recipients. In addition, we plan to release a data story, a web based interactive data visualization insight report, about the Farmers to Families Food Box Program and have begun work on a CFAP data story.

Finally, OIG continues to work with the larger Federal oversight community as an active member of the Pandemic Response Accountability Committee, established by the CARES Act, which promotes transparency and coordinated oversight of COVID-19 spending across the Federal Government.

Infrastructure Oversight

The Infrastructure Investment and Jobs Act (IIJA), signed on November 15, 2021, provided USDA more than \$8.3 billion in funding.¹ More than \$2.9 billion is directed toward broadband loans and grants,

¹Pub. L. No. 117-58.

watershed and flood prevention operations, and a new bioproduct pilot program using agricultural commodities. The IJJA provided more than \$5.4 billion for forestry programs designed to reduce wildland fire risk and restore ecosystems. OIG received more than \$27.1 million to provide oversight of the forestry programs funded by the IJJA. In January, we issued our oversight plan and established a multi-disciplinary team to develop a strategic framework that will guide OIG's infrastructure oversight efforts for the next several years.

As part of OIG's oversight responsibilities under the IJJA, one of our first initiatives was to review the results of prior OIG audits that were relevant to funding received by USDA. In February and March 2022, we issued an analysis of the results of our prior work related to the Natural Resources Conservation Service (NRCS), Forest Service, and Rural Utilities Service (RUS). For example, NRCS received \$300 million in funding for the Emergency Watershed Protection (EWP) Program. In February 2022, we highlighted the results of a recent audit of the EWP Program (discussed in Goal 2 below) and explained that while NRCS and OIG have reached agreement on the corrective actions needed to address the concerns identified, the corrective actions have not yet been fully implemented, which heightens risks associated with the use of these funds.

Strategic Goal 1—Safety, Security, and Public Health

OIG's first goal is to help strengthen USDA's ability to protect public health and safety and to secure agricultural and Department resources.

Safety and Security

As part of this goal, OIG works to help ensure safety and security. A recent audit of the Animal and Plant Health Inspection Service's (APHIS) Smuggling Interdiction and Trade Compliance (SITC) Program found that while SITC officials implemented the 13 recommendations from a previous audit, 4 were not fully implemented and 2 were implemented but not followed. Further, we found that the SITC Program needs to enhance its controls for searches of prohibited products purchased through internet sales, and the SITC internet team inconsistently interacted with 22 e-commerce businesses in 2019 and did not request necessary information from 20 of the e-commerce businesses. We found that SITC officers were not consistently inspecting sealed package contents, which may or may not constitute prohibited product, at courier distribution sites. APHIS generally agreed with our recommendations, and we reached agreement on the planned corrective actions to address the report's recommendations.

As required by the Federal Information Security Modernization Act, OIG conducted its FY 2021 review of USDA's ongoing efforts to improve its information technology (IT) security programs and practices. We found that USDA continues to take positive steps to improve its IT security posture, but many weaknesses remain. The Office of Management and Budget (OMB) establishes standards for an effective level of security and considers "Managed and Measurable" as a sufficient level. However, we found the Department's maturity level to be at the lower "Consistently Implemented" level. Based on OMB's criteria, the Department's overall score indicates an ineffective security level. OCIO generally concurred with our recommendations, and we reached agreement on the planned corrective actions to address them.

Animal Fighting

OIG also conducts investigations into allegations of animal fighting. In a recently concluded investigation, conducted jointly with the Bureau of Alcohol, Tobacco, Firearms and Explosives, Federal Bureau of Investigation (FBI), and Michigan State Police, five defendants were sentenced to 749 months of incarceration, over 204 months of supervised release, and fined \$3,000 for animal fighting, drug trafficking, and weapons violations. The investigation determined that five individuals were operating a criminal enterprise associated with animal fighting as well as other activities, including possession and distribution of controlled substances. A total of 67 dogs were rescued and several weapons were seized from convicted felons, as were large quantities of narcotics, including heroin containing fentanyl and Carfentanil. The investigation resulted in the disruption of the criminal enterprise and the successful conviction of all five defendants.

Future Work

We plan to complete work on an audit of FSIS' actions to respond to complaints of workplace misconduct. We also plan to complete two engagements that are assessing different security aspects of USDA IT systems.

Strategic Goal 2—Integrity of Benefits

Our second strategic goal is to strengthen USDA's ability to deliver programs with integrity and effectiveness.

Grant Funds

OIG provides oversight to help ensure or restore integrity in various USDA grant and assistance programs. For example, the Office of Partnerships and Public Engagement (OPPE) accomplishes its mission of improving access to USDA programs and enhancing the viability and profitability of small

farms and ranches, beginning farmers and ranchers, and socially disadvantaged farmers and ranchers through its grant programs, including the Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program. This program provides eligible organizations with grant funds for outreach, training, education, and technical assistance. A recent audit found that 6 of the 18 applications we reviewed were not eligible to receive grant funds; as a result, OPPE awarded a total of more than \$1.1 million in grant funds to 3 of the 6 ineligible entities. We also determined that the independent review panel did not follow established guidance and did not apply a consistent methodology to score applications; as a result, OPPE cannot ensure it awarded FY 2018 and FY 2019 grants—totaling more than \$25 million—to the worthy applicants. OPPE officials agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.

Disaster Assistance

OIG also provides oversight of disaster assistance programs relating to emergencies created by natural disasters. One disaster assistance program administered by NRCS, the EWP Program, offers technical and financial assistance to help local communities mitigate imminent hazards to life and property caused by floods, fires, windstorms, and other natural occurrences that impair watersheds. OIG recently evaluated NRCS' controls over the EWP Program relating to hurricane disaster assistance provided for Hurricanes Harvey, Irma, and Maria. We found that NRCS did not establish and maintain a database to accurately track EWP projects at the national level. Additionally, we found that for 15 of 20 sampled Damage Survey Reports (DSR), sponsors did not provide required eligibility documentation and all three States in our sample did not submit 60-day or final reports for our sampled DSRs. As a result, we questioned NRCS' oversight of more than \$239.7 million in EWP project funds. We also found that NRCS had no performance measures specific to EWP; without performance measures, NRCS could not assess and report on the EWP Program's effectiveness. NRCS agreed with our recommendations, and we have reached agreement on the planned corrective actions to address them.

Another assistance program, FSA's Emergency Conservation Program (ECP), assists landowners in restoring land used in agricultural production when damaged by a natural disaster. Congress appropriated \$400 million to ECP to address damage caused by Hurricanes Harvey, Irma, and Maria; wildfires occurring in 2017; and other natural disasters. Our recent audit reviewed the adequacy of FSA's internal controls over approval and payment of ECP applications and found that FSA needs to strengthen the program's internal controls; specifically, we found that FSA issued more than \$700,000 in ECP payments for 15 of 40 applications in our sample without properly documenting FSA's concurrence, or when FSA

should not have concurred, with waiving the prior approval rule. We also found, in all four counties we reviewed, that district directors did not sufficiently document or timely review ECP applications. Lastly, FSA processed cost-share payments for 14 of 40 applications using insufficient documentation, included ineligible costs, or calculated cost-share reimbursements incorrectly. FSA agreed with our recommendations and we have reached agreement on the planned corrective actions to address them.

Food Assistance

A significant portion of OIG's investigative resources are dedicated to ensuring the integrity of SNAP by combating the unlawful practice of exchanging benefits for currency or other ineligible items. One such investigation resulted in an Iowa food market owner first signing a plea agreement in February 2021 for one count of conspiracy to commit wire fraud. The market owner also agreed to pay \$550,000 in restitution to USDA's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and entered into forfeiture agreements for the cash seized at the owner's properties (\$226,928), bank accounts (\$111,928), and three residences. In July 2021 the market owner was then sentenced to 15 months in prison, followed by 3 years of supervised release. The owner was also ordered, at sentencing, to pay \$1,445,460 in restitution to WIC and SNAP (\$945,631 for WIC and \$499,829 for SNAP). The higher amount was the result of a successful argument for more restitution by the United States Attorney. The cash, bank account balances, and proceeds from the sale of homes forfeited by the market owner will be applied to the restitution. The case was referred to OIG by the FBI and the State of Iowa.

Fraud in the Organics Program

In another recent investigation, an OIG Investigations team and subject matter experts dismantled a multi-state organic fraud scheme that involved over a dozen known victims and countless consumers while simultaneously strengthening the integrity of the USDA Agricultural Marketing Service—National Organic Program (AMS-NOP). This investigation was initiated based on information provided in a referral from AMS-NOP that outlined multiple complaints against a farming entity and a grain broker, both of which were owned by the same defendant. OIG agents in multiple States worked together to identify the true origin of "organic" grain that was in abundance but originated from only two organic certified producers. There were ultimately six individuals involved in this fraudulent activity and one defendant admitted the scheme involved at least \$142.4 million in misrepresented "organic" grain sales, the vast majority of which were fraudulent. At sentencing, each defendant was sentenced to a term of imprisonment and ordered to pay fines and restitution. They also agreed to forfeit a collective amount of

\$128.1 million in illegally derived proceeds. Additionally, results included six indictments, six arrests, five convictions, \$100,000 in fines, and \$205,600 in restitution.

Future Work

We are completing an audit of the Foreign Agricultural Service's oversight of the Agricultural Trade Promotion Program. We are also reviewing the Rural Utility Service's Rural E-Connectivity Pilot Program. This work will also support and inform OIG's oversight of the \$2 billion in broadband funding provided by the IIJA.

Strategic Goal 3—Management Improvement Initiatives

Our third strategic goal is to strengthen USDA's ability to achieve results-oriented performance. By conducting audits and investigations focused on areas such as financial management, IT, procurement, and employee integrity, we help USDA better manage its assets.

Civil Rights Complaints Process

USDA's Office of the Assistant Secretary for Civil Rights (OASCR) is responsible for making final determinations on complaints of discrimination filed by any persons who believe they have been subjected to prohibited discrimination in a USDA program. We evaluated OASCR's oversight of the civil rights program complaints process and concluded that OASCR needs to develop a stronger internal control environment over its program complaints processing to ensure that complaints are timely and appropriately handled, and that OASCR achieves established goals and objectives. The agency agreed with our recommendations, and we have reached agreement on the planned corrective actions to address them.

Improper Payments

We found that USDA was not compliant with the Payment Integrity and Information Act of 2019 (PIIA). USDA reported mandatory improper payment information for 15 high-risk programs for FY 2020. We found that 6 of the 15 high-risk programs either did not meet annual reduction targets or reported gross improper payment rates that exceeded 10 percent. This occurred because some programs' policies and procedures were not followed by staff, and the corrective actions have not yielded the desired results. Furthermore, we identified an incorrect improper payment rate, erroneous statements, and unsupported statements in the payment integrity section of USDA's Agency Financial Report. These errors reduced the quality of USDA's improper payment reporting and prevented stakeholders from using the report to

make informed decisions. USDA agencies agreed with our recommendations, and we have reached agreement on the corrective actions to address them.

Financial Management

OIG completed its review of the financial statements for FY 2021 for USDA and component agencies to express opinions about the fair presentation of those statements. Our consideration of USDA's internal control over financial reporting identified deficiencies related to financial management, information technology, and unliquidated obligations. Additionally, we identified noncompliance with certain laws. Based on our audit of USDA's consolidated financial statements, we are pleased to note that USDA continues to make progress by addressing significant challenges to ensure accurate presentations of its financial statements. Overall, USDA's FY 2021 financial statements received an unmodified opinion.

The Digital Accountability and Transparency Act

The Digital Accountability and Transparency Act of 2014 (DATA Act) requires USDA to submit to the United States Department of the Treasury (Treasury) Federal contract, loan, and grant spending information for Federal programs so that taxpayers and policy makers can more effectively track Federal spending. We reviewed the FY 2020 fourth quarter financial and award data that USDA submitted for publication on USA Spending.gov and found that, although USDA transmitted its FY 2020 fourth quarter submission to the Treasury's DATA Act Broker, its submission was not complete and contained records that were not accurate or timely, according to DATA Act reporting standards. We also found that USDA component agencies and offices did not consistently implement and use Governmentwide financial data standards established by OMB and the Treasury. Without the consistent use of standards, USDA cannot attest to the reporting of reliable, transparent, and consistent Federal spending data for public use. Departmental and agency officials agreed with all of the report's recommendations, and we have reached agreement on the corrective actions to address them.

Employee Misconduct

As part of this goal, OIG investigates allegations related to employee integrity. One such investigation resulted in a former NRCS employee's sentencing of 4 months in prison for conspiracy to restrain trade and conspiracy to commit wire fraud. The investigation began when the FBI Guam Office requested assistance from USDA OIG into a bid-rigging conspiracy involving a college professor, the former NRCS employee, and the former employee's family member. The professor conspired with the former USDA employee and family member to rig bids for Federally funded project work pursuant to cooperative

agreements between the Federal Government and a local university. During this time, the professor also served as the university's Principal Investigator for certain Federally funded cooperative agreements. In this latter role, the professor was responsible for bidding out and awarding project work in compliance with the university's procurement process. However, instead of soliciting bids from the Guam community, the professor produced fictitious bids in order to make the procurement process appear legitimate and awarded a total of 41 contracts to their own business and the former NRCS employee's business. The defendants fraudulently obtained over \$200,000 in project work. In total, the three defendants were sentenced to 16 months in prison, 36 months of supervised release, 12 months of probation, and 50 hours of community service. They also were fined \$24,000 for charges related to money laundering, conspiracy to restrain trade, and wire fraud involving Federally funded environmental work projects.

Future Work

At present, OIG is evaluating whether NIFA designed and implemented adequate internal controls to properly select Agriculture Food and Research Initiative (AFRI) grant recipients and to monitor AFRI projects' compliance with grant agreement terms and conditions, and fulfillment of their stated objectives. OIG is also assessing whether USDA Government purchase card transactions complied with laws and regulations. In addition, OIG will audit the FY 2022 financial statements of USDA and designated component agencies.

Conclusion

In closing, we would like to thank the Subcommittee for your continued interest in our work. Your support has enabled us to carry out our mission of strengthening USDA's programs and operations in support of the American public.

For FYs 2017–2021, OIG's appropriations totaled approximately \$492.7 million. During this period, the potential dollar impact of OIG's audits and investigations was \$4.3 billion, resulting in cost savings and recoveries of \$8.72 for every dollar invested. During this same period, OIG made 992 audit recommendations to improve USDA programs. Furthermore, OIG investigations resulted in 2,083 successful convictions in that same 5-year period.

We appreciate your support in continuing to provide the funding necessary to perform effective oversight and make recommendations to Congress and USDA decision-makers to improve program effectiveness.

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