

**AGRICULTURE, RURAL DEVELOPMENT, FOOD  
AND DRUG ADMINISTRATION, AND RELATED  
AGENCIES APPROPRIATIONS FOR 2024**

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THURSDAY, MARCH 9, 2023.

**U.S. DEPARTMENT OF AGRICULTURE, OFFICE OF  
INSPECTOR GENERAL**

**WITNESSES**

**PHYLLIS K. FONG, INSPECTOR GENERAL, USDA OFFICE OF INSPECTOR GENERAL**  
**STEVE RICKRODE, ACTING ASSISTANT INSPECTOR GENERAL FOR AUDIT, USDA OFFICE OF INSPECTOR GENERAL**  
**JENNY RONE, ASSISTANT INSPECTOR GENERAL FOR ANALYTICS AND INNOVATION, USDA OFFICE OF INSPECTOR GENERAL**  
**KEVIN M. TYRRELL, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, USDA OFFICE OF INSPECTOR GENERAL**

Mr. HARRIS. The meeting will come to order.

I want to welcome everyone to our first subcommittee hearing of the 118th Congress with the USDA's Inspector General. I am pleased to be joined today by the subcommittee's distinguished ranking member, Mr. Bishop, and other members on the subcommittee as we begin the fiscal year 2024 process, and I know more Members will be filtering in.

I want to welcome our witnesses today, Phyllis Fong, the Inspector General, who is accompanied by Steve Rickrode, Acting Assistant Inspector General for Audit, Jenny Rone, Assistant Inspector General for Analytics and Innovation, and Kevin Tyrrell, Assistant Inspector General for Investigations.

Ms. Rone, I understand you will be leaving at the end of the month to become executive director of the Pandemic Response Accountability Committee. I want to congratulate you on your new role and thank you for your service at the USDA OIG.

Ms. Fong, it is good to see you again, and I look forward to hearing your testimony today. We appreciate the crucial, independent oversight your agency performs over all USDA programs and operations.

Given the unprecedented increases in funding USDA has received over the last several years, this oversight is especially critical. Since the start of the pandemic, USDA has spent billions of dollars to expand programs and initiatives that have not always been authorized by Congress. Your agency serves as an important check over USDA actions and decisions.

OIG's work ensures that USDA is held accountable to Congress—and, most importantly, to the American taxpayers.

I appreciate the oversight work your agency has done regarding USDA's COVID funding, and I am sure this subcommittee will inquire about oversight plans for the funds provided in the Infrastructure Investment and Jobs Act and the Inflation Reduction Act later this morning.

These two laws provided over \$52 billion in additional dollars to USDA, and monitoring these funds is going to be critical to prevent fraud. I look forward to hearing more about your agency's oversight plans and needs to be able to effectively monitor these funds.

While I remain concerned about USDA spending, I have become increasingly concerned that the Department has been stretching its authorities beyond congressional authorization or intent, which makes your agency's work even more important to maintain program integrity throughout USDA.

Again, I appreciate you being with us and look forward to today's hearing.

I would also like to remind everyone that we will abide by the 5-minute rule for questions. Please make sure to push the talk button on you microphone before and after speaking.

I now turn to my colleague, Mr. Bishop, for his opening remarks.

Mr. BISHOP. Thank you very much, Dr. Harris.

And I would like to also welcome each of our witnesses and thank you for appearing before us.

As I stated in previous years, I have always been a big supporter of your office. You are largely unsung heroes on the battle against waste, fraud, and abuse. And I want to congratulate you for your diligence over the years and want to probably inquire about your work ongoing this year.

I have some concerns, and particularly, for example, in fiscal year 2022, your audit work identified \$388 million that could be put to better use, and the office's investigative work led to 240 convictions of individuals and entities that were engaged in criminal, civil, and administrative wrongdoing.

I can understand how important this work is to America. Our rural communities and agriculture industry affect the lives of every single American almost every single day.

And USDA's programs help ensure that we continue to produce the most abundant, the highest quality, the safest, and most economical food and fiber anywhere in the industrialized world—food for our families as well as materials for a wide range of American industries, from construction to medicine.

Your work ensures that the more than \$250 billion in annual appropriations that our committee and Congress entrust to USDA are used most effectively, including more than \$77 billion in pandemic response activities and \$8.3 billion in infrastructure investments, which will reshape our country and which will keep us at the cutting edge in the decades ahead.

Realizing what is at stake, Congress has to be sure to provide both oversight and the resources necessary for OIG to continue to do your job.

As a great Nation, we can accomplish much, but it makes that need for the OIG's services that much more important. I look forward to working with my colleagues to continue to support your ef-

forts, but I would also like to take the opportunity to ask about a few cases where oversight is obviously needed.

I want to ask you about two cases where APHIS failed to monitor funds to outside entities involving nearly \$150 million, and three cases where USDA hastily created programs but did not have proper controls over more than \$350 million in payments.

Thank you, and I yield back.

Mr. HARRIS. Thank you, Mr. Bishop.

I would like now to recognize Ms. Fong for her opening statement.

Ms. FONG. Thank you, Chairman Harris, Ranking Member Bishop, and all the distinguished members of this subcommittee. We really appreciate the opportunity to be here today and to be the leadoff hearing for this season's appropriations hearings.

And let me just start out by thanking the subcommittee for your support and your ongoing interest in our work. This has been a constant. Your support has been a constant through changes in leadership and administrations, and we look forward to working with each of you on matters of interest.

And we truly appreciate the funding increase that you gave us for fiscal year 2023. That will be put to good use in our oversight activities.

Over the past several years, all of us have weathered the coronavirus pandemic, and we have, in the IG's office, continued to provide oversight of USDA programs through that pandemic.

As you mentioned, our dedicated staff last year demonstrated flexibility and innovation. We produced 32 audit and inspection reports, reporting over \$487 million, based on our audit and investigation results.

And as we move forward in 2023, as both of you have indicated in your remarks as well, we find that we are challenged to provide effective oversight to the rapidly growing portfolio at the Department. As you all know, in the last 3 years alone, USDA received billions and billions of dollars for pandemic relief, infrastructure, and inflation reduction activities, in addition to the annual budget and appropriations.

With funding streams like these comes the need for oversight to ensure that programs are serving those for whom the assistance is intended and that any fraud is addressed quickly.

At the OIG, in our office, from our perspective, when these funding streams are enacted we must quickly analyze them. We must understand the programs that are affected. We must develop appropriate oversight approaches, engage the Department's managers proactively to make sure that they are thinking about internal controls. We have to handle hotline complaints if they come in. We certainly plan a range of audits and inspections to look at those program rollouts. And we must investigate any allegations of fraud that we receive.

These funding streams, as you can imagine, are at different stages of execution within the Department, and our activities concomitantly are at similar stages of planning and execution.

And of course we continue to be responsible in the IG's office for the regular portfolio of work that we do. Every year we have statutory mandates to perform financial statement audits, reviews of im-

proper payments, reviews of IT security. If there are turnover deaths in the Forest Service, we have a statutory mandate to look into that.

So we continue to handle that caseload and to provide a level of oversight to all of the Department's programs, agencies, and offices.

To handle this workload, we will need the increased resources proposed in the President's fiscal year 2024 budget request.

We are developing new approaches. We know that we have to work in a more agile way and use our resources as effectively as we can.

So we are in the process of developing new ways to plan our work, new analytics products, and a focus on timely reports to help you all out and help decision-makers.

As you know, in our written statement for the record we summarized many of the most recent reports that we have done, and we look forward to discussing them with you during this hearing.

So in closing, I want to thank you all for your continuing support. We know that the request for fiscal year 2024 for our office provides for an increase. And if we are able to obtain that increase, we will use those funds to provide oversight of the infrastructure and inflation reduction investments in several USDA agencies and programs, among other priorities.

So that concludes my remarks, and we would be pleased to engage in any questions that you might have.

[The information follows:]



**Statement by  
Phyllis K. Fong  
USDA Inspector General  
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 Harris, Ranking Member Bishop, and Members of the Subcommittee. Thank you for the opportunity to testify about the Office of Inspector General's (OIG) fiscal year (FY) 2022 oversight results and our plans for FY 2023. OIG's mission is to promote economy, efficiency, effectiveness, and integrity in the delivery of U.S. Department of Agriculture's (USDA) programs. We accomplish our mission through audits, investigations, inspections, data analytics, and reviews. Our work advances the value, safety and security, and integrity of USDA programs and operations.

Over the last 3 fiscal years (2020, 2021, 2022), there has been a substantial influx of USDA program and operational funds to address the coronavirus disease 2019 (COVID-19) response and recovery, and initiatives under the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA). In addition to USDA's more than \$250 billion in annual appropriations, the Department received approximately \$77.5 billion for pandemic response and recovery activities, over \$8.3 billion for infrastructure investments, and \$44 billion for inflation reduction activities. Over the same period, OIG's annual appropriation has averaged approximately \$101.4 million with critical incremental increases from the Subcommittee each year. OIG also received supplemental funding of \$3.2 million for oversight of COVID-19 response and recovery, and \$27.1 million to provide oversight specific to Forest Service (FS) programs funded in IIJA. We thank the Subcommittee for the significant increase in FY 2023 OIG appropriations and recognize that \$1.5 million is for oversight of USDA IIJA programs such as broadband loans and grants, watershed and flood prevention operations, and a new bioproduct pilot program using agricultural commodities.

Our work is grounded by our three mission goals articulated in our *Five-Year Strategic Mission and Diversity and Inclusion Plan—Fiscal Years 2020–2024*: Goal 1 - Strengthen USDA's ability to protect public health and safety and to secure agricultural and Department resources; Goal 2 - Strengthen

USDA's ability to deliver program assistance with integrity and effectiveness; and Goal 3 - Strengthen USDA's ability to achieve results-oriented performance. We use a risk-based approach to plan our oversight activities of the expansive USDA portfolio and prioritize our resources, within our budgetary authority. Our program risk assessments consider various data points including program funding levels, substantial increases in program funding, whether a program is new or is significantly changed, risk indicators identified in previous audits or investigations, and other information including Congressional interest. We also include 7-10 annual statutory audits, depending on the frequency required by law, in our planning. Our FY 2023 Annual Plan also includes an enhanced data-driven approach to FS programs funded within IJA due to the supplemental funding OIG received for IJA oversight.

In FY 2022, our oversight work resulted in monetary results totaling over \$487.4 million. We published 32 audit and inspection reports and made 115 recommendations to strengthen and improve USDA programs and operations. Our audit work during this period identified \$388.2 million in questioned costs and funds that could be put to better use. Our investigative work during the same period led to 240 convictions, with monetary results totaling approximately \$99.2 million. In addition, we issued 3 data analytics products and leveraged advanced analytics techniques in 54 of our audits and investigations.

My statement will highlight, by strategic goal, our FY 2022 achievements and our FY 2023 plans that cover USDA programs and operations associated with appropriated funding, COVID-19 funding, and initiatives under IJA and IRA.

#### **Strategic Goal 1—Safety, Security, and Public Health**

Within this strategic goal, OIG's oversight work focuses on security and management of the Department's information technology (IT) resources, efforts to ensure that the Department is effectively protecting consumers and the Nation's agricultural resources, and activities impacting animal and plant health and welfare. The following are highlighted FY 2022 achievements as well as FY 2023 plans within this goal:

- As required by the Federal Information Security Modernization Act, OIG conducted its FY 2022 review of USDA's ongoing efforts to improve its 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" to be 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 level of security. The Office of the

Chief Information Officer (OCIO) generally concurred with our recommendations, and we reached agreement on the planned corrective actions to address them.

- OIG conducted an audit of the Animal and Plant Health Inspection Service's (APHIS) Plant Pest and Disease Management and Disaster Prevention Program (PPDM). The program funds projects to strengthen APHIS' efforts to prevent, detect, and mitigate invasive plant pests and diseases. OIG determined that APHIS could not provide an accurate record of the total number of PPDM projects awarded in FYs 2018 and 2019 and their respective funding amounts. As a result, APHIS cannot provide reasonable assurance that it effectively monitored more than \$123.4 million in PPDM funding for FYs 2018 and 2019. We reached agreement on all four recommendations in the report.
- OIG initiated an investigation, based on allegations referred by the Food Safety and Inspection Service (FSIS), that a New York seafood importer smuggled various catfish products into the U.S. from prohibited countries. The Federal Meat Inspection Act requires inspection of fish of the order Siluriformes (including species commonly referred to as "catfish") by USDA's FSIS. This investigation revealed shipping containers with uninspected Siluriformes from prohibited countries hidden in incorrectly marked packages and not manifested on shipping documents. The site inspections conducted at the importer's warehouse revealed Siluriformes from two prohibited countries. Four principals of the seafood importer were sentenced for their roles in a smuggling conspiracy. One principal was sentenced to 36 months of probation and ordered to pay a \$25,000 fine. The other three principals were each sentenced to 24 months of probation and ordered to pay a \$5,000 fine. This was a joint investigation with the National Oceanic and Atmospheric Administration Fisheries, Office of Law Enforcement and the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE)/Homeland Security Information (HSI).
- An individual in California was sentenced to 16 months in prison and 24 months of supervised release for conspiring to violate the Animal Fighting Prohibitions of the Animal Welfare Act. The individual was also ordered to pay a \$25,000 fine for conspiring to sell, buy, possess, train, transport, deliver, and receive game fowl intended to be used in animal fighting ventures. The investigation revealed physical alterations and/or modifications performed on the game fowl, which were done to enhance their fighting abilities. Additional evidence was recovered, including cockfighting paraphernalia, live game fowl, medicines used to enhance the fighting abilities of the game fowl, various journals and ledgers, and approximately \$8,000 in cash. In total, OIG seized 367 game fowl roosters, while the remaining game fowl, including 334 hens, were donated to an animal sanctuary. This case was jointly

investigated with APHIS; Internal Revenue Service-Criminal Investigation; ICE/HSI; FS; and a California sheriff's office.

During FY 2023, we plan to complete work on security testing of a select USDA network, security over USDA mobile applications, and an inspection of APHIS Wildlife Services' role in administering the Mexican Wolf Recovery Program. We will also continue to investigate allegations of threats related to the safety and integrity of the U.S. food supply, employee safety, and animal cruelty.

#### **Strategic Goal 2—Integrity of Benefits**

Our oversight focus within this goal includes assessing internal controls and identifying risk indicators that support both OIG's and USDA's ability to detect and prevent program abuse and criminal activity. OIG conducts a wide range of activities specific to this goal related to grant and contract management, integrity of various benefit and entitlement programs that provide payments directly or indirectly to individuals and/or entities, and spending transparency. The following are highlighted FY 2022 achievements as well as FY 2023 plans within this goal:

- We completed an audit of the Food and Nutrition Service's (FNS) Supplemental Nutrition Assistance Program (SNAP) waiver process. Certain statutes and program regulations provide FNS with the authority to waive SNAP rules under specified circumstances. Our review found that the divisions responsible for issuing waivers did not consistently document policies and procedures, and did not meet Departmental recordkeeping requirements. According to FNS officials, this occurred because some waivers were too unique for standardized, documented policies and procedures to be effective, and procedures that were not formally documented were communicated to personnel through meetings or emails. As a result, there is reduced assurance that approved waivers meet regulatory and statutory requirements. FNS agreed with our recommendations and we reached agreement on both recommendations.
- We completed an inspection of COVID-19 The Emergency Food Assistance Program (TEFAP). We determined what TEFAP flexibilities FNS made available to the States during the pandemic and what FNS did to ensure States and Eligible Recipient Agencies (ERA) complied with administrative fund requirements. We concluded that State agencies made 107 requests to FNS for flexibilities to provide food to people in need during the pandemic. However, in 6 of 107 instances, State agencies did not request flexibilities in writing, as required by Federal regulation. For 14 of 107 requests, FNS regional office personnel did not ensure they provided written approval of the State agencies' requests prior to implementation, as directed by the FNS national office. Additionally, FNS approved a State agency's

request to implement an unallowable flexibility. Finally, we found that the management evaluation (ME) reviewers did not support their determinations of State agency and ERA compliance or non-compliance with Federal and FNS program requirements in their work papers. FNS national office personnel could not identify a specific reason why the ME reviewers did not adhere to the ME review guidance documentation requirements to support their determinations. FNS agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.

- USDA's Agricultural Marketing Service (AMS) administers programs that create domestic and international marketing opportunities for U.S. producers of food, fiber, and specialty crops. In response to the COVID-19 pandemic, AMS established the Farmers to Families Food Box Program to provide food to non-profits through regional and local distributors. In May 2020, AMS announced awards for the first round of purchases—totaling up to \$1.2 billion—for the period of performance May 15, 2020, through June 30, 2020 (Round 1). We found that AMS designed the solicitation for the Food Box Program according to the requirements of the Federal Acquisition Regulations and Departmental guidance. Additionally, we found that AMS substantially adhered to the funding allocation decisions described in the solicitation. Finally, while AMS established a panel to evaluate the Food Box Program proposals, we found that the agency did not always award Round 1 contracts in accordance with the specified requirements of the solicitation. AMS agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.
- To enhance spending transparency of significant USDA programs, we issued data analytics and visualization products related to COVID-19 response and recovery. These products combine various data sources and provide stakeholders with an interactive approach to examine program data and impact. The products included a COVID-19 spending dashboard as well as data stories covering the Farmers to Families Food Box Program and the Coronavirus Food Assistance Program.
- In July 2018 and May 2019, the Secretary of USDA announced a trade mitigation package of up to \$12 billion and \$16 billion, respectively, to assist producers impacted by increased tariffs. As part of the trade mitigation packages, the Farm Service Agency (FSA) administered the Market Facilitation Program (MFP), a direct payment, temporary assistance program for producers of covered agricultural commodities. We did not identify any issues regarding producer eligibility and certifications, except for issues with certified production and acreage amounts that affected payment accuracy. During our review of 100 randomly sampled producers who received MFP payments, we found that producer records did not always fully support the amounts claimed on producer applications. We also found

that, when performing a spot check of an MFP producer, an FSA county official did not accurately apply updated agency guidance on acceptable forms of production evidence. FSA agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.

- We audited the Agricultural Trade Promotion Program (ATP), which was a temporary, competitive grant program administered by the Foreign Agricultural Service (FAS) and designed to aid in the development of agricultural commodities in foreign markets by providing financial assistance to eligible organizations for market promotion activities. OIG found that FAS awarded \$300 million in ATP funding to applicants who may not have been the most meritorious based on the announced criteria and program regulations. Additionally, FAS did not maintain sufficient documentation about the reviews performed on applications and the selections made, which impaired our ability to fully evaluate those reviews and selections. The issues we identified in this audit were significant enough that we were unable to attest to the merits of the 59 ATP grants FAS awarded in FY 2019, totaling \$300 million. FAS agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.
- A recent audit evaluated the Department's activities related to program coordination and measurement of performance for assistance provided to beginning farmers and followed up on recommendations made in a prior report. Although the Department measured beginning farmer and rancher activities by tracking program funds expended, it did not establish outcome-based measures of performance. We also evaluated the effectiveness of the Department's activities related to program coordination and followed up on recommendations made in our prior audit report; we did not identify findings related to these aspects of our objectives. FSA agreed with our recommendation, and we reached agreement on the planned corrective action to address it.
- OIG initiated an investigation to determine if a market in Minnesota defrauded Government benefits programs, including SNAP and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). OIG determined that the storeowner and several employees exchanged SNAP and WIC benefits for cash, ineligible items, and store credit. Previously, the storeowner also fraudulently claimed U.S. Department of Labor (DOL) pandemic-related unemployment benefits while operating the store and redeeming SNAP and WIC benefits. The storeowner was sentenced to 30 months in prison and 36 months of supervised release for fraudulently obtaining benefits through multiple Government programs and was ordered to pay more than \$4 million in restitution and to forfeit more than \$38,000 in cash and proceeds seized during the investigation. This case was investigated jointly

with the Federal Bureau of Investigation, the DOL OIG, the Minnesota WIC Compliance Office, and the State of Minnesota Department of Human Services OIG.

- A case, jointly investigated with the General Services Administration OIG and Department of Defense's Criminal Investigative Service, resulted in a New Jersey company agreeing to pay more than \$7.6 million under a consent judgment in conjunction with its role in a contract fraud scheme. Additionally, the United States entered into a separate settlement agreement with two business owners and a second related business under which the first business owner agreed to pay \$120,000, the second business owner agreed to pay \$75,000, and the related company would pay \$180,000 to resolve claims alleging that they made, or caused to be made, false statements concerning the New Jersey company's status as a service-disabled, veteran-owned small business (SDVOSB). The business owners of a New Jersey company fraudulently represented a related company as an SDVOSB and used the status to obtain set-aside contracts from both USDA and the Defense Logistics Agency, the Department of Defense's combat support agency. The New Jersey company was awarded a total of nine contracts to provide protective clothing (aprons) to USDA's FSIS. These nine contracts were valued at approximately \$268,000. Overall, the owners defrauded the Federal Government by making false claims and obtaining contracts totaling more than \$16.5 million.
- OIG initiated an investigation, which revealed that a Minnesota producer submitted false statements to obtain loans from FSA and the Commodity Credit Corporation (CCC), converted collateral pledged to FSA and CCC, and committed bank fraud by submitting false statements to various financial institutions. The producer pled guilty to one count of conversion of CCC collateral and was sentenced to 12 months in prison and 36 months of supervised release. The producer was also ordered to pay \$435,517 in restitution and was permanently debarred from USDA farm programs. Additionally, subsequent to an agreement with the producer, all of the property and proceeds in which USDA had a security interest were forfeited through abandonment and auctioned.
- To assist the Department with implementation plans for IRA-funded programs, we issued analyses of the results of our prior work related to the National Resources Conservation Service (NRCS), FS, FSA, and Rural Development.

During FY 2023, we plan to complete work on the status of FAS' controls over the Market Access Program and the McGovern-Dole Food for Education Program funding. In terms of IJJA oversight, we plan to evaluate whether the review we are completing of the Rural Utility Service's Rural E-Connectivity Pilot Program—Award Process has implications for the control environment established for IJJA

broadband funding. In addition, we plan to publish IIA-related data products similar to those developed for COVID-19 initiatives. IRA oversight plans include completing work related to NRCS' Environmental Incentives Quality Program's cost estimation process. We also plan to evaluate whether the review we are completing of the Conservation Stewardship Program participant control of land has implications for the control environment established for IRA funding. Finally, we will continue to investigate allegations related to the integrity of USDA programs and are implementing a proactive strategy to investigate allegations of contract fraud and other instances of potential fraud related to IIA programs.

### **Strategic Goal 3—Management Improvement Initiatives**

In order to strengthen USDA's ability to achieve results-oriented performance, we focus our oversight activities on financial management, accountability, outreach activities, employee misconduct, and criminal misuse of agency IT resources. The following are highlighted FY 2022 oversight achievements as well as FY 2023 plans within this goal:

- OIG conducted an inspection to evaluate the Economic Research Service (ERS) Data Product Review Council's (DPRC) review process for data products to ensure their adherence to the six OMB quality standards. OIG found that ERS had not performed any DPRC reviews since July 2019. An ERS official stated that this occurred because ERS did not have the staff available to perform DPRC reviews when the agency experienced a loss of approximately 75 percent of its personnel after USDA announced that it would relocate ERS' daily operations to Kansas City, Missouri. Meanwhile, ERS did not have a compensating control for the lack of DPRC reviews. ERS agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.
- We found that USDA was not compliant with four of the six Payment Integrity and Information Act of 2019 (PIIA) requirements for FY 2021. Five of the 17 high-risk programs reported did not fully comply with PIIA requirements. We also found that USDA did not meet a fourth PIIA compliance requirement when the Department did not timely report the Risk Management Agency's Federal Crop Insurance Corporation as a high-risk program on [paymentaccuracy.gov](https://www.paymentaccuracy.gov). Finally, USDA reported improper payment information for FY 2021 that contained inaccuracies or that the Department could not support with appropriate documentation. We also questioned whether USDA complied with OMB criteria for improper payment reporting. USDA agencies agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.
- The purpose of the Geospatial Data Act (GDA) is to minimize duplication of geospatial activities across agencies and improve collaboration, reduce waste, codify previous executive actions, and give



Congress an oversight role for the Federal Government's multibillion-dollar investments in geospatial data. USDA is 1 of 16 covered agencies under the GDA. Although we recognize that USDA has made progress toward complying with certain aspects of the GDA, we found that it was not compliant with 6 of the 13 covered agency responsibilities. Additionally, we determined that the designated oversight entity, Enterprise Geospatial Management Office, did not have an accurate inventory of geospatial assets. Without consistency, USDA is not completely fulfilling its role of improving Federal management, coordination, and utilization of geospatial data, which can negatively impact mission-critical business requirements of the Department's infrastructure and emergency response capabilities nationwide. OCIO agreed with our recommendations, and we reached agreement on the planned corrective actions to address them.

- OIG initiated an investigation to determine whether an FSIS employee applied for and received Pennsylvania Pandemic Unemployment Assistance while being gainfully employed as an FSIS Consumer Safety Inspector. The investigation determined the FSIS employee falsely claimed to be unemployed due to the pandemic or a major disaster and received benefits based on this false claim for about 1 year. The FSIS employee reaffirmed this unemployment status on a weekly basis and ultimately received \$37,555 in fraudulently obtained unemployment benefits. The FSIS employee ultimately resigned, pled guilty to a criminal information charging the employee with wire fraud, was sentenced to 10 months in prison and 24 months of supervised release, and ordered to pay \$37,555 restitution. This was a joint investigation with DOL OIG.

During FY 2023, we plan to complete work on the National Institute of Food and Agriculture's Agriculture and Food Research Initiative, the Apiculture Insurance Program, and required statutory audits of USDA financial statements. We will continue to address allegations of senior management misconduct, whistleblower reprisal complaints, and criminal use of USDA assets. Finally, as part of our oversight of FS IJA activities, we will focus on: grants to at-risk communities to develop or revise community wildfire protection plans and to carry out eligible projects; hazardous fuels management activities; native vegetation restoration and environmental hazards on mined lands mitigation; aquatic-focused landscape scale restoration; legacy road and trail remediation; and wildland firefighter salaries and training. These program areas collectively represent about 46 percent of FS' IJA funding.

**Conclusion**

In closing, we would like to thank the Members of the Subcommittee for your continued interest in our work. Your support enables OIG to perform effective oversight to strengthen USDA's programs and operations for the benefit of all Americans.

For FYs 2018–2022, OIG's annual appropriations totaled approximately \$500.8 million. During this period, the potential dollar impact of OIG's audits and investigations was \$4.4 billion, resulting in cost savings and recoveries of about \$8.78 for every dollar invested. During this same period, OIG made 842 audit recommendations to improve USDA programs, and OIG investigations resulted in 1,805 successful convictions.

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

Mr. HARRIS. Thank you very much, Ms. Fong, for your presentation. And I will start.

Look, I would love to know what the President's budget request is for your operations.

Ms. FONG. OK.

Mr. HARRIS. Oh, but that is a month late. So we have been waiting a month for the President's budget. This is his third term. I can't figure out why it is a month late. But we have you here. And again, I don't know, maybe you know something I don't know. What is the President's budget request for your OIG office?

Ms. FONG. It is my understanding that the request has been transmitted to the Hill.

Mr. HARRIS. Certainly not in the sense of the overall budget, right? Because we don't have the overall budget. It is March 9. And, I don't know, when is it going to be released?

Ms. FONG. It's supposed to be today.

Mr. HARRIS. Oh, today. OK. And I think by law it was supposed to be due February 9? February? I think so.

Anyway. So, again, I would love to discuss with you what the administration thinks the OIG should be funded, but I don't have the information.

The Inflation Reduction Act did not provide any oversight funding, right? So it was \$44 billion to the Department with no augmentation to your staff. And I get that, because that is the same way you approached Ukraine funding, \$118 billion, no oversight. But that is not the way we should shepherd taxpayer dollars.

In your professional opinion, how much of that \$44 billion should actually have included a little bit of oversight funding? What percent of these kind of expenditures? Ballpark estimate. Do you think you need to provide proper oversight?

Ms. FONG. You ask a very good question. And when I look at the history of supplemental funding that has been given to the Department—disasters, American Recovery, IIJA, IRA, pandemic—we always believe, from our perspective, that there needs to be a level of funding for oversight provided for audits and investigations.

Now, that level can range, and it has ranged in the past, from nothing to point-zero-something percent. We are happy to work with whatever the committee deems appropriate, but we do believe that there is a need for oversight funds.

Mr. HARRIS. And, look, I couldn't agree with you more. I mean, we are stewards of—these are not our dollars. These are taxpayer dollars. We should never treat them as our dollars. We should treat them as the dollars that hardworking American men and women have gone, worked hard to earn, and have to turn over to a government that they think—although decreasingly so—is actually dealing with these responsibly.

So let me talk a little bit about the SNAP program, because that is one of the programs that received a whole lot of additional funding.

Just conceptually, what is the incentive for a State to actually properly manage those funds? I mean, is there a disincentive, if they don't qualify people adequately? Is there a disincentive for the States?

Ms. FONG. The delivery mechanism for SNAP is very complex, as you know. The Department provides the funding to the States who then implement the program through determining eligibility of recipients and managing and administering the program, and USDA sets the policies, provides guidance and direction.

Over the years, there have been different kinds of incentives and disincentives that FNS has had the authority to implement. As you may know, we have done a body of work looking at some of those prior incentives and disincentives, and found some challenges. FNS, I think, has responded to those initiatives. And I would be happy to talk in more detail about some of them.

Mr. HARRIS. I would appreciate that.

Would you agree that one of the major incentives we could actually provide to a State is a cost share? I know the cost share administrative costs, I get it. But actually cost share the program itself, 10 percent, 5 percent, some what is affectionately referred to as skin in the game?

States have no skin in the game right now, do they, financially, except for the administrative costs?

Ms. FONG. That is a very interesting thought. I don't think that we have studied that aspect of it. I would be interested in taking that back to my staff and mulling that over.

Mr. HARRIS. All right. Well, thank you very much.

And I won't take up all my 5 minutes. I will turn it to Mr. Bishop.

Mr. BISHOP. Thank you very much.

Ms. Fong, you have been quite busy over the last few years, and I want to call your attention to two reports on programs from 2018 that were stood up very fast in timelines. The programs were intended to alleviate the impact of increased tariffs on U.S. farm exports—the Agriculture Trade Promotion Program, ATP, and the Market Facilitation Program.

For ATP, you found that USDA awarded \$300 million to applicants who may not have been the most meritorious because it did not have proper controls over its grant programs and did not have sufficient documentation about the reviews performed on applications and the selections made.

Your report concluded, quote, “We are unable to attest to the merits of the 59 ATP grants USDA awarded in fiscal year 2019, totaling \$300 million.”

For MFP, you found that producer records did not always fully support the amounts claimed on producer applications, and you estimated that USDA overpaid an estimated 150,313 producers by more than \$57.2 million total. You had similar findings about the Food Box Program.

I am sure that there was great pressure on the agencies administering these programs to get that money out fast, but taxpayers also want their money handled prudently.

What tools do you have in your toolbox to get the agencies properly prepared to operate these programs, before mistakes are made like those that were obviously made in 2018 and 2019 when these programs were stood up?

Ms. FONG. Yeah. You pose an excellent question. And frequently when funding comes down for new initiatives to respond to crises

or difficult situations, as the trade tariff situation was, there is tremendous pressure from the industry and from the public to get relief out as soon as possible, and there is certainly a priority on that.

What tools we have in the IG's office—as you know, we do not run the programs ourselves. So our tools involve sitting down and communicating with program agencies to say in the past these are the aspects of your programs that we have looked at. We can offer you some insights based on what we know about your programs. We can offer you some thoughts about internal controls, things to look out for in grant programs and loan programs, to make sure that you are funding eligible recipients.

And then, of course, we have other tools to go in and do reviews at the end and look at whether the assistance really was paid out to people who were eligible and deserved it.

In the end, it is up to the program officials to take our advice and our work and to make those decisions on program delivery. And those are the tough decisions.

Mr. BISHOP. OK. You earlier this year—thank you for that, and we will go into that in a little bit more depth later on. But earlier you released a report on the 2018 and 2019 operation of the Plant Pest and Disease Management and Disaster Prevention Program under APHIS, and you found some serious problems: that APHIS couldn't provide an accurate total of the total number of awards it made and how much each received, couldn't provide reasonable assurance that it effectively monitored more than \$123 million in funding. A high risk grantee was identified by APHIS itself, but then the agency failed to do any additional oversight of the grantee. It had no means of assessing how successful the funding was in accomplishing APHIS' mission of protecting plants from disease and exotic pests.

In my long service on the subcommittee, I have heard example after example of agencies dropping the ball. Any thoughts on how we can get ahead of this?

Ms. FONG. And I think that is an excellent way to discuss one of the products that we can do, one of the tools that we have in our toolbox, which we can use where appropriate.

If we have done audit work and we have made recommendations and we understand that the agency says they accept our recommendations and they are going to implement it and they say they have completed action, we do have the ability and we have done, we have gone into the agency again a number of years later to just review whether or not that activity has, in fact, occurred and has been effective.

So there are ways for us to go back and to also do additional audit work if we determine it necessary.

Mr. BISHOP. I think my time has expired, Mr. Chairman, so I yield back the time that I don't have.

Mr. HARRIS. Thank you very much, Mr. Bishop.

Mr. Valadao.

Mr. VALADAO. Thank you, Chairman.

Inspector General Fong, I want to thank you and your colleagues for being here today and for your testimony. I appreciate your will-

ingness to come back and testify before this committee on its very first hearing of the 118th Congress.

Over the past few years, Federal agencies have received more funding than they can spend or know what to do with in a lot of cases. They have received funds related to the COVID pandemic totaling \$77.5 billion. An infrastructure bill provided more than \$8.3 billion and the so-called Inflation Reduction Act provided \$44 billion.

It is encouraging to learn from your testimony that through your office's work, through the audits and investigations, saw a potential dollar impact of \$4.4 billion through fiscal year 2018 through 2022.

Inspector General, can you expand on the cost savings recoveries you mentioned in your testimony? What happens to those recovered dollars? Are they being repurposed and spent?

Ms. FONG. That is an excellent question. And to answer that, I need to just explain a little bit about what those dollar recoveries represent.

So we do report dollar recoveries as results of both investigations and audits. On the investigation side, those usually are in the form of fines and restitution orders when a case has gone through prosecution and there is a judicial order implemented.

Those fines and restitution orders can go into the Treasury General Fund or they can come back to the agency, depending on the nature of the order.

On the audit side, many of our recommendations where we attach dollars to them, they can be dollars that can be recovered if there has been an inappropriate cost or a contract payment.

They can also be what you would call an avoidance, where if the agency takes our recommendation, improves its delivery, they can save money by not giving funds to people who don't deserve it, instead taking those moneys and making them available for people who are truly eligible.

So we call that funds to be put to better use. And those are viewed as dollars for us. So I think you get a sense of the kinds of things that we are reporting.

Mr. VALADAO. OK. Just the way it read, it sounded as if there were dollars coming back. So they are really not coming back, they are more just savings?

Ms. FONG. Some of them come back. Some of them don't.

Mr. VALADAO. All right. Well, so with what comes back, how are we making sure those dollars are spent responsibly? Is there any oversight on that front?

Ms. FONG. OK. I will take a crack at that.

Where we make specific recommendations to an agency, say if we think that there has been a contract overpayment or a grant that shouldn't have been made, our recommendations will frequently be to the agency to review that transaction, and if appropriate, pursue collection. So it then becomes the agency's responsibility to engage in debt collection if appropriate.

We don't normally track that ourselves. We could have further dialogue with your staff if you are interested in more on that.

Mr. VALADAO. I am. All right. Thank you.

And then, in your testimony you also state you will continue to investigate allegations of threats related to safety and integrity of our U.S. food supply.

Inspector General, this is critical. Our growers across the country, many of whom are located in the Central Valley, work really hard to ensure the safety and integrity of our food supply every day.

It is an unfortunate reality that there are threats to such a vital resource. As I have said many times before, food security, in my opinion, is national security.

Inspector General, please explain to the committee your plan to address and reduce these threats, and how will you hold certain stakeholders accountable?

Ms. FONG. Much of the work that we do on food safety and security in that sense comes to us as a result of allegations or complaints to our hotline where an individual may become aware of a situation where there has been contamination or some inappropriate activity at a food processing plant or at an agricultural location situation.

When we get those allegations, we do take them extremely seriously because contamination of the food supply is of the utmost importance to all of us, at which point our investigation staff will evaluate it, we will do whatever investigative work we need to do to nail down what happened, and if appropriate, we will take that to prosecution.

Mr. VALADAO. We do see occasionally—and I am almost out of time—but we do see occasionally where some of these threats push for stronger regulations, and we always wonder how legitimate those threats are. And obviously there is a huge cost to the industry and ultimately the consumer. I want to make sure that we are making appropriate decisions before we start to implement regulations that might not be necessary.

Appreciate your time.

And I yield back.

Mr. HARRIS. Thank you.

Ms. Underwood.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

And thank you to our witnesses for being here today.

I was incredibly disturbed by recent reporting from The New York Times and The Washington Post, which told the heart-wrenching stories of migrant children who work long hours in dangerous jobs, often in violation Federal law. And while these reports highlighted meat processing facilities, we know that child labor is disproportionately more common throughout the entire agricultural industry.

This industry is also disproportionately more dangerous. Young workers are almost eight times more likely to be injured when compared to all other industries combined.

And while DOL and HHS have a mandate to enforce our Nation's labor laws and to protect migrant children, as the agency with the greatest nexus to our food and agricultural sector, USDA has an essential role to play here as well.

Ms. Fong, at any point has the Office of the Inspector General looked at the role that USDA does or could play in combating the use of illegal child labor in the food and agricultural sector?

Ms. FONG. That is an excellent question. We have been watching and reading those articles, as you mentioned, and giving thought to that. And as you point out, the Department of Labor has the primary and original jurisdiction to deal with workplace infractions like that.

I do think you raise a good question as to exactly what the relationship is between USDA and food processors and DOL, and I think that bears some further thought on our part.

Ms. UNDERWOOD. OK. Well, we hope that you do continue to explore this, and when you come to a conclusion, report back to our committee.

The deeply troubling recent reporting is more proof that our food and agricultural industries are particularly at risk for illegal child labor.

Of any Federal agency, USDA probably has the most exposure to the operations of meat processing facilities. The child labor violations found by the Department of Labor at the end of last year occurred at facilities that are inspected by USDA's Food Safety and Inspection Service, and those violations are just the ones that we are aware of.

Are you aware of any instances in which FSIS staff have referred suspected instances of illegal child labor to the Department of Labor?

Ms. FONG. I am not personally aware. I think that is an excellent question that should be considered.

Ms. UNDERWOOD. Given the recent increase in reports and allegations of illegal child labor in the food and agricultural industry, will your office consider reexamining this issue and how it interplays with USDA operations? So particularly, as those inspectors are traveling to these sites, could this be part of the criteria, for example, something that might end up in a report and have a referral to your office?

Ms. FONG. I think you raise some very, very good questions, and we will definitely give some thought to that and get back to you on it.

Ms. UNDERWOOD. It is very true that our laws fall far short when it comes to protecting children, especially vulnerable migrant children, from exploitive labor practices. And it is far past time that Congress act to strengthen child labor laws, especially in the agricultural sector. However, addressing this issue will take an all-of-government approach that must involve USDA.

I hope we can work with your office, Ms. Fong, to better understand how USDA can partner with the other agencies to eliminate illegal child labor from our food systems.

Thank you, and I yield back.

Mr. HARRIS. Mrs. Hinson.

Mrs. HINSON. Well, thank you, Mr. Chairman and Ranking Member Bishop, for holding this hearing today.

Inspector General Fong, it is great to see you. Thank you so much for coming before our committee. I look forward to working with you to make sure you can fulfill your mission for oversight at



USDA to ensure that Iowa taxpayer dollars and American taxpayer dollars are being spent efficiently.

Throughout the past several years, as you referenced in your opening comments, you have received a lot of additional dollars to these departments.

So your work is especially vital to make sure that those dollars are being spent in accountable ways, minimizing the waste associated with that, and ensuring that the Department is effectively supporting and protecting American farmers and rural communities like those that I am proud to represent in northeast Iowa.

My first question today. USDA is given the important task, of course, of overseeing the purchase of agricultural land by foreign entities under the Agricultural Foreign Investment Disclosure Act requiring the disclosure of obviously foreign acquisition of American ag land. Failure to report that can result in penalties.

And recently an internal USDA memo revealed that the Department did not assess a single penalty for failure to report foreign acquisition of American agricultural land from 2015 to 2018, so we had that 3-year gap there, even as the number of foreign acquisitions increased substantially during that same period.

So that is really where my concern lies as we face these increased threats from foreign actors, specifically the CCP.

Is your office conducting oversight of the USDA's enforcement of these penalties?

Ms. FONG. We have become aware of the issue, as you mentioned, and are aware of the work of the Congress on this matter. And I think it is safe to say that we are reviewing the information that we have to determine what we can do to be of assistance.

I think that the Department is required to file these reports annually. We have not seen the most recent report yet, and we look forward to seeing that to see if there has been any change in approach since the last one.

Mrs. HINSON. I would just say, specifically, that is a huge concern as we are looking to take on this big threat that China faces. We have seen an increase—substantial increase—over the last 10 years of their intent to buy our land.

So that is something that we would be very interested in knowing what your approach is and what their response has been in making sure that they are actually assessing those penalties and reporting that information.

I want to move on another topic, cybersecurity, obviously very important to agriculture. And in recent years we have seen some cyber attacks that target critical infrastructure. They are severely aimed at disrupting our food supply and our energy supply chains as well.

In your testimony you noted your work with USDA to shore up security of information technology resources, but also noted that they are still operating with an ineffective level of security there.

So could you briefly describe some of the cybersecurity risks that you may be looking to tackle and who the biggest perpetrators are?

Ms. FONG. We do, as you mentioned, an annual assessment of the Department's cybersecurity profile, and the Department continues to be at a less than successful level there.

As you might know, as we do those assessments we go into the different agencies and take a look at their cybersecurity practices to see how vulnerable they might be. We have pointed out many, many recommendations over the years on things that need to be addressed.

There are times when we become aware of cyber incidents through the Department or otherwise, and we work very closely, with an all-of-government approach, to make sure that the Department is aware of the situation and addressing it.

Steve, I invite you to offer comments, if you would like.

Mr. RICKRODE. So, as Phyllis said, we do have a robust approach for assessing information security and technology at the Department.

One of the things I wanted to highlight was recently, in the past year or two, we also started doing engagements where we are looking at what is the level of sophistication needed for someone to come in and access certain parts of the Department, what is the level of sophistication an actor would need to do that. We don't look at it from a perspective of who it is, we look at it from what could you do to get access to a system or past the firewalls of USDA.

We have a contractor that is working with us, and we have a program now where during the year we periodically go to different parts of the Department and do an assessment to look in what would be the sophistication needed for a certain agency.

We have a body of work for that. Obviously, because of the nature of it, we don't talk about it publicly because we would be revealing how somebody could do that.

But we have started that work. It has been very productive. It has been received very well by the Office of the Chief Information Officer.

So we have modified our approach to act like somebody who is trying to come in. And depending on the agency and depending on different parts of the Department, we had varied results and varied successes. And we do dialogue routinely with the Chief Information Officer, sharing our concerns, sharing what we were able to do inside their platform.

We tie all of that also with the FISMA work we do in relation to control. Phyllis talked about controls. We cover the aspects of the controls that are needed based on guidelines, but then we also do the real hard testing of posing as somebody coming in trying to do something nefarious in the system.

Mrs. HINSON. Well, we are a little sensitive to data breaches here on Capitol Hill. So just please keep us informed if there is anything we need to be doing at the Appropriations Committee there as well.

Thank you very much. I yield back.

Mr. HARRIS. Thank you.

Ms. Lee.

Ms. LEE. Thank you very much, Mr. Chairman, and also to our Ranking Member, for putting on this very important hearing.

The rising insecurities in the areas of food, agriculture, and economic development is staggering and we must swiftly bring relief to all of our communities.

So I want to thank you, Inspector General Fong, for your testimony first of all, and for all of your colleagues for being here today.

Couple questions I want to ask you, one specifically relating to the State of California.

The glassy-winged sharpshooter pests, they are a serious threat to grapevines, almond trees, and other crops. And I am hearing concerns from our farmers that while the Glassy-Winged Sharpshooter Program has received increased funding, they are not seeing increased resources at the local level.

And of course without sufficient funding at the local level, the glassy-winged sharpshooter will proliferate to a point where control will be inhibited.

And I am wondering if you have assessed this issue and how can we ensure that farmers have the support that they need to address these pests that impact not only crop production, but the economic viability of our farmers and the entire State?

Ms. FONG. We are becoming aware of that situation. It sounds like a significant threat to agriculture in California.

At this time, we have not, ourselves, looked at that program. We do routinely look at what APHIS is doing in terms of delivering its overall portfolio. We don't have any current information on how that particular program is operating. Depending on how recently the funding was made available, it could be at various stages of execution.

But I think we would certainly take that question back and look further into it as we plan our work over the next year and a half.

Ms. LEE. Thanks very much. And would you either call myself or report back to the committee what you are finding? Because I am hearing from a lot of farmers that the resources just aren't there at the local level. So it could be caught up in the bureaucracy, but also it could be other reasons, and we would like to know so we can get the funding to them.

Secondly, Food is Medicine. Been working with Secretary Becerra and USDA Secretary Vilsack to scale Food is Medicine, which is the integration of food-based interventions into healthcare to address food and nutrition insecurity.

Given the growing demand of organic and regenerative foods, there needs to be a stepwise plan and investment to transition from conventional farming. And in this transition, we have got to make sure that BIPOC farmers and distributors across the supply chain are not left behind and ensure that the sourcing and supply chain for organic and regenerative regional, local, and hyper-local sourcing is there.

So your assessment at USDA, I am curious about the programs that account for nonmonetary benefits, building equitable and regional organic and regenerative agriculture to supply the demand for higher quality Food is Medicine in healthcare—and I am talking about the nonmonetary benefits—and the assessment of USDA programs to work to ensure that we are not leaving the smaller local and regional BIPOC-led organizations behind.

Because this is a new frontier. And we have been working on this for many years, and we finally are able to look at some pilot projects now, which of course reduce the incidences of diseases, such as diabetes.

So this is a big deal, and I would like to find out how we are assessing the outcomes of this.

Ms. FONG. That is a very interesting question. And looking at it from the perspective that we bring to the table at the IG's office, we have done quite a bit of work in the organics program to make sure that that program is running effectively and the money is really going to truly organic producers as opposed to producers who say they are organic, but they are doing conventional agriculture.

We have also done a body of work looking at partnership, public and private partnerships, outreach, and reaching out to new and BIPOC and other kinds of farmers and ranchers. I don't think that we have necessarily melded those two portfolios of work together.

So I think you raise a really interesting question. We have done a lot of work in both of those pots. So I will take your thoughts back as we engage in our planning process to see if there is any way that we can meld those approaches.

Ms. LEE OF CALIFORNIA. Thank you very much. This probably is cutting edge because we will have nonmonetary contributions and benefits, and so we have to have a way of assessing that.

So thank you very much. Look forward to hearing from you. Thank you.

Mr. HARRIS. Thank you.

Mr. Cline.

Mr. CLINE. Thank you, Mr. Chairman.

Thanks to our witnesses for being here.

For Ms. Fong. The OIG recently conducted an audit of SNAP waivers. I want to go back to SNAP. You found that the divisions responsible for issuing waivers did not consistently document policies and procedures and did not meet departmental record keeping requirements.

According to FNS officials, this occurred because some waivers were too unique for standardized documented policies and procedures to be effective, and procedures that were not formally documented were communicated to personnel through meetings or emails.

Did the OIG's recommendations address these concerns? And are you recommending that FNS still consider unique waivers in light of this? Or will you be able to properly document them?

Ms. FONG. The topic of SNAP waivers is very complex, as the program is. And we recognize that FNS has the authority to issue waivers where appropriate, where it determines that there is a need for a waiver, if the program delivery situation is such that the regular approach is just not going to be effective.

So in looking at how those waivers are implemented, we have wanted to see if the agency has a good way to make those decisions, to make sure those decisions are documented and supported, and that they are made consistently so that the States know what to expect.

And I think that was the focus of our report. Basically, we found that, yes, FNS has the authority to do these waivers and that the States have the right to request them as appropriate.

But we really think, in order to make sure that these waivers are being effectively and appropriately and legally issued, that FNS really needs to tighten up its documentation and procedures. And I believe FNS agreed to our recommendations.

Mr. CLINE. Thank you.

The USDA is also currently in the middle of a new program put in place during the pandemic, a pilot program that allows people receiving SNAP benefits to purchase groceries online and then have them delivered to their cars when they pull up in front of the grocery store. Virginia has 18 retailers that currently participate in this pilot program. More recently the USDA started to allow online purchases to be made without a signature or a photo ID.

Do you think that this type of verification is important? And are there concerns within OIG with this change?

Ms. FONG. I will offer some introductory comments.

And, Steve, you can comment if you wish.

I am not familiar with that particular aspect of the program. I know we did do a review of it, as you mentioned, and we were very concerned about some of the privacy aspects of it to protect the personal information of participants in the program. I don't remember us looking at that particular aspect, though.

Steve, you might have more information.

Mr. RICKRODE. So I would add, balancing the privacy concerns versus my professional concerns as an auditor, obviously, I want to make sure that I see identification that you are meeting the requirements of whatever it is.

So I think there is a balance that is there that FNS has in regards to having a social conscience as well as delivering program benefits.

We have done work before with FNS that deals with—what we are talking about is kind of like self-certification or no certification. We have done work in the past with FNS. We have provided recommendations that talk about the certification process.

So professionally, yes, me as a professional auditor, I would like to see some type of identification. But I also recognize that there is also the privacy aspect of it. And that is a difficult balance that the agency has to balance.

That would be my personal and professional comments.

Mr. CLINE. But you don't think that as people take advantage of the SNAP program, that some ceding of that privacy concern needs to take place? I mean, you are participating in a government program. I would think that out of respect for the taxpayers that that verification takes precedence.

Mr. RICKRODE. I would say yes. I think there is a need for more of that type of information and disclosure.

I would also say I think there is a great opportunity here for FNS to, in regards to outreach, share elements of the program and to share that there should be some expectation of who is receiving benefits.

Again, I think it is that balance of privacy versus program delivery. And, again, like I said before, me professionally, I would like to see some type identification to receive those type of benefits.

Mr. CLINE. Thank you.

Mr. HARRIS. Thank you very much.

Mr. Newhouse.

Mr. NEWHOUSE. Thank you, Mr. Chairman.

I want to thank Ms. Fong and all of the witnesses and all of your support staff behind you here for being with us today. I very much appreciate your important work. Certainly things like congress-

sional intent and efficient use of taxpayer dollars is one of the most important tasks that all of us have. So thank you for your work in that area.

Reading through the testimony and your verbal testimony as well, I have got similar concerns to Mr. Bishop's about the APHIS program.

And let me just preface by I truly respect the work that is done at APHIS, but I have got to say that your report came as a little bit of a surprise, that APHIS apparently has little or no controls on the critical work that they are doing, specifically with the Plant Pest and Disease Management and Disaster Program.

In my area in central Washington State, my neighbors, growers, huge challenges with pests, with diseases. And I can tell you, I am a farmer myself, it is a constant battle to keep up with. Sometimes I feel like the little Dutch boy with his thumb in the dike. And so we depend on that work.

So a little bit about—questions about your findings and the corrections that APHIS is making, and I am glad to see that. But do you know or does APHIS know if there were any critical projects that I guess you could say fell through the cracks throughout the last few years? And are you confident that with the new systems in place, that APHIS will no longer have these problems?

And, Ms. Fong, you touched on this. But in general—and this is, I think, very critical—what does follow-up look like? After you make your recommendations, how can you and how can we be confident that action is taken, corrections are made, and then we can move on as we intended?

Ms. FONG. I think that is an excellent point, that follow-up is a responsibility that belongs to all of us. Certainly we in the IG's office have a responsibility to make sure that our recommendations—that we get a response to them, that if the agency agrees to follow our recommendations that they take that to final action. And then once that is accomplished, then for us to go in and reassess to see in future work whether or not that has been effective.

Mr. NEWHOUSE. So you do go back and see?

Ms. FONG. We can, and we do.

Mr. NEWHOUSE. OK.

Ms. FONG. But not in every case because of resource priorities.

But similarly, and I think you raise a very good point, it is the responsibility of the Department program managers and policy officials as well to, as they run the programs, to say: Hey, what did the IG find? Are we effectively implementing it? Have we really dealt with the issues? Are there better ways to deliver the programs?

And, similarly, the committee in your jurisdiction has the ability to ask the program managers the same questions: What are you doing with the IG's recommendations? What are you doing to improve the programs is really the right question, because we may not always make the most apropos recommendation. There may be other things that the program people say: Hey, we could really accomplish this but in a different and better way. Which is always a good result.

Mr. NEWHOUSE. So your confidence level is high then that they will no longer be having these problems?

Ms. FONG. I think it is trust, but verify.

Mr. NEWHOUSE. OK. Any critical projects you think fell through the cracks?

Ms. FONG. Do you have any comments, Steve?

Mr. RICKRODE. The comments I would make was it would be hard for us to determine if there were critical projects that fell through the cracks because, as we said in our report, we can't get a database of all of the work that was done. And for a period of time, we worked with APHIS to get that database.

We also worked with them to reconcile—and just for some context, APHIS has these projects in different parts of APHIS, and they are sitting in various disparate systems. They are not in one system.

So you go through the process of compiling all that into one database. Then that is the first step. The first step is you have to reconcile it, because sometimes you have various reasons why reconciliations have to happen.

We tried to do that work with APHIS and along with APHIS for a period of time and got to a point where we made a determination that was just not going to happen.

So with that context, I think APHIS needs time to—because we just recently issued this report—they need time to step back, identify where all those sources are, and then get that information into one location and do the reconciliations that are needed. During that process, then there could be the determination if things fell through the cracks.

From an auditor's perspective, we can't do that work until we know what all was actually to be in the database. So we weren't able to do that work. That is why we have what we technically call a scope limitation. We couldn't complete some of our audit work.

So I think from a—I agree with Phyllis—from a verification—and I know in speaking with APHIS, we did reach a management decision on all of our recommendations. We had multiple recommendations.

So APHIS will go through a process where they provide information to the Office of CFO to verify they do the recommendations. And I know this is one that my staff and us as OIG are definitely waiting for that time to happen so we can come back and look, because we planned to do work and test those projects. We couldn't do it.

So we still want to do that work, but to do that, we have to have a reconciled database that has all of those projects. So I can't tell you if things fell through the cracks because I don't have a database.

Mr. NEWHOUSE. Stay tuned.

Mr. RICKRODE. Stay tuned. That is a good way to say it.

Mr. NEWHOUSE. OK. Well, thank you very much. Again, thanks for your work.

Mr. HARRIS. Thank you very much.

Mr. Franklin.

Mr. FRANKLIN. Thank you, Mr. Chairman.

Inspector General Fong, thank you very much for you and your staff, for your team being here today with us. I am a new member to the committee and have the privilege to represent a Florida dis-

trict that we think now may be the largest ag district east of the Mississippi. So a lot of your work is vital to my constituents and appreciate all of your hard efforts there.

A specific question, and a lot of my others have already touched on. But first a more specific one that is near and dear and timely for us.

In years past, after natural disasters USDA has worked with State governments to set up block grant programs that ensure appropriated disaster relief money gets in the hands of producers as quickly as possible. My district, Florida 18, was recently devastated by hurricanes Ian and Nicole back to back.

Do you believe that USDA is able to effectively collaborate with States like mine in initiating block grant programs that, at least from our experience in the past, seem to have little to no waste or fraud? And then can you speak to their successes in the past?

Ms. FONG. Yeah. That is a very good question, and it brings to mind a project that we did a couple of years ago in Florida, the Florida citrus block grant program, as a result of the 2017 hurricanes. And in that instance, the FSA, the Farm Service Agency, successfully partnered with Florida to deliver assistance to citrus farmers.

Now, when we went in and took a look we found that there were some challenges. But overall the program was effective. We did point out a number of payments that should not have been made to people who were not eligible, and there was a duplicate payment.

But that being said, the recommendations we made were to the Department to work with Florida to find out what happened and to take appropriate action.

So I think that is an example with your own State of where that kind of block grant program can work.

Mr. FRANKLIN. Well, thank you. And we are in the process now trying to get bill language through to allow money that was appropriated last year to be able to be released for that, because our citrus growers are crying out for it.

My other question—and this is, I apologize in advance, this is a “new guy” question from the end of the lectern when you get a lot of questions, others that have been asked—but I am just curious from a very macro level, looking through your background and your history, this is not a political question at all, I promise you. But you have had the opportunity to serve in a number of administrations, both Republican, both Democrat, you have served under a number of different Secretaries, a lot of career workforce in USDA.

So you could pretty much say, I would think, that you have seen it all. Probably from your perspective there is nothing new under the sun, maybe different variations of things that keep coming around again.

But I am curious—and this is not throwing anything at—any shade at Secretary Vilsack, it could be any Secretary—but if you were to find yourself suddenly in the role as USDA Secretary, knowing what you know over all the years, and you had to put together a hundred-day plan to create the most efficient, effective Department as possible, from what you know, where would your first priorities lie?



Ms. FONG. Well, I will just start out by saying I don't think I have seen it all. I find that I am constantly in a learning mode. And I can't imagine being the Secretary of Agriculture because that is an incredible portfolio from a policy standpoint.

What I would say to address your comments, just based on my own background and experience, which is coming from what you would call the back office operation side of the Department, is that I would personally want to make sure that the Department's operations are as efficient and effective as they possibly can be.

And I am talking about things like financial management, cybersecurity, program delivery, measuring program delivery and how effectively the programs are achieving congressional intent, and strategic planning.

That kind of focus is what I would be wanting to spend my time on. And then that would be overlaid with all of the challenges that we see every day, as you know, with responding to the situations—the pandemic, infrastructure initiatives, climate change, equity—all of the big policy issues of the day as they intersect. That is where the challenge and the fun can be.

Mr. FRANKLIN. All right. Thanks, Mr. Chairman. I yield back.

Mr. HARRIS. Ms. Letlow.

Ms. LETLOW. Thank you so much, Inspector General, and for your incredible staff and all that you do for communities like mine.

In Louisiana, I represent the Fifth District. I would argue it is one of the largest agriculture districts on the west side of the Mississippi. But, yeah, it is an honor to do so. And they rely so heavily on USDA programs. As you know, we have a lot of disasters in Louisiana as well.

And I read through your written testimony, and there is one thing I noticed: I see no mention of conducting oversight for USDA disaster relief dollars. The fiscal year 2023 omnibus provided \$3.8 billion in disaster relief for producers who suffered losses in 2022 and \$10 billion for 2020 and 2021.

Louisiana's Fifth District was one of the most affected disaster areas and our communities are relying on this funding so they get back on their feet and be able to provide food for America's families.

However, I repeatedly hear from my producers across my district who believe their losses are covered, and when reading the legislative text they are. Still, when the USDA releases its disaster program information, it does not include the covered losses provided in the law.

So what role does the OIG play in ensuring congressionally appropriated disaster relief actually makes it to those constituents they are meant to serve?

Ms. FONG. That is a very interesting question. [Laughter.]

We have over the years. And we were there when Katrina happened—

Ms. LETLOW. Sure.

Ms. FONG [continuing]. And all of that assistance was rolled out in providing oversight. And, of course, with the 2017 hurricanes, and Sandy, and all of the disasters that have occurred over the last 10 to 20 years.

We have a body of work in disaster oversight in the many programs that USDA offers. I think right now we are assessing the funding that was recently appropriated to really understand which programs are receiving the funding and how they plan to allocate that. We have not started to look at that yet.

Ms. LETLOW. OK.

Ms. FONG. But I will definitely take that back as we plan our upcoming work.

Ms. LETLOW. So it is the OIG's responsibility for oversight?

Ms. FONG. To oversee, yes.

Ms. LETLOW. OK. Good. I look forward to that. OK.

And my follow-up is, when I travel through the district one of the most common issues of my constituents is the access to high-speed internet. The Infrastructure Investment and Jobs Act provided \$2 billion for USDA broadband programs. This included \$1.9 billion for the ReConnect grants and loans and \$74 million for rural broadband program loans. That is \$2 billion from the IIJA alone. Nearly an additional \$1 billion has been provided for previous appropriations and legislations for telecom programs.

So despite this record level of spending for various broadband initiatives, I still have concerns that funding isn't prioritized to support communities with zero connectivity, many communities in my district, as opposed to those who already have it.

So, for example, in fiscal year 2023, this subcommittee provided an increase in funding of \$1.5 million for oversight of USDA IIJA programs, such as broadband loans and grants, Watershed and Flood Prevention Operations, and a new Bioproduct Pilot Program using agriculture commodities.

So do you believe the OIG's current funding level is adequate to properly conduct oversight over the billions of broadband dollars intended to support people and communities living in districts such as mine?

Ms. FONG. We would agree with you that the broadband programs are a priority for all of us. And from an oversight perspective, we see the need to provide oversight of that funding. We have done work in it over the years and are aware of the challenges that RUS faces in delivering those programs to make sure they hit the people who need it most.

We currently have a review going on of ReConnect. I think that report should be issued in the next couple of months.

Ms. LETLOW. Great.

Ms. FONG. And we will make sure that you and the committee get that report.

We will also take what we learn from that, because we are looking at the funding and how it is being distributed to see what lessons we can learn to apply to the IIJA programs.

But rest assured, we are keeping our eye on broadband.

Ms. LETLOW. Great. Is there any effort to prioritize those with zero connectivity?

Ms. FONG. Steve, do you have any comments on that?

Mr. RICKRODE. I would say connectivity is obviously a prioritization within RUS. There are criteria for connectivity. It comes down to a lot of definitions.

So I would say yes, as governance, there is a priority for those who have no connection at all. But then you also have people who have poor connection, no connection, and all of those pieces.

So, yes, RUS does have a priority for that, but it is also inside all of the other buckets of their prioritization. Obviously in a program there are eligibility requirements.

But, yes, there is definitely a prioritization for RUS for those without connection.

Ms. LETLOW. Thank you. I have run out of time. I yield back.

Mr. HARRIS. Thank you very much.

And we have time for a second round of questions. So I will go ahead and start.

Let me just say up front, just commenting on Mr. Cline's testimony, I would hope that most people would agree that one effective tool against fraud in the SNAP program would be a photo ID. I mean, come on. I mean, nobody questions us getting a photo ID for a driver's license where we actually pay money to the government and pay taxes when we drive our car. I don't know why anybody would question the need for a photo ID when you are actually getting something from the government. So I hope we can get past that at some point.

Ms. Fong, with regards to the budget, I understand the process works, you probably had to submit a request to the Department for what you wanted, right, in the President's budget? Was your homework in on time?

Ms. FONG. I think it was.

Mr. HARRIS. OK. Knowing you, I imagine it was. It was probably a little early.

But when you talk about your costs, what are personnel versus nonpersonnel costs?

Ms. FONG. Yeah. Within our budget, personnel is the vast majority. It is about 78, 79 percent of our budget.

Mr. HARRIS. Seventy-eight percent. So if you got a \$10 million bump, that means you would go out and you would spend another \$8 million or so in personnel.

How fast can you hire that? I mean, look, we are in a tight job market. Can you ramp up to conduct effective investigations?

Ms. FONG. Yeah, that would be a challenge. We do have a number of personnel tools that we could use. We would look at temporary hires as appropriate. We can also consider the use of contractor support in the meantime.

We would probably cobble together an approach short-term, mid-term, and long-term, which is actually what we are doing with our IIJA situation where we received an appropriation for Forest Service oversight from another subcommittee to look at Forest Service programs. And we are looking at different ways to ramp up our hiring.

But you are right, it is not something you can do overnight.

Mr. HARRIS. Right. And that usually—whenever a whole bunch of resources are put somewhere it sometimes becomes a challenge to actually spend all those resources.

And that is why the OIG office is so important when we backed up the dump truck of money in the last few years and poured it

out. We need oversight and I appreciate the oversight that you have done.

I wanted to comment on the Commodity Credit Corporation, but this is going to be a squabble between us and the Secretary. I mean, the Secretary, I think, is using it for unauthorized programs by Congress. I think he is using it as a slush fund.

But I don't think you get involved in that. We may come back and ask you about the Partnerships for Climate-Smart Commodities. Whether or not you plan to look at these 141 pilot projects that were awarded—again, because it wasn't an authorized program by Congress. I don't know what they are doing over there. But hopefully you would provide some oversight on that.

There was one program I did want to ask you about. The USDA awarded approximately \$670 million as part of the COVID supplement plan to 14 nonprofit organizations and one Tribal entity under the Farm and Food Workers Relief Grant Program.

My understanding is that the United Food and Commercial Workers Charity Foundation, a union charity foundation, received over \$141 million. But there were certain instances, when non-union workers went to sign up for the payment because they were one of the entities that distributed payments, union representatives were on hand to recruit workers to sign union authorization cards.

That seems like using Federal taxpayer dollars as bait to conduct a union-organizing activity, which is clearly in violation of the law. Clearly in violation of the law.

Are you aware of this happening? Are you undertaking any investigation of this?

Ms. FONG. No. I personally am not aware of the situation. I recognize that the program is there. It exists. It is there to help workers defray the costs of COVID equipment.

That is an interesting wrinkle. And it may be that perhaps our staffs should get together and just have a conversation about that.

Mr. HARRIS. So you would agree that the purpose of the program is not to unionize farm workers?

Ms. FONG. My understanding is it is to provide COVID relief payments.

Mr. HARRIS. That was my understanding as well.

I am just going to follow up briefly on the nutrition spending, because—because your testimony is, for instance, that FNS waivers were not properly documented.

Again, give me an idea. I mean, is this because States really don't have an incentive to conduct this program with regard to American taxpayer dollars?

Ms. FONG. I am not sure that our work would conclude that.

Mr. HARRIS. OK. I get where you are going. But I am very concerned that we are—that the States—and, again, I worked in a State legislature before. We were always happy when the Federal Government came up with a program where 100 percent was paid for by the Federal Government. Because that was money coming into the State. We actually encouraged the most to come in as possible. And to me, that encourages fraud and abuse. But, anyway, that is just my editorial comment.

Mr. Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman.

With respect to SNAP and the emergency pandemic relief that all of the States seemed to have had a great need for, we were in the throes of an emergency. So it is somewhat understandable that they didn't quite have time to really organize it in order to get the help out in that emergency.

But we have to depend on you to make the recommendations and to identify problems. And hopefully, with this committee and Congress, we can get it right going forward.

I want to go back to the area that Mr. Newhouse and I were exploring earlier.

Last year, you released a report on the Cattle Health Disease Incident Response Program of APHIS, which is a program that, as its name suggests, that is devoted entirely to health issues involving the \$106 billion cattle industry in the United States. It annually receives over \$100 million in discretionary funds from this subcommittee.

The report found many basic problems. One, it did not track cooperative funding agreements, so it had no assurance that the funds were used properly. It identified problems with its animal traceability program but did not manage those risks. It did not use appraisers to determine the compensation for the cattle that was destroyed due to disease. And it lacked documentation for many of the payments that it made.

APHIS agreed with each of your nine findings, and that is good. But is there a point person in each agency who is responsible for ensuring that the agreed-upon decisions are actually implemented?

Ms. FONG. I think our position would be that it is the head of that agency, the administrator, who is ultimately responsible for that agency's implementation of actions.

Mr. BISHOP. So we need to hold the agency heads accountable, is what you are suggesting, if we want to assure some accountability?

Ms. FONG. That is the action official.

Mr. BISHOP. OK. Now, virtually every year since I have been on the subcommittee we get into disagreements over the then-current administration's report card on improper payments. It isn't a particularly valuable argument because I don't think any of us knows the ins and outs of what an improper payment is.

As an example, improper payments can be too high or too low, such as a SNAP beneficiary not getting what he or she is eligible for.

Let me suggest we set aside that annual fight, and let me ask you to look at the broader picture over time.

Over the years, are agencies getting better or worse at dealing with this issue of improper payments?

Ms. FONG. Well, that is a really good question. And I like to look at what the Department reports every year to get a sense for the trends. And what I think we are seeing is that, on a very micro level, the Department is still not in full compliance with the Improper Payment Act requirements. So that is at a very micro level.

We are also seeing, as we go into different programs, that there are instances of improper payments being made in various programs, and that can vary from year to year.

I am also keeping an eye on the overall improper payment rate that the Department reports. And we saw the overall rate increasing for a number of years. Then it came down significantly in 2021. I understand it is starting to go back up again in 2022.

I am not really sure what is driving it because each year different programs' rates vary. So one year it could be—this agency, with its programs, the rates are going up. The next year, their rates could come down, but another agency could go up. So there is fluctuation.

We are also keeping an eye on the, in particular, the nutrition programs, because it has been several years since the nutrition—the SNAP program, especially, has reported an improper payment rate. And we want to just watch that to see where that is going.

So those are the comments that we can offer at this point.

Mr. BISHOP. So you haven't seen a trend in terms of the SNAP program with improper payments, or you just haven't had an opportunity to look into it?

Ms. FONG. Yeah, there has not been—SNAP has not reported an improper payment rate for a few years because they need to get the methodology down. We hope that we can see a rate reported shortly, in some future year, so that we can start tracking how that is going.

Mr. BISHOP. Thank you. My time has more than expired, and I yield it back.

Mr. HARRIS. Thank you, Mr. Bishop.

Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chair. I am glad we are here kicking off the Federal Government funding process today, and the USDA is a great place to start.

So many American families rely on the programs provided by the Department. From farmers to single mothers raising her two kids, these programs matter.

Back home in Broward County, where I am from, we have 150,000 households that use USDA's Supplemental Nutrition Assistance Program.

Mr. Chair, in your home State of Maryland, you have 772,700 Maryland residents, or 13 percent of the State population, that are on SNAP. These are popular programs, and they are good investments for Congress, yet Republicans demand that we cut funding levels.

Groceries are 11 percent more expensive than they were a year ago, and your solution is to cut funding for nutrition assistance? It is inexplicable.

This attempt to save roughly \$146 billion in discretionary spending would seem more sincere had Republicans not just torn a huge hole in the budget by handing huge tax cuts to billionaires. In fact, if you add up the tax cuts from the last three Republican tax reforms—and you will need a big calculator to do this math—Republicans added more than \$4 trillion to our Nation's debt for tax breaks that benefit just the top 1 percent, and that was just made even more clear in our presentation from CBO yesterday. Yet now we are lectured on fiscal responsibility.

Your budget shows your true values. And it is clear that, while Democrats put people over politics, Republicans value the wealthiest 1 percent.

But putting that aside, I want to talk specifically about citrus. For more than a century, Florida has been a leading citrus-producing State, with more than 500,000 acres of citrus groves producing 70 percent of the Nation's orange juice.

Not only are citrus fruits delicious—something I think we can all agree on here, even if we can't agree on everything—but they are also rich in vitamins and minerals, making them a vital part of a healthy diet.

The citrus industry is also essential for our State's economy, contributing \$6.76 billion to Florida's economy in 2020 and supporting over 45,000 jobs.

Unfortunately, the industry faces significant challenges. Citrus greening disease has decimated citrus trees across Florida, resulting in significant crop losses and reducing yields, forcing it to invest in new technologies and research to combat this devastating disease.

Despite these challenges, the citrus industry remains resilient and continues to innovate to ensure its survival. Growers are adopting new production techniques, investing in research, and working together to fight citrus greening.

In recent years, the Farm Service Agency has provided relief funding to the citrus industry through the Florida Citrus Block Grant.

My question is, in 2021 you released a report reviewing the Florida Citrus Block Grant program, correct?

Ms. FONG. That is correct.

Ms. WASSERMAN SCHULTZ. And can you share with us what your overall conclusions were in that report?

Ms. FONG. Yes. We found that overall the program was a good partnership between the Department and Florida, but that there were some improper payments made to producers who were not eligible or who had not complied with some of the requirements, and there was duplicate payment.

So we asked the Department to go back and work with Florida to fix those issues.

Ms. WASSERMAN SCHULTZ. Thank you. So it sounds like those were more minor, run-of-the-mill things than egregious problems, typical of programs like that.

But the block grant provided industry-saving money and was implemented well generally by the agencies in the State of Florida, correct?

Ms. FONG. Yes.

Ms. WASSERMAN SCHULTZ. Unfortunately, we still need that block grant. Congress appropriated \$3.7 billion in aid for agricultural losses due to Hurricane Ian, but the citrus industry isn't eligible for that funding, Mr. Chairman.

My colleague Representative Scott Franklin and I introduced H.R. 662, the Block Grant Assistance Act, to fix this and save our industry vital to the State of Florida and our economy.

We all hopefully love Florida orange juice. I am not seeing any Californians. Oh, I am sorry. I am sitting next to one. They produce

good oranges too, but they are eating oranges, and ours are juicing oranges.

And so we want to make sure that the health of the citrus industry remains vital from the Pacific to the Atlantic, and I urge my colleagues to join us in this effort.

Thank you so much. I yield back the balance of my time.

Mr. HARRIS. Thank you.

Mr. Cline.

Mr. CLINE. Well, at least she ended talking about something she was working on that was bipartisan because, boy, howdy. When she blew in and just lit up this room with very, very pointed remarks about the fact that somehow Republicans are responsible for President Biden being one month late—

Mr. HARRIS. Would the gentleman yield 30 seconds to me?

Mr. CLINE. Just a second. Yes, sir. Mr. Chairman, I will always yield.

Mr. HARRIS. Thank you very much.

Just as a reminder, it was the Democrat-controlled Senate, Democrat-controlled House, and Democrat President who signed in slashing the food stamp program last year because they were the ones who cut the COVID extensions.

I yield back. I yield back to the gentleman.

Mr. CLINE. And I would say that now, as a member of the Budget Committee in addition to the Appropriations Committee, we have been waiting and waiting and waiting and waiting for the President's budget. And finally, we see it today. And what do we see? We see deficit spending into perpetuity, and we see tax hikes to pay for that deficit spending.

So forgive me for being a little bit—a little bit—just not very anxious to hear the kinds of comments coming from the gentlelady from Florida about past Republican acts when Democrats have been in control of Congress for so many years.

I am pleased to hear her support for block grants, because those can serve as an effective way to deliver funds more specifically to the localities where it is needed, but not encumber these end users, whether they be farmers or whether they be recipients of broadband or you name it, with the regulations that find their way down from Washington.

In fact, I think, as a long-time proponent of block grants, you are going to see the increased use of block grants at the Federal level.

I think, in particular, the Budget Committee, as we seek to actually be proper stewards of taxpayer funds here in Appropriations, the Budget Committee is going to look to put forward a budget that achieves balance, that doesn't waste taxpayer funds, actually prioritizes taxpayer funds to the areas where it is needed the most, and make sure that we don't have the waste that is all too commonly found in many Federal programs.

The USDA has come today with a reputation for finding that waste and for making corrections. And I want to commend you for targeting, in many different areas, the waste that has been seen in other—in some programs.

But we would like to work with our colleagues on both sides to make these necessary changes so that taxpayer funds are used ef-



fectively. But if all we are going to get is just a bunch of political diatribes, then it makes me much less interested.

But let me just go ahead and get back to the conversation we were having.

The Agricultural Trade Promotion Program was a temporary competitive grant program administered by Foreign Ag Service and designed to aid in the development of agriculture commodities in foreign markets by providing financial assistance to organizations for those activities.

You found a great deal of issues with that. You were unable to attest to the merits of the 59 ATP grants that were awarded in 2019 totaling \$300 million.

You were talking about corrections. Is this program still in existence? Because it was designed to be a temporary program. And post-COVID, what is the current status?

Ms. FONG. And I will just offer some comments.

Steve, you might have more detail.

This program was set up to deal with the consequences of the tariffs situation a number of years ago. So I think that they have sent—distributed all the funding that they were given at this point, because that was—the purpose of it was that specific situation.

In terms of the recommendations, they go both to that program and overall to the controls that FAS, the Foreign Agricultural Service, would have in delivering its programs. We are looking at a number of FAS programs. And I think this is maybe the first one out of the box.

Mr. CLINE. Thank you.

Mr. HARRIS. Thank you very much.

Ms. Lee.

Ms. LEE of California. Thank you again, Mr. Chairman.

Let me ask you about hemp and cannabis research.

Given the fact that so many States have moved forward with medicinal and recreational use of hemp and cannabis, what is the current status of your assessment and recommendations on the production of hemp and cannabis? And what are the implications for farmers and USDA oversight and regulations? And also, finally, what is USDA doing to better support small to medium businesses and minority farmers in hemp production?

Ms. FONG. This is a fairly new program for the Department and for us as an oversight office. So we are starting work in that area. We have got a couple of projects that are going on. We are looking at the Agricultural Marketing Service, their implementation of the domestic hemp program. And I think our report is due out early next year.

We also have another project going on in the Risk Management Agency to look at the hemp crop provisions in risk management. That one will be out hopefully in the fall of this year. And that will be our first assessment of how those programs are going.

Ms. LEE of California. Do you have a special lens, though, to look at small- to medium-sized businesses and minority farmers in hemp production? Because, once again, we could see some huge gaps, and then we will be told that you can't do any closing the gaps or repairing the damage of the gaps that have arisen because

we didn't take action to make sure that it was inclusive in the production.

Ms. FONG. I think both of those programs—both of those reviews are in process. We can take your comments back to our teams to see what they are seeing. I don't know if the program performance measures would measure that. So that is certainly an aspect that we could inquire about.

Ms. LEE of California. Yeah. Because if you don't measure it, then when we try to make sure there is some equality in the business, you will say you don't have the data to be able to determine whether or not we should repair the damage or whether or not there is equal treatment and equal access to the production.

And so I would hope you would have that as a criteria and look at it within that context because, otherwise, just like with so many other programs that affect small minority-owned businesses, we get way down the road, and zero. And then we are told: Well, you can't do anything based on trying to help because you are using race as a factor.

Ms. FONG. We will take that back to the teams and see what we can find out.

Ms. LEE of California. Thank you very much. I yield.

Mr. HARRIS. Thank you very much.

I want to thank Ms. Fong again, and everyone—I am sorry. I should have yelled over here.

Before I thank everybody, let me give Mrs. Hinson a chance to ask one last round of questions.

Mrs. HINSON. Thank you, Mr. Chairman. I will be brief. But I just wanted to touch on something that I have kind of heard a theme about from some of my colleagues today, and that is just, how do we follow through and make sure the intent—the congressional intent of the law is actually being enforced.

I want to focus on a specific USDA program that got some pretty good plus-ups in the CRP program, Conservation Reserve Program. It raised the payments for certain conservation practices. The 2018 farm bill, which obviously top of mind since we are in a farm bill year, established a statutory cap on CRP payments to 85 percent of the county's average rental rate.

But I have been hearing some concerns about that, specifically that these increased payments have pushed CRP over that statutory cap, potentially leading to a situation where maybe the Federal Government is actually outbidding someone, including maybe a young or beginning farmer, for productive agricultural land.

So what can your office do to, I guess, ensure at this point that USDA is following the law here, especially when it comes to CRP and how these payments are administered?

Ms. FONG. That is an interesting question. I think we have work going on in CRP right now.

Steve, I am going to ask if you have any comments.

And I don't know if we are looking at that particular issue. But certainly, whenever we look at a program, the first question we ask is: What are the congressional requirements? What is the legislative provision that we are looking at to measure against?

So, Steve, you may have something to offer on that.

Mr. RICKRODE. I would reference, we recently did an inspection that talked specifically about the Conservation Reserve Program payment calculations. It is a very good informational report that walks through some of the things you are showing with charts that show the increase of the amounts, how the program works.

I would reference taking a look at that. And we can provide that to you if we need to. So that is the comment I would add.

And in that report, we didn't make any recommendations because we didn't find anything that was noted for recommendations. But it does give a good synopsis of the program. It talks about the payments. It shows the variability and the increase or decrease over a period of time.

So I would reference that report. And we can get that to you.

Mrs. HINSON. That would be great on follow-up if you could get that to our office.

Mr. RICKRODE. Sure.

Mrs. HINSON. Just because, I think it goes without saying, the price of farmland is rising very rapidly. In States like Iowa, we have great farmland, great producers, and I think we need to be doing everything we can to make sure these programs are helping, not hindering that opportunity, especially as we look at trying to get that next generation into farming.

And then one real quick question to wrap up today.

I think we agree, broadband connectivity is obviously a huge part of what you do. And in terms of opportunities for our rural communities, it can be the true equalizer for them.

USDA programs like ReConnect obviously serve an important role in building out that infrastructure. So you noted your office's plans to do a complete review of ReConnect.

And I would just ask, what can Congress do and USDA do to ensure that that funding for broadband deployment is reaching the communities that need it the most? What is your advice there or general thoughts?

Ms. FONG. I think what I would suggest is that our reports should be coming out in the next month or two, and if there are recommendations and findings there, that we share that with you and the committee, and then take the dialogue from there as we plan future work.

Mrs. HINSON. OK. Thank you. I appreciate it.

I yield back, Mr. Chair.

Mr. HARRIS. Thank you very much.

And, Mr. Bishop, do you have some remarks before I close?

Mr. BISHOP. Yes. Thank you very much, Mr. Chairman. Very briefly.

This has been very enlightening, but it also has lifted up for the subcommittee the problems that we have in actually having a response from the agency to your recommendations. And it suggests that perhaps, as we draft our bill, we might want to put some report language in there to designate or to put some requirements that the various agencies have a point person that reports directly to you in response, in reaction to the recommendations and to the implementation of the agreements. And we might want to consider putting some timetables and some specific direction to the agencies to do that.

Would that be helpful to you, being able to know to what extent your recommendations are being followed?

Ms. FONG. I would welcome the chance to work with you and your staff, the subcommittee and its staff, on any language in that area, because we do have established relationships within each of the agencies where at the staff level we have constant communication going on.

And there are statutory requirements and other requirements that agencies, when they receive one of our reports, they have to respond within a certain number of days as to whether or not they agree with us and what they are going to do.

So there are some systems that do exist right now. And I think maybe what might be useful is a dialogue between our staffs as to what is working and what perhaps poses challenges.

Mr. BISHOP. I agree with you. But as I understand it from your testimony today, there have been recommendations, and in many instances the agency has agreed with them, and they have agreed to comply, but have not yet in fact done so.

So I guess our frustration is how we get them to respond so that you don't just make a recommendation and it goes unanswered, or they agree to do something and they don't in fact do it.

So we welcome your assistance in developing that language that we can perhaps put in. And, of course, that would include dialogue. But we do want to be able to relieve all of our frustration in having some real response to your recommendations.

Ms. FONG. I look forward to that.

Mr. HARRIS. Thank you very much.

And I echo the gentleman from Georgia's sentiments. It is a good point.

You know, it is great. Again, all of you do a great job. You are the first line of protection for the American taxpayer that our dollars are spent correctly, the way Congress intends them to be spent.

But the agency does have to provide adequate feedback that when they agree with your recommendations, that they are following the plan of implementation.

Ms. Fong and everyone, thank you all for being here today. This was very helpful. We look forward to some of the follow-up that was discussed.

Ms. Rone, good luck in your next endeavor.

Ms. RONE. Thank you.

Mr. HARRIS. There may be some members that would also like to submit questions for the record. Please submit any questions for the record to the subcommittee staff within 7 days.

In closing, again, thank you all very much for coming before us this morning, and we look forward to working with you as we continue the fiscal year 2024 agriculture appropriations process.

The subcommittee is adjourned.

[Questions and answers submitted for the record follow:]

UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF THE INSPECTOR GENERAL  
QUESTIONS FOR THE RECORD  
HOUSE AGRICULTURE APPROPRIATIONS SUBCOMMITTEE HEARING  
MARCH 9, 2023

QUESTIONS SUBMITTED BY CHAIRMAN ANDY HARRIS, M.D.

**Increased COVID Spending**

This administration has dramatically accelerated federal spending during its tenure and President Biden has now spent more in his first two years than President Trump did during his last two years at the height of the pandemic. Official estimates from the Congressional Budget Office (CBO) show that, since January 2021, legislation signed by President Biden has set in motion a record \$3.37 trillion in new spending.

There was recognition that early in the pandemic wide scale relief was needed; however, this administration has continued spending well beyond COVID-19, including the American Rescue Plan Act (ARPA) and the Infrastructure Investment and Jobs Act passed in March 2021, costing in excess of \$2.5 trillion

Billions of these resources have been directed to the USDA and therefore subject to oversight of the IG. I know the IG had been given some additional resources for work in this area, but unfortunately, and to no fault of this Committee, the Inflation Reduction Act did not provide oversight funding for the \$44 billion in new spending. However, your most recent Semi-Annual Report to Congress indicates you will thankfully monitor the legislation.

1. The Semi-Annual report identified some of the work being done with the COVID-19 pandemic. Could you please provide some detail on what the IG is continuing to work on, or highlight active investigations and complaints related to the American Rescue Plan or the Infrastructure Investment and Jobs Act? Needless to say, with such significant increases in spending there is a corresponding likelihood of fraud or abuse that can occur.

**Response:** As it relates to the COVID-19 pandemic, USDA OIG has provided oversight through the Office of Audit, Office of Investigations, and the Office of Analytics and Innovation. In May 2023, OIG's Office of Audit issued an inspection report to determine what prevention measures the Forest Service (FS) implemented due to COVID-19 to protect employees and the public at recreation sites, and whether those measures were implemented within established timeframes.<sup>1</sup> We found that FS identified a framework of measures to respond to COVID-19 at recreation sites, including temporary closure of recreation sites, development of cleaning protocols for recreational facilities, social distancing, use of personal protective equipment, and posting of signage. FS also provided regional officials with decision-making authority and flexibility to implement additional measures based on their operational needs. FS' framework of prevention

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<sup>1</sup> Inspection Report 08801-0001-22, *COVID-19—Forest Service's Response to the Coronavirus Pandemic at Recreation Sites*, May 2023.

measures was disseminated to the regional offices, national forests, and recreation sites with the expectation that the measures would be implemented immediately. We did not find any indication that the measures FS developed and communicated were not implemented timely.

As of May 15, 2023, OIG audit staff are also currently conducting three additional inspections<sup>2</sup> related to the oversight of COVID-19 funding. Our ongoing work includes reviewing key aspects of the Agricultural Marketing Service's (AMS) administration of the Farmers to Families Food Box Program;<sup>3</sup> determining whether the Farm Service Agency (FSA) provided timely and accurate Coronavirus Food Assistance Program direct payments to eligible recipients;<sup>4</sup> and reviewing key aspects of the Food and Nutrition Service's (FNS) funding and administration of Pandemic Electronic Benefits Transfer assistance.<sup>5</sup> Final reports for the ongoing inspections are anticipated for issuance later in Fiscal Year (FY) 2023.

In addition to the three ongoing COVID-19 inspections, OIG has an ongoing audit to determine if: (1) the Rural Utility Service awarded Rural E-Connectivity Pilot Program funding to eligible applicants and projects, and (2) the evaluation criteria were accurately used to score and rank applications when awarding funds.<sup>6</sup> OIG plans to also issue a COVID-19 informational report<sup>7</sup> later this FY.

The Office of Investigations receives and reviews complaints concerning pandemic-related funding and remains committed to pursuing investigations as appropriate. From FY 2021 through March 2023, the Office of Investigations concluded three investigations concerning the Coronavirus Food Assistance Program. All three investigations focused on individuals that submitted applications for assistance that they were not entitled to under the terms of the program. Two of the investigations resulted in criminal prosecutions of individuals for submitting false claims and theft of government money. One individual was sentenced in Georgia to 30 months of confinement, 3 years of supervised release, and ordered to pay restitution of \$248,739. A second individual in Louisiana was sentenced to 36 months of probation and ordered to pay restitution of \$76,274. A third individual was not prosecuted but was ordered to pay \$141,647 to USDA in bankruptcy proceedings in Washington.

<sup>2</sup> In contrast to audits, inspections are systematic and independent assessments of the design, implementation, and/or results of an agency's operations, programs, or policies. Inspections include evaluations, inquiries, and similar types of reviews that do not constitute an audit, such as responses to specific Congressional, Secretarial, or agency questions or requests for information which do not warrant performing an engagement in accordance with Government Auditing Standards. A key aspect of inspections is their flexibility that generally allows for timelier reporting of results. Conducting inspections also allows for a more agile approach for reviews because the scope and specific objectives of the inspections may be modified as OIG obtains new information on the subject program.

<sup>3</sup> Inspection Report 01801-0001-22, *COVID-19—Farmers to Families Food Box Program Administration*

<sup>4</sup> Inspection Report 03801-0001-31, *COVID-19—Coronavirus Food Assistance Program—Direct Support*

<sup>5</sup> Inspection Report 27801-0001-23, *COVID-19 – Food and Nutrition Service's Pandemic Electronic Benefits Transfer*.

<sup>6</sup> Audit Report 09601-0001-23, *Rural E-Connectivity Pilot Program (Reconnect Program)*.

<sup>7</sup> Informational Reports contain informational facts regarding a topic or event. Informational reports do not provide an analysis or interpretation of information and do not provide recommendations.

The Office of Investigations and Office of Analytics and Innovation are working together on a proactive analysis to detect fraud, waste, and abuse in USDA Food and Nutrition Service (FNS) feeding programs, such as the Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), and National School Lunch Program (NSLP) Seamless Summer Option (SSO). We analyzed state-level feeding program participation data from the COVID-19 waiver period to identify states with exceptional participation increases, which may indicate fraud, waste, or abuse. We are currently analyzing feeding program institution level participation data for those states with exceptional increases. Our major goals are to determine whether any significant increases for existing sponsor/facility participation or new sponsors/facilities are legitimate and not fraudulent. This work was initiated, in part, due to a large-scale fraud scheme involving COVID funds provided for CACFP and SFSP, which resulted in a sponsor/facility receiving and disbursing \$3.4 million in CACFP and SFSP funds in 2019, which grew significantly in 2021 to nearly \$200 million.

The Office of Analytics and Innovation launched a new data product called Data Stories. This product's purpose is to enhance transparency of significant USDA programs using data analytics and visualizations while integrating data storytelling methods.

In June 2022 the Office of Analytics and Innovation published its first Data Story, which focuses on USDA's Farmers to Families Food Box Program (Food Box Program). Using unaudited data from USDA's Agricultural Marketing Service (AMS), U.S. Census Bureau data, Housing and Urban Development Opportunity Zone data, and other data sources, OIG explored the program (distributors, food boxes, and recipients) and enabled readers to examine the data in different ways.

In December 2022, the Office of Analytics and Innovation published a second Data Story which focuses on the USDA Coronavirus Food Assistance Program (CFAP). Utilizing unaudited data, this product was developed to enhance transparency of the CFAP 1 and CFAP 2 programs. These programs provided payments to agricultural producers to help address the economic hardships created when COVID-19 disrupted the agricultural supply chain. This CFAP data story enables the reader to explore both programs and how they evolved from inception to the end of February 2022 in response to changing pandemic conditions.

As it relates to the Infrastructure Investment and Jobs Act (IIJA)<sup>8</sup> funding, USDA OIG has provided oversight through various projects within the Office of Audit and the Office of Analytics and Innovation. As of May 15, 2023, OIG's Office of Audit has ongoing and planned engagements to provide oversight of programs receiving IIJA funding. Six inspections,<sup>9</sup> five that are ongoing and one that is planned, provide oversight of FS

<sup>8</sup> Public Law No. 117-58 signed on November 15, 2021.

<sup>9</sup> Inspection Report 08801-0001-21, *IIJA—Hazardous Fuels Management*; Inspection Report 08801-0001-31, *IIJA—Capital Improvement and Maintenance-Legacy Road and Trail Remediation Program*; Inspection Report 08801-0002-22, *IIJA—Collaborative Aquatic Landscape Restoration Program*; Inspection Report 08801-0002-24, *IIJA—*

programs receiving IIJA funding. The inspections all share common objectives to review program information for transparency and disclosure, perform data analytics on relative data sets for integrity and quality, inspect key aspects of the internal control environment, and review the implementation of the program. For each of these engagements, OIG may issue multiple reports, which could include informational and data analytic reports<sup>10</sup> in addition to the final report. As of May 15, 2023, one Informational report was issued related to the Community Wildfire Defense Grant Program to share information, promote transparency, and identify how the FS plans to utilize the IIJA funding.<sup>11</sup> All six final reports are anticipated for issuance in FY 2024.

In addition to the six inspections of FS programs receiving IIJA funding, the Office of Audit has four ongoing or planned engagements to provide oversight of non-FS programs funded by IIJA, as follows:

- Our ongoing Rural E-Connectivity Pilot Program audit is anticipated for final report issuance later in FY 2023. We discussed the objectives of the audit above where we discussed a related COVID-oversight informational report to be issued.
- Our ongoing inspection of the Agriculture and Food Research Initiative (AFRI) will determine whether NIFA designed and implemented adequate internal controls to: (1) properly select AFRI grant recipients based on a system of peer and merit review, and (2) monitor AFRI projects' compliance with grant agreement terms and conditions, and fulfillment of their stated objectives.<sup>12</sup> We anticipate issuing the final report later in FY 2023.
- One ongoing inspection will review and report information about the new NIFA Bioproduct Pilot Program authorized by IIJA for transparency and disclosure.<sup>13</sup> We expect to issue this report later in FY 2023.
- We also plan to begin an inspection of NRCS' Watershed and Flood Prevention Program funding later in FY 2023 with the anticipation of issuing the final report in FY 2024. We are still finalizing the specific objective of this engagement.

The Office of Analytics and Innovation (OAI) is developing a data stroll<sup>14</sup> on broadband connectivity, including IIJA-funded programs, that OAI will publish when completed. OAI is utilizing a geographic information systems (GIS) mapping software called ArcGIS. The data story contains background information and context on broadband connectivity across

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*Community Wildfire Defense Grant Program for At-Risk Communities; Inspection Report 08801-0002-41, IIJA—Restoration Projects on Federal/Non-Federal Land; and IIJA—Federal Wildland Firefighter Training, Salaries, and Expenses.*

<sup>10</sup> Data Analytic Reports present metrics, analyses, conclusions, and interpretations of information in an accessible, digestible visual format.

<sup>11</sup> Informational Report 08801-0002-24 (IN1), *IIJA-Community Wildfire Defense Grant Program*, April 2023.

<sup>12</sup> Inspection Report 13601-0002-22, *Agriculture and Food Research Initiative*.

<sup>13</sup> Inspection Report 13801-0001-22, *IIJA-Bioproduct Pilot Program*.

<sup>14</sup> A data stroll uses data visualizations and offers users the opportunity to walk through and explore data and information on their own.



the United States that will provide users with a solid understanding of the various internet terminologies before they explore the data on their own. The objectives of this product are threefold: 1) raise awareness of broadband, 2) provide context that can supplement related work, and 3) provide transparency on funding as it relates to broadband.

### Nutrition Spending and Improper Payments

Over the past few years, all of USDA's nutrition programs – SNAP, WIC, Child Nutrition - have been greatly expanded both in terms of benefit levels and eligibility. More than \$150 billion has been provided through COVID assistance and the American Rescue Plan programs. I have shared my concerns before that when you see this level of spending, it's going to invite waste, fraud and abuse.

2. Ms. Fong, do you believe the level of fraud and abuse has increased with billions of dollars flowing through these programs?

**Response:** Based on the information we provide in response to Question 3 below, concerning improper payments in USDA programs, we would conclude at this time that the level of fraud and abuse has remained at a consistent level.

3. What are you seeing in terms of improper payments in USDA's nutrition programs?

**Response:** The Payment Integrity Information Act of 2019 (PIIA) requires federal agencies' inspectors general (IG) to annually determine and report on whether the agencies under their jurisdiction have complied with specified criteria—including reporting improper payment estimates for certain programs. IGs' annual PIIA compliance reports help ensure that agencies' improper payment estimates are accurate, reliable, and complete and that Congress has information on agencies' efforts to address improper payments.

OMB M-21-19<sup>15</sup> is OMB's most recent guidance for agencies implementing the requirements of PIIA, and OMB Circular A-136<sup>16</sup> provides guidance for agencies specific to reporting within the Agency Financial Report (AFR) to fulfill PIIA reporting requirements. In addition, the agency must publish any applicable payment integrity information required in the accompanying materials to the AFR on [paymentaccuracy.gov](https://paymentaccuracy.gov). This information is provided by the agency to OMB through the annual data call and is then published on [paymentaccuracy.gov](https://paymentaccuracy.gov).

In our most recent compliance review, issued May 22, 2023, we evaluated the FY 2022 data reported on [paymentaccuracy.gov](https://paymentaccuracy.gov) for phase 2 ("high risk") FNS programs.<sup>17</sup> As a result of that review, we reported that all FNS programs that reported improper payment rates for FY 2021 and FY 2022 improved and met the established reduction target rate.

<sup>15</sup> OMB M-21-19, *Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, March 5, 2021.

<sup>16</sup> OMB Circular A-136, *Financial Reporting Requirements*, June 3, 2022.

<sup>17</sup> Audit Report 50024-0003-24, *USDA's Compliance with Improper Payment Requirements for Fiscal Year 2022*, May 22, 2023

We also acknowledged in the report that, Food and Nutrition Service's (FNS) Summer Food Service Program (SFSP) and Supplemental Nutrition Assistance Program (SNAP) did not report improper payment rate information in FY 2022; however, the Department and the Agency consider both programs to be in Phase 2 and susceptible to significant improper payments. FNS considered and reported SNAP and SFSP as Phase 2 programs, in part, due to their size—over \$71 billion and nearly \$11 billion in outlays, respectively, in FY 2022. SNAP continued to operate under a waiver that also applied in the prior year. SFSP's reporting of an improper payment rate is contingent upon a study delayed due to COVID-19.

4. USDA did not report SNAP improper payment information in fiscal year 2020 and 2021. Do you expect they will publish this information for fiscal year 2022?

**Response:** In OIG's FY21<sup>18</sup> and FY22 compliance reviews,<sup>19</sup> we acknowledge that FNS did not report improper payment information on [paymentaccuracy.gov](https://paymentaccuracy.gov). According to FNS' Quality Control Policy Memo 2101, "... the agency assessed its statutory requirements in light of the QC flexibilities provided to States by Section 4603(a) (2) of the Continuing Appropriations Act, 2021 and Other Extensions Act (PL 116-159). FNS has completed this review and has determined that the agency cannot establish national and State level payment error rates for Fiscal Year 2020 and 2021. Because of incomplete data sets that do not reflect the full fiscal year value of allotments issued by States, FNS cannot determine underpayment and overpayment error rates. FNS therefore has determined the agency cannot establish national and State level payment error rates for Fiscal Year 2020 and 2021, and as such, cannot assess liability amounts for those federal Fiscal Years."<sup>20</sup>

OIG can only assess reported information on [paymentaccuracy.gov](https://paymentaccuracy.gov) against the PPIA requirements. At this time, all we have related to whether FNS will publish FY 2022 data is referred to in the policy memo above. In addition, our most recent compliance review was issued on May 22, 2023. Therefore, this question would be best answered by FNS and OCFO.

#### Partnerships for Climate-Smart Commodities

Through the Partnerships for Climate-Smart Commodities, USDA is investing over \$3.1 billion to expand so-called "climate-smart" commodities. This initiative was not authorized by Congress, making oversight by both this Subcommittee and the Inspector General especially important.

<sup>18</sup> Audit Report 50024-0002-24, *USDA's Compliance with Improper Payment Requirements for Fiscal Year 2021*, June 2022.

<sup>19</sup> Audit Report 50024-0003-24, *USDA's Compliance with Improper Payment Requirements for Fiscal Year 2022*, May 22, 2023.

<sup>20</sup> FNS' Quality Control Policy Memo 2101, *Supplemental Nutrition Assistance Program (SNAP)—Quality Control (QC) Error Rate Announcements for Fiscal Year (FY) 2020 and FY 2021*, February 19, 2021.

Under the program, USDA selected 141 pilot projects with awards ranging from \$271,000 to \$95 million.

5. Will the IG's office evaluation of this program include how USDA selected the 141 projects, as well as extend into how each of the 141 individual recipients spend their funds to achieve the stated purpose of the program?

**Response:** As of May 26, 2023, OIG does not have any current work related to an evaluation of the Partnerships for Climate-Smart Commodities program, including how USDA selected the 141 recipients or how they spent their funds. During our annual planning process, OIG performs risk assessments to identify the highest risk USDA programs in order to determine how to allocate our limited oversight resources. We will consider the Climate-Smart Commodities program as we plan our future work.

However, we do plan to begin an audit of Climate Hubs later in FY 2023. We will review the effectiveness of USDA's Climate Hubs in coordinating and communicating climate-based research. While both Climate Hubs and Partnerships for Climate-Smart Commodities appear to build a network of information, Climate Hubs research and disseminate information developed in-house among several of USDA's agencies while the Partnership for Climate-Smart Commodities makes grants to entities to complete this work (plus perform market building activities) outside of USDA.

6. It will take several years for the pilot projects to be implemented and completed. However, the process by which USDA developed this unauthorized program and selected award recipients should be investigated now. From a timing perspective, does the IG plan to audit how USDA established the program and awarded grants to industry partners soon?

**Response:** As discussed in our response to the previous question, OIG does not have any current or planned work related to the Partnerships for Climate-Smart Commodities, but we will consider this program as we develop our future audit plans.

#### **Inflation Reduction Act – Lessons Learned**

The Inflation Reduction Act provided \$43 billion in new funding for USDA, some of which was intended for entirely new programs and purposes. Given these new challenges, the role you play in oversight of taxpayer dollars is more important than ever.

7. How is the IG's office identifying fraud in IRA programs, particularly as USDA expands into new functions?

**Response:** Professional standards require that all OIG audit engagements, including those in program areas receiving IRA funding, include an assessment of fraud risk that is significant within the scope of the engagement objective(s). Evaluating fraud risk is an ongoing process throughout OIG's engagements. If information comes to our attention indicating that fraud may have occurred, we consider revising engagement procedures to determine the likelihood that fraud occurred and its effects on findings. Furthermore, OIG's Office of Investigations continues to engage with stakeholders in furtherance of information sharing initiatives to identify allegations for assessment as well as reporting

such instances to the Hotline Unit for assessment. For example, the Department approached OIG regarding some information it planned for public release to help avoid scams regarding certain IRA funds. The IRA provides assistance for farmers, ranchers, and forest landowners who experienced discrimination in USDA's farm lending programs prior to January 1, 2021. The Department developed information to warn the public about potential scams regarding the application process, and worked with OIG to include information about the availability of OIG's Hotline for reporting any potential scams.

8. Are you paying special attention to areas in which OIG has already identified weaknesses in past reports?

**Response:** OIG is paying special attention to areas in which OIG has already identified weaknesses in past reports. As part of our oversight responsibility, OIG reviewed the results of prior OIG and GAO engagements that were relevant to the funding provided by IRA. We identified findings and recommendations that FSA, FS, NRCS, and RD may wish to consider to ensure their activities and programs funded by IRA continue to operate effectively with the proper control environment.<sup>21</sup> OIG communicated these reviews in separate memoranda released to each agency in January 2023.<sup>22</sup>

- A total of three OIG reports were issued related to FSA's USDA Assistance and Support for Underserved Farmers, Ranchers, and Foresters, funded by IRA. For the two reports with recommendations, one still had an outstanding recommendation.<sup>23</sup> We also noted two GAO reports that FSA may want to consider, which include findings and recommendations relevant to the funding provided by IRA.
- A total of five OIG reports were issued related to two FS activities/programs funded by IRA.<sup>24</sup> According to OCFO, all recommendations for the five reports have been implemented. OIG also noted five GAO reports that FS may want to consider, which include findings and recommendations relevant to the funding provided by IRA.
- A total of nine OIG reports were issued related to four NRCS activities/programs funded by IRA.<sup>25</sup> According to OCFO, recommendations for eight of the reports have been implemented and two recommendations related to the ninth report were not yet

<sup>21</sup> We limited our review to prior OIG engagements with recommendations tracked by the Office of the Chief Financial Officer (OCFO).

<sup>22</sup> *Prior OIG Audits Relevant to Farm Service Agency's Inflation Reduction Act Funding*, January 2023; *Prior OIG Audits Relevant to Forest Service's Inflation Reduction Act Funding*, January 2023; *Prior OIG Audits Relevant to Natural Resource Conservation Service's Inflation Reduction Act Funding*, January 2023; and *Prior OIG Audits Relevant to Rural Development's Inflation Reduction Act Funding*, January 2023.

<sup>23</sup> OIG recommended that the Department develop and implement outcome-based measures to track and report on program performance related to beginning farmer and rancher programs and activities. This recommendation remains open as of April 26, 2023. Audit Report 50601-0010-31, *Beginning Farmers*, September 2022.

<sup>24</sup> National Forest System Restoration and Fuels Reduction Projects and Competitive Grants for Non-Federal Forest Landowners.

<sup>25</sup> The Environmental Quality Incentives Program; the Regional Conservation Partnership Program; the Conservation Stewardship Program; and the Agricultural Conservation Easement Program.

implemented.<sup>26</sup> OIG also identified three GAO reports with findings and recommendations relevant to the funding provided by IRA.

- A total of three OIG reports were issued related to three RD activities/programs funded by IRA.<sup>27</sup> Only two reports included recommendations, all of which have been implemented according to OCFO. OIG also identified two GAO reports with findings and recommendations relevant to the funding provided by IRA.

In addition to the IRA memoranda issued, OIG is currently working on two ongoing audits of NRCS programs where we have previously identified weaknesses. One ongoing audit will evaluate NRCS' Environmental Quality Incentives Program (EQIP) payment schedule process, including its methodology for cost estimation, and ensure applicable corrective actions taken in response to prior audit recommendations remain effective.<sup>28</sup> In the other ongoing audit, we will determine if NRCS ensures Conservation Stewardship Program participants maintain control of land.<sup>29</sup> We have expanded the scope of these audits to issue an IRA-related informational report.<sup>30</sup> We plan to issue the Conservation Stewardship Program informational report later this FY, and we issued an IRA-related informational report for EQIP in March 2023.<sup>31</sup>

Finally, OIG is working on three ongoing engagements related to FS programs that received IRA funds,<sup>32</sup> although they are not programs where OIG has identified weaknesses in the past. Our objectives for these engagements are to review program information for transparency and disclosure, perform data analytics on relative data sets for integrity and quality, inspect key aspects of the internal control environment, and review the implementation of the program. Our plan is to address any potential effect our results could have on IRA funds assigned to these three programs in separate reports, as applicable. We anticipate releasing final reports on these engagements in FY 2024.

9. The IRA included over \$3 billion to provide relief for distressed Farm Service Agency direct and guaranteed loan borrowers. After providing the first phase of assistance, USDA is telling producers who did not meet the eligibility criteria that future phases of assistance will

<sup>26</sup> The open recommendations are: (1) obtain and review additional supporting documentation for the questioned \$632,687 in Regional Conservation Partnership Program (RCPP) payments made without adequate documentation and recover any payments that are determined to be ineligible for technical assistance expenses; and (2) request the return of previously issued RCPP technical assistance payments of \$60,357 to partners for ineligible expenses. According to OCFO, the first recommendation remains open as of April 26, 2023, while the second recommendation has subsequently been implemented since the issuance of this memorandum. The open recommendations pertain to Audit Report 10601-0004-31, *NRCS Regional Conservation Partnership Program Controls*, June 2018.

<sup>27</sup> Electric Loans for Renewable Energy; USDA Assistance for Rural Electric Cooperatives; and the Rural Energy for America Program.

<sup>28</sup> Audit Report 10601-0008-31, *Environmental Quality Incentives Program—Cost Estimation Process*

<sup>29</sup> Audit Report 50601-0005-23, *Conservation Stewardship Program—Participant Control of Land*.

<sup>30</sup> Informational Reports are reports that contain strictly informational facts regarding a topic or event, without providing further analysis. Informational reports do not provide an analysis or interpretation of information and do not provide recommendations.

<sup>31</sup> Audit Informational Report 10601-0008-31(IN1), *Environmental Quality Incentives Program*, March 2023.

<sup>32</sup> Inspection Report 08801-0001-21, *ILJA-Hazardous Fuels Management*; Inspection Report 08801-0002-41, *ILJA-Restoration Projects on Federal/Non-Federal Land*; and Inspection Report 08801-0002-24, *ILJA-Community Wildfire Defense Grant Program for At-Risk Communities*.

provide additional opportunities for borrowers as circumstances change. What is USDA doing to avoid creating perverse incentives for borrowers to become delinquent on their FSA loans so they become eligible for future loan relief payments?

**Response:** As noted in the response to the prior question, OIG issued a memorandum in January 2023 identifying the results of prior OIG and GAO engagements that were relevant to these IRA-funded programs. This memo noted findings and recommendations that FSA may wish to consider to ensure its activities and programs continue to operate effectively with the proper control environment. We do not have a current or planned FSA engagement to identify what USDA is doing to avoid creating incentives for borrowers' delinquencies in order to become eligible for future loan relief, but we will consider this topic as we plan our future engagements.

Of the funding provided in IRA, over \$19 billion was for the Natural Resources Conservation Service (NRCS) for work conducted through the Environmental Quality Incentive Program, Regional Conservation Partnership Program, Conservation Stewardship Program, and Agricultural Conservation Easement Program. All four of these programs have been identified in past audits for wasteful spending, improper payments, and inadequate internal controls.

10. What is USDA doing to engage NRCS on the front end to prevent similar issues taking place with IRA funding?

**Response:** As noted in response to question number 8 above, OIG issued a memorandum in January 2023 identifying the results of prior OIG and GAO engagements that were relevant to these IRA-funded programs. This memo noted findings and recommendations that NRCS may wish to consider to ensure its activities and programs continue to operate effectively with the proper control environment. OIG is also working on ongoing audits of EQIP and the Conservation Stewardship Program, and we have expanded the scope of both audits to issue IRA-related informational reports.

#### FSA Tracking of Foreign Land Ownership

USDA is tasked with tracking of foreign land ownership under the Agricultural Foreign Investment Disclosure Act. The law requires foreign investors to file a form with the Farm Service Agency (FSA) in the county where land is purchased. Foreign investors who fail to report their land purchases or file false or misleading information can be fined.

From 2000 to 2011, USDA assessed fines against 331 foreign investors. However, since 2012, USDA has only assessed 8 penalties despite foreign acquisitions reported to USDA increasing from 911 parcels of land in 2012 to over 6,000 parcels purchased in 2021.

11. Is the IG's office investigating this lack of enforcement of the law, including why no penalties were assessed from 2015 to 2018?

**Response:** While OIG does not have ongoing or planned engagements in the FY 2023 Annual Plan to review the tracking of land ownership, we perform risk assessments during our annual planning process to identify the highest risk USDA programs to

determine how to allocate our limited oversight resources. We will consider FSA's tracking of foreign land ownership as we plan our future work.

#### OIG Audits, Investigations, and General Information Requests

12. Please provide a table showing the financial statement audits OIG contracts for and those conducted in-house, as well as the cost of each audit for fiscal years 2018 through 2022.

**Response:** OIG's Office of Audit performs five financial statement audits each year. The audits of USDA's consolidated USDA's consolidated financial statements, RD, and FCIC are conducted primarily by OIG personnel with contractor support for some portions, including credit reform review. Audits of CCC and NRCS are conducted by independent public accounting firms that are overseen by OIG personnel to ensure compliance with Generally Accepted Government Auditing Standards.

The following table represents the total costs associated with financial statement audits for fiscal years 2018 through 2022 and includes contract expenses as well as OIG salaries.

Total Financial Statement Audit Costs (Including contractor costs plus OIG salaries)						
Audited Agency	Method Of Performance	FY 2018 Actual Cost	FY 2019 Actual Cost	FY 2020 Actual Cost <sup>33</sup>	FY 2021 Actual Cost	FY 2022 Actual Cost
USDA Consolidated and Closing Package*	In-House	\$3,941,771	\$3,724,771	\$3,552,490	\$4,690,108	\$4,357,008
Rural Development**	In-House	\$2,074,527	\$2,096,399	\$2,192,605	\$2,584,543	\$2,443,886
Federal Crop Insurance Corporation***	In-House	\$1,574,995	\$1,502,453	\$1,959,691	\$2,135,522	\$2,116,219
Food and Nutrition Service	In-House	\$1,573,410	\$1,417,589	\$1,318,069	N/A****	N/A****
Commodity Credit Corporation	Contract	\$1,478,136	\$1,441,530	\$1,327,171	\$1,411,565	\$1,421,888

<sup>33</sup> Actual costs for several audits decreased between FY 2019 and FY 2020, which we attributed to the following: (1) no travel across all audits in FY 2020 due to COVID-19; (2) a modification for CCC was necessary for additional work in FY 2019, which increased the price (this did not occur in FY 2020); and (3) auditor cost per day was less in FY 2020.

Natural Resources Conservation Service	Contract	\$1,456,449	\$1,436,511	\$1,229,340	\$1,481,919	\$1,390,059
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\* Prior to FY 2019, we issued two reports from our audit work on USDA's consolidated financial statements: (1) USDA's Consolidated Financial Statements; and (2) USDA's Closing Package Financial Statements. Beginning in FY 2019, a separate audit and report of USDA's Closing Package Financial Statements was no longer required, leading to decreased costs in FY 2019 and FY 2020.

\*\* The audit was performed by OIG; however, the credit reform review was performed under contract.

\*\*\* Starting in FY 2015, FCIC's financial statement audit was performed in-house and the estimation insurance claims methodology section of the audit was performed under contract.

\*\*\*\* In FY 2021, the FNS audit was incorporated into the Consolidated Audit; therefore, it is no longer a standalone audit.

13. Please provide a table showing the amount of funds expended for public accountants hired under contract for fiscal years 2018 through 2022.

**Response:** The Office of Audit hires independent public accounting firms to perform work of varying levels associated with the annual financial statement audits. For example, public accountants perform the entire financial statement audit for CCC and NRCS, but they perform only a portion of the financial statement audit, specifically the credit reform reviews, for RD and USDA Consolidated. Public accounting firms perform IT general application control work, which support the financial statement audits, and the system reviewed during the year determines which agencies are allocated the associated contracting costs. Public accountants also perform the mandatory Federal Information Security Modernization Act (FISMA) audit of OCIO and OIG, Information Technology Department.

In addition to their work related to the financial statement audits, public accountants have been hired in prior years to perform attestation engagements in accordance with government auditing standards for agencies such as FNS and OCFO, although OIG has not expended funds for such services in recent years. Contracted IT consultants have also been hired to perform OCIO oversight reviews of USDA's implementation of the Continuous Diagnostics and Mitigation projects in FY 2016-2018 and network security testing in more recent years.

The table that follows identifies the total amount of funds expended for public accountants to perform the above-described roles under contract for fiscal years 2018 through 2022.

Amount of Funds Expended for Public Accountants						
Audited Agency	Method	FY 2018 Actual Cost	FY 2019 Actual Cost	FY 2020 Actual Cost	FY 2021 Actual Cost	FY 2022 Actual Cost



	of Performance <sup>34</sup>					
Federal Crop Insurance Corporation*	<b>In-House<sup>35</sup></b>	\$206,744	\$215,275	\$272,348	\$237,981	\$259,160
Commodity Credit Corporation	Contract	\$1,384,074	\$1,359,734	\$1,279,095	\$1,347,060	\$1,359,613
Rural Development*	<b>In-House</b>	\$233,013	\$235,943	\$398,140	\$392,171	\$343,980
Natural Resources Conservation Service	Contract	\$1,379,349	\$1,354,715	\$1,152,984	\$1,396,949	\$1,312,759
USDA Consolidated*	<b>In-House</b>	\$393,675	\$449,429	\$169,230	\$143,984	\$530,628
Office of the Chief Information Officer-FISMA **	Contract	\$693,613	\$707,480	\$721,625	\$736,048	\$602,721
Food and Nutrition Service	Contract	\$320,253	NA	NA	NA	NA
Office of the Chief Financial Officer ***	Contract	\$288,791	\$279,321	\$355,312	NA	NA
Office of the Chief Information Officer-IT Consulting ****	Contract	\$247,264	NA	NA	NA	\$56,551
Office of Inspector General	Contract					\$146,928

<sup>34</sup> OIG's Office of Audit conducts the In-House audits, although OIG may contract out portions of the audit, for example credit reform reviews, to a public accounting firm. Contracted engagements are conducted primarily by an independent public accountant. However, the Office of Audit monitors the contractor's work to ensure it complies with Generally Accepted Government Auditing Standards.

<sup>35</sup> The term In-House in this table is referring to work Office of Audit does to monitor contractors' work to ensure it complies with Generally Accepted Government Auditing Standards. The amount listed is what was expended for the independent public accountants.

(Information Technology Division)						
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\* Prior to FY 2020, the total cost for the IT general application control work was reported under the USDA Consolidated audit. Beginning in FY 2020, this cost was based on the system reviewed, and was allocated to each respective agency based on the system reviewed. The systems reviewed vary each FY, which in part accounts for the variation in cost between years.

\*\* OIG signed a new contract for FISMA in FY 2022 with a lower overall cost.

\*\*\* For FY 2020, there was an adverse opinion, which delayed the report and required more time. Audit report 11403-0003-12, *Independent Service Auditor's Report on the National Finance Center's Description of its Payroll and Personnel System and the Suitability of the Design and Operating Effectiveness of its Controls for October 1, 2019, to June 30, 2020*, November 2020. For FY 2021 and FY 2022, the OCFO contracts were executed and funded by the Department; therefore, all costs were paid at the Departmental level, not by the Office of Audit.

\*\*Expenditures were first made in FY 2022 under a contract executed in FY 2021 to perform network security testing.

14. What was OIG's cost of performing audits of Commodity Credit Corporation (CCC) financial statements in fiscal year 2022? What was the reimbursement from CCC?

**Response:** The actual contract cost of performing audits of Commodity Credit Corporation (CCC) financial statements in fiscal year 2022 was \$1,359,613. There was no reimbursement amount from CCC and as such, the full \$1,359,613 was funded by OIG's general appropriations.

15. Please provide a status report on all current findings of material weakness since 2018. Specifically, please list the finding, OIG's recommendation and the current status.

**Response:**

Material Weaknesses	Status (Reached Management Decision)
FY 2018 Material Weaknesses Findings and Recommendations	
FY 2018 USDA Consolidated Financial Statements, Assignment No. 50401-0016-11	
<b>Finding 1:</b> Improvements are needed in overall financial management. <b>Recommendation:</b> Since USDA has actions planned and in progress, we are making no further recommendations herein.	N/A
<b>Finding 2:</b> Improvements are needed in overall Information Technology Security Program. <b>Recommendation:</b> Eight new recommendations were issued based on security weaknesses identified in the FY 2018 FISMA report. The Department concurred with our findings and recommendations. As a result, we are making no further recommendations in this report.	N/A
FY 2018 CCC Financial Statements, Assignment No. 06403-0001-11	

Material Weaknesses	Status (Reached Management Decision)
<p><b>Finding 1:</b> Improvements are needed in internal control over financial reporting.</p> <p><b>Recommendation 1:</b> Implement effective undelivered order (UDO) monitoring controls at the program level, whereby the responsibility for assessing the accuracy and validity of open obligations resides at the program level, and the accounting execution, if necessary, as a result of the programmatic monitoring resides with the CCC accountants.</p> <p><b>Recommendation 2:</b> Provide necessary training to the County field offices' personnel over the requirements of OMB A-11 for recording obligations, and, where necessary, ensure program handbooks are up to date regarding execution and related accounting, to ensure consistent understanding and recording of obligations in accordance with OMB A-11 across all field offices.</p> <p><b>Recommendation 3:</b> Implement effective automated and/or manual controls to evaluate the relationship between a Conservation Reserve Program (CRP) annual rental contract and CRP cost share contract; and develop and implement data analytic routines and management review controls related to program UDO populations to identify and correct for abnormalities in the data.</p> <p><b>Recommendation 4:</b> Strengthen management controls related to the annual Agriculture Risk Coverage/Price Loss Coverage (ARC/PLC) UDO calculation to ensure that it is performed at a level of precision to include relevant and accurate data elements, such as enrollments and crop prices that reflect the documentation submitted by the producer and approved by management.</p> <p><b>Recommendation 5:</b> Implement processes, procedures, and controls to ensure accurate recognition of adjustments to delivered orders are input into the accounting systems and perform periodic reviews of the accounting events to validate the results of recorded transactions.</p> <p><b>Recommendation 6:</b> Implement effective automated budgetary funds controls within its accounting systems to ensure that a funds control violation does not occur.</p> <p><b>Recommendation 7:</b> Implement effective internal controls to review and reconcile the general ledger account inter-relationships, between borrowing authority and other budgetary accounts. In addition, we recommend CCC record borrowing authority at the appropriate program level to prevent abnormal balances, which assist in meaningful account review and reconciliation.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>FY 2018 NRCS Balance Sheet Audit, Assignment No. 10403-0001-11</b>	
<p><b>Finding 1:</b> Improved Accounting and Controls are Needed Over Obligations and Undelivered Orders (Repeat Condition).</p>	NA

Material Weaknesses	Status (Reached Management Decision)
<b>Recommendations 1:</b> (1) Develop and implement a process that tracks agreement progress to ensure all signed agreements have been recorded in the financial system; (2) Monitor open obligations to ensure that they are recorded in the appropriate period of and liquidated timely; and (3) Provide adequate training to personnel related to the documentation requirements for support. (Repeat recommendations)	
<b>Finding 2:</b> Improved Accounting and Controls are Needed Over Expenses (Repeat Condition). <b>Recommendations:</b> (1) Design, implement, and document policies and procedures that include documented internal controls which provide support that NRCS has reviewed the transactional data and assumptions used in its entity-wide expenses accrual process; (2) Design, implement, and document policies and procedures that include documented internal controls which provide support that NRCS has reviewed all expenses excluded from its entity-wide accrual policy and evaluate the need for any additional accruals; and (3) Provide additional guidance and/or training to employees over the recording of transactions with future economic benefits.	Yes
<b>FY 2018 FCIC/RMA Financial Statements Audit, Assignment No. 05401-0010-11</b>	
<b>Finding 1:</b> Improvements are Needed in the Review of the Estimated Loss Calculations. <b>Recommendation 1:</b> We recommend that management develop change controls over the program production model used to calculate actuarial projections to avoid inadvertent modifications to the model.	Yes
<b>FY 2019 Material Weaknesses Findings and Recommendations</b>	
<b>FY 2019 USDA Consolidated Financial Statements, Assignment No. 50401-0018-11</b>	
<b>Finding 1:</b> Improvements are needed in overall financial management. <b>Recommendation:</b> Since USDA has actions planned and in progress, we are making no further recommendations herein.	N/A
<b>Finding 2:</b> Improvements are needed in overall Information Technology Security Program. <b>Recommendation:</b> Three new recommendations were issued based on security weaknesses identified in the FY 2019 FISMA report. The Department concurred with our findings and recommendations. As a result, we are making no further recommendations in this report.	N/A
<b>FY 2019 CCC Financial Statements, Assignment No. 06403-0002-11</b>	
<b>Finding 1:</b> Material Weaknesses in Internal Control over Financial Reporting <b>Recommendation 1:</b> Complete implementation of effective monitoring controls of UDOs at the program level, whereby the responsibility for	

Material Weaknesses	Status (Reached Management Decision)
assessing the accuracy and validity of open obligations resides at the program level, and the accounting execution, as a result of the programmatic monitoring, resides with the CCC accountants (FPAC Business Center) (Repeat recommendation from Audit Report No. 06403-0001-11, November 2018).	N/A
<b>Recommendation 2:</b> Implement effective processes, procedures, and controls to ensure undelivered and delivered orders, accrued liabilities, and accounts receivable are accurately recognized for newly enacted programs, such as the MFP. Further, when new programs are implemented, CCC should develop manual monitoring procedures to compensate for system weaknesses during the year of implementation, if such weaknesses exist.	Yes
<b>Recommendation 3:</b> Implement effective automated budgetary funds controls within its accounting systems to ensure that funds control violations do not occur. (Repeat recommendation from Audit Report No. 06403-0001-11, November 2018).	N/A
<b>Recommendation 4:</b> Implement additional controls to ensure that all relevant general ledger accounts are included in the SF-132 reconciliations to prevent, detect, or timely correct misstatements in the consolidated financial statements.	Yes
<b>Recommendation 5:</b> Strengthen the management review controls to validate the completeness and accuracy of the data being used in the period-end grant accrual estimation methodology. This process should be refined to include a more thorough review and analysis using other source documentation utilized by CCC' partner agency. (Repeat recommendation from Audit Report No. 06403-0001-11, November 2018).	N/A
<b>Recommendation 6:</b> Implement consistent monitoring procedures and enhance policies and controls related to the assessment of new sites or changes in current sites to determine if recognition and disclosure requirements are met	Yes
<b>FY 2019 NRCS Financial Statements, Assignment No. 10403-0002-11</b>	
<b>Finding 1:</b> Improved Accounting Controls are Needed Over Obligations and Undelivered Orders (Repeat Condition).	Yes
<b>Recommendation 1:</b> Refine and implement necessary enhancements to FMMI processes to better address the reliability of period of performance data.	N/A
<b>Recommendation 2:</b> Develop and implement a process that tracks agreement progress to ensure all signed agreements have been recorded in the financial system. (Repeat recommendation)	N/A
<b>Recommendation 3:</b> Monitor open obligations to ensure that they are recorded in the appropriate period and liquidated timely. (Repeat recommendation)	N/A

Material Weaknesses	Status (Reached Management Decision)
<b>Recommendation 4:</b> Provide adequate training to personnel related to the documentation requirements for support. (Repeat recommendation)	
<b>Finding 2:</b> Improved Accounting Controls are Needed Over Expenses and Related Accruals (Repeat Condition). <b>Recommendation 5:</b> Implement policies and procedures for requiring negative responses from responsible parties, monitoring expense accrual responses and reviewing the relevant population for completeness and accuracy. <b>Recommendation 6:</b> Establish policies and procedures over the monitoring of IPAC/INTR responses from responsible parties to ensure appropriate follow-up is conducted. <b>Recommendation 7:</b> Implement and enforce deadlines for follow up procedures over expenses and related accruals. <b>Recommendation 8:</b> Enhance policy and control procedures for the accuracy and consistent application of period end accruals. (Repeat recommendation) <b>Recommendation 9:</b> Provide adequate training to personnel relating to the accrual policy. (Repeat recommendation) <b>Recommendation 10:</b> Provide additional guidance and/or training to employees over the recording of transactions with future economic benefits. (Repeat recommendation) <b>Recommendation 11:</b> Assess service and subservice organizations' SOC reports and adequately document review of such reports and the internal control environment impact, if any. <b>Recommendation 12:</b> Appropriately align knowledgeable resources to identify and assess the complementary end user controls that are integral to the effective internal control operations of its service organizations. (Repeat recommendation)	Yes  Yes  Yes  N/A  N/A  N/A  Yes  N/A
<b>Finding 3:</b> Improved Entity Level Controls are Needed <b>Recommendation 13:</b> Design and implement effective controls to ensure that transactions are accurately recorded and that the related supporting documentation are readily available. <b>Recommendation 14:</b> Identify the appropriate resources and provide guidance to ensure that such resources understand their roles, responsibilities and are adequate for the needs of the agency.	Yes  Yes
<b>FY 2020 Material Weaknesses Findings and Recommendations</b>	<b>Status (Reached Management Decision)</b>
<b>FY 2020 USDA Consolidated Financial Statements, Assignment No. 50401-0019-11</b>	
<b>Finding 1:</b> Improvements are needed in overall financial management.	N/A

Material Weaknesses	Status (Reached Management Decision)
<b>Recommendation:</b> Since USDA has actions planned and in progress, we are making no further recommendations herein.	
<b>Finding 2:</b> Improvements are needed in overall Information Technology Security Program.	
<b>Recommendation:</b> Nine new recommendations were issued based on security weaknesses identified in the FY 2020 FISMA report. The Department concurred with our findings and recommendations. As a result, we are making no further recommendations in this report.	N/A
<b>FY 2020 CCC Financial Statements, Assignment No. 06403-0003-11</b>	
<b>Finding 1:</b> Material Weaknesses in Internal Control over Financial Reporting.	
<b>Recommendation 1:</b> Update its SOP and provide necessary training related to the review of obligations recorded at year-end.	Yes
<b>Recommendation 2:</b> Continue the design and implementation of effective processes, procedures, and controls to accurately identify those ARC/PLC contracts that are approved at fiscal year-end within CCC's financial systems in order to only obligate activities related to approved contracts.	Yes
<b>Recommendation 3:</b> Continue the design and implementation of effective automated budgetary funds control within its accounting system(s) to ensure that funds control violations do not occur. (Repeat Recommendation)	N/A
<b>Recommendation 4:</b> Implement effective processes, procedures, and controls over the ARC/PLC year-end accrual to ensure the completeness and accuracy of the underlying data.	Yes
<b>Finding 2:</b> Compliance and Other Matters.	
<b>Recommendation 5:</b> Implement the recommendations presented in Exhibit I, to resolve the instances of noncompliance with FFMIA.	Yes
<b>FY 2020 NRCS Financial Statements, Assignment No. 10403-0003-11</b>	
<b>Finding 1:</b> Improved Controls are Needed Over Obligations and Undelivered Orders (Repeat Condition).	
<b>Recommendation 1:</b> Refine and implement necessary enhancements to FMMI processes to better address the reliability of the period of performance data. (Repeat Recommendation)	N/A
<b>Recommendation 2:</b> Develop and implement a process that tracks agreement progress to ensure all signed agreements have been recorded in the general ledger. (Repeat Recommendation)	N/A
<b>Recommendation 3:</b> Monitor open obligations (USSGL accounts 4801, <i>Undelivered Orders – Obligations, Unpaid</i> , and 4802, <i>Undelivered Orders – Obligations, Prepaid/Advanced</i> ) to ensure that they are recorded in the appropriate period and liquidated timely. (Repeat Recommendation)	N/A
<b>Recommendation 4:</b> Provide adequate training to personnel related to the documentation requirements for support transactions. (Repeat Recommendation)	N/A
	Yes

Material Weaknesses	Status (Reached Management Decision)
<b>Recommendation 5:</b> Develop and implement a process that ensures NRCS is utilizing a complete and accurate obligation population for the calculation of the corporate accrual, and formally document an analysis of any differences that are identified from the review.	
<b>Finding 2:</b> Improved Controls are Needed Over Expenses (Repeat Condition).	N/A
<b>Recommendation 6:</b> Enhance policy and control procedures for the accuracy and consistent application of period end accruals. (Repeat Recommendation)	N/A
<b>Recommendation 7:</b> Provide adequate training to personnel relating to the accrual policy. (Repeat Recommendation)	N/A
<b>Recommendation 8:</b> Provide additional guidance and/or training to employees over the recording of transactions with future economic benefits. (Repeat Recommendation)	Yes
<b>Recommendation 9:</b> Implement policies and procedures to perform a quarterly analysis over open obligations marked for review that received no responses from responsible parties to determine if a material amount is being omitted from accrued expenses.	Yes
<b>Recommendation 10:</b> Design, implement, and document policies and procedures to ensure that internal use software is completely and accurately recorded in the general ledger. Such policies and procedures should include a requirement for vendor invoices to be in sufficient detail to provide management with information needed to determine whether incurred costs satisfy the capitalization criteria, as required by Federal Accounting Standards Advisory Board.	N/A
<b>Recommendation 11:</b> Assess the competency of personnel who monitor the service organizations and their performance. NRCS management should appropriately align knowledgeable resources to identify and assess the complementary user entity controls (CUECs) that are integral to the effective internal control operations of its service organizations. Identification and assessment of CUECs should include consideration of the following: Are there any CUECs identified by the service organization that are relevant to the entity?; Are the CUECs identified, implemented and operating effectively at NRCS?; and If the service auditor's report cannot be relied on (i.e., if there is an uncovered subservice organization), what compensating controls, if any, are needed? (Repeat Recommendation)	N/A
<b>Recommendation 12:</b> As part of their assessment of service and subservice organizations' Service Organizations Controls (SOC) reports, determine whether controls at the service organizations are suitably designed and implemented to prevent, or detect and correct, processing errors that could result in a material misstatement in NRCS' financial statements.	Yes
<b>Finding 3:</b> Improved Entity Level Controls are Needed (Repeat Condition)	
<b>Recommendation 13:</b> Design adequate monitoring controls around its annual risk assessment process to better address transactions with higher risk of error	N/A



Material Weaknesses	Status (Reached Management Decision)
<p>and to better facilitate availability of documentation related to these transactions; specifically, controls over completeness and accuracy related to the data used in monitoring controls. (Repeat Recommendation)</p> <p><b>Recommendation 14:</b> Identify the appropriate resources and provide guidance to ensure that such resources understand their roles, responsibilities, and are adequate for the needs of the agency. (Repeat Recommendation)</p> <p><b>Recommendation 15:</b> Consider the structure of the agency and establish reporting lines and organizational structure to define, assign, and limit authorities and responsibilities.</p> <p><b>Recommendation 16:</b> Establish policies and practices to: evaluate competence and address shortcomings of personnel; attract, develop, and retain individuals; and plan and prepare for succession.</p> <p><b>Recommendation 17:</b> Hold individuals accountable for their internal control over financial reporting responsibilities in the pursuit of NRCS' financial reporting objective.</p> <p><b>Recommendation 18:</b> Evaluate and communicate deficiencies in internal control over financial reporting in a timely manner to those parties responsible for taking corrective action, including senior management and those charged with governance, as appropriate.</p> <p><b>Recommendation 19:</b> Continue to review and revise as necessary its internal control program to plan, perform, monitor, and report and communicate a comprehensive, adequate, and appropriate internal assessment of the operating effectiveness of internal controls. Establish clear timelines to implement and close corrective action plans and provide adequate training to process owners to create relevant and attainable plans that can be successfully completed within one year.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>FY 2020 FCIC/RMA Financial Statements Audit, Assignment No. 05401-0012-11</b>	
<p><b>Finding 1:</b> Improvements are Needed Over the Insurance Loss Estimation Process.</p> <p><b>Recommendation 1:</b> Perform a risk assessment to identify critical data inputs and risk points within the indemnities estimate model, identify areas in the model execution process that can be prone to manual error, and design procedures to evaluate the completeness and accuracy of critical data inputs and respond to the risk of errors within the model execution process.</p> <p><b>Recommendation 2:</b> Review, update and document policies, procedures, and controls (including reviewing official roles and responsibilities) to review any model program or data preparation query changes to validate the appropriateness of the changes.</p> <p><b>Recommendation 3:</b> Design a review checklist to include a secondary review or validation to ensure completeness and accuracy of files used in the model execution process.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Material Weaknesses	Status (Reached Management Decision)
<b>Recommendation 4:</b> Perform and document a formal assessment on the reasonableness and appropriateness of the critical inputs for its insurance loss estimates.	Yes
<b>Recommendation 5:</b> Enhance documentation related to the methods, inputs, and assumptions used in its insurance loss estimates, including their relevance and reliability for financial reporting objectives. Periodically, evaluate and formally document its evaluation of the continued appropriateness of critical methods, inputs and assumptions that support the accounting estimates.	Yes
<b>Recommendation 6:</b> Create and maintain process documentation supporting the process and assumptions used for the Dairy Revenue Protection Program (DRRP) estimate and periodically, evaluate and document the appropriateness of the critical methods, inputs, and assumptions used.	
FY 2021 Material Weaknesses Findings and Recommendations	Status (Reached Management Decision)
<b>FY 2021 USDA Consolidated Financial Statements, Assignment No. 50401-0020-11</b>	
<b>Finding 1:</b> Improvements are needed in overall financial management. <b>Recommendation:</b> Since USDA has actions planned and in progress, we are making no further recommendations herein.	N/A
<b>Finding 2:</b> Improvements are needed in overall Information Technology Security Program. <b>Recommendation:</b> Sixteen new recommendations were issued based on security weaknesses identified in the FY 2021 FISMA report. The Department concurred with our findings and recommendations. As a result, we are making no further recommendations in this report.	N/A
<b>FY 2021 CCC Financial Statements, Assignment No. 06403-0004-11</b>	

Material Weaknesses	Status (Reached Management Decision)
<p><b>Finding 1:</b> Material Weaknesses in Internal Control over Financial Reporting (Repeat Condition).</p> <p><b>Recommendation 1:</b> Design and implement effective processes, procedures, and controls to validate the amounts for CRP contracts approved at fiscal year-end.</p> <p><b>Recommendation 2:</b> Continue the design and implementation of effective processes, procedures, and controls to accurately identify those ARC/PLC contracts that are approved at fiscal year-end within CCC's financial systems in order to only obligate activities related to approved contracts.</p> <p><b>Recommendation 3:</b> Design and implement effective processes, procedures, and controls to validate the ARC/PLC enrollment report (and the resulting approved acres) used in the year-end ARC/PLC UDO calculation.</p> <p><b>Recommendation 4:</b> Design and implement effective processes, procedures, and controls to ensure timely grant project close-out, including the deobligations of remaining funding that will not be utilized.</p> <p><b>Recommendation 5:</b> Design and implementation of effective automated budgetary funds control within its accounting system(s) to ensure that funds control violations do not occur. (Repeat Recommendation)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
<b>FY 2021 NRCS Financial Statements, Assignment No. 10403-0004-11</b>	
<p><b>Finding 1:</b> Improved Controls are Needed Over Obligations and Undelivered Orders (Repeat Condition).</p> <p><b>Recommendation 1:</b> Monitor open obligations to ensure that invalid or expired obligations are deobligated timely.</p> <p><b>Recommendation 2:</b> Provide additional training to control owners responsible for the review and approval of obligations and establish mechanisms to enforce accountability of control owners' adherence to ensuring obligations are posted in the general ledger with the correct accounting information.</p> <p><b>Recommendation 3:</b> Identify and implement solutions to address current system limitations preventing the proper recording of budgetary transactions.</p> <p><b>Recommendation 4:</b> Review the business rules used for the automated process used to make adjustments to the recorded obligation activity to verify correcting entries are recorded to correct general ledger accounts and to determine the root cause for incorrect entries identified during the FY 2021 audit.</p> <p><b>Recommendation 5:</b> Enhance internal communication to ensure that information is provided to control owners timely and prevent delays in the recording of obligations and unfilled customer orders.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>Finding 2:</b> Improved Controls are Needed Over Expenses (Repeat Condition).</p> <p><b>Recommendation 6:</b> Provide adequate training to personnel relating to the accrual policy. (Repeat Recommendation)</p>	<p>N/A</p> <p>Yes</p>

Material Weaknesses	Status (Reached Management Decision)
<b>Recommendation 7:</b> Provide additional guidance and/or training to employees over the recording of capitalizable expenditures.	Yes
<b>Recommendation 8:</b> Establish mechanisms to enforce accountability of control operators in ensuring the existence, accuracy, and timeliness of expense activity.	Yes
<b>Recommendation 9:</b> Design and implement procedures that enable management to completely and accurately accrue for expenditures that are incurred but not recorded as of period end. If the process involves an estimate, then additional procedures (i.e., retrospective review) over the estimate should be performed.	
<b>Finding 3:</b> Improved Entity Level Controls are Needed (Repeat Condition) <b>Recommendation 10:</b> Continue to review and revise as necessary its internal control program to plan, perform, monitor, and report and communicate a comprehensive, adequate, and appropriate internal assessment of the operating effectiveness of internal controls. This includes establishing clear timelines to implement and close corrective action plans and provide adequate training to process owners to create relevant and attainable plans that can be successfully completed within one year.	Yes
FY 2022 Material Weaknesses Findings and Recommendations	Status (Reached Management Decision)
<b>FY 2022 USDA Consolidated Financial Statements, Assignment No. 50401-0021-11</b>	
<b>Finding 1:</b> Improvements are Needed in Overall Financial Management. <b>Recommendation:</b> Since USDA has actions planned and in progress, we are making no further recommendations herein.	N/A
<b>Finding 2:</b> Improvements are Needed in Overall Information Technology Security Program. <b>Recommendation:</b> Seven new recommendations were issued based on security weaknesses identified in the FY 2022 FISMA report. The Department concurred with our findings and recommendations. As a result, we are making no further recommendations in this report.	N/A
<b>FY 2022 NRCS Financial Statements, Assignment No. 10403-0005-11</b>	
<b>Finding 1:</b> Improved Controls are Needed Over Obligations (Repeat Condition). <b>Recommendation 1:</b> Enforce stringent deadlines for the closeout of open obligations that have been marked for further action.	Yes
<b>Recommendation 2:</b> Strengthen policies and procedures to identify, review, and analyze static obligations (i.e., with no activity for multiple quarters).	Yes

Material Weaknesses	Status (Reached Management Decision)
<b>Recommendation 3:</b> Improve process to record deobligations of undelivered order balances when the goods or services have been fully delivered or delivery is not expected to occur	Yes

16. Please provide a table showing the amount spent for confidential operational activities for fiscal years 2018 through 2022.

**Response:**

Fiscal Year	Available	Spent
2018	\$125,000	\$38,535
2019	\$125,000	\$19,928
2020	\$125,000	\$26,336
2021	\$125,000	\$27,233
2022	\$125,000	\$20,864

17. Please provide a table showing the number of audit reports, investigative reports, indictments, convictions, and lawsuits filed for fiscal year 2022.

**Response:**

Audit Reports—Final	20
Audit Reports—Interim	3
Inspection Reports	6
Final Action Verification Reports	0
Infrastructure Memoranda	3
Reports of Investigation	114
Indictments	257

Convictions	240
Civil Lawsuit	1

18. How were the indictments resolved, and what percent led to convictions? Please report for the latest data available.

**Response:** For all cases closed in FY22, INV's conviction rate was 99.2%. For cases closed in the first half of FY23, INV's conviction rate was 99%.

19. Please provide for the record the amounts transferred to OIG from the Department of Justice Assets Forfeiture fund for fiscal years 2018 through 2022. Provide an explanation of the use of these funds by OIG.

**Response:** The Comprehensive Crime Control Act of 1984 established the Department of Justice Assets Forfeiture Fund to receive the proceeds of forfeiture. The Attorney General is authorized to use the Assets Forfeiture Fund to pay any necessary expenses associated with forfeiture operations such as property seizure, detention, management, forfeiture, and disposal. The Fund may also be used to finance certain general investigative expenses. Since USDA OIG is a member of the Department of Justice Assets Forfeiture fund, we receive an annual allocation. The amounts received for FY 2018 through 2022 are noted in the below chart.

<u>Fiscal Year</u>	<u>AFF Allocation Amount</u>	<u>Expense Categories</u>
2018	\$1,313,000	8 Expense Categories: Asset Management & Disposal, Case-Related Expenses, Joint Law Enforcement Operations, Special Contract Services, Training & Printing, Other Program Management Expenses, Contracts to Identify Assets, and Investigative Costs Leading to Seizure.
2019	\$1,219,000	7 Expense Categories: Asset Management & Disposal, Case-Related Expenses, Joint Law Enforcement Operations, Special Contract Services, Training & Printing, Other Program Management Expenses, Contracts to Identify Assets, and Investigative Costs Leading to Seizure.
2020	\$1,053,000	7 Expense Categories: Case-Related Expenses, Joint Law Enforcement Operations, Special Contract Services, Training & Printing, Other Program Management Expenses, Contracts to Identify Assets, and Investigative Costs Leading to Seizure.
2021	\$1,114,000	7 Expense Categories: Case-Related Expenses, Joint Law Enforcement Operations, Special Contract Services, Training &

		Printing, Other Program Management Expenses, Contracts to Identify Assets, and Investigative Costs Leading to Seizure.
2022	\$1,130,000	7 Expense Categories: Case-Related Expenses, Joint Law Enforcement Operations, Special Contract Services, Training & Printing, Other Program Management Expenses, Contracts to Identify Assets, and Investigative Costs Leading to Seizure.

20. Please provide for the record amounts transferred to OIG from the Department of Treasury Forfeiture Fund for fiscal years 2018 through 2022. Provide an explanation of the use of these funds by OIG.

**Response:** USDA OIG does not receive an annual allocation from the Department of Treasury Forfeiture Fund since we are not a member. However, we do receive funds from the Department of Treasury through the granting of petitions as noted below.

21. Please provide for the record amounts transferred to OIG through the granting of a Petition for Remission or Mitigation for fiscal years 2018 through 2022.

**Response:**

Petition Fund	2018	2019	2020	2021	2022
Department of Justice	\$1,823,141	\$6,510,896	\$149,572*	\$0.00	\$314,184
Department of Treasury	\$469,418	\$172,452	\$548,894	\$223,055	\$644,179
<b>Total</b>	<b>\$2,292,559</b>	<b>\$6,683,348</b>	<b>\$ 698,467</b>	<b>\$223,055</b>	<b>\$958,363</b>

\* OIG previously reported \$43,633 for the FY2020 Department of Justice Petition Fund, however that amount was reported in error.

22. Please describe the pay scale for OIG employees. How many are entitled to Law Enforcement Officer Pay? How many receive Law Enforcement Availability Pay?

**Response:** OIG currently has 130 Criminal Investigators (GS 1811) who are entitled to an additional 25% in Law Enforcement Availability Pay (LEAP) and are entitled to a premium pay that is paid to Federal law enforcement officers.

23. Please provide a table showing the allocation of OIG's resources and the percent of each that went towards investigations and audits of each USDA agency for fiscal year 2018 through 2022.

**Response:**

AUDIT WORKLOAD TABLE FY18 - FY22 SHOWING DIRECT TIME %					
	FY18	FY19	FY20	FY21	FY22
<i><b>Farm Production and Conservation</b></i>					
FSA (includes CCC)	3.59	6.94	13.53	10.62	6.40
FPAC					
RMA	6.70	4.00	4.24	10.70	11.28
NRCS	6.14	4.76	1.87	1.20	1.27
<b>Total – FPAC</b>	<b>16.43</b>	<b>15.70</b>	<b>19.64</b>	<b>22.52</b>	<b>18.95</b>
<i><b>Food, Nutrition, and Consumer Service</b></i>					
FNS-SNAP	2.14	6.16	3.32	3.47	2.32
FNS (Other than SNAP)	19.19	10.49	5.16	3.54	2.99
<b>Total – FNCS</b>	<b>21.33</b>	<b>16.65</b>	<b>8.48</b>	<b>7.01</b>	<b>5.31</b>
<i><b>Food Safety</b></i>					
FSIS	6.53	9.22	4.51	2.63	1.98
<b>Total – Food Safety</b>	<b>6.53</b>	<b>9.22</b>	<b>4.51</b>	<b>2.63</b>	<b>1.98</b>
<i><b>Marketing and Regulatory Programs</b></i>					
AMS	3.25	6.12	3.90	4.39	8.01
APHIS	1.56	2.91	11.79	8.57	6.65
GIPSA <sup>36</sup>	1.87	0.06			
<b>Total – MRP</b>	<b>6.68</b>	<b>9.09</b>	<b>15.69</b>	<b>12.96</b>	<b>14.66</b>
<i><b>Natural Resources and Environment</b></i>					
FS	7.95	2.79	4.32	3.30	2.53

<sup>36</sup> A final rule published November 29, 2018 (83 FR 61309), eliminated GIPSA as a stand-alone agency and amended 7 CFR part 2 to include new delegations of authority from the Under Secretary for Marketing and Regulatory Programs to the AMS Administrator.



AUDIT WORKLOAD TABLE FY18 - FY22 SHOWING DIRECT TIME %					
	FY18	FY19	FY20	FY21	FY22
<b>Total – NRE</b>	<b>7.95</b>	<b>2.79</b>	<b>4.32</b>	<b>3.30</b>	<b>2.53</b>
<i>Research, Education and Economics</i>					
ARS	0.01	0.78	0.02		
ERS		0.03		0.34	1.14
NIFA	2.63	0.70	0.03	2.51	2.92
NASS					
REE			2.92	0.18	
<b>Total – REE</b>	<b>2.64</b>	<b>1.51</b>	<b>2.97</b>	<b>3.03</b>	<b>4.06</b>
<i>Rural Development</i>					
RBS	0.02			1.19	0.02
RD	3.89	3.92	3.61	4.63	5.19
RHS	3.12	5.75	2.66	0.78	3.01
RUS (no RTB)	0.41	0.96	0.62	1.46	3.97
<b>Total – RD</b>	<b>7.44</b>	<b>10.63</b>	<b>6.89</b>	<b>8.06</b>	<b>12.19</b>
<i>Trade and Foreign Agricultural Affairs</i>					
FAS	1.58	0.00	2.54	3.83	1.78
<b>Total – TFAA</b>	<b>1.58</b>	<b>0.00</b>	<b>2.54</b>	<b>3.83</b>	<b>1.78</b>
<i>Other</i>					
MULTI-AGENCY	23.82	15.47	16.03	15.49	23.82
OASCR		0.94	3.38	1.37	0.10
OO	1.52				
OALJ					
OBPA					

AUDIT WORKLOAD TABLE FY18 - FY22 SHOWING DIRECT TIME %					
	FY18	FY19	FY20	FY21	FY22
OC					
OCFO	1.93	5.57	1.68	6.36	3.50
OCIO	0.13	0.13	0.30	0.68	0.29
OES					
OIG (Internal)	2.02	10.96	11.21	10.19	8.32
OJO					
OHSEC (Disaster Mgmt.)					
OTHER (inc. OGC)		1.34	2.36	2.57	2.51
<b>Total – Other</b>	<b>29.42</b>	<b>34.41</b>	<b>34.96</b>	<b>36.66</b>	<b>38.54</b>
<b>OIG Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

INV WORKLOAD TABLE FY18 - FY22 SHOWING DIRECT TIME %					
	FY18	FY19	FY20	FY21	FY22
<i>Farm Production and Conservation</i>					
FSA	12.95	11.49	13.18	15.06	11.25
FPAC					0.09
RMA	4.20	5.61	6.51	9.33	8.87
NRCS	1.02	1.06	0.69	0.62	1.02
<b>Total - FPC</b>	<b>18.17</b>	<b>18.16</b>	<b>20.38</b>	<b>25.01</b>	<b>21.23</b>
<i>Food, Nutrition, and Consumer Service</i>					
FNS-SNAP	42.07	42.92	34.25	29.57	30.09

FNS (Other than SNAP)	14.28	11.64	6.88	5.96	4.76
<b>Total - FNCS</b>	<b>56.35</b>	<b>54.56</b>	<b>41.13</b>	<b>35.53</b>	<b>34.85</b>
<b><i>Food Safety</i></b>					
FSIS	3.46	2.90	3.97	4.50	2.98
<b>Total - Food Safety</b>	<b>3.46</b>	<b>2.90</b>	<b>3.97</b>	<b>4.50</b>	<b>2.98</b>
<b><i>Marketing and Regulatory Programs</i></b>					
AMS	3.94	3.42	5.08	5.68	6.94
APHIS	8.65	9.40	12.96	16.67	22.58
<b>Total - MRP</b>	<b>12.13</b>	<b>12.82</b>	<b>18.04</b>	<b>22.35</b>	<b>29.52</b>
<b><i>Natural Resources and Environment</i></b>					
FS	2.47	3.23	3.78	2.28	2.40
<b>Total - NRE</b>	<b>2.47</b>	<b>3.23</b>	<b>3.78</b>	<b>2.28</b>	<b>2.40</b>
<b><i>Research, Education and Economics</i></b>					
ARS	2.00	1.46	0.47	0.53	1.26
ERS				0.01	
NIFA	0.40	0.01	0.40	0.35	0.29
NASS					
<b>Total - REE</b>	<b>2.40</b>	<b>1.47</b>	<b>0.87</b>	<b>0.89</b>	<b>1.55</b>
<b><i>Rural Development</i></b>					
RBS	1.00	1.80	2.22	1.08	1.42
RHS	1.75	2.80	5.42	2.62	1.99
RUS	0.64	0.18	0.18	0.19	0.34
<b>Total - RD</b>	<b>3.39</b>	<b>4.78</b>	<b>7.82</b>	<b>3.89</b>	<b>3.75</b>
<b><i>Trade and Foreign Agricultural Affairs</i></b>					

FAS	0.70	1.11	1.97	0.15	0.14
<b>Total - TFAA</b>	<b>0.70</b>	<b>1.11</b>	<b>1.97</b>	<b>0.15</b>	<b>0.14</b>
<b>Other</b>					
MULTI-AGENCY	0.33	0.27	0.16	1.12	1.65
OASCR	0.04		1.36	4.01	1.20
OO		0.02			
OALJ					
OBPA					
OC	0.07			0.01	
OCFO	0.06	0.06	0.09		
OCIO	0.02	0.02	0.10	0.04	0.33
OSEC	0.03		0.07	0.06	0.11
OIG (Internal)	0.03	0.05	0.05	0.03	0.05
OJ					
Others					
OHS (Disaster Mgmt.)	0.35	0.55	0.20	0.13	0.01
OTHER (inc OGC)			0.01		0.23
<b>Total - Other</b>	<b>0.93</b>	<b>0.97</b>	<b>2.04</b>	<b>5.40</b>	<b>3.58</b>
<b>OIG Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

**QUESTIONS SUBMITTED BY CONGRESSWOMAN JULIA LETLOW**

**Disaster Relief**

Ms. Fong, as I read through your written testimony, there is one thing I noticed – I see no mention of conducting oversight for USDA disaster relief dollars. The FY23 Omnibus provided \$3.8 billion in disaster relief for producers who suffered losses in 2022 and \$10 billion for 2020 and 2021. Louisiana’s fifth district was one of the most affected disaster areas, and our communities are relying on this funding so they can get back on their feet and be able to provide food for America’s families.

I repeatedly hear from producers across my district who believe their losses are covered, and when reading the legislative text, they are. Still, when the USDA releases its disaster program information, it does not include the covered losses provided in the law.

24. What role does the OIG play in ensuring congressionally appropriated disaster relief makes it to those constituents they are meant to serve?

**Response:** The primary role OIG plays is to provide oversight of USDA’s disaster programs to ensure the agency is administering the program in a manner that provides funding to those it is meant to serve. In general, when OIG receives any additional funding, such as disaster funding, we perform a comprehensive review of how best to utilize these funds and tailor our work to the specific disaster relief efforts associated with the funding. For example, in September 2018, OIG published a plan for providing oversight of disaster funding for necessary expenses related to agricultural losses, nutrition and rural assistance, and wildfires from Hurricanes Harvey, Irma, and Maria; and other declared major disasters and emergencies occurring in calendar year 2017. OIG would take a similar approach with additional appropriated funds, while also performing specific risk assessments and incorporating data analytic approaches to help direct OIG’s planning and tactical decision-making in determining the best way to use any additional funds.

In addition, investigative resources focus on identifying and timely investigating potential fraudulent activity in programs that received disaster-related funding. As circumstances warrant, referrals for additional audit or investigative work are made between OIG mission areas. These referrals can result from conditions observed by auditors, investigators, or data analysts as they perform their work. We use this general approach for conducting oversight of disaster funding and to help ensure that congressionally appropriated disaster relief reaches the constituents that those programs serve.

25. If it is the OIG’s responsibility, how much funding is needed to conduct this oversight?

**Response:** In order to conduct effective oversight, it is crucial that USDA OIG receive a commensurate amount of funding for oversight activities when USDA receives such funding, to best ensure the funds are being utilized for the intended purposes, and to pursue action against those individuals who engage in illegal acts with respect to those funds. Funding for USDA OIG would be used to conduct audits and inspections to

strengthen the effective and efficient delivery of emergency funding; to conduct investigations to identify and assist in prosecution of fraudulent activity occurring within USDA agency programs receiving funding; and to engage in data analytics to help identify relevant anomalies, patterns, and trends in support of USDA OIG's audit and investigative activities.

OIG did not receive funding within the FY23 Omnibus to specifically conduct oversight of the \$3.8 billion in disaster relief provided to producers who suffered losses in 2022, nor the \$10 billion for 2020 and 2021. However, OIG has been provided additional appropriated funds specifically to oversee USDA's disaster assistance activities in previous years. For example, OIG received \$2.5 million from the Bipartisan Budget Act of 2018 for OIG oversight of USDA disaster relief programs, grants, and activities funded by that Act. OIG appreciates this type of additional funding when provided by the Subcommittee for oversight of USDA's disaster assistance activities. However, if OIG does not receive additional disaster funding, we assess whether to conduct oversight of disaster funding along with the general oversight work we conduct of the USDA, as part of our planning process annually.

As a comparison, for example, in the stimulus programs under the American Recovery and Reinvestment Act (ARRA), the Department received \$28 billion for program delivery and OIG received \$22.5 million for oversight. Similarly, with respect to past appropriations to address hurricanes and other disasters, the Department received \$5.7 billion for program delivery and OIG received \$7.5 million for oversight. As such, it appears that Congress has deemed a commensurate amount to have been in the range of .08-.13%.

The Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117-58, provided USDA more than \$8.3 billion in funding. More than \$2.9 billion is directed toward broadband loans and grants, watershed and flood prevention operations, and a new bioproduct pilot program using agricultural commodities. The Act provided more than \$5.4 billion for forestry programs designed to reduce wildland fire risk and restore ecosystems. USDA OIG received more than \$27.1 million to provide oversight of the forestry programs funded by the Act. This is approximately .5% of the USDA funding for forestry IIJA oversight. However, no funding was allocated to the OIG for oversight of non-forestry programs and for which the OIG still has oversight responsibility.

26. If it is not the OIG's responsibility, who is responsible for protecting taxpayer resources inside the agency and ensuring they are being spent in the way Congress directed?

**Response:** USDA program managers have the primary responsibility to deliver programs in accordance with congressional intent. OIG's role and mission is to provide USDA with oversight to help USDA achieve results-oriented performance. This includes oversight of all USDA programs and operations to include special funding it may receive to assist the public during disasters, economic hardship, or COVID, for example.

### Broadband Oversight

When I travel throughout the district, one of the most common issues among constituents is access to high-speed internet. The Infrastructure Investment and Jobs Act (IIJA) provided \$2 billion for USDA broadband programs. This included \$1.9 billion for ReConnect grants and loans and \$74 million for Rural Broadband Program loans. That is \$2 billion from the IIJA alone. Nearly an additional \$1 billion has been provided by previous appropriations and legislation for telecom programs.

Despite this record level of spending for various broadband initiatives, I still have concerns that funding isn't prioritized to support communities with zero internet access before those who already have it. For example, in FY23, this subcommittee provided an increase in funding of \$1.5 million for oversight of USDA IIJA programs such as broadband loans and grants, watershed and flood prevention operations, and a new bioproduct pilot program using agriculture commodities.

27. Inspector General Fong, do you believe the OIG's current funding level is adequate to properly conduct oversight over the billions of broadband dollars intended to support people and communities living in districts such as mine?

**Response:** OIG approaches our oversight responsibility by prioritizing work that is critical to accomplishing our mission goals to help strengthen USDA's ability to (1) protect public health and safety and to secure agricultural and Department resources, (2) deliver program assistance with integrity and effectiveness, and (3) achieve results-oriented performance. We also plan our oversight work to review areas identified as challenges within the Department. We must balance these priorities and identified areas in the context of our overall appropriated budget, as well as mandatory assignments we must complete on an annual basis.

OIG appreciates the additional funds provided by the Subcommittee for oversight of USDA IIJA programs, such as broadband loans and grants, watershed and flood prevention operations, and a new bioproduct pilot program using agriculture commodities. As of May 15, 2023, with our general appropriated funds OIG has already started engagements related to the Rural E-Connectivity Pilot Program (ReConnect Program) - Award Process, where OIG is determining if: (1) Rural Utilities Service awarded Rural E-Connectivity Pilot Program funding to eligible applicants and projects, and (2) the evaluation criteria were accurately used to score and rank applications when awarding funds. OIG is expanding this engagement by using a portion of the \$1.5 million appropriated oversight funds for FY 2023 to issue an informational report related to the IIJA and Reconnect grants. Additionally, OIG has an ongoing inspection of the IIJA Bioproduct Pilot Program, where OIG is reviewing and reporting information for transparency and informational purposes. In addition to the ongoing projects, OIG is also in the process of finalizing our plans for how best to utilize the remaining appropriated oversight funds. Reports related to engagements that we have not yet started would be issued in FY 2024. All reports from our ongoing work are estimated to be released in FY 2023. Once these projects are complete, and as we move into FY 2024, OIG will assess

whether additional oversight work would be appropriate. If deemed necessary, OIG would apply FY 2024 resources to these new projects.

#### QUESTIONS SUBMITTED BY CONGRESSMAN BEN CLINE

##### SNAP Identification Verification

The USDA is currently in a pilot program that allows people receiving SNAP benefits to purchase groceries online. Virginia has 18 retailers that currently participate in this pilot program. More recently, the USDA started to allow online purchases to be made without a signature or photo ID.

28. Does the OIG think that verification like this is important? Are there concerns with this change?

**Response:** In August 2021, OIG issued an inspection report related to FNS' Supplemental Nutrition Assistance Program (SNAP) Online Purchasing Pilot, in response to the COVID-19 pandemic, which would allow households to make online purchases using SNAP benefits. The pilot requires online transactions to be secure, private, easy to use, and provide similar support to that found for SNAP transactions in a retail store. 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. Between March and December 2020, the total value of online SNAP purchase transactions increased from more than \$18.9 million 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 has not updated its risk assessment of the SNAP Online Purchasing Pilot since creating the pilot in 2014. Without updating its risk assessment to assess new risks in the rapidly evolving e-commerce market, the pilot could be susceptible to fraud and abuse—particularly as FNS rapidly expanded the pilot between March and December 2020.

Finally, 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. Instead, the agency relied on retailers' assurance and attestation that online retailers will protect the privacy of SNAP participants' information.

Overall, States do not have a role in approving online retailers. Similar to FNS authority for brick-and-mortar retailers, online retailer approval is FNS' responsibility. The State agencies are responsible for determining the eligibility of individuals and households to receive SNAP benefits, and issue monthly allotments of benefits. States may have a role in combating SNAP recipient fraud; however, our objectives did not include an assessment of recipient fraud risk related to the inability to verify identification or the States' roles to reduce fraud. As we plan our work for future years related to SNAP online purchases, we will keep these areas of concern in mind.



### SNAP Waivers

The OIG recently conducted an Audit of SNAP waivers. They found that “the divisions responsible for issuing waivers did not consistently document policies and procedures and did not meet Departmental recordkeeping requirements. According to FNS officials, this occurred because some waivers were too unique for standardized, documented policies and procedures to be effective, and procedures that were not formally documented were communicated to personnel through meetings or emails.”

29. As you know, some of the documentation issues surrounded waivers that were too unique for standardized documentation policies. Did the OIG’s recommendations address these concerns? In other words, as a part of the OIG recommendations, will the Food and Nutrition Service (FNS) still be able to consider unique waivers and properly document them?

**Response:** The recommendations put forth by OIG address the critical need for proper documentation and maintenance of records for all policies and procedures related to SNAP waivers, including unique waivers. Implementing OIG’s recommendations will provide FNS with the necessary flexibility to enhance its processes for considering and documenting all waivers pertaining to SNAP.

However, it is important to note that FNS still retains full responsibility for ensuring compliance with applicable laws and regulations concerning all waivers including unique SNAP waivers. If a unique waiver is deemed necessary, FNS must follow established procedures for proper consideration and documentation of the waiver. Our recommendations do not prescribe the specifics of these procedures; FNS still retains the ability to consider and document any type of waiver, including unique waivers, as needed to ensure compliance with requirements.

### Agricultural Trade Promotion

The agricultural trade promotion program was a temporary competitive grants program administered by the Foreign Ag Service designed to aid in the development of agriculture commodities and foreign markets by providing financial assistance to organizations for those activities. You found a great deal of issues with that and were unable to attest to the merits of the 59 ATP grants that were awarded in 19’ totaling \$300 million.

30. You’re talking about corrections – is this program still in existence? Because it was designed to be a temporary program and post COVID-19 what is the status?

**Response:** ATP is in existence in the sense that grant recipients are responsible for carrying out the terms of their grant awards for the duration of the grants. While FAS has not issued any new awards since July 2019, FAS retains program responsibility for all previously awarded ATP grants.

Given the severity and pervasiveness of the issues identified, OIG recommended multiple actions that FAS should take to correct the issues we identified. This includes approving and implementing a written policy that is designed to ensure FAS complies with Federal grant requirements, as well as published program regulations when awarding grants. This policy should include, at a minimum, the assigned roles and responsibilities as well as the processes and procedures FAS personnel will use to carry out these roles and responsibilities. FAS should also develop and implement a plan to train personnel on how to perform their assigned roles and responsibilities as prescribed in the written grant policy. This plan should also include information and guidance on how and when to elevate issues for resolution at the appropriate level of responsibility. FAS should develop and implement a plan to ensure FAS personnel are held accountable for the roles and responsibilities assigned to them in this policy related to ensuring compliance with all applicable Federal regulations when awarding grants. Finally, due to the impact of the internal control issues we identified, FAS should consult with the Office of the Chief Financial Officer to determine if the issues we identified in this report should be included in the agency's FMFIA assurance statement.

#### QUESTIONS SUBMITTED BY CONGRESSWOMAN BARBARA LEE

##### Addressing Threats to California's Crops

In my State of California, the glassy-winged sharpshooter pests are a serious threat to grapevines, almond trees, and other crops. I am hearing concerns from our farmers, that while the "glassy-winged sharpshooter program" has received increased funding, they are not seeing increased resources at the local level. Without sufficient funding at the local level, the glassy-winged sharpshooter will proliferate to a point where control will be inhibited.

31. Have you assessed this issue? How can we ensure that farmers have the support they need to address these pests that impact not only crop production but the economic viability of our farmers and the entire State?

**Response:** As of May 15, 2023, OIG has not conducted any audit-related work specifically addressing the glassy-winged sharpshooter. However, in January 2023, OIG did issue a report related to APHIS' Plant Pest and Disease Management and Disaster Prevention Program (PPDM).<sup>37</sup> We determined if APHIS implemented effective policies and procedures to select projects and allocate funding for PPDM and to assess oversight of funded projects to determine if participants used funds according to program requirements and approved cooperative agreements. OIG determined that APHIS could not provide an accurate record of the total number of PPDM projects awarded in fiscal year 2018 and fiscal year 2019 and their respective funding amounts. Additionally, APHIS' Plant Protection and Quarantine unit did not implement additional oversight actions to address deficiencies relating to a significant PPDM cooperator that APHIS' Review and Analysis Branch concluded was high-risk during a compliance review.

<sup>37</sup> Audit Report 33601-0001-21, *Plant Pest and Disease Management and Disaster Prevention Program*, January 2023.

Finally, we identified that APHIS did not establish performance goals and measures to assess PPDM's success in achieving the program's objectives.

OIG will consider conducting audit work specifically related to the glassy-winged sharpshooter as we plan for future engagements.

### Young and Beginning Farmers

Young and beginning farmers in my District and across the nation are concerned with equitable and affordable land access, culturally appropriate technical assistance, funding for community and farmer-led projects, and the availability of impactful conservation programs in the face of climate change.

32. Have you assessed, and if not, will you plan to assess how the USDA is providing support for BIPOC, socially disadvantaged, and young and beginning farmers?

**Response:** As of May 15, 2023, OIG has not completed assessments that focused on how the USDA is providing support specifically for Black, Indigenous, and People of Color (BIPOC), socially disadvantaged, and young and beginning farmers. However, we have completed engagements there were broader in nature related to socially disadvantaged and beginning farmers and ranchers.

In 2019, OIG issued an audit report on the Environmental Quality Incentives Program (EQIP) payment schedules.<sup>38</sup> EQIP is NRCS' flagship conservation program that helps farmers, ranchers, and forest landowners integrate conservation into working lands. Through EQIP, historically underserved participants, which include socially disadvantaged, beginning, veteran, and limited resource farmers and ranchers, are eligible for increased payment rates and advanced payments to help offset the costs of purchasing goods and services.

OIG reviewed whether EQIP payment schedules were cost-effective and represented producers' costs to implement conservation practices. We found that NRCS appears to be meeting the payment statutory limits. Additionally, while OIG did not question the quality of the conservation practices implemented, we found that NRCS' use of EQIP regional payment schedules did not consistently represent the producer's cost to implement conservation practices. Furthermore, OIG found that component cost estimates used in regional payment schedules were not always current and cost effective. Additionally, NRCS improperly overpaid EQIP producers \$30,416 by certifying ineligible practices and paying for services not received, and underpaid EQIP producers

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<sup>38</sup> Audit Report 10601-0005-31, *Environmental Quality Incentives Program Payment Schedules*, September 2019.

\$1,176 by using a component that did not meet technical specifications to calculate producer compensation.<sup>39</sup>

In addition to the EQIP audits, OIG has recently completed two audits to assess programs that provide services to farmers and ranchers. First, in November 2021, we reviewed and evaluated the Office of Partnerships and Public Engagement's (OPPE) policies, procedures, and internal controls related to Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program (2501 Program).<sup>40</sup> The 2501 Program provides eligible organizations with grant funds for training and technical assistance projects designed to assist socially disadvantaged and veteran farmers and ranchers in owning and operating viable agricultural enterprises. We identified 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. In addition, we determined that program personnel did not follow procedures OPPE established to monitor and evaluate grantee performance effectively. Finally, we determined that OPPE did not establish a performance plan and set performance goals and indicators to measure and assess its progress towards achieving the 2501 Program's purpose.

Second, in September 2022, OIG evaluated USDA's coordination of, and performance measures for, the beginning farmers and ranchers programs and followed up on recommendations made in our prior audit report.<sup>41</sup> Specifically, we conducted this engagement because beginning farmers can face multiple challenges, including obtaining enough capital to purchase farmland and earn a sufficient profit. Because beginning farmers tend to operate smaller farms and have fewer resources than more experienced farmers, they may find it difficult to obtain conventional credit. Moreover, beginning farmers may not be as knowledgeable as more experienced farmers about effective farming practices, financial and risk management practices, marketing opportunities, and available assistance programs. We found that although the Department measured beginning farmer and rancher activities by tracking program funds expended, it did not establish outcome-based measures of performance. We also evaluated the effectiveness of the Department's activities related to program coordination and followed up on recommendations made in our prior audit report; we did not identify findings related to these aspects of our objectives.

Finally, OIG will consider additional engagements in the future related to how USDA is providing support specifically for BIPOC, socially disadvantaged, and young and beginning farmers, as we plan for future work.

<sup>39</sup> OIG is currently conducting a follow-up review related to this EQIP audit that, in part, will evaluate whether corrective actions taken in response to our previous audit remain effective.

<sup>40</sup> Audit Report 91601-0001-21, *Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers Program (2501 Program) in Fiscal Years 2018 and 2019*, November 2021.

<sup>41</sup> Audit Report 50601-0010-31, *Beginning Farmers*, September 2022.

### Food as Medicine and Equitable Sourcing Food

I have been working with HHS Secretary Becerra and USDA Secretary Vilsack to scale "Food as Medicine," the integration of food-based interventions into healthcare to address food and nutrition insecurity. Given the growing demand for organic and regenerative foods, there will need to be a stepwise plan and investment to transition from conventional farming. In this transition, we must also:

- BIPOC farmers and distributors across the supply chain are not left behind, and
- Ensure the sourcing and supply chain for organic and regenerative is regional, local, and hyperlocal.

33. How do your assessments of USDA programs account for non-monetary benefits of building equitable and regional organic and regenerative agriculture to supply the demand for higher quality "food as medicine" in healthcare?

**Response:** As of May 26, 2023, OIG currently has two engagements ongoing related to organic food. First is an inspection related to the National Organic Program (NOP) regarding strengthening of its enforcement. As part of that inspection, OIG is identifying the actions taken in response to the 2018 Farm Bill provisions to further strengthen enforcement of USDA's NOP regulations. Additionally, we are obtaining information on how AMS will measure the effectiveness of the new NOP regulations. We anticipate we will issue an informational report related to this work by the end of fiscal year 2023.

The second engagement is an audit related to USDA agency coordination of organic crop information. The objective of this audit is to review USDA's controls and coordination between agencies to oversee organic producers. We are planning to issue a report on this work during fiscal year 2024.

Finally, OIG performs risk assessments to identify the USDA programs of highest risk to determine the engagements we plan to conduct each year as listed in our annual plan. Our risk assessments consider a multitude of factors, many of which are non-monetary. We will consider USDA's programs that support food as medicine, along with other areas of critical risks and vulnerabilities within USDA, as we perform future risk assessments.

34. How do your assessments of USDA programs work to ensure we are not leaving smaller, local and regional BIPOC led organizations behind?

**Response:** OIG performs risk assessments to identify the USDA programs of highest risk to determine the engagements we plan to conduct each year as listed in our annual plan. Our risk assessments consider a multitude of factors, many of which are non-monetary. We will consider USDA programs that work to ensure that smaller, local, and regional BIPOC led organizations are not left behind, along with other USDA risk areas, as we perform future risk assessments.

**Hemp and Cannabis Research**

35. Given the fact that so many states have moved forward with medicinal and recreational use of hemp and cannabis, what is the current status of your assessment and recommendations on the production of hemp and cannabis?

**Response:** As of May 15, 2023, OIG has not yet completed any engagements related to hemp production but has one ongoing engagement. This engagement is evaluating RMA's implementation and administration of the hemp crop insurance provisions. Once our work is completed, we anticipate being able to provide more information in this area.

36. What are the implications for farmers and USDA oversight and regulations?

**Response:** Once our work is completed on the engagement noted in the above question, we anticipate being able to provide more information in this area. In addition, based on the results of the work we complete, we may prioritize certain areas as we plan our future work.

37. What is the USDA doing to better support small to medium businesses, and minority farmers, in hemp production?

**Response:** OIG has not yet completed any engagements related to hemp production but has one ongoing engagement. As of May 15, 2023, OIG is currently evaluating RMA's implementation and administration of the hemp crop insurance provisions.

However, this engagement does not specifically relate to the USDA better supporting small to medium businesses, and minority farmers, in hemp production. We will consider this area as we plan for future work.

THURSDAY, MARCH 23, 2023.

**MEMBERS' DAY**

Mr. HARRIS. I call the hearing to order. I want to thank all of you for coming to today's hearing to receive testimony from our colleagues. I look forward to hearing more about the projects and programs in the agriculture appropriations bill that are important to each of your districts and to communities across the country. Your input will be critical as we work to fund the agencies under this subcommittee's jurisdiction.

I look forward to working with Ranking Member Bishop to accommodate these priorities as best we can as the fiscal year 2024 appropriations process moves forward.

Thank you again to each of our colleagues who have taken time out of your busy schedule to speak with us today and to bring issues important to your community to our attention.

Ranking Member Bishop, I yield to you for any opening remarks you would like to make.

Mr. BISHOP. Thank you, Chairman Harris, I am looking forward to hearing testimony from our colleagues on both sides of the aisle, and from Ohio to Hawaii, on the agencies under our subcommittee's jurisdiction. As I have often noted, these agencies conduct vital work that touch the lives of every American.

We look forward to hearing from you on your thoughts on the appropriations process, the programs, and the issues that affect your district and your constituents. Your input is invaluable to us, as we draft the fiscal year 2024 bill.

I want to thank every member who has taken time out of their day to speak to us today, and we appreciate your interest in the work of our subcommittee, and with that, Mr. Chairman, I yield back.

Mr. HARRIS. Thank you, Mr. Bishop. And first I would like to recognize Dr. Schrier for 5 minutes.

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THURSDAY, MARCH 23, 2023.

**WITNESS**

**HON. KIM SCHRIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON**

Ms. SCHRIER. Thank you, Mr. Chairman. Chairman Harris and Ranking Member Bishop, I really appreciate the opportunity to share my priorities and concerns as a representative of Washington's 8th Congressional District.

I would like to speak with you today to respectfully request consideration of the following priorities in fiscal year 2024: Ag role de-

velopment, Food and Drug Administration and related agencies appropriations bill.

The first topic is agriculture research facilities, and I would ask for generous funding here, along with my colleague from Kansas, Representative Tracey Mann, and a strong group of bipartisan members, I will be sending a letter to the committee urging \$500 million in investments for agriculture research infrastructure as authorized through the Research Facilities Act in Section 7503 of the 2018 farm bill.

I sincerely appreciated the committee's efforts to include \$2 million in initial funding within the 2023 omnibus bill and request further consideration to help address our deferred research maintenance backlog.

This funding will support competitive grants to land-grant universities and non-land-grant colleges of agriculture for facility construction, alteration, acquisition, modernization.

And without these investments, many from the 1950s and the 1960s, the U.S. really risks losing its competitiveness and ability to properly recruit and train the next generation of world-class researchers. This investment will reposition the U.S. as a leader globally.

Second, I want to make a note of the importance of the Community Project Funding to my district and districts across the country. The fiscal year 2023 bill included \$3 million for the development of a new food distribution center for the Chelan-Douglas Community Action Council, which provides support for individuals experiencing food insecurity in rural areas.

And I ask that you consider Community Project Funding submissions for the 2024 bill that bolster our Nation's food system and the economic success of rural America, especially at a time when food prices are so high.

Next, I want to touch on the importance of funding Federal nutrition assistance program. Recent data show that 34 million people, including 9 million children, in our country, are reporting food insecurity.

Rates are the highest in homes with children in rural areas and among communities of color, and these programs are more important than ever now with prices so high at the grocery store.

As a pediatrician, I cannot overstate the importance of ensuring our children not only have access to food, but have nutritious food because poor nutrition is linked to chronic diseases such as diabetes and heart disease in young and old people.

I ask the committee to provide the necessary funding to ensure kids have access to nutritious food, including support for WIC, SNAP, TEFAP, GusNIP, and more.

This year, I want to call special attention to the Supplemental Special Nutrition Program for Women, Infants, and Children, or WIC. And I urge the committee to consider the long-standing bipartisan commitment to fund this program at a level that can serve projected increased caseload.

Falling short of this could result in local agencies imposing waiting lists for the first time in 25 years and result in young children and families not getting proper nutrition.



In addition, sustaining the increased issuance for fruit and vegetables is particularly critical for boosting the consumption of healthy foods and curbing childhood and later adult obesity.

And next, I want to specially mention the Specialty Crop Research Initiative and Specialty Crop Block Grant Program. These fund research that supports hundreds of specialty crop farmers in Washington State.

Past funding projects have supported efforts to combat fungicide resistance in wine grapes, precision irrigation for fruit growers, and pest prevention in onions. These are especially critical to the farmers in my district at a time with changing climate and changing threats.

In the past several years, I have worked hard to make sure specialty crop researchers have access to the resources they need and was pleased that my fix to allow waiver authority for SCRI was included in the last four appropriations bills.

Until a permanent fix is enacted, the 2020 language restoring the waiver authority has to be included in the annual appropriation bills, please.

Lastly, I want to call attention to Little Cherry Disease. This poses tremendous threat to cherry growers in my district. It is a disease that spreads by insects and by roots, and the only cure is to uproot those trees, and we are seeing tremendous crop loss.

So thank you for your leadership during this process and thank you for your consideration of the needs in my district.

[The information follows:]

KIM SCHRIER  
8TH DISTRICT, WASHINGTON

WASHINGTON OFFICE  
1123 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-7761

**Congress of the United States**  
House of Representatives  
Washington, DC 20515

March 23, 2023

The Honorable Andy Harris, M.D.  
Chairman  
Appropriations Subcommittee on Agriculture,  
Rural Development, Food and Drug  
Administration, and Related Agencies  
Washington, DC 20515

The Honorable Sanford Bishop, Jr.  
Ranking Member  
Appropriations Subcommittee on Agriculture,  
Rural Development, Food and Drug  
Administration, and Related Agencies  
Washington, DC 20515

Dear Chairman Harris and Ranking Member Bishop,

I appreciate the opportunity to share my priorities and concerns as representative of Washington state's 8th congressional district. I write to respectfully request consideration of the following priorities in the Fiscal Year 2024 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies appropriations bill.

First, I ask for your support to fund agriculture research infrastructure. Along with my colleague from Kansas, Rep. Tracey Mann, and a strong group of bipartisan members, I sent a letter to the Committee urging **\$500 million in investments for agricultural research infrastructure as authorized through the Research Facilities Act (RFA) in Section 7503** of the 2018 Farm Bill. I sincerely appreciated the Committee's efforts to include \$2 million in initial funding within the FY23 Omnibus bill and request further consideration to help address our deferred research maintenance backlog.

Within NIFA, RFA funding will support competitive grants to land-grant universities and non-land-grant colleges of agriculture for facility construction, alteration, acquisition, modernization, renovation, or remodeling. Without specific investment in research facilities, many from the 1950s and 1960s, the U.S. risks its competitiveness and ability to properly recruit and train the next generation of world-class researchers. This investment will reposition the United States for long-term success, competitiveness, and leadership in global agricultural and food research.

Modern agricultural research and education facilities serve as the backbone of our nation's cutting-edge agricultural and food research enterprise. But 69 percent of research facilities at U.S. colleges are at the end of their useful life. Our research facilities not only generate solutions, but also aid in recruiting a new generation of diverse scientists, innovators, and agricultural leaders.

Second, I want to thank the Committee for its past inclusion of Community Project Funding requests (CPFs). Support for these projects is crucial to bolstering our food system and the

economic success of rural America. I urge the Committee to give full consideration of all CPFs for FY24.

Next, I want to touch on the importance of funding federal nutrition assistance programs. Recent data show that around 34 million people, including 9 million children, in our country are reporting food insecurity. Rates are highest in households with children, in rural areas, and among communities of color. Clearly, these programs are more important than ever.

As a pediatrician, I cannot overstate the importance of ensuring our children not only have access to food - clearly priority number 1 - but also that foods are nutritious. Poor nutrition is linked to chronic diseases, such as diabetes and heart disease. I ask the Committee to provide the necessary funding to ensure kids have access to nutritious food, including support for **WIC, SNAP, TEFAP**, and more.

This year, I want to call special attention to the Special Supplemental Nutrition Program for Women, Infants, and Children, or WIC. **I urge the Committee to honor the longstanding bipartisan commitment to fund this program at a level that can serve projected caseload.** Falling short of these commitments could result in local agencies imposing waiting lists for the first time in 25 years, which would mean that babies and young children fall through the cracks and would have limited access to the nutrient-dense foods they need to grow and thrive. In Washington State, we saw a 4% increase in WIC participation in FY22, meaning that more pregnant women and children are getting the nutrition support they need to build healthier eating patterns. Sustaining the increased issuance for fruits and vegetables is particularly critical for boosting consumption of healthy foods and curbing childhood obesity.

Within the TEFAP program, I also want to emphasize the importance of **Emergency Food Program Infrastructure Grants**, which Congress established in 2008 specifically to help emergency feeding organizations with capital, infrastructure, and operating costs associated with the collection, storage, distribution, and transportation of perishable food. Feeding America estimates that the unfunded critical capacity needs across the nation's network of 200 food banks and 60,000 partner agencies could be well over \$500 million. To begin closing this gap, I request that the committee provide \$15 million to fully fund the Emergency Food Program Infrastructure Grant program.

Third, the **Specialty Crop Research Initiative (SCRI) and Specialty Crop Block Grant Program** fund research that supports hundreds of specialty crops in Washington State. Past funding for projects in Washington have supported efforts to combat fungicide resistance in wine grapes, precision irrigation for fruit growers, and pest prevention in onions.

In the past several years, I have worked very hard to make sure specialty crop researchers have access to the resources they need and was pleased that my fix to allow waiver authority for SCRI was included in the FY 2020, 2021, and 2022 appropriations bills. Until a permanent fix is enacted, the FY 2020 language restoring the waiver authority must be included in annual appropriations bills. I urge the committee to continue to support specialty crop research by providing full funding for the Specialty Crop Research Initiative and Block Grant in FY 2023.

Within agriculture research, I also want to call attention the continued threat that **Little Cherry Disease (LCD)** poses to cherry growers in my district. It has become apparent over the past few years that Pacific Northwest cherry growers are facing a substantial threat from LCD, a condition caused by three viruses that are transmitted by insects like leafhoppers and mealybugs, as well as through the root systems of an orchard. Once detected, the only option is to remove the tree entirely. Little Cherry Disease has reached epidemic proportions in Washington state, and growers are scrambling to obtain new tools to improve detection and control the spread of this serious disease. I appreciate the more than \$2 million in dedicated LCD funding the Committee has provided to the Agricultural Research Service last year, which is supporting ongoing collaborative research efforts with Washington State University (WSU). Continued support for this funding is requested.

Lastly, I ask that you fund **school kitchen equipment grants at a level of at least \$45 million** to enable schools to serve healthier, more nutritious meals by modernizing their kitchens and updating the essential equipment needed to prepare foods that our children will enjoy. I further request you include report language lowering the minimum limit for school equipment from \$5,000 to \$1,000 to allow schools the flexibility to procure equipment needed the most.

Since 2009, Congress has made funding available to schools for the purchase of updated school kitchen equipment through the USDA School Kitchen Equipment Grant program. This support is vital, as nearly 90% of schools need at least one piece of updated kitchen equipment and many school administrators lack the funds needed to make these investments. Many school kitchens were built decades ago and designed with little capacity beyond reheating and holding food for dining service. Without the right tools, school districts rely on expensive, unsustainable workarounds. This is especially important at a time when we are focusing on improving school nutrition and setting the stage for a lifetime of healthy eating. It doesn't matter how healthy foods are if our children won't eat them. Let's give our schools the tools they need to make healthy food taste great. I can think of no better way to support local educators, school food service, and students.

Thank you for your leadership during this process and for your consideration of the needs of my District.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kim Schrier".

Kim Schrier, M.D.  
Member of Congress

Mr. HARRIS. Thank you very much, Dr. Schrier. Just as we have talked about before, in your paragraph, you say kids have to have access to nutritious food including WIC and SNAP, but as we know, WIC is nutritious food because we actually have what we call a formulary for. But we don't have that for SNAP, and hopefully we can work on making the SNAP products that are available more nutritious as well as we seek to fight things like childhood obesity.

Ms. SCHRIER. I stand ready to work with you on that. Thank you.

Mr. HARRIS. Oh, we are going to take you up on that, thank you. Thank you very much for taking the time to testify today.

Mr. BISHOP. Thank you very much.

Mr. HARRIS. Representative Tokuda, you are recognized for 5 minutes.

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THURSDAY, MARCH 23, 2023.

**WITNESS**

**HON. JILL N. TOKUDA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF HAWAII**

Ms. TOKUDA. Good morning, Chairman Harris, Ranking Member Bishop. Mahalo for this opportunity to testify today on behalf of Hawaii's Second Congressional District. As a member of the Agriculture Committee, I recognize the important role agricultural producers play in our economy and our lives.

We rely on farmers and ranchers across our Nation every day for the food we eat, the clothes we wear, and the fuel we need to keep this country running.

However, farming is a hard way to make a living. From long hours to erratic weather to workforce shortages, we ask farmers to do so much, while too many are just scraping by to get to the next planting season.

Farmers in Hawaii face the same challenges by those on the continent, but we also have to manage them on islands with very limited land and access to inputs, in the middle of the Pacific Ocean, 2,500 miles away from the West Coast, with new invasive pests and disease feasting on our year-round growing season, threatening more and more crops each year.

You play a critical role in ensuring that our country's farmers, ranchers, and producers and researchers have the support they need to keep going. Thank you for your significant contributions and investments in agriculture in fiscal year 2023.

Today as we focus on fiscal 2024 during a much-anticipated farm bill year, I would like to highlight a few programs that have been critical in Hawaii and humbly ask for your continued support.

First, thank you for consistently providing funding for the Micro-Grants for Food Security Program, since it was authorized in the 2018 farm bill. The program provides micro-grants to small producers and community organizations in Hawaii, Alaska, and the Territories, to increase the quantity and quality of locally grown food in food insecure communities like ours.

As a result of the pandemic and high cost of food in these areas, demand for the program has greatly outpaced current funding.

Last year, with significant levels of food insecurity existing on all of our islands, only 8 percent of micro-grant applications were able to receive funding.

I request that you fully fund the Micro-Grants for Food Security Program in fiscal year 2024 at its authorized level of \$10 million to ensure the program can fully help those that are looking to provide food for themselves and their communities.

Next, minority-serving institutions play a vital role in increasing access to education and agriculture and related sciences to make our Nation's agricultural sector more competitive.

The University of Hawaii is a Native Hawaiian-Serving institution and land-grant university. In addition to essential capacity funding, the Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Competitive Grants Program has been critical to carrying out education, applied research, and community development programs that would otherwise struggle to receive funding.

For example, UH has been a world leader in tropical flower variety development which is critical to Hawaii's flora culture industry.

Fully funding the ANNH program at its authorized level of \$10 million is desperately needed to meet the increased challenges we face today, such as expanding research to support Hawaii's indigenous and traditional staple crops, like kalo, or taro, and 'ulu, or breadfruit, to be more resilient to climate conditions, pests, and disease.

Furthermore, direct specialty crop research funding has been essential for iconic Hawaii agriculture industries like coffee and macadamia nuts which we all enjoy.

Thank you for your support for the Coffee Plant Health Initiative and Macadamia Nut Tree Health Initiative which have played a key role in combating invasive disease like coffee leaf rust and pests like tropical nut borer.

I ask for your continued support for these initiatives and ask for your help to add funding for threats to our avocado industry and dealing with the impacts of the spittlebug which have both been recognized through report language in the last two Congresses.

Lastly, as I have highlighted multiple times today, invasive species threaten agriculture producers in Hawaii and across our country. Investments in prevention are a matter of national security, and are significantly cheaper than mitigation efforts like expensive, ungulate perimeter fences and losses once species and diseases are introduced.

Funding for programs like the Agriculture Quarantine Inspection Program and the Animal and Plant Health Inspection Service is critical to our food security and agriculture industry.

Chairman Harris, Ranking Member Bishop, our farmers and ranchers work in service to our country every day, making it possible for us to have food on our tables. We need to help them put food on theirs.

The threats and opportunities to agriculture and our ability to feed and fuel our country are real, and I look forward to working with you and the subcommittee on issues facing our agriculture producers. Mahalo.

[The information follows:]

**House Appropriations Committee, Agriculture Subcommittee**

**Member Day Hearing**

**Representative Jill Tokuda (HI-02)**

**10:00 AM Thursday, March 23, 2023**

Chairman Harris, Ranking Member Bishop, and distinguished members of the Agriculture Appropriations Subcommittee, thank you for the opportunity to testify today.

As a member of the Agriculture Committee, I recognize the important role agricultural producers play in our economy and lives. We rely on farmers and ranchers across our nation every day, for the food we eat, the clothes we wear, and the fuel we need. However, farming is a hard way to make a living. From long hours to variable weather to workforce shortages, we ask farmers to do so much, while too many are just scraping by just to get to the next planting season.

Farmers in Hawai'i face all the same challenges faced by those on the continent but also have to manage them on islands, with very limited land; in the middle of the Pacific Ocean, 2,500 miles away from California; with new invasive pests and diseases entering the state and threatening different specialty crops seemingly every year.

You play a critical role in ensuring that our farmers, ranchers, and researchers throughout the nation have the support they need to be successful. Thank you for your great investments in agriculture in Fiscal Year 2023.

Today, I want to highlight a few programs that have been critical in Hawai'i, and ask for your help in ensuring they receive needed funding to continue their impact in my home state.

First, thank you for consistently providing funding for the Micro-Grants for Food Security Program since it was authorized in the 2018 Farm Bill. The program provides microgrants to small producers and community organizations in Hawai'i, Alaska, and the territories to increase the quantity and quality of locally grown food in food-insecure communities. With the pandemic and the high cost of food in these areas, demand for the program has greatly outpaced current funding. I request that you fully fund the Micro-Grants for Food Security Program in Fiscal Year 2024 at its authorized level of \$10 million to ensure the program can fully help those that are looking to provide food for themselves and their communities.

Next, Minority Serving Institutions play a vital role in increasing access to education in agriculture and related sciences to make our nation's agricultural sector more competitive. The University of Hawai'i is a Native Hawaiian-Serving Institution and Land-Grant University. In addition to essential capacity funding, the Alaska Native-Serving and Native Hawaiian-Serving Institutions Education Competitive Grants Program has been critical to carrying out education, applied research, and community development programs that would otherwise struggle to receive funding. For example, UH has been a world leader in tropical flower variety development, which is critical to Hawai'i's floriculture industry. Fully funding the ANNH program at its authorized level of \$10 million is desperately needed to meet the increased challenges we face today, such as expanding research to support Hawai'i staple crops like kalo (taro) and 'ulu (breadfruit) be more resilient to drought and weather impacts.



Furthermore, direct specialty crop research funding has been in essential for iconic Hawai'i agricultural industries like Kona coffee and Hawai'i macadamia nuts. Thank you for your continued support for the Coffee Plant Health Initiative and Macadamia Tree Health Initiative, which have played a key role in combating invasive diseases like coffee leaf rust and pests like Tropical nut borer. I ask for your continued support for these initiatives and ask for your help to add some funding for Avocado and Spittle Bug, which you've recognized through report language for the last two Congresses.

Lastly, as I've highlighted multiple times during my speech, invasive species threaten agricultural producers around our nation. Investments in prevention are a matter of national security and are significantly cheaper than mitigation efforts and losses once species are introduced. Funding for programs like the Agriculture Quarantine Inspections Program and the Animal and Plant Health Inspection Service is critical to our food security and agricultural industry.

Chairman Harris, Ranking Member Bishop, thank you again for your time today. I look forward to working with you and the subcommittee on issues facing our growers.

Mahalo.

Mr. HARRIS. Thank you very much, Representative. Let me just ask you a question because invasive species are a problem everywhere. In my district, we have the spotted lanternfly, we have blue catfish. I mean, you mentioned the coffee leaf rust and the tropical nut borer. Are we being successful in controlling those invasive species, or where do we stand with those?

Ms. TOKUDA. Right now we are losing the fight, quite frankly, and we need to do more to be able to research how we are going to help our farmers keep more of their crop. I literally have stared at coffee fields that once I could not see through them because the leaves were so lush. I can see to the back of their properties. They are anticipating that sometimes less than a third can actually go to market at this point.

So our farmers are barely hanging on at this point, and much research is needed, support for those crop losses are required, and quite frankly, looking forward at what threats could come next is something we have also got to do.

Mr. HARRIS. OK. Thank you very much. Thanks for taking the time today.

Mr. BISHOP. Thank you very much. What you highlight is typical across agriculture in America, and we fully support it. Mahalo.

Ms. TOKUDA. I invite you to come to Hawaii anytime to join us in the fight for agriculture. Mahalo.

Mr. HARRIS. Mr. Bishop, we might have to do a field trip out there.

Mr. BISHOP. Sounds good to me.

Mr. HARRIS. Maybe have a hearing on those invasive diseases.

Mr. BISHOP. Sounds really good to me.

Mr. HARRIS. Mr. Flood, you are recognized for 5 minutes.

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THURSDAY, MARCH 23, 2023.

**WITNESS**

**HON. MIKE FLOOD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA**

Mr. FLOOD. Thank you, Chairman Harris, Ranking Member Bishop, and all the members of the subcommittee. I am grateful for this opportunity to come before you today and highlight an important project to promote cutting-edge ag research in the United States, the Midwest, and my home State of Nebraska.

You may already be aware of this program, it was championed by my predecessor, Mr. Fortenberry. Specifically, I would like to call your attention to the U.S. Department of Agriculture Ag Research Service National Center for Resilient and Regenerative Precision Agriculture.

Agriculture plays a tremendous role in the Midwest region of the United States. The seven State region of Nebraska, Iowa, Kansas, Minnesota, Missouri, North Dakota, and South Dakota accounts for more than 30 percent of the Nation's \$487 billion in ag production output and is home to 411,000 farms and ranches.

Although the Midwest region accounts for just 14 percent of the Nation's land mass, 80 percent of the land in these States is in ag production. In total, the region accounts for more than 40 percent

of U.S. crop land, nearly 20 percent of U.S. pastureland, and nearly 30 percent of total U.S. agriculture sector production.

However, our Nation is at a critical juncture in advancing precision agriculture. In the next two decades, experts predict that U.S. agriculture will transition from mechanized agriculture, using large, diesel-powered tractors and the like, to digital agriculture, using highly networked, small, robotic implements utilizing high input data.

On-farm decisionmaking will be guided by these digital tools for targeted, precision, enterprise-level management.

These technological changes, coupled with rapid growing world production demanding increased food production, means that our producers must adopt 21st century regenerative management practices that promote resilience of our soil, water, and natural resources.

As the Nation's ag systems move from mechanized to digital agriculture, the Federal Government must invest in precision agriculture research to guide and drive this change.

The National Center for Resilient and Regenerative Precision Agriculture is a planned \$110 million facility, co-located, USDA/ARS lab facility of 120,000 square feet with a 15,000 square-foot greenhouse, adjacent to a \$50 million State and philanthropically funded University of Nebraska Ag Tech Accelerator Building.

This facility will be the first of its kind to utilize a hub-and-spoke model focused on regenerative and precision agriculture which will bring together scientists from highly productive and nationally renowned land-grant universities with ARS scientists across the Nation, to ensure the United States remains the leader in feeding and fueling a growing world.

The existing ARS units in Lincoln will join two new research units in this facility, housing over 150 people when completed. Congress has already appropriated planning and design funds as well as funds for the greenhouse construction with groundbreaking expected in 2024.

The full USDA/ARS lab building will be constructed when Congress has appropriated the total funds for the project. I am here today to ask the committee to continue its support for this important and much-needed facility.

Conveniently the Midwest region is home to 18 public research universities, eight of which are land-grant institutions and drivers of game-changing research in a variety of disciplines.

Constructing this center in close proximity to existing ARS facilities and strong land-grant universities will amplify capabilities and collaborations and benefit the entire Nation.

This project has received continued support from the administration and USDA officials. It is specifically included in the USDA's budget book for fiscal year 2024.

Dr. Chavonda Jacobs-Young, Under Secretary for Research, Education, and Economics, and chief scientist at the USDA, has repeatedly expressed the Department's support for this facility.

She stated, quote, "I will continue to promote and advance for the cost effective and timely development of this new facility to ensure that it will be open for business as soon as possible, end quote.

This project has also garnered support from State leaders in Nebraska. In 2022, the State legislature passed, and the governor signed into law, \$25 million to be matched by private philanthropic funding to construct the University of Nebraska companion facility for the National Center.

Most importantly, this project has strong community support. Several commodity stakeholder groups and community organizations in my home State have sent letters in support of the National Center and demonstrated their support through continued advocacy.

All in all, the National Center boasts diverse and robust support from across the region, the Midwest region, the State of Nebraska, and the local community.

I thank you very much for the opportunity to present, and I yield back.

[The information follows:]

**The Honorable Mike Flood, representing Nebraska First Congressional District**  
**House Appropriations Committee – Subcommittee on Agriculture, Rural Development,**  
**Food, and Drug Administration, and Related Agencies**  
**Member Day Testimony – March 23, 2023**

Thank you, Chairman Harris, Ranking Member Bishop, and all the members of the Subcommittee. I am grateful for this opportunity to highlight an important project to promote cutting-edge agriculture research in the United States, the Midwest, and my home state of Nebraska.

Specifically, I would like to call to your attention the **United States Department of Agriculture (USDA) Agricultural Research Service (ARS) National Center for Resilient and Regenerative Precision Agriculture**. I am requesting \$25 million in programmatic funding with accompanying report language under the Agricultural Research Service (Buildings and Facilities) account, as well as \$25 million in community project funding to demonstrate my passionate support for this facility and innovative agriculture research.

Our nation is at a critical juncture in advancing precision agriculture technology and related artificial intelligence. In the next two decades, experts predict that U.S. agriculture will transition from mechanized agriculture using large, diesel-powered tractors and implements to digital agriculture using highly networked, small, lightweight autonomous robotic implements, drones, and sensors utilizing high input data and artificial intelligence. On-farm decision-making will be guided by these digital tools for targeted, precision, enterprise-level management. Similar changes are expected in the livestock industry for animal health, herd management, and workforce solutions.

These technological changes coupled with a rapidly growing world population demanding increased food production means that our producers must adopt climate-smart and regenerative management practices that promote resilience of our soil, water, and natural resources. **As the nation's agricultural systems move from mechanized to digital agriculture in this challenging environment, the federal government must invest in precision agricultural research to guide and drive this change.**

The National Center for Resilient and Regenerative Precision Agriculture is a planned \$110 million co-located United States Department of Agriculture (USDA) Agricultural Research Service (ARS) lab facility of 120,000 square feet with a 15,000 square foot greenhouse adjacent to a \$50 million state and philanthropically funded University of Nebraska ag-tech accelerator building in Lincoln, Nebraska. This facility will be the **first of its kind to utilize a "hub and spokes" model** focused on regenerative and precision agriculture which will bring together scientists from highly productive and nationally renowned land-grant universities and USDA ARS scientists across the nation to ensure the United States remains the leader in feeding and fueling a growing world sustainably.

The existing ARS Grain, Forage, and Bioenergy Research Unit and the Agroecosystems Management Research Unit in Lincoln will join two new research units: the Water, Climate, and Resilience Research Unit and the Precision Production Research Unit in this new facility, housing over 150 people when completed. Congress has already appropriated planning and design funds and funds for the greenhouse construction with groundbreaking expected in 2024. The full USDA

ARS Lab building will be constructed when Congress has appropriated the total funds for the project.

Agriculture plays a tremendous role in the Midwest Region of the United States, particularly in the seven states of Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. The seven-state region accounted for more than 30 percent of the nation's \$487 billion in agricultural production output in 2021 and is home to 411,000 farms and ranches. Although the Midwest Region accounts for just 14 percent of the nation's landmass, 80 percent of the land in these states is in agricultural production. In total, the Region accounts for more than 40 percent of U.S. cropland, nearly 20 percent of U.S. pastureland, and nearly 30 percent of total U.S. ag sector production. This region hosts existing complimentary federal agricultural facilities: the USDA National Bio and Agro-Defense Facility in Manhattan, Kansas; ARS National Laboratory for Agriculture and the Environment in Ames, Iowa; ARS Meat and Animal Research Center in Clay Center, Nebraska; and the National Institute for Food and Agriculture in Kansas City, Missouri. A co-located ARS facility for resilient and regenerative precision agriculture is highly needed. **Constructing this facility in close proximity to existing ARS facilities and strong land-grant universities will amplify capabilities and collaborations to benefit the entire nation.**

The Cooperative Extension arm of land-grant universities and colleges offers an unparalleled connection to producers, processors and tribal communities and others eager to test, evaluate and adopt emerging ag technologies and regenerative management practices. Conveniently, the Midwest Region is home to 18 public research universities, eight of which are land-grant institutions and drivers of game-changing research in precision agriculture, plant and animal

genetics, livestock health, remote sensing, on-farm application of technologies and drones, natural resources management, biosecurity, and one health initiatives in human, veterinary, and environmental health.

This project has seen continued **support from the Administration and USDA** officials. It is specifically included in the USDA's budget book for FY24. Dr. Chavonda Jacobs-Young, Undersecretary for Research, Education, and Economics and Chief Scientist at the Department of Agriculture, has repeatedly expressed USDA's support for this facility. Most recently in response to a letter from the Nebraska delegation, she stated "I will continue to promote and advance for the cost-effective and timely development of this new facility to ensure that it will be open for business as soon as possible. As you noted, the National Center for Resilient and Regenerative Precision Agriculture will provide key collaboration opportunities with other universities and research organizations...**this work is essential for supporting the national economy and U. S. farmers, ranchers, stakeholders, and consumers.**"

This project has also garnered **support from state leaders** in Nebraska. In 2022, the State Legislature passed, and the Governor signed into law, \$25,000,000 to be matched by private philanthropic funding of \$25 million to construct the University of Nebraska - Lincoln companion facility adjacent (east side of expected ARS Lab building) to make the National Center for Resilient and Regenerative Precision Agriculture.

Most notably, this project has **strong community support**. Several commodity stakeholder groups in Nebraska have sent a letter in support of the National Center and demonstrated their support



through continued advocacy. In the letter, these stakeholders write, “Our ability to thrive depends on developing and adopting climate-smart, data-driven, resilient, and regenerative precision agriculture practices...[the] National Center also provides a unique opportunity for land-grant institutions and federal agencies to partner with established ag industries, as well as to attract startups and entrepreneurs to commercialize promising technologies.” In addition, the Lincoln Chamber of Commerce and the Nebraska Chamber of Commerce emphasize in a joint letter that “...The transition to digital agriculture will require a skilled ag- and food-tech workforce. **One in four jobs are tied to farming and ranching in Nebraska.** Biotechnology, value-added agriculture – including renewable fuels, automation, ecommoditization and international trade **present the greatest opportunities for economic growth both regionally and nationally.**” All in all, the National Center boasts diverse and robust support from those across the nation, the Midwest region, the state of Nebraska, and the local community.

In conclusion, I hope that my testimony here today highlights the important role this facility would play in advancing modern, resilient, and cutting-edge agricultural research. I am proud to have requested \$25 million dollars in programmatic funding to build upon the funds previously appropriated for this facility. I have simultaneously made a \$25 million community project funding request to support this important project.

Thank you for your time and consideration of this important project. I look forward to working with you to support cutting-edge research, agriculture resilience, rural prosperity, and the people of Nebraska’s First Congressional District.

Mr. HARRIS. Thank you very much. Let me just ask one question. The State support is for exactly what? The \$25 million to be matched by private philanthropic funding, what is that going to construct on your map there, on your diagram?

Mr. FLOOD. The \$25 million funds a companion facility for the National Center. So the National Center includes the greenhouse and this area.

The companion facility, I believe, is down here, and it includes ag research opportunities for the University of Nebraska, researchers from the University of Nebraska. We are working to put some of our existing ag research from other campuses and pull it into Lincoln.

Mr. HARRIS. I see. So they will both be incorporated in that—

Mr. FLOOD. Right.

Mr. HARRIS [continuing]. Orange space there?

Mr. FLOOD. Right.

Mr. HARRIS. OK. Well, thank you very much.

Mr. Bishop, do you have any questions?

Mr. BISHOP. Yes. No questions, just a comment. We are very much familiar with this facility. As a matter of fact, the subcommittee offered funding in the House bill last year in appropriations. Apparently, it didn't survive conference, but the subcommittee was very, very supportive, and your predecessor was a very strong advocate for it. And it seems to be a very good program, very timely, and I would hope that we can give consideration to it again this year.

Mr. FLOOD. Thank you. Mr. Fortenberry was certainly a champion, and I know that our U.S. Senate delegation are working very hard. Now we have a Member on Appropriations in the U.S. Senate, so hope for a better outcome.

Mr. HARRIS. Thank you very much, Mr. Flood.

With no other members here to testify this morning, the hearing is adjourned.

[Statements submitted for the record follow:]

## Written Statement

Rep. James P. McGovern (MA-02)  
**Testimony before the Agriculture Appropriations Subcommittee**

March 31, 2023

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Chairman Harris, Ranking Member Bishop, and Members of the Committee: thank you for the opportunity to share my priorities for the fiscal year 2024 Agriculture, Rural Development, Food and Drug Administration and Related Agencies appropriations bill. I would like to use this opportunity to discuss food security at home and abroad, and the importance of coming together to end hunger once and for all.

Mr. Chairman, I am deeply concerned about comments made in the press by Republicans on the Appropriations Committee who are seeking to cut the Supplemental Nutrition Assistance Program (SNAP). SNAP is our first line of defense against hunger, helping 42 million people afford nutritious food, with an average benefit of about \$2 per meal. Some of the comments made have focused on more onerous work requirements, and I'd like to take a moment to set the record straight here. Congress has already put into place strict work requirements for SNAP, and the majority of people who can work, do work. Beneficiaries who are 16-59 who are able to work are required to 1) register for work; 2) participate in SNAP Employment & Training or workfare, if assigned by a state agency; 3) take a suitable job, if offered; and 4) not voluntarily quit a job.

Able bodied adults without dependents (ABAWDs) must meet even stricter requirements and are only able to access the program for 3 months out of every 3 years if they do not meet these strict requirements.<sup>[1]</sup> ABAWDs are an incredibly vulnerable group of individuals. As many as 100,000 are veterans. Many are extremely poor and chronically homeless. A large number of

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<sup>[1]</sup> USDA <https://www.fns.usda.gov/snap/work-requirements>

ABAWDs have mental or physical limitations.<sup>[2]</sup> Waivers to the requirement are requested by states in times of high unemployment or when limited jobs are available, and it is not just “blue states”<sup>[3]</sup> who request these waivers. For instance, in the first quarter of 2020, prior to the pandemic, 36 states and territories had waivers in place. Some of the “red states” who sought waivers include: Alaska, Arizona, Georgia, Idaho, North Dakota, Ohio, South Dakota, Tennessee, Utah, and West Virginia.<sup>[4]</sup> Make no mistake: cuts to SNAP in any vehicle will kill any effort to enact a Farm Bill this year.

SNAP is the strong base of our anti-hunger safety net, but I also ask the committee to provide robust funding for other programs that address hunger in America, like the Special Supplemental Program for Women, Infants, and Children (WIC), The Emergency Food Assistance Program (TEFAP), the Child and Adult Care Food Program (CACFP) and the Commodity Supplemental Food Program (CSFP). Further, I urge you to support our summer and school meal programs, including strong support for programs that help to provide more nutritious food to kids in school, such as the Fresh Fruit and Vegetable Program, Farm to School grants, and School Kitchen Equipment grants.

Additionally, I urge the committee to address the terrible problem of food waste. Nearly 40% of food grown and produced in the United States goes to waste,<sup>[5]</sup> increasing greenhouse gas emissions<sup>[6]</sup> and waste management costs and challenges for municipalities.<sup>[7]</sup> To support food

<sup>[2]</sup> Center on Budget and Policy Priorities [https://www.cbpp.org/research/food-assistance/who-are-the-low-income-childless-adults-facing-the-loss-of-snap-in-2016#\\_ftnref8](https://www.cbpp.org/research/food-assistance/who-are-the-low-income-childless-adults-facing-the-loss-of-snap-in-2016#_ftnref8)

<sup>[3]</sup> Bloomberg <https://www.bgov.com/news/RPEDW7T1UM0W>

<sup>[4]</sup> USDA <https://fns-prod.azureedge.us/sites/default/files/media/file/FY20-Quarter%201-ABAWD-Waiver-Status.pdf>

<sup>[5]</sup> Feeding America <https://www.feedingamerica.org/our-work/reduce-food-waste#:~:text=Shockingly%2C%20nearly%2040%25%20of%20all,billion%20pounds%20of%20food%20waste.>

<sup>[6]</sup> Environmental Protection Agency <https://www.epa.gov/land-research/farm-kitchen-environmental-impacts-us-food-waste>

<sup>[7]</sup> Natural Resources Defense Council <https://www.nrdc.org/food-matters#cities>

recovery efforts, I ask the committee to include \$500,000 for the Food Loss and Waste Reduction Liaison at USDA, as authorized in the 2018 Farm Bill, and report language to further food waste education and prevention efforts at schools.

I would now like to discuss our international efforts to fight food insecurity. I am grateful to the Committee for its bipartisan support of the George McGovern-Robert Dole International Food for Education and Child Nutrition Program (the McGovern-Dole Program). As you know, increased funding for this program remains a top priority for me. Last year was the 20th Anniversary of the McGovern-Dole Program. The U.S. House of Representatives marked this milestone by passing H. Res. 1156, a bipartisan resolution introduced by my good friend and colleague, Congressman Tracey Mann (KS), and me that calls on Congress to build upon and expand the achievements of the McGovern-Dole Program. For this reason, I remain frustrated that over the span of twenty years Congress has yet to fund the program at the \$300 million level provided to the pilot program that existed prior to McGovern-Dole being established as a permanent program in law. This year, Rep. Tracy Mann and I co-led a bipartisan letter signed by over 90 of our House colleagues urging the Committee to provide \$265 million in FY 2024 for the McGovern-Dole Program. I hope the Committee will include this level of funding in FY 2024.

As you know, the world is facing a global food crisis brought on by severe weather events due to changing climate patterns, conflict, the impact of the Covid-19 pandemic, and natural disasters. This crisis has been compounded to an extreme by the Russian invasion of Ukraine and the uncertainty of the Black Sea Agreement remaining active. Rarely in our lifetimes have programs like the McGovern-Dole Program and Title II P.L. 480 Food for Peace been more needed. I joined the letter led by Congressman Jim Costa requesting \$2 billion for

Food for Peace for FY 2024, but my fear is that Congress will need to provide even more given the mounting global food crisis and rising costs of energy, fuel, and transportation. I would also ask that the Committee make special note of the needs of infants and children, especially those suffering from severe malnutrition and undernutrition, when allocating funds and commodities for Food for Peace. Proven treatments for severe malnutrition, such as Ready to Use Therapeutic Foods (RUTF) and targeted nutritional supplements, should be fully incorporated into FFP programs where appropriate.

I would also ask the Committee to pay special attention to the funding needs of the Bill Emerson Humanitarian Trust (BEHT). The BEHT is our global food security “safety net.” Last year, for the very first time in its history, the BEHT reserves were totally exhausted to address the food and nutrition needs of the Ukrainian people and refugees and for the global food crisis. It is critical that the BEHT be replenished to ensure that there are reserves in place to deal with urgent and unanticipated global food security needs and avoid reprogramming from other emergency accounts or ameliorate the need for supplemental appropriations requests.

Finally, Mr. Chairman, I’d like to briefly mention an environmental issue that falls under your jurisdiction. Since 2008, my hometown of Worcester, Massachusetts has been dealing with the largest Asian Longhorned Beetle infestation in North America. Tens of thousands of trees have been cut down, and eradication and replanting efforts continue. I urge the Committee to provide at least \$64 million for Tree and Wood Pests under USDA’s Animal and Plant Health Inspection Service.

Thank you for this opportunity to testify.

BLAKE D. MOORE  
1st DISTRICT, UTAH

1320 LONGWORTH HOB  
WASHINGTON, D.C. 20515  
202-225-0453

324 25TH STREET  
OGDEN, UT 84401  
801-625-0107

BLAKEMOORE.HOUSE.GOV

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-4401**

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ON OVERSIGHT AND INVESTIGATIONS  
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS,  
AND PUBLIC LANDS

**Representative Blake Moore (UT-01)**

**House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug  
Administration, and Related Agencies Subcommittee Member Day**

**Testimony for the Record**

**March 23, 2023**

Thank you for the opportunity to testify. As the father of four young boys and representative of the state with the nation's highest birth rate, it is important to my constituents that we support parents as they bring new life into the world and feed their growing families. I believe that women in need should have the opportunity and flexibility through the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to access formula and breastfeeding supplies and support. Forcing women to choose between these two options or creating barriers to breastfeeding support do not lead to better health outcomes, and they in fact leads to higher health care costs for families and taxpayers across the country.

It is my specific request for the House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies to follow through on FY2023 report language directing the United States Department of Agriculture (USDA) to collect information from state WIC agencies on state-level requirements for participants seeking to access breastfeeding support through their local WIC program. This information has proven difficult to find. Within this report, the USDA should detail WIC agency requirements for mothers in their state to access breastfeeding supplies and services.

Formula is a wonderful option, and one that my own family has heavily relied on, but government policies should not be creating needless incentives and disincentives for women who

are deciding how to feed their infants. Many women choose to use both breast milk and formula when options are available to them. Publicly accessible data, as most recently reported by state WIC agencies, reveals that 12% of infants supported by WIC are fully breastfed. Additionally, since 2016, the Fully Breastfed rate has fallen year-over-year, reaching its lowest level since 2011. These rates for low-income women fall far below the national breastfeeding rates. Breastfeeding is challenging, and families would benefit from stronger supports and better policies.

There is concern that some local WIC policies may be preventing women in need from accessing the breastfeeding supplies and support that would make breastfeeding a more practicable option. Every woman should have the freedom to decide how she feeds her baby, and policies that limit access to formula for women who also want to try breastfeeding, restrict women from receiving pumps and breastfeeding supplies before their baby is born, or otherwise create barriers for women who are trying to breastfeed make a challenging time of life even more difficult for new mothers.

<b>NATIONAL FULLY BREASTFED 12%</b>					
<b>NATIONAL FULLY FORMULA FED 66%</b>					
<b>WIC FULLY FORMULA-FED TOP 10</b>			<b>WIC FULLY BREASTFED TOP 10</b>		
<b>STATE</b>	<b>FULLY FORMULA FED</b>	<b>FULLY BREASTFED</b>	<b>STATE</b>	<b>FULLY BREASTFED</b>	<b>FULLY FORMULA FED</b>
Alabama	<b>87.3%</b>	5.5%	Vermont	<b>31.3%</b>	51.4%
Arkansas	<b>86.1%</b>	7.9%	Idaho	<b>30.2%</b>	55.2%
Louisiana	<b>86.0%</b>	4.4%	Oregon	<b>28.8%</b>	61.3%
Mississippi	<b>85.1%</b>	3.5%	Wyoming	<b>24.8%</b>	68.1%
Ohio	<b>83.7%</b>	11.9%	Alaska	<b>24.4%</b>	53.7%
West Virginia	<b>83.2%</b>	10.8%	Washington	<b>23.0%</b>	58.1%
Oklahoma	<b>82.8%</b>	13.4%	Utah	<b>22.9%</b>	59.1%



Pennsylvania	<b>81.0%</b>	10.7%	Hawaii	<b>22.4%</b>	52.0%
South Carolina	<b>79.1%</b>	7.1%	Montana	<b>21.4%</b>	64.1%
Virginia	<b>78.1%</b>	10.2%	Colorado	<b>20.9%</b>	65.1%

Given the recent instability of the formula supply chains, the information on state WIC policies is pertinent to the health and success of mothers and infants. Moreover, a 2019 USDA study concluded that increasing breastfeeding rates in the WIC program could generate up to \$9 billion in health-related cost savings for WIC households and their insurance providers<sup>1</sup>. There are many worthwhile reasons to remove barriers surrounding the choice to feed breast milk, and I urge my colleagues to ensure that the USDA produces the FY2023 report so we have the data we need to ensure that government programs are driving positive outcomes.

**FY2023 AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG  
ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS**

**(House Report 117-392)**

Improving Breastfeeding Rates. —The Committee remains interested in how to improve breastfeeding rates and eliminate barriers to breastfeeding for low-income and minority women. To meet their breastfeeding goals, according to the CDC, mothers need continuity of care which is achieved by consistent, collaborative, and high-quality breastfeeding services and supplies. Reports that some WIC agencies only make breast pumps and related supplies available to WIC participants who meet certain difficult

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<sup>1</sup> Oliveira, Victor, Mark Prell, and Xinzhe Cheng. The Economic Impacts of Breastfeeding: A Focus on USDA's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), ERR-261, U.S. Department of Agriculture, Economic Research Service, February 2019.

criteria are concerning and seem to be in opposition to the goals of encouraging breastfeeding. Food and Nutrition Service is directed to collect information from all WIC agencies and prepare a report to the committee, within 180 days of enactment of this bill, detailing any conditions WIC agencies consider, or requirements they impose, when determining whether a WIC participant who intends to fully breastfeed her infant may access breastfeeding supplies and services.

TUESDAY, MARCH 28, 2023.

**FISCAL YEAR 2024 REQUEST FOR THE COMMODITY  
FUTURES TRADING COMMISSION**

**WITNESS**

**HON. ROSTIN BEHNAM, CHAIRMAN, COMMODITY FUTURES TRADING  
COMMISSION**

Mr. HARRIS. The subcommittee will come to order.

I am going to apologize for being a little late.

Thank you, Mr. Chairman, for being here.

I would like to welcome our witness, Mr. Rostin Behnam, Chairman of the Commodity Futures Trading Commission, to review the fiscal year 2024 CFTC budget request. The CFTC is requesting \$411 million for fiscal year 2024, which is an increase of \$46 million or 12.6 percent over the fiscal year 2023 enacted level.

The request includes a \$12.7 million increase in personnel, compensation, and benefits, as well as a \$30.9 million increase primarily within the Divisions of Data and Administration for IT services, in particular for migration of data from legacy systems to cloud services.

It is important to note that from fiscal year 2022 to 2023, the agency received a \$47 million increase in baseline funding and grew from 676 to 759 employees, and this budget is seeking yet another \$46 million increase.

The CBO's most recent outlook shows that this administration has done more to increase our national debt than any other administration. The out of control spending has to stop, and there must be an expectation going forward for agencies across the Federal Government, including the CFTC, to improve efficiencies, root out waste, and focus on core functions without adding to the deficit.

The failure of the Silicon Valley Bank and the current unrest in the banking sector highlight the importance of our financial regulators not being asleep at the wheel, not diverting limited resources and attention toward activities not critical to their core missions.

I am concerned about the CFTC shifting focus to climate, diversity and equity, and other activities outside the bounds of the agency's fundamental job of ensuring healthy, functioning derivative markets.

The CFTC continues to face new challenges and opportunities each year as evolving technologies and new market participants change the landscape of swaps, futures, and the options markets.

Especially given the rapid expansion of cryptocurrencies and other digital assets, I expect oversight of these markets to be an important topic in today's hearing. The fraud and manipulation that occurred at FTX trading, which cost investors billions of dol-

lars, highlighted the CFTC's limited oversight authority over cryptocurrencies.

The CFTC does have regulatory authority over cryptocurrencies tied to derivative markets and in responding to fraud and manipulation that has already occurred. However, the lack of guardrails on spot markets leaves consumers who invest in these digital assets largely unprotected.

The reactionary nature of CFTC's authority to respond only when wrongdoing has already occurred is often too late to help victims of fraudulent schemes.

But as the CFTC faces these new challenges, the agency must not lose focus on its roots that grew out of the agriculture sector.

The liquidity, transparency, and integrity of derivative markets is critical for the farmers in my district and ranchers to hedge risk and ensure accurate price discovery. For example, in my district poultry producers manage the price risks of feed and other input costs through the futures markets regulated by the CFTC.

While the CFTC plays an important role in ensuring the integrity of derivative markets, the American people deserve to know each Federal agency is being a responsible steward of their tax dollars. So I look forward to exploring the budget proposal and the CFTC's work in more depth today.

I would also like to remind everyone we will abide by the 5-minute rule for questions. Please make sure to push the talk button on your microphone before and after speaking.

I will also say that votes, I think, might be scheduled in the middle of this hearing, so we might be having a little recess for you, Mr. Behnam, but we will see.

And I would like now to recognize my colleague, Mr. Bishop, for his opening remarks.

Mr. BISHOP. Thank you very much, Mr. Chairman.

Thank you, Chairman Behnam, for appearing before us today to testify on the fiscal year 2024 budget for the Commodity Futures Trading Commission.

The CFTC is trusted to oversee U.S. Derivatives markets that American agriculture producers rely on to manage their financial risk amid increasingly volatile economic times. From the Russian invasion of Ukraine to severe global weather conditions, American farmers face an array of market and supply chain challenges when it comes to selling their products at home and abroad.

It is as important now as it was after the 2008 financial crisis to ensure that financial markets in the United States operate with transparency and integrity, and CFTC is at the front line in that effort.

The CFTC is a steward of both American markets and American taxpayers' dollars. With one of the smaller budgets among independent agencies, the CFTC is responsible for regulating a massive financial market.

In June 2022, the Bank for International Settlements estimated that global derivatives markets had a \$632 trillion national value—that is trillion with a “t”—while CFTC received a total of \$365 million in fiscal year 2023 appropriations.

The CFTC is the only U.S. financial regulator that does not impose user fees on market participants, which further demonstrates

the huge return that the American people get on their investment from your agency.

CFTC is also responsible for regulating cryptocurrency derivatives and enforcing antifraud and manipulation rules in digital asset cash markets.

While Congress works to build out the framework for the brave new world of digital assets in the United States, the CFTC has successfully worked to create guardrails in the derivatives space that you already oversee.

With all the recent turmoil in both the banking sector and digital asset markets, I am pleased to note that, when the crypto firm FTX collapsed, the CFTC registered and regulated derivatives trading platform was one of the few remaining survivors of that fallout.

I look forward to hearing how the CFTC delivers for the American farmers, ranchers, and agriculture producers, about the work the agency is doing to ensure resilient markets, and about the progress the Commission is making to promote diversity at one of our country's most valuable institutions.

But most importantly and urgently, I would like to get from you feedback on how your agency would be impacted by what we hear are proposals by the Republican side to revert back to the fiscal year 2022 budget levels. I think back in fiscal year 2022, it included a one-time no-year appropriation for the agency to relocate its headquarters to a GSA-owned facility separate from the other accounts. And I would have to presume that that would not be included in the budget that would be yielded for fiscal year 2022.

So I am interested to hear from you, on top of telling us about what your agency does, as to how the agency would be restrained or how it would function if, in fact, you have a 22 percent cut in your budget, as some have proposed from the other side, or if you revert to the fiscal year 2022 levels, minus the cost for the move.

I yield back, Mr. Chairman.

Mr. HARRIS. Thank you very much, Ranking Member Bishop.

I would now like to recognize Chairman Behnam for his opening statement.

Without objection, your full written testimony will be entered into the record.

Mr. BEHNAM. Thank you, Chairman Harris, Ranking Member Bishop, and members of the subcommittee. I appreciate the opportunity to testify on the President's fiscal year 2024 budget request for the CFTC.

For over a century, the derivatives markets have played an integral role in the U.S. economy, facilitating risk management and price discovery and contributing to financial stability and price predictability that impact the daily lives of all Americans, including our Nation's farmers and ranchers.

Over the past three years, the world has experienced economic pressures from a global pandemic, the Russian invasion of Ukraine, and extreme weather conditions, all of which led to record volatility for essential commodities.

Our market structures, regulations, and thoughtful yet assertive approach to oversight have served the American people and markets as intended.

Farmers and ranchers continue to be able to manage price risk during planting season by locking in prices to protect against price fluctuations between planting and harvest.

Large manufacturers, pension funds, and other commercial end-users who need to manage for currency, interest rate, and other risks as they sell American-made goods across the globe are also able to rely on the derivatives markets.

It has been almost 13 years since the Dodd-Frank Act expanded the CFTC's authority. In that time, derivatives markets have experienced massive growth.

In addition, we have seen the industry's population shifting from roots in the financial markets to being significantly influenced by the technology sector.

A growing number of retail participants are entering the markets, enabled by mobile phone technology and an endless stream of information to pursue opportunities with minimal barriers to entry.

Exchanges, intermediaries, and innovators who are eager to meet demand for products and services are proposing increasingly non-traditional models that demand our thorough, transparent engagement to determine compliance with our statute and regulations.

Lastly, and perhaps most critically, cyber risk has emerged as the top risk to the agency, the persons and entities we regulate, and the third party service providers who support the derivatives ecosystem.

The Commission requests a total of \$411 million. This is a 12.6 increase above the fiscal year 2023 enacted budget and is scaled to permit the Commission to maintain and enhance its oversight and enforcement function over the U.S. derivatives markets.

The Commission has requested resources to protect the public and preserve market integrity by detecting, investigating, and prosecuting violations of the CEA and CFTC regulations.

In fiscal year 2022 alone, the CFTC obtained orders imposing over \$2.5 billion in restitution, disgorgement, and civil monetary penalties, either through settlement or litigation, nearly eight times the total of our fiscal year 2022 appropriation.

The CFTC has risen to the challenges brought on by the burgeoning digital asset market by ensuring that the markets and market participants acting within its jurisdiction comply with their statutory and regulatory requirements.

Despite a lack of direct regulatory and surveillance authority for digital commodities in an underlying cash market, to date the Commission has brought 71 enforcement actions involving digital asset commodities. Such cases comprised more than 20 percent of the 82 actions filed last fiscal year.

The fiscal year 2024 budget request also continues the agency's commitment to maintaining the integrity of the markets, particularly with the recent expansion of direct retail participation in the derivatives markets and in underlying commodity markets, such as those for digital commodity assets.

The CFTC must be able to ensure that products offered are suitable, that the barriers to entry are meaningful, and that the disclosure information provided is material to their decisionmaking.

The Commission will continue to leverage cloud and other new technology to enhance and transform its ability to collect, analyze,

and draw informed conclusions from market and industry data to conduct and support effective enforcement actions, oversee rapidly evolving markets, and formulate sound regulatory policy.

As such, the fiscal year 2024 request includes additional funds to expand the CFTC's ability to keep pace with mission requirements.

Looking at our organizational chart, we are lacking not only diversity at our highest ranks, but we are lacking an entire population of entry-level staff members.

To resolve this imbalance, I am directing an agency-wide strategic approach to human capital management to better attract, develop, retain, and promote a diverse workforce from all across the country.

In support of this plan, I am eager to see the CFTC's OMWI statutorily authorized, which is similar to other financial Federal regulators.

In conclusion, I believe the fiscal year 2024 request supports important investments for the agency, our markets, our economy, and national security.

It is my goal as chairman to use these resources to address the critical needs of the agency that are commensurate to the growth, complexity, and threats to the derivatives markets.

I know that I speak for all the commissioners when I thank staff for their commitment to the agency and its mission. I also want to thank each of my fellow commissioners for their focused efforts and work on behalf of the agency.

Thank you, and I look forward to answering any questions you may have.

[The information follows:]

**Statement by  
Rostin Behnam  
Chairman, Commodity Futures Trading Commission  
Before the Subcommittee on Agriculture,  
Rural Development, Food and Drug Administration and Related Agencies Committee on  
Appropriations, U.S. House of Representatives,  
March 28, 2023**

Thank you, Chairman Harris, Ranking Member Bishop, and members of this Subcommittee. I appreciate the opportunity to testify on the President’s fiscal year 2024 budget request for the Commodity Futures Trading Commission (CFTC or Commission). Thank you for your historical support of the CFTC and its funding needs.

Our fiscal year 2024 request focuses on the essential resources and tools the agency needs to advance our workforce planning into the new era of digital finance, to continue building out our increasingly data-centric infrastructure and expertise as we too innovate and increasingly rely on high tech analytical and surveillance approaches, and to support our enforcement efforts that have expanded due to the surge in digital asset investing.

The CFTC is the primary regulator of the U.S. derivatives markets in which commodity futures, swaps and options are traded. For over a century, the derivatives markets have played an integral role in the U.S. economy, facilitating risk management and price discovery, and contributing to financial stability and predictability of prices that impact the daily lives of all Americans, especially our nation’s farmers and ranchers. Through the Commodity Exchange Act (CEA), Congress both mandates and empowers the CFTC to implement rules and regulations aimed at fostering open, transparent, competitive, and financially sound markets; to prevent and deter misconduct and market disruptions; and to protect all market participants from fraud, manipulation, and abusive practices.

Over the past three years, the world has experienced economic pressures from a global pandemic, the Russian invasion of Ukraine, and extreme weather conditions, all of which led to record volatility for essential commodities, such as food and fuel. This perfect storm of externalities directly impacted commercial end-users and ultimately consumers, and tested the resilience of the



derivatives markets and the efficacy of post-financial crisis reforms.<sup>1</sup> During this time, the CFTC stayed focused on using its regulatory flexibility to be responsive to the needs of market participants, while keeping in mind appropriate risk tolerances and guardrails. Our market structures, regulations, and thoughtful yet assertive approach to oversight have served the American people and markets as intended. Farmers and ranchers continue to be able to manage price risk during planting season by locking in a price to protect against price fluctuations between planting and harvest that result from weather-related conditions, geopolitics and other factors beyond their control. Large manufacturers, pension funds, and other commercial end-users needing to manage for currency and interest rate risk, among others, as they sell American-made goods across the globe are also able to rely on the derivatives markets to provide business certainty.

Today, dedicated CFTC staff use every tool the agency has to ensure that commodity markets continue to fairly and transparently serve their intended price discovery and risk management functions. I know that I speak for all the Commissioners when I thank the staff for their commitment to the agency and its mission. I also want to thank each of my fellow Commissioners for their focused efforts and work on behalf of the agency.

#### **Market Resilience - Meeting the Challenges of the Day**

It has been almost 13 years since Title 7 of the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>2</sup> expanded the CFTC's authority. And it has been roughly 10 years since the CFTC's authorization as part of the 2008 Food, Conservation, and Energy Act<sup>3</sup> lapsed. In that time, derivatives markets have experienced massive growth: trading volumes in exchange-traded futures and options have more than doubled; and the swaps market brought within our jurisdiction pursuant to the Dodd-Frank Act is now over \$350 trillion,<sup>4</sup> which is more than half of the estimated \$600 trillion global market.

In addition, we have seen the industry's population shifting from being firmly rooted in the financial markets, to being significantly influenced by the technology sector, creating new

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<sup>1</sup> At a high level, the key factors impacting commodity markets in 2022 were: (1) the post-pandemic economic recovery characterized by rising commodity prices across all asset classes, contributing to overall inflation; (2) Russia's invasion of Ukraine and related U.S. and E.U. sanctions contributing to sharp price spikes in agricultural, energy, and certain metals markets; (3) monetary tightening and the policy response, with rate hikes by the FOMC totaling a 4.25% increase over the year and the U.S. dollar rising to multi-year highs before falling; (4) severe weather across the globe with heat, drought, and flooding impacting agricultural and energy markets; and (5) China's Covid-19 lockdowns, reducing demand and impacting global supply chains. See Rostin Behnam, Chairman, CFTC, Remarks of Chairman Rostin Behnam at the Commodity Markets Council 2023 State of the Industry Conference (Jan. 23, 2023), [Remarks of Chairman Rostin Behnam at the Commodity Markets Council 2023 State of the Industry Conference, Fort Lauderdale, Florida | CFTC](#).

<sup>2</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) (the "Dodd-Frank Act").

<sup>3</sup> Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 165 (2008).

<sup>4</sup> CFTC, Weekly Swaps Report, [Weekly Swaps Report | CFTC](#).

challenges for regulators. We are witnessing a growing number of retail participants entering the markets, who are enabled by mobile phone application technology and an endless stream of information to pursue opportunities the moment any barrier to entry recedes. We are seeing the emergence and growth of new asset classes such as digital assets. And, exchanges, intermediaries, and innovators who are eager to meet demand for products and services are proposing increasingly nontraditional models that may give us pause, but demand thorough, transparent engagement to consider new possibilities for innovation as required by the CEA. Lastly, and perhaps most critically, cyber risk has emerged as a top risk to the agency, the persons and entities we regulate, and the third-party service providers who support all aspects of the derivatives ecosystems. Attacks are increasing daily, growing in speed and sophistication, and requiring increased vigilance against threats to our financial system.

#### **The Regulatory Agenda**

It is with these developments in mind that I have outlined my priorities for the CFTC for 2023 and beyond. Specifically, I anticipate that over the next two years the Commission will consider and vote on matters for consideration that will: (1) enhance risk management and resilience across intermediaries, exchanges, and derivatives clearing organizations (DCOs); (2) foster sound and responsive practices regarding cybersecurity and the use of third-party vendors across all registrants; (3) strengthen customer protections; (4) promote efficiency and innovation; (5) improve reporting and data policy; and (6) address duplicative regulatory requirements and amplify international comity and domestic coordination with both federal and state regulators.<sup>5</sup> Underlying all of these regulatory themes is the need to address the derivatives industry's current trajectory while fortifying the safety, soundness and competitiveness of the U.S. derivatives markets. The CFTC's fiscal year 2024 budget request reflects investments supportive of these goals and objectives.

#### **Cybersecurity**

The Commission's adoption and implementation of new tools, swap data reforms, and digital reporting strengthen the CFTC's market oversight activities. While we are accelerating our migration to cloud technologies to store, analyze, and ingest data more cost-effectively and efficiently, we are mindful of the potential risks. As reflected in our budget, cybersecurity measures extend across the CFTC and are a primary focus for the programmatic divisions

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<sup>5</sup> See Rostin Behnam, Chairman, CFTC, Keynote Address of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Committee Winter Meeting (Feb. 3, 2023), [Keynote Address of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Committee Winter Meeting | CFTC](#).

responsible for ensuring appropriate risk management across registered exchanges, clearinghouses, and intermediaries.

Recent events highlight the increasing concerns for potential cyber breaches whether they are from advanced threats or government actors. To achieve consistent and scalable protections for the Commission's information and information systems against evolving threats, vulnerabilities, and risks, the CFTC will continue to integrate security into all layers of the architecture. The development of a standards-based security architecture is a key component to achieving this goal.

The Commission's strategy to deploy a multifaceted cybersecurity program requires a one-time budget increase for various unfunded contract activities that also allows us to focus on continuing to hire a highly skilled contract cyber workforce capable of leveraging state-of-the-art technologies. The increase allows the CFTC to address the challenges of an evolving threat landscape by enhancing the cybersecurity program's ability to protect and secure Commission enterprise technology infrastructure and industry data.

#### **The CFTC's Budget Request for Fiscal Year 2024**

The Commission requests a total of \$411 million and 764 FTE for FY 2024. This is a 12.6 percent increase above the FY 2023 enacted budget of \$365 million, and is scaled to permit the Commission to maintain and enhance its oversight and enforcement function over the U.S. derivatives markets at a time of historic volatility, demonstrable resilience, rapid growth, and transformative innovation. The increase of \$46 million provides for general increases to meet cost increases across the agency. It also funds new initiatives and fully funds and accelerates existing projects.

#### **Safe Markets with Integrity – Division of Enforcement**

The Commission requests \$70.6 million and 172 FTE for the Division of Enforcement (DOE) to protect the public and preserve market integrity by detecting, investigating and prosecuting violations of the CEA and CFTC regulations.

DOE works to ensure that U.S. derivatives markets operate free from fraud, manipulation, and other trading abuses to maintain public and market participant confidence (including retail participants), who depend on the futures and swaps marketplace. As part of those efforts DOE's Market Surveillance Unit develops and utilizes sophisticated systems to analyze trade data to help identify trading or positions that warrant further inquiry. The Forensic Economists Unit performs complex data analysis to develop evidence for investigations regarding the nature and scope of the trading or activity at issue and to further inform the determination to bring an enforcement action.

The Commission's exercise of its enforcement authorities to address misconduct that has a direct impact on CFTC jurisdictional markets, affects the larger economy, causes public harm, or interferes with market integrity is just one facet of our approach to innovation and the evolution of financial markets. Its effectiveness in holding individuals and institutions accountable promotes confidence in U.S. derivatives markets, which continue to be the premier mechanism for global price discovery and risk management.

I have always believed, and continue to believe, that regulation should not be enforcement driven. However, where preservation of market integrity and protecting the public relies on deterrence, we must ensure that every matter we file, and public action we take, brings about greater compliance and makes the next violation less likely to occur. Demonstrating our continued commitment to protecting customers and ensuring market integrity, in FY 2022 the CFTC obtained orders imposing over \$2.5 billion in restitution, disgorgement and civil monetary penalties either through settlement or litigation, nearly eight times the total of our FY22 appropriation.<sup>6</sup>

#### **Digital Assets:**

The CFTC has risen to the challenges brought on by the burgeoning digital asset market by ensuring that the markets and market participants acting within its jurisdiction comply with their statutory and regulatory requirements. The CFTC does not have direct statutory authority to comprehensively regulate cash digital commodity markets. Its jurisdiction is limited to its fraud and manipulation enforcement authority.<sup>7</sup> In the absence of direct regulatory and surveillance authority for digital commodities in an underlying cash market, our enforcement authority is by definition reactionary; we can only act after fraud or manipulation has occurred or been uncovered. Despite this limitation, to date the Commission has brought 70 enforcement actions involving digital assets commodities. Such cases comprised more than 20% of the 82 actions filed last fiscal year.<sup>8</sup>

#### **Manipulative and Deceptive Conduct and Spoofing:**

DOE is the CFTC's most effective tool in rooting out fraud, manipulation, and disruptive trading practices, including the examination and investigation of the role of speculators in our jurisdictional markets. During FY 2022, in its largest benchmark manipulation case to date, which directly impacts American consumers, the CFTC found that an energy and commodities trading

<sup>6</sup> See Press Release Number 8613-22, CFTC, CFTC Releases Annual Enforcement Results (Oct. 20, 2022), [CFTC Releases Annual Enforcement Results | CFTC](#).

<sup>7</sup> See Rostin Behnam, Chairman, CFTC, Testimony of Chairman Rostin Behnam Regarding "Why Congress Needs to Act: Lessons Learned from the FTX Collapse" at the U.S. Senate Committee on Agriculture, Nutrition, and Forestry (Dec. 1, 2022), [Testimony of Chairman Rostin Behnam Before the U.S. Senate Committee on Agriculture, Nutrition, and Forestry | CFTC](#).

<sup>8</sup> See CFTC, *supra* note 6.

firm engaged in manipulation and foreign corruption in the U.S. and global oil markets, including manipulation or attempted manipulation of four U.S. based S&P Global Platts physical oil benchmarks and related futures and swaps.<sup>9</sup> The CFTC ordered the firm to pay \$1.186 billion, which consists of the highest civil monetary penalty (\$865,630,784) and highest disgorgement amount (\$320,715,066) in any CFTC case.<sup>10</sup> The Commission anticipates this focus will continue in FY 2023 and FY 2024.

#### **Smart Regulation and Innovation – Division of Market Oversight**

The Commission requests \$36.1 million and 93 FTE for the Division of Market Oversight (DMO) to continue its commitment to maintaining the integrity of the markets.

DMO is responsible for the regulation and oversight of derivatives marketplaces. Futures, options on futures, and swaps markets are highly innovative and global in scope. DMO anticipates that it will continue receiving, analyzing, designating, and registering new traditional trading platforms, as well as additional entities focused on offering innovative products, including derivatives products related to digital assets and economic events, which may raise unique issues and challenges requiring further resources.

DMO will continue to be involved in reviewing new digital asset derivatives listed for trading on registered platforms and contracts relating to economic events. Digital asset derivatives and the underlying cash markets present many unique risks and challenges, such as price volatility, market dislocations due to flash rallies, crashes, and other technology issues. In addition, digital asset derivatives require novel exchange rules that DMO reviews for compliance with the CEA and Commission regulations.

With the recent expansion of direct retail participation in the derivatives markets and in underlying commodity markets, such as those for digital commodity assets, the CFTC must be able to ensure that the products offered are suitable, that the barriers to entry are meaningful, and that the disclosure information provided is material to their decision making. While there are clear differences and delineations between the futures products offered by CFTC designated contract markets (DCMs) and cash products offered by a variety of unregistered entities, the growing participation appears to be technology driven. Technology not only makes it easier for individual customers to access markets—both regulated and unregulated— but it allows for the increased

<sup>9</sup> Press Release Number 8534-22, CFTC, CFTC Orders Glencore to Pay \$1.186 Billion for Manipulation and Corruption (May 24, 2022), [CFTC Orders Glencore to Pay \\$1.186 Billion for Manipulation and Corruption | CFTC](#).

<sup>10</sup> The Commission also brought charges against defendants engaged in cross-market and single market spoofing involving CBOT soybean futures and options on soybean futures, and brought several actions finding spoofing in a number of different markets, including gold and silver futures, CME Natural Gas (NG) and Reformulated Blendstock for Oxygenate Blending Gasoline futures, and Treasury futures. See CFTC, *supra* note 6.

development of nano, mini, micro, and event contracts, as well as the structuring of crypto and index futures and options. As individual customers gain greater familiarity and comfort with regulated products, there is an increasing risk that they will find their way into more opaque venues. This risk is amplified where access is achieved seamlessly through vertically integrated, application enabled software available via any Wi-Fi connection.

In the face of extensive change and cyber-attacks on the markets, the Commission's resources for system safeguard oversight are increasingly crucial to the stability of the economy and are a critical element of these examinations. Effective cybersecurity protection of regulated entities requires increased vigilance for the scope of system safeguard examinations conducted each year.

#### **Risk Management - Division of Clearing and Risk**

The Commission requests \$35 million and 91 FTE for the Division of Clearing and Risk (DCR) to maintain current capabilities and expand examination activities designed to reduce market risk and support the safety and soundness of DCOs. DCR is focused on promoting the strength and resilience of DCOs through regular examinations, stress testing, capital requirements, financial reporting obligations, and ongoing risk monitoring, among many other supervisory tools.

As I mentioned, cybersecurity is among the greatest threats to the financial system. The automated systems of DCOs play a critical role in today's clearing environment, as do their corresponding business continuity and disaster recovery plans. The importance of the CFTC's system safeguards oversight is critical given the unacceptable risks to the U.S. financial system and the world economy should certain DCOs become inoperative—even for a relatively short period of time. We anticipate activity in 2023 will continue to reflect a dramatic increase in the number of cybersecurity and threat incidents launched against the financial services sector, which includes the DCO community.

Examinations of DCOs' compliance with the CEA and implementing regulations necessitates the use of new automated tools, especially in evaluating compliance in the areas of liquidity, default, back testing, and stress testing. These new tools will aid examiners in identifying potential areas of risk and should significantly improve the effectiveness of the examination process.

The Commission performs quantitative risk analysis of DCOs' margin models, which includes reviewing and analyzing changes to those models as well as related risk management practices. As DCO margin models and associated methodologies grow in sophistication, it is critically important for the CFTC to be appropriately staffed with risk analysts with state-of-the-art training and expertise in advanced quantitative risk and financial engineering.

Enhancing financial analysis tools is critical, as the CFTC is the only financial regulator, regardless of jurisdiction, that is able to aggregate and evaluate risk across all DCOs. Though each DCO has a full view of risk resulting from market participants clearing at that particular organization, many market participants, especially the largest market participants, will have positions at multiple clearinghouses and in more than one asset class. Much of the most recent tool development work has been focused on ensuring a full, and accurate understanding of participant risk across these dimensions.

In the area of market-wide, systemic risk oversight, the Commission has been a thought leader in the area of supervisory stress tests (SSTs) of DCOs, having now published three exercises. However, the ability to expand this program, and to easily incorporate SST tools into daily monitoring efforts, is often constrained by the available tools and related resources. Additional investment in tool development and access will aid in these needed enhancements, re-emphasized by the volatile market events in the recent past.

#### **Registration and Compliance – Market Participants Division**

The Commission requests \$28.4 million and 73 FTE for the Market Participants Division (MPD) to maintain effective oversight of registered market participants. The CFTC's thousands of registered market participants play a vital role in the nation's financial system by connecting customers to global derivatives markets. As such, the Commission directs its registration and compliance resources through MPD to provide critical policy and regulatory guidance to market participants, both directly and in coordination with self-regulatory organizations (SROs) including the Chicago Mercantile Exchange (CME) and the National Futures Association (NFA), our designated registered futures association. The Commission also uses these resources to ensure that registration rules, standards, and reporting requirements keep pace with the needs of the evolving marketplace.

In the last several years we have seen increased retail participation in our jurisdictional and related markets along with my commitment to ensuring that the rise of retail participation and the exchanges, intermediaries and innovators who are eager to meet demand for products and services are appropriately brought into the regulatory fold.<sup>11</sup> In addition to directing MPD to analyze risks and consider what additional protections are needed for retail market participants, I have directed staff to begin putting forward proposals that will have immediate and direct impacts for retail customers in our markets.

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<sup>11</sup> See, e.g., Rostin Behnam, Chairman, CFTC, Testimony of Chairman Rostin Behnam Regarding "The State of the CFTC," U.S. House of Representatives, Committee on Agriculture (Mar. 31, 2022), [Testimony of Chairman Rostin Behnam Regarding the "State of the CFTC" | CFTC](#).

Additionally, with growing cyber risk permeating all elements of our markets, and recent events further highlighting the operational risks associated with the use of third-party service providers, in addition to related rulemakings, MPD is actively reviewing potential weaknesses with respect to third-party service providers and vendor relationships and will identify appropriate solutions for Commission consideration. The goal of any upcoming proposals on cybersecurity will be the fostering of sound and responsive cybersecurity practices among our registrants; elevating existing standards that will ultimately improve operational resilience across the financial sector and better protect customer assets.

#### **Data Acquisition – Division of Data (DOD)**

The Commission will continue to leverage cloud and other new technology to enhance and transform its ability to collect, analyze, and draw informed conclusions from market and industry data to conduct and support effective enforcement actions, oversee rapidly evolving markets and formulate sound regulatory policy. The FY 2024 budget outlined for the Division of Data (DOD) includes right-sizing the budget for conversion of contracts from time and materials to firm-fixed price in addition to continuing the efforts of adoption of cloud technology. As technology continues to reshape the 21st century markets, CFTC staff will require additional tools and capabilities to help make the large and complex data the Commission now receives more actionable and improve the agency's ability to detect, assess, and respond to market trends, threats, vulnerabilities, and other issues. As such, the FY 2024 request includes additional funds to acquire, develop and support foundational tools, such as metadata tools and more advanced data visualization tools to expand the CFTC's ability to keep pace with mission requirements and provide users with the means to more optimally perform important regulatory and enforcement work.

#### **Office of Minority and Women Inclusion (OMWI)**

As Chairman, in January of 2022, I appointed the CFTC's first Chief Diversity Officer (CDO) who oversees the agency's Office of Minority and Women Inclusion (OMWI). The CDO's role is to provide leadership and executive direction regarding the CFTC's efforts to integrate and promote diversity, equity, and inclusion, and accessibility (DEIA) at all levels of the Agency's workforce, in our workplace, business operations, and mission critical work.

I am committed to building a bench of diverse top talent at all levels of the Agency. Current efforts through our OMWI include establishing partnerships and recruiting at minority serving institutions and rural colleges and universities, engaging urban and rural communities and related professional associations, and planning a robust mass media campaign to enhance our outreach efforts.



In addition, I am eager to see the CFTC's OMWI statutorily authorized, similar to other federal financial regulators.<sup>12</sup>

#### **Whistleblower Incentives and Protection**

The Dodd-Frank Act established the Customer Protection Fund (Fund),<sup>13</sup> which supports our Whistleblower Program<sup>14</sup> and the Office of Customer Education and Outreach. As this Committee knows, the overwhelming success of the Whistleblower Program has led to the potential for disruptions in these two vital offices. In addition to the importance of a long-term fix to avoid one-time depletions greater than the total balance of the Fund, I believe amendments to the statutory provisions describing the permitted uses of the Customer Protection Fund by the Office of Customer Education and Outreach<sup>15</sup> would allow the Commission to implement a host of new investor protection programs and systems and information aimed at ensuring American families have the knowledge and tools to not only protect themselves from fraud and manipulation, but to more fully engage with the Commission and the markets we oversee.

#### **Extreme Weather Events**

Extreme weather events contributed to the confluence of factors that defined commodity volatility in 2022. The Commission both domestically and in international workstreams is continuing to engage through the Climate Risk Unit (CRU) on the role of derivatives in understanding, pricing, and mitigating climate-related risk, and to support the orderly transition to a low-carbon economy through market-based initiatives. One such effort involves the voluntary carbon markets, which are jurisdictional to the CFTC in light of listed futures contracts on registered designated contract markets. These markets and the agency's next steps benefit from the public-private partnership that is the hallmark of the CFTC's approach to examining novel matters.

#### **Conclusion**

In conclusion, I believe that the \$411 million requested for Fiscal Year 2024 supports important investments for the agency, our markets, our economy, and national security. It is my goal as Chairman to use these resources to address critical needs of the agency that are commensurate to the growth, complexity and threats to the derivatives markets, and to ensure that the U.S. derivatives markets continue to remain the preeminent risk management and price discovery financial markets in the world. I look forward to answering any questions you may have.

<sup>12</sup> See Dodd-Frank Act, Pub. L. No. 111-203, §342, 124 Stat. 1376, 1541-1544 (2010), codified at 12 U.S.C. 5452.

<sup>13</sup> CEA § 23(g), 7 U.S.C 26(g).

<sup>14</sup> COMMODITY FUTURES TRADING COMMISSION WHISTLEBLOWER PROGRAM, [CFTC's Whistleblower Program | Whistleblower.gov](https://www.cftc.gov/whistleblower).

<sup>15</sup> See CEA section 23(g)(2); 7 USC 26(g)(2).

Mr. HARRIS. Thank you very much. I appreciate your testimony. And again, your entire testimony will be entered into the record. We are going to start the rounds of questioning. I will start with that.

Chairman Behnam, we have seen in June of 2022 the CFTC published a request for information in Federal Register to, quote, “better inform its understanding and oversight of climate-related financial risk.” The request specifically asks, quote, “Should registered entities and registrants be required to disclose information relating to greenhouse gas emissions?”

Now, given what happened with SVB and the apparent fixation of regulators at the San Francisco Federal Reserve Bank and the California banking regulators on things other than the integrity of the financial system they were regulating, do you have the expertise on your Commission to actually do climate policy?

Mr. BEHNAM. Thanks, Mr. Chairman.

I will say two things in response to that question.

First, in large part, our markets are risk-management markets, and climate is an integrated part of what producers and end-users think about with respect to futures, options, and swaps. They obviously affect commodity prices and agriculture, energy, and metals.

So climate and the evolving climate risks that we are facing today and in the past have always impacted commodity prices and derivatives prices.

But ultimately, to your point about that request for information, it was exactly that. It was a request for information. And my decisionmaking process on that was to ensure that we were being responsible as regulators to make sure that whatever decisions we make from a policy perspective are informed by our stakeholders and our market participants.

So, in fact, if we do get responses such as what you believe, that we should not or should steer clear away from risks related to climate change, that will be something that we contemplate and consider in our decisionmaking.

Mr. HARRIS. Well, let me drill down on that, because I am not talking about risk related to climate change. I am saying the request specifically asks, “Should registered entities and registrants be required to disclose information relating to greenhouse gas emissions?”

This is not whether or not these people took into account the risk of climate change. It is whether, I don’t know, whether they have enough electrical vehicles in their company. I don’t know. I mean, what does that question mean?

Does the Commission really want to require their entities and registrants to disclose information relating to greenhouse gas emissions?

Mr. BEHNAM. I think we are seeing—

Mr. HARRIS. I mean, are my farmers and my meat producers supposed to report the flatulence of their cattle for heaven’s sake? I mean, I don’t know what you are drilling down on here.

Mr. BEHNAM. Chairman, we are simply asking the constituency, the stakeholders who are a part of our markets, whether or not this is a piece of information they would like to know. And we have seen an increasing demand for commitments to net zero from con-

sumers and from institutions. So this might be a data point that an institution that either invests or allocates capital in futures markets, or uses a broker or an exchange, would like to know whether or not they have a certain level of greenhouse gas emissions.

But it was simply that. It was a question to inform and better inform the Commission about whether or not this is something that stakeholders in the derivatives industry want to know.

Mr. HARRIS. So do you believe requiring registered entities to disclose greenhouse gas emissions, including both direct and indirect emissions, may fall under CFTC's statutory authority under the Commodity Exchange Act?

Mr. BEHNAM. Under the current Commodity Exchange Act we do have to provide disclosures, but this may not be within the remit or the Commodity Exchange Act's requirements.

But this is something that we are going to find out. We are going to get feedback, and we are going to see what the legal issues are, what the policy issues are, and what the stakeholders want or don't want.

Mr. HARRIS. So if your stakeholders, through this mechanism, they somehow decide that you ought to require registrants to disclose greenhouse gas emissions, you are going to come to this subcommittee and ask for funding to do that?

Mr. BEHNAM. No, not necessarily.

Mr. HARRIS. Oh, I certainly hope not, because I think that would be wandering far afield from what your purpose in the regulatory schema is. I will leave that there.

With regard to the offices and staffing, the budget includes over \$30 million in building rental costs, including payments to the GSA for Kansas City, Chicago, New York offices, payments on a legacy lease for office headquarters here in Washington, DC.

What is the timeline and plan for the CFTC staff to be back in the office full-time to actually use those buildings and office spaces the agency is renting, and again, to the tune of \$30 million?

Mr. BEHNAM. Chairman, we are currently—I am currently negotiating with the bargaining unit, and my hope is we are going to move as expeditiously as possible. But I also believe that, given what we have been through over the past 2 or 3 years, we have to be patient and thoughtful about where we were prior to COVID, where we are now, and what a path forward is.

So I am working with the bargaining unit and hopefully we are going to get a decision in the near future.

Mr. HARRIS. So if we don't bring workers back into the office, can we expect that you won't need that \$30 million in the rental cost part of your budget?

Mr. BEHNAM. Chairman, certainly if the outcome of the negotiation between me and the bargaining unit is that they are in a full or maximum telework policy, then yes, there would be no reason for rental space.

Mr. HARRIS. OK. Thank you very much.

Mr. Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman.  
And thank you, Mr. Chairman, for your testimony.

We have heard the other side propose to reduce discretionary funding to at least fiscal year 2022 levels, and for CFTC that means a total funding of at most \$320 million, which is \$91 million less than the fiscal year 2024 request and \$46 million less than your budget for this year.

Tell me, what would a \$45 million budget cut mean for CFTC, and what dangers would that create for the economy?

In fiscal year 2022, CFTC obtained over two and a half billion dollars in restitution in civil monetary penalties resulting from your enforcement actions. That means that people broke the law and CFTC reduced the deficit in the process.

So if the cuts that my Republican friends are proposing are enacted into law, would CFTC's ability to enforce the law be hampered? And does that mean that you wouldn't be able to collect as much money in these fines in enforcement actions and in the process help reduce the deficit?

Mr. BEHNAM. Thank you, Congressman, for the question.

What we have seen over the past few years is a dramatic increase in costs, both because of increased salaries and expenses, but also increased costs related to technology, both software, hardware. We are transitioning to the cloud. These have all contributed to the costs that we are taking on right now and really resulting in the budget request.

That said, if we were to go back to fiscal year 2022 levels, and having done some analysis on this, at our current levels we are about 680 FTE. We probably have to drop between 200 and 250 FTE at least in some way, shape, or form, in either temporary leave or permanent leave, depending on what the funding mechanism was. This would have a dramatic impact on the agency's ability to fulfill its mission.

[The information follows:]

The proposed budget cuts to align FY 2024 with FY 2022 levels would significantly impact the Commodity Futures Trading Commission's (CFTC or Commission) ability to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets. Funding would be cut \$91M, or 22%, from the CFTC's FY 2024 request that identified a \$411M requirement to achieve its mission.

#### ***Staffing***

A \$91M cut would reduce planned staffing levels by 286 FTE – *i.e.*, from the requested 764 to 478 FTE. The Commission has not had staffing levels below 500 FTE since FY 2009 – which was prior to the CFTC incorporating its extensive new statutory and regulatory responsibilities under the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

Staffing reductions of this magnitude would reduce mission effectiveness and readiness across the Commission. For example, the CFTC would experience the following non-exhaustive list of mission-impacting consequences:

- Degraded ability to protect the American public from fraud and market manipulation related to the derivative instruments under the Commission's jurisdiction
- Severely curtail our ability to respond to requests/applications from market participants and stakeholders on registrations, orders, no action letters, compromising the US position as a desirable location to do business
- Reduced technological capabilities to identify threats to the financial sector
- Reduced enforcement and regulation of derivative markets
- Reduced oversight over derivative markets to ensure that compliance obligations are met by regulated entities and market participants
- Suspended IT modernization efforts: migration to the cloud and Data Programs
- Reduced modernization efforts that keep pace with digitized market innovations and capabilities
- Degraded ability to identify and protect against emergent cybersecurity threats

Because the CFTC is a relatively small agency, the reductions in staffing could not be contained to a particular section of the agency. All divisions and offices would lose resources. This would lead to a significant limitation on the CFTC's ability to quickly and comprehensively identify and respond appropriately to market problems, including, but not limited to, pursuing enforcement efforts when necessary. Additionally, a reduction of resources of this magnitude for even a single fiscal year would take the Commission years from which to recover – both to rehire essential staff and rebuild operational capability.

#### ***FY 2023 and FY 2024 Investments***

The FY 2023 and FY 2024 budget requests included \$33M for multiple investments in our IT, Data, and Cyber programs. These areas ensure that our staff can perform their work in a secure, stable, and efficient manner. Cutting or pausing these investments could result in reducing the cut of up to 104 FTE from the 286 identified above. However, budget cuts to these investments would threaten the CFTC's ability to maintain pace with evolutions in the financial markets, protect against cyber threats, and optimize current systems that would provide long-term savings. Staff could be preserved, but may not have the tools required to be mission effective.

## Key FY 2023 and FY 2024 Investments:

Zero Trust Architecture	Implement Data Virtualization	Modernization to Cloud-Enable Legacy Applications
Data Leak Protection	Procure and Implement New Visualization Tool	Replace Legacy Data Loading Framework
EndPoint Detection and Response	Additional Data Systems and Cybersecurity Support	Contract Right-Sizing Effort

*Cyber*

The Commission collects massive amounts of market data and must protect it with the highest standards to ensure the integrity of the US financial markets and the confidentiality of market participants. Cuts to cyber would reduce the effectiveness of our current investments and the ability to protect against emergent risks in an ever-evolving threat landscape and regulatory environment. The cyber investments included in the FY 2024 budget fund the tools and services required to meet the numerous Executive Orders, OMB mandates, and CISA Binding Operational Directives (BOD). Failure to implement these tools and services will prevent the CFTC from meeting these Government-wide mandates which are meant to ensure agency and market data are protected commensurate with the data's sensitivity. Since the FY 2022 budget was finalized there have been at least 13 mandated compliance and reporting requirements related to cybersecurity. These directives have no funding at the FY 2022 funding level.

*Data*

The CFTC is modernizing its data collection capabilities to keep pace with the evolving complexity of the markets we regulate. Data standards that were adequate even a few years ago are no longer sufficient for today's markets. Additionally, we are modernizing our data architecture to provide an environment that can support analysis using tools and techniques that are common today, and modernizing our legacy applications to work in these modern data environments. The costs of contractual services have also risen due to inflationary pressures in the labor market. Failing to store or process modernized data in a modernized information environment would limit the data available to support mission-facing efforts, including market surveillance, enforcement, and risk analysis.

**Quick Numbers**

- The current fiscal year (2023) budget is \$365M
- Returning to FY 2022's budget would be an immediate cut of \$45M, or 12%, from in-place resources
- Impact of inflation: the CFTC would require \$366M in FY 2024 dollars to repeat the executed FY 2022 budget
- Between FY 2018 and FY 2022 the CFTC has transferred more than \$2.2B to the Treasury from fines and penalties collected. Over the same period the Commission's budget totaled \$1.4B, indicating a \$0.8B net positive contribution to the Treasury from CFTC operations.

Mr. BEHNAM. And to your point about enforcement, surveillance, and market oversight, data protection, cybersecurity protections, these would all be jeopardized.

And I think that would be, given the environment we are in right now with volatility in markets, cyber attacks that we are facing, and the number of enforcement cases that we are bringing and the amount of money that we are assessing in terms of civil monetary penalties, this would be quite dramatic for our ability to fulfill our mission and compromise our ability to do what we have been doing over the past few years.

Mr. BISHOP. How about market stability? Going back to the question of budget cuts, would those cuts reduce CFTC's ability to ensure market stability?

Mr. BEHNAM. I mean, absolutely.

Mr. BISHOP. And what risk would that pose for the economy?

Mr. BEHNAM. Having that reduction in full-time staff would essentially eliminate our ability to oversee institutions, which include the largest clearinghouses, which have been designated as systemically important. So you can imagine either having to reduce examinations of these institutions, reduce examinations of the brokers or the trading markets themselves.

And without that ability to have a lens into what those registrants and those entities are doing, whether or not they are meeting the core principles, the law and the regulations of the CFTC, certainly would, without a doubt, impose or at least present some financial stability risk to our markets.

Mr. BISHOP. The Dodd-Frank Act brought the swaps market under CFTC's jurisdiction in 2010, dramatically expanding its responsibility to oversee derivatives markets. I know that you were brought in to regulate those markets. There were growing pains because the Commission didn't have all the resources it needed.

If Congress were to grant CFTC jurisdiction over crypto and digital assets markets, how would the scale of that expansion compare to the swap market oversight expansion under Dodd-Frank?

Mr. BEHNAM. Thank you, Congressman.

We have thought about this a bit, and obviously given the size of the crypto market relative to the swaps market, I think my clear belief is that what we went through about 10 to 15 years ago in implementing a swaps regime, we could replicate that with the crypto regime.

It really is in terms of market structure, there are analogies to be made in terms of registering intermediaries, registering exchanges, registering custodians, and other stakeholders or participants in the market.

In terms of costs, it would be very difficult to sort of assess and analyze. I have made some statements in the past and we have done some analogies with the swaps regime saying that it could be anywhere between \$100 and \$150 million because of the size of the market and the number of the participants that are in the market. That could be an assessment.

But I think if we were given cash market authority, we certainly would want to work with all of you to assess the number of registrants and what we would need to do to scale both personnel and hardware in order to regulate the market adequately.

Mr. BISHOP. Thank you.

My time has expired. So I yield back the time I don't have.

Mr. HARRIS. Thank you, Mr. Bishop.

Mr. Valadao.

Mr. VALADAO. Thank, Mr. Chair.

Appreciate, Chairman, your time being here today. It is important for us to have these conversations.

First, I want to start off with a little bit of oversight here. It concerns me that the futures market speculators can have such a dramatic effect on the price of food at our local farmer's market. Twice since the spring of 2021, corn futures have risen to about 500,000 contracts or about 62.5 million tons of corn that have yet to be planted, and these artificial spikes in the commodity values have a real domino effect on the cost of food at the grocery store.

What systems are in place and what actions are being taken by the CFTC to ensure our American farmers and families can purchase the highest quality inputs and produce at the lowest possible cost in the face of such an influential speculator's game?

The reason why I ask that question is, I mean, I traded for a number of years before I was a farmer. I mean, we did some hedging. We worked through our traders. And it always felt like there were a lot of folks out there in the marketplace that moved it around and made it nearly impossible for us as regular, just average farmers to compete, play, and we would get run over and it would cost us huge sums of money in margin calls.

And it was frustrating. And we are always looking for ways for farmers to get involved in this market, but you have got these speculators pushing the prices up—not even just pushing the prices up, creating paper piles of corn that doesn't even really exist or whatever other commodity is out there.

What are we doing out there to make sure that we protect the ability for farmers to be able to hedge appropriately?

Mr. BEHNAM. Thanks, Congressman.

This is a top priority for me and the agency, and given the chairman's point about the roots of this agency in both the U.S. Department of Agriculture but our agriculture constituency.

I would say since 2020 and 2021 we have seen probably record volatility in all of the agricultural and energy and metal complexes because of COVID, because of the Russia-Ukraine crisis, and that return to sort of normal, and then, obviously, some of the logistics issues that we face that have created bottlenecks.

But from a market perspective, yes, we have to find the right balance between speculators as liquidity providers and speculators as a group that is pushing prices outside of the supply-demand range.

And that is a top priority. We have surveillance and market oversight. We have our enforcement ability and enforcement tools.

But what we are doing on a daily basis is monitoring data that we collect. We are working with the exchanges. We are working with our SRO, our self-regulatory organization, the National Futures Association, so that we can detect any fraud or manipulation in the markets that would drive prices outside of supply and demand and prevent that futures price from converging with cash prices at expiration.



This is obviously very difficult. You and I discussed this. There is a lot of volume and volatility, a lot of new market participants today that didn't exist, and it is purely driven by electronic trading.

But this is a reason that I have focused on data and technology as really the foundational tool for the CFTC to succeed in the future. We have to really rethink how we monitor markets and surveil markets because we are always one step behind the largest financial institutions or largest market participants who will do anything and spend any amount of money to have the slightest bit of edge.

So I feel like we are always on our heels. But we are prioritizing it. We are trying to get investments in data, in data technology, that will include surveillance and market oversight, so ultimately that we can bring enforcement actions and send a clear signal to the market that they have to comply with the laws.

Mr. VALADAO. Have you been able to enforce any actions on anyone?

Mr. BEHNAM. Congressman, last year we brought a record case against Glencore, over and close to \$1.5 billion. They were manipulating gas prices at some delivery points in California. We brought a position limits case against a Chinese agricultural producer, COFCO, last year as well.

So we do have several ag-specific enforcement matters that I think not only eliminate that bad actor, but send a clear signal for deterrence.

Mr. VALADAO. One of the things that is really difficult is—and I did mostly milk, obviously, as a dairy farmer, so it was Class III. There were times that we knew what was going on on the farm. We knew the heat was really hard on our cattle. We were down in production. There was no reason for the numbers to be where they were. We knew that the market—we weren't delivering the milk to the market that they were claiming was out there. And it seemed like the market was going in the wrong direction.

And all of us were watching it closely, watching what was going on on our farms, talking to our neighbors, talking to our salesmen, and it was always going in the wrong direction.

And it would end up settling in the right spot, but that ride between the day you hedge and the day that you settle out that contract, those margin calls are—I mean, you would sell the farm at that point. And it is frustrating.

So it is something that I hope we can continue to work on.

But I am pretty much out of time. So I appreciate your time. Thanks.

Mr. HARRIS. Thank you very much.

And voting has started, but I think we will get two more questioners in, and then we will take a recess.

Ms. Underwood.

Ms. UNDERWOOD. Thanks, Mr. Chairman.

Chairman Behnam, your agency is one of several Federal agencies with authority over digital assets like cryptocurrency.

Now, this is a space where we have seen markets balloon and shrink in massive shifts just over the last few years. As digital assets have gone mainstream, so have their customers, and everyday

Americans are now buying, selling, and holding crypto like never before.

Of course, the CFTC's current authority is tied to fraud and manipulation that has already occurred, and we have seen a lot of both.

In a market this volatile, just keeping up with new scams can be half the battle. And as you noted in your testimony, it is striking that more than 20 percent of your enforcement actions already involve digital currencies.

When it comes to fraud and market manipulation of digital assets, what emerging trends and threats have you been seeing in recent months?

Mr. BEHNAM. Thank you, Congresswoman.

You pointed this out. The biggest concern I have is the retail-oriented nature of the markets and the speculative nature of the markets. And this is very unique for a commodity market. We are typically a wholesale risk management market, and the fact of the matter is we are seeing technology disrupt financial markets such that your constituents and regular, everyday Americans can download an app on their phone, transfer some capital from their bank, and start trading these commodities very easily. And they are speculative. They have high volatility. And there is a very big chance of losing money.

Ms. UNDERWOOD. Well, while digital assets can offer opportunities, they lack basic consumer protections and they come with unprecedented risks, making enforcement an even more important tool to protect consumers. The spending cuts that Republicans are proposing would significantly weaken CFTC's enforcement capabilities.

Can you tell us more about how these cuts would affect your ability to protect individual customers in the digital asset space to ensure that those markets can innovate and compete fairly?

Mr. BEHNAM. Yeah. I mean, if we were to have a reduction of budget—all we are seeing right now is increased costs and increased market participation, meaning we have more participants in our market, which means we need more boots on the ground, because there is just most likely more fraud and manipulation of our markets.

Any cuts would be a disaster to our enforcement program. As you pointed out, we have had record numbers of penalties assessed, multiple times our budget.

So I have always said that the CFTC is a great return on investment for the American taxpayer, and I would hope, given the cyber issues we are facing, given the growth of retail participation we are seeing, and given the increased costs related to cyber, data, and data protection, that we collectively have to think about an increased investment in the CFTC, because ultimately it is going to protect our financial markets, maintain integrity, and protect all of the Americans who participate in our markets or use them as a price reference for the food that they eat or the energy that heats their homes and powers their cars.

Ms. UNDERWOOD. Well, I am about putting people over politics and I certainly wouldn't support these kind of cuts, especially that would limit your enforcement authorities to keep consumers safe.

Now, understandably digital assets can be really appealing to communities that have been ignored or failed by traditional financial markets. Young people, for example, who came of age after the 2008 financial crisis have seen the risks that more traditional investments can pose to working families. And from the failure of the Freedman's Savings Bank to the discrimination we see in the property appraisals today, we know our financial system has never been set up to serve Black Americans in the way that we deserve.

Given this history, it is not surprising that young people and communities of color have been interested in investing in digital assets as a means to build wealth. In fact, Black Americans are now more likely to own cryptocurrency assets than stocks or mutual funds.

Big picture, what needs to happen to ensure the markets you oversee are both accessible and fair for these consumers? And how do we help manage risk with policies that address the racial wealth gap instead of making it worse?

Mr. BEHNAM. Congresswoman, we have to educate. And I think this is something I would like to work with your office on. We have an Office of Customer Education, and enabling that office to teach and educate the investing public more about things other than fraud and manipulation, I think, would arm these investors with tools so that they can appropriately allocate their capital.

But to your point, an unregulated market is going to create risks. It is going to create volatility. And ultimately, I think what we have seen statistically is that people are going to end up on the short end of the stick in terms of their capital.

Ms. UNDERWOOD. Well, thank you, Chairman Behnam.

As policymakers, we have a real responsibility to make sure our hardworking young people and communities of color can build that generational wealth through our financial system, not just those on top. And so I do look forward to working with you to accomplish this mission so that American families can thrive for generations to come.

Thanks so much. I yield back.

Mr. HARRIS. Thank you.

Mr. Newhouse.

Mr. NEWHOUSE. Thank you, Mr. Chairman and Mr. Ranking Member.

Thank you, Chairman Behnam, for being here.

In previous years' legislation this committee asked the CFTC to look at factors affecting the aluminum market. So I have got a couple questions I would like to ask you about that.

First, I need a little education apparently on the aluminum market. Could you help me understand the CFTC's efforts to examine existing market research and data that validates aluminum end-users concerns about market distortions and artificially established prices?

And then second, 2 years ago DHS Inspector General Cuffari raised serious questions regarding aluminum producers charging a tariff-loaded transportation fee on metal that should not have been subjected to Section 232 tariffs.

That same period, 2 years ago, the IG from DHS wrote a letter to you when you were acting chairman—I see you nodding your

head, you remember this—and to the inspector general of the CFTC in which it was stated: We learned that private beverage industry aluminum recyclers and producers may be charging aluminum prices based on the Midwest Premium duty paid benchmark, even though the aluminum sold may not be subject to any duties or tariffs.

They also stated that they referred this matter to the CFTC for appropriate action.

I have not been able to find any additional actions from the CFTC or the CFTC IG. We do have a staff report, which the committee requested in our fiscal year 2022 legislation, which said that CFTC may or may not have the authority over price-reporting agencies. But we believe you do have that enforcement authority in interstate commerce for manipulative activity, including false reporting and fraud.

So could you provide me an update that I could share with the committee?

Mr. BEHNAM. Thank you, Congressman.

You point out, rightfully so—and very familiar with this issue. It is something that the Commission, specifically our market experts, have been focused on.

Ultimately, as we have had the discussion about crypto markets, we don't oversee cash markets. We have a limited authority to police a cash market, which is in many respects some of the issues, as you pointed out, the Midwest Premium and how it relates to aluminum at the sort of wholesale and retail level.

So we have spent a bit of time and without pause to investigate and to identify any abnormalities or any issues related to fraud or manipulation. I can't speak to any open investigations or enforcement cases right now. But certainly, we are aware of these issues.

We are monitoring the prices of our derivatives contract and using every surveillance tool and oversight tool that we have, coupled with our enforcement authority, to ensure we are policing the markets. And if we do identify fraud or manipulation, you have my commitment 100 percent we will bring a case without question.

But really it is about making sure that we can identify any anomalies or fraud or manipulation in those underlying markets which we don't have direct authority over.

Mr. NEWHOUSE. Just to boil it down. I appreciate that. But just trying to figure out why Section 232 tariffs are being applied for domestically produced or recycled aluminum when they should only apply to imported aluminum. Somebody has got to be able to resolve that.

Mr. BEHNAM. I can't speak to Section 232 and why a tariff is being applied or not applied. That is certainly outside of the remit of the CFTC. but if this is something that we could look into, we will. But we do not enforce or impose tariff applications out of the CFTC.

Mr. NEWHOUSE. And if I could in the minute I have remaining, it may not be enough, but in your response to Congressman Bishop you talked about if we went back to fiscal year 2022 levels of funding you would have to lose 200 or 250 FTEs.

We are just finishing up fiscal year 2023. Does that mean you brought on 250 people in that one time period?

Mr. BEHNAM. No, Congressman. It is a good question. We have just seen significant price increases, both from a salary and expense perspective. Where we would traditionally see 2 percent, we are seeing 5 to 10 percent.

And then we have a number of contracts. We are very data heavy and very hardware and software heavy, including transitioning to the cloud. So a lot of our costs are related to technology, and we have just seen a huge spike in those costs relative to what we have seen in the past.

We had been flat-funded or close to flat-funded for a number of years over the past decade and we have been trying to get into a routine of engaging with longer-term contracts. And as we have had short-term contracts expire, these longer-term contracts have imposed significant costs that we have to engage in because otherwise we would really not be meeting our mission.

But if we do go back to 2022 levels, finding areas to cut would be difficult, and the FTE would be an area that would actually be impacted quite significantly.

Mr. NEWHOUSE. Appreciate the clarification.

Thank you, Mr. Chairman.

Mr. HARRIS. Thank you very much.

At this time, we do have votes on the floor, so the subcommittee will stand in recess. We will resume questions immediately following the votes about 2:15 p.m.

[Recess.]

Mr. HARRIS. The subcommittee will come to order.

Mr. Cline.

Mr. CLINE. Thank you, Mr. Chairman.

Mr. Chairman, good to see you. I want to talk about crypto.

Last week, the Biden administration released their annual Council of Economic Advisers report, which had a large section dedicated to crypto. And the report repeatedly bashed the promise of crypto and largely viewed it through the lens of frauds like Sam Bankman-Fried of FTX. It also ran counter to the executive order from the White House last year on crypto and some previous statements that you have made on the technology.

In your view, why has the tone shifted in the administration on crypto to nearly writing the industry off as a scam? And do you believe there remains potential and actual utility? And if so, why do you think your colleagues over at the SEC or CEA say otherwise?

Mr. BEHNAM. Thanks, Congressman.

You know, unfortunately, I can't speak for the drafting of that document or why it was written the way it was. But certainly, as I have said before, and you alluded to this, I very much focus on the markets perspective and what my responsibility of overseeing markets as chair of the CFTC is.

And what we have seen over the past better part of the decade is an emerging market that has commodity digital tokens being traded by retail participants in a speculative manner, and that calls for, I think, clear oversight and regulation.

So from my perspective, it is about protecting customers, protecting market stability and resilience. And regardless of what may or may not happen in terms of technology and how it is utilized in our economy or commerce, I think it is outside of my purview per

se just because I am really focused on markets and customer protections and market resiliency.

Mr. CLINE. Well, in the past you have said that the U.S. should have a clear framework to regulate crypto to promote innovation while also protecting consumers, and that is a view I share.

Now, since you last testified, a report revealed the U.S. has already lost its lead for blockchain development, going from 40 percent to just 29 percent of the market. And this innovation flight is concerning, and we can't just sit idly by and let other countries or potential adversaries lead in what many refer to as the next version of the internet.

How do you view that? And do you think we can change course? And is innovation of flight a concern for you and other regulatory counterparts in the administration?

Mr. BEHNAM. Yeah. I mean, speaking for myself, it should be absolutely a concern. And I do balance that against who are we competing against. And I think, when I had this conversation years ago with some of your colleagues, maybe some smaller jurisdictions that were trying to get a few steps ahead and to create economic development or a new workforce, that is fine.

But what we are seeing is Western economies, Europe has put in place a pretty comprehensive regime that is going to be implemented over the next couple years.

And I think it is important that we as a country, both from an economic perspective, from a labor perspective, from a technology perspective, and national security perspective, that we move the ball forward.

We don't want to rush. We want to be cautious and deliberate in what we do and how we do it. But creating rules of the road will certainly protect customers, but it will also open up an avenue to identify whether or not there is promise to this innovation and technology.

Mr. CLINE. Just getting a little more specific. Yesterday in an enforcement action against Binance your agency once again highlighted that the CFTC believes ethereum is a commodity. However, the Biden administration's SEC has been saying that ethereum is a security. That not only counters your agency's view but also the previous SEC leadership's view.

I have heard from crypto companies that regulatory clarity is needed to create a robust regulatory framework, but it seems like the relative agencies are at odds, not only on ethereum, but crypto regulation as a whole.

Can you talk about the SEC's position on ethereum in particular being counter to yours? And how do we bridge the gap to make sure the U.S. has comprehensive and clear regulation for crypto to ensure innovation thrives while also protecting consumers?

Mr. BEHNAM. Thanks, Congressman.

I will focus on the fact that we have had listed futures on CFTC-regulated markets going back to 2017, first bitcoin, but then ethereum a few years later. And since then, the contracts have traded well. They have been under CFTC oversight.

And just by virtue of these contracts being listed on CFTC exchanges, in my view, and I have said this many times, I believe they are a commodity. And because they are listed on CFTC ex-

changes, we do have a regulatory relationship, obviously, with the derivatives market and that product, but the underlying market as well. Which is why we are bringing cases, including the ones you mentioned with Binance yesterday, against institutions or organizations that are trading bitcoin or ethereum.

Mr. CLINE. Well, I do think that legislation to address the issue should place regulatory authority with the CFTC. I think you will see broad and deep support for that, that method of regulation, and I urge my support for that as well.

Mr. Chairman, I yield back.

Mr. HARRIS. Thank you.

Mrs. Hinson.

Mrs. HINSON. Thank you, Mr. Chairman.

Chairman Behnam, thank you for coming before our committee.

I think it goes without saying that the CFTC plays a very important role in helping a lot of Iowans in the work that you do to regulate markets and mitigate risk as well.

So I want to touch on cybersecurity to start. It is a serious threat facing our critical industries, as you know, and a shared priority. I think it is really important that our financial markets are protected from these risks and threats. So I was certainly encouraged by your testimony that it is a top priority for you at CFTC.

Can you elaborate a little bit on any emerging threats that you might be seeing right now or trends, anything that you are specifically doing to counter these cyber threats?

Mr. BEHNAM. Thanks, Congresswoman.

Yeah. As you pointed out, this is top of the list in terms of what we are thinking about at the agency to protect the agency.

And I will point out one data point, which is always shocking to me even as it rolls off my tongue. But we face 800 million events per day, and an event is defined as an effort to sort of penetrate the CFTC's network. So I will repeat that: 800 million a day.

And this is because financial markets and CFTC markets are critical infrastructure for not only Iowans, but also our national security and our economy.

So we have to be well resourced. We have to have the right personnel, which is increasingly challenging in this labor market, but with what we are competing against in the private sector. And ultimately making sure our direct registrants are elevating themselves to make sure they have the best cyber protections that comply with our law.

I will say before I turn back to you, third party service providers or vendors is also another huge issue that we are facing right now.

We had a cyber attack against a vendor, a third party service provider, in early February called ION. U.K.-based entity, but a lot of our registrants had used this entity, which is essentially a back office settlement, among other things, company. And for the period of almost 6 to 8 weeks, we had to delay a report that we put out on data in our markets.

But it is a single point of failure that could cause and wreak havoc across financial markets and end up delaying, obviously, reports, but disrupting markets.

So there are a lot of bad actors. There are nation-states. There are individuals who are doing everything they can do to penetrate

our markets and to bring them down. And I think this is why it is so important that we have the right personnel and resources to protect our markets.

Mrs. HINSON. Yeah. We actually just had Director Easterly with CISA in this very room earlier today talking about some of those threats from these nation-states and bad actors. So I would be interested to know just for follow-up—and you can get me this information later—any cooperation between your agency and CISA, what you are doing to be proactive there. I mean, 800 million is a pretty staggering number.

[The information follows:]



Provide information on any cooperation between the CFTC and DHS CISA and what is being doing to be proactive on cybersecurity threats?

**Response:**

The Commission works collaboratively with other agencies and partners on sharing threat intelligence, Indicators of Compromise (IOC) and Indicators of Threat (IOT). In the event the Commission experiences a cyber-attack, CFTC has the right agreements in place to work with DHS CISA and other partners to respond and mitigate the risk of cyber-attacks to the extent possible. CFTC proactively works with DHS CISA on cyber threats by subscribing to the Protective Domain Name System (DNS) Service, a new service offering from DHS CISA to replace the Einstein 3 Accelerated (E3A) sink holing capability. The service provides the Commission with increased DNS protections against malicious domains and enhanced incident detection and response capabilities. Additionally, CFTC continues to leverage the DHS CISA E3A protective email capability until it is replaced or decommissioned. CFTC has a deep working relationship with the DHS CISA Joint Cyber Defense Collaborative (JCDC) to better understand the Cyber Threat Intelligence (CTI) offering.

The CFTC security team receives cyber hygiene and threat intelligence reports frequently as well as participates in a weekly meeting with DHS-CISA. The reports and meetings keep the team up to date on the cyber security threat landscape as a whole. The CFTC continually tracks, follows, and implements security controls set forth by CISA's Binding Operational Directive (BOD) 22-01 – Reducing Significant Risk of Known Exploited Vulnerabilities.

Additionally, the CFTC participates in the DHS-CISA Continuous Diagnostics and Mitigation (CDM) Program. The CDM Program provides cybersecurity tools, integration services, and dashboards to participating agencies to support them in improving their respective security posture and take proactive measures to mitigate against cyber-attacks and reduce the attack surface. Program objectives are to:

- Reduce agency threat surface
- Increase visibility into the federal cybersecurity posture
- Improve federal cybersecurity response capabilities
- Streamline Federal Information Security Modernization Act (FISMA) reporting

To be proactive on cybersecurity threats, the Commission has implemented a combination of security technical and management controls that are deemed effective in protecting the Commission from most cyber-attacks. We have modernized and continue to advance our cyber defensive tools to automate and manage alerts and are enhancing our technical and management security controls. In addition to having robust technical controls in place to identify, detect, monitor and respond to cyber threats, the Commission has implemented a repeatable user awareness training program to educate our staff on phishing and ransomware attacks.

Mrs. HINSON. I wanted to quick touch on in the remaining time I have left carbon markets. Obviously, farmers across Iowa are looking at this as a potential opportunity for reward for them in a voluntary capacity for things that they are doing, obviously, to be good stewards, good management practices of their land.

So can you discuss a little bit some of the opportunities that might exist in this space, and where you see CFTC's role as the carbon markets kind of continue to emerge?

Mr. BEHNAM. Yeah. I mean, we are seeing—it is a great question, Congresswoman—we are seeing these markets grow in scale. And with demand from institutions and companies and individuals to sort of hit net-zero targets, they are using these offsets, these carbon offsets as a tool to meet those goals.

For landowners, whether it is farmers, ranchers, or any other landowners, this is a really opportunity to create a new revenue stream.

But ultimately—and I have said this before—as we think about policies or programs to set up registries that set standards for how we are going to issue the certificates and what standards a landowner might need to meet to say that they are sequestering X amount of tons of carbon, you are creating a marketplace. And you are creating a marketplace that needs rules of the road and transparency.

And we have dealt with this in the past. I brought up the example of the renewable fuel standard and the RINs market that was developed on the back end of that.

So what we have here is a commodity market, because the carbon offsets can and should be defined as commodities under the Commodity Exchange Act, and the potential for a secondary market developing.

And not unlike the crypto conversation, this is a product of technology and a product of access to financial markets. And as we see these commodity instruments, in this case the carbon offsets being traded potentially, I think it is important for a market regulator to be involved.

And we have this antifraud and manipulation authority over cash markets, and this is a perfect example of an area that I have said publicly if we do or hear about fraud or manipulation in these carbon offset markets, we will certainly be aggressive in bringing an enforcement action.

And ultimately bringing a regulator into the conversation brings integrity, deters bad conduct and misconduct, and it levels the playing field.

If we have a level playing field and a market with integrity, I think your constituents will feel more confident in setting aside some land, sequestering carbon through cover crops or new plantings or forest, and then ultimately being able to generate new revenue.

Mrs. HINSON. Yeah. Well, we say this all the time: Our farmers are the best stewards of their land, and they are willing to try. They just need, as you said, a level playing field. So I am encouraged by those comments appreciate you being here today.

Mr. BEHNAM. Thank you.

Mrs. HINSON. Thank you, Mr. Chairman.

Thank you. I yield back.

Mr. HARRIS. Thank you.

Mr. Franklin.

Mr. FRANKLIN. Thank you, Mr. Chairman

Mr. Behnam, just yesterday CFTC sued crypto exchange Binance and its founder on allegations that the company knowingly offered unregistered crypto derivatives in the U.S. against U.S. Federal law.

Binance, as we know, is a Chinese company. They also were found to have shared sensitive client data with the Russian Government back in 2021. I doubt you can elaborate much on that case since it is ongoing. If you could, I would love to hear that.

But also just broader than, can you discuss how the CCP is attempting to skew our derivatives markets? And then what is CFTC doing to try to thwart those efforts?

Mr. BEHNAM. Thank you, Congressman.

On the case, you are right, I can't speak too much about it, but enough to share with you, this was an incredibly important case that we brought, both sending a signal here in the U.S., but overseas, that if you are going to offer derivatives to U.S. investors you must register with the CFTC.

And in this case, Binance, the largest derivatives exchange in the world, we have documentation of a willful desire to avoid CFTC law and our rules around compliance with the regulations, and specifically penetrating the U.S. market through creating a virtual private network or VPN.

So as we see this ongoing violation of the Commodity Exchange Act, we thought it was imperative to move as quickly as possible, to not only assess a civil monetary penalty, discouragement of revenue, potentially a trading ban, but also a permanent injunction on that activity.

In terms of what we are seeing with China, it is an area that, obviously, is a huge trading partner for our American farmers and ranchers, but one that I would say is developing a futures market and a derivatives market.

So I would certainly look forward to working with you on thinking about what that might mean in the years and decades to come. I think it is important that we have the strongest, most robust, most desirable derivatives markets here in the U.S., in Chicago, New York, and in Atlanta.

And I think, with that, it becomes important for all of us collectively to think about what we need to do to maintain that status because that has downward effects on the dollar as a reserve currency and being able to price commodities in the dollar.

And then we have seen since COVID, transactions in major commodities and other currencies. And I think this could have a potential impact on the U.S. economy down the road, years and in decades to come.

So I think this is the right time to be thinking about questions like the one you just asked to ensure we remain and preserve our dominance from a U.S. financial perspective.

Mr. FRANKLIN. This question is regarding the CFTC's Core Principle 8, which states that a designated contract market shall make public daily information on settlement prices, volume, open inter-

est, and opening and closing ranges for actively traded contracts on the contract market.

More and more we are seeing big exchanges put this kind of information behind pay walls, including some of the like historically daily settlement information.

How is CFTC ensuring the basic market data from these exchanges, including all this historical data, is being made available to the public?

Mr. BEHNAM. Congressman, it is a good question. And I think it is important that we balance between our role as a regulator to ensure that information is flowing to market participants and the general public so that they can make more informed decisions.

But there is a commercial element to this as well as where the designated contract market, as you said, is able to aggregate, collect data, and then essentially use it as a revenue tool through sales.

So we need to make sure and we do have provisions in the Commodity Exchange Act to ensure that there are no anticompetitive behaviors or any actions taken by a registrant that would distort markets, whether it is supply and demand or create sort of a barrier for market participants and the public to collect data that should be public information.

But I would like to potentially take that back and see if there is something that we can do, and certainly we will reach out to your office and see if there is something that we can share with you.

Mr. FRANKLIN. All right. I appreciate that.

Chairman, I yield back.

Mr. HARRIS. Thank you very much.

I do have a couple of questions. I will yield myself some time and I will yield you some time, to Mr. Bishop, if you have some follow-up questions. I have three.

First of all, with regards to what I have asked you before about the climate-related financial risk, I just need to know, how many people did you have reviewing those answers to your request for information? How many employees?

Mr. BEHNAM. I think approximately ten employees.

Mr. HARRIS. Ten employees. OK.

Mr. BEHNAM. But I can get you a definite number.

Mr. HARRIS. All right.

Mr. BEHNAM. And this was not their exclusive responsibility. They were——

Mr. HARRIS. Well, what FTE, what full-time equivalents?

Mr. BEHNAM. So I would say ten.

Mr. HARRIS. Ten? But you said that that was——

Mr. BEHNAM. Oh. One FTE——

Mr. HARRIS. How many FTEs? That is right. How many FTEs?

Mr. BEHNAM. It would be a fraction of an FTE in terms of hours.

Mr. HARRIS. And how many questions did you get? How many answers did you get?

Mr. BEHNAM. We got 80 responses.

Mr. HARRIS. Oh, that is it, 80? OK. Yeah, I can believe that is only part of an FTE.

Let me follow up a little about Mr. Newhouse's question about, if you got frozen where you are—or 2022 levels—you would have to fire like 250 people.

And I guess he kind of implied he didn't understand the math. But you suggested that there are some long-term contracts that are in place that would require you to lay off or let people go because you have to perform on these contracts?

Is that why that number of employees seemed a little high?

Mr. BEHNAM. No. Well, I think in part, Chairman, that is a reason, because we enter into long-term contracts for a number of services for the agency.

But I do also believe that if we were to go to 2022 levels, given where we were in fiscal year 2022 and what we are requesting right now, it would be a significant hit to the agency and we would have to drop upwards of 250 FTE.

Mr. HARRIS. So are your cloud migration contracts long-term contracts?

Mr. BEHNAM. I do not—I can get that. I can get the answer.

Mr. HARRIS. If you would get back to me, I would appreciate that.

[The information follows:]

Are your Cloud migration contracts long-term contracts?

Response:

The intent of using the phrase long-term contracts is that we have existing, essential multi-year service contracts in place. The majority of the CFTC IT contracts are multi-year contracts, including our cloud service contract. A multi-year contract is made up of a Base Year+ Option Years to be funded each fiscal year.

To specifically expand on cloud services in relation to costs, a major factor for the costs associated with our cloud services are linked to a cost model associated with the data storage for our market data intake and CPU utilization for our data analysis and querying. Due to the nature of our business, working with large volumes of data will not be able to adjust down to align with our budget levels, therefore we would not be able to slow many of our service contracts under a reduced budget.

Mr. HARRIS. And I just want to follow up on one thing, again, something that you brought up with Mrs. Hinson about wanting to make sure your regulated entities have cyber protection and things like that.

Well, when you testified earlier this month before the Senate Agriculture Committee you explained that you would like to see the Office of Minority and Women Inclusion authorized, statutorily authorized, so it would allow you to, quote, “assess the diversity policies and practices of entities regulated by the agency.”

Now, I can see where the average American says, yeah, I think it is right. It is the CFTC, they ought to be making certain your regulated agencies have cyber protection policies. They ought to make certain they are playing by the rules.

But how in the world would the diversity policy and practice of entities regulated by the agency, be critical to the integrity of the derivatives market? Because that is your sole purpose. To make sure that the derivatives market has integrity.

How does having that information about your regulated entities play into that?

I just can't, for the life of me, I can't understand. I fully understand why you might be doing it, the pressures to do it, the same pressures the Federal Reserve Bank in San Francisco had, that

California regulators had before the SVB collapse, the same pressures.

Connect the dots for me.

Mr. BEHNAM. Chairman, I mentioned this earlier. We have, unfortunately, suffered from budget challenges over several years. And thanks to you and your colleagues over the past few fiscal years, our budget has gone up significantly, and it has enabled us to do our job successfully. And I think our track record speaks for that.

But for those few years—and this was probably in the fiscal year 2017 to 2020–2021 period—we were close to flat-funded. And that, coming in in this role as acting chair and chair, it is clear has had long-term and will have long-term impacts on the success of the agency. It affects our ability to recruit. It affects attrition rates. It affects morale at the agency.

So when I made that statement—and I want to be very clear. What I have asked our OMWI office to do and our HR office to do is to recruit broadly across the country. I said that in my opening statement.

So this is not just about historically Black colleges and universities. This is about land grant universities. This is about rural America. This is about getting ag economists and experts across the country that will help the CFTC improve its ability to do its job and be more representative of the people we work for.

And to your question, we recruit from these institutions. We recruit from these financial institutions. We recruit from universities. We recruit from different areas.

And I think it is important that if we have a diverse workforce that are specializing in the derivatives markets it will enable the CFTC to be better staffed in the future.

Mr. HARRIS. So the plain letter understanding of what you said is not true, that you don't want to assess the diversity policies and practices of entities regulated by the agency?

You want to create diversity within your agency. But this says you want to assess the policies of regulated entities.

And that is the connection I just don't understand. If they are conducting their business according legally, with no problems, why would you want to delve into their diversity policies?

Mr. BEHNAM. Chairman, if you don't mind, I am going to—I just want to take a—I want to take a look at that and make sure I—

Mr. HARRIS. OK. Because it is a \$2.4 million—\$2.5 million budget item.

Mr. BEHNAM. I understand. And I understand. And I just want to—

Mr. HARRIS. OK.

Mr. BEHNAM. I want to make sure that what I said is in context and exactly that, and we will get back to you.

Mr. HARRIS. Thank you.

[The information follows:]

Please provide additional information related to the Senate Agriculture Committee testimony statement on why the CFTC would request the authority to “assess the diversity policies and practices of entities regulated by the agency”. Why would the CFTC delve into regulated entities diversity policies?

**Response:**

Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), 12 U.S.C. § 5452 (2010) required most federal financial regulatory agencies to create an Office of Minority and Women Inclusion (“OMWI”). The CFTC is the only federal financial regulatory agency that was not required by the Dodd-Frank Act to establish an OMWI. Although not covered by the Dodd-Frank Act, the CFTC established its own OMWI and is seeking statutory authorization of its OMWI on par with all other federal financial regulatory agencies. Among other responsibilities, Section 342(b)(2)(C) requires each OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by the agency. Following a series of roundtables and a notice and comment period in the Federal Register (78 FR 64052 and 77792), in 2015 six of the federal financial regulatory agencies covered by Section 342 of the Dodd-Frank Act issued a Final Interagency Policy Statement establishing Joint Standards for Assessing the Diversity Policies and Practices of the Entities they Regulate (“Joint Standards”) (80 FR 33016 (June 10, 2015)).

The Joint Standards provide a framework for regulated entities of each agency to voluntarily assess their diversity policies and practices annually in several key areas, including: 1) organizational commitment to diversity; 2) workforce profile and employment practices; 3) procurement and business practices- supplier diversity; and 4) practices to promote transparency of organizational diversity and inclusion. The Joint Standards envision regulated entities would provide information pertaining to their annual self-assessments to the OMWI Director of their primary federal financial regulator. Per Section 342(b)(1)(C), agencies use neither supervisory nor examination authority to enforce the assessment provisions of the statute. The development of standards per Section 342 and submission of regulated entities self-assessments strengthen the CFTC’s ability to advance and promote diversity and inclusion across the financial industry by allowing the CFTC to monitor trends and highlight best practices, as does every other federal financial regulatory agency.

Mr. HARRIS. And I will yield to Mr. Bishop.

Mr. BISHOP. Thank you very much.

Chairman Behnam, during the last CFTC hearing that we had, I asked Chairman Giancarlo about the agency's efforts to diversify its workforce. And I would like to get an update from you now.

Last year, I believe you appointed Tanisha Cole Edmonds as the first chief diversity officer in the agency's history. Can you tell us what other progress you have made to increase diversity at the CFTC since 2019? And what are your plans to keep building a diverse workforce moving forward? And why is it important that you have a diverse workforce?

Mr. BEHNAM. Thank you, Congressman.

As I pointed out and as you mention, I appointed our first chief diversity officer, and I felt like we needed leadership there in that position to essentially help support the divisions in their recruitment and the way we reach out to universities and different employees to see the type of people we are recruiting.

As I mentioned, we have had challenges with our budget, which has meant direct challenges with our staffing. And we tend to be very monolithic in our staff. And I don't mean anything bad. We have an amazing staff. But I do think, given our constituency—and what I mean by that is the people we represent, which is all Americans, whether it is farmers and ranchers or individuals in urban America, finance, manufacturing.

And my goal to use this chief diversity officer position is to cast as wide a net as possible across the country so that we can recruit experts in all aspects of our market.

We are very top heavy because we had many years where we were not able to hire on a consistent basis. So we find ourselves with a lot of senior-level folks. And I want to start, as I mentioned in my statement, to get more entry-level individuals so that we could build a bench and have a more progressive growth process for staff at the CFTC.

And I just think it is extremely important that we are representative, the agency itself is representative of the people we work for. And I think the chief diversity officer is playing a role in that. We have reached out to land grant universities across the country. We have reached out to HBCUs. And we are just trying to get the message out about the CFTC and what we do.

Mr. BISHOP. So what you are saying is that the diversity that you are looking for is not necessarily one dimensional. It is not just racial. It is not just gender. It is not just national origin. But it is a totality of the broad representation of interests that your agency has stakeholders from.

Mr. BEHNAM. And our country, sir. I mean, that is just the bottom line. And I travel across the country, Northwest, Midwest, Southeast, and I see the people that we represent and that touch our markets.

Mr. BISHOP. Geographical diversity?

Mr. BEHNAM. Hundred percent. I spent the last summer in the Northwest, in Montana, in North Dakota, South Dakota, in Washington. And you see the types of people that use our markets for price discovery, use our markets for risk management, and they



rely on them. And those are the types of people that I want to know about the CFTC and maybe one day work at the CFTC.

Mr. BISHOP. Thank you.

That is all I have, Mr. Chairman.

Mr. HARRIS. Thank you very much.

And, Chairman Behnam, I want to thank you for being here today. You have got your work cut out for you, let me tell you. I mean, it is a tough business you regulate, and it is a growing business. And as I think you pointed out today in your testimony, the people who would conduct their business improperly are probably always a step ahead, and you are always having to play catch up.

Anyway, I think our discussion touched on many important issues, and I look forward to a productive and a transparent working relationship with you and your agency as we move through the fiscal year 2024 process.

As a reminder, if members would like to submit questions for the record, submit those to the subcommittee staff within 7 days.

The subcommittee stands adjourned.

[Questions and answers submitted for the record follow:]

**COMMODITY FUTURES TRADING COMMISSION  
QUESTIONS FOR THE RECORD  
HOUSE AGRICULTURE APPROPRIATIONS SUBCOMMITTEE HEARING  
MARCH 28, 2023**

**QUESTIONS SUBMITTED BY CHAIRMAN ANDY HARRIS, M.D.**

**Bonuses, Performance Awards, and Special Pay**

How much in bonuses, special pay, incentive awards, merit pay, and performance pay, were distributed to CFTC employees and contractors in FY 2022 and estimated in FY 2023 and in the FY 2024 President's Budget?

**Response:** The table below provides the estimated special pay and merit pay amounts distributed to CFTC employees in FY 2022, FY 2023 and estimated in the FY 2024 President's Budget.

	<b>FY 2022 (\$000)</b>	<b>FY 2023 (\$000)</b>	<b>FY 2024 (\$000)</b>
Merit Pay	\$2,664	\$1,618	\$3,822
Special Pay	\$0	\$1,338	\$0
Total	\$2,664	\$2,956	\$3,822

**Unionization of Employees at CFTC**

Please provide the most recent Memorandum of Understanding and any other contractual agreement or understanding between the CFTC and the National Treasury Employees Union (NTEU). This should include, but is not limited to, any agreement on employee telework or work-from-home policies.

**Response:** The CFTC and NTEU's last collective bargaining agreement was signed in 2019. The Collective Bargaining Agreement is currently open for renegotiation. The parties must comply with the expired contract until a new one is negotiated. A status on telework and work schedules, and compensation and benefits are provided below.

**Telework and Work Schedules:** The telework and work schedule policies may be found in CBA Article 11, Telework and CBA Article 7, Work Schedules and Credit Hours. The Commission entered expanded telework flexibilities, to include 100% maximum telework, due to COVID-19 in March 2020. The Commission remains under expanded telework flexibilities and is currently in negotiations with NTEU over, expanded telework and work schedules, as well as remote work.

Compensation and Benefits: The Commission and the NTEU signed an interim agreement on compensation and benefits for FY 2023 – FY 2024.

*Attachments:* Master CBA June 2019, Compensation Agreement (Interim) 2023-2024

Please provide a table showing the breakdown of the number of administrative contractors, CFTC employee and FTE, and total cost of each for fiscal years 2019-2023.

**Response:** The table below provides the breakdown of contractors and CFTC FTE counts and estimated costs for FY 2019 – FY 2023.

	Number of Contractors	Estimated Cost*	Number of CFTC FTE	Estimated Cost
FY 2019	54	\$10,314,464	80	\$18,500,942
FY 2020	76	\$10,297,074	82	\$19,799,652
FY 2021	92	\$8,341,423	72	\$19,133,142
FY 2022	73	\$11,363,983	73	\$20,646,633
FY 2023	69	\$14,594,384	77	\$22,679,641

The chart represents administrative non-IT cost only.

\*Estimated costs include total services costs.

What is the cost per contractor and cost per CFTC FTE of a typical administrative employee at the CFTC?

**Response:** The current average cost per administrative contractor and CFTC FTE is provided below.

Average Administrative Contractor Cost:	\$133,500
Average Administrative CFTC FTE Cost:	\$299,700

Represents administrative non-IT cost only

Please provide a table showing the number of contractors by division and mission area for fiscal years 2019-2023.

**Response:** The table below provides the estimated number of contractors cleared for each division by fiscal year.

<b>Contractors by Organization*</b>	<b>FY 2019 Estimate</b>	<b>FY 2020 Estimate</b>	<b>FY 2021 Estimate</b>	<b>FY 2022 Estimate</b>	<b>FY 2023 Estimate</b>
Administration			307	242	231
Chief Economist	18	8	10	14	11
Clearing & Risk	2	4	6	3	3
Data			1	71	72
Data and Technology	230	222			
Enforcement	14	11	32	20	6
Executive Director	54	76			
International Affairs	0	0	1	1	0
Inspector General	18	4	8	4	5
General Counsel	2	6	6	3	4
Market Oversight	2	1	1	0	1
Market Participants	1	1	1	0	0
Office of the Chairman & Commissioners	4	8	7	13	4
<b>Total</b>	<b>345</b>	<b>341</b>	<b>380</b>	<b>371</b>	<b>337</b>

\*Due to the nature of contracted services, the on-board contractor count is based on the number of cleared contractors. Cleared contractors provide a variety of services, and should not be assumed to work full-time at the Commission.

#### **Pay Scale**

Please provide the pay-scale the CFTC currently uses for all grades, ranks, levels and steps.

**Response:** The table below provides the CFTC pay scale as of September 10, 2023.

Location	2023 Base Locality	2023 Base 0.00%	Location	2023 DC Locality	2023 DC 32.49%	Location	2023 CHI Locality	2023 CHI 29.79%	Location	2023 NY Locality	2023 NY 36.16%	Location	2023 KC Locality	2023 KC 18.18%
Band	Min	Max	Band	Min	Max	Band	Min	Max	Band	Min	Max	Band	Min	Max
CT-1	\$25,943	\$36,574	CT-1	\$34,372	\$48,457	CT-1	\$33,671	\$47,469	CT-1	\$35,324	\$49,799	CT-1	\$30,659	\$43,223
CT-2	\$29,165	\$41,473	CT-2	\$38,641	\$54,948	CT-2	\$37,853	\$53,828	CT-2	\$39,711	\$56,470	CT-2	\$34,467	\$48,013
CT-3	\$31,829	\$46,744	CT-3	\$42,162	\$61,931	CT-3	\$41,303	\$60,660	CT-3	\$43,330	\$63,647	CT-3	\$37,608	\$55,242
CT-4	\$35,723	\$52,467	CT-4	\$47,329	\$69,514	CT-4	\$46,365	\$68,097	CT-4	\$48,640	\$71,439	CT-4	\$42,217	\$62,006
CT-5	\$39,971	\$58,700	CT-5	\$52,958	\$77,772	CT-5	\$51,878	\$76,387	CT-5	\$54,425	\$79,926	CT-5	\$47,238	\$69,372
CT-6	\$44,553	\$65,439	CT-6	\$59,028	\$86,700	CT-6	\$57,825	\$84,933	CT-6	\$60,683	\$89,102	CT-6	\$52,653	\$77,396
CT-7	\$49,511	\$72,726	CT-7	\$65,597	\$96,355	CT-7	\$64,260	\$94,391	CT-7	\$67,414	\$99,024	CT-7	\$58,512	\$85,948
CT-8	\$54,831	\$80,537	CT-8	\$72,646	\$106,705	CT-8	\$71,165	\$104,529	CT-8	\$74,658	\$109,659	CT-8	\$64,799	\$95,179
CT-9	\$60,563	\$88,957	CT-9	\$80,240	\$117,859	CT-9	\$78,605	\$115,457	CT-9	\$82,468	\$121,124	CT-9	\$71,573	\$105,129
CT-10	\$66,696	\$97,966	CT-10	\$88,366	\$129,795	CT-10	\$86,565	\$127,150	CT-10	\$90,813	\$133,391	CT-10	\$78,821	\$115,776
CT-11	\$73,276	\$107,639	CT-11	\$97,083	\$142,611	CT-11	\$95,103	\$139,705	CT-11	\$99,773	\$146,561	CT-11	\$86,598	\$127,208
CT-12	\$87,825	\$128,399	CT-12	\$116,359	\$170,911	CT-12	\$113,988	\$167,428	CT-12	\$119,583	\$175,645	CT-12	\$109,792	\$152,451
CT-13	\$104,438	\$153,405	CT-13	\$138,370	\$203,246	CT-13	\$135,550	\$199,104	CT-13	\$142,203	\$208,876	CT-13	\$129,425	\$181,294
CT-14	\$123,413	\$181,280	CT-14	\$163,510	\$240,178	CT-14	\$160,178	\$235,283	CT-14	\$168,099	\$246,831	CT-14	\$145,849	\$214,237
CT-15	\$145,172	\$215,228	CT-15	\$192,338	\$272,100*	CT-15	\$188,419	\$272,100*	CT-15	\$197,666	\$272,100*	CT-15	\$171,564	\$251,993
CT-16	\$167,980	\$246,706	CT-16	\$222,567	\$272,100*	CT-16	\$218,032	\$272,100*	CT-16	\$228,732	\$272,100*	CT-16	\$198,528	\$272,100*
CT-17	\$194,332	\$272,100*	CT-17	\$257,470	\$272,100*	CT-17	\$252,224	\$272,100*	CT-17	\$264,502	\$272,100*	CT-17	\$229,662	\$272,100*
CT-18	\$224,843	\$272,100*	CT-18	\$272,100*	\$272,100*	CT-18	\$272,100*	\$272,100*	CT-18	\$272,100*	\$272,100*	CT-18	\$265,717	\$272,100*

  

Location	2022 Rate	2021 Rate	2020 Rate
DC	31.53%	30.45%	30.48%
CHI	29.18%	28.56%	28.59%
NY	35.06%	33.98%	33.98%
KC	17.67%	17.13%	17.13%

\*Total Pay Capped at \$272,100

Please provide a table with the number of employees the CFTC currently employs broken down by grade, rank, level, and steps.

**Response:** The table below provides the breakdown of CFTC employees by grade as of October 18, 2023.

CT - 7	CT - 8	CT - 9	CT - 10	CT - 11	CT - 12	CT - 13	CT - 14	CT - 15	CT - 16	CT - 17	CT - 18	EX - 3	EX - 4	Total
3	3	4	3	10	34	78	343	167	34	4	7	1	4	695

#### Customer Protection Fund (CPF)

What is the current balance of the Customer Protection Fund?

**Response:** As of September 30, 2023, the available balance of the Fund (339-X-4334) is \$261,359,297. In addition, there is \$8,881,977 remaining of the funds that have been set aside in a separate account (339-2125-1534) to fund non-whistleblower costs only when the unobligated balance of the Fund is insufficient.

### Information Technology

Please provide a detailed breakdown of CFTC's FY2024 budget request for funding for cybersecurity and IT, including but not limited to contracts or agreements to migrate CFTC's data, systems and information to the cloud.

**Response:** The FY 2024 budget request for cybersecurity and information technology is below:

	<b>FY 2024 Request (\$000)</b>
<b>Total</b>	<b>\$109,252</b>

Please provide the total estimated cost through FY2024, broken down by fiscal year, to migrate CFTC's data, systems and information to the cloud.

**Response:** The cloud migration estimated costs below include work associated with transferring systems and applications from their previous on-premise location to a managed services cloud environment, and enhancing cloud services to optimally manager and access new capabilities in the cloud environment.

	<b>FY 2019 (\$000)</b>	<b>FY 2020 (\$000)</b>	<b>FY 2021 (\$000)</b>	<b>FY 2022 (\$000)</b>	<b>FY 2023 (\$000)</b>	<b>FY 2024 (\$000)</b>	<b>Total</b>
<b>Total</b>	<b>\$0</b>	<b>\$605</b>	<b>\$6,423</b>	<b>\$7,930</b>	<b>\$3,200</b>	<b>\$3,620</b>	<b>\$21,778</b>

### Climate Related Financial Risk

In June of 2022, the CFTC published a Request for Information (RFI) in the *Federal Register* to "better inform its understanding and oversight of climate-related financial risk." The RFI specifically asks: "Should registered entities and registrants be required to disclose information relating to greenhouse gas emissions?"

Do you believe requiring registered entities to disclose greenhouse gas emissions, including both direct and indirect emissions, falls under CFTC's statutory authority under the Commodity Exchange Act?

If so, please cite the specific language in statute giving CFTC the authority to require registered entities to disclose greenhouse gas emissions.

**Response:** The CFTC is a member of the Financial Stability Oversight Council (FSOC), which published the FSOC Report on Climate-Related Financial Risk in October 2021 in response to Executive Order 14030, *Climate-Related Financial Risk*. The FSOC identified climate change as an emerging and increasing threat to the U.S. financial stability and set forth over 30 recommendations including Recommendation 3.4, which states:

The Council understands that information on greenhouse gas (GHG) emissions promotes a better understanding of the exposures of companies and financial institutions to climate-related financial risks. The Council recommends that, consistent with their mandates and authorities, FSOC members issuing requirements for climate-related disclosures consider whether such disclosures should include disclosure of GHG emissions, as appropriate and practicable, to help determine exposure to material climate-related financial risks

The Commission sought comment on 34 questions on 10 topics including a question on the FSOC Report Recommendation 3.4 in its June 2022 Request for Information (RFI) on Climate-Related Financial Risk. As the majority of public comments received in response to this question did not advocate for the Commission to move forward with the GHG disclosure recommendation, the Commission does not have any plans at this time to propose any requirements for disclosures on GHG from its registrants or registered entities.

#### **Diversity, Equity, Inclusion and Accessibility**

Please explain how the diversity, equity, inclusion and accessibility policies and practices of the CFTC's regulated entities are critical to the integrity of derivatives markets or to other core missions of the agency.

**Response:** Strong diversity, equity, inclusion and accessibility programs correlate with increased revenues, improved risk management, and better growth prospects. The shifting demographics of the country are making it a necessity to attract and retain diverse top talent. And, diverse talent brings a rich variety of experiences that lead to increased innovation and favorable business outcomes.

As I mentioned at the hearing this goal is driven by the diverse constituency of CFTC stakeholders, registrants, and market participants, from large financial institutions to farmers and ranchers. In an effort to recruit, train, and retain a diverse workforce, the CFTC has sought to expand our recruiting efforts across many different parts of the country, in hope of enlisting a more diverse set of applicants, including for example,

agricultural economists and other experts across the country that will help the CFTC improve its ability to do its job. This is about recruiting from land grant universities, financial institutions, universities and colleges across the country to ensure that we are bringing in talent that has the expertise needed to address current and emerging issues. Having a diverse workforce specialized in the derivatives markets will enable the CFTC to better meet the challenges of the future.

Please provide a detailed breakdown of the time and funding going toward the CFTC's work to integrate diversity, equity, inclusion and accessibility into the agency, including but not limited to resources being used to develop the agency's strategic DEI plan?

**Response:** In FY 2024, the agency expects to allocate \$2.482 million to the Office of Minority Women and Inclusion (OMWI). Of the 6 FTE that comprise the OMWI office, three staff are dedicated full-time to DEIA program work. The DEIA Strategic Plan was developed in FY 2023 with a project team of liaisons from each CFTC Division or Office whose Director sits on the Chairman's Executive Leadership Team, as well as a liaison from each of the Commissioner's offices.

#### **Block Trading Rule**

In September 2020, the CFTC finalized amendments to its transparency regime for large "block" swap transactions. This new regime is set to become effective in December 2023. Upon rule finalization, the Commission committed to engage with industry on concerns regarding the appropriateness of the revised framework prior to the effective date, to ensure that it does not impinge on end-user liquidity.

How has the CFTC engaged industry since the rule finalization?

How does CFTC plan to engage industry between now and December 2023?

**Response:** Commission staff published revised post-initial appropriate minimum block sizes on April 13, 2023. The revised block sizes take into consideration the data improvements contemplated by the Commission's 2020 Swaps Data Rulemakings.<sup>1</sup> The Commission does not intend for the publication of the revised block sizes to be associated

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<sup>1</sup> The revised block sizes were calculated in accordance with Commission regulation 43.6(g), which requires use of a 67-percent notional amount calculation. The revised block sizes were calculated based on a one-year window of reliable swap transaction and pricing data transmitted to Swap Data Repositories (SDRs) between December 1, 2021 and November 30, 2022. The SDR that receives the vast majority of swap transaction and pricing data reports had already implemented several key aspects of the Commission's 2020 Swaps Data Rulemakings prior to December 1, 2021.



with any formal notice and public comment period.<sup>2</sup> The Commission expended significant time and resources in analyzing data and responding to public comments received during the comment period associated with the 2020 Swaps Data Rulemakings. The revised block sizes are scheduled to take effect on July 1, 2024, as set out in a letter published by Commission staff on October 18, 2023.<sup>3</sup> The Commission plans to continue to engage with market participants informally and monitor the liquidity of its jurisdictional markets.

As you know, the Commodity Exchange Act (CEA) directs the Commission to provide for both real-time public swaps reporting and appropriate block sizes. The Commission concluded in both 2013 and 2020 that a 67-percent notional amount block size calculation, applied to the most liquid categories of products in certain swap asset classes, strikes an appropriate balance between the benefits of transparency and any potential costs to market participants. The Commission continues to believe that transparency will increase liquidity, improve market integrity and price discovery, while reducing information asymmetries enjoyed by market makers. The currently effective block sizes, which were calculated using a 50-percent notional amount calculation and intended as an initial step towards a phase-in of thresholds determined using a 67-percent notional amount calculation, have not changed in a decade. The Commission is cognizant that the currently effective block thresholds result in less transparency than the Commission has previously determined is appropriate to effectuate its CEA responsibilities.

### Margin

Following market disruptions during the COVID-19 pandemic and Russia's invasion of Ukraine in 2022, end users like farmers, ranchers, and oil and gas producers saw clearinghouse initial margin requirements rise significantly. Both events, caused liquidity demands totalling over \$100 billion for market participants. To lessen the severity of future liquidity crunches, should clearinghouse margin be enhanced so that it is more robust and stable through market cycles?

**Response:** Initial margin collateral is collected by clearinghouses, or central counterparties (CCPs), to cover potential losses resulting from the default of one of their members; therefore, initial margin levels are generally positively correlated with market volatility. When volatility goes up, margin levels commonly increase. Irrespective of changes in

<sup>2</sup> The Commission's regulations require the Commission to update the block sizes on its website at least once each calendar year, but modify the block swap categories and block calculation methodology through rulemaking. The Commission therefore does not intend for the publication of the revised block sizes to be associated with a formal notice and comment period, as the Commission noted its concern during the 2020 Swaps Data Rulemakings that opening the results of applying the block methodologies to data would suggest the methodologies are open to public comment annually, when opening the rules for public comment each year would be an inefficient use of Commission resources.

<sup>3</sup> Staff Letter 23-15.

initial margin collateral requirements, participants who incur market losses will be called upon to cover those losses through variation margin. Those “mark-to-market” losses, which must be paid promptly in cash, can be quite large during periods of stress, and often exceed changes in initial margin levels. This daily collection of variation margin to account for price moves ensures that losses and therefore risk to the system does not accumulate over time.

To mitigate demands for initial margin collateral, all major US CCPs make use of tools that reduce the size and speed of margin level changes during these periods of stress (in many cases, more than one). Each of these is designed to moderate collateral calls when a CCP requires additional margin to ensure adequate risk coverage. A few of the largest CCPs in the US are currently in the process of significant updates to margin models across a number of product classes. As part of these updates, both the CCP, as well as the CFTC as primary regulator, are focusing on the effectiveness of a number of potential measures to ensure appropriately enhanced margin levels during low volatility periods to ease increases in margin levels causing burdens on end users when stress events occur.

### Transparency

A recent survey by the Committee on Payments and Market Infrastructures indicated that only around 20 percent of clearinghouses provide tools for end-users to estimate how their margin requirements could change during periods of market volatility. What are some solutions clearinghouses could take to enhance the transparency of margin requirements to help farmers, ranchers, and other end users better prepare for future stress events?

**Response:** The survey you referenced aimed to gather information about clearinghouses, or CCPs, across a wide variety of jurisdictions. Not surprisingly, the sophistication of the tools provided by a CCP is correlated with the CCP’s size and breadth; so, most of the largest, and thus most significant, CCPs within the US market provide participants tools that give them a detailed view on how their margin requirements may change as a result of changes in their own portfolio.

A recent report on Margin Practices published by BCBS-CPMI-IOSCO highlighted six areas for additional policy focus; one of those six, margin transparency, spoke to the value of more, and more granular information, on both historical and potential future, margin demands during stress.<sup>4</sup> Additional work has continued among international regulatory groups to identify what data may best prepare participants for liquidity calls.

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<sup>4</sup> [Press release: BCBS-CPMI-IOSCO finalise analysis of margining practices during the March 2020 market turmoil \(bis.org\)](#)

QUESTIONS SUBMITTED BY CONGRESSMAN BEN CLINE

**Confusion Leading to the Innovation Flight**

This game of "who is the right regulator" when it evolves literally by the week is frustrating the crypto industry. The industry wants regulation so businesses know what they can and can't do. Since the US regulators differ even with each other on who regulates what, companies are opting overseas to build the next internet/blockchain breakthrough because those jurisdictions have clear rules. Again, these aren't sketchy countries they're going to, but rather UK, Singapore, France and other legit G7 countries and it's because they have actual rules and regulations.

Chair Benham, earlier this month in the Senate Agriculture Committee you highlighted the conversations you were having with your international counterparts on the topic of crypto regulation. You said the US should have a clear framework to regulate crypto to promote innovation while also protecting consumers. However, since you last testified, a new report revealed that the US has already lost its lead for blockchain development going from 40% to just 29%. This innovation flight is concerning, and we cannot sit idly by and let other countries or potential adversaries lead in what many refer to as "the next version of the internet." How can we reverse course? Is innovation flight a concern for your other regulator counterparts in the Administration?

**Response:** The CFTC supports and encourages engagement with innovators in our industry through our Technology Advisory Committee (TAC) and the Office of Technology Innovation (OTI, formerly LabCFTC) to better understand emerging technology for both its benefits and risks. The most important step that the U.S. can take to encourage and support innovation in the U.S. is to adopt a clear regulatory framework to regulate the digital asset markets, which would encourage innovation and protect consumers. While the agency is open to innovation, we also need to maintain safe markets and prevent fraud.

Is innovation flight a concern for your other regulator counterparts in the Administration?

**Response:** Currently, each U.S. regulator is doing its best to protect retail investors, or the banking system, under their current mandate from Congress. There still remains, however, a lack of clarity, which may inadvertently be having a chilling effect on the industry as a whole in the U.S.

**Biden Administration Council of Economic Advisers Report**

Chair Benham, last week the Biden Administration released their annual Council of Economic Advisers (CEA) report which had a large section dedicated to crypto. The report repeatedly bashed the promise of crypto and largely viewed it through the lens of frauds like Sam Bankman Fried of FTX. This report ran pretty counter to the executive order from the White House last year on crypto and some previous statements you have made on the technology. In your view, why has the tone shifted in the Administration on crypto to nearly writing the industry as a scam? Do you believe there is potential and actual utility? If so, why do you think your colleagues at the CEA or SEC say otherwise?

**Response:** The Administration and I have consistently recognized the risks of crypto and advocated for regulation. For example, the Financial Stability Oversight Council unanimously issued a landmark report on the financial stability risks presented by the digital asset market.<sup>5</sup> One of the recommendations called on Congress to enact legislation to fill the clear regulatory gap over the spot market for digital assets that are not securities. I have been clear in testimony before Congress as well as in other public statements that bringing this volatile market out of the shadows and into the regulatory fold would protect customers, ensure market resilience and stability, and prevent contagion to the traditional financial system.

Chair Benham, yesterday in an enforcement action against bad actor Binance your agency once again highlighted that the CFTC believes Ethereum is a commodity. However, the Biden Administration's SEC has been saying that Ethereum is a security that not only counters your agency's view, but also the previous SEC leadership's view. I've heard from crypto companies that regulatory clarity is needed to create a robust regulatory framework but seems like the relative agencies are at odds not only on Ethereum, but crypto regulation as a whole. What are your views on the SEC's position on Ethereum being counter to yours and how do we bridge the gap to make sure the United States has comprehensive AND clear regulation for crypto to ensure innovation thrives while also protecting consumers?

**Response:** As multiple courts have held, digital assets generally fall within the broad definition of a commodity, and the CFTC's jurisdiction over ETH as a commodity is both well supported by the law and by the practical fact that CFTC-regulated platforms have been offering derivatives tied to the value of ETH for multiple years.

More generally, I recognize that there can be difficult legal issues presented in digital asset-related cases that may implicate the jurisdiction of multiple regulators. The critical issue is closing the regulatory gap for non-security digital assets. Given the absence of Congressional legislation, the CFTC will continue being proactive in this space when our

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<sup>5</sup> Financial Stability Oversight Council, Report on Digital Asset Financial Stability Risks and Regulation (Oct. 2022), [Report on Digital Asset Financial Stability Risks and Regulation 2022 \(treasury.gov\)](https://www.treasury.gov/press-releases/2022/10/20221012).

jurisdiction is implicated. We will also continue to work with the SEC and other agencies to ensure that wrongdoers are held accountable.

**QUESTIONS SUBMITTED BY CONGRESSWOMAN BARBARA LEE**

**Diversity Within CFTC**

The CFTC's Equal Opportunity Employer & Diversity Statement recognizes that workplace diversity and inclusion are critical to the agency's success and uplifts a commitment to supporting the recruitment and maintenance of a truly diverse CFTC workforce. This is especially critical at leadership and management-level positions.

How is the Commission building upon these commitments?

**Response:** With the arrival of the CFTC's first Chief Diversity Officer in January 2022, a key initial deliverable for the CFTC DEIA Program was to develop and implement a DEIA Strategic Plan. The CFTC's DEIA Strategic Plan will include goals, objectives, and strategies that align with the CFTC's overarching 2022-2026 agency strategic plan. The CFTC anticipates its DEIA Strategic Plan, which will be subject to Commission approval, will be completed by the end of the calendar year.

What are the challenges?

**Response:** Prior to the arrival of the CFTC's first Chief Diversity Officer in January of 2022, the CFTC's OMWI was solely focused on equal employment opportunity (EEO) complaints processing and enforcement of EEO-related statutes. It is my strong view that the agency should have a strategic plan for building a workforce that has the experience, and expertise to be the world's premier derivatives regulator, including having a workforce that reflects the people we work for. As I mentioned at the hearing this goal is driven by the diverse constituency of CFTC stakeholders, registrants, and market participants, from large financial institutions to farmers and ranchers. In an effort to recruit, train, and retain a diverse workforce, the CFTC has sought to expand our recruiting efforts across many different parts of the country, in hope of enlisting a more diverse set of applicants, including for example, agricultural economists and other experts across the country that will help the CFTC improve its ability to do its job. This is about recruiting from land grant universities, financial institutions, universities and colleges across the country to ensure that we are bringing in talent that has the expertise needed to address current and emerging issues. Having a diverse workforce specialized in the derivatives markets will enable the CFTC to better meet the challenges of the future.

How would any decrease in FY24 funding impact the CFTC's commitment and action to prioritize efforts to improve retention, recruitment, and leadership development efforts?

**Response:** A decrease in FY 2024 funding for the agency would have a significant impact on the agency's ability to better attract, develop, retain, and promote a diverse workforce at the CFTC.

### **Bipartisan Efforts**

As events like severe weather issues and Russia's invasion of Ukraine impact farmers and producers, CFTC secures stable markets that help Americans who need them. Despite these increasing challenges, Republicans are proposing cuts to discretionary spending for 2024 to the 2022 level. Slashing the CFTC's budget to this level would be disastrous, forcing the agency to cut vital staff and reducing their ability to protect farmers and secure stable markets for American businesses.

Even within such a politically divisive time, how can we collaborate in bipartisan ways for Congress to continue providing support to CFTC so it can perform effective regulation that protects the American people?

**Response:** I appreciate your question. The CFTC has a long history of bipartisan support for the role it plays as the primary financial regulator of the U.S. derivatives markets. I sincerely hope that the agency will continue to benefit from the respect and support of Congress for its annual funding requests, which are put together with the taxpayer in mind, as well as the vibrancy and competitiveness of our U.S. derivatives markets.

### **Cryptocurrency**

Could you please highlight for us differences you feel are key, between the regulatory framework that the CFTC has in place for cryptocurrency derivatives and the current framework for the crypto market as a whole? What do you think the most urgent aspects are within cryptocurrency, that most need to be addressed or regulated?

**Response:** Currently, the CFTC has supervisory authority over derivatives markets but not over spot crypto markets. I have repeatedly stressed the importance of addressing this regulatory gap for digital assets not considered a security.

Aspects of the crypto market that should be addressed by regulation include the following:

#### *Customer protections*

For retail market participants, robust customer protections are paramount. The CFTC should be fully empowered to require registered entities to make necessary disclosures regarding a variety of matters, such as investment risk, cybersecurity risks, mining, settlement practices and other related activities; ensure customers are receiving the best available prices; and segregate and safeguard assets in a way that protects customers in the event of a failure by the platform.

We also know that these markets are often promoted as a form of financial inclusion to populations that may be most vulnerable to the inherent risks in these assets as well as to predatory financial schemes. Any regulation in this area should recognize this dynamic and require additional work and study to better understand how these populations interact with this market and ensure they are adequately protected.

#### *Market integrity*

In the absence of federal market regulation, the digital asset market has been plagued by fraud and manipulation. The CFTC has been aggressive and proactive in policing these markets, bringing over [85] cases resulting in over [\$4 billion] in penalties and restitution. But our legal authority in the spot market for digital commodity tokens is necessarily limited to acting only *after* the fraud has occurred. A key feature of any regulatory scheme should be authority for the CFTC to proactively establish rules to minimize fraud in the first place. This should include authority to set stringent standards for preventing conflicts of interest, establish rules for maintaining fair, open, and transparent markets, and actively monitoring trading by market participants. Smart regulation protects consumers and the broader financial markets from system risk and allows U.S. derivatives markets to continue to set the global standard for competitive, innovative markets.

### **Commodity Price Volatility**

February 20, 2023 report by the Financial Stability Board (at: <https://www.fsb.org/wp-content/uploads/P200223-2.pdf>) noted that Russia's invasion of Ukraine in February 2022 added volatility to already tight commodities markets. Prices of many commodities surged and became volatile -- with the price of European natural gas and industrial metals doubling, oil prices rising by more than 30% and wheat prices also rising sharply.

The increased commodity price volatility we have seen has also led to spikes in margin calls for certain commodities derivatives contracts, which has resulted in an increased demand for liquidity to meet the margin calls, the FSB found. The paper noted (p. 25) that, "Certain banks are more highly exposed to commodities traders, some of whom represent a significant share of market activity, are highly leveraged and rely on short-term debt." It noted concerns that further commodity volatility and large margin calls could have spillover effects to the broader financial system.

How concerned are you about the impact of commodity volatility on the derivatives markets?  
What steps are you taking to monitor these effects?

**Response:** As you note, commodity markets in recent years have experienced a perfect storm of externalities, including persisting impacts of the Covid-19 pandemic, as well as volatility relating to the conflict in Ukraine. Ensuring that commodity derivatives markets remain liquid, resilient and free from manipulative or disruptive conduct, so that they can effectively serve their risk management and price discovery functions, is the CFTC's highest priority. The CFTC has remained vigilant in order to ensure that this priority continues to be met in the face of recent market stress and volatility.

Our preeminent analytic, surveillance and enforcement programs have closely monitored the CFTC's regulated markets - analyzing data, conducting trading analyses for manipulative, inappropriate or disruptive conduct, and leveraging the agency's enforcement authorities to root out bad actors. CFTC staff have also continued to actively monitor compliance by exchanges, clearinghouses and intermediaries with their regulatory obligations to ensure that they can thoroughly and effectively perform their critical roles in our markets. This includes the daily posting of variation margin that is adjusted to account for price moves and ensures that losses and therefore risk to the system does not accumulate over time.

Faced with an unprecedented array of stressors, our regulatory framework and market structures have served their functions well, enabling end-users to hedge their risks during a particularly challenging period.



WEDNESDAY, MARCH 29, 2023.

## FOOD AND DRUG ADMINISTRATION

### WITNESS

**HON. ROBERT M. CALIFF, M.D., MACC, COMMISSIONER OF FOOD AND DRUGS FOR THE FOOD AND DRUG ADMINISTRATION**

Mr. HARRIS. The subcommittee will come to order.

I want to thank everyone for joining us today as we review the Food and Drug Administration's (FDA) fiscal year 2024 budget request. Our witness is the Commissioner of the Food and Drug Administration, Dr. Robert Califf.

Dr. Califf, I want to welcome you to today's hearing. I look forward to the discussion on the budget request and other topics of importance.

Without a doubt, the FDA does critical work that touches the lives of every American every day. And America continues to be blessed with the safest food and drug supply in the world. But as I look at the FDA's budget request, I would be remiss if I did not acknowledge the fiscal outlook facing the country.

The Congressional Budget Office's most recent outlook shows that this administration has done more to increase our national debt than any other administration. The President's fairyland budget, more than 1 month late, never, ever balances and has trillion-dollar deficits forever. It is truly a make-believe budget. We genuinely need to start having an honest conversation about how to rein in Federal spending that is driving inflation, weakening the economy, and harming our long-range security.

Unfortunately, again, the budget request put forth by the President truly hides from this reality, and once again contains an expansive, unrealistic wish list.

For fiscal year 2024, FDA's request totals \$7.2 billion, a significant increase. This is a \$522 million increase or 8 percent above the fiscal year 2023 enacted level. That \$522 million increase includes \$372 million in new budget authority and \$150 million from new user fees. The budget authority increase alone is over 10 percent above fiscal year 2023.

This subcommittee has made significant investments in the agency. Since 2018, the agency's budget authority has increased by 25 percent. I recognize there may be an argument for additional resources at the agency, as there is for almost all the Federal agencies, and your marketplace that you regulate is growing ever more complex. But I also know there is room for improvement in utilizing existing resources.

There remains a lingering concern over the lack of transparency related to the execution and utilization of the existing budget, particularly on the food side. There have been several occasions when

questioned about resources, and the agency has not been able to provide answers. This lack of transparency and accountability in resource management does not instill confidence to make additional investments on our end.

I know that the Center for Food Safety and Applied Nutrition houses the researchers and policymakers while the Office of Regulatory Affairs is home to the inspection and compliance workforce. But I am concerned that presently they do not work together to execute their respective budgets. There has not been enough oversight and monitoring of funding increases the past couple of years.

I intend to look deeper into how all existing resources are being used to ensure we maximize the efficient use of all resources, particularly as the agency undergoes structural reform of the Foods Program in the coming months.

Now, we are all interested in learning more about how you will restructure, reform, and improve operations in the Foods Program. I understand this could not be addressed in the budget itself, but there remains significant bipartisan interest in how the agency will remedy what many see as dysfunction that is adversely impacting the agency's ability to protect consumers while also possibly delaying or stifling innovation.

Now, I know you are keenly aware of how vocal stakeholder groups have been on the restructuring proposal. And given the political article from Monday entitled, "Lessons have not been learned: FDA knew of positive test months before the latest infant formula recall," I expect some stakeholders to be even louder.

It seems that the FDA continues to be passive and reactive when it comes to infant formula inspection activities when surely everyone at the agency knows infant formula is and has been in the spotlight.

Additionally, other controversies swirl around the agency, disrupting public confidence in the FDA. High-profile incidents include findings of atypical collaboration between the drug manufacturer and the FDA on an Alzheimer's drug, granting EUA to experimental COVID vaccines on 6-month-olds, the inability to clear the market of illicit tobacco products, and not identifying a regulatory pathway for cannabidiol oil after 5 years and millions of dollars of investments from this subcommittee, just to name a few. Many Americans also refuse to get a COVID vaccination due to government distrust.

We need to quickly remedy what is not working in the agency, institute needed reforms, and restore public confidence.

As I stated last year, I believe that many of the problems facing the FDA can be solved through strong leadership and not necessarily with more money, and I stand by that statement. I am sure all of us are eager to hear how you will continue to address recent challenges the agency has faced, and I look forward to working with you. And I appreciate you being with us for today's hearing.

I would like to remind all the members that we will abide by the 5-minute rule for questions.

Now, let me ask our distinguished ranking member, Mr. Bishop, for any opening remarks he may have.

Mr. BISHOP. Thank you very much, Chairman Harris.

First, I would like to acknowledge that between the pandemic and the infant formula crisis, FDA staff have been working overtime and then some. So I thank you, Dr. Califf, for that.

I expect much of our conversation today to focus on the impact of possible severe budget cuts. On that issue, Dr. Califf, you and I have talked. And I know that you are worried about the impact of a possible 22 percent cut, which you have heard, all reverting back to the 22—the fiscal year 2022 funding level on things such as domestic and foreign inspections, your work on overdose prevention, and the critical work screening imported products for illegal and dangerous drugs.

These are investments Republicans and Democrats have supported. And we have to fight to keep our food, our medicine, our medical devices safe for all American families.

Unfortunately, despite the need to continue investing and conducting proper oversight over the FDA, House Republicans' reported proposal to cut fiscal year 2024 discretionary spending back to fiscal year 2022 levels threatens much of the progress made in recent years to protect our food and drugs. However, we also can't neglect other topics, including the reorganization of the Foods Program.

I would like to get an update on your implementation of our mandated resumption of unannounced foreign medical product inspections in countries such as India. I would also like you to talk about FDA's work in finding alternatives to animal testing. And I would like your comments on the eye drop recalls, and would note that both of the eye drop products associated with the deaths and loss of sight were manufactured overseas. And I would like to also hear about the latest instance of contaminated infant formula, marking the fourth formula recall over *Cronobacter* contamination in the past year.

As I have said before, citizens put their trust in FDA's regulations and their oversight, every time we sit down for a meal or take a pill, and we deserve an FDA that is at the top of its game.

Thank you, Mr. Chairman. I look forward to hearing from Dr. Califf. And I yield back.

Mr. HARRIS. Thank you, Mr. Bishop.

Commissioner Califf, without objection, your entire written testimony will be included in the record. I now recognize you for your statement, and then we will proceed with questions.

Dr. CALIFF. Dr. Harris, Ranking Member Bishop, and members of the subcommittee, thanks for your—the opportunity to appear before you today.

I would like to start by thanking the Subcommittee for your continued support of FDA, especially over the last few years, as the agency has worked tirelessly to turn the corner on COVID-19, ensure a safe and nutritious food supply, and prepare for emerging challenges of the expanding and changing landscape of tobacco production. This has been possible due to the vital and never-ending work of our dedicated staff at FDA across the country and the world.

To support their work, the budget I present to you today requests a total of \$7.2 billion, a 7.8 percent increase in funding for the FDA. This significant increase in funding will have an immediate

impact on optimizing the health benefits of safe and nutritious food, reducing harm from tobacco products, and ensuring the availability of safe and effective medical products.

This funding will also enable the Agency to continue to leverage new and emerging technologies, improve the recruitment and support of a highly skilled workforce, and adapt to new production and business models in the industries we regulate.

I want all of you to know, as well as the American people, that I, along with the leadership team at FDA, will continue to make long- and short-term strategic organizational changes and investments to ensure this agency is best positioned for future public health and regulatory challenges.

Since rejoining the Agency just over a year ago, I have consistently heard from industry, Congress, and other stakeholders that the Human Foods Programs needed more attention and support. I don't have to tell you that the infant formula shortage highlighted many of these issues.

We have begun the exciting process of implementing a revitalized and forward-looking FDA Human Foods Program, including a new model for the Office of Regulatory Affairs. We have announced a search for a Deputy Commissioner of Human Foods, who will report directly to the Commissioner and will have clear authority over the organization, strategy, and resource allocation of the Human Foods Program.

As we embark on these changes, I want to be clear, our food is already the safest it has ever been, and no other country has safer food. But that doesn't mean we can't improve. And while most public discussion has been about preventing food contamination, America has a critical need to improve its nutritional status and better understand and reduce the chemicals that put our food supply at risk.

In addition to our focus on food, tobacco product regulation and enforcement remains one of FDA's greatest priorities to save lives. Although tobacco use is declining and vaping is also modestly declining in youth, we will lose almost 500,000 Americans this year. And millions of teenagers are already addicted to nicotine, with many new users each day.

That is why our budget requests an additional \$100 million in user fee and authority to include manufacturers and importers of all deemed products, including electronic nicotine delivery systems, or vaping products, among the tobacco product classes for which FDA assesses tobacco user fees. No one anticipated that we would be inundated with almost 27 million applications for vaping products. It is time for this industry to pay its fair share as we grapple with the ongoing ravages of tobacco and nicotine addiction.

The U.S. continues to lead the world in medical product innovation, but additional resources are needed to areas presenting new challenges: the ongoing opioid overdose crisis, supply chain issues leading to a host of critical product shortages, increasing needs of postmarket evaluation, and opportunities for amazing progress in battling cancer and neurodegenerative disease.

We also need to ensure continuity of the Agency's modernization of our IT infrastructure and data processes. This isn't just making sure our computers are the latest model or the WiFi works consist-

ently. We need the ability to create systems that allow us to keep up with the complexities of the industries and products we regulate with immense consequences for the health of all Americans. This committee has provided significant support for our IT infrastructure and related essential services over the past few years, and we need your continued support to do our jobs well.

Finally, I would be remiss if I didn't call attention to our request for funding for pandemic preparedness. Lack of preparation for the next global threat will be a, quote, "predictable surprise," unquote.

I would like to close by thanking the subcommittee again for your continued support of the Agency. As the gold standard for protecting health, FDA is trusted by Americans and relied upon around the world for our work ensuring the safety, efficacy, and security of our Nation's medical products and food supply.

Once again, thanks for inviting me to testify before you today. And I look forward to answering your questions.

[The information follows:]

**Statement by****Robert M. Califf, M.D.**

**Commissioner of Food and Drugs, Food and Drug Administration  
Before the Subcommittee on Agriculture, Rural Development,  
Food and Drug Administration, and Related Agencies  
Committee on Appropriations, U.S. House of Representatives**

Chairman Harris, Ranking Member Bishop, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the President's Fiscal Year 2024 Budget request for the Food and Drug Administration (FDA or the Agency).

I would like to start by thanking the Subcommittee for your continued support of FDA. The Agency greatly appreciates the funding increases provided by the Subcommittee in the FY 2023 omnibus, as well as the expanded and new regulatory authorities included in the legislation to address cosmetics and medical device cybersecurity. Your continued partnership is critical as we further our mission to protect and promote the public health. FDA's talented and dedicated workforce has worked around the clock for the past three-plus years to respond to the COVID-19 pandemic, confront related challenges, and ultimately strengthen our nation's response to future outbreaks. We appreciate your ongoing support on a variety of programs and initiatives, including the dedicated resources in several critical areas that support our personnel and efforts, including employee pay costs, infrastructure, and data-modernization to ensure continuity of our vital work.

The COVID-19 pandemic has underscored the need for a swift, unified governmental response with collaboration across federal agencies, state, local, tribal, and territorial governments, industry, and the private sector. As we collectively work together as a nation to turn the corner on COVID, the Agency is using the lessons learned to continue our core mission while we pursue new ways to better prepare for future threats and confront new challenges posed from an ever-expanding marketplace of food, tobacco products, and medical products.

For example, in the foods area, the Agency has remained laser-focused on a variety of critical efforts, including stabilizing the supply chain for critical products such as infant formula,

mitigating the risk of potential exposure to certain chemicals, toxic elements, and allergens, and facilitating consumer education regarding healthy foods through the development of updated and more accessible food labeling. Furthermore, with a Human Foods Program that regulates approximately 80% of foods consumed by Americans, including those bought in grocery stores, restaurants, and cafeterias, we are actively working towards a new, transformative vision for the program that is forward-thinking, proactive, and adaptive to an ever-changing and evolving landscape. FDA is taking steps, in line with the recommendations of the external evaluation conducted by the Reagan-Udall Foundation, to ensure that our customers, the American public, can remain as fully confident in the food they eat as they are in the medical products they rely on to support their health; our FY 2024 Budget places us firmly on the steps towards this path.

The funding requested in the President's FY 2024 Budget request builds upon funding provided in the FY 2023 omnibus for foods and other product areas, while also acknowledging additional future needs and challenges. Our FY 2024 program level request totals \$7.2 billion, which represents an overall increase of approximately \$521.4 million in annual funding above the FY 2023 Enacted level. Of this total, \$3.3 billion is for user fees, which is an increase of approximately \$149.5 million above the FY 2023 Enacted level. As part of the total program level, the Budget also requests \$3.96 billion in budget authority, which is an increase of approximately \$372 million above the FY 2023 Enacted level. These increases are organized into five critical areas that advance the Agency's activities in support of protecting and promoting human and animal health: (1) enhancing food safety, nutrition, and cosmetics oversight; (2) advancing medical product safety; (3) investing in core operations; (4) modernizing infrastructure, buildings and facilities; and (5) tobacco user fees. The Budget also provides \$670 million of mandatory funding to advance the goals of HHS's Pandemic Preparedness Plan.

#### **I. Enhancing Food Safety, Nutrition, and Cosmetics Oversight**

FDA's Budget request provides a historic investment in FDA's Foods Program with \$1.7 billion for food safety, nutrition, and cosmetics, an increase of \$210.6 million above FY 2023 levels, to support our continual efforts and commitment to strengthening FDA's food safety and nutrition capacity. This funding will help to ensure our human and animal food supply is safe, sanitary, wholesome, and accurately labeled, as well as ensure that FDA can start

to implement new authorities given by Congress to provide oversight of the safety and proper labeling of cosmetic products. Additionally, this Budget will increase FDA's inspectional capabilities, which include the risk-based oversight of food facilities subject to FDA's food safety regulations and help ensure a reliable and safe food supply chain.

*New Era of Smarter Food Safety*

As a nation, our food supply is the safest it has ever been—but that does not mean we can't improve upon it. Specifically, as part of the total \$1.7 billion request for FDA's Foods Program, the FY 2024 Budget includes an increase of \$37 million for our New Era of Smarter Food Safety initiative. This approach aims to bend the curve of foodborne illness by strengthening data access and analysis capabilities, as well as bolstering capacity and food safety inspectional efforts.

*Healthy and Safe Food for All*

Within these requested Foods Program investments, FDA is also seeking resources for our ongoing efforts to provide safe food to the American public, with a renewed emphasis on the availability of healthy food options. The infant formula shortage from the last year serves as a stark example of the need for continued attention to the critical issues of food safety and security, the importance of quality nutrition, and the need for a safe and accessible supply of food products. To meet this goal, FDA is requesting an increase of \$64 million to modernize oversight of infant formula, empower consumers to make healthier food choices, and reduce exposure to toxic elements in the food supply. We are further requesting an increase of \$5 million in order to improve FDA's ability to assess and track certain elements of the food supply chain and industry capacity in order to help minimize supply chain disruptions and enable a more resilient food system.

*White House Commitment to Nutrition and Food Labeling*

Finally, I would note that as a cardiologist, I've seen firsthand the result of poor nutrition and diet, often stemming from childhood, and the long-term impacts from diet-related chronic disease that can occur. One of the first steps to addressing this often-neglected issue is to ensure consumers have adequate and necessary information on the food they eat. To advance these efforts, our budget also requests an increase of \$12 million to strengthen nutrition and labeling work in alignment with the White House's National Strategy on Hunger, Nutrition, and Health.



## II. Advancing Medical Product Safety

In addition to ensuring a safe and healthy food supply, FDA's FY 2024 Budget request includes \$4.6 billion for strengthening human and animal health efforts across FDA's medical product centers, an increase of \$199.9 million above the FY 2023 Enacted level.

### Device Shortages and Supply Chain

For example, as part of FDA's total medical product safety investments, this budget requests an increase of \$11.6 million, for a total of \$21.6 million, to continue building capabilities for FDA's Resilient Supply Chain and Shortages Program for medical devices, and for recruiting data science, supply chain, and medical device experts to properly staff the program. These resources support our efforts to help prevent and mitigate shortages of critical medical devices, improve our ability to work proactively with medical device stakeholders to assess vulnerabilities and enhance resiliency, and ultimately safeguard the availability of life-saving technologies that are most often needed by vulnerable populations.

### ALS (ACT for ALS)

In addition to maintaining access to current devices and other existing medical products, FDA also continues its focus on promoting the innovation and scientific advancement of new medical products, including products to address critical and rare diseases. Our medical products request therefore includes an increase of \$2.5 million for staffing to implement the ACT for ALS Act and to help facilitate access to therapies for neurodegenerative diseases such as amyotrophic lateral sclerosis (ALS). Additionally, this funding will help to expand the related development of new scientific approaches and tools that are available for the development of effective new medical products to prevent, diagnose, mitigate, and treat rare neurodegenerative diseases.

### Combating the Overdose Crisis

Finally, in addition to the ongoing efforts at the Agency to promote medical product access and innovation, I also remain deeply involved in efforts to address an issue that has devastated countless families across our country, the overdose crisis. FDA's Budget request includes a proposed increase of \$23 million, for a total of \$102.5 million, to support the continued development of overdose reversal treatments, as well as treatments for Opioid Use Disorder (OUD). This funding will also support preventative methods and tools which involve establishing satellite labs at International Mail Facilities with permanent staffing of scientists and investigators, along with expanding FDA's use of analytical tools for screening entries of

potentially illicit products before they can enter our country. In addition, this funding will help advance the development, evaluation, and market authorization of digital health medical devices for further monitoring and addressing OUD inclusive of the patient perspective. Addressing this crisis is largely dependent on collaboration across the country, and utilizing real-time data to take effective and evidence-based approaches on this issue remains crucial to our next steps to turning the corner on this epidemic.

*Cancer Moonshot*

Further, FDA's Budget provides \$50 million for FDA to advance the President's Cancer Moonshot goals. These funds will enhance Agency-wide efforts to improve evidence generation for underrepresented subgroups in oncology clinical trials, as well as to support pragmatic, decentralized trials and the development of sources of evidence that incorporate patient-generated data and real-world evidence. Additionally, these resources will assist in the expansion of FDA's efforts to facilitate the approvals of innovative and new cancer treatments by international regulatory authorities at the time of FDA approval and will foster collaboration on cancer treatments with other countries with standards comparable to the U.S. standard of care.

**III. Investing in Core Operations**

As highlighted in earlier portions of this testimony, our nation relies on FDA to provide rigorous and transparent scientific review, a predictable and responsive regulatory structure, a strong inspectorate, and expert staff to provide support for these activities. To meet these needs, as part of our total program level, our FY 2024 Budget requests \$131.1 million above FY 2023 levels to continue to strengthen and support FDA's core operations and pursue new areas of improvement and innovation. In order to support further efforts, the Agency needs a strong framework for our programs, and for us that begins with data. Core operations also include initiatives such as advancing lab safety, information technology, and support services to help ensure FDA's ability to carry out its programmatic responsibilities.

*Data Modernization and Enhanced Technologies*

FDA's core operations request includes an increase of \$10 million for Data and IT Modernization to build new tools and greater capacity to analyze real-time information. To meet the challenges of emerging threats and the need for real-time evaluation, FDA relies on the ability to rapidly and continuously access, analyze, and aggregate multiple sources of

information. From the COVID-19 pandemic to import alerts and domestic recalls, continual modernization of FDA's IT infrastructure has become increasingly more vital in order to keep pace with the evolution of outbreaks and disease. With these resources, FDA will continue to further build our centralized enterprise data modernization capabilities and strengthen the Agency's common data infrastructure, data exchange, and IT analytic services, talent, and tools. Investments in these critical areas will enable FDA to directly meet the challenges of our modern data-driven world, and continue to operate as the gold standard for product regulation and oversight.

#### **IV. Modernizing Infrastructure, Buildings & Facilities**

In addition to necessary investments in our core operations, including digital infrastructure, the continuity of the Agency's critical work also requires funding to complete projects that will improve the condition of FDA's owned buildings and physical site infrastructure. As part of our overarching FY 2024 Budget, FDA's request provides a total of \$395.9 million for infrastructure, buildings, and facilities. This funding will help to ensure that FDA's offices and labs across the country are optimally functioning. This funding will also directly support the Agency's priorities across the country by providing secure, modern, reliable, and cost-effective office and laboratory space that empowers FDA's workforce to protect and promote the safety and health of American families. By investing resources in FDA's facilities, the Agency will be able to continue to provide the high-quality infrastructure and facilities needed for FDA employees to work to ensure FDA can achieve its strategic priorities across the country and the world.

#### **V. Tobacco Regulation**

As one of these strategic priorities, tobacco product regulation represents one of FDA's greatest opportunities to save lives. The Tobacco Control Act gave FDA immediate authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. FDA finalized the Deeming rule in 2016, which extended FDA's tobacco authorities to all tobacco products, including cigars, hookah (waterpipe) tobacco, pipe tobacco, nicotine gels, and electronic nicotine delivery systems (ENDS) such as e-cigarettes. In 2022, a new federal law went into effect clarifying FDA's authority to regulate tobacco products containing nicotine from

any source, including synthetic or non-tobacco nicotine (NTN). FDA regulates the manufacture, marketing, and distribution of tobacco products. Key areas of focus include policy and rulemaking, compliance and enforcement, premarket review, research support, and public education campaigns.

In addition to the priorities mentioned earlier across foods, medical products, core operations, and infrastructure, the Budget also requests an additional \$100 million in user fees and requests authority to include manufacturers and importers of all deemed products – including ENDS – among the tobacco product classes for which FDA assesses tobacco user fees. These products represent an increasing share of FDA’s tobacco regulatory activities. The additional funding will support hiring more staff, help FDA bolster compliance and enforcement efforts for all tobacco products, and expand public education campaigns and science and research programs, as we work to mitigate harms and to protect consumers from the dangers of tobacco use. To ensure that resources keep up with new tobacco products, the proposal would also index future collections to inflation. This proposal would ensure that FDA has the resources to address all regulated tobacco products, including ENDS, which currently have high rates of youth use, as well as future novel products.

## **VI. Pandemic Preparedness**

Finally, as we advance towards regular operations across our product centers, FDA remains aware that there is work yet to be done in our response to COVID-19, and it is critical that we learn from both our successes and the challenges we experienced to best improve our operations moving forward. Lessons learned from the COVID-19 pandemic have reiterated the need to proactively plan for the next public health emergency by ensuring FDA has the resources and capacity in place to fully respond. FDA plays a unique and central role to the whole-of-government response to protect and promote the public health, and in turn, we are requesting funding to improve FDA’s core capabilities to help ensure there is the appropriate level of regulatory capacity to respond rapidly and effectively to any future pandemic or high consequence biological threat.

Separate from our aforementioned requests for discretionary budget authority, FDA’s Budget includes a request for \$670 million in new mandatory resources available over five years to advance activities to better prepare FDA for the next pandemic. These funds would support

the Agency's biodefense efforts, domestic and globally, by bolstering FDA's cadre of medical product reviewers and strengthening foundational processes. It would also increase FDA's capacity to leverage a One Health approach to respond to emerging threats. And lastly, these resources would help strengthen underlying technology platforms to improve electronic information exchange among stakeholders and bolster central coordinating capacity within the Office of the Commissioner. With these resources, FDA will have the opportunity now to build on lessons learned from previous responses and provide transformational investments to help ensure that FDA can respond quickly and effectively in times of a public health crisis.

## **VII. Conclusion**

This last year has presented some defining moments for the Agency and ample opportunities to bring the Agency into a new chapter. This Budget will help FDA maintain and expand on our current efforts, pursue new innovative strategies and methods, and provide a renewed focus on, and investment in, a variety of endeavors in the interest of public health for both humans and animals. I would like to close by thanking the Subcommittee again for your continued support of the Agency. I look forward to answering your questions today, and FDA looks forward to our collaboration and work together.

Mr. HARRIS. Thank you very much, Dr. Califf.

And before we start the questions, I want to recognize the ranking member of the full committee, Ms. DeLauro, for a brief opening statement.

Ms. DELAURO. Thank you very much. And I apologize. There are a lot of hearings today. Trying to get to them. So it is a—welcome also to you, Dr. Califf.

And I want to, again, Mr. Chairman, thank you and Ranking Member Bishop for this opportunity.

Dr. Califf, I deeply believe in the mission of the FDA. You have a critical role of strengthening the health and safety of American families. You protect the food we put on our tables and the medicine that keeps us healthy, which is why through the 2023 funding bill passed by this committee we have—we fight the opioid crisis. We address medical supply chain issues. We strengthen unannounced inspections of foreign drug manufacturers. We included funding to better respond to food outbreaks, improve the animal food inspection system, and address heavy metals in baby food.

To that extent, let me applaud the FDA for rolling out its breast density notification rule just a few weeks ago, which would require providers to notify women with dense breasts of their status and the need for further screening. I know from my own personal experience with cancer that when it comes to surviving cancer, early detection is the key, which is why I proudly introduced the Find It Early Act, to ensure that once women are notified that they have dense breasts, that they do not face out-of-pocket costs that may lead them to delay and forgo additional screenings.

But despite the successes we have helped FDA reach, deep and enduring challenges, I believe, remain at the agency. A year ago, our Nation was in the midst of an infant formula crisis, a crisis that I am heartbroken to say is still ongoing. Supply is still missing from shelves, and the safety of the supply is still at risk.

To address this in the short and long term, last year, this committee led and the House passed \$28 million in supplemental funding to address the crisis, but the funds were unfortunately never passed by the Senate or enacted into law.

We are now seeing part of the impact of this void. This week, we learned that FDA once again knew about safety and contamination problems with a ricketts infant formula product months before it was recalled last month. When the Abbott formula was recalled, it was your first day on the job as Commissioner of the FDA. But here we are a year later, left with the same issues.

It would seem that FDA has not learned its lessons and is still dragging their feet when it comes to the health and safety of our babies, those we should be working hardest to protect.

While the FDA needs strong and increased funding to achieve their goals, funding is not the only problem. I believe the issues at FDA are structural as well. For far too long, food has been treated as a second-class citizen. I was pleased to see that the FDA will finally be instituting a Deputy Commissioner for Human Foods. While I have long advocated for a single food safety agency within HHS, restructuring the FDA to include a person with relevant expertise solely responsible for our food supply is an important step in the right direction.

But we must ensure that this, quote, empowered deputy commissioner is exactly that, fully empowered with direct oversight of the centers and offices responsible for food.

We know from the resignation of the former Deputy Commissioner for the Office of Food Policy and Response that they were not fully empowered, and that is a problem. We do have a unique opportunity to meet the food safety needs of American children and families, and I look forward to working with you to ensure that FDA finally gets it right.

Before I conclude, I just need to mention how concerned I am with reported—with some House Republican proposals to cut 2024 spending back to the 2022 level. These cuts would be detrimental, I believe, to the services Americans rely on, including the trust they put in the safety of our Nation's food supply, the oversight of our medical supply chain, and the science and research on tobacco use. They would force a reduction in foreign and domestic inspections, impair the FDA lab's ability to find the cause of foodborne illnesses, and devastate the workforce.

The American people depend on a strong FDA. While not a perfect agency, the FDA's programs must be fully funded to ensure the health and safety of the American people. Anything less puts people at risk.

Again, my thank you to you, Commissioner Califf.

And thank you very kindly, Chairman Harris and Ranking Member Bishop. And I yield back.

Mr. HARRIS. Thank you, Ranking Member DeLauro.

We are going to start the rounds of question. Again, they will be 5 minutes each in the first round.

Welcome, Dr. Califf, again.

The first topic I am going to bring up is a little parochial to my region, which is inspection of catfish processing in the Chesapeake Bay. As you may or may not know, until a few years ago, FDA was in charge of all the seafood processing inspections. Change was made where we separated out one type of fish, catfish, and now USDA has to inspect this. But we have a real problem with the blue catfish invasive species in Chesapeake Bay basically taking over the bay, and the solution is commercial fishing, which is too cumbersome if it remains with USDA and FDA co-inspection.

FDA inspected catfish before. Do you feel pretty confident that if we restore catfish inspection in the bay back to FDA, that they can oversee a safe process that results in safe commercial availability of catfish, blue catfish?

Dr. CALIFF. Thanks, Dr. Harris. Let me first point out, for better or worse, I am old enough and have been around the block enough. I have been an inspectee multiple times in different industries, including clinical trials, drugs, devices, biologics. And I know the pain when you get multiple inspections from different agencies. So we hope to fix this.

Exactly what the solution is I am not entirely sure. We didn't ask for catfish to be removed, but it happened. So we are going to work closely with our USDA partners, and our staff will work with your staff to get this worked out. You know, people shouldn't have to undergo dual inspections when one can do it.

Mr. HARRIS. Thank you very much.

One thing came to my attention recently is that FDA makes grants to support clinical trials, and I know they announced some in September of 2021 with neurologic drugs. I have a little bit of a concern where a regulatory agency now has kind of a financial tie to the regulated, because these clinical trials are done by people who ultimately would be regulated.

Is there any reason why these grants should be administered by FDA, other than the statutory requirement, and not by the NIH, the research institute, a nonregulatory body? Do you see a potential conflict of interest there?

Dr. CALIFF. To the best of my knowledge, what has been funded are more what I would call natural history studies or longitudinal studies to establish the disease state. And I think it is a very rare exception where the FDA ever funds a clinical trial on its own, unless specified by law or someone in Congress allocating that money.

We need to just work. You know, I used to have multiple NIH grants. I did a lot of clinical trials in my career, and we need to just work closely with NIH and make sure we avoid the kind of conflict that you are alluding to.

Mr. HARRIS. Well, we might ask for specifics on those grants, because they are reported in the press as being clinical trials. That is why I used that term, but we will follow up with that.

[The information follows:]

FDA's Orphan Products Grants Program has been funding clinical trials for medical products for rare diseases since 1983 as directed by Congress in the Orphan Drug Act. In passing the Orphan Drug Act, Congress identified a need for FDA to fund clinical trials for orphan products because these incentives spur innovation to treat diseases or conditions in small populations. Small patient numbers may equate to a small or even unprofitable-market opportunity. The Orphan Products Grants Program has funded clinical trials that have facilitated the approval of more than 80 products.

Administering this grant program at FDA does not create a potential conflict of interest with regulated industry because it is administered by the Office of Orphan Products Development in the Office of the Commissioner, which is separate from FDA's medical product centers that approve products. Grant applications are reviewed and scored for scientific and technical merit by an external ad hoc panel of experts in the subject field of the specific applications received. FDA has strict conflict of interest policies that generally prohibit a reviewer from scoring grant applications if the reviewer has any potential conflict that would impose perceived bias on the part of the reviewer, including having any financial interest in the proposed study site or having any perceived non-financial conflicts resulting from participation in the study. Additionally, FDA is not involved in the conduct of studies that are funded.

The Orphan Products Grants Program complements NIH grant programs for rare diseases to speed rare disease product development. NIH and FDA collaborate to help promote rare disease product development and work closely together to ensure needs in the research community are met. FDA brings a unique regulatory perspective to help focus the calls for applications and award funds for studies that hold the best promise to advance product development for critical unmet medical needs in rare diseases.

In 2021, Congress passed the ACT for ALS Act, which created the FDA Rare Neurodegenerative Disease Grant Program. Under this program, Congress directed FDA to award grants and contracts to support research, including clinical trial research, for ALS and other rare neurodegenerative diseases. Congress appropriated \$5 million for the new grant program in fiscal year 2023, and FDA plans to award the first round of funding in the coming months.

Mr. HARRIS. Now, one thing that might affect, since I represent a fairly rural area, smaller stores and retailers, is the traceability rule, the idea that somehow we are going to have to ask all the



way up and down the chain of people who handle a food to provide traceability evidence.

Do you think that if that is not done carefully, we, in fact, could impair the ability of smaller stores or retailers to actually carry those foods because of these requirements? Are we going to pay attention to make sure that we don't burden them or, I should say, overburden those smaller entities?

Dr. CALIFF. Yes. As I have said before, having been on the other side of the fence, I understand this implicitly. We have always got to find that balance. We are looking 20 years down the road. I would predict almost everything is going to be digitized, no matter how small.

We have some pilot programs with small companies to do this better, and there are ways it can be done. But in the interim, we have got to balance the burden and the cost of being in digital form versus having the product available and the company surviving. And we always keep that in mind.

There is a phrase that is, you know, as I have spent a lot of time with constituents in the food industry, educate before you regulate. And so we want to work with these companies so they can get in shape.

And it is always going to be the case in a regulated industry that large companies have an advantage, unless there is a special effort made to make it possible for small companies to meet the quality criteria.

Mr. HARRIS. Well, I would appreciate that.

Just out of curiosity, why would the FDA ask any business to maintain records for 2 years on perishable products? I mean, nowadays, the CDC identifies outbreaks pretty rapidly. If you have the traceability, it would seem you wouldn't need to retain these for 2 years.

Dr. CALIFF. I would have to get back with you on the specifics. But I can tell you, from some of the things that have happened this year, there are patterns that happen with companies and industries where, when you see the way the pattern is evolving, it alerts you to pay special attention. And often you find things that were missed in the past that are part of that pattern.

So what the right time is in a particular industry, we could have a good discussion. But I am suspecting that is the justification. Of course, when everything is digital, it won't matter.

[The information follows:]

Illnesses caused by a contaminated food can be linked retrospectively to past illnesses through whole genome sequencing and other evidence months or even years after the food was sold. We expect that having access to traceability records for the food for up to 2 years after the records were created will greatly aid our investigation into an illness outbreak involving the food. In addition, the ability to review food production records up to 2 years old could help us determine whether a current foodborne illness outbreak was part of a long-standing contamination problem with a food or firm.

Certain persons and foods are fully exempt from the requirements of the Food Traceability Rule, while others may be eligible for partial exemptions. For example, a retail food establishment or restaurant that purchases food sold and shipped directly from the farm where the food was produced is only required to maintain for 180 days a record documenting the name and address of the farm that was the source of the food.

Additionally, the rule provides flexibility for persons covered by the rule by not requiring duplication of existing records (such as records kept in the ordinary course

of business) that contain information required by the rule and allowing such existing records to be supplemented as necessary to include all required information. Moreover, the required information does not have to be kept in one set of records.

Mr. HARRIS. That is correct. And if we require it, maybe we can help those smaller entities to maintain digital records.

With that, thank you.

And I yield to Mr. Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman.

And thank you, again, Dr. Califf, for being with us.

I mentioned in my opening statement that I was interested in hearing about the impact of the possible Republican budget cuts.

As you know, the FDA's budget includes two types of funding: budget authority provided through the annual appropriations process and user fees, which are based on negotiated agreements and specific performance commitments from FDA to the industries that we regulate. That said—that—some are saying that the Republicans are proposing a reduction of 22 percent below the current levels and others are saying that they want to go back to the fiscal year 2022 funding levels.

So I want to ask you if you would tell us if you have any concerns about the impact on the mission and the function of your agency with regard to several—several—several areas. First area is regulatory innovation and approval. Then inspections.

What will the impact be for international mailing facilities in your ability to conduct surveillance, enforcement, and interdiction work? What about food safety? What about preparedness? And, of course, you have been doing significant work in opioids and overdose prevention and reduction in substance use disorders. And, of course, what impact would it have on your FDA operations?

If you would do that for me, please, sir, those areas.

Dr. CALIFF. I know you don't have many hours, so I will just try to condense it into about a minute.

The first point is that, you know, we have budget authority and we have user fees, as you pointed out. There is a trigger in the user fees that if the budget authority drops to a certain level, the user fees also drop.

Now, the user fees have an advantage in terms of budgeting because the industry is very focused on getting work for the price that they pay. So it is very tight. So when that drops, the result is going to be that our innovative companies are going to suffer. They won't get their products reviewed on time. That will cost jobs. It will cause our industries to move overseas.

When it comes to inspections, I think you alluded to it, they will drop. Our estimates with the levels that you talk about are between 20 and 35 percent, which means that things like interdicting opioids at the border, dealing with contaminated foods, et cetera, that is all going to fall down.

And then for food safety, I think if anything we have proven this year it is that the ecosystem of the food industry is complex. 600,000 entities that we are regulating. We got to have the information technology and the workforce to handle that. That is going to not be developable and sustainable if we don't have the funds to do it.

So everything that you have mentioned is going to drop. There is just no way around it.

Mr. BISHOP. What does that mean for the health, safety, and welfare of the American people when it comes to the safety of our medicines, our medical devices, and our food?

Dr. CALIFF. Just to give it in two dimensions, right now, we are number one in the world in innovation and medical products. I don't think anyone disputes that. The economists, last year, in the midst of even with the infant formula issues, rated America as right there with Canada and Finland as having the safest and most nutritious food in the world. And we are going to lose that, which will in a country already seeing a decline in life expectancy—

Mr. BISHOP. Dr. Califf, should American families and mothers be worried about the capacity to be able to feed their children and provide medicines to their families that are safe?

Dr. CALIFF. I am a grandfather with a fairly large progeny of relatives around the country. I think people should be concerned, particularly those that are not in wealthy urban areas where the protection occurs due to the way commerce works, who need the protection of government for safety and nutrition, for example, and the safety of medical products.

Mr. BISHOP. My time is just about up, Mr. Chairman. So I will save my other questions for another round.

Mr. HARRIS. Thank you very much.

Mr. Newhouse.

Mr. NEWHOUSE. Thank you, Mr. Chairman.

Commissioner Califf, welcome. Thanks for being here with us.

In your budget request, there is an ask for an increase for food safety and an increase for field staff. I am—in my humble opinion, I think there also has to be a prioritization for those field staff and the collaboration between States. I was a former agency director in my home State of Washington, and I think it is essential that the FDA work closely with State agencies.

So could you talk a little bit in your estimation about the current interaction between State agencies and the FDA and that human, as well as the animal, food program, and could you tell me how you see these roles changing in your proposed modernized food program?

And also, what strategies do you see to reduce the variability in funding for State and local programs? And would you support a dedicated line for those State and local funding in the FDA budget?

Dr. CALIFF. I really appreciate you bringing that up. My career has been one of collaboration on the medical front, and I never pretended to be the total expert in food, but I have learned rapidly.

I have heard from everyone concerned that our relationship with the States is not what it should be. It is not that there is no relationship. In fact, the majority of inspections on food, as you know having been involved, are done at the State level, not the Federal level.

And so what we have proposed to do in our reorganization plan is to create a new office that will be the office for collaboration essentially involving the States, the territories, the Tribal territories, in addition. Part of that is to stabilize the contracting that is done, because many of the State inspectorates are paid from our budget.

And what we—having been a contractor in clinical research, I know what it is like when you can't depend on a budget from year to year. You can't hire the best people that you want to hire.

So what we really want to do is to make this a point of emphasis, to have it be a key office in the Foods Program with a leader whose job it is to regularize and make the contracting first-rate.

There are other things in addition that we will come to you about. The information flow right now is not what it should be. It is a shame when a State inspector and a Federal inspector can't share their confidential information, and we are going to need legal authority to make that happen. It will increase the efficiency considerably.

So I am really looking forward to working with an Integrated Food Safety System, which I have to say is what you all envision when you passed the FSMA regulations. And, you know, it is evolving, but it hasn't gotten to where it needs to be.

Mr. NEWHOUSE. I look forward to working with you on that.

Switching over to vapor product enforcement. My understanding is that a lot of these products that are available in our country actually are illegally imported from China. Maybe you could expound on that. Availability of these products across the country certainly is a area of huge concern for our children's health, our population's health.

Could you talk about your plans to get these potentially dangerous Chinese products off the market and out of the hands of our children? And could you talk about the level of confidence that you have that the flavored disposable vapor products don't contain harmful chemicals, even drugs like fentanyl? And will you commit to publishing and maintaining a list of vape products that are legally allowed to be sold in the United States?

Dr. CALIFF. I know we are short on time. You raise a number of issues here that are really important, and I will try to be brief.

There are over—almost 27 million vaping products were in application. So no one anticipated that. We have reviewed 99 percent of those now, which is a major achievement. It looked hopeless maybe a year ago when you had so many millions of products. But we figured out how to categorize them in a way that the applications that are not going to make it anyway, because they don't—basically, people didn't read the directions, we can deal with those. We are still left with a number to review.

Enforcement turns out to be the critical issue now. And it is hard, but we are moving along. We have issued our first civil money penalties. We have filed now permanent injunctions. We are continuing with sending warning letters, over 100,000, we have documented. Those have an impact.

But this is an industry. The way I like to say, we are seeing supply chain issues and shortages in every industry we regulate except for tobacco and vaping. And it is—we have talked about the—people have talked a lot about the Reagan-Udall Foundation report on the food side, but we also have commissioned one on the tobacco side.

And one of the keys issues here is an upcoming summit we are going to have with the Justice Department, because I think this is an all-of-government issue. There has recently been some publicity.

I think it is no surprise but of great concern to me that fentanyl may be showing up now in vaping products. I think it was just a matter of—

Mr. NEWHOUSE. Time.

Dr. CALIFF [continuing]. Time.

And so we have got a lot to work on here, but we are definitely changing the CTP. We have a new director, a new science director. Not that the old people did a bad job, but it was a lot to get done, and we are now moving into this era where enforcement is going to be critical.

Mr. NEWHOUSE. Thank you. Thank you for your response.

Appreciate the indulgence, Mr. Chairman. I yield back.

Mr. HARRIS. Thank you.

Ms. Underwood.

Ms. UNDERWOOD. Thank you, Mr. Chairman.

Dr. Califf's testimony for today's hearing acknowledges the FDA's authority to regulate all tobacco products, including e-cigarettes. However, FDA has failed in this critical mandate.

The agency will point to determinations that it has made on 99 percent of applications submitted by e-cigarette manufacturers. And while that figure is true, it is misleading. The list of thousands of applications FDA still has not reviewed includes the products that are most popular with kids, including applications from JUUL and Vuse, which made up more than 40 percent of the market of e-cigarettes used by high schoolers in the most recent National Youth Tobacco Survey.

FDA was required to complete all of these reviews in September 2021. It missed that deadline. Then in 2022, the agency admitted it would not complete these reviews until June 30 of 2023, nearly 2 years after the court-ordered deadline. Now, FDA has delayed the completion date again to December of 2023.

Dr. Califf, I asked you about the delay during last year's hearing, and you blamed the agency's lack of funding. I understand and I share your position that FDA should have additional resources to complete these reviews. But prioritizing other work with the resources you have is a choice FDA is making, and it is a choice that is harming kids in our communities.

Dr. Califf, I know the FDA's budget includes a request for an additional \$100 million in user fees, including fees from e-cigarette manufacturers. I support that request, but we both know the challenges of passing legislation this year to give FDA that authority.

Will you commit to prioritizing the health of children and completing all premarket tobacco product application reviews by the December 31, 2023, deadline FDA promised, even without additional user fee funding?

Dr. CALIFF. I appreciate your perspective, and I am not contesting your portrayal of the two sides of the coin. We have reviewed 99 percent of—

Ms. UNDERWOOD. Yes.

Dr. CALIFF [continuing]. 27 million products. That still leaves a few hundred thousand. And the big players—

Ms. UNDERWOOD. Yes.

Dr. CALIFF [continuing]. Who have the smartest, most well-paid lawyers are the ones that we are dealing with. And so we have to

get these right, because we are tied up in court with almost all of these people, even after we make our original decision. And I would point again to the summit coming up with the Justice Department is really critical about how we work our way through this effort.

But to your primary question, will we prioritize the health of kids? The answer to that is unequivocally, yes, we will.

Ms. UNDERWOOD. Will you promise to prioritize the complete review by December 31 of this calendar year, even without the additional funding and user fees?

Dr. CALIFF. Yes. We have committed to meet that goal, which we have established after a pretty careful review of what is ahead of us.

Ms. UNDERWOOD. OK. The Consolidated Appropriations Act of 2022 included a provision clarifying FDA's authority to regulate synthetic nicotine products. These products cannot be marketed in the United States without an FDA authorization and, to date, zero synthetic nicotine products have been authorized. However, even though FDA has started sending warning letters and issuing financial penalties to manufacturers and retailers illegally selling these products, many remain on the market, including brands that are popular among young people.

Dr. Califf, recognizing that FDA's previous actions have not gotten these kid-friendly products off the market, what additional steps are you considering to enforce the law and to protect young people against synthetic nicotine products that are being sold illegally?

Dr. CALIFF. I know I sound like a broken record here, but just very quickly. When someone is on the market illegally, we have to document that is the case. Then we have to send a warning letter. Then we have to document whether they responded to the warning letter or not. Most do. But because there are so many, a fair number don't. Then we have to engage the Justice Department for enforcement. And there are issues, as long as we are tied up in court, about our ability to do that.

I think this needs to be an emphasis of the entire government to figure out how to navigate this system. We want to get these off the market just as much as you. I walk by the stores right next to the FDA, as is documented, just like everybody else. But I can't just walk in and pull things off the shelf. There is a due process here that we have to streamline and make work across the government.

Ms. UNDERWOOD. Dr. Califf, what I am hearing you say is that it is hard. We understand that it is hard, sir, but we have to see this agency make this a top priority. We have a generation that we are losing the fight to tobacco. And we have existing regulations on the books that could stop it.

And so I am just asking for help here. The administration's regulatory agenda states that the prohibition of menthol cigarettes and flavored cigars will be finalized by August of 2023. These rules will save lives, particularly among Black Americans who have been targeted by predatory marketing from the tobacco industry for generations.

Can you confirm that the FDA remains on track to finalize these rules by August?

Dr. CALIFF. Yes. And if I can just say, I think we are all on the same team here in wanting to do something about this problem. And I am asking for help too. I don't mind that you are getting on me about this. You should. That is your job. But we are going to need some help in some of these areas to get these things off the shelves.

And when it comes to menthol, something I am very concerned about going into next year is that, when these rules are finalized and people that have been depend—are addicted—

Ms. UNDERWOOD. Uh-huh.

Dr. CALIFF [continuing]. It is a fierce addiction to nicotine, who are dependent on menthol tobacco, if you just ask the question where do they go to get help, coming off of a terrible addiction, our healthcare systems are not set up to deal with that right now.

Ms. UNDERWOOD. Dr. Califf, I asked if you are going to finalize them by August.

Dr. CALIFF. I said yes.

Ms. UNDERWOOD. Thank you so much, sir.

I yield back.

Mr. HARRIS. Thank you very much.

Mrs. Hinson.

Mrs. HINSON. Thank you, Mr. Chairman and Ranking Member Bishop.

And thank you, Dr. Califf, for coming before our committee today.

I appreciate you making your staff available to mine as we have worked not only to address some of our questions about the baby formula shortage but many of our other shared priorities as well.

I want to start—actually, follow up on something Ranking Member Bishop kind of brought up in looking at the pilot problem dealing with India specifically. But I would like to focus on the challenges we face when it comes to our supply chain with manufacturing in China.

Part of the FDA's role is to conduct inspections on these drug manufacturing facilities to ensure that there is compliance and also, of course, for safety reasons. But unlike domestic inspections, which are announced, foreign inspections are unannounced, especially when it comes to China. China may be even getting several weeks of notice before these inspections are happening.

So in previous years, this committee has, of course, directed FDA to have that pilot program on unannounced foreign inspections in India and China. You have been working toward the conclusion of phase 1 of that pilot program. So I guess I just kind of like an update on that and where you stand on that pilot program.

Dr. CALIFF. Sure. Again, I have been an inspectee, and I really believe in the value of both kinds of inspections. And I also want to emphasize that the regulatory authority to look at records online throughout the course of the year is a very important part of a surveillance system, whether it is in the U.S. or anywhere else in the world, because the internet is pretty much connected, except for some issues in China.

When it comes to India, we have done Phase 1. We have done over 35 unannounced or announced-within-24-hours inspections.

We are now into Phase 2, which is the regular inspection. Then we are going to do a comparison to find out what was learned.

For China, we have been blocked until just the end of January, as you know, when the order was lifted to allow people into China. And so beginning about May, we are going to be doing the unannounced and other inspections in China also in full force as much as we can.

Mrs. HINSON. I was going to say, do you know if anyone has had their visa not approved? Are you facing any headwinds there when it comes to denials of entry?

Dr. CALIFF. Let me just say that in my tour of jobs, I helped start a university in China and also did a lot of work in clinical trials in China. And I am very familiar with the issues there. We are worried about what I think you are alluding to. To this date, no one's visa has been blocked. But it is not easy to navigate. Often language is a problem. You need a translator who you can trust. As part of that, it has to be lined up to make sure you are in the right place at the right time. So a lot of logistics here that are tough, but we are going to do it.

Mrs. HINSON. Yeah. And I would say please keep us in the loop if you are facing any of those challenges in dealing with the Chinese Communist Party, because I think the last thing we need to see is that stonewalling happening when so much of our pharmaceutical industry is reliant upon precursors or manufacturing in China. The last thing we need again is that blocking to address issues there.

What are some of your biggest concerns in that space? I mean, what do you anticipate finding? What are some of the red flags that you are kind of looking out for in terms of safety, process? Can you just elaborate on that a little bit?

Dr. CALIFF. Well, first of all, let me just say, the supply chain issues, as I said, in every commodity we regulate except tobacco are profound. And this goes for drugs, devices, biologics. The offshoring of American industry, I think, is a big problem. I would also say, if you look at the infant formula problem, onshoring itself is not a total solution to the problem either. What we need is a supply chain system with resilience built into it around the world and not overly dependent on one area.

And reliance on China, in particular, to such a large extent is a problem because it is opaque. And even if we do periodic inspections, it is not the same as a society where you have more freedom of information that is flowing.

So I am very concerned about it. I am not arguing that onshoring everything is a solution, but I think we have really got to pay more attention to this.

Mrs. HINSON. Well, certainly we cannot trust the Chinese Communist Party. If we have learned anything, we have spent decades appeasing them instead of competing with them, and we hope they will take us seriously.

Are you tracking, in the few moments that I have left, any other challenges with the Chinese Communist Party that this committee should be aware of?

Dr. CALIFF. I mean, I think everyone is aware of just the issues that come from lack of access to information that is coming from



China. And as one who—you know, there is a word, “co-opetition.” As one who in the past has worked in China, you know, it is 1.6 billion people. Whether we like it or not, they are inventing and developing a lot of things on their own.

So across the board of everything we do, I would love it if we had better communications, but we also have to be independent. We can’t allow ourselves to be dependent on China, and that goes for all the commodities that we regulate, including food.

Mrs. HINSON. Thank you, Mr. Commissioner.

I yield back.

Mr. HARRIS. Thank you.

Ms. DeLauro.

Ms. DELAURO. Thank you, Mr. Chairman.

Just, first of all, let me just associate myself with the questions that Ranking Member Bishop has asked with regard to the effects of cuts. If we are looking at inspections, foreign or otherwise, we would be cutting that effort. So I associate myself with him.

I also might just say, with regard to looking at regulations that are due by August 23, and you have said yes to that, it is now with FSMA 11 years. Eleven years and FSMA has not been implemented. So something is wrong here in Washington to get things done.

Let me move to infant formula, if I can. Yesterday, FDA released a national strategy on infant formula. The strategy outlines numerous actions regarding importing of infant formula, but there is very limited action, only, if you will, enhancing technical assistance to smaller domestic infant formula manufacturers. And this is about the need for a domestic market on infant formula.

Dr. Califf, have you inspected any of these foreign facilities yet?

Dr. CALIFF. We inspected foreign facilities producing infant formula even before the recall, and they will be in our regular rotation of inspections, just like all the others, which are going to be at least once a year.

Ms. DELAURO. When was the last time they were inspected since the infant formula crisis and our going offshore to deal with infant formula? Have we inspected those facilities?

Dr. CALIFF. The short—I mean, there are a number of facilities. So the short answer is, yes, we have inspected and very recently. But I will get back to you on the exact dates.

[The information follows:]

In the table below, FDA has provided the list of facilities that are manufacturing infant formula that is being imported into the U.S. under the enforcement discretion policy. The table notes the country, firm name, date of upcoming inspection, previous inspection, and the action indicated by Office of Regulatory Affairs. Please note that at the conclusion of an FDA inspection, the investigator will discuss any significant findings and concerns with firm management and will leave a written report with them of any conditions or practices that, in the investigator's judgment, indicate objectionable conditions or practices. This written report is known as an FDA Form 483, Inspectional Observations (483). The FDA Form 483 does not constitute a final agency determination of whether any condition is in violation of the Federal Food, Drug, and Cosmetic Act or any of its relevant regulations. Companies are responsible for responding to the FDA Form 483, including taking corrective action to address any objectionable conditions that might exist.

All food foreign inspection reports and 483 findings are thoroughly reviewed. Inspections are endorsed and final-classified by CFSAN and may be classified as follows:

- No Action Indicated (NAI) - No objectionable conditions or practices were found during the inspection (or the significance of the documented objectionable conditions found does not justify further action).
- Voluntary Action Indicated (VAI) - Objectionable conditions were found and documented but the Division and/or Center is not prepared to take or recommend any of the following regulatory actions since the objectionable conditions do not meet the threshold for these actions.
- Official Action Indicated (OAI) - Objectionable conditions were found and regulatory action such as advisory, administrative, or judicial action should be recommended.

Country	Infant Formula Brand Name (Firm)	Inspection Date Scheduled, 2023	Previous Inspection	Previous Inspection Outcome
Germany	Danone	03/22-26/2023	5/7/2022	VAI; FDA 483 Issued; Firm submitted correction plan.
Mexico	Reckitt/Mead Johnson	06/05-09/2023	7/22/2022	VAI; FDA 483 Issued; Firm submitted correction plan.
Mexico	Nestle	06/12-16/2023	7/29/2022	VAI; FDA 483 Issued; Firm submitted correction plan.
Netherlands	NV Nutricia	8/28-9/01/2023	9/16/2022	VAI; FDA 483 Issued; Firm submitted correction plan.
United Kingdom	Danone	5/15-19/2023	9/19/2019	NAI; No objectionable conditions/FDA 483 not issued
Netherlands	Vitafo USA LLC (Nestle Health Science)	7/31-8/04/2023	9/20/2017	NAI; No objectionable conditions/FDA 483 not issued
Netherlands	Nestle Health Science	09/04-08/2023	9/23/2022	VAI; FDA 483 Issued; Firm submitted correction plan.
Australia	Bubs Australia Ltd	06/13-06/19/2023	n/a*	n/a

Australia	Care A2*	06/05-06/09/2023	n/a*	n/a
Australia	Bellamy's Organic	06/20-06/26/2023	n/a*	n/a
United Kingdom	Kendal Nutricare	06/19-06/23/2023	n/a*	n/a
Ireland	Danone	07/10 - 07/14/2023	n/a*	n/a
Poland	Nutricia	07/03 - 07/07/2023	n/a*	n/a
Netherlands	Nutricia (Danone)	7/10-7/14/2023	n/a*	n/a
Netherlands	Vitaflo USA LLC (Nestle Health Science)	07-07/11/2023	n/a*	n/a
Singapore	Reckitt/Mead Johnson	07/31-08/04/2023	n/a*	n/a
New Zealand	The a2 Milk Company	08/14-08/18/2023	n/a*	n/a
New Zealand	The a2 Milk Company	08/21-08/25/2023	n/a*	n/a
New Zealand	The a2 Milk Company	08/07-08/11/2023	n/a*	n/a

\*This facility received either a third-party audit inspection or an inspection from the applicable foreign government agency within the 2 years prior to receiving a letter of enforcement discretion from FDA. In each case, FDA reviewed the relevant audit or inspection report. An FDA inspection is planned for FY 2023.

Ms. DELAURO. OK. Please. I am interested in—you know, foreign—we have not had the capability of dealing with foreign inspections. It has been very spotty.

But with infant formula, especially in the direction that we went, to say that we are going to in—we are going to take in product, which as you and I have had many conversations about, that what is our—been our inspection regime, particularly since we faced a contaminated product produced by a U.S. company, knowingly selling a contaminated product? It was discovered here, and yet nothing happened for a very long time.

And what I would like to further find out is what you have found about the facilities that you have inspected, if we have done that.

And I will just say this. It takes months for FDA to address domestic contaminated formula. How slowly will you respond when it comes to a contaminated product from a foreign company?

Dr. CALIFF. As—you know—

Ms. DELAURO. Didn't we have one experience with a contaminated product coming in?

Dr. CALIFF. We had several, not just contaminated, but we had data issues with some others. But we have dealt with those, I think, very quickly, and will continue to deal with them as quickly as we possibly can.

Ms. DELAURO. Well, if we had a contamination product, to be very honest, coming in, I for one would like to know what that—what the contamination was, how it has been deliberated, and are they still providing us with a product that is coming in, and, if so, the cleanup, because we haven't sorted out all of the cleanup efforts in the domestic industry here.

[The information follows:]

To date, there have been no instances of contaminated infant formula entering the U.S. under the enforcement discretion policy. However, there was one instance where FDA stopped exercising enforcement discretion for infant formula from a company, Global Kosher Ltd., UK.

On July 26, 2022, FDA suspended enforcement discretion regarding the importation, sale, and distribution of infant formula from Global Kosher Ltd. after the company submitted to U.K. authorities an official letter issued by FDA that had been significantly modified. Importantly, the company, a distributor/exporter, had not yet shipped any infant formula product to the U.S., and the Agency continues to have confidence regarding the safety and nutritional adequacy of infant formula that has been shipped to the U.S. by other companies in accordance with FDA's enforcement discretion policy.

Global Kosher Ltd. is an exporter/distributor of the Kendamil Mehadrin infant formula, not a manufacturer. The product that was the subject of the suspended enforcement discretion is a Kendamil infant formula. FDA has no concerns about the safety or nutritional adequacy of Kendamil infant formulas that are currently on the U.S. market.

Ms. DELAURO. Given what recently happened, the recall of rickets infant formula, the FDA inspectors had become aware of the positive tests in February and that, ultimately, we didn't see the recall until November.

These are serious issues of, you know, when we know what is happening. Do we have a plan to respond to a contaminated product from a foreign company?

Dr. CALIFF. Yes. You know, our plans are very explicit now. They are stated. And whether it is foreign or domestic, just like with all other foods, the standards are the same. The inspections are the same. And we have now assembled a group of inspectors who are

focused only on infant formula, with a leader. And the leadership of the FDA is involved in the regular discussions more than on a weekly basis about what is going on in that entire industry ecosystem.

Ms. DELAURO. Well, if there is a plan, Dr. Califf, I think we would like to see that plan and what the details of that plan are. [The information follows:]

FDA takes extremely seriously any potential contamination of an infant formula product, which often serves as the sole source of nutrition for infants, including any potential contamination of infant formula produced by a foreign manufacturer. Should such a situation arise, the Agency would act expeditiously to address the situation. FDA has certain regulatory tools that it can bring to bear on imported products that are not available with domestic products, and FDA's response to the potential contamination of imported infant formula would reflect how we would address potential contamination of any imported product. The initially identified contaminated product would be detained and refused admission into the U.S. To control future shipments of the product, FDA would move to subject the foreign firm and its product to Detention without Physical Examination under an applicable Import Alert. Import screening would immediately be implemented to prevent additional contaminated product being distributed into domestic commerce. FDA's Import Program would work with CFSAN to identify the distribution chain, to aid communication with the foreign manufacturer, and to support any other actions CFSAN may consider. Should any product need to be recalled, FDA's Import Program would provide any needed information to the Agency's Human and Animal Foods program for domestic recall actions.

Ms. DELAURO. When I read the guidance sent to the—those overseas who are interested in coming into the infant formula market in the United States, they, in fact—and it says it right in the guidance—that we were going to deal with enforcement discretion and, therefore, we were not, in fact, going to adhere to what all of the standards are. We were making exceptions to some of the standards that we have put there, which means that—and I—I—I don't know what they are. We don't know what they are.

And what is being—are we giving a fast pass to foreign companies into the market, while—and, again, where I started my question, we—what are we doing about just growing a domestic market, domestic options, if we are putting them on a slow track with little or no support?

So what are we doing to create a domestic market on infant formula and growing that rather than us having to rely on a foreign market?

Dr. CALIFF. We are not relying on a foreign market. Over 95 percent of our formula is coming from the domestic market, and will continue to do so. I am pleased to say that Abbott has publicly announced that they are building a new plant, but that is going to take several years. And so, you know, we have to use discretion when there is a shortage, whether it is in the U.S. or outside the U.S. You need experts to do that who reside within the FDA.

Ms. DELAURO. I understand that. I understand that very much, and I will conclude shortly.

But, Dr. Califf, but we also have an obligation to make sure that the standards that we are employing here are the same standards that we are applying to a foreign market, and that we ultimately have the responsibility of not relying on India or China for ingredients in our drugs, that we should not be relying on foreign markets to deal with our supply of infant formula. We need to grow a domestic market.

Thank you very, very much, Mr. Chairman.

Mr. HARRIS. Thank you very much.

Mr. Carl.

Mr. CARL. Dr. Califf, welcome.

Dr. CALIFF. Thanks.

Mr. CARL. It is glad—I am so glad to have you here today, and I appreciate the job y'all do at FDA. I truly do. It touches—I have been in the pharmacy business one way or the other my entire life. And I appreciate, I appreciate what you do. You are not perfect by no means.

Today, I would like to talk about your proposed ruling on menthol cigarettes and flavored cigars. And that rule in the FDA says it does not think there is a—that there could be an illegal market that could occur in the United States.

I want to reflect back to Mobile, Alabama, which that is where I am from. In the forties they could bring Cuban cigars, and they are so cheap that the local people came up with an idea that they would put a 25 cent tax per cigar on there. And lo and behold, what they have created is a black market now. And that black market is they sell very few cigars in Mobile proper. Most of those cigars are sold on the black market in Mobile. They go across the State line into Florida to buy the cigars.

So there will be—there will be a way that criminals or businessmen or a combination of both will find ways to make these things work.

The menthol cigarette part really confuses me. I remember reading sometime back on the—excuse me—on the menthol side. Is that—one of my questions: From a menthol standpoint, is that targeting the Black community, the menthol? Is that what I read, the reason for wanting to pull that?

Dr. CALIFF. Well, there is—no, the reason they want to pull it is that it is—it is an attractive part of a product which kills hundreds of thousands of people. It is true that there is clear evidence that the tobacco industry was targeting Black communities when it came to the menthol component. That is not the total reason to want to have the rule. It is just, generally, we don't want people dying by the hundreds of thousands from tobacco products.

Mr. CARL. Well, just FYI, I used to smoke, and they were Kool cigarettes. So I guess I was ahead of my time.

But, anyway, on this black market, this illegals, my fear is, when we cut this off, when we stop it, when we, the flavoring, you are going to create a market. And, of course, that market is going to come out of Mexico. It is going to add more to what we are actually dealing with now with our fentanyl, with illegal marijuana, with cocaine, with all the other drugs that are coming across. You are just going to add another brick in the wall for these cartels. It gives them something else to add with.

And I have made a living off of niche markets. I promise you, I understand. When there is a niche market, there is huge profits to be made. And you are going to create a niche market here.

My question is: Does the FDA really think criminals will not step up into a multibillion-dollar hole in this marketplace?

Dr. CALIFF. Well, I think one correction I would like to make is I don't think our documents said there would be no illegal market.

The evidence is it will not be a large illegal market, and that is based on what has happened in Canada and several other countries that have already done this in a very extensive analysis involving a lot of people.

And I do think it is a critical issue that when this rule goes into effect, as I discussed with Representative Underwood, that we have a system to help people who need to get off of this terrible addiction of nicotine and related tobacco products.

I would also point out that there is nothing in our rule that prosecutes the user of the tobacco. It is only those that are selling it or manufacturing it who are at risk if they illegally market these products once the rule is finalized.

So I am very confident that there is not going to be a large illegal market, but there always—in these kinds of things there is some illegal market and we will have to deal with that.

Mr. CARL. So you got North Korea that finances most of their stuff from illegal cigarettes. That is a huge part of their income, North Korea, to give you some example.

Has there been any studies or does anyone know if there is already a tobacco cartel set up in Mexico?

Dr. CALIFF. I am not aware of any study of tobacco cartels in Mexico.

Mr. CARL. So, in other words, we don't know if it exists or not. Fair enough. All right. Simple enough. Thank you, sir, I appreciate your time.

Mr. Chairman.

Mr. HARRIS. Thank you. Ms. Wasserman Schultz.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

Commissioner, it is good to see you again. And I have had the pleasure of talking with you on a number of occasions, and I want to associate myself with the concerns that I have already made you aware of that Ms. Underwood shared with you.

I do also want to explore with you, you know, going forward how we address the concern that you raised with obviously a lot of addicted people who are not going to have access, you know, for good reason to an addictive product that will kill them. And so I would love to talk to you, you know, following this hearing on how we can help make sure that we can fill in those gaps.

Just a quick question: The gentleman from Alabama has just left, but I assume that there is an illegal market now that is probably pretty big in the United States, right?

Dr. CALIFF. I am sure there is, because of the pricing issues. But, you know, we have spent a lot of time studying this, and it was, you know, a major issue as the rule was being developed.

And I think if you look at the documents, you will see a very extensive discussion and references to studies that have been done that give us confidence.

Ms. WASSERMAN SCHULTZ. So, I mean, cigarettes are expensive already. That usually generates a black market that might make them less expensive. That already exists in the United States.

And the studies that you did leading up to the banning of menthol flavoring suggested that there would not really be a significant increase, if any, in the existing black market.

Dr. CALIFF. That is correct. And, again, I want to emphasize the key is not to target the individuals that are using the product, because they are addicted. The key is to deal with the criminals who are marketing illegally.

Ms. WASSERMAN SCHULTZ. And then help the addicted get off their addiction and be able to—

Dr. CALIFF. That is what I am most worried about now, because I think we are going to succeed in getting this rule finalized.

Ms. WASSERMAN SCHULTZ. Right. OK, thank you.

I want to switch now to pediatric cancer. I was able to include report language in our bill last year concerning international collaboration for pediatric cancer, specifically encouraging FDA to work with international entities to promote greater collaboration around pediatric cancer drug development.

You may not know I am a breast cancer survivor myself, and any opportunity that we can take to make sure that we are able to combat cancer, make it more likely that we can find and develop drugs that will alleviate cancer is critical.

So can you give us any insight into whether the FDA is engaging in this sort of international collaboration and provide specifics into that process?

Dr. CALIFF. Yes, thanks. Several things. First, it starts with the Center of Excellence in Oncology, which you all were gracious enough to fund, which has really led the world in developing cancer drugs. And we are seeing it in the drop in cancer mortality in the U.S. in general.

In the specific area of pediatrics, Dr. Pazdur, the head of that Center, and colleagues have added a few extra people, thanks to the additional money that was allocated last year, in a project, I believe it was called RACE, to speed up oncology drug development in children.

And what is being done internationally, which is really record groundbreaking, is the Center of Excellence in Oncology holds conference calls now with international regulators in this area to discuss the development of cancer drugs in children. It is part of a bigger effort that involves international regulators in oncology in general. And that is going along quite well.

One thing I do want to call to your attention, because it relates to things we have been discussing. Along with all the other shortages, we are concerned about the risk of the shortage of cancer drugs, not for the new drugs but for the old drugs that work, that where there may be only one supplier, for example, in industry. So we are going to have to watch the other side of that equation also.

Ms. WASSERMAN SCHULTZ. In that same vein, are there any regulatory burdens concerning drug development and bringing products to the U.S. market that we need to be aware of, especially in light of the shortage you just mentioned?

Dr. CALIFF. This is an area that is in our budget ask. People frequently assume that we have a lot of detailed data at the FDA about supply chains. We don't. And, in fact, we have not been successful for the most part in convincing Congress that we need access to that data, because a lot of it is considered a trade secret by the industry.



I think if you look at our ability to handle confidential information in the FDA, it has been pretty darn good, some would say too good, in terms of the degree to which we protect confidential information. And so I think to deal with all these things, we really need to have more access to the information.

Each company is now digitizing its own supply chain, but if you intersect the various companies, there is no central hub. And so I also don't want to imply that the FDA can deal with this alone. I think when it comes to the shortages issue, whether it is children's drugs for oncology or drugs for diabetes or food commodities, it is more of an all-of-government issue.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, it would be wonderful if we could endeavor, as you prepare the chair's mark, to address some of these issues.

Thank you. I yield back the balance of my time.

Mr. HARRIS. Thank you.

Mr. Franklin.

Mr. FRANKLIN. Thank you, Mr. Chairman.

And thank you, Dr. Califf, for being here. Thank you for all the FDA does. We appreciate all of your efforts. And as you mention in your testimony, we have the safest food supply in the world, and we owe a debt of gratitude to your agency for working with partners in the food industry to make that happen.

But against the backdrop of also some of your testimony of the supply chain challenges that we are facing, food shortages, also the extremely high cost of food we are dealing with now, I would like to talk a little bit about the food traceability rule that your agency released last fall. 596 pages, very broad ruling. Just the definition of high-risk foods itself is over 100 pages.

And my understanding is that the specific food items that will be identified as high-risk hasn't been made yet, but could number in the tens of thousands. My concern is there is always this fine balance of trying to do the right thing, but then also not having unintended consequences.

The feedback I am getting from grocers large and small is that it is, while possible to implement this—for the larger grocers, they can do it—it is going to be staggeringly expensive. It is going to cost a tremendous amount of labor that they don't really have right now, but they will figure it out. But ultimately, they will be able to pass those costs along at a time when folks are really struggling to put food on the table to begin with.

But on the other end of that spectrum, the smaller grocers—and that is where I am really concerned—there is a lot of worry that this ruling could actually put them out of business. And I represent a district that is largely rural, a lot of areas that have food deserts, where they are lucky to have a single grocery store in the town and they are not the large national chains that people are aware of. There is a concern that we may drive food out of our districts altogether if this rule is implemented. Can you help allay my concerns there?

And then as we look to roll this out, is there going to be a mechanism to look at and go, OK, if we are getting unintended consequences here, are we going to be willing to look at this and explore it? Because some of the feedback I have also gotten is during

the remarks period there was a lot of feedback discussing these concerns that seems to have fallen on deaf ears. So I would love to get your take on all of it.

Dr. CALIFF. Let me first of all say I am from South Carolina. I think I have a feeling for rural America, although I grew up in the big city of Columbia, but surrounded by relatives that lived in rural areas.

And we are also seeing this decline in life expectancy in our rural areas. It is very troublesome. And if there is no industry or business in those areas, it is going to continue to decline. So I am very sensitive, and I think the whole FDA is.

I think all of the questions—many of the questions you all have asked today bring up this balance issue of we need to move to the future, but if we move too fast we particularly punish the small business component of any industry that we regulate.

I would just say we are very sensitive to it. We have seen the comments. We are going to do everything we can to accommodate and help small business achieve this point. And being a bit of a techie, having worked at Alphabet as part of my career, I will just say that the digital world doesn't have to disadvantage small businesses. In fact, if you look at cloud technology, it doesn't matter if you got one person or a thousand people. You should be able to hook into it we get the systems right.

And so we are going to have to do this one step at a time, as I said, educate before you regulate. Also, be sensitive that if we are disadvantaging small business, particularly rural business too much right now, we will be very attuned to that and make course corrections.

Sometimes it means you need to take a little more time than you expected or to put additional educational programs together that help people come along and survive in a tough business environment.

Mr. FRANKLIN. So do I understand correctly there is a 2-year implementation period for this rule now?

Dr. CALIFF. I don't have it on the top of my head, but it is something like that.

Mr. FRANKLIN. OK. So I would hope then if we get into this, and particularly in the trying times that we are in now, that may be an overly aggressive timeline to try to comply.

Dr. CALIFF. We will be very sensitive to that. As I said, I have been an inspectee and been on the other side of the fence. And almost everyone that gets regulated would like a little more time, but sometimes it is really the right thing to do, and we will be very attuned to that.

Mr. FRANKLIN. Very good. All right. Thank you.

And I yield back, Mr. Chairman.

Mr. HARRIS. Thank you. Mr. Moolenaar.

Mr. MOOLENAAR. Thank you, Mr. Chairman.

It is good to have you with us, Dr. Califf.

At our hearing last year, I shared several of the hundreds of stories I receive from constituents who are impacted by the FDA's failure to ensure a safe supply of infant formula.

In your testimony, I read that the agency is using the lessons learned in regard to COVID-19 to continue our core mission, that

the agency has remained laser-focused on a variety of critical efforts, including stabilizing the supply chain for critical products such as infant formula.

You framed the new approach, the FDA Human Foods Program, as transformative, forward-thinking, proactive and adaptive. These adjectives sound great, but I was frustrated yesterday after reading a political article entitled “Lessons Have Not Been Learned,” and that the FDA knew of positive tests before the latest infant formula recall.

The article says—and I understand you are familiar with the article—that FDA inspectors had become aware of the positive tests that ultimately sparked this recall in November, an FDA spokesman confirmed to Politico. It goes on to say that one of the biggest unanswered questions remaining from the formula crisis of last year is why FDA inspectors had missed major food safety problems at Sturgis, and that the agency has not provided a full explanation for why these issues were not found during a routine inspection 5 months prior to the recall.

The FDA also did not heed a detailed warning from a whistleblower about the plant, a revelation that was first reported by Politico.

Is there anything you can clarify for us on that?

Dr. CALIFF. Well, first of all, if you found a Politico article that says lessons were learned, please let me know, because the headlines in Politico very rarely are positive, I would say.

In terms of clarification, I feel like we have put out a pretty clear set of reports about what happened there, why inspectors didn’t pick up something that was observed 5 months later. You know, we have the inspection reports. We have what they saw. Things were different 5 months later. Maybe if something had been done in a more attuned way, it would have been picked up earlier. I can go through each of these like that, but we are also glad to get back with you with those details.

Mr. MOOLENAAR. Well, I think, yeah, timing-wise, it would be helpful. And yesterday, former Deputy Commissioner for Food Policy Frank Yiannas testified that there was internal debate at the agency on whether there was really a role for the FDA in monitoring food supply chains and how FDA’s siloed organizational structure and culture impeded rapid critical problem identification, communication, and response.

Would you agree with that?

Dr. CALIFF. Well, I would separate those into two different categories. The issue on supply chains we just went over related to just about everything we do. I don’t think there is any debate that we should be monitoring, but the degree to which we can monitor with the resources we have relative to all the other, like Department of Agriculture and other involved departments, is something that we need to work out. That was definitely debated.

On the siloed nature, definitely a problem. And it is a key part of what we are doing to fix the problems that we saw. When I came in a year ago, the issue of siloed thinking was obvious. All of our constituents had brought it up and people inside the FDA. We are working on it.

I am a basketball guy. I believe in teams. Teams that do well communicate better. And that is a problem that needs to be fixed. I agree with it.

Mr. MOOLENAAR. OK. I want to change course a bit and talk about milk. You have a proposed rule addressing that issue. You know, I have constituents who are dairy producers, you know, who are concerned about the identity of milk as being blurred, and wondering what the FDA plans to do on that.

Dr. CALIFF. Well, it is pretty well-known I am an avid milk drinker and an ice cream eater, although I am a cardiologist. I think some of the stuff has been clarified about nutritional value, et cetera.

You know, what we have established in the research that was done is that Americans don't have trouble distinguishing between cow's milk and almond milk. They know that there is a difference in where it comes from. Where there is confusion is on the nutritional value of those two different commodities.

And so our role is really focused on explicitly stating where there are differences in nutritional value as opposed to focusing on the name for one compared to the other, because when these issues of naming have been brought up in court, consistently now the First Amendment wins out that people have the right to call it what they will.

I thought about bringing a prop that had like an almond and a cow. People know the difference. But where they are confused is, you know, one has a different set of nutritional value than the other, and we need to make sure that people understand that.

Mr. MOOLENAAR. Thank you.

I yield back, Mr. Chairman.

Mr. HARRIS. Thank you.

Ms. Kaptur.

Ms. KAPTUR. Thank you, Mr. Chairman, very much. I apologize. We have concurrent hearings going on.

And, Dr. Califf, thank you for joining us and for all the work you do to protect American consumers.

Each of us comes from a little different perspective. Mine is what America makes and grows makes and grows America. I am very much of a domestic production person. And so my questions to you have to do with, first of all, food and then drugs.

On the food side, when I go to the supermarket now and I pick up purple plums and they are canned, and I took them home and I served them and I put the extras in the refrigerator, within 4 days they got mold on the top. Then I looked at the can, and on the back of the can it said "product from China." I thought, oh. Does China grow plums? I learned something if they do. But I was troubled by that. And it is a very well-known supermarket whose name I will not mention at the hearing.

On pharmaceuticals, I am very concerned about our supply chain domestically. And I served in Congress long enough to have gone through the situation where FDA took 4 years to figure out that Heparin was tainted purposefully in China, and that stuff got in here. And there is a book called RX China, which I recommend to everyone who cares about this subject. It took me two elections to get to the truth on that.

And so I am concerned about food quality and medicine quality and what we can do better, as a country, regarding this. If you can't answer my question here today, here is what they are: What steps are you taking to ensure product labeling in the case of medicines and food for the American people, and how is the FDA working to track country of origin data and establish a national database for this information?

One of the main ingredients of Heparin is the mucus of pig intestines. We have a lot of that here in this country and we should be making our own medicine, in my opinion.

Additionally, how are you working with BARDA, the Biomedical Advanced Research and Development Authority, to address public health vulnerabilities? And would budget cuts that may be proposed—we will see what those in leadership on the Republican side do present us—how would those budget cuts prevent you from furthering your critical work? Thank you.

Dr. CALIFF. Well, those are great questions. I know we have limited time. As we have discussed already with this group, I share your concerns about offshoring of American technology and also American food.

I do want to reassure you that everything coming in that is imported is held to the same standard as American standards, and there is an extensive cascaded system that starts with digital evaluation and ultimately inspection as things come into port.

But there is no question it is more complicated if it is coming from other parts, and we have a lot of work to do, as long as the marketplace is working the way it is, to do as much as we can to help other countries achieve the standards that are necessary.

I also want to call your attention to something that I think is a really, really serious and growing problem. You mentioned Heparin, which is a generic drug. We have multiple generic drug manufacturers in the U.S. who are going out of business, because it is the same old story. By the time they have paid the personnel costs that are standard for America, they lose money when they produce the drug. We just had one major one that went out of business, and it is causing a number of problems.

So the cost is lower in other countries, and that is creating a marketplace which is defeating the purpose that I know that you have. So FDA can't necessarily fix that problem. We can call attention to it, but we all need to work together to figure out what to do to make American businesses more competitive in this arena.

Ms. KAPTUR. Well, if you look at the trends in fruits and vegetables and in medicines, I am very worried about our supply chain. And it was clear during the pandemic what happened. Our local community didn't even have ventilators that fit the wall because they were brought in from other countries.

So I would just say, Mr. Chairman, there is not time now, but I would just urge us to put constructive language in the final bill this year in order to get more attention to the economics of producing in this country again. And we ought to do it.

Dr. CALIFF. I can tell you, from an FDA perspective, we would welcome it. It is just the point I want to make again is that we have our role to play and we don't want to shirk it. We want to

be held accountable for our role. But there is a much larger domestic policy issue about what we do about our supply chain.

Mr. HARRIS. Mr. Valadao.

Mr. VALADAO. Thank you, Mr. Chairman.

Thank you, Commissioner, for your time today. I know it has been addressed a little bit. I know Mr. Moolenaar brought it up and I am sure a few others have brought it up as well. But on the baby formula issue, I need to go a little more on that.

In your testimony, you make the claim that our food supply is the safest it has ever been. While this has been the case historically, the American public is still struggling to fully be convinced.

Just this last February, formula giant Reckitt recalled about 145,000 cans of plant-based infant formula over the possible cross-contamination with the same deadly pathogen that sparked the 2022 formula crisis. This recall came months after an initial failed test in September, when the batch was destroyed, but has later been determined by the agency to not have been properly contained. Consequently, two later batches of the formula hit the stores shelves and were ultimately recalled in February 20 of this year.

Obviously, there is no single entity to blame for the recent failure to maintain a stable national supply of infant formula, but I am curious. Have you or any one of your staff who directly reports to you ever personally visited one of these manufacturers, been to their facilities where these outbreaks have happened?

Dr. CALIFF. A number of our people have been. I have been on the phone with all the executives of every company, sometimes once a week, during the peak of the crisis. But we are well-aware of the conditions in these factories.

Mr. VALADAO. So when we have an issue at home and sometimes I can't be there myself, like right now we have got this flooding issue in California, I have got my guys out there. I am talking to my guys directly from my office, the people who report directly to me.

So when you say your guys, I know you have got a big department under you. How far down the food chain are these people who are actually going to those facilities?

Dr. CALIFF. What has happened is we have now a weekly call, but it used to be a daily call, including weekends, that had the leadership and then the next level down, which is the very next level that deals with infant formula, very much hands-on, including talking with people who were in the facilities.

Remember that in the case of Abbott, we have a consent decree. So, by law, we are co-managing that effort. So essentially, during the peak of this we were there every single day.

So I think the communication is very tight, day to day, week to week. It is a little more week to week now, because, as you know, the percent in stock is now what it was before the recall. We still have some distribution problems, particularly to rural areas, that we are concerned about.

Mr. VALADAO. You yourself haven't had the opportunity to be at one of these facilities or someone that reports directly to you personally?

Dr. CALIFF. People that report directly to me, yes, have been in those facilities. But, you know, I was advised, particularly in the case of Sturgis, not to go for a variety of reasons. And——

Mr. VALADAO. What type of advice would that be?

Dr. CALIFF. When a place is in crisis and working on fixing it, you don't want to disturb the facility by having people distracted from their day-to-day work. We had people there, and the advice I had was to let them do their work.

Mr. VALADAO. All right. FDA just recently received a net increase of \$226 million in the 2023 omnibus. Can you please explain how the requested \$64 million increase on top of that \$226 million to modernize oversight of the infant formula would be a worthwhile investment for the American taxpayer in the wake of the continuing recalls?

Dr. CALIFF. All right. Well, if you look back at last year, we had, in terms of evaluating infant formula, people applying to put infant formula on the market. It was a total of 13 or 14 people. We had a variety of the inspectorate and also many other people that were brought in who were assigned to other areas, but were brought in because of the crisis and worked on the issue.

What we envision for the future is a dedicated inspectorate of about ten people, a leader for that inspectorate, and then a number of people who are dealing with the applications as they come in in a much more rapid fashion.

We have already heard today that people would like us to evaluate applications more speedily. It is not a trivial matter, because there are over 30 constituents of any batch of formula that have to be there in the right amount. We have had people that have applied that couldn't cut it, who have had to be turned down because they were not up to the grade that is needed for a successful infant formula.

So I think this would be a big payoff. We have millions of infants who are dependent on this formula.

Mr. VALADAO. And I know I am running a little bit tight on time, but the number of 60-some million dollars increase on top of the 226. And when you talked about teams, we were talking in the tens of numbers.

Dr. CALIFF. I don't think the \$60 million is for infant formula, increases for infant formula alone. So we will get back to you on that. I think you will find it is very tightly accounted for. But if we have misinformation about that, I definitely want to get it straightened out.

[The information follows:]

The Consolidated Appropriations Act, 2023 (P.L. 117-328) provided an additional \$226 million of budget authority to FDA. This increase covered programs across the entire Agency, including for offices addressing drugs, medical devices, animal products, and other FDA-regulated areas, and was not dedicated solely to infant formula. Of that \$226 million, the Agency received a \$10 million increase for Maternal and Infant Health and Nutrition, of which \$7.5 million went to infant formula oversight efforts such as hiring additional staff, modernizing scientific requirements, enhancing IT systems to streamline review processes, and implementing various requirements in the FY 2023 Omnibus such as working with NASEM on a study of the U.S. infant formula market and comparison with the E.U. The remaining \$2.5 million increase supports work to reduce toxic elements from food for babies and young children.

The FY 2024 President's Budget provides an increase of \$64 million above the FY 2023 level for the *Healthy and Safe Food for All* initiative. This funding would support a number of foods-related efforts, including FDA's *Closer to Zero* work (\$12 million) to reduce and eliminate toxic elements in infant and toddler foods and Food Chemical Reassessments (\$19 million) to modernize the Agency's approach for regulating chemicals in the food supply. This funding would also allow FDA to hire additional investigators and dedicated staff (domestic and foreign) for investigations and compliance activities related to food. Of the total, about \$21 million would be dedicated specifically to modernizing oversight of infant formula.

Mr. VALADAO. All right. Well, I appreciate the time and yield back.

Mr. HARRIS. Ms. Letlow.

Ms. LETLOW. Thank you, Mr. Chairman.

And thank you, Commissioner, for being here with us today.

Earlier this year, the FDA finalized a rule that would broaden the availability of abortion pills to many more pharmacies, including large chains and mail order companies. This rule came after the Biden administration partially implemented the change last year, announcing it would no longer enforce a longstanding requirement for abortion medication to be picked up by the patient in person.

Dr. Califf, are there potential dangers to women from telehealth-ordered abortions?

Dr. CALIFF. I appreciate your interest in the question, but this is a matter that is under litigation, so I can't comment on it.

Ms. LETLOW. Wow. OK. All right. I will move on then.

It is my understanding the FDA has completed its second pre-market consultation for a human food made from cultured animal cells. And this is the second action completed under the formal agreement between the U.S. Department of Health and Human Services, Food and Drug Administration, and the U.S. Department of Agriculture Office of Food Safety announced on March 7, 2019.

I am interested in the internal FDA protocols related to pre-market consultations for cell-cultured protein products and specifically whether there are special or unique considerations made for these products in premarket consultation processes under the formal agreement.

What are the agency's plans to coordinate with its counterparts on the Department of Agriculture on further action regarding the same products?

Dr. CALIFF. Well, this is a very complicated area, as you well know. I appreciate your interest in it, because as we look at climate change and supply chain disruptions, the use of biotechnology in food is a huge area that we are all interested in.

There is no getting around it. It requires collaboration with the Department of Agriculture, for example, because you have split responsibilities here.

The technology of cell culture is something we have a lot of expertise in the FDA, because it cuts across everything we do, from animals to plants to creating treatments for sick children, for example.

And so what we do is apply our expertise to the issues involved and whether the data coming from the cell cultures, the quality of the product is looked at, the safety of the product, the potential im-



impact on humans. That is our expertise, and that is what our protocols are oriented towards.

We expect to see a lot more applications in this arena. And so, you know, we will all learn as we go along, but I think we have good protocols at this point.

Ms. LETLOW. OK. The FDA has been working on the Closer to Zero initiative related to reducing exposure to certain heavy metals in infant foods. The FDA has stated previously that this work will be science-based and that the agency will develop action levels that are both feasible and achievable.

We know that many farm organizations are working with FDA to evaluate actions that can be taken to further reduce heavy metals, but there is no perfect solution. The FDA's fiscal year 2024 budget proposal request continues support for the Closer to Zero plan, to expeditiously develop action levels and provide guidance on best practices for reducing and eliminating toxic elements in infant and toddler foods.

Will you please elaborate further and provide details on the schedule and plans for specific metals in the Closer to Zero initiative, and will the FDA continue to base decisions on science-based risk assessments and adopt action levels only to the extent that are both feasible and achievable?

Dr. CALIFF. You have actually done a beautiful job of describing what the issue is. I have to say that was very well done.

Ms. LETLOW. Thank you. It was a team effort.

Dr. CALIFF. I mean, it relates to a lot of what we talked about in this meeting, in that there is a balance. I think we would all like heavy metals to be at zero for our infants, but we know we can't get there.

For example, several of them are in water or in the ground. We are not going to be able to get rid of those. And so we are always having to balance what is feasible with what the ideal is, and that is why it is called Closer to Zero. And I think, as I say, you depicted it quite well.

We have targets for dates that we want to reach. We are making public our dates for when we put our determinations into inter-agency review. But when we do that, the Department of Agriculture, you brought up, is another major player here. They have knowledge and understanding of issues where their input is important, for example.

That process can take some time. But it is very much our goal to balance—to come as close to zero as we can, but not at a level which, for example, makes the commodity unavailable to the public. And that is a real risk with some of these, that an idealistic view would actually make it impossible to have an industry that produce the product.

Ms. LETLOW. Thank you for your time. I yield back.

Mr. HARRIS. Thank you very much. And, Ms. Letlow, if you would like to stay, there will be another round of questions and not a long wait.

Well, thank you very much. Again, thanks, Dr. Califf, for being here. You have got your work cut out for you at the FDA, no doubt about it.

Let me just ask something about import testing, because I believe the scheme we had from when we were taking formula in the emergency is that we were going to test that formula here in the United States. Is that right?

Dr. CALIFF. Yeah. There is a lot of testing that goes on of these.

Mr. HARRIS. But here. I mean it was not tested in the facility where it was made, but it was imported here and tested.

Dr. CALIFF. I would have to get back to you exactly on when the testing is done. I don't have it on the top of my head.

[The information follows:]

All infant formula manufacturers to whom FDA issued a letter of enforcement discretion for specific infant formula products under its May 2022 enforcement discretion policy submitted the results of specific nutrient and microbiological testing before importing, distributing, or selling those products in U.S. interstate commerce. FDA also requested information on test methods and qualifications of laboratories used and was satisfied with the information we received. The firms are expected to conduct that same testing on all subsequent batches of their infant formula products intended for introduction into U.S. interstate commerce and to make the results of that testing available to FDA on request.

In addition, all products imported into the U.S. are subject to entry screening procedures, which may entail taking samples. Further, to ensure greater compliance, FDA inspects infant formula facilities to observe all aspects of the formula's manufacture. During an inspection, the Agency may collect samples for nutrient and, when appropriate, microbiological analyses. Any samples collected for regulatory analysis are sent to domestic FDA laboratories for testing. However, it should be noted that FDA is not routinely conducting finished product sampling of all infant formula at the time of importation.

Mr. HARRIS. I thought we had done that. I thought that is how we got around some of the safety issues, you know, during late in COVID.

Dr. CALIFF. I know we are in overtime, so maybe I can just comment. You know, we already had foreign plants. It is just part of the regular scheme, just like we do with other commodities that were regularly being inspected just like our American plants. Like Abbott is an international company and has a plant in Ireland, for example.

And so it is the reason I don't want to say something that is not right at this point.

Mr. HARRIS. I have got you. But if we were worried about imported drugs and we don't have the ability, because you said because of multiple reasons why the inspection schedule in the other country, might not really work to assure the safety and purity, why wouldn't we, as Congress, authorize a scheme where every imported drug actually has to be batch tested by an independent FDA approved lab?

So, in other words, why wait for the drug to come in? We test that batch. You are a bad player. You are producing a drug that is not safe and efficacious or the purity that you want. Sorry, you can't import into the United States anymore.

I mean to get the bad players out. I know that scheme doesn't exist, but, theoretically, could that solve the problem, or begin to?

Dr. CALIFF. Theoretically, it could. You know, we would have to get back to you with our CDER colleagues. But from everything I know, that would be one approach.

What I would point out would happen—first of all, I am not at all worried about the innovator side of the industry. It is doing

pretty well with its supply chains, and there is a lot of money to be made there once you get it to the point you are on the market.

It is really the generic industry, over 90 percent of the prescriptions, where such a maneuver would increase the cost a bit. And it is really—the competition in the generic industry is almost entirely on the basis of cost right now, and it concerns us a lot at the FDA. We need a hard look at that industry to make sure that quality is built in, which is going to cost a little bit more.

Mr. HARRIS. So we are told, though, that some of the hospital systems because of their concern about the purity of some of the generic imported products, actually have established their own system of testing, that before they release it into their distribution system in a hospital system. But we could consider that model nationwide.

Anyway, two other very brief things: One, just bring to your attention that there is an issue with nonhuman primates being allowed to be brought into the country from Cambodia. And, obviously, FDA for some studies requires nonhuman primate testing. So just so you are aware of the issue and hopefully work with the State Department and make sure that we don't become dependent on China for nonhuman primates as well.

Just very briefly I am a little disturbed that CMS, with regards to Aduhelm, you know, kind of countered the safe and effective determination of the FDA.

As far as I am concerned, FDA is where you make the safe and effective decision. That is not up to CMS. They don't have the expertise. So I am disappointed with them and I will bring that up again. Not your problem. It is the problem over at CMS, I perceive.

Now, one last issue, and this is a serious issue. This is something that actually isn't being litigated, so you should be able to answer this. Ivermectin.

You know, and I ask you this about the tweet, the famous ivermectin tweet out of FDA, you know, you all are not a horse or whatever it was, I don't remember what it was, which I felt was totally inappropriate, because ivermectin, as you know, has an incredible safety record. Hundreds of millions of doses in humans. Now, it looks like it may not be effective for COVID, but physicians were prescribing it off label. It is a very safe drug. And yet, the FDA appears—and it is still on the website—why you shouldn't use ivermectin for COVID-19. OK, it is still on the website.

Let's contrast that with Lupron. You know what Lupron is, I assume, right? A puberty blocker, treats prostatic cancer. But the fastest growing use of it right now is to treat gender dysphoria in teenage girls. Now, as you are aware, that is completely off-label use.

And I will just read you the headline from the STAT article—and I am sure you are familiar with the publication STAT—from 2017, and it hasn't changed. Quote: "Drug use to halt puberty in children may cause lasting health problems." And, as you know, there have been 27,000 adverse events reported to FDA with it, 12,000 considered serious, 2,000 deaths.

Is FDA going to tweet about that or put that on the website, in fact, urging people not to use Lupron for gender dysphoria, given that it is an off-label use and there is evidence it is far more dan-

gerous than ivermectin, which obviously someone at the FDA felt they should begin to interfere with off-label prescribing? Does FDA have plans to do the same for Lupron?

Dr. CALIFF. First of all, with regard to ivermectin, I mean, I know that you are an expert, doctor. If there is no benefit then any risk is not acceptable.

Mr. HARRIS. All right. Let me proceed right from there. Is there a proven long-term benefit from the use of Lupron to treat gender dysphoria in teenage girls?

Dr. CALIFF. I am not an expert in that arena. I would have to go back and look at it.

Mr. HARRIS. Dr. Califf, you just told me—well, are you the expert in ivermectin? Because you just declared ivermectin as not effective. So you have not looked at Lupron, I guess. Is that right?

Dr. CALIFF. Well, I am very familiar with the clinical trials on ivermectin, because I—

Mr. HARRIS. And I now am familiar with the adverse event outcomes from Lupron and the lack of clinical trials showing long-term effectiveness.

So I would urge the FDA to go back and, instead of playing favorites, I would say political favorites, with off-label uses, the FDA should be much more serious if they want to be treated as a serious organization.

Dr. CALIFF. I appreciate your concern.

Mr. HARRIS. I am going to ask one last question. Does the person who tweeted that about ivermectin still work at the FDA? You can get back to me on that. That person should have been fired. That person simply should have been fired.

What percent of approved drugs in the United States, what percent of prescriptions are for off-label uses for prescription drugs?

Dr. CALIFF. It is a high percentage.

Mr. HARRIS. It is pretty high. It is like 40 percent, right? So someone at the FDA decided to play politics with ivermectin, and chose not to play politics with Lupron, which is a far more dangerous drug. I would like you to get back to me whether that person still has a job at the FDA.

In closing, I really appreciate the job you have. It is a wide-ranging job. It is a thankless job. I am surprised none of my colleagues—but your answers must have satisfied them completely. I thank you for being here.

Obviously, your agency has a very important role in maintaining the safety, efficacy, and purity of drugs, and the safety of our food chain. And we will take that into account as we make our budget determinations.

I want to remind the members who aren't here that they can still enter questions into the record for 7 days.

And I adjourn the hearing.

[Questions and answers submitted for the record follow:]

**U.S. House Committee on Appropriations  
Budget Hearing - Fiscal Year 2024 Request for the Food and Drug Administration  
March 29, 2023**

QUESTIONS FOR THE RECORD SUBMITTED BY CHAIRMAN ANDY HARRIS,  
M.D.

*Given the passage of time, the responses have been updated to reflect post-hearing activity.*

**Question 1:** In order for a food product to enter the US, it must have a Unique Facility Identification Number (UFI), also referred to as a DUNS Number (DUNS #) and it must also have an FDA issued Food Facility Registration Number (FFR). The facility information on the FFR and the associated facility information on the UFI must match in FDA's view. If there are any discrepancies, the product is not allowed to enter.

In the past, there have been issues where there might have been slight differences, such as a comma or period missing, "Inc" rather than "Incorporated", etc. When this happened, FDA would reject the shipment and send a notice that information was not consistent and allow correction of the perceived error. They would never identify the actual discrepancy. Generally, this process was resolved in 24-48 hours.

Beginning in early March 2023, rather than providing notification of a problem with one shipment, FDA began sending notifications cancelling FFR registrations, so all shipments planned or in process were effectively banned from import to the US. In at least one case, this notification was sent after 11:00 pm on a Friday night. The cancellation notices provided instructions for reinstatement of FFR registration and stated that, "Upon UFI accuracy verification, the facility will be able to utilize the same registration number."

Several weeks after businesses followed the reinstatement steps, FDA did not act and would not give an estimate of when the FFR will be reinstated. FDA indicated that there is a major backlog, perhaps thousands (or more) of companies whose registrations were cancelled and whose products are held in ports and at borders, all accruing demurrage charges, return shipments, or other supply chain disruptions. When there were rejections in the past, those discrepancies could be resolved in a fairly timely manner.

- a) Why did FDA cancel these registrations without giving any prior notice of a change in procedure?

**FDA Response:**

FDA provided significant advance notice of the changes in procedure related to Unique Facility Identifiers (UFI). Based on feedback from industry stakeholders about challenges with having sufficient time to obtain DUNS numbers for the requirement to submit an acceptable UFI to FDA, the Agency exercised temporary enforcement discretion from UFI-related requirements for two years.<sup>1</sup> This gave industry time to prepare for the implementation of the "real time" UFI verification through the 2022 renewal period. FDA first announced the enforcement discretion

<sup>1</sup> <https://www.fda.gov/food/cfsan-constituent-updates/fda-extends-flexibility-unique-facility-identifier-requirement-food-facility-registration-through>

policy on December 1, 2020, and then announced in March 2021 that the policy would be further extended through January 1, 2023.

Prior to cancelling food facility registrations (FFR) that did not comply with UFI-related requirements in March 2023, FDA sent the following communications to industry:

- May 2022 - email sent to FFRs without an accurate UFI to update within 90 days
- June 2022 - email sent to FFRs without an accurate UFI to update within 90 days
- July 2022 - email sent to FFRs without an accurate UFI to update within 90 days
- August 2022 - webinar held for renewal and UFI requirements. Webinar invitation sent to all FFR facilities, and the webinar recording was posted online
- September 2022 - Constituent Update released to remind firms to renew and submit an accurate UFI
- January 2023 - email sent to firms without an accurate UFI to update within 60 days
- Between May 2022 and March 2023 – FDA held monthly Q&A meetings with the Regulatory Agencies Committee (RAC) – National Customs Brokers Association of America (NCBFAA)<sup>2,3</sup>

The January 2023 email sent prior to the cancellations that occurred in March 2023 stated in part: “It is imperative the facility DUNS number information and section 2 of the Food Facility Registration (FFR) information match exactly... Section 2 of the FFR is for the legal name of the firm and physical address; Section 6 is for trade names and doing business as names; Section 3 is for the mailing address; Section 4 is for the parent or headquarters firm.... Failure to update the registration with an accurate DUNS number in accordance with 21 CFR 1.230(b) within 60 days of this email, will result in cancellation of the registration.”

- b) What is FDA doing to reinstate the registrations on a timely basis, and when will this backlog be resolved?

**FDA Response:**

There is no backlog of food facility registrations to be reinstated. On September 15, 2023, the Food Facility Registration Module (FFRM) implemented system improvements allowing for “real time” verification of a facility’s UFI, allowing the Agency to more effectively handle facility registration updates under 21 CFR 1.234. If an inaccurate UFI is submitted, the facility will have 30 days to update their submission. After the 30 days, the submission will be cancelled, and a new submission is required. In such an instance, the facility would receive system messages and email notifications of this requirement.

<sup>2</sup> <https://www.fda.gov/food/workshops-meetings-webinars-food-and-dietary-supplements/webinar-food-facility-registration-ffr-biennial-renewal-and-unique-facility-identifiers-ufi-08112022>

<sup>3</sup> <https://www.fda.gov/food/cfsan-constituent-updates/fda-reminds-human-and-animal-food-facilities-register-or-renew-registration-between-october-1-and#:~:text=Constituent%20Update&text=The%20registration%20and%20renewal%20period,associated%20with%20registration%20or%20renewal.>

A facility may need to obtain a DUNS number or update the associated information before completing a new FDA food facility registration or updating an existing one. This process is expected to help with data quality and standardization.

- c) It is impossible for businesses to directly contact those within FDA who administer this program (they will only respond by email and only indirectly). How can private businesses work with FDA to solve the problem quickly and free legitimate commerce?

**FDA Response:**

FDA maintains a Food Facility Registration/FURLS Helpdesk, which can be reached via email or phone (FURLS@fda.gov or 1-800-216-7331 or 240-247-8804), Monday - Friday 9:00 AM - 6:00 PM EST, excluding federal holidays.

**Question 2:** You have explained that FDA has completed review of 99% of PMTAs for tobacco products subject to the “Deeming” rule—though well after the statutorily required 180-day deadline to do so. Please provide a list of the products, identified by manufacturer, brand, and style, that have met the following criteria for tobacco-derived products:

- on the market as of August 8, 2016;
- PMTA submitted by September 9, 2020; and,
- are not subject to an adverse FDA order (*e.g.*, refuse to accept, refuse to file, or marketing denial order)?

**FDA Response:**

FDA received PMTAs for more than 6.7 million products by September 9, 2020. The Agency took action on more than 90% of these applications within one year. To date, FDA has acted on 99% of these applications. Applications submitted by September 9, 2020 for approximately 42,000 products remain pending. FDA does not have a complete list of products with pending applications that were on the market as of August 8, 2016. The Agency notes that FDA has authorized 23 tobacco-flavored e-cigarette products and devices. A list of authorized products is available on FDA’s website. Currently, these 23 e-cigarette products and devices are the only e-cigarette products and devices that may be lawfully sold in the United States.

In addition to the applications submitted by September 9, 2020, FDA has continued to receive PMTAs. To date, FDA has made determinations on more than 99% of the nearly 26 million deemed products for which applications were submitted. This includes determinations on applications for nearly 6.7 million products received by the Sept. 9, 2020, deadline, more than 18 million products received after the Sept. 9 deadline, and applications for nearly 1 million non-tobacco nicotine products submitted by May 14, 2022, in accordance with the new federal law passed in April 2022. Of these products, FDA has completed review of 99 percent of submissions as of March 15, 2023.<sup>4</sup>

<sup>4</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/fda-makes-determinations-more-99-26-million-tobacco-products-which-applications-were-submitted>

**Question 3:** In recent testimony, you committed to making final decisions on the market-leading vapor products by the end of this calendar year. What about the rest? By what date will you commit to issuing final decisions on the remaining products that meet the above criteria? For non-tobacco-derived products, identify those that have met the following criteria:

- on the market as of April 14, 2022;
- PMTA submitted by May 14, 2022; and,
- are not subject to an adverse FDA order (*e.g.*, refuse to accept, refuse to file, or marketing denial order)?
- By what date will you commit to issuing final decisions on the remaining products that meet the above criteria?

**FDA Response:**

FDA received nearly 1 million applications for non-tobacco nicotine (NTN) products from more than 200 separate companies by the May 14, 2022, deadline. FDA has been reviewing these applications in tandem with the deemed tobacco product applications and has made significant progress, completing acceptance review of 100 percent of the NTN applications received by May 14, 2022. Of the nearly 1 million applications, approximately 926,000 did not meet the acceptance criteria and received a refuse-to-accept letter, while approximately 9,500 were accepted for further review. FDA is working to complete review of the pending applications as expeditiously as possible, as this remains an urgent and ongoing priority for FDA. Importantly, to date, the FDA has not issued a marketing order for any NTN products.

**Question 4:** One recommendation in the Reagan-Udall Report on FDA's tobacco program is that FDA should better use its available tools, including through better coordination with DOJ and CBP.

- How does FDA currently enforce against illegal imports? Since 2020, how many tobacco product seizures have occurred with FDA and CBP coordination? Does FDA work with CBP in the same way it works with CBP to enforce against illicit drugs and devices?
  - If so, what typical enforcement actions does FDA take and how frequently?
  - If not, why not?

**FDA Response:**

Yes, FDA works with CBP to interdict illegal imports of tobacco products, similar to how the Agency works with CBP to interdict illegal imports of other FDA-regulated products such as drugs and medical devices. CBP has primary responsibility for administering the nation's laws related to imports, exports, and collections of duties. FDA works in collaboration with CBP to address articles that may be in violation of the Federal Food, Drug and Cosmetic Act (FD&C Act). The Agency utilizes its import authorities under section 801(a) of the FD&C Act to examine tobacco products being imported or offered for import into the United States.



CBP and FDA, as well as the United States Postal Service at the International Mail Facilities, work collaboratively to screen products at entry for compliance with applicable requirements under the FD&C Act. This includes, for example, checking for unauthorized tobacco products and taking appropriate action, as warranted, such as detention or refusal of admission.

FDA uses Import Alerts to inform the FDA field staff, CBP, and the public that the Agency has enough evidence to allow for the detention without physical examination of products that appear to be in violation of FDA's laws and regulations. Import Alerts are added and updated as needed.<sup>5</sup> FDA currently has eight tobacco Import Alerts, two of which address specific tobacco products that do not have marketing authorization:

- Import Alert 98-06: "Detention Without Physical Examination of New Tobacco Products Without Required Marketing Authorization"
- Import Alert 98-07: "Detention Without Physical Examination Electronic Nicotine Delivery Systems (ENDS) Lacking Premarket Authorization"<sup>6,7</sup>

From FY 2020 through FY 2023, FDA examined thousands of import lines of tobacco products and refused nearly 500 shipments of violative tobacco products. A "line" refers to a distinct commodity within a shipment that is offered for import through CBP's electronic entry system. In a significant seizure action in December 2020, CBP, in coordination with FDA, seized 42 separate shipments of individual disposable flavored e-cigarette cartridges resembling the Puff Bar brand arriving from China, totaling over 33,000 units. These shipments were valued at over \$700,000. FDA issued a press statement in January 2021 describing these activities.<sup>8</sup>

**Question 5:** You recently announced an enforcement "summit" with DOJ.

- When is the enforcement summit and who are the attendees?
- Will the summit be public?
- How many tobacco product enforcement matters have you referred to DOJ since 2020?
- Have you coordinated a similar summit with CBP?
- If not, why not?
- If so, when is it, who are the attendees, and will it be public?

**FDA Response:**

In response to the recommendations set forth in the Reagan-Udall Foundation evaluation of the FDA's Center for Tobacco Products (CTP), the Center announced plans to convene a summit related to tobacco product enforcement.

Senior officials from the U.S. Department of Health and Human Services (HHS) Office of General Counsel (including FDA Office of the Chief Counsel), FDA Office of the

<sup>5</sup> <https://www.fda.gov/industry/actions-enforcement/import-alerts>

<sup>6</sup> [https://cms.fda.gov/vts/imports\\_publish/private/importalert\\_1163.html](https://cms.fda.gov/vts/imports_publish/private/importalert_1163.html)

<sup>7</sup> [https://cms.fda.gov/vts/imports\\_publish/private/importalert\\_1164.html](https://cms.fda.gov/vts/imports_publish/private/importalert_1164.html)

<sup>8</sup> <https://www.fda.gov/news-events/press-announcements/cbp-fda-seize-counterfeit-unauthorized-e-cigarettes>

Commissioner, CTP, and DOJ met in July 2023 as part of ongoing discussions and close collaboration on issues related to enforcement.<sup>9</sup>

With respect to the number of enforcement matters that FDA has referred to DOJ, FDA cannot discuss open investigations or ongoing matters. In October 2022, FDA publicly announced that DOJ, on behalf of FDA, filed complaints for permanent injunctions in federal district courts against six e-cigarette manufacturers, which marked the first time FDA had initiated injunction proceedings to enforce the Federal Food, Drug, and Cosmetic Act's premarket review requirements for new tobacco products.<sup>10</sup>

FDA plans to continue activities with other government agencies and organizations to enhance enforcement and compliance activities. These include, but are not limited to: U.S Customs and Border Protection (CBP), the U.S. Postal Service, the Federal Trade Commission, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and compliance and enforcement partners at the state/local/territorial/tribal levels.

FDA and CBP work closely together on a regular basis. For example, in May 2023, FDA added additional firms marketing unauthorized tobacco products to an FDA Import Alert. Products on an active Import Alert are subject to being detained without physical examination. CBP and FDA, as well as the United States Postal Service at the International Mail Facilities, work collaboratively to screen products at entry for compliance with applicable requirements under the Federal Food, Drug, and Cosmetic Act. This includes, for example, checking for unauthorized tobacco products and taking appropriate action, as warranted, such as detention or refusal of admission.

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<sup>9</sup> <https://www.fda.gov/tobacco-products/about-center-tobacco-products-ctp/actions-address-recommendations-reagan-udall-evaluation-ctp#Cross-Cutting>

<sup>10</sup> <https://www.fda.gov/news-events/press-announcements/fda-doj-seek-permanent-injunctions-against-six-e-cigarette-manufacturers>

## QUESTIONS FOR THE RECORD SUBMITTED BY CONGRESSMAN DAVID G. VALADAO

**Question 1:** Tobacco Use Reduction

The Agency has recognized that for the approximately 31 million adult smokers in the U.S., quitting is the best option. However, FDA has also recognized that tobacco products exist on a continuum of risk, with cigarettes at the most harmful end of the continuum. FDA has also recognized that smoke-free alternatives are less harmful than combustible products. However, to date, FDA has authorized a very limited percentage of smoke-free products submitted for authorization. In fact, from 2009 through 2022, FDA authorized just 13 products representing 42 SKUs – representing (0.0005%) of the applications that have been submitted for authorization. To make matters worse, some of these limited authorizations were for products that are no longer on the market in the US. m

- a) Given FDA’s objective to reduce harm from tobacco and the many resources CTP has, including over 1,200 staff members and \$712 million in user fees allocated per year, why has FDA not completed its review of and decision-marking on more reduced harm, smoke-free tobacco product applications in a timely manner?

**FDA Response:**

FDA continues to make significant progress on the sizable task of reviewing tobacco product applications despite their sheer volume and the rapidly evolving tobacco product landscape. To date, FDA has received PMTAs for 26 million products, the vast majority of which are for e-cigarettes, and has completed review of 99 percent of them. FDA continues to review the remaining one percent of applications. Many of the remaining applications involve increasingly complex reviews and FDA is dedicating significant resources to thoroughly review these remaining applications to ensure the decisions are driven by the science and can withstand legal challenges. In addition, FDA continues to receive new applications on a rolling basis.

The substantive review phase is the longest and most thorough phase of FDA’s review process and often results in follow-up questions and conversations with the applicant. This phase includes evaluation of the scientific information and data in an application. Under the PMTA pathway, manufacturers must demonstrate to the Agency that, among other things, marketing of the new tobacco product would be appropriate for the protection of the public health, as set forth by the law. FDA is required to review each application on an individual basis to determine if the applicant meets the burden of proof articulated by Congress. Section 910(c)(2)(A) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), requires that FDA deny a PMTA where it finds “there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health.”

FDA is committed to its responsibility to protect public health, follow the law, and carefully review the science presented in each premarket application when determining if a product meets the standard for marketing. This includes the need for FDA to consider the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account the increased or decreased likelihood that existing users of tobacco products will stop using such products; and the increased or decreased likelihood that those who do not use tobacco products will start using such products.

- b) Please detail the internal review standards FDA is using to evaluate these product applications, including for Premarket Tobacco Product Applications, Modified Risk Tobacco Product applications, and Substantial Equivalence applications.

**FDA Response:**

A PMTA must demonstrate the new tobacco product would be “appropriate for the protection of the public health” and takes into account the increased or decreased likelihood that existing users of tobacco products will stop using such products, as well as the increased or decreased likelihood that those who do not use tobacco products will start using such products. In 2021, FDA finalized the PMTA rule that describes the required content, format, and review of PMTAs.<sup>11</sup> FDA’s website includes information for industry that describes the PMTA review process.<sup>12</sup>

A new tobacco product may be found “substantially equivalent” (SE), to a “predicate” product if the SE Report demonstrates the product has the same characteristics as that predicate product, or if the product has different characteristics, the SE Report demonstrates that the new product does not raise different questions of public health than the predicate product. Similarly, FDA finalized the SE rule that describes the requirements for an SE Report.<sup>13</sup> FDA’s website includes information for industry that describes the SE review process.<sup>14</sup>

FDA has developed public reviewer guides and science policy memoranda about FDA’s review of tobacco product applications.<sup>15</sup>

A modified risk tobacco product (MRTP) application can be submitted by any person seeking an FDA modified risk order for a proposed product, under section 911 of the FD&C Act. An MRTP application must meet the requirements of section 911 of the FD&C Act, including, depending on the type of application, that the product will or is expected to benefit the health of the population as a whole.

<sup>11</sup> <https://www.federalregister.gov/documents/2021/10/05/2021-21011/premarket-tobacco-product-applications-and-recordkeeping-requirements>

<sup>12</sup> <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/premarket-tobacco-product-applications>

<sup>13</sup> <https://www.federalregister.gov/documents/2021/10/05/2021-21009/content-and-format-of-substantial-equivalence-reports-food-and-drug-administration-actions-on>

<sup>14</sup> <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/substantial-equivalence>

<sup>15</sup> <https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/reviewer-guides-and-scientific-policy-memoranda-about-fda-review-tobacco-product-applications>

FDA has issued a Draft Guidance for Industry for public comment on MRTP applications, as well as several resources that explain the MRTP application review process.<sup>16,17</sup> By law, FDA must make MRTP applications available for public comment and must refer them to the Tobacco Product Scientific Advisory Committee (TPSAC), so all application materials and decision memos are available to the public.

In response to the Reagan-Udall Foundation evaluation of FDA's tobacco program, FDA's Center for Tobacco Products is undertaking several actions to develop a more efficient framework for high-quality reviews. For example, in October, FDA held a two-day public meeting on the Agency's expectations for SE Reports and PMTAs.<sup>18</sup> FDA also launched a new product application webpage to help applicants navigate the tobacco product application process.<sup>19</sup>

- c) Please detail any principles or approaches that FDA uses to prioritize review and decision-making on product applications, including for Premarket Tobacco Product Applications, Modified Risk Tobacco Product applications, and Substantial Equivalence applications.

**FDA Response:**

FDA oversees all pathways to legally market and distribute tobacco products in the U.S. There are three pathways to market for new tobacco products: PMTAs, SE, or Request Exemption from Demonstrating Substantial Equivalence (EX REQ).

Per a federal court order, applications for premarket review of deemed new tobacco products on the market as of August 8, 2016, were required to be submitted to FDA by September 9, 2020.<sup>20</sup> FDA received PMTAs for over 6.7 million products. Due to the large number of ENDS products that were on the market at that time and for which FDA anticipated receiving submissions, the Agency decided to dedicate a portion of its resources to reviewing the products that account for most of the current market. The continued marketing of these products has the potential to have the greatest public health impact—either positively or negatively—as they hold the largest overall market share and therefore likely used by the largest number of people. For this reason, FDA pulled several applications into a separate review queue and dedicated resources to their review. FDA has completed review of 99 percent of these applications.

To date, FDA has received PMTAs for a total of 26 million products and has completed its review of 99 percent of them. FDA continues to review the remaining one percent of applications submitted by that deadline and is committed to completing this review as quickly as possible.

<sup>16</sup> <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/modified-risk-tobacco-product-applications>

<sup>17</sup> <https://www.fda.gov/tobacco-products/advertising-and-promotion/modified-risk-tobacco-products#Resources>

<sup>18</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/premarket-applications-opportunities-stakeholder-engagement-public-meeting-10232023>

<sup>19</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/fda-releases-new-resources-tobacco-product-applicants>

<sup>20</sup> American Academy of Pediatrics, et al. v. FDA, 399 F. Supp. 3d 479 (D. Md. 2019)

Additionally, FDA received nearly 1 million applications for non-tobacco nicotine (NTN) products from more than 200 separate companies by the May 14, 2022 deadline. FDA has been reviewing these applications in tandem with the deemed tobacco product applications and has made significant progress.

FDA does not receive the same high volume of MRTP applications. As of September 30, 2023, the Agency has received a total of 67 MRTP applications. FDA has acted on 72% percent of these applications and has issued 16 marketing orders since 2011. This work is done on a rolling basis.

**Question 2:** Nicotine vs Tobacco Product Harmful Effects

For decades, the scientific community has known it is not the nicotine in cigarettes that causes most of the harm associated with smoking. The FDA acknowledges as much, stating on their website that “Nicotine [...] is not what makes tobacco use so deadly. Tobacco and tobacco smoke contain thousands of chemicals. It is this mix of chemicals— not nicotine—that causes serious disease and death in tobacco users...”. Scientific data is clear – it is combustion and smoke from cigarettes that causes most tobacco-related disease.

Given that misperceptions about the harmfulness of nicotine still exist widely among the U.S. public, including the medical community, despite the clear scientific evidence regarding this topic:

- a) What specific actions is FDA taking to correct these nicotine misperceptions and provide accurate, science-based information about tobacco products to the 31 million Americans who smoke?

**FDA Response:**

Opportunities exist to educate adult smokers about the relative risks of tobacco products, including e-cigarettes, using evidence-based approaches. However, these efforts should be accompanied by efforts to prevent youth tobacco product use, to encourage first line use of FDA-approved cessation therapies, and to reinforce the importance of completely transitioning from cigarettes among adult smokers who use e-cigarettes. These efforts are undertaken by both government and non-government stakeholders.

For example, FDA recently initiated formative research to inform potential messaging related to misperceptions about nicotine and the continuum of risk among adult smokers. This is in addition to FDA’s continued work to prevent youth tobacco product initiation, including through ‘The Real Cost’ public education campaign.<sup>21</sup> Opportunities also exist for continued innovation of novel tobacco cessation therapies to further reduce tobacco-related disease and death.

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<sup>21</sup> <https://onlinelibrary.wiley.com/doi/full/10.1111/add.16296>

- b) Of the \$164 million FDA spent on public education campaigns in FY 2022, how much was spent on correcting nicotine misperceptions?

**FDA Response:**

The Agency's resources in this area cut across multiple aims and contracts extend across multiple years, so a discrete accounting specific to correcting nicotine misperceptions is challenging. However, there are several contracts held by CTP's Office of Health Communication and Education that were active during FY 2022 and directly relate to this issue:

- Nicotine Education Research Contract, 7/1/2019 – 4/30/2023, \$499,903
  - Adult Cessation/Nicotine Education Contract, 4/10/2017 – 4/9/2023, \$2,414,552
  - Consumer Perception Research Contract, 9/15/2022 – 9/14/2024, \$1,395,000
  - Communications and Media Services Contract, 9/11/2022 - 9/10/2023, \$4,519,340
- c) What specific actions is FDA taking to correct these nicotine misperceptions within the medical community, including but not limited to physicians, medical boards, and public health groups?

**FDA Response:**

Healthcare providers, including physicians and non-physicians, are an important and trusted channel for message delivery around tobacco cessation and the continuum of risk. However, few studies have qualitatively explored perceptions and communication challenges among physicians as well as non-physician healthcare providers who are often routinely providing counseling to patients in primary care settings. To that end, CTP is planning to help conduct research among healthcare providers to better understand and address knowledge gaps and education opportunities. Research results will inform FDA strategy to educate the healthcare community about the evolving tobacco landscape and the continuum of risk.

## QUESTIONS FOR THE RECORD SUBMITTED BY CONGRESSMAN DAN NEWHOUSE

**Question 1:** FDA's Budget and Its Use of Funds

The stated vision of the FDA's Center for Tobacco Products (CTP) is "to make tobacco-related death and disease part of America's past, not America's future and, by doing so, ensure a healthier life for every family." In support of that vision, CTP receives \$712 million per year in user fee funding – a funding level that is set in statute. Since 2009, that means the agency has received approximately \$7.6 billion in user fees. To assure that the FDA is providing transparency regarding its allocation of resources, please detail the following:

- a) Of the \$7.6 billion, how much has been allocated to youth prevention programs?

**FDA Response:**

The Center for Tobacco Products (CTP) budgets and tracks spending by the six programmatic areas, including Scientific Research and Research Infrastructure; Compliance and Enforcement; Public Education Campaigns; Communications; Leadership, Management, Oversight, and Administrative; and Related Overhead Activities. While FDA conducts a significant amount of work related to youth prevention activities, these are not specifically tracked as a separate program area because these activities are cross-cutting through all programmatic areas and the resources dedicated to youth prevention activities reflect a portion of programs which have multiple objectives. However, each of the Center's programmatic areas support youth prevention. For example, through the Scientific Research and Research Infrastructure programmatic area, CTP collaborates with the Centers for Disease Control and Prevention (CDC) on the National Youth Tobacco Survey (NYTS)—the only nationally representative survey of middle and high school students that focuses exclusively on tobacco use. The Center also funds the Population Assessment of Tobacco and Health (PATH) Study through the same program area. PATH is an ongoing nationally representative, longitudinal cohort study of approximately 46,000 users of tobacco products and those at risk for tobacco use with a national sample of U.S. civilian, non-institutionalized persons ages 12 and older. Through the Public Education Campaigns programmatic area, CTP has developed and launched multiple education campaigns designed to prevent youth from using tobacco products. These include The Real Cost Cigarette and ENDS Prevention campaigns and the Next Legends ENDS Prevention Campaign. Through the Compliance and Enforcement programmatic area, CTP's tobacco retailer inspection program currently has contracts in 55 states and territories to conduct inspections to ensure that retailers comply with federal laws and regulations, including compliance with age and ID verification requirements. The Center has conducted over 1.4 million retailer inspections since the program began. To date, brick and mortar retailer inspections have resulted in over 130,000 warning letters, over 30,000 civil money penalties, and over 220 no-tobacco-sale orders.

- b) What percentage of the \$7.6 billion has been allocated to review and decision-making on applications for less harmful, non-combustible products?



**FDA Response:**

CTP does not track product application review as a separate program area because this activity is cross-cutting, but FDA notes that the Agency does spend significant time and resources on the review of product applications for non-combustible products. For example, a majority of CTP's 570 Office of Science staff spend most of their time on one or more aspects of product review, while CTP's Office of Compliance and Enforcement has approximately 90 staff who spend some time on product review. While these product reviews include review of all new tobacco products and not just non-combustible products, non-combustible products comprise a large portion of the total. To date, FDA has received PMTAs for 26 million products, the vast majority of which are for e-cigarettes, and has successfully completed review of 99 percent of them.

- c) What percentage of the \$7.6 billion has been allocated toward education and science programs to reduce nicotine misperceptions among adult smokers?

**FDA Response:**

CTP does not track education and science programming specific to the reduction of nicotine misperceptions as a separate program area because these activities are cross-cutting. The majority of the resources dedicated to these efforts are part of the Scientific Research and Research Infrastructure, Public Education Campaigns, and Communications programmatic areas noted above.

- d) What percentage of the \$7.6 billion has been allocated towards enforcement efforts to ensure illicit products are not widely available, including to youth?

**FDA Response:**

CTP does not track enforcement funding specific to ensuring illicit products are not widely available as a separate program area. CTP's compliance and enforcement resources are dedicated to efforts that include ensuring illicit products are not widely available, including to youth. However, resources and activities in other programmatic areas also support these efforts. CTP's Office of Compliance and Enforcement continually monitors activities of all tobacco products to ensure compliance with the Federal Food, Drug, and Cosmetic Act and implementing regulations. CTP's current enforcement priorities are focused on e-cigarettes, which are the most commonly used tobacco product by youth.

CTP has made clear through ongoing and escalating compliance and enforcement actions that FDA will continue to use the full scope of its authorities, as appropriate, to hold those who break the law accountable. Since the inception of the center, CTP has conducted over 1.4 million retailer inspections, resulting in the issuance of over 130,000 warning letters, and the filing of 30,000 civil money penalty (CMP) and 220 no-tobacco-sale order (NTSO) actions.

Further, as a result of conducting well over 6,000 inspections of tobacco product manufacturers and vape shops, as well as extensive online surveillance, CTP has issued well over 2,000 warning letters, and filed 35 CMP actions and 6 complaints for permanent injunctions.

CTP will continue to take swift action to curb the sale of illegal tobacco products, especially those that appeal to youth. For example, since June 2023, the Center has taken multiple significant actions against those making, distributing, importing, or selling illegal e-cigarette products. In July, CTP issued warning letters to three distributors, 15 online retailers, and three manufacturers and/or distributors for selling multiple illegal youth-appealing e-cigarette products such as Elf Bar/EB Design, Puff Max, Lava, Cali, Bang, and Kangertech.<sup>22,23</sup> CTP also announced the issuance of 168 warning letters to brick-and-mortar retailers for illegally selling Elf Bar/EB Design products, which were the result of a coordinated nationwide retailer inspection effort conducted throughout the month of August.<sup>24</sup> In August, CTP also issued warning letters to 15 online retailers selling illegal e-cigarette products packaged to look like youth-appealing characters, school supplies, toys, and drinks.<sup>25</sup> In September, CTP issued complaints for civil money penalties (CMPs) seeking the maximum penalty of \$19,192 against 22 retailers for the illegal sale of Elf Bar/EB Design e-cigarettes.<sup>26</sup> This is the first time FDA has sought the maximum authorized level of civil money penalties from retailers for this type of violation, selling unauthorized tobacco products.

#### **Question 2:** FDA's Work in China

The FDA's Center for Tobacco Products receives approximately \$712 million per year in user fee funding – that is a known funding level that is set in statute. So, since 2009, that means that the agency has received approximately \$7.6 billion in user fees. A recent opinion piece reports that there is a proliferation of illegal vapor products and that “Shenzhen, China, has become known as “Vapor Valley” since it produces 90% of all the e-cigarettes in the world.” The report goes further stating, the “U.S. International Trade Commission estimates that more than 700 million disposable e-cigarettes were imported to the U.S. from China last year, up from 300,000 in 2017.” Of the more than \$712 million in user fees:

- a) What percentage is being devoted to addressing the proliferation of illegal vapor products coming from China?

<sup>22</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/fda-puts-distributors-notice-illegal-e-cigarettes-popular-youth-including-elf-bareb-design-and-esco>

<sup>23</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/fda-warns-companies-selling-illegal-e-cigarettes-emerging-popularity-among-youth>

<sup>24</sup> <https://www.fda.gov/tobacco-products/compliance-enforcement-training/advisory-and-enforcement-actions-against-industry-unauthorized-tobacco-products#3.5>

<sup>25</sup> <https://www.fda.gov/tobacco-products/ctp-newsroom/retailers-warned-stop-selling-illegal-e-cigarettes-resembling-youth-appealing-characters-school>

<sup>26</sup> <https://www.fda.gov/news-events/press-announcements/fda-seeks-fines-against-22-retailers-selling-illegal-youth-appealing-e-cigarettes>

**FDA Response:**

CTP does not track enforcement funding specific to addressing illegal e-cigarette products coming from China as a separate program area. CTP's Compliance and Enforcement program area, along with FDA's Office of Regulatory Affairs, maintain and manage a robust imports program. Working with U.S. Customs and Border Protection at the ports and borders, as well as the U.S. Postal Service at the International Mail Facilities, products are screened at entry for compliance with applicable requirements under the FD&C Act. This includes, for example, checking for unauthorized tobacco products and taking appropriate action, as warranted, such as detention or refusal of admission.

- b) How many FDA staff members are in FDA's China offices? Of those China-based employees, what number are specifically dedicated to tobacco and nicotine product inspection and oversight?

**FDA Response:**

There are currently 12 staff members in FDA's China office, of which one policy analyst's portfolio includes tobacco products. There currently are no investigators specifically dedicated to tobacco and nicotine product inspection and oversight.

- c) Is FDA working with CBP (Customs) to seek out products illegally manufactured in China? Is FDA working with Department of Transportation (DOT) to verify whether the product is entering through commercial transportation platforms?

**FDA Response:**

Although FDA does not work with the U.S. Department of Transportation with regards to Chinese ENDS imports, the Agency does work with CBP and the U.S. Postal Service (USPS), as such products would likely come into the Ports and International Mail Facilities. Products entering the U.S. are screened for compliance with applicable requirements under the FD&C Act. This includes products entering the U.S. from China, where many e-cigarette products are manufactured.

FDA uses Import Alerts to inform the the Agency's field staff, CBP, and the public of products that are subject to detention without physical examination because they appear to be in violation of FDA's laws and regulations. Import Alerts are added and updated as needed.<sup>27</sup> FDA currently has eight tobacco Import Alerts, two which address specific tobacco products that do not have marketing authorization:

- Import Alert 98-06: "Detention Without Physical Examination of New Tobacco Products Without Required Marketing Authorization"

<sup>27</sup> <https://www.fda.gov/industry/actions-enforcement/import-alerts>

- Import Alert 98-07: “Detention Without Physical Examination Electronic Nicotine Delivery Systems (ENDS) Lacking Premarket Authorization”<sup>28,29</sup>

From FY 2020 through FY 2023, FDA examined thousands of import lines of tobacco products and refused nearly 500 of those lines.

The majority of examinations and refusals occurred after the deeming rule took effect in 2016. For example, in a significant seizure action in December 2020, CBP, in coordination with FDA, seized 42 separate shipments of unauthorized Puff e-cigarette products arriving from China, totaling over 33,000 units. These shipments were valued at over \$700,000.

- d) What steps is FDA taking to curtail those illegal products from entering the stream of commerce? Of the \$712 million a year, what amount is being devoted to ending this illegal diversion?

**FDA Response:**

Compliance and enforcement is a critical part of FDA’s tobacco work and the Agency has made clear through its ongoing and escalating compliance and enforcement actions that it will continue to use the full scope of its authorities, as appropriate, to hold those who break the law accountable. CTP’s Compliance and Enforcement Office is the second largest office in the Center, with 292 staff and actual FY 2023 obligations of \$133.9M.

As noted in response 2C, FDA works closely with partners to prevent illegal tobacco products from passing through U.S. ports.

**Question 3:** FDA Reform

The FDA is currently undergoing a comprehensive reform of the food safety program.

- a) Would the deputy commissioner have direct management control over all food program activities, including ORA? How would this work in practice?

**FDA Response:**

Yes, the Deputy Commissioner would have clear management and decision rights over major activities – including resource allocation (within the scope of congressional intent), strategic direction, risk prioritization, and cultural transformation to build a high-functioning team for human food safety.

<sup>28</sup> [https://cms.fda.gov/vts/imports\\_publish/private/importalert\\_1163.html](https://cms.fda.gov/vts/imports_publish/private/importalert_1163.html)

<sup>29</sup> [https://cms.fda.gov/vts/imports\\_publish/private/importalert\\_1164.html](https://cms.fda.gov/vts/imports_publish/private/importalert_1164.html)

Within the Human Foods Program, it is intended that the Deputy Commissioner will set the priorities for field activities, direct how the resources will be used, determine what risks will be prioritized, and develop the inspection strategy (such as development of new inspection methods or specialized training for inspectors, recruitment goals and attributes for inspection workforce, etc.). Note that Jim Jones, FDA's new Deputy Commissioner for Foods, onboarded with the Agency in September 2023.

- b) Would the deputy commissioner be responsible for the formulation and execution of the entire foods program budget, including the portion of the Human Foods Program budget that ORA currently receives?

**FDA Response:**

Yes, under the proposal the Deputy Commissioner will lead the internal budget process for the entire Human Foods Program, including resources allocated for the human food inspectorate, and will be responsible for ensuring that the breakdown and allocation of resources are both consistent with congressional intent and allocated to address the highest priority programmatic needs.

- c) Would the deputy commissioner have direct management authority over ORA's food operations, including inspection, compliance, lab operations, import oversight, training, and IT?

**FDA Response:**

Under the proposal, the Deputy Commissioner has authority to set strategic direction, resource allocation, and risk prioritization human food operations, including for these field operations. FDA notes that some of these functions are being assessed for potential realignment into the Human Foods Program or as enterprise-wide services.

- d) Will the FDA reform effort impact the relationship between ORA and CFSAN? What are the key challenges and how does the reform seek to address those challenges?

**FDA Response:**

Yes, the reorganization would bring significant enhancements in how FDA coordinates with the field. We consider this to be a once-in-a-generation opportunity to not only impact the future of the regulation of the nation's food supply and health, but also to unify our field work with the priorities of program offices. These proposed changes are designed to help ensure the most strategic use of resources to meet the demands of FDA's increasingly complex public health mission. Not only will this transformation remove redundancies, but it will also enable the Agency to oversee human food in a more effective and efficient way. By bringing the human foods field workforce closer to the human foods technical staff, FDA will streamline its operations and further support our inspection, compliance, and enforcement arms.

- e) What is your vision for “transforming ORA’s operating structure into an enterprise-wide organization that supports the Foods Program and all other FDA regulatory programs”?

**FDA Response:**

FDA intends to deliver a field workforce that is focused on its core activities of inspections, investigations, import operations, and sampling analysis, while working with and at the direction of the regulatory programs. To do this, FDA has started several work streams, including assessing how to streamline inspection and compliance processes and considering moving some functions from ORA into other parts of the Agency.

The new proposed ORA structure will enable ORA and program personnel to function as a multidisciplinary team, eliminating sequential steps, immediately bringing the best expertise to bear on the problem at hand, and expediting decisions, including decisions on inspections and investigations. By keeping management of the day-to-day global operations, administrative functions, and maintenance and logistics of the Agency-wide field force with ORA, under the leadership of the ACRA, the Deputy Commissioner for Human Foods will be better able to focus on the core mission of the HFP.

- f) Who would have management authority to determine allocation of resources across ORA’s food-related functions?

**FDA Response:**

Under the proposal, the Deputy Commissioner will lead the internal budget process for the entire Human Foods Program, including resources allocated for the human food inspectorate, and will be responsible for ensuring that the breakdown and allocation of resources are both consistent with congressional intent and allocated to address the highest priority programmatic needs.

QUESTIONS FOR THE RECORD SUBMITTED BY CONGRESSWOMAN JULIA LETLOW

**Question 1:** Synthetic Nicotine Products Report

In April 2022, Congress passed legislation providing FDA the authority to regulate tobacco products containing nicotine from any source, including synthetic nicotine. The legislation required FDA to deliver an initial report detailing various CTP monetary and programmatic measures by the end of March 2023.

What is the status of that report? Will you commit to CTP providing this report annually as required by the legislation and to ensure transparency for the American public?

**FDA Response:**

On March 31, 2023, FDA submitted the “Tobacco Regulation Activities FY 2022” Report to Congress pursuant to Public Law 117-103.<sup>30</sup> The report is now posted on the FDA website. FDA is committed to providing this report annually.

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<sup>30</sup> <https://www.fda.gov/media/167103/download?attachment>

**Question 1:** Menthol Ban Impact on Illicit Activities

Given that in states where a menthol ban has been implemented there has been evidence of a significant increase in illicit activity, has FDA revised its analysis of the federal proposed menthol ban's impact on illicit activity?

**FDA Response:**

The rulemaking process is an important opportunity for FDA to receive feedback from members of the public on all aspects of the proposed product standards to prohibit menthol as a characterizing flavor in cigarettes and to prohibit all characterizing flavors, including menthol, in cigars. As part of this process, FDA explicitly sought comment on potential countervailing effects of the proposed product standards, such as potential illicit trade. The public comment period is now closed for the proposed product standards. The comments received represented a broad spectrum of viewpoints. In accordance with the Administrative Procedure Act, FDA will consider the comments submitted to the dockets on the proposed product standards, including comments on potential illicit trade.

**Question 2:** Impact of Menthol Ban in States

Does FDA have evidence from the states that have banned menthol or flavored tobacco products that adult smokers have stopped smoking or switched to smokefree products?

**FDA Response:**

U.S. states and localities have implemented policies restricting the sale of flavored tobacco products, and a growing number of studies have assessed the impact of these policies on adult tobacco use behaviors. These studies include policies from Massachusetts, the first state in the country to implement a statewide sales restriction on flavored tobacco products, and California, where many of the first local level policies were adopted (e.g., San Francisco).<sup>31,32,33,34,35,36</sup> Evidence from studies assessing these state and local policies generally indicates decreases in use and sales of tobacco products after policy implementation. The results of these studies

<sup>31</sup> Asare S, Majumdar A, Xue Z, Jemal A, Nargis N. Association of Comprehensive Menthol Flavor Ban With Current Cigarette Smoking in Massachusetts From 2017 to 2021. *JAMA Intern Med*. 2023 Apr 1;183(4):383-386. doi: 10.1001/jamainternmed.2022.6743. PMID: 36848121, PMCID: PMC9972236

<sup>32</sup> Booras A, Wiener RS, Maccarone J, Stokes AC, Fetterman JL, Hamburg NM, Singh J, Bulekova K, Kathuria H. A Longitudinal Study of Perceptions of the Massachusetts Menthol Ban and Its Impact on Smoking Behaviors among Marginalized Individuals. *Int J Environ Res Public Health*. 2023 May 11;20(10):5790. doi: 10.3390/ijerph20105790. PMID: 37239518, PMCID: PMC10218059

<sup>33</sup> Guydush, J R, E R. Straus, T. Le, et al. "Menthol Cigarette Use in Substance Use Disorder Treatment Before and After Implementation of a County-Wide Flavoured Tobacco Ban." *Tobacco Control*, 30:616-622, 2021. Available at <https://doi.org/10.1136/tobaccocontrol-2020-056000>

<sup>34</sup> McGinnes H, Kingsley M, Song G, Rosewarne J, Gonther S, Doane J, Henley P. Evaluation of a Statewide Flavored Tobacco Restriction on Use, Access, and Cessation Among Black and White Tobacco Users in Massachusetts. *Am J Health Promot*. 2023 Sep;37(7):905-914. doi: 10.1177/08901171231183308. Epub 2023 Jun 9. PMID: 37295390

<sup>35</sup> Timberlake DS, Aviles J, Payán DD. Variation in adults' use of flavored tobacco products by sales restrictions in California jurisdictions. *Int J Drug Policy*. 2023 Jun;116:104041. doi: 10.1016/j.drugpo.2023.104041. Epub 2023 Apr 27. PMID: 37119644

<sup>36</sup> Yang, Y, E N Lundblom, R G Salloum, et al. "The Impact of a Comprehensive Tobacco Product Flavor Ban in San Francisco Among Young Adults." *Addictive Behaviors Reports*, 11:100273, 2020. Available at <https://doi.org/10.1016/j.abrep.2020.100273>



assessing the impact of policies restricting the sale of flavored tobacco products within the United States are consistent with those conducted internationally. For example, numerous behavioral studies evaluating Canadian menthol policies found that adult smokers reported increased rates of quit attempts and smoking cessation following policy implementation.<sup>37,38,39,40,41,42,43,44,45</sup>

Evidence from two of these studies found that baseline daily menthol smokers were more likely to report cigarette quit attempts and quitting cigarette smoking than baseline non-menthol cigarette smokers, suggesting increased quit attempts and quitting were attributed to the menthol sales restriction.<sup>46,47</sup>

<sup>37</sup> Chung-Hall J, G.T. Fong, G. Meng, et al. "Evaluating the Impact of Menthol Cigarette Bans on Cessation and Smoking Behaviours in Canada: Longitudinal Findings from the Canadian Arm of the 2016–2018 ITC Four Country Smoking and Vaping Surveys." *Tobacco Control*, 0:1–8, 2021. Available at <https://doi.org/10.1136/tobaccocontrol-2020-056259>

<sup>38</sup> Chung-Hall J, Fong GT, Meng G, Craig LV. Illicit cigarette purchasing after implementation of menthol cigarette bans in Canada: findings from the 2016–2018 ITC Four Country Smoking and Vaping Surveys. *Tob Control* 2023 Jan 6;tc-2022-057697 doi: 10.1136/tc-2022-057697. Epub ahead of print. PMID: 36609491; PMCID: PMC10336976.

<sup>39</sup> Carpenter, C.S., & Nguyen, H.V. "Intended and unintended effects of banning menthol cigarettes." *The Journal of Law and Economics*, 64(3), 629–650, 2021. Available at <https://doi.org/10.1086/713978>.

<sup>40</sup> Chaiton, M.O., R. Schwartz, J.E. Cohen, et al. "Association of Ontario's Ban on Menthol Cigarettes with Smoking, Behavior 1 Month After Implementation." *JAMA Internal Medicine*, 178(5):710–711, 2018. Available at <https://doi.org/10.1001/jamainternmed.2017.8650>

<sup>41</sup> Chaiton, M.O., I. Nicolau, R. Schwartz, et al. "Ban on Menthol-Flavoured Tobacco Products Predicts Cigarette Cessation at 1 Year: A Population Cohort Study." *Tobacco Control*, 29:341–347, 2020. Available at <https://doi.org/10.1136/tobaccocontrol-2018-054841>

<sup>42</sup> Chaiton, M.O., R. Schwartz, J.E. Cohen, et al. "The Use of Flavour Cards and Other Additives After a Menthol Ban in Canada." *Tobacco Control*, 30:601–602, 2020. Available at <https://doi.org/10.1136/tobaccocontrol-2020-055698>

<sup>43</sup> Chaiton, M.O., I. Papadimitriou, R. Schwartz, et al. "Product Substitution After a Real World Menthol Ban: A Cohort Study." *Tobacco Regulatory Science*, 6(3):205–212, 2020. Available at <https://doi.org/10.18001/TRS.6.3.5>

<sup>44</sup> Chaiton, M.O., R. Schwartz, J.E. Cohen, et al. "Prior Daily Menthol Smokers More Likely to Quit 2 Years After a Menthol Ban Than Non-Menthol Smokers: A Population Cohort Study." *Nicotine & Tobacco Research*, 23(9):1584–1589, 2021. Available at <https://doi.org/10.1093/ntr/ntab042>

<sup>45</sup> Fong GT, Chung-Hall J, Meng G, Craig LV, Thompson ME, Quah ACK, Cummings KM, Hyland A, O'Connor RJ, Levy DT, Delnevo CD, Ganz O, Eissenberg T, Soule EK, Schwartz R, Cohen JE, Chaiton MO. Impact of Canada's menthol cigarette ban on quitting among menthol smokers: pooled analysis of pre-post evaluation from the ITC Project and the Ontario Menthol Ban Study and projections of impact in the USA. *Tob Control*. 2023 Nov;32(6):734–738. doi: 10.1136/tobaccocontrol-2021-057227. Epub 2022 Apr 28. PMID: 35483720; PMCID: PMC9613818

<sup>46</sup> Chaiton, M.O., R. Schwartz, J.E. Cohen, et al. "Prior Daily Menthol Smokers More Likely to Quit 2 Years After a Menthol Ban Than Non-Menthol Smokers: A Population Cohort Study." *Nicotine & Tobacco Research*, 23(9):1584–1589, 2021. Available at <https://doi.org/10.1093/ntr/ntab042>

<sup>47</sup> Chaiton, M.O., I. Nicolau, R. Schwartz, et al. "Ban on Menthol-Flavoured Tobacco Products Predicts Cigarette Cessation at 1 Year: A Population Cohort Study." *Tobacco Control*, 29:341–347, 2020. Available at <https://doi.org/10.1136/tobaccocontrol-2018-054841>.

**Question 1:** FDA Seizure of Personal Prescription Medications

A March 2023 Kaiser Health News article recently found that of 53,000 packages containing imported medicines seized by FDA in 2022, only 33 (.06%) contained opioids. In January of this year, Mainers had their Canadian medicines for personal use seized by the FDA at an international mail facility in Los Angeles.<sup>48</sup>

The SUPPORT for Patients and Communities Act – signed into law in 2018 (PL 115-271) – specifically sought to protect imported medicines of an amount, frequency or dosage consistent with personal or household use from burdensome entrance restrictions.

What is FDA doing to ensure that medicines imported for personal or household use are not being unnecessarily seized? And is there a reason that the Los Angeles international mail facility has seen a surge in seized medicines for personal or household use in the past six months?

**FDA Response:**

FDA works jointly with our U.S. Postal Service and U.S. Customs and Border Protection (CBP) counterparts at all International Mail Facilities (IMFs). Mail entering the U.S. from abroad arrives at one of eight IMFs where the parcels are screened by CBP. Parcels containing FDA-regulated products may be referred by CBP to FDA for review. CBP does not generally refer parcels containing opioids or other controlled substances to FDA, however.

FDA works to protect public health by promoting supply chain integrity and working to ensure medicines offered for import to the U.S. comply with applicable legal and regulatory requirements. Imported drugs must meet FDA's standards for quality, safety, and effectiveness. For example, medicines from outside the legitimate U.S. drug supply chain do not have the same assurance of safety, effectiveness, and quality as drugs subject to FDA oversight. FDA reviews shipments of drugs offered for import to determine whether they are admissible into the U.S. An imported drug may be refused admission if, for example, it is or appears to be adulterated, misbranded, or unapproved based on the Agency's admissibility review process.

In most cases, it is illegal for individuals to import drugs into the U.S. for personal use because these products purchased from other countries often have not been approved by FDA for use in the U.S. However, if a product is non-violative it will be released regardless of whether it is for commercial or personal use. FDA's Regulatory Procedures Manual (RPM) Chapter 9-2 "Coverage of Personal Importations" provides FDA field offices with information to consider when reviewing an unapproved new drug offered for import for personal use.

FDA's data does not reflect a significant surge in seizures of drugs for personal use during the noted timeframe, but the Agency's data would not account for all packages moving through the IMF. FDA's import requirements are intended to protect Americans from unapproved,

<sup>48</sup> <https://www.nbcnews.com/health/health-news/drug-shipments-us-hold-cheap-generic-viagra-not-opioids-rcna73296>

potentially dangerous medical products and the Agency works diligently to ensure that detention authorities are applied fairly.

QUESTIONS FOR THE RECORD SUBMITTED BY CONGRESSWOMAN BARBARA LEE

**Question 1:** Lupus Accelerating Breakthroughs Consortium

As you know, lupus is a serious disease that disproportionately impacts women and people of color. In the last 70 years, there have only been three treatments developed specifically for lupus, so this is an area of substantial unmet need. I was very pleased to learn that FDA recently announced that it will be participating in a new public private partnership (PPP) called "Lupus Accelerating Breakthroughs Consortium."

I understand that PPPs are a model FDA uses extensively and successfully in other disease areas with significant unmet need. What value does a PPP bring to efforts to overcome the challenges of lupus drug development? Can you share your goals for the consortium? How could this partnership further the agency's efforts to reduce health disparities and increase health equity?

**FDA Response:**

A public private partnership (PPP) is a collaborative group managed by a convening or coordinating organization involving multiple stakeholder organizations typically including at least one non-profit or 501(c)(3) organization (e.g., academia, government, or foundation) and at least one for-profit organization (e.g., pharmaceutical, biotechnology, or medical device company). A PPP may involve multiple committees and working groups.

FDA's Center for Drug Evaluation and Research (CDER) is engaged in a number of PPPs and consortia with other government, academic, scientific, patient, and industry organizations to foster scientific collaborations to support the advancement of regulatory science. These efforts encourage the development of new tools to facilitate innovation in medical product development. Public health needs and CDER's review activities often identify gaps in regulatory science that require a coalition of resources, expertise, and partnering. A PPP or consortium is established to address issues that are beyond the capacity and resources of a single organization.

On March 29, 2023, CDER announced that we have partnered with the Lupus Research Alliance to launch the Lupus Accelerating Breakthroughs Consortium (Lupus ABC), a first-of-its-kind public-private partnership focused on addressing challenges impacting lupus clinical trial success.

Lupus is a complex, potentially life-threatening autoimmune disorder that disproportionately impacts women and communities of color. The disease can affect the joints, skin, brain, lungs, kidneys, and blood vessels, causing widespread inflammation and tissue damage in the affected organ. Lupus affects each person differently, and its effects can change over time, making it one of the most difficult diseases to diagnose and treat.

Lupus ABC will provide a forum to define common challenges in drug development and facilitate approaches that will have the most immediate impact on advancing therapeutic development for lupus. Initially, these efforts will focus on finding ways to:

- Better evaluate the impact of potential treatments by refining existing measurement tools that clinical research has shown may not always adequately assess a drug's effectiveness.
- Fully incorporate the patient voice into the drug development process by optimizing patient-reported outcome measures, enabling recognition of the impact of potential treatments on specific symptoms that matter most to patients.

FDA looks forward to continuing progress to address Lupus as part of Lupus ABC and appreciates Congress' interest in these and other efforts the Agency is taking to promote clinical research and treatments, and ultimately improve patient health and reduce disparities.

**Question 2:** Baby Food Safety

High levels of toxic metals have been reported in baby food, including high levels of lead and arsenic. Every day, 10,000 babies begin to eat solid food, so we have no time to waste.

How critical is it that FDA finalize its draft guidance for lead in food intended for babies and young children? When can we expect action to be taken on other harmful heavy metals, such as arsenic?

**FDA Response:**

As part of FDA's Closer to Zero initiative, the Agency has already published draft action levels for lead in foods intended for babies and young children and in juices, as well as final action levels for arsenic in apple juice and in infant rice cereal. FDA is now in the process of completing the scientific evaluations that will inform draft action levels for both arsenic and cadmium in foods intended for babies and young children, and we plan to issue draft guidance on these action levels next year. Further, the Agency is actively engaging with baby food manufacturers to monitor their progress for limiting the presence of toxic elements, and is working with the United States Department of Agriculture and growers to develop and implement strategies for reducing uptake of toxic elements in commodities and crops.

Closer to Zero uses a science-based, iterative approach for achieving continual improvements over time. Please note that while action levels are a useful tool to drive down levels of contaminants in foods, and while finalizing action levels is an important administrative step, the Agency does not need an action level for a contaminant to take enforcement action at any time on a food product that violates federal law because it is unsafe. Further, establishing an action level does not prevent FDA from further lowering the action levels after finalization, in accordance with the applicable regulations, if appropriate.

**Question 3:** Chemicals in Cosmetics

I am proud to say that Congress included needed cosmetic reform provisions for the first time in 80 years in the final FY23 spending package. If FDA is to ensure personal care products are safe for consumers, how critical is it that FDA receives additional resources to meet its statutory duties, such as establishing new registration systems, promulgating new rules, regulations, and guidance to industry, and evaluating the use of forever chemicals in cosmetics?

**FDA Response:**

It is very critical for FDA to receive additional resources to meet its statutory duties. Without new resources, FDA's ability to ensure timely implementation and management of the new authorities in the Modernization of Cosmetics Regulation Act of 2022 (MoCRA) is at risk. MoCRA provides the most significant expansion of FDA authority to regulate cosmetics since 1938, but it did not include new funding to implement these new authorities. Additional resources would be used to hire additional staff to help implement MoCRA provisions, such as developing regulations and/or compliance policies for registration and product listing, adverse event reporting, talc-containing cosmetics, labeling, and good manufacturing practices for facilities, as well as manage critical projects such as assessments of the use of PFAS in cosmetic products. New resources would also strengthen FDA's post-market surveillance systems and enhance FDA's efforts to protect consumers from unsafe cosmetics. FDA has requested an additional \$5 million for these activities as part of the FY 2024 President's Budget request, and the Agency appreciates Congress' ongoing consideration of this important initiative.

**Question 4:** Food Safety

Experts recently reported that 99% of new food chemicals added to food since 2000 were approved by chemical companies, not the FDA. That is clearly not the intent of Congress. In fact, in 1958, Congress intended that the FDA review 99% of new food chemicals.

Furthermore, Experts and members of Congress have highlighted at least 10 harmful chemicals that are added to food or food packing, such as TBHQ and titanium dioxide.<sup>49</sup> Many of these chemicals have never been meaningfully reviewed by the FDA or last reviewed decades ago with outdated science.

What steps are you taking to close loopholes that let the chemical companies, not the FDA, decide whether food chemicals are safe to eat? What resources does FDA need to review these chemicals for safety concerns? Additionally, when will the FDA take steps to ban PFAS from food packaging – a step that has already been taken by several states?

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<sup>49</sup> <https://www.ewg.org/news-insights/news-release/2021/07/ewg-applauds-food-chemical-safety-review-bill>

**FDA Response:**

FDA maintains active premarket regulatory programs where industry submits safety information to the Agency regarding new or new uses of food additives, color additives, food contact materials, and GRAS substances. Such assessments are conducted by the Office of Food Additive Safety in FDA's Center for Food Safety and Applied Nutrition (CFSAN). Regardless of the regulatory program used (food additive or color additive petition process, food contact notification, or the GRAS Notification Process), the same safety standard must be met: reasonable certainty of no harm.

FDA is planning to have a renewed focus on chemical safety, including modernizing CFSAN's post-market food chemicals reassessment program. FDA has been conducting reassessments on an as-needed basis while evaluating options for a systematic program that would allow FDA to proactively identify and target substances for reassessment in a structured manner based on risk. The President's FY 2024 Budget request, which proposes \$19 million for CFSAN to support systematic food chemical reassessments as a part of the overall Healthy and Safe Food for All initiative, would provide vital resources for new knowledge management and monitoring tools, as well as additional scientists to conduct safety assessments. The structural changes through the Agency's proposed Human Foods Program reorganization would further support these modernization efforts.

One area where FDA has been particularly active for post-market reassessments is with PFAS. Due to the potential human health risks from certain PFAS authorized for use as grease-proofing agents on food contact paper and paperboard, FDA secured voluntary commitment letters from industry to eliminate these uses of PFAS. These PFAS grease-proofing agents are being phased-out by the manufacturers, with all U.S. sales to cease by December 31, 2023. As part of their commitment, the manufacturers have provided the FDA with annual updates on their progress of the phase-out, as well as a mid-year update for the third and final year. FDA will receive a final update by the end of January 2024 from these manufacturers confirming that all sales have ceased. FDA will continue to monitor the phase-out of PFAS as grease-proofing agents from food packaging materials as the U.S. market exhausts supply chains of any existing stock of PFAS grease-proofing agents sold prior to December 31, 2023.

**Question 5:** Employee's Union Contract

The Department has negotiated a new contract with the employees' union. The contract makes impressive improvements in child care benefits, telework policy, student loan repayment and other tools to attract and retain the best.

Are you prepared to robustly implement the benefits in the contract and do you believe this will aid FDA in its efforts to recruit and retain highly qualified employees?

**FDA Response:**

FDA implemented the new union contract on July 2, 2023, and is fully prepared to continue implementing the new contract improvements as well as long-standing employee benefits. Examples of several of the benefits offered to employees are as follows:

FDA provides childcare subsidies under the terms of the HHS/NTEU National Agreement.

FDA has also had a telework policy in place for many years. In 2023, FDA implemented a hybrid workplace policy that allows employees to telework on days they do not report onsite or to work remotely within or outside their local commuting areas. Employees who are approved to work remotely have duties that are portable and do not require their daily presence at FDA facilities. In addition to employees who telework, currently about 40% of FDA employees work remotely.

Further, in 2022 FDA implemented the FDA Leave Bank, a new leave-sharing program available to FDA employees as an added protection in the event of a personal or family medical emergency. FDA employees can voluntarily contribute their annual leave to a pooled fund (the FDA Leave Bank), then Leave Bank members can receive leave to cover an absence from work if an employee or a family member experiences a medical emergency that results in the employee being in an unpaid leave status.

Finally, among other benefits, FDA has a successful student loan repayment program in place for its employees to repay certain types of federal, insured, or guaranteed student loans. The program serves as a recruitment incentive for hard to fill positions and as a retention incentive for highly qualified candidates who are likely to leave or be recruited for employment outside of federal services. This program allows the FDA to pay up to \$10,000 per calendar year, with a cumulative maximum of \$60,000 per employee.

FDA believes that it is essential to have a robust employee benefit package in order to recruit, hire, and retain highly qualified employees, and is excited by the improvements that the new union contract will allow for both current and prospective FDA employees.





THURSDAY, MARCH 30, 2023

**FISCAL YEAR 2024 REQUEST FOR THE U.S.  
DEPARTMENT OF AGRICULTURE**

**WITNESSES**

**HON. THOMAS VILSACK, SECRETARY, U.S. DEPARTMENT OF AGRICULTURE**  
**JOHN RAPP, DIRECTOR, U.S. DEPARTMENT OF AGRICULTURE OFFICE OF BUDGET AND PROGRAM ANALYSIS**

**OPENING STATEMENT**

Mr. HARRIS. Good morning. I want to thank all of you for being here to discuss the Department of Agriculture's Fiscal Year (FY) 2024 budget request. Secretary Vilsack, I want to welcome you, and I look forward to hearing more about your priorities for the coming year as well as having a discussion on other important issues under the jurisdiction of this subcommittee.

The United States Department of Agriculture's (USDA's) Fiscal Year 2024 budget request totaled \$24.46 billion, an increase of two-and-a-half billion or 11.5 percent over last year's levels. Mr. Secretary, I'm sure it isn't news to you that the fiscal situation this country is facing is nothing short of dire. Unfortunately, the budget request you put forward is unrealistic and unattainable. We simply can't afford what you have proposed. I believe we need to have an honest discussion about USDA's priorities and where our constituents' hard-earned taxpayer dollars make the greatest impact.

USDA has received over \$200 billion through the many supplemental funding packages, including the American Rescue Plan, Infrastructure Investment and Jobs Act and the Inflation Reduction Act. Despite the enormous amounts of resources provided to the department through congressional action, you have unilaterally increased Supplemental Nutrition Assistance Program (SNAP) benefits by more than \$250 billion through a quick politically-driven update of the Thrifty Food Plan, which is the underlying market basket of foods used to establish SNAP benefit amounts. You have treated the Commodity Credit Corporation (CCC) like a slush fund to advance political priorities not directed by Congress. In 2022, you spent \$6.6 billion on programs not authorized in the farm bill or other legislation, including \$3.5 billion on climate and \$1.5 billion on school nutrition programs, which was pushed out after Congress provided the department specific direction to increase school meal reimbursement rates through the Keep Kids Fed Act not to spend more funds from the CCC.

All of this came on top of the \$2.5 billion you spent in 2021 on unauthorized programs. This reckless, unauthorized use of taxpayer dollars and CCC deserves scrutiny in today's hearing and calls into question whether this administration can be trusted with

any discretionary authority under the corporation's Charter Act in future fiscal years. On the regulatory front, I'm disappointed that the department has renewed its Obama-era efforts under the Packers and Stockyards Act to dictate how poultry and livestock producers raise and market their animals.

Poultry and livestock market structures are both complex and efficient and ultimately reward high-performing producers who meet consumer demands. A top-down regulatory approach attempting to fundamentally change these production and marketing practices risks harming growers, processors and consumers alike and to drive these important food industries offshore. I was very interested to see that your budget request includes the hiring of 4,700 new full-time employees. For the past several fiscal years, this subcommittee has provided record high funding level for USDA's three field agencies, Rural Development, the Farm Service Agency (FSA), and the National Resources Conservation Service (NRCS).

And yet USDA continues to claim to be severely understaffed. I'm interested in how USDA chose to allocate past funding as well as your plans for these new hires. It seems to me that in this year's proposal, you are—prioritized bloating the bureaucracy, focusing on staffing up your Washington, DC headquarters rather than hiring field office staff to serve and support our nation's producers and to deliver on USDA's core mission.

This subcommittee will not prioritize climate change, equity or green initiatives over mission-critical services to our farmers. I remain concerned about this administration's focus when it comes to domestic nutrition programs. As steward of taxpayer dollars, we have an obligation to scrutinize mandatory funding when it goes beyond what Congress has authorized and intended. The USDA has consistently sought to expand eligibility, loosen work requirements, and increase benefits. As Coronavirus Disease (COVID) waivers and increase benefits expire and the unemployment rate remains thankfully at a record low, we would have expected to see participation rates decline more rapidly. However, your fiscal year 2024 budget request for SNAP is more than \$15 billion over pre-pandemic levels, a staggering 79.9 percent increase over those pre-pandemic levels.

This is something the subcommittee will be looking at very closely. Finally, I'd like to applaud the department's response to the highly pathogenic avian influenza. As the United States faces the worst outbreak in our history, it's critical to continue working to mitigate the spread of the disease and assist those producers whose flock have become affected.

Again, I appreciate you being with us, Mr. Secretary, and I look forward to today's discussion. Ranking Member Bishop, I will now yield to you for any opening remarks you would like to make.

Mr. BISHOP. Thank you very much, Chairman Harris. Secretary Vilsack, I welcome you. And let me start off by thanking you and congratulating you and the people over at USDA for all that you have done over the past few years to get us through the pandemic, supporting our farmers, our ranchers, rural America, supporting Americans in our nutrition programs and, of course, helping us as we try to build for a better America and recover from what we've been through.

Secretary Vilsack, you have identified in several letters the potential harms of some of the concerns and the cuts that have been recommended by the other side to cut domestic discretionary spending. One of the plans wants to revert back to the FY 2022 levels, and others are saying just reduce it by 22 percent or more. You sent an excellent letter, which is available on the Appropriations Democrats' website, which identified the devastating impacts on the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Food Safety and Inspection Service (FSIS), rural rental assistance, conservation operations, technical assistance as provided to our producers and the Farm Service Agency loans to farmers.

The full committee ranking member and I will, I'm sure, explore the impact of these cuts during the question-and-answer period. At a time when it's possible that your 2024 request will be sharply attacked in the House bill, I think that members need to think about what could be lost under that scenario. Notable investments in the requests that virtually every member of the subcommittee supports include an increase of \$105 million to help secure our watersheds.

Four hundred more staff in Rural Development, increasing the funding for single-family housing loans, an increase in the guaranteed business and industry loan program, an increase in water and waste funding that's desperately needed by so many rural communities across America, \$52 million for the Reconnect Program, \$550 million for the Agriculture and Food Research Initiative, better known as AFRI. While we hear some support for drastic cuts, I don't think we will hear much criticism of increases such as these in the budget. Or to my friends on the other side of the aisle, you can't have it both ways. Either these or the many other programs in our bill are worthy, or they should be funded at the necessary level to do their jobs for the American people or they are not. Mr. Chairman, I look forward to hearing from the Secretary.

I have heard criticisms of the Commodity Credit Corporation spending, and I certainly would like to invite the Secretary to talk about his perception that somehow that fund has been misused or overused. I believe that it was an available tool that Congress put in place many, many years ago. And it has served its purpose in helping the American people, our farmers, our ranchers, to get through these terrible times that we've experienced over the past two or three years.

With that, Mr. Chairman, I yield back, and I look forward to testimony from the Secretary and the question-and-answer session.

Mr. HARRIS. Thank you very much, Mr. Bishop. Secretary Vilsack, without objection, your entire written testimony will be included in the record. I will now recognize you for your statement, and then we'll proceed with questions. I'll note we are supposed to have votes at 10:30 to 10:45, so there will be five minutes of questioning and the—I'll use the gavel a little more than I have in the past because I'd like to complete this before we go to the floor so that we are not holding up the Secretary any more than we have to. Secretary Vilsack?

Secretary VILSACK. Thank you, Mr. Chairman, Representative Bishop and members of the committee. Thank you for the opportunity to be here this morning. You know, I have five minutes, and

it's very difficult to talk about all the issues before this committee in five minutes. So I'm just going to focus on one specific issue which has to do with farm income.

In the last two years, we have actually recognized record farm income. Net cash farm income is at record levels, never higher than it has been in the last two years. The challenge for us and for you is to recognize the pivotal moment that we're in because during that record year, nearly 50 percent of our farmers did not make any money.

Another 40 percent of our farmers made money, but the majority of money they made came from off farm income. So what we have is a circumstance where a significant percentage of large—very, very large farms have done quite well. But about 90 percent of our farms, which are small and mid-sized, continue to be challenged. This is not a new problem. If you go back to 1979 and the statements of then-Secretary Bob Bergland, you will see that he raised this issue.

If you go back to the report of Isaac Newton, not the Isaac Newton of fame but the Isaac Newton who was the first commissioner of agriculture who issued a report to Abraham Lincoln in 1863. He noted the concerns about consolidation in size. And what we have is a circumstance and situation where I think we are challenged to figure out ways in which we can create new income opportunities for that 90 percent, that it can't just be the sale of commodities, the sale of crops and livestock and government payments. It has to be entrepreneurial opportunities within these farm units.

And that's one of the reasons why it's important to have the tools that we have. And the reason why we have used these tools in a way to create new opportunities, new avenues, new markets, better markets, more consistent markets. And so that's the reason, and I'm happy to talk to you about the—the legal justification for the use of the CCC, which, by the way, when we set up the Climate Smart Commodity Program to establish Climate Smart commodities, which is well within the purview of the CCC, we did so at the request of 80 organizations, Farm Bureau, National Farmers' Union, a variety of commodity groups who indicated a desire to have this fund set up and suggested that we use \$50 billion from the CCC. We put a billion dollars out. We received 1,000 applications, Mr. Chairman. And of those thousand applications, we attempted to fund 141. These are extraordinary partnerships between farm groups, between conservation groups, environmental groups, universities, major food companies, significant retailers, all of which are designed to create a new market opportunity, higher value proposition for small and mid-sized producers.

We're going to learn a lot from these—from these opportunities. And as we do, the resources under the Inflation Reduction Act can then be targeted and used in a way that will help to create new revenue streams and sources for our farmers. We use the American Rescue Plan resources to create a stronger local and regional food system. We know from the pandemic that our system, as efficient as it is, frankly was not resilient. And this is building resilience. We are expanding competition. We are building more processing facilities with those American Rescue Plan resources.

We are helping to create more farm to school and more local connections between producers and those who purchase at a local level. So I'm happy to talk to you about all of this. I look forward to it. But I think the challenge here is to recognize the transformational and pivotal moment. The budget is important. The farm bill is important. The CCC is important. The Inflation Reduction Act, the Bipartisan Infrastructure Law, and the American Rescue Plan. All of these tools are necessary and important to be able to begin to craft new and better market opportunities for our farmers.

In doing so, we will create not only additional revenue opportunities and income for farmers. We will also strengthen our rural communities. By strengthening our rural communities, we will give farmers the ability to do what every farmer that I know that I've ever talked to wants to do which is to pass that farm on to the next generation. And I know that there are now a lot of young people that would love to have the opportunity to live, work and raise their families in small communities.

But they have to have opportunity. And that's what this budget—that's what our utilization of the CCC and other resources is designed to do. Thank you, Mr. Chair.

[The information follows:]

For release only by the  
House Committee  
on Appropriations

**Statement by  
Thomas J. Vilsack  
Secretary of Agriculture  
Before the Subcommittee on Agriculture, Rural Development, Food and Drug Administration,  
and Related Agencies  
Committee on Appropriations, U.S. House of Representatives  
March 30, 2023**

Thank you, Chair Harris, Ranking Member Bishop, and distinguished members of this Subcommittee, for the opportunity to come before you today to discuss the Administration's priorities for the Department of Agriculture (USDA) and to provide you an overview of the 2024 President's Budget.

We are at a pivotal moment for American agriculture and rural communities with a decision to make about if, and how, agriculture will meet the challenges of our time. One option is to maintain the status quo. This path leads towards even more producers struggling to cover their costs and often turning to off-farm income to support their families; it leads to far too many rural communities languishing and demonstrates the outdatedness of agricultural policies designed to address challenges of the 1930s and 1970s, ones that reinforce systemic inequities. This path works for a few who have done what American agricultural economics has required of them: get big or get out. But there is another path, one that prompts us to recognize the undeniable challenges of climate change, the need for greater equity in our food system, and that there are opportunities to seize as we seek to adapt to a new course. This path draws on lessons from the COVID-19 pandemic, which exposed vulnerabilities at every point in our food supply chain – from the field to the factory to the grocery store – and compels us to take transformative action so that this vital system is more resilient, secure, and accessible to all. This path also draws strength from the Interim Recommendations of the USDA Equity Commission<sup>1</sup>, because they are a roadmap for ensuring USDA lives up to its name as the People's Department for everyone. There is nothing more foundational to a country's security and stability than its food supply; an inclusive agriculture and rural life must be part of a shift to a bottom-up, middle-out system if we want to create more opportunity in this country.

Through the FY 2024 Budget, the Biden-Harris Administration and USDA have embraced a path where the future of American agriculture is secure and where there is greater equity and economic opportunity for agricultural and rural communities.

The 2024 USDA President's Budget also recognizes the historic investments that Congress has made through the American Rescue Plan, the Infrastructure Investment and Jobs Act, and the Inflation Reduction Act. USDA is delivering on these investments, and the 2024 Budget continues to confront challenges, rebuild the rural economy, and support a new, innovative approach to the future of agriculture. Agriculture is the foundation for fuel, fiber, and food; the agricultural economy is more than just growing crops and selling them, or raising livestock and selling them, or the products from them. The food and agriculture industry contributes nearly \$8 trillion to the global economy, about a fifth of the economic activity of our country. A strong agriculture sector is key to strong rural communities, supporting over 21 million people and 11 percent of jobs in the

<sup>1</sup> USDA Equity Commission. (2023). *Interim Report 2023: Recommendations made to the U.S. Department of Agriculture to Advance equity for all*. <https://www.usda.gov/equity-commission/reports>

economy, providing access to essential services like housing, health facilities, and fast reliable internet; it's how we ensure there's safe, nutritious, affordable food on the table for everyone, supporting the more than 10.2 percent of Americans that experience food insecurity<sup>2</sup>; it's how we support and protect forests, grasslands, and farms – nearly 50 percent of this nation's total land mass; and it's how we provide for the communities that depend on them. The proposals in this budget will address these challenges and spur new job creation and opportunities in rural America; build resilience in the food supply chain and restore America's advantage in agriculture; leverage USDA's expertise to address climate change; and support a stronger nutrition safety net. To make demonstrable progress toward addressing these real issues, the 2024 President's Budget proposes \$213.2 billion for USDA programs, of which approximately \$180.6 billion is mandatory funding and \$32.6 billion is discretionary funding.

### ***Research and Innovation***

This pivotal moment calls for additional investment in research and innovation that influence every program we implement at USDA. Agricultural research has a return on investment of \$17 for every \$1 invested. Between 1948 and 2019, total agricultural output in the United States grew by 142 percent. This rise was not due to increases in agricultural land or labor; in fact, both inputs declined over the period. The productivity stemmed from the adoption of a whole suite of innovations and technology transfer in crop and livestock breeding, nutrient use, pest management, farm practices, and farm equipment and structures. These innovations are the fruits of publicly funded agricultural R&D that often have a less-told story, but we live and reap the benefits of these investments every single day. Production agriculture requires constant innovation and adaptation as farmers and ranchers pursue climate-smart solutions to extreme weather, rural businesses seek new markets, and underserved communities seek trusted partners to tackle systemic concerns.

The budget proposes a \$4.2 billion investment in our research, education, and economics programs. The budget includes discretionary funding of \$1.9 billion for the National Institute of Food and Agriculture (NIFA) of which \$550 million is for the Agriculture and Food Research Initiative (AFRI). Demand for AFRI's competitive funds grows annually and the awards focus on promoting enhanced profitability and productivity in U.S. agriculture, food and nutrition security, and boosting rural prosperity through a circular economy with support for clean energy technologies, climate-smart agriculture and forestry, and education and workforce development. An additional \$2 billion for the Agricultural Research Service (ARS) includes increases of \$20 million in support of the Cancer Moonshot, \$13 million for the operations and maintenance of the new National Bio and Agro-Defense Facility, \$83 million for clean energy, \$88.5 million for climate science, \$10 million for Climate Hubs and Climate Hub Fellows, and \$14 million for additional high priority investments. These funds enable ARS to find solutions to agricultural problems that affect Americans every day from field to table. This is done through the delivery of cutting-edge, scientific tools and innovative solutions for American farmers, producers, industry, and communities to support the nourishment and well-being of all people; sustain our nation's agroecosystems and natural resources; and ensure the economic competitiveness and excellence of our agriculture.

<sup>2</sup> USDA, Economic Research Service using data from U.S. Department of Commerce, Bureau of the Census, 2021 Current Population Survey Food Security Supplement. <https://www.ers.usda.gov/topics/food-nutrition-assistance/food-security-in-the-u-s/key-statistics-graphics/>

Science and research are the best defenses we have to protect our resources against the climate crisis. The changes in our environment have allowed invasive plants, pests, and diseases to move around the world more easily and become established in new areas. Without the tools and sufficient resources to protect ourselves against invasive species and safeguard the health, welfare, and value of American agriculture and natural resources, our farmers and our economy will suffer. The budget calls for an investment of \$6 million for the Civilian Climate Corps within our Animal Plant Health Inspection Service (APHIS) to identifying emerging invasive species threats and expand efforts to develop and implement new surveillance methods to detect incursions of invasive pests more quickly as well as develop new mitigation methods to address those already present causing economic and environmental damages.

### *Tackling the Climate Crisis*

Producers and land managers across the country are experiencing real and increasing threats from climate change that have serious implications—not just for farmers, ranchers, and forest landowners—but also for surrounding communities and all Americans. In 2022, nearly 80 percent of the western region experienced extreme drought, wildfires burned over 7.6 million acres of our forestland, and communities across the country are dealing with the impacts of severe flooding and record snow fall exacerbated by climate change. Agriculture has a critical role in delivering climate change solutions and our nations farmers, ranchers, and foresters are already leading the way through the adoption of voluntary and farmer friendly incentive-based climate-smart agricultural and forestry practices. The budget proposes over \$7 billion across the department in finding solutions to the climate crisis through science, clean energy innovation, minimizing emissions and greenhouse gases, building resilience, and supporting farmers and producers as they adapt to the changing environment. Farmers, ranchers, and forest landowners are ready, but they need USDA resources to help mitigate their risk as they adopt these solutions.

The budget includes \$904 million for Conservation Operations to work with landowners and managers to develop conservation plans that outline the specific practices needed to improve farm operations and enhance farm environmental sustainability. The request includes an increase of \$23 million for Climate Smart Agriculture Implementation to improve greenhouse gas monitoring, establish a soil health monitoring network, and better understand the interrelationship between conservation planning, practice implementation, and adaptation and resilience to climate change. The budget proposes to enhance the Conservation Technical Assistance Equity Conservation Cooperative Agreements, begun in 2021, with an additional \$50 million, bringing total funding for this initiative to \$100 million. The agreements are two-year projects that expand the delivery of conservation assistance for climate-smart agriculture and forestry to farmers and ranchers who are beginning, limited resource, historically underserved and/or veterans. The budget also proposes \$20 million for the Healthy Forests Reserve Program to enroll private lands and acreage owned by Indian Tribes for the purpose of restoring, enhancing, and protecting forestland to enhance carbon sequestration, improve plant and animal biodiversity, and promote recovery of endangered and threatened species under the Endangered Species Act. These efforts will allow for important outreach and promotion of inclusive outcomes in farming practices, addressing some of the historical inequities and working to build new levels of trust with the People's Department.

The budget supports climate resiliency in a myriad of other ways because the approach to the addressing the climate crisis must be taken on multiple fronts. For example, USDA proposes to permanently authorize the pandemic Cover Crop Incentive Program and apply the successful model



implemented with supplemental funding that provides a \$5 per acre premium subsidy for acres planted with cover crop. Cover cropping systems benefit the environment by reducing soil erosion and compaction, increase soil organic matter, and limit nutrient runoff. Given the demand for this program in 2021 and 2022, USDA estimates a 15-million-acre enrollment in 2024 and that the program will grow 5 percent annually.

The budget provides \$255 million in new funding to support clean energy innovation, which includes an additional \$155 million for emissions mitigation deployment to help meet the Administration's goal of zero carbon electricity by 2035. Specifically, grants and loans will be used to expand rural clean energy, transform rural power production, and create jobs. The budget requests an additional \$30 million in annual grant funding for the Rural Energy for America Program (REAP) and will assist agricultural producers and rural small businesses to purchase or install renewable energy systems or make energy efficiency improvements. These increases will build tens of thousands of new renewable energy systems and support small business owners in every State.

#### ***Creating More and Better Markets***

While our policies and programs have ensured an increasingly abundant food supply, growth in farm size and consolidation has put extreme economic pressure on small and medium sized farms and our rural communities. Most recently, the COVID-19 pandemic and the Russian invasion of Ukraine, have roiled the supply chain, and exacerbated the impacts of climate change, droughts, wildfires, other natural disasters, and an especially widespread highly pathogenic avian influenza (HPAI) outbreak. American agriculture has proven itself to be extraordinarily efficient, but these crises have further revealed hidden weaknesses in our production-optimized system. The challenges presented today to our farms and rural communities requires a whole systems approach to stay competitive and innovate the food and agricultural system so that it works for everyone. In recent history, there have been record setting farm income levels, but noting approximately 80% of the value of agricultural production is produced on farms that are mid-sized or larger. But nearly 50 percent of our farmers have had negative farm income. Our data shows that 40% of farms are small and midsize farms where the primary occupation of the household is farming, but most of their income that was supporting their families came from off-farm sources. It's obvious that the system needs to be revisited to find a way that the system benefits the small and medium farms, expands opportunity, and values their products. USDA currently has 141 Partnerships for Climate Smart Commodities projects that are helping to make it less risky for farmers to embrace climate-smart practices and link them to new markets that value and reward them for their commitment to sustainability. These opportunities for our farmers need Congress' support to build the markets and show value to their customers.

The budget requests \$80 million to support new supply chains and markets that uplift small and mid-sized farmers through programs such as the Local Agriculture Market Program, Dairy Business Innovation, Farmers Market and Local Food Production, and Transportation and Market Development. USDA is also expanding local food systems through urban agriculture, supporting communities' capacity to gather, process, move and store food in different geographic areas of the country. Urban agriculture provides more options for producers to create value-added products and sell locally to create new economic opportunities and job creation in underserved communities. In 2024, USDA will invest over \$157 million in urban agriculture and innovation production initiatives across the department, of which \$13.5 million will go towards the Urban Agriculture and

Innovative Production Program, creating more grant opportunities with a priority on supporting historically underserved communities.

### ***Rebuilding Rural America***

It has been said that Rural Development can build a town from the ground up. The essence of that statement is that USDA Rural Development, when well-resourced and well-staffed, provides support that is critical to improving quality of life in rural America – whether it is through more affordable housing in underserved communities, increased access to broadband service, or resilient wastewater infrastructure. These are problems we can and must solve, and USDA is committed to ensuring rural America has equitable access to essential resources. To do so, we must have sufficient Rural Development staff to deliver these vital programs. Over the last decade, RD's portfolio has increased 85 percent, but its staffing levels decreased by 30 percent. Increased staffing resources are desperately needed to ensure that we meet the growing priorities in critical areas that have a direct effect on our ability to be sustainable, relevant, and results-oriented in delivering much-needed programs and services across rural America. The budget proposal increases funding for Rural Development by \$801 million and includes critical increases for combatting climate change, and improvements to rural communities' quality of life; these investments attract new businesses, create greater sense of pride in communities, and allow rural America to prosper.

In 2022 alone, USDA provided \$548 million to the ReConnect program and expanded access for 109,000 households, 14,520 farms, 5,900 businesses, 435 essential community facilities, 396 educational facilities, and 51 health care facilities. The FY 2024 Budget requests \$400 million to reach even more communities, homes, and businesses with reliable internet access which builds upon the \$2 billion of funding provided by Congress in the Bipartisan Infrastructure Law so that every community in America has access to affordable, high-speed Internet.

It's estimated that 2.2 million people in America still lack indoor plumbing and around 10 million homes still have poisonous lead pipes. The President's Budget proposes \$2.38 billion in the Water and Wastewater program to provide additional grants and loans that will improve water and waste disposal systems in rural areas and provide for lead pipe replacement. This is an increase of \$324 million over the 2023 enacted level and is a key investment in safe drinking water and sanitary waste disposal systems, which are vital to achieving a high quality of life for rural residents. Specifically, the budget provides \$1.6 billion in direct loans and \$872 million in BA for water and wastewater grants and loan subsidy. Within this funding, the Budget targets \$100M in grants for lead pipe replacement. In addition, the Budget includes an increased loan level of \$110 million for the 1% loan risk category, that targets the most rural and poor communities.

Affordable housing has been a long-standing problem for low-income residents in rural communities, one that is exacerbated by low energy efficiency of the aging housing stock which means higher costs to families. To help address this, the Budget includes a new proposal to eliminate the existing low-income borrower penalty that requires individuals to repay subsidy costs for Single-Family Direct loans—a requirement that only exists for rural housing. Ending the “recapture” penalty promotes equity in rural communities, with particular attention to those suffering from systemic racism and other forms of discrimination. In addition, the budget includes the authority to decouple rental assistance from USDA financed properties to help ensure low-income rural tenants in USDA financed properties continue to have access to affordable rents when

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projects reach loan maturity and leave the portfolio. This proposal would allow vouchers when we lose rental assisted properties, but these would be processed by HUD to ensure that USDA is not funding vouchers that can leave rural areas. The Budget also continues the 2023 Budget proposal to require climate smart construction in USDA's rural housing programs. There are also several new legislative changes designed to improve the disposal of Real Estate Owned (REO) properties in shorter time frames and reduce the costs associated with maintaining REO for longer periods; and provide authority to standardize multifamily housing foreclosures across states. The funding in the budget for these housing programs is \$2.2 billion, an increase of \$459 million over 2023 Enacted.

To ensure that all rural communities are made aware of and are encouraged to participate in USDA programs, this budget proposes \$32 million to sustain and expand the Rural Partners Network (RPN) authority. RPN provides targeted training, technical assistance, and outreach to distressed communities in rural America through an all-of-government approach to help rural and Tribal communities access federal funding and resources. This support is allowing for more strategic community engagement, facilitating regional coordination among federal agencies to share best practices, braid federal resources, and foster collaboration with local and State partners. This work follows through a commitment the President made when he came to office – we must invest in America's heartland in a meaningful way. It is critical that we ensure that our rural and Tribal communities can benefit from federal investments as the Biden-Harris Administration delivers unprecedented resources through the American Rescue Plan, Bipartisan Infrastructure Law, and Inflation Reduction Act. We can only expand this innovative work of RPN into more rural communities and additional states if Congress builds on the progress made over the last year and provides additional funding for RPN.

#### ***Supporting Nutrition for the Nation***

USDA's core nutrition programs are the most far-reaching, powerful tools available that ensure all Americans, regardless of race, ethnicity, or background, have access to healthy, affordable food. Across America, one in four individuals is served by one of USDA's 16 nutrition assistance programs over the course of the year. The budget makes strategic investments to advance nutrition security through education and evidence-based interventions, and to support the purchase of nutritious and local foods.

We know that the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) drives better health for infants and more nutritious diets for children, and it is a key tool for addressing disparities in maternal and child health outcomes. WIC serves about half of all babies in the United States. After many years of decreasing participation, WIC participation is now rising across all eligible categories – women, children and infants. Continuing the bipartisan commitment to full funding, the Budget requests \$6.3 billion for WIC to serve an estimated 6.5 million moms, infants, and young children per month in 2024. It also proposes to continue the enhanced Cash Value Benefits through 2024 to provide participants with increased benefits to buy fresh fruits and vegetables which ensures that participating women and children have access to scientific-based recommended levels of fruits and vegetables.

The Supplemental Nutrition Assistance Program (SNAP) stretches the food budget for many low-income people and research shows that participation in SNAP reduces food insecurity and allows families to have healthier diets. The budget request \$122.1 billion for SNAP, a \$32 billion decrease from 2023 primarily due to the expiration of emergency allotment payments that were provided

during fiscal years 2020 through 2022 and the 1.3 million participant decrease projected in enrollment because of a recovering economy. As SNAP monthly benefits decline, USDA anticipates that more eligible Tribal members will choose to participate in the Food Distribution Program on Indian Reservations (FDPIR) over SNAP, as it provides food packages to Indian Tribal Organizations to improve nutrition and provide culturally appropriate sustenance. The budget requests \$165 million in 2024 to fund FDPIR food and administrative costs, which supports participation at pre-pandemic levels.

Child nutrition programs, such as the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Fresh Fruit and Vegetable Program, play a crucial role in ensuring that children receive nutritious meals and snacks that promote health and educational readiness. The meals children receive prepare them for learning, foster healthy eating habits, and safeguard their health with a goal of reducing the number of overweight and obese children. Thanks to the 2023 Omnibus Appropriations Bill, a series of landmark expansions for Child Nutrition Programs are now permanent. This includes establishing a permanent Summer Electronic Benefit Transfer Program for Children (Summer EBT) and adding a rural non-congregate option in the Summer Food Service Program. Thanks to these changes by Congress we know that we will see a permanent and positive impact on how we meet the nutritional needs of children during the summer, greatly improving equitable access to safe, healthy, and nutritious food. The 2024 budget request expands on those important expansions of child nutrition with a legislative proposal that would advance a pathway to free school meals for an additional 9 million school children through increased take up of the Community Eligibility Provision among schools and States. This proposal is expected to cost \$234 million in 2024 and \$15 billion over 10 years. During the COVID-19 pandemic, children had access to free meals resulting from temporary flexibilities provided in the Families First Coronavirus Response Act, and now many States are seeking ways to continue offering free school meals for all students. Offering free meals to all children reduces administrative burden, increases equitable access, reduces the stigma associated with school meal participation, and allows schools to focus on providing the highest quality meals.

The budget funds the child nutrition programs at a level that will allow for the anticipated increases in participation, food cost inflation, and implementation of new legislation. The budget projects serving 5 billion lunches and snacks and 2.6 billion breakfasts in schools, 1.9 billion meals in child and adult care programs, and 182 million meals through the Summer Food Service Program. The increases will strengthen integrity controls, modernize food ordering and inventory management systems, and provide critical staffing to enhance FNS's ability to provide technical assistance and oversight of child nutrition programs.

#### ***Rebuilding USDA through Diversity, Equity, and Inclusion***

Building a better USDA means bringing people of all backgrounds and lived experiences to be a part of a healthy, safe, and inclusive workplace. This includes ensuring we are recruiting the best and the brightest across our great country, and investing in our employees through recognition, wellness programs, and support to our employees. Building a better America is about ensuring all have equal access to USDA opportunities, which demands that we design and implement our policies and programs with our diverse customers at the center. The 2024 budget focuses on building a USDA that is a model employer and great place to work, proposes investments that remove barriers to accessing USDA programs, and addresses historic gaps with respect to who benefits from USDA programming.

It's an honor and a privilege to have the dedicated and talented staff of over 100,000 employees supporting USDA. However, the historic lack of investment throughout the Department over the years has resulted in a decline in staffing that we still struggle to recover from and has meant that we have not had the necessary resources to modernize critical IT systems or make other improvements to the way we do business here in USDA in support of rural Americans. Rebuilding our workplace and workforce right will take time and focus over the course of multiple years, but it couldn't be more important. In addition to the programs that the public relies on and Subcommittee and Congress generously fund, I implore you to also concentrate on the critical needs of organizational abilities and operations management that ensure our staff are properly supported and our programs are delivered efficiently, effectively, and with integrity.

There is currently 13 percent of the USDA workforce that is eligible for retirement and in the next 4 years, another 13 percent will become eligible for retirement. We need to focus on the future of agriculture when rebuilding our workplace. Our workplace needs to remain competitive, and the future of agriculture needs to reflect the diversity across America and fight against historic inequities. USDA is fostering collaboration between State, federal, and tribal partners, land-grant universities, Hispanic-serving institutions, tribal colleges, historically black colleges and universities, and other strategic partners, to connect USDA programs and opportunities with the communities they are intended to serve. Within this budget request, over \$370 million is dedicated to 1890 historically black land-grant colleges and universities, 1994 tribal land grant colleges and universities, and Hispanic-serving institutions. These partnerships with minority serving institutions support capacity building initiatives that bolster education and pathways to employment for students and faculty and help develop a strong pipeline of talented individuals for USDA and USDA partner jobs. These investments in future agricultural leaders will help USDA attract the best and brightest to face the growing challenges of the agricultural economy.

### **Conclusion**

This budget is not a wish list; rather, it is a to do list to fulfill the items that Congress and USDA have been talking about fixing for decades. Moreover, this budget seeks to build the foundation for innovation during this pivotal moment. It gives USDA the set of tools to add to existing capabilities and develop new ways to address the urgent challenges of our time—rebuild from the pandemic, respond to the nutrition insecurity crisis, address the impacts of climate change, invest in research and innovation, strengthen and build new markets and opportunities for farmers and producers, rebuild the rural economy that benefits all Americans, and ensure our services and programs are accessible to everyone. It is a plan for what we need to do to continue to get USDA back on track and to help the U.S. outcompete the rest of the world. USDA needs the support of this Subcommittee and of Congress to make the much-needed investments called for in the President's FY 2024 Budget. I look forward to working with this Subcommittee and to answering any questions you may have about our budget proposals.

## COMMODITY CREDIT CORPORATION

Mr. HARRIS. Thank you very much. And I'll—I'll start the questioning. So let me follow up on the Commodity Credit Corporation. Look. It's great that 80 groups, you know, got together and talked you into—to doing this initiative. But 80 groups is not what the Constitution says is who establishes how we spend dollars and what we do. Shame on us for allowing that discretionary authority. I mean, again, my understanding is you didn't have—the discretionary authority was removed between 2012 and 2017. My opinion, it probably should—removed again because I think that's abusive.

You know, Congress is in session 12 months of the year. If you thought this was such an important program, in my opinion, you should have come to Congress and asked for—and asked to spend on it. I wouldn't have—I wouldn't have agreed to it. I don't think—and maybe we would have. I just think—I just think the program was abused.

Eighty groups, 80 special interest groups, do not run the policy of this country. And that's all—that's all I can say. Congress runs the policy.

Secretary VILSACK. Mr. Chair, Congress is——

Mr. HARRIS. And Congress will speak again on this issue.

Secretary VILSACK. They may very well, but the reality is when they established the Commodity Credit Corporation, they gave the capacity of the department. If you remember the history of this, it is designed to respond to challenges that are faced in agriculture. Climate is a challenge whether you want to agree to it or not. It is a challenge. And these farm groups understand that. And the reality is under—under the Commodity Credit Corporation's charter, we have——

Mr. HARRIS. Mr. Secretary, again——

Secretary VILSACK [continuing]. Every right to do what we did.

Mr. HARRIS. Reclaiming—reclaiming my time. Mr. Secretary, I get it. We put in a loophole that you used. I get it.

Secretary VILSACK. It's not a loophole.

Mr. HARRIS. Shame on us. Mr. Secretary, reclaiming——

Secretary VILSACK. It's in the charter.

## WHITE HOUSE HUNGER CONFERENCE INITIATIVE

Mr. HARRIS. Reclaiming my time. There was no question mark at the end of that. No question mark. OK? Let's talk about your departmental priorities. And the press release on the FY 2024 budget, you promote, in order, farmers aren't—aren't the first—farmers and our producers aren't first. The initiatives set forth by the White House Hunger Conference, climate change, equity, creating more and better markets for agricultural products and making USDA, quote, a great place to work.

I would suggest that your priorities ought to be our farmers and producers, not the initiatives set forth by the White House Hunger Conference. I get it. Look. I get it. Everybody wants to spend more money on everything. And that's what the White House Hunger Conference conclusion was. Climate change equity, all I can say is I don't think you have—I don't think you have the right priorities.

Can you tell us where your—where USDA's core mission of delivering mission-critical services such as field operations and Rural Development, Farm Service Agency and the NRCS falls within your list of priorities because they weren't on that list.

Secretary VILSACK. Every single one of those things that you listed impacts and affects farmers, Mr. Chairman. It does.

Mr. HARRIS. I'll tell you what impacts my farmers. What impacts my farmers whether or not we have—we have an adequate crop insurance program, whether we are controlling their—the cost of their inputs, whether—whether—whether we're setting—which we'll talk a little bit about more. New Grain Inspection Packers and Stockyards Administration (GIPSA) rules which—which will drive—drive these industries offshore. You may disagree with that, Mr. Secretary.

Secretary VILSACK. Farmers are asking for this.

Mr. HARRIS. And we can disagree with that.

Secretary VILSACK. Farmers are asking for the rules, Mr. Chairman. And the reality is one of the reasons we are able to respond to the—

Mr. HARRIS. Mr. Secretary—

Secretary VILSACK. No, this is—you—you—

Mr. HARRIS. —there was no question mark at the end.

Secretary VILSACK. Well—

Mr. HARRIS. I will tell you—I'll tell you what. Let's make a deal. I'll say the word question mark when it's your turn to answer a question.

Secretary VILSACK. No, no. That's not—that's not correct. You can't—because I'm not going to let you make comments and challenge what we are doing at USDA.

Mr. HARRIS. Reclaiming my time. This is my time. You had five minutes.

Secretary VILSACK. It's—

Mr. HARRIS. Now I'm going to give myself additional time because you have been using my time. You had time, Mr. Secretary. This is my time.

Secretary VILSACK. I'm responding—I'm responding to your comments, Mr. Chairman. I don't think they are fair.

Mr. HARRIS. How about responding to my questions?

Secretary VILSACK. Well, ask a question.

Mr. HARRIS. Mr. Secretary, you have the Constitution of the United States backwards. Article 1 is the legislative branch. Article 2 is the executive branch. The executive branch is responsible to the legislative branch, not the other way around.

Secretary VILSACK. I don't see it that way.

Mr. HARRIS. Thank you.

Secretary VILSACK. Separation of powers. We are all—we are equal in our democracy, Mr. Chairman.

Mr. HARRIS. Let's talk about this—let's talk about the SNAP program.

Secretary VILSACK. Happy to.

#### SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

Mr. HARRIS. Your department actually sets dietary guidelines, don't they?—

Secretary VILSACK. In——

Mr. HARRIS. In concert with Health and Human Services (HHS)?

Secretary VILSACK. Yes.

#### DIETARY GUIDELINES

Mr. HARRIS. Question mark. That right? You do. And your dietary guidelines speak to, for instance, the need for—for a diet that will result in lower obesity, less hypertension, less sodium, things like that. Are there any efforts in the SNAP program to restrict what can be purchased on that program to allow for perhaps educating the American public about what constitutes bad food or good food, like the WIC program does, which you also oversee?

Secretary VILSACK. We basically have an education and—education component of SNAP that does just that. We also provide incentives for healthy choices.

Mr. HARRIS. How—what percent of your—of the SNAP budget—the SNAP program payments or utilization of the dollars comes, for instance, for sugary soft drinks?

Secretary VILSACK. I don't know the exact percentage.

Mr. HARRIS. Do you think that would be something that would be important to know if our goal is to actually decrease the amount of added sugar in Americans' diets? And this is the largest supplemental nutrition program that the government runs?

Secretary VILSACK. I think there are many challenges with that notion, and I think it's important to understand what we are not trying to do is to stigmatize people that are struggling financially. We are talking about senior citizens, people with disabilities. You know, that's a—that's a challenge. It's a challenge from a technology standpoint, and it's a challenge in terms of stigma. I think what we are trying to do is make sure that people understand that they—they have the capacity, and we want to give them additional resources and incentives to make the right choices. We want to trust the consumer.

Mr. HARRIS. So we are going to trust the consumer on that, but we are going to issue dietary guidelines; right? So your department says we are going to need dietary guidelines to kind of tell industry because we don't trust the consumer to read a label. We're—we might come down the path where we are going to insist on decreased sodium, but we trust them on the SNAP program. Well, Mr. Secretary, I've got to tell you, to me, this is a huge area of opportunity to improve the nutrition of Americans and to do it through the SNAP program.

Mr. Bishop.

#### COMMODITY CREDIT CORPORATION

Mr. BISHOP. Thank you very much, Mr. Chairman. I thank you, Mr. Secretary, for being here, and I appreciate very much your willingness to answer the questions and to present how you are implementing the statutory and constitutional responsibilities of the Department of Agriculture. So if you would like to elaborate on some of the answers, the comments that you were about to make, you may take a couple of moments of my time to do that.

Secretary VILSACK. Well, I think it's important to understand that the Commodity Credit Corporation was established at a time



of great crisis in this country. And it was established to provide flexibility to the department to be able to respond to challenges. We have a challenge both in terms of climate and in terms of the—the inequity and distribution of profit and income within the agricultural economy.

We can't have 90 percent of our producers not making money or not making the majority of their money from farming operations. So how are you going to do that? What are you going to do for those 90 percent? One way you can help them is by creating a more value-added proposition, creating a different market, a new commodity. And that's essentially what USDA did. And it's essentially what the charter of the Commodity Credit Corporation provides for.

Mr. BISHOP. Is that what the industry was asking for, the farmers?

Secretary VILSACK. The industry. Every major commodity group was begging for this.

Mr. BISHOP. These are the people—

Secretary VILSACK. Begging for this.

Mr. BISHOP.—Who produce our food and fiber?

Secretary VILSACK. Correct. And they are not special interests in my view. They are the people we represent and work for.

#### IMPACTS OF BUDGET CUTS

Mr. BISHOP. Mr. Secretary, there have been proposals put out, and you've heard some of that today that there is overspending and that this budget is bloated, that the—presently submitted. And they want to go back to FY 2022 levels or possibly just cut across the board 22 percent. Would you just share with—with the committee and with the American public some of the impacts that those proposed cuts, 20—going back to FY 2022 or going—reducing it 22 percent. For example, that the Food Safety and Inspection Services, how will that impact the safety of the Americans' food and the food that we eat and the housewives and families get from the grocery store? How will it impact rural development and rural America all across this country? How will it affect conservation? And tell us about the—what happens if we don't look at the impact of climate on our producers as well as our national security?

Secretary VILSACK. Well, let's talk about the—the range of impacts that the cuts might—might—might result in. Take NRCS, for example. If you essentially provide the range of cuts that have been proposed, you are essentially looking at 84,000 producers not being able to access the technical assistance that they need to do the conservation work that they want to do and to take advantage of the conservation programs that we have.

If you talk about food safety, you are talking about literally thousands of food inspectors that would not—we would not be able to continue to have, which would have an impact not only on existing processing facilities but would significantly cripple our ability to expand competition and provide better prices for farmers. If you are talking about rural development, you are talking about rental assistance, and you are talking about nearly 40,000 people losing the opportunity to have the rental assistance that allows them to have a decent home. So, I mean, the reality is that there would be real consequences to these cuts.

Mr. BISHOP. What about nutrition?

Secretary VILSACK. Well, on the nutrition side, it would make it difficult for us to provide WIC benefits for somewhere between 250,000 participants on a monthly basis to over a million. So, I mean, it would have real consequences to real people.

Mr. BISHOP. My time is almost expired, Mr. Secretary, but you have had—you have got a lot of challenges that you have faced at the department. And I want to commend you for your vision and for the positive efforts and strides that you have—are making to try to address these challenges. Our farmers have gotten through a very, very, very difficult time over the last three years. And it is because of the help and our rural communities of the help that they have gotten through the programs that you have been able to finance partially from the CCC and other things that will authorize within the appropriations and the other pieces of legislation that this Congress passed. So I want to commend you for that. And I'll follow up with additional questions in the next round.

Mr. HARRIS. Mr. Moolenaar.

#### UNOBLIGATED HEALTH EMERGENCY FUNDING

Mr. MOOLENAAR. Thank you, Mr. Chairman. Mr. Secretary, thank you for being here and first let me just say, I want to complement my Democratic friends. They have very well-prepared talking points on these kind of an artificial proposal on cuts and I see that, you know, there's kind of a collaboration with the Administration on this as well.

But let me talk about a real budget issue, a real spending issue that I think we could actually really do some good in a bipartisan way.

And that is that the estimates of the unspent, unobligated funds left over from the American Rescue Plan that was designed to be spent during the COVID emergency and they're in different agencies and the federal government. The President and everyone pretty much agrees that we no longer have a health emergency and estimates show anywhere between \$70 billion and \$90 billion of unobligated spending.

And my thought is, and I think it could be a very bipartisan thing, that should go towards debt reduction, not spending these dollars, wasting them in an emergency that no longer exists.

I'm wondering if you could comment on the amount of funding your department, your agency has in unobligated COVID spending?

Secretary VILSACK. We have very little. I don't know where the \$70 billion number comes from, Congressman.

Mr. MOOLENAAR. Well, yeah, it comes from the, just to clarify, the Committee For the Responsible Federal Budget.

Secretary VILSACK. OK. But that, in terms of the departments, I don't know how it's spread among the departments. But we have very little unobligated funds because we have focused our resources on, our major resources—we didn't get a tremendous amount from the American Rescue Plan compared to other departments, but the resources that we did get, we are using to create that more resilient food system.

While the healthcare crisis, per se, is resolved, the resiliency of our food system still remains and requires investment. But we'll be happy to get you the specific number after this hearing.

Mr. MOOLENAAR. Yeah, I would appreciate that.

Secretary VILSACK. Sure.

Mr. MOOLENAAR. Because when I think of unobligated funds that were designed during a health emergency, you know, there are certainly other competing priorities that we would want to spend those dollars on or use it for deficit reduction. And so I would appreciate that. Thank you.

#### RURAL BROADBAND ACCESS

I wanted to talk a little bit about rural broadband. That is a huge issue in my district. The ReConnect Program. You know one of the concerns that has been raised is that there is a goal of helping communities, helping regions who don't have top-notch service, maybe increase that to a better level. And I think that is a worthy goal, but at the same time, there is so many areas that don't have really access at all.

And I am just wondering how you, as a department, look at that? How we can make sure that people who don't have access to the internet has a higher priority than maybe expanding the—improving the current?

Secretary VILSACK. When Congress passed the Bipartisan Infrastructure Bill they basically directed \$65 billion to the issue of broadband access. The resources they provided the Department of Agriculture, about \$1.9 billion were specifically directed to what are called unserved and underserved areas as it relates to the speed of upload and download speeds.

So our resources have been specifically directed by Congress to focus on increasing capacity, so that more than one person in a family can downstream, you know, can stream something at the same time.

So folks don't have to go to a McDonald's parking lot to get their kid's homework. That thing. The Commerce Department and the Federal Communications Commission (FCC) are responsible for the \$63 billion in that Infrastructure Law and that resource is designed to address the problem that you've raised.

And before you can do that, you actually have to have maps, you have to know exactly where the unserved areas are and those resources are going to be funneled through the state governments, because the state governments are on the ground. They know their states better than we'll ever know them, and hopefully they will get those resources allocated very quickly to resolve the problem that you had mentioned.

#### FLAVORED MILK

Mr. MOOLENAAR. OK. Thank you. And just a couple of quick questions on the transitional standards, I guess it would be the dietary standards. The alternatives for the milk standard.

The word alternative, do you mean options or do you mean the proposal aims to include plant-based beverages as milk?

Secretary VILSACK. They're options, in terms of the amount of what we serve and who we serve it to. They're options. It's not about alternatives, as you described it.

Mr. MOOLENAAR. OK. And then both of your proposed options don't remove flavored milk entirely from grades K to 12, is that correct?

Secretary VILSACK. That's correct. And I think you're going to see the dairy industry sort of coalesce around a single option, which would be helpful.

Mr. MOOLENAAR. OK. Thank you.

Mr. Chairman, I yield back.

Mr. HARRIS. Ms. Pingree.

Ms. PINGREE. Thank you very much, Mr. Chair.

Thank you, Mr. Secretary, for being with us. Thank you for your talk. You know, you have had the opportunity to have this position for twice, and thank you for serving. And I know you are experienced and tough and you don't need anyone to defend you, but I do want to say. I know there is going to be some criticism of you today and there already has been, but I just want to tell you how much I appreciate how you handled the USDA during the pandemic.

The things you are talking to us about today are so beneficial to the farmers that I talk to. The fact that you make your primary focus on the income of our farmers, I think we should all be shocked and dismayed at the idea that 10 percent of the farmers in this county are the ones who are making money off the farm.

Virtually every farmer I know works off the farm or has a family member that works off the farm. And the ideas that are coming through with your use of the Commodity Credit Corporation, the proposals that I have seen, the groups that I have met with that are already working across the country to diversify these income streams to do the very things that you are saying, I just think are so critically important.

It is a visionary idea, it is thoughtful, it deals with the challenges. You know, we can talk about climate change, but to a farmer, it is bizarre weather. In my state it is too much rain in June and drought later in the summer and people have to change their whole farming practices to deal with this.

And what you are thinking about is how we deal with that adverse weather. How farmers deal with this lack of income. I'm just really grateful for the way you have been creative about that. I am grateful for what we have learned during the supply chain challenges of the pandemic crisis, and understanding that we need to strengthen our local food processing. We need to do more for our local communities.

I have a lot of small to medium-sized farmers in my state and they need to see more slaughter houses. They need to see more of the things you are talking about. I really appreciate the rules you are putting forward on competition.

If people did not learn that we have too few people in the meat and poultry processing industries, they were not paying attention. And the USDA rules, I think, are really important in competition and we need to continue that very, very critical step.

I also think understanding the challenges people went through the pandemic with hunger, needing more food bank availability, but really needing SNAP benefits. And I can't imagine, I just don't even understand why in the wealthiest country in the nation we would have a single debate about food?

Why would we ever talk about availability of food? Why would we argue and say that people can live and feed their families on \$6 per person per day? It is more than a lot of pay for their morning coffee.

So to be even debating that or trying to make it more restrictive. Trying to keep more people from accessing those programs, I think is unthinkable, it is immoral, it is not the way we should think in this country and we are going to have that debate. It is going to be a huge debate in the Farm Bill and I am sorry that people have to see us do that.

So thank you. I am just saying I think you and the Department are working hard with not enough people. We know we need more boots on the ground for our conservation programs, NRCS, all these things. We need to give you more tools to work with and I appreciate what you have done.

#### PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)

I will just quickly talk about an issue that you know I am going to bring up and that is PFAS contamination. Other people may not have experienced this in their state, but Maine is a leader in understanding that this is contaminating much of our farm land. It is in our drinking water and I know you have been working closely with people on this.

I wanted to bring up one of my constituents, Adam, he and his family have been terribly impacted by PFAS contamination in their farm in Unity, Maine. Their soil, their crops, their drinking water, they're all contaminated.

This is a family who's been working on their farm for a long time, improving their soil, everything else, but their children and they themselves have levels of PFAS in their bodies that are at 99 percent.

We have been working a legislation around this. We put \$5 million in the bill last year for the USDA to address PFAS contamination. This year's request is \$20 million. So you have got a minute and 18 seconds, but I know you are committed to working on this.

How do you think we are going to be able to spend the first \$5 million, and where do you see us starting on this huge challenge?

Secretary VILSACK. I think the first thing is to understand what the extent of the challenge we face. So that's going to require an assessment. NRCS needs to be able to provide that assessment.

We need research, in terms of determining what levels are acceptable in terms of animals, in terms of crops, in terms of people. And that in turn will allow us to determine whether or not and how we would indemnify or protect folks who have been impacted negatively by PFAS.

I don't think we know the full extent of this yet. I'd like to think it's limited to Maine, Michigan, and New Mexico, but I'm concerned that it's not. And so we're going to focus these resources on trying to get an assessment of the overall challenge.

We're going to take a look at creative ways in which we might be able to address problems with contaminated land. It could be the opportunity for Conservation Reserve Program (CRP) to be used. So it really requires assessment, evaluation, research, creating a measure and appropriate standards for what's acceptable and then figuring out how we might be able to help farmers who have been negatively impacted by this.

Ms. PINGREE. Well, thank you for both visiting my state, talking to the farmers, and being willing to talk about this. I too hope that it is confined to just a few states, but certainly other states can learn from our example.

Thank you so much. I yield back.

Mr. HARRIS. Mr. Newhouse.

#### FARM STABILIZATION AND PROTECTION GRANT PROGRAM

Mr. NEWHOUSE. Thank you, Mr. Chairman, Mr. Bishop. Mr. Secretary, thank you for being with us this morning.

I want to say that in my time as serving as director of my Department of Agriculture in the state of Washington and my tenure here as a member of Congress, I have appreciated the understanding of the challenges of rural America that you have brought to the agency.

And even though we might not always agree on every single issue, but I appreciate your dedication to improving the lives of our agricultural producers.

I am someone that one of my priorities has been a stable and legal workforce for American agriculture. Still working on that, but I want to make sure we see that through, so I have a question about the, I think it's called the Farm Stabilization and Protection Pilot Grant Program.

Could you clarify for me the goals and the intent of that program? I have seen the website. It talks about driving US economic recovery, reducing migration, expanding legal pathways, improving working conditions for farm workers.

But just out of curiosity, tell me what the American farmer and rancher is getting for this \$65 million investment and tell me a little bit about the process? Has the Department of Labor been, have you engaged with them regularly in putting together this pilot program? And how much, if any, of the \$65 million has been spent?

Secretary VILSACK. Very little of the \$65 million has been spent, Congressman. What we're really trying to do is to show what the Farmworker Modernization Act would actually be like if it were passed by both the House and the Senate.

The reality is that we need a stable workforce, as you well know, and this would essentially be a pilot that would say, this is how it would work. You would essentially establish folks who are interested in being farm workers who may not live here at this point in time. You basically train them. You make sure that they are prepared to do the job that's necessary, you link them up with a farming operation that needs workers, you explain the circumstances and conditions, working conditions and pay and so forth that they would be working under, and then you essentially link those workers with the farmer who needs the workers, and

you evaluate how well they do and you provide them certainty so they can back to their home country after their work is done.

So it essentially shows how the Farmworker Modernization Act could work. It is really, in my view, an unfortunate circumstance that the Senate did not pass that bill, because farmers now are confronted with a very significant increase in wage levels, because of the H-2A program, which would have been avoided had that law passed.

Mr. NEWHOUSE. People are probably thinking that we talked before this hearing, we did not, but I appreciate the effort there and would be certainly look forward to seeing progress and learning more about what you are doing there.

Secretary VILSACK. You should see something later this spring, Congressman, and I will make sure that our team apprises you of it as it's unfolding.

#### FOREIGN INVESTMENT DISCLOSURE ACT (FIDA)

Mr. NEWHOUSE. Thank you. Something else that is an area, and I think someone else touched on it already, but earlier this year, including myself, a group of, a bipartisan group of members sent you a letter concerning US farmland purchases by foreign entities, referenced an Agripol story that stated that the USDA did not assess penalties for misreporting land purchases.

Got your reply yesterday, so I appreciate that. I am not sure our questions were entirely answered, specifically, so I just wanted to ask a little bit more about that today.

Will you pursue applying retroactive FIDA enforcement penalties for the period of 2015 to 2018?

Secretary VILSACK. We have the power to do that and we've doubled the workforce focused on this issue with the express purpose of taking a look at where we might be able to assess those penalties.

I think the challenge is finding the right balance between the level of penalty that encourages folks to report. As you know, we have no investigative reporting capacity under the law. All we are able to do is to receive information that is voluntarily submitted to us.

And that's a real challenge because you've got over 3,000 county recorder offices around the county. On any given day, somebody is walking into those recorder's offices and is filing a deed.

So we need to think about a process or a system that gives us better input information that would allow us to do a better job of enforcing that particular law, but we are anxious to take a look at retroactive and determine whether or not penalties need to be assessed and if so, what the appropriate level is.

We don't want, with the penalties, to assess them at a level that would discourage and encourage people to try not to report.

Mr. NEWHOUSE. Well, we look forward to working with you to see what we can do to give you the tools you absolutely need so that we have a handle on this entire issue, but appreciate you being here. Gone over my time. Thank you, Mr. Chairman.

Mr. HARRIS. Ms. Underwood.

## CUTS TO WIC

Ms. UNDERWOOD. Thank you, Mr. Chairman. As Secretary Vilsack, thanks for being here with us. It is good to see you again, sir.

As you know, I am the co-founder and co-chair of the Black Maternal Health Caucus and I want to take this opportunity to highlight how vital the WIC program is to addressing the black maternal health crisis and building healthier outcomes for black mothers and their families.

Republican leaders have proposed devastating cuts to WIC as part of other negotiations, leading to between 250,000 to one and a half million moms and babies losing life-saving help to keep their bellies full.

I believe in putting people over politics and I reject these proposed cuts and I understand how critical it is that funding for the WIC Program keeps pace with increasing enrollment.

The Biden Administration's budget invests in the WIC Program so that it can better serve moms and kids. This funding will account for rising enrollment as families face additional needs, and continue to enhance cash value benefit for fruits and vegetables to give them healthier options.

The Biden Administration's request also supports the long-awaited update of the WIC food packages to better align with current nutrition science.

Secretary Vilsack, can you detail for us how these updates and enhancements to the WIC food package will benefit families and how cuts to WIC funding could devastate this progress?

Secretary VILSACK. It provides additional resources for the purchase of fruits and vegetables, which we know are healthy choices for moms and for children. It also allows us to continue the modernization effort that we have underway at WIC where we're essentially trying to make it a little bit easier for folks to certify as a WIC provider. We're trying to make it a little bit easier for folks to actually redeem their WIC benefits by providing online opportunities for both ordering and delivery of those products.

And of course, as you know, we are in the process of analyzing the 30,000 or so comments that we got on the WIC package to be able to finalize that process, hopefully sometime this year.

Ms. UNDERWOOD. I hope my fellow subcommittee members agree with me that we have to protect and increase funding for the WIC Program. We cannot allow hundreds of thousands or potentially even millions of moms and kids to be kicked off of WIC and pushed into waiting lists. This would be unconscionable, especially during this time of higher grocery prices, increased food insecurity, and a worsening maternal health crisis.

## COMBATTING ILLEGAL CHILD LABOR

I want to turn now to another issue affecting children within USDA's purview. Earlier this month at this subcommittee's hearing with USDA Inspector General, I touched on the recent disturbing reports of illegal child labor, much of which has been occurring with migrant children in the food and agriculture sector.



These reports included facilities inspected by USDA's Food Safety and Inspection Service and owned by corporations with which the federal government contracts. I asked Inspector General Fong if her office was looking at the role that USDA does or could play in combating the use of illegal child labor in the food and agricultural sector.

She responded that the Office of Inspector General (OIG) has been following recent reporting closely and that the issue of USDA's role here bears some further thought on the agency's part.

So Mr. Secretary, I will now ask you. Has USDA taken any steps to examine how it might work with the Department of Labor and Health & Human Services to do more to combat the use of illegal child labor, particularly in facilities or work sites where USDA has a presence?

Secretary VILSACK. I've had opportunities to have conversations with officials from the Department of Labor on this issue, and in fact, we're issuing, today, a letter to the industry to encourage them to be on the lookout for the contractors that they use, in terms of cleaning and so forth, to make sure that they are fully aware of the nature of the contractors that they're using to ensure that we are not supporting the illegal use of child labor.

Ms. UNDERWOOD. Well, I hope that USDA will continue to examine this issue. It seems to me that if we have a federal employee on a worksite and it is clear that there is an illegal child labor engagement happening, that that federal worker, from your Department, would feel empowered to issue a report or a referral.

And I think some clear guidance from you to your staff would go a long way in giving our committee the confidence that the federal workforce is partnering with us to protect these vulnerable children.

I stated it previously that it is far past time that Congress act to strengthen child labor laws and protect vulnerable children from exploitive labor practices, but we have to do all that we can right now. Right? Legislation takes time, sir, you know this, but we need an all of government approach to keep these kids safe and that must include both USDA and this committee.

Mr. Chairman, I yield back.

Mr. HARRIS. Mr. Cline.

#### PACKERS AND STOCKYARDS ACT RULES

Mr. CLINE. Thank you, Mr. Chairman. Thank you, Mr. Secretary for being here. The USDA has proposed several rules that disregard the Packers and Stockyards Act. The well-established precedent set in the eighth federal appellate circuit.

I have major concerns for my constituents about these rules, which the Department has promoted under its competition agenda, which you announced two years ago were three rules that Congress has historically opposed. Why are these rules not being released all together? Knowing how closely linked they are, it is nearly impossible to evaluate the impacts of them independently?

Secretary VILSACK. Well, it takes time to formulate them, and I think people are making assumptions about what these rules are or are not. I mean, let's take a look at what we've actually filed.

We filed a rule that asks for greater transparency. We think producers ought to be able to know a little bit about who they're doing business with. They ought to know whether or not that integrator is financially solvent, and that's the reason why we put the Transparency Rule out.

We also think that if there are circumstances where individuals have been retaliated against or discriminated against, that they ought to have a recourse under the packers and stockyards to be able to get some measure of justice.

They'll be additional rules that we'll continue to be filing, but we're on them, Congressman.

Mr. CLINE. OK. Well, years ago similar rules were established that cost the US chicken industry alone over \$1.4 billion in first few years of implementation. The Department is now estimating these rules to cost pennies on the dollar.

Why is your estimate so low and why wasn't a thorough economic analysis included?

Secretary VILSACK. A thorough economic analysis has been included. It doesn't cost a great deal to ask people for greater transparency.

Mr. CLINE. How could legal costs and potential lawsuits not be included in any of the costs estimates? Because you know there will be.

Secretary VILSACK. Actually, we have some of the major chicken processing companies agreeing to these provisions. Cargill recently, in their merger, agreed to embrace this and I think we just recently had another major poultry processing company say, we're all for the transparency. We understand why you're asking for it.

#### AVIAN INFLUENZA

Mr. CLINE. Avian influenza's impacting the poultry industry in many parts of the country and as a result increasing prices Americans are paying at the grocery store for eggs. How is the USDA assisting poultry producers to ensure that they have the resources they need to respond to disease threats like avian influenza and recover their operations in the instance they must depopulate their flock?

Secretary VILSACK. We've allocated initially \$800 million from the Commodity Credit Corporation. Those resources are being used, first, to aid in the detection of high path avian influence.

Secondly, to be able to assist farms in depopulating their flocks and disposing of them properly. And third, basically providing for cleanup services to decontaminate the facilities and then to provide some indemnity for the birds that have been lost, so that farmers can get back in business as quickly as possible.

#### RECONNECT PROGRAM

Mr. CLINE. Many parts of my district, that is the Sixth District of Virginia, are very rural and do not have adequate broadband service, do not have any broadband service.

So I want to follow up on Mr. Moolenaar's question. The current round four of ReConnect allows funding to go to areas that have broadband service below 120 speeds, but apparently you are supporting using ReConnect funding to increase speeds of existing net-

works instead of funding construction where no networks currently exist.

Will you commit to us that unserved areas remain the top priority for ReConnect funding?

Secretary VILSACK. Unserved has an interesting definition in the connection of the ReConnect Program. Unserved means facilities that are currently, like Digital Subscriber Line (DSL). That is an area that has DSL is considered to be unserved because the download and upload speeds are fairly slow.

The portion, and Congress has directed us to focus on those areas with the ReConnect Program. It's the FCC and the Commerce Department that is responding to the unserved areas, as you've defined it.

Mr. CLINE. OK.

Secretary VILSACK. And that's why they want to work with the states. That's why they need mapping. They need to know exactly what we're doing first so that they know where we're working.

Mr. CLINE. OK.

Secretary VILSACK. Where there is service. So it's going to happen, sir, but it's not—it's not in our purview to do this. It's the Commerce Department and the FCC.

Mr. CLINE. Thank you. I yield my remaining time to the Chairman.

#### STATE COST SHARE FOR WIC

Mr. HARRIS. Thank you very much. A quick follow up on the WIC, because there's no proposal that I know, a specific proposal by the Republican Conference to cut WIC. I don't know why, I get the talking point. I understand the strawman argument. I get the whole thing.

Let me ask you two very brief questions about WIC. What is the state co-pay on administrative costs and what is the percent of administrative costs of the entire program?

Secretary VILSACK. I don't know the answer to that question as I sit here.

Mr. HARRIS. Can you get back to us?

Secretary VILSACK. Sure.

Mr. HARRIS. Do you know what the—is there a state cost share in WIC? Is there a state cost share in WIC at all?

Secretary VILSACK. I don't believe there is, but I could be wrong.

Mr. HARRIS. OK. If you would get back to me, I appreciate that.

Ms. Kaptur.

#### GREAT LAKES WATERSHED CONSERVATION

Ms. KAPTUR. Thank you, Mr. Chairman. I really look forward to coming to this hearing and being able to welcome back Secretary Vilsack. I have great respect for your work. Thank you for all the effort you put forward for our country and certainly for our farmers.

I love your focus on farm income. Where I come from, in the Great Lakes Watershed, I share that concern, and I represent the largest watershed in the Great Lakes, as you well know. You have travelled to our region in the past and I represent the most tiled

watershed in the country. When it rains, the water just rushes into Lake Erie.

I live in a mud puddle. It is abundant. It is precious. We have two million people and 20 million animals in that watershed. I am looking for more sophisticated management of this watershed as are our farmers, both large and small.

We need help with regenerative soils. We have plenty of data to show, and that is a long story, about what is happening, but we have significant nutrient runoff and we need help in managing this bowl with the added rainfall we are experiencing. It is a real problem.

And it is an asset, in some ways, but we are not engineered to deal with this new world in which we are living, and I don't want to see our farmers fail. So that is, I just wanted to highlight those issues for you. I don't have a question there.

But I am even tempted to write a Great Lake's title to the new farm bill because I am so worried about what is happening and our farmers share my view.

#### FOOD BANK AND SCHOOL PURCHASING AGREEMENTS

Number two, I am very interested and supportive of your efforts to try to connect some of USDA's power to helping our local farmers be able to sell locally, as well as what you are talking about, process more of some of their production to a higher value products.

I would recommend that your staff look at the Center for Innovative Food Technology, which I think is the greatest launchpad in my little part of the country. They have created, through an organization called the Center for Innovative Food Technology, Willy's Salsa, Gertie's Bar-b-que Sauce, Beer cheese, and all kinds of soups and so much more and helping bring farmers more income and getting the help they need to move their product to market.

I also wanted to mention anything more you could do to use USDA's power? For instance, in the commodities that go out to our food banks and so forth, to help our food bank directors directly contract with farmers?

So we know we are going to need cabbage. We know we are going to need potatoes. We know hungry people need food, but help empower our food bank directors to connect to our local farmers, because guess who's the major contributor to our food banks? Local farmers. And many of them live right at the edge.

So I think some USDA's programs can be reconfigured in a way to pay attention to helping restore, because of our concentrated food system, some of the market share that our local farmers have experienced.

So I just wanted to mention those concerns. If you want a copy—if you want to comment on any of them, I would welcome them. And also for Congressman Newhouse, I share your concern about labor because I represent huge green houses, including in the cities, controlled environmental agricultural facilities and many nurseries, gigantic. Hundreds and hundreds and hundreds of acres. They can't get workers. We must do something.

I tried to do that 30 years ago, as member of Congress when George Bush was president and we could never work it out. I went

down to Mexico and everything else. We truly need some pilot programs. Please, if you start them, use my region. We could use them now.

Secretary VILSACK. Representative we have 77 local purchasing agreements with states and local communities to encourage food banks, the purchasing of food bank food and the school foods from local purchasing.

So that's already being done at USDA, by virtue of the resources that you all provided through the American Rescue Plan. That's connecting food banks and schools to local purchasing.

Ms. KAPTUR. Sir, under who is that happening? Who?

Secretary VILSACK. It's under Market and Regulatory Programs (MRP). It's MRP. It's part, several aspects of this, but one of them is the Farm to School Program, which you're well aware of.

Ms. KAPTUR. Yes.

Secretary VILSACK. There's also a local purchasing agreement program. On the Great Lakes we have—

Ms. KAPTUR. Mr. Secretary, focus on urban areas there also.

Secretary VILSACK. No. These are focused on urban areas.

Ms. KAPTUR. OK.

#### GREAT LAKES WATERSHED CONSERVATION

Secretary VILSACK. And then secondly, on the Great Lakes, we have, as you perhaps know, we have the Rural Conservation Partnership Program, RCPP. That's basically, we have put resources into the Great Lakes and will continue, I'm sure, to do so on the conservation side.

Ms. KAPTUR. Got a long way to go.

Secretary VILSACK. Well, no question about it, but we're working on it.

Ms. KAPTUR. Thank you.

Mr. HARRIS. Ms. Hinson.

Ms. HINSON. Thank you, Mr. Chairman.

#### TRADE TARIFF REDUCTION

Good morning, Secretary Vilsack. It is nice to be with a fellow Iowan here. I appreciate the work that you are doing at USDA to continue to serve American farmers, ranchers, and our rural communities, which has been, obviously, a big topic of discussion.

I want to start with a topic that is top of mind for so many Iowa farmers and that is trade. Iowa is the second largest exporter of agricultural commodities. The number is over \$10 billion every year.

And last week in a hearing with the Senate Finance Committee, U.S. trade rep, Catherine Tai confirmed that tariff reductions is not a part of the trade agenda for the Biden Administration.

China and the European Union (EU) are certainly taking a different approach. So my question is, knowing that you do agree that trade is so important to the health of our industry and Iowa's producers, how can USDA continue to leverage trade promotion programs to make sure that our American agriculture is competitive with some of these foreign entities and foreign competitors, for lack of a better phrasing?

Secretary VILSACK. We've actually had some success in trade reduction, tariff reductions. Tariff reductions and an expansion of the

safeguard in Japan has led to more beef exports. Tariff reductions on corn, wheat, and frozen pork in Vietnam. Tariff reductions in the Philippines for corn, pork, and poultry. Tariff reductions to expand opportunities and blending requirements for expansion of ethanol in Panama.

Expanded poultry access in the Middle East and even cherries access in India. So there's been a concerted effort to try to look at individual opportunities to reduce barriers, which we've done. About \$15 billion in new preserve market access in the last couple of years, which is one of the reasons why we've had record export years.

To answer specifically your question. It's about people, presence, and promotion, more trade missions. We now have seven lined up this year. That's an opportunity for us to go, our companies go, our farmers go, our Ag Commissioners and Secretaries go to these countries and they promote US product.

We're also working with the U.S. Trade Representatives (USTR) Office and the IndoPacific framework, economic framework. There's a trade pillar, as you well know, and we are anxious and interested in working with USTR to make sure that that trade pillar ultimately opens up more opportunities, especially in India.

So there's a lot of work being done and I would say, the other thing is that we're attempting to make sure that if we have a trade agreement, that we actually enforce it, which is why we are talking Mexico and Canada——

Ms. HINSON. That's my next question is——

#### UNITED STATES–MEXICO–CANADA AGREEMENT (USMCA)

Secretary VILSACK. Under USMCA.

Ms. HINSON [continuing]. The work that you're doing with bio-engineered corn and the challenges with Mexico. Because obviously they need to fulfill their end of the deal there. So can you kind of give an update on the work that you are doing in that space to hold them accountable to the deal that they made under USMCA, so they are following through, so that our producers have that market?

Secretary VILSACK. Right. It starts—the market is currently still in play. They're still purchasing the yellow corn. There is an issue with white corn, but there is still—99 percent of what we sell to them, 96 percent of what we sell them to is yellow corn.

They're still purchasing yellow corn at pretty significant clips because their livestock industry needs it. We have started the consultation process, which is the first step. There are series of steps under USMCA——

Ms. HINSON. For the challenge process?

Secretary VILSACK. The expectation is that we will go through the entire process and ultimately compel them to reverse this decree, because it goes to the fundamental aspect of our trade policy, which is we believe in a science-based regulatory system.

If you inject culture, if you inject other non-scientific issues into that relationship, you don't have a relationship. And so it's really, really important that we continue to push this.

Our Canadian friends, we've now gone to the second consultation on dairy.

Ms. HINSON. And please continue to hold them to those—put their feet to the fire—

Secretary VILSACK. That's the intent.

Ms. HINSON [continuing]. Because ultimately, that is the livelihood of Americans on the lines, truly. And I would also encourage you to continue to prioritizing, if you would be willing to follow up with a list of the places where you have found good ground in reducing tariffs, I think if you could share that list with my staff, that would be helpful so that we know kind of where the work has happened in that space.

#### AVIAN INFLUENZA

And I know there has already been a conversation today about Avian influenza as well and you mentioned CCC and the role there in using some of those resources. What do you see as the most major challenges in battling that going forward, both for our producers and with the programs that you have in place?

Secretary VILSACK. Unfortunately, I don't think it's going to be episodic. I think it's going to be more of a constant threat that we deal with. So I think there are three issues.

One, we're working with the industry to make sure that they have biosecurity plans in place and that those plans are implemented. And I think we've seen success from the way things unfolded in 2014, to the way they're unfolding now.

There are a lot of backyard problems, which we're going to continue to have, but the commercial operations have done a pretty good job of trying to contain this.

So first, biosecurity and implementation. Secondly, taking a look at the design of these facilities, in terms of air flow, to make sure that we minimize the risk of transition and transmission, and then finally, continued work on vaccines.

We're not anywhere near where we need to be, if you will, we don't have a solid vaccine today. We have a number of options, a number of opportunities, but even if we got a vaccine, we don't have a commercial producer of that vaccine and we don't have international acceptance of the notion of vaccination.

Ms. HINSON. That could put our markets at risk, obviously, for (inaudible).

Secretary VILSACK. Right. Right. So we have significant work to do, but eventually, you know, hopefully we get to a point where we provide some degree of response.

Ms. HINSON. Thank you, Mr. Secretary. I yield back.

Mr. HARRIS. Thank you. We have the honor of our full committee Ranking Member, Ms. DeLauro here. So Ms. DeLauro, you are recognized.

Ms. DELAURO. Thank you very much, Mr. Chairman and welcome Mr. Secretary. And I want to just say a thank you to you for your commitment to this area and what you have been doing as Secretary of Department of Agriculture, but it is a life-long commitment to what happens in rural America. What is happening to our children, in terms of the food that they eat, the access to the food that they eat, and to others as well. We can't thank you enough, really, for your commitment to these efforts and all that is encom-

passed, really in the Department of Agriculture, which is about housing, and farmland, and food safety, and all of these areas.

It really is an extraordinary portfolio and we thank you for the great job that you are doing at it. Let me mention, because it was mentioned when I came in. My apologies for being late. This schedule is crazy.

But I heard, I thought, that there hasn't been any Republican Conference on any particularly a cut to WIC, which is 1.2 million women, infants, and children being jettisoned from the WIC Program, but the fact that of the matter is, that in the absence of a budget that lays out a blueprint from our colleagues, some of our colleagues on the other side of the aisle, what we do know for a fact, and it has been verified, especially in the last several days, that what we will look to is taking the 2024 government funding and applying 2022 numbers.

That has an effect and it has a serious effect and consequences as you put forth in the letter that you sent us telling us where the cuts are.

#### RESEARCH AND DEVELOPMENT (R&D)

I want to ask a research question first, but I am going to come back to this because with the—I was here, Mr. Secretary, when you came in when the government was shut down and we talked about food safety, we talked about FSIS, and you talked specifically about the furloughs, who was going to be let go, what was going to happen to the industry, because we inspect on a daily basis.

And that is the same thing, in my view, that we are looking at and I would like to expound on that. But let me ask you this. The work of USDA, scientists, researchers touch the lives of all Americans.

Farm, field, kitchen table, the challenges that face agricultural natural resource, conservations, are immense and they can be really addressed through the robust research that you all do and the educational programs. Other countries have surpassed us in US and agricultural research funding. According to the USDA's Economic Research Service, China has become the largest funder of agricultural R&D after 2011.

2015, China was spending more than \$10 billion annually on agricultural R&D. That level of spending was roughly twice that of the US in 2015, and nearly quintuple that of China's own R&D spending in 2000.

Talk about the funding cuts back to Fiscal Year 2022, those levels and the impact on USDA's research and how that lack of investment keeps us from competing globally?

Secretary VILSACK. Well, we have historically underfunded agricultural research as it relates to other areas of research, both in the federal government. We were basically relying on the private sector to do most of that research.

The problem with that, Representative DeLauro, is that essentially farmers end up having to pay for that research, because when it's—obviously when private sector does it, they are entitled to profit from their research. That is what costs, in part, increased cost of seed for example. So as we transition and ask the private sector to do more, we have to understand there's a cost associated



with that and farmers end up bearing that cost. We just recently did a seed report that sort of talked about this.

It also has, potentially, a stifling impact on innovation, which farmers need. We've tried a number of different ways to deal with this. With your help we got the Foundation for Food and Agriculture, which is a private foundation set up, and they're doing good work. They're leveraging our resources.

That's part of the reason why we're doing the climate smart commodity effort is we're going to get a lot of information from that and there's a leveraging of resources, federal resources, to be able to get the benefit of that effort.

But the reality is, we've got to get more serious in this country about investing in research. We have to continue to produce more with less.

The reality is we're going to have less water, we're going to have more inclement weather, we're going to have more severe storms, we're going to have longer droughts, we're going to have pests and diseases that we don't even know about today because of the changing climate, and we have got to be one step ahead of all that.

The only way you can be one step ahead of it is through research.

Ms. DELAURO. Thank you. And as you said, we tried to address that issue in some way, but we have now found that—and if we go backwards, then we will further remove ourselves from competition, in terms of particularly of China.

Will there be a second round, Mr. Chair?

Mr. HARRIS. There might be a lightening round.

Ms. DELAURO. Let's go for it. OK. Thank you. I yield back.

Mr. HARRIS. Mr. Franklin.

#### DISASTER BLOCK GRANTS

Mr. FRANKLIN. Thank you, Mr. Chairman. Thank you, Mr. Secretary for being here with USDA. I represent Florida's 18th district in Central Florida. We're the largest ag district now east of the Mississippi. Within our district we grow all sorts of things, but we have got 70 percent of Florida citrus crop. Last October Hurricane Ian, as you know, really wracked our state, caused over \$1 billion of damage to the ag industry according to University of Florida estimates. 90 percent of our citrus crop was destroyed. There is not much you can do with the 10 percent remaining. It is not even cost-effective to pick a lot of the fruit that is remaining. You were down in our district a couple weeks ago in Bartow, and I appreciate you spending time down there.

Back following Hurricane Irma in 2018 Congress gave USDA the authority to issue block grants to states to assist with those recovery efforts. Many of the growers I have spoken with absolutely cite that program with their ability to save their groves and get back on their feet again. Three weeks ago we had USDA Inspector General Fong here. I asked her the question about the efficacy of those programs. She said historically those have been very successful in helping folks get money quickly to get back on their feet again.

## EMERGENCY RELIEF PROGRAM (ERP)

Back in December we passed a huge omnibus bill. Included among that Congress appropriated 3.7 billion to extend USDA's Emergency Relief Program to assist producers who experienced losses in 2022. Not crop insurance. Obviously that is a different program, a different pot of money. Unfortunately in this omnibus bill there was no language specifically authorizing the use of those block grants. Don't know if that was just an oversight in trying to get that thing crafted and out the door or not, but we worked with your staff a couple months ago trying to figure out how we could interpret the language to see if it could be construed that way. It wasn't ultimately. We didn't think so.

## DISASTER BLOCK GRANTS

So we proceeded then to create a bill, the Block Grant Assistance Program Act of 2023. I have got 27 of 28 members of our Florida delegation on that. Both of our senators have a companion bill in the Senate. We are trying to get that pushed through. Ag Committee Chairman Thompson is supportive of it. We have just got a lot of other initiatives we are trying to get out the door. My question—there actually is a question here—if Congress gives USDA the authority, will you commit to working with our producers to get that block grant program up and going?

Secretary VILSACK. Sure.

Mr. FRANKLIN. OK. We are hoping we can get that done soon. Absent that—and I have learned quickly enough here it is hard to get things done a lot of times. When I talked to Undersecretary Bonnie back in January and we were trying to figure out if there was language there he said, you know, We will do what we can, and if there are creative other ways we will try to find ways to find some money to assist." Could you comment on what those might be in absence of getting that language?

Secretary VILSACK. Well, I think you have got a bigger problem.

Mr. FRANKLIN. OK.

Secretary VILSACK. And the problem is that the first iteration of disaster assistance, ad hoc disaster assistance, for 2020 and 2021 was \$10 billion. This is \$3.3 billion. So I think you are going to find that there is a significant delta between the demand and the need and the amount of money that has been appropriated. So the reality is it is not likely to make any farmer whole in the sense of providing assistance and help.

Mr. FRANKLIN. Right.

## EMERGENCY RELIEF PROGRAM

Secretary VILSACK. We have looked at ways in which we can try to get disaster assistance out more quickly. That is why we established a prefilled application process for farmers with the ERP program. We ended up saving farmers about a million hours of time, and we got the checks out in the mail within two weeks of the applications being submitted. So the goal here is to try to get the resources out as quickly as possible and use all of the information that we have available to us to make it easy on the farmer.

Mr. FRANKLIN. So how much of that \$3.7 that was appropriated has actually gone out the door?

Secretary VILSACK. Well, we are still in the process of completing the process on the ERP for 2020 and 2021. Until June folks have the ability to submit information. We haven't been able to put out the resources for 2022 because we haven't fully completed collection of the crop insurance information and Non-Insured Crop Assistance Program (NAP) information from 2022. We need that in order to prefill the application in order to be able to get people resources as quickly as possible. The previous process basically there was months of time between the time the farmer would apply and the time they got the money. We are condensing it into weeks.

Mr. FRANKLIN. OK. Well, we are now six months past the storm.

Secretary VILSACK. You can't issue checks to all of the farmers, not just the Florida farmers but the farmers in the West who have had drought, who have had smoke damage. I mean, there are a lot of people who have suffered serious problems which is why we are concerned that the \$3 billion is not going to be able to meet all of the demand.

#### STAFF LEVELS

Mr. FRANKLIN. Well, a lot of concern my folks have, too, though, and in your opening testimony you were talking about the need for more employees. The feedback I am hearing from our folks is you don't have the folks in your offices that were there prior to COVID. I don't know if we got folks still teleworking or what the situation is, but we often have phones that go unanswered because the people who they used to call aren't there answering the phones anymore.

Secretary VILSACK. Let us be clear about this. Because I am the first Secretary ever to come back to this job I knew how many people worked for the Department of Agriculture when I left, and I know how many people work for the Department when I came back. There were 6,500 fewer people working for the Department when I came back. So we are in the process of trying to rebuild the workforce number one. Number two, we track the work that is being done. Loans are being—there hasn't been a drop-off in terms of the service to folks.

In fact, I think our people if the FSA offices have done a remarkable job getting all of the disaster relief assistance out, getting the loans out, getting the CRP efforts out. They have really stepped up. I am happy—if you want to give me a specific office, I am happy to have our folks take a look at that particular office. Happy to do that.

Mr. FRANKLIN. We can do that because that is honestly not the feedback I am receiving. Mr. Chairman, I yield back.

Mr. HARRIS. Ms. Letlow.

#### ON-FARM STORED COMMODITIES

Ms. LETLOW. Thank you, Mr. Chairman. Thank you, Mr. Secretary for being here. Bear with me as I get through this timeline because I have serious concerns with the implementation of the ERP as it relates to on-farm stored commodities.

Hurricanes and extreme weather dealt a hard blow to Louisiana farmers in 2020 and 2021. Farm families in my district were deeply impacted as torrential rains, rising waters and hurricane force wind destroyed harvested crops and on-farm storage. In September 2021, Congress passed a continuing resolution, an emergency assistance measure that provided relief to farmers for losses sustained in 2020 and 2021. This language specifically directed the USDA to cover losses associated with on-farm stored commodities. Then in May 2022, USDA finally issued a Notice of Funding Availability and rules for Phase 1 of the ERP.

However, this program was placed on a plus-up of crop insurance indemnities for crops lost in the field. Because of Louisiana's growing season several crops like rice and soybeans had already been harvested and damaged in on-farm storage. They were no longer insurable under the Federal Crop Insurance Program, and on-farm stored commodities was specifically spelled out in statutory directive for this reason. Members of Congress, producers and stakeholders were given firm assurance that those losses would be covered in the broader Phase 2 of ERP to assess crop by crop losses that were more complicated or required additional documentation, and on January 11, 2023, the USDA released the final rule for ERP Phase 2.

Unfortunately, there appears to be no provision for on-farm stored commodity losses, and I have grave concerns that USDA is seeking to roll these losses with other losses that USDA intends to measure from tax records. I do not believe this is a viable substitute for my producers and falls well short of the congressional directive given in the fiscal year 2022 continuing resolution and emergency assistance. I sent a letter to you on January 25, 2023 addressing this exact issue. It was not until this week just a day before you were set to testify today that my office received a response.

This response confirmed my concerns, Mr. Secretary, that every specific direction Congress gave USDA on what should be covered in the disaster relief funding USDA has taken a one size fits all approach lumping their coverage of these specific issues into a Schedule F reporting model.

My question is this: Does USDA believe they have met Congress's intent through ERP, and when we will see direct relief to those who suffered losses to on-farm storage for 2020 and 2021?

Secretary VILSACK. We believe we have, Congresswoman. And as I indicated in response to Congressman Franklin's question we are in this process of still collecting information from people who did not have crop insurance, didn't have NAP coverage. These are folks who are really on the edge. They have until June to submit information. Once we get that information the applications will be able to determine how much of the remaining resources are going to be distributed. There may very well be a third round of ERP for 2020 and 2021, and we are more than happy to take a look at the storage issue. I will take that back to our team and ask them to take a look at that.

Ms. LETLOW. Do you believe that the Schedule F is a comprehensive tool?

Secretary VILSACK. Well, the challenge here is we are moving from a production model which, basically, focuses on large-scale producing operations to a revenue model where is more aligned for assisting small and midsize operations that don't have crop insurance, that don't have the capacity to have—these are very, very small producers that are on the edge. So we are asking for information that is not dissimilar to what we asked for with adjusted gross income so we can determine whether or not limitations are applied.

This is not an onerous request that we are making. It is a revenue focus as opposed to a production focus. And the reason it is a revenue focus is we think it will help those small and midsize producers more efficiently and more effectively with disaster assistance.

Ms. LETLOW. All right. Thank you. I yield back my remaining time to the chairman.

Mr. HARRIS. Thank you. And thanks for yielding back. We are going to have to go into a final round. I believe they are on the last amendment debate right now, so I think we are going to have enough to have two minutes per person if we can keep to that. I apologize, Mr. Secretary. We are going to have to limit the time to two minutes on this last round. I will recognize myself first.

#### FACILITIES MODERNIZATION

Just following up on one of Mr. Franklin's questions about this idea of remote work and telework, I mean, the budget includes \$47 million to modernize the buildings here, but my understanding is that you can kind of hear a pin drop in them. There just aren't a whole lot of employees centrally, and you make the point that look, as long as productivity is the same we live in a different world. That might be the model for the future, but why will it be necessary to do this if we actually have very few workers physically in these facilities?

Secretary VILSACK. Well, the modernization we are talking about is, basically, moving to a cloud based system. It is essentially stepping up our technology capacities. When I got this job first, I asked to send an email to all of our employees. I was told I couldn't do that. I had to send 17 emails because we had 17 systems, Mr. Chairman. We are still working on this.

Mr. HARRIS. Wow.

Secretary VILSACK. OK. And it is as frustrating to me as I am sure it is to you.

#### NEW HIRES

Mr. HARRIS. Absolutely. No question about it. Now, your budget does request to hire 4,700 new employees. What percent of those would be remote employees or telework employees? Do you know?

Secretary VILSACK. Well, those folks would all be subject to the telework policy that we have established, so in a sense I guess all of them in that sense. But the reality is many of those people that were asking to be hired are NRCS folks, and NRCS folks are on the ground. They are working out on the field. We have a huge backlog. We have over 100,000 applications for conservation that we need to address. We need more people.

## SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

Mr. HARRIS. Great. Thank you very much. And finally, with regards to the SNAP program—I asked you about the WIC program—there is no cost share for the states in the SNAP program, right? I mean, there is a cost share on administrative but not on the benefit itself. Is that right?

Secretary VILSACK. That is correct.

Mr. HARRIS. So in contrast to Medicaid, which is important. It is healthcare. The states in traditional Medicaid have an average 44 percent cost share. The math is 56 percent average. Again I think one of the ways that we can solve some of our budget crisis is to actually have the states start paying part of their fair share for these programs that they think are so important, benefits the citizens in their state. And if we apply an Federal Medical Assistance Percentage (FMAP) based on the economic FMAP just like we have for Medicaid it would not disadvantage those states that are poor.

Mr. Bishop.

## CLIMATE AND FOOD SECURITY AND EQUITY

Mr. BISHOP. Thank you. I know this is a lightning round, but Mr. Secretary there were questions about priorities and the climate change issue and equity were raised why are those priorities. I know that nearly 80 percent of the Western region experienced a drought, wildfires, 7.6 million acres of forest land. We have had flooding, record snow. All of those areas across the country have been devastated, and of course the scientists all said it is related to climate change.

Can you tell us why it is so important that we put the climate efforts into the Department of Agriculture? What does that mean to everyday Americans? And the other question is what does it mean to everyday Americans—why should equity in the Department of Agriculture be put forth as a priority as the department has done?

Secretary VILSACK. Climate is directly related to food security, and food security is directly related to national security. If we have people who are fed, we have got a stronger democracy, and if we can't produce our own food then we have to rely on others. We are fortunate today we don't have to do that. We are not China that has to rely on us for their food. So I think it has to do with national security and food security.

In terms of equity, clearly we have had a history at USDA, as you well know, but it is also about making sure that we reduce the number of program complaints and Equal Employment Opportunity Commission (EEOC) complaints which are time-consuming and expensive. It is about a fair, better place to work. It is about recruiting people and retaining a workforce. One of the challenges we have is retaining our workforce. It is about a workforce that reflects the diversity of America that we serve.

So there are a multitude of reasons why this is an important issue for us whether it is our history, whether it is our recruiting efforts or whether it is just, basically, trying to be a better steward of the resources so that we are not paying resources out because somebody has been discriminated against in terms of our programs.

Mr. BISHOP. Thank you. I think my time is expired.

Mr. HARRIS. Thank you very much. Mr. Newhouse.

#### TRADE PROMOTION AUTHORITY

Mr. NEWHOUSE. Thank you, Mr. Chairman. Mr. Secretary, while I was as director I took several trade missions, accompanied the governor primarily to the Pacific Rim. Trade is very important to the state of Washington, and I have been working to increase, bolster the market access programs and other things. Talk about the Indo-Pacific framework which is just a framework truly based on a handshake. Shouldn't the administration and Congress be more focused on reauthorizing TPA, Trade Promotion Authority?

Secretary VILSACK. Well, I am not sure—has there been a bill proposed by a member of Congress that has been filed? I don't know if there has.

Mr. NEWHOUSE. Just that question. Wouldn't that be a more effective—

Secretary VILSACK. Well, the Trade Promotion Authority? Well, obviously, Trade Promotion Authority is a precondition to getting any trade agreement through, but the reality is the problem in America today is that there are not enough Americans who trust trade. It may very well be that in the agriculture space people understand the importance of trade because we have enjoyed a surplus for many, many years, but the reality is that in many other industries that is not the perception of trade.

So I think we have to rebuild the trust in trade, and the way we do that in part is by educating people about the importance of it and the jobs that are created from it and also making sure when we do have a trade agreement we enforce it.

#### CROP PROTECTION TOOLS

Mr. NEWHOUSE. Thank you. And then real quickly, I am really concerned about the continued availability of crop protection tools. I am asking you to commit to working with Congress and regulators to truly stand by sound science so that we can make sure that as federal regulators make sure states don't undercut that, rely on contradictory science to perhaps issues conflicting label requirements.

Secretary VILSACK. We make every effort in our relationship with Environmental Protection Agency (EPA) to focus on sound science. That is sort of our polestar.

Mr. NEWHOUSE. I heard you say that before. I appreciate that commitment. Thank you, Mr. Chairman.

Mr. HARRIS. Ms. DeLauro.

#### IMPACT OF PROPOSED BUDGET CUTS ON RENTAL ASSISTANCE

Ms. DELAURO. Thank you, Mr. Chairman. Just a quick point. If we want to increase our revenues and save ourselves some money, what we ought to do is to make sure that we are enforcing our tax laws when it comes to corporations who pay no taxes instead of going after critical issues that face the American people every day and the issue of the increase of hunger in the United States.

Mr. Secretary, just overall I think it has been established that where some of our colleagues on the other side of the aisle want to go is to cut about 22 percent of government funding. Are there cuts that we haven't touched on that would affect your department, and what does that mean? Anything that you would like to discuss overall in that area?

Secretary VILSACK. Well, we have a serious problem with rental assistance in rural places. The problem we have is a system that, basically, says we lend money to somebody for multifamily operation. They commit to a certain percentage of those units to be rent assisted units. When they pay off the mortgage, those rent assistance units are no longer rent assistance units. Rents go up. We have a voucher program, but the program is the voucher program only anticipates about 30 projects coming offline. We have about 80 now, and it is going to accelerate. So we are losing rental assistance units.

If you reduce the budget even further you are talking about 40,000 rental units that could potentially be lost. That is 40,000 families or individuals who are going to lose their home, and I don't know where those people go. So that is a challenge which is why in our budget we are requesting the decoupling of the mortgage loan and the rental assistance or creating some mechanism by which we preserve those rental assistance units.

Ms. DELAURO. I might add that what we did with the 2023 budget was the fact that with democrats and republicans who came together made investments in increasing some of these areas. That is what we have to continue to fight for. I look forward to working with you on those issues. Thank you. I yield back.

Mr. HARRIS. Ms. Hinson.

#### PESTICIDE REGULATIONS

Ms. HINSON. Mr. Chairman, thank you. Real quick follow-up on Mr. Newhouse's question about some of these crop protection tools. Obviously, we've seen the EPA restrict access to more than a dozen of those. Your Office of Pest Management is supposed to be pushing back obviously with producer feedback. And I know you don't want to tell the EPA how to do their job, but I also think there is taking a look at. Do you think that EPA is taking your feedback into consideration to a sufficient degree? Do you think they are interested in hearing from you about crop protection tools? What is the relationship there like?

Secretary VILSACK. I think the relationship with the EPA is as good as it has ever been in the time I have been secretary. We have got an administrator who is open to listening to and being concerned about the concerns of the farmers. We do provide a lot of information. Sometimes our information is taken. Sometimes it is not. But it would be sort of like me telling you can you tell the Senate what to do. I have watched you all work.

Ms. HINSON. We try.

Secretary VILSACK. Exactly. You try. That is the point. You try. You do the best you can. After EPA makes a decision, our job that I see at USDA is then to figure out ways in which we can help farmers comply with whatever the conditions are. If we can use resources or tools or technical assistance, how do we help the farmer?



Ms. HINSON. OK. Thank you, Mr. Secretary. I yield back.

Mr. HARRIS. Ms. Underwood.

#### IMPACTS OF PROPOSED CUTS ON TECHNICAL ASSISTANCE

Ms. UNDERWOOD. The Inflation Reduction Act provided billions of dollars in funding to expand USDA programs that support farmers as they implement conservation practices that benefit both their farms and our climate. And I hear frequently from farmers across Northern Illinois who would like to participate in these programs, but because of overburdened USDA state and local offices they are struggling to navigate the process. USDA's fiscal year 2024 budget requests an additional funding for conservation and technical assistance to address these bottlenecks. However, republican budget proposals would drastically cut funding for the Natural Resources Conservation Service.

Mr. Secretary, what impact would these proposed budget cuts have on farmers' access to USDA programs and technical assistance?

Secretary VILSACK. In our view, 84,000 farmers would not have the technical assistance they need to proceed to embrace the conservation practices they know they need.

Ms. UNDERWOOD. Eighty-four thousand is a big number, and given that farmers are increasingly facing challenging weather conditions from flooding to drought and other national disasters it is critical that we reject these proposed cuts and support our farmers who are on the frontlines of our climate crisis. Thank you, Secretary Vilsack for being here today. I yield back.

Mr. HARRIS. Ms. Kaptur.

Ms. KAPTUR. Thank you, Mr. Chairman. Secretary Vilsack, I just want to circle back and invite someone from your staff by Zoom or by physically coming out to my region in Ohio to observe how the senior and the WIC nutrition programs operate and to see how federal dollars actually go back into the pockets of local farmers as well as provide food for our seniors locally produced and for our WIC recipients.

This program is so successful. We have over 130 farmers now who use Electronic Benefit Transfer (EBT). We've restored our farmer's market. Free enterprise is starting to really be restored for our local farmers. If people don't want to come down to the farmer's market, then they can sell on their own farmstead. But I really think we need something to happen at USDA to understand the impact of what this program can do to help family farmers at the local level. So I just wanted to restate that and also say on the contracting by our food banks with local farmers that is another way that we can really make a difference with local farmers and connect.

#### WHITE CORN AND BIOFUEL

Number two, very quickly on trade I am listening to all the discussion about trade. There is a book, *Dreamland* by Sam Quinones. When the Mexican white corn market disappeared after that horrible agreement was signed in 1993, the Mexican white corn market disappeared, and what was it replaced by? Heroin. And that has been the chief commodity as it grew every decade. Something

has to happen with the Mexican white corn market. And finally, can you tell us anything about biofuels? Is it true that John Deere has a tractor that now operates on 100 percent ethanol? Is that true?

Secretary VILSACK. I don't know if that is true, but what I can tell you is the future of biofuels is a pretty important one because there is a sustainable aviation fuel effort underway in this administration to provide 36 billion gallons of aviation fuel which our airline industry is desperately requesting. It is a new industry. It is one of these ways of creating more new and better markets and income sources for farmers.

Ms. KAPTUR. Mr. Secretary, I hope you could put me in touch with who those people are. I am ranking on the Energy Committee here. I am very interested in this. Thank you.

Mr. HARRIS. Thank you very much. I have to tell the Committee I made a rookie mistake. They were on the last amendment about 15 minutes ago, but I forgot about the magic minute, the Majority leader is still talking on the floor. But votes are imminent. So we could have had a couple of extra minutes in that second round.

Mr. Secretary, thank you for being here today. Thank you for the job you do helping American farmers. I think our discussion touched on many important issues that resonate with our nation's producers and our constituents across rural America. While you and I disagree on some issues I look forward to working with you as we move through our fiscal year 2024 process.

As a reminder, if members would like to submit questions for the record, please submit those to the subcommittee staff. The subcommittee stands adjourned.

[Questions and answers submitted for the record follow:]

UNITED STATES DEPARTMENT OF AGRICULTURE  
QUESTIONS FOR THE RECORD  
HOUSE AGRICULTURE APPROPRIATIONS SUBCOMMITTEE HEARING  
MARCH 30, 2023

QUESTIONS SUBMITTED BY CHAIRMAN ANDY HARRIS, M.D.

Dietary Guidelines for Alcohol Question for the Record

Mr. Harris: Members of the Dietary Guidelines Advisory Committee, who are charged with developing recommendations for the 2025 Dietary Guidelines for Americans (DGA), were announced on January 19, 2023. Prior to that announcement, the DGA website indicated alcohol beverages would be “examined in a separate effort led by HHS Agencies that support work on this topic.” Current information on the DGA website simply indicates that alcohol “...will be examined in a separate effort. More information will be available soon.” This position of examining alcohol separately from the DGAs represents a significant procedural shift, as recommendations for moderate alcohol consumption have been included in the DGA since its inception in 1980.

Although the DGA process is well underway, with the Committee members named and public meetings already started, the process for consideration of alcohol is entirely unknown with no information being made available to the public on the process, timeline, or scientific questions being considered.

Why is alcohol being considered outside of the regular DGA process, and how did HHS/USDA make the decision to separate it?

Response: Due to the Agency’s in-depth expertise on the topic, the Substance Abuse and Mental Health Services Administration (SAMHSA) within the U.S. Department of Health and Human Services (HHS) is leading the effort to provide recommendations for the Dietary Guidelines for Americans on the effects of adult alcohol intake and health as part of a larger scientific review and recommendations that will be published as a report on alcohol intake and health at all ages. Work is underway to review the current body of scientific evidence. The examination of alcohol separate from the DGA process is similar to how other topics such as food safety and physical activity have been previously addressed.

Mr. Harris: What specifically will the process be to evaluate alcohol?

Please provide the date by which that process will be detailed to the public, including opportunities for public involvement. Will a separate panel be named to evaluate alcohol? If so, when and how will panelists/experts be selected?

Response: The Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD), led by SAMHSA, will support a technical subcommittee with expertise on alcohol consumption to review evidence on adult alcohol intake and health. SAMHSA/ICCPUD

work is just getting under way. More information will be available in the coming months regarding the process and opportunities for public involvement.

Additionally, in the Consolidated Appropriations Act, 2023, Congress mandated USDA to enter into a contract with the National Academies of Sciences, Engineering, and Medicine (NASEM) to conduct a series of systematic reviews on alcoholic beverages and health. USDA asked NASEM to complete its work in time for the SAMHSA subcommittee to consider the report findings as part of its evidence review and as it makes recommendations for adult alcohol consumption. The SAMHSA subcommittee report will be published and available to the public in 2025. This timeline will allow for the topic of alcoholic beverages and health to be included in the 2025-2030 edition of the Dietary Guidelines for Americans.

Mr. Harris: What will be the role of HHS versus USDA?

Response: The SAMHSA subcommittee will provide recommendations on alcohol for adults in the report it publishes in 2025. HHS and USDA will consider the SAMHSA subcommittee report, the 2025 Dietary Guidelines Advisory Committee scientific report, and public comments as the Departments jointly develop and publish the 2025-2030 edition of the Dietary Guidelines for Americans by the end of 2025. The work of the SAMHSA subcommittee is just now getting underway, and USDA is prepared to contribute to that process when and where appropriate, and as may be needed.

Mr. Harris: As P.L. 117-328 requires inclusion of recommendations on moderate alcohol consumption in the 2025-2030 DGA, is the intent to include the NASEM review as the alcohol consumption guidelines?

Response: USDA asked NASEM to complete its work in time for the SAMHSA subcommittee to consider the report findings as part of its evidence review and as it makes recommendations for adult alcohol consumption.

Mr. Harris: Will the NASEM report—due by June/July 2024—be available in time for inclusion in the 2025-2030 DGA?

Response: USDA asked NASEM to complete its work in time for the SAMHSA subcommittee to consider the report findings as part of its evidence review and as it makes recommendations for adult alcohol consumption. We anticipate that the report will be available and allow for the topic of alcoholic beverages and health to be included in the 2025-2030 edition of the Dietary Guidelines for Americans.

Mr. Harris: Will it be the only report considered for the alcohol consumption guidelines?

Response: HHS and USDA will consider the SAMHSA/ICCPUD report, specifically the subcommittee's recommendations on adult alcohol consumption and health, which will be based on the subcommittee's scientific review on the topic and consideration of the NASEM systematic review report.

Mr. Harris: If another report/reports are considered, which review will have primacy?

Response: Consideration of the NASEM committee's systematic reviews will be included by the SAMHSA subcommittee in its scientific review, and SAMHSA will issue a report with recommendations.

Mr. Harris: Since the evaluation process for alcohol will be separate from the DGA process, how will that evaluation be included in the broader dietary guidelines?

Response: The SAMHSA subcommittee will provide recommendations on alcohol and adults in the report it publishes in 2025. HHS and USDA will consider the SAMHSA subcommittee report, the 2025 Dietary Guidelines Advisory Committee scientific report, and public comments as the Departments jointly develop and publish the 2025-2030 edition of the Dietary Guidelines for Americans.

Mr. Harris: Will the 2025 dietary guidelines include recommendations on alcohol?

Response: Yes, per the timing outlined in responses to the questions above, the SAMHSA subcommittee report will be published and available to the public in 2025, which will allow for the topic of alcoholic beverages and health to be included in the 2025-2030 edition of the Dietary Guidelines for Americans.

#### QUESTIONS SUBMITTED BY CHAIRWOMAN KAY GRANGER

##### Disaster Aid

Ms. Granger: Secretary Vilsack, I appreciate you and your team's effort to deliver disaster aid for disasters that occurred in 2021 and 2022. Freezes, excessive heat, and drought devastated sugarcane and fruit and vegetable farmers in the Rio Grande Valley. Will you commit to working with my team to get disaster aid to these farmers in a fair and timely manner?

Response: We are working very diligently to get needed relief to producers impacted by disaster events. Producers that received a crop insurance indemnity or Noninsured Crop Disaster Assistance Program (NAP) payment should begin receiving their Emergency Relief Program (ERP) 2022 Track 1 application in November 2023. My staff have also been working with the Rio Grande Valley, Sugar Growers, Inc. cooperative for several weeks on a cooperative agreement that will provide financial assistance covering eligible losses sustained by their producer members as a result of the devastating disaster events in 2022. I have directed my staff to provide support for those cooperative members' eligible losses.

## QUESTIONS SUBMITTED BY CONGRESSMAN DAVID G. VALADAO

## Natural Disaster Assistance

Mr. Valadao: As you are aware, the rain in California has been both a blessing and a curse. The amount that we have received is without a doubt going to cause damage that may not be seen immediately. Our apple, blueberry, and table olive producers are fearful of pest and disease issues impacting their upcoming crops and ultimately the health of their trees. For instance, due to the flooding in the orchards, apple producers have been unable to apply apple scab and fire blight control materials. This will certainly have a negative impact on the size and quality of crops for the foreseeable future.

Does the USDA have any plans of creating additional disaster relief programs outside of loans to help California producers mitigate loss that has yet to be fully realized?

Response: This is a long-standing issue and is certainly a challenge we face with the current suite of emergency relief programs. I will also note that USDA Risk Management Agency (RMA) has been working hard to make comprehensive improvements to our risk management tools and other disaster programs to expand access to a wide variety of producers, particularly specialty crop producers who have long complained about lack access to crop insurance policies. My staff is also examining other existing programs such as the Emergency Conservation Program (ECP) to determine if flexibilities exist to address this need.

Mr. Valadao: Are there options available for non-grazing livestock producers to receive relief for expensive feed that was damaged while being stored in barns that were damaged by floods?

Response: The Emergency Relief Program (ERP) 2022 provides assistance to eligible crop producers to cover the necessary expenses related to losses of revenue and quality or production of crops due to qualifying disasters occurring in 2022 including on-farm stored grain and other commodities. The revenue loss associated with the eligible loss of on-farm stored grain is included in the allowable revenue for ERP purposes.

## Farm Service Agency

Mr. Valadao: Secretary Vilsack, I'd like to highlight the need for uniform training across Farm Service Agency offices. FSA offices play a pivotal role in ensuring farmers and ranchers can access baseline programs like Agricultural Risk Coverage (ARC) and Price Loss Coverage (PLC), as well as the Emergency Relief Program USDA is currently implementing to address drought impacts in California and the West. Unfortunately, FSA offices have at times interpreted programs differently depending on the office.

Can you speak to actions FSA has taken to ensure that all farmers and ranchers are receiving the same guidance to help them access these programs? The last thing we want is for farmers and ranchers to be incorrectly told that they are, or aren't, eligible for these key programs, particularly when they're suffering from years of drought – and now floods.

What is FSA doing to ensure that all farmers and ranchers are receiving the same guidance to help them access these programs? We need to ensure that ERP is made available to every eligible farmer and rancher impacted by drought, and this issue will be just as important if Congress takes action to address the historic flooding impacting San Joaquin Valley.

Response: The Farm Service Agency (FSA) has developed several national policy notices, training materials, and frequently asked questions documents to help provide a consistent message to all of our State and County Office staff. In addition to written communications that have gone out, the staff has conducted weekly or bi-weekly question and answer sessions that include every staff from every State Office to ensure that all staff receive the same policy guidance and answers to questions throughout the country concerning our disaster related programs. Further, FSA had nine cooperative agreements totaling nearly \$4 million to provide direct outreach, technical assistance and education in the Emergency Relief Program (ERP) Phase 2 program. We also conducted eight hours of training on the program and tax information to cooperators.

#### Rebuilding Rural America

Mr. Valadao: Many communities in California's 22nd District have benefitted greatly from USDA's many Rural Development Grant programs, however there are still several highly disadvantaged communities who cannot qualify for funding because of restrictive qualification requirements, particularly as it comes to population limits.

Does the department plan to stay committed to excluding prison populations from population counts, many of which are located in my home district?

Response: Rural Development (RD) will continue to exclude prison populations when determining eligibility for RD programs as directed by Congress in the general provision included in the annual appropriations bills and through the Consolidated Farm and Rural Development Act statutory authority (7 USC 1991 (a)(13)(H)). The population limits for the various programs are generally determined by Congress in the authorizing statutes.

Mr. Valadao: Many communities in my district have seen mild increases in population that put them just over the qualification limit for Rural Development Grants, despite being in just as disadvantaged as they were a decade ago. Especially when dealing with natural disasters, how flexible is the department willing to be in assisting disadvantaged communities that barely surpass population thresholds for some USDA Rural Development grants?

Response: Rural Development is committed to exercising its authorized flexibilities to provide assistance to areas affected by natural disasters. For example, if the Disaster Assistance Fund is used to respond to a natural disaster the Secretary has the authority to waive limits on population, income, or cost-sharing otherwise applicable to an activity or project. Flexibilities vary by program but will be exercised as appropriate to provide a robust response to a disaster.

## QUESTIONS SUBMITTED BY CONGRESSMAN DAN NEWHOUSE

## Biochar Research Network

Mr. Newhouse: Central Washington grows more than 300 specialty crops and exports one-third of fruit and hay harvests to international customers. Our state is able to do this because of investments in agricultural research and innovation. Earlier this month, I co-sponsored the introduction of the Biochar Research Network Act of 2023, a bipartisan bicameral bill that would support innovative research across the U.S.

Secretary Vilsack, how could the USDA support a biochar research network to ensure the best research is performed to help our producers increase crop yields while having the added benefit of reducing emissions?

Response: The USDA Research, Education, and Economics (REE) mission area has supported research and extension on biochar and related topics for many years. Through National Institute of Food and Agriculture (NIFA), we have provided investment in biochar research that include capacity formula grant funding (e.g., Hatch and Hatch Multi-State, Evans-Allen, and McIntire-Stennis), competitive grant funding (e.g., Agriculture and Food Research Initiative (AFRI) and Small Business Innovation Research and Technology Transfer Programs), and other NIFA programs such as the Sun Grant Program. The diverse topical areas have included: new and existing biochar sources and production methods; impacts of biochar amendments on animal and plant production and health; carbon sequestration, emissions, and biochar; biochar impact on soil quality and retention; biochar and agroforestry; biochar and soil microbiome; and biochar and agricultural land reclamation from pollution. In fiscal year 2022, NIFA invested \$7.28 million into biochar-related research through competitive programs, including AFRI. The Agricultural Research Service has an active, multi-location biochar research initiative. Outcomes of researching biochar include agronomic, sustainability and environmental benefits to producers and society. Our researchers engage with others across the Department, other Federal agencies, university collaborators and industry partners to ensure our biochar research is coordinated and impactful. We have recently released the updated Pacific Northwest Biochar Atlas, which shares case studies from early adopters and provides guidance to farmers, gardeners, and other end-users on the potential benefits of biochars, including decision support tools to select biochar types and amendment rates. In addition, our scientists are modifying biochar for alternative uses in soil amendments, recycled plastics, sustainable carbon black replacement as a rubber filler, and remediation applications including chemical spills, heavy metal removal, land restoration, and Perfluoroalkyl and polyfluoroalkyl substances absorption. As an outcome of an industry-led workshop we hosted, biochar research priorities were identified through a road mapping effort.

## Tariffs and FNS

Mr. Newhouse: USDA's FY24 budget justification indicates FNS intends to make \$2 million in funding available to study the competitive bidding system for infant formula in the WIC program. Through this study, USDA will assess both the process and effectiveness of the



competitive bidding system, as well as how competitive bidding affects access to infant formula, WIC benefits, and services.

What role do tariffs play in market diversification?

Response: USDA proposes to begin the study in fiscal year (FY) 2024, once appropriations are received, and would include an analysis of tariffs as part of our research. We have not yet conducted the research to be able to address your specific questions on the impacts of tariffs. When we complete the work we would welcome the chance to share the analysis with you and further engage in a discussion on this topic.

Mr. Newhouse: Can you elaborate on the current conversations USDA is having in this space?

Response: The USDA Food and Nutrition Service (FNS) has a research office that conducts evaluation research on a variety of topics, including infant formula. As shown in our fiscal year (FY) 2024 Research and Evaluation, FNS will begin a study on the Infant Formula Competitive Bidding System. The description in the posted Plan follows:

The FY 2024 Analysis of Infant Formula Competitive Bidding System study will examine the competitive bidding system for infant formula in the Women, Infants, and Children (WIC) program. Through this study, USDA will assess both the process and effectiveness of the competitive bidding system. The study will also examine how competitive bidding affects access to infant formula, as well as WIC benefits and services.

#### Columbia/Snake River System

Mr. Newhouse: The Columbia Snake River System is critical for exporting American-grown agricultural goods to market. The dams on the rivers provide critical and necessary transportation and irrigation to move and grow these products.

Secretary Vilsack, can you expound upon this vital System and the critical role they play in American agriculture?

Response: The Columbia Snake River System provides transportation and irrigation to grow and move agricultural products to market. The system provides water to raise crops and livestock that support a stable local food supply. Furthermore, the system allows agricultural products to be shipped across the U.S. and overseas.

States within the Columbia Snake River System use a variety of Farm Bill and Watersheds Program funds to implement conservation practices on a voluntary basis with producers and local sponsors within the Columbia Snake River Basin to improve and conserve the River system.

## QUESTIONS SUBMITTED BY CONGRESSWOMAN ASHLEY HINSON

## Animal Biotechnology

Ms. Hinson: We should all be supporting American innovation. Last year, I led a bipartisan amendment in the FY23 Appropriations bill to encourage cooperation between USDA and FDA on the review of animal biotechnology. I was pleased to see your budget request prioritizes streamlining and modernizing the review of animal biotechnology, but the Department's implementation plans are unclear. USDA has requested FTEs to regulate these products for FY24 but has yet to propose that rulemaking.

Can you clarify USDA's plans and timeline for developing regulations, as well as the need for the 25 requested FTEs?

Response: Animal biotechnology shows significant promise for agriculture. Bioengineering, or "gene editing", can modify an animal's genetic structure in ways that mimic conventional breeding practices, but takes less time. This technology would be available to small developers and researchers who may not have the resources required to achieve these results via traditional approaches. Through biotechnology, livestock producers can introduce naturally occurring and other traits within their herds, such as greater disease resistance, greater heat tolerance, and animals without horns—all of which would make the U.S. food supply more efficient, humane, sustainable, and competitive domestically and internationally without compromising food safety.

It is essential that the regulation of these products supports innovation and resilience of the U.S. food supply while making sure these products do not pose a greater risk than traditionally produced products. The U.S. government takes a coordinated and collaborative approach to ensure the safe development of products produced using genetic engineering including those from modified plants and animals. This coordination includes working with the Environmental Protection Agency and the Food and Drug Administration, consistent with the principles of the Coordinated Framework for the Regulation of Biotechnology. We continue to discuss coordination of the regulatory responsibilities related to animal biotechnology. As this technology continues to evolve and mature, USDA seeks to build on our existing core of technical expertise to ensure the safe development of certain animals intended for agricultural purposes that are modified or developed using genetic engineering. Therefore, in the fiscal year 2024 budget request, we are requesting funding to support 25 additional full time equivalent Animal and Plant Health Inspection Service and FSIS staff with the necessary technical expertise to assist in the establishment of the review of these novel products.

## QUESTIONS SUBMITTED BY CONGRESSWOMAN CHELLIE PINGREE

## Dairy Processing

Ms. Pingree: Dairy farming and the dairy industry are a critical economic engine to the Northeast, including Maine. There is a significant need for enhancing dairy processing

infrastructure – providing for the right-sized plants, better storage and other innovations. Regional Dairy Business Innovation Centers have helped target funding to small and mid-sized businesses. I was happy to see three grant awards from the Northeast Dairy Business Innovation Center go to support Maine dairies. The Fiscal Year (FY) 2023 omnibus bill provides \$25 million for the Dairy Business Innovation Center program.

Can you share with us what the demand has been for Dairy Business Innovation Initiatives and who is seeing the benefits of these investments?

Response: Since the 2018 Farm Bill initially authorized the Dairy Business Innovation Initiatives (DBI) and they were first funded through discretionary appropriations in Fiscal Year 2020, over \$32 million of subawards have been made across 31 States. Over the programs first four years, the University of Tennessee, Vermont Agency of Food and Markets, University of Wisconsin, and California State University, Fresno, have received over 1,500 applications from a diverse array of applicants, including smaller family-owned dairy farms and businesses, underserved dairy producers, veteran dairy producers, and dairy processors. Technical assistance activities provided by the initiatives have included assistance to clients in developing their business ideas and new business creation, training on domestic specialty cheese opportunities, dairy product innovation and development, entrepreneurial seminars, and added resources for microbiological quality and food safety for processing dairy products.

#### Relief for Organic Dairies

Ms. Pingree: Organic dairies in Maine are facing extreme feed costs and the situation is dire. I was pleased to see USDA announce up to \$100 million for a new Organic Dairy Marketing Assistance Program (ODMAP), which is intended to help smaller organic dairy farms that have faced a unique set of challenges and higher costs over the past several years. Assistance will help eligible organic dairy producers with up to 75 percent of their projected marketing costs in 2023. The program announcement stated that assistance will be provided through a streamlined application process based on a national per hundredweight payment.

Can you provide a timeline for when the program will be finalized, and payments will be made to impacted organic dairy farmers?

Response: The Organic Dairy Marketing Assistance Program (ODMAP) enrollment period started on May 15, 2023, and ended August 11, 2023. The initial ODMAP payment of 75 percent was issued upon the approval of an application from an eligible producer in the local county office. A second round of payments was issued to eligible producers of the remaining 25 percent on September 21, 2023. The total dollar amount disbursed as of October 30, 2023, was \$20 million.

#### Agroforestry

Ms. Pingree: Agroforestry is the integration of trees and shrubs into agricultural and livestock operations and has been gaining traction as a way to build resilience to extreme weather, diversify revenue streams, and increase soil carbon sequestration. There is an increasing

interest in and utilization of the practice, and an increasing need to deliver technical assistance to producers on how to implement agroforestry.

Does USDA have plans to update the Agroforestry strategic plan? Further, can you provide an update on the new 5-year Interagency Agreement between NRCS and the Forest Service to support the work of the National Agroforestry Center?

Response: Yes, the USDA Interagency Agroforestry Team expects to update the fiscal year (FY) 2019-2024 USDA Agroforestry Strategic Framework in FY 2024 to align agency programs to enhance support for agroforestry and ensure continued alignment with the Farm Bill. The Forest Service signed a new, five-year Interagency Agreement with the Natural Resources Conservation Service (NRCS) in September 2023 to support the National Agroforestry Center partnership between the Forest Service and NRCS. The Agreement supports agroforestry training for natural resource professionals and landowners and the development and dissemination of agroforestry information, technology, and tools. Outreach and technical assistance will be delivered equitably, enhancing support for and engagement of tribes and historically underserved communities, while addressing the unique needs of urban farmers and communities nationwide.

In FY 2018, the USDA Interagency Agroforestry Team developed the USDA Agroforestry Strategic Framework for FYs 2019 to 2024, a five-year strategy to advance agroforestry knowledge, tools, and assistance for the benefit of producers, communities, and the Nation. The USDA Interagency Agroforestry Team consists of members from the Forest Service, NRCS, Farm Service Agency, Agricultural Marketing Service, Agricultural Research Service (ARS), Economic Research Service, National Agricultural Statistics Service, National Institute of Food and Agriculture (NIFA), and Rural Development. In FY 2024, the Interagency Agroforestry Team will revise the USDA Agroforestry Strategic Framework for FYs 2025-2030 to align USDA programs to support enhanced use of agroforestry by farmers, ranchers, and private forest landowners.

The Forest Service and NRCS established the first Memorandum of Understanding in 2006 to recognize the critical importance of their agroforestry partnership and to facilitate continued cooperation for advancing the National Agroforestry Center's mission. The Memorandum of Understanding was renewed in May 2023 for five years. The NRCS also funds the Forest Service National Agroforestry Center through an interagency agreement that supports agroforestry training for natural resource professionals and landowners, and the development and dissemination of agroforestry information, technology, and tools to advance agroforestry nationally. The agreements result in coordinated interagency delivery of agroforestry conservation assistance to enhance, protect, and conserve working lands.

Through conservation technical and financial assistance, NRCS provides farmers, ranchers, and nonindustrial private forest owners assistance for implementation of agroforestry conservation practices. This assistance ensures economically viable, resilient, and productive crop, pasture, and forest lands as well as protection of critical natural resources. The NRCS Agroforestry Center will strengthen technical capacity at the regional and State level to support increased producer demand for agroforestry and collaborate with Federal and State agencies, universities,

and non-government organizations to expand agroforestry research, tools, technology, and outreach.

#### Food Waste

Ms. Pingree: Last summer, USDA announced a \$90 million investment to prevent and reduce food loss and waste through the USDA Framework for Shoring Up the Food Supply Chain initiative. This funding was directed towards composting and food waste plans, a feasibility study, and other actions to support a National Food Loss and Waste Strategy. According to the President's budget, \$43 million has already been spent on this initiative and USDA plans to spend the remaining \$57 million to support this work in FY 2024.

How will this funding support the Federal Interagency Collaboration to Reduce Food Loss and Waste?

Response: Thank you, Congresswoman Chellie Pingree for this opportunity to respond to your question about the Federal Interagency Collaboration to reduce food loss and waste. The American Rescue Plan (ARP) provided a unique opportunity to invest in efforts that directly support the Collaboration's goals to increase collaboration and coordination and leverage government resources to reduce food loss and waste across the supply chain, such as through community investments, public-private partnerships, education and outreach, and other actions. The USDA announced that we would invest up to \$90 million in ARPA funds to support food loss and waste reduction as part of a framework to shore up the food supply chain and transform the food system. These investments included \$30 million over 3 years for the Composting and Food Waste Reduction program, \$15 million for the Community Food Projects competitive grants program and a new partnership with USDA's Sustainable Agriculture Research and Education (SARE) program, \$10 million for the Food and Agriculture Service Learning Program and work with the National 4-H Council to develop food loss and waste leadership trainings for youth who attend national and State level events, and \$2 million for food loss and waste staff positions. Funds were put into programs that were oversubscribed, due to overwhelming interest, and distributed among different food supply chain sectors. The funding has also enabled USDA to further work that will support a national strategy to reduce food loss and waste. As of November 2023, \$57 million of this investment was obligated; recissions resulting from the 2023 Fiscal Responsibility Act preclude significant additional program investments with ARP funds.

The USDA Research Education and Economics mission area and the Office of the Chief Economist are also collaborating closely to expand efforts to prevent and reduce food loss and waste. An additional \$1.9 million will provide support, ensure efficient and effective implementation of the National Food Loss and Waste Strategy, and other Food Loss and Waste (FLW) plans which will provide strategic coordination to scale-up FLW programming and targeted technical assistance. Through Agricultural Research Service, funding invested would further develop sustainable technologies toward zero waste by converting food waste into marketable plastics, specialty chemicals, additives, and active agents. These innovations will protect and enhance food products, eliminate or reduce pathogens, address antimicrobial resistance, extend shelf-life, and reduce food waste and food poisoning incidents. In partnership with the Natural Resources Conservation Service Office of Urban Agriculture and Innovation

Production, we have awarded \$18 million in Compost and Food Waste Reduction Cooperative Agreements. Based on the Interagency partnerships that emerged as a result of this funding, NIFA also launched a \$1.5 million cross-cutting Agriculture and Food Research Initiative AFRI program area titled “Center for Research, Behavioral Economics, and Extension on Food, Loss and Waste”. Additionally, we have awarded \$13.8 million to 14 small businesses through the Small Business Innovation Research and Technology Transfer Programs (SBIR and STTR) programs to improve efficiency of operations including waste reduction and utilization, improving worker safety, and improving food safety.

Ms. Pingree: If Congress appropriated additional funding to the Food Waste Liaison, how would USDA continue to build out this important work?

Response: Food loss and waste is a multifaceted problem, with loss and waste occurring along all segments of the food supply chain from farm to table. To accelerate progress towards the national goal of halving loss and waste by fiscal year (FY) 2030, overwhelming evidence suggests a multifaceted approach is necessary, as is reflected in the bill you introduced in September of this year, the New Opportunities for Technological Innovation, Mitigation, and Education to Overcome Waste Act, or the NO TIME TO Waste Act.

Investments in providing technical assistance and incentivizing public-private partnerships could both help ensure effective implementation of best practices and leveraging capabilities in the private sector. We continue to work to support food loss and waste reduction within the existing authorities that we have.

#### QUESTIONS SUBMITTED BY CONGRESSWOMAN BARBARA LEE

##### Access to SNAP

Ms. Lee: The attacks to limit access to SNAP must end. Communities across the nation are facing a deeper hunger cliff as the public health emergency ends, and waivers, created through the Emergency Allotments (EAs) end. I will continue to lead the call to remove statutory barriers to accessing SNAP such as the arbitrary time limit requirement through my legislation, H.R. 1510, Improving Access to Nutrition Act.

The Families First Coronavirus Response Act (FFCRA) authorized the Food and Nutrition Service (FNS) to approve state adjustments of issuance methods, application, and reporting requirements, such as:

- streamlining recertification procedures (7 CFR 273.12(a)(5)(iii));
  - waiving the certification interview (7 CFR 273.2(f)(1));
  - adjusting follow-up procedures when an address changes and updated shelter costs is not reported (7 CFR 273.12(c)(4)(i)); and
  - allowing alternative methods for recording telephonic signatures.
- What actions will the USDA take to ensure the continuation of flexibilities within its jurisdiction to ensure the millions of low-income Americans who rely on SNAP benefits maintain their access?

Response: The USDA shares your commitment to ensuring that eligible individuals have access to the Supplemental Nutrition Assistance Program (SNAP), particularly now that certain adjustments allowed during the COVID-19 Public Health Emergency (PHE) have expired. The Families First Coronavirus Response Act (FFCRA) authorized USDA to approve adjustments of certain program procedures during the PHE, and, these adjustments ended on June 30, 2023. These adjustments were crucial for maintaining access to SNAP during the PHE. The USDA Food and Nutrition Service (FNS) does not have the authority to offer Families First Coronavirus Response Act adjustments and flexibilities past the end of the PHE.

The FNS recognizes that State agencies still face many challenges as they transition from the PHE, given competing administrative challenges and ongoing Medicaid unwinding activities. During this transition, FNS is offering four administrative flexibilities through May 31, 2024, to support State agencies and ease the burdens on SNAP clients:

- Waiver of the Interview at Initial and/or Recertification Application;
- Use of Periodic Report Procedures to Simplify Recertification;
- Alternative Procedures When Change of Address is Reported; and
- Waiver of the Telephonic Signature Audio Recording (extension offered beyond the unwinding period).

These flexibilities will assist States as they transition to normal processes. In the long-term, State agencies will need adequate staffing for regular certification actions. Re-establishing regular contact with households – through activities like interviews, recertifications, and periodic reports – is critical for ensuring that eligible households receive the correct benefits.

FNS continues to provide comprehensive resources to support States during this transition, including policy guidance, webinars, sample client notices, and other tools. FNS has also hosted roundtable listening sessions with leadership from SNAP State agencies to better understand their concerns, needs for support, and best practices. In addition, FNS Regional Offices also provide direct technical assistance to State agencies.

Finally, FNS is working diligently to explore flexibilities to improve program access, while ensuring households receive accurate benefits. FNS is also looking at the impact of adjustments on SNAP certification processes during the PHE and the potential for long-term program changes.

#### Food as Medicine: Transitioning to Organic and Regenerative Produce

Ms. Lee: I appreciate your efforts to collaborate with HHS to work to scale the Food as Medicine initiative nationally. As this initiative requires an interagency effort to source regenerative and organic produce, help farmers transition towards these systemic innovations, ensure the food that reaches our communities is supplied by local and regional organic and regenerative agriculture, and reaches our communities to ultimately prevent and improve chronic disease and the wellbeing of our communities, your collaborations with HHS are crucial.

Within my FY24 LHHHS appropriations request, I have included the following:

“The Committee includes an increase of \$2,000,000 in the Office of the Secretary to implement a Food as Medicine Pilot Program, an integrative model of healthcare that uses healthy, nutritious, organic and regenerative, minimally processed and affordable foods to treat, prevent, and manage chronic conditions and address food/nutrition insecurity to advance health, in partnership with the USDA.”

In what ways are you currently collaborating with HHS Secretary Becerra to further develop the national Food as Medicine initiative?

Response: The Department of Health and Human Services (HHS) Office of Assistant Secretary for Health developed a HHS Food as Medicine Work Group and invited USDA, among other Federal partners to join. They have hosted two meetings thus far and we are encouraging them to use this work group to collaborate on developing shared research, evaluation, and metrics as it relates to work already underway via the USDA Gus Schumacher Nutrition Incentive Program (GusNIP).

#### Adapting to Climate Change

Ms. Lee: A 2021 article published in *Nature Climate Change* found that since 1961, the effects of climate change have reduced agricultural productivity growth by about 21 percent compared to what the growth rate would have been in the absence of climate change. USDA’s FY24 budget summary document identifies a total of \$1.9 billion in spending above FY2023 levels to combat the climate crisis, but only \$350 million, or less than 20 percent of that total, would be devoted to funding “climate science, adaptation, and resilience.”

Given the magnitude of the looming problem with climate change faced by farmers around the world, should that amount be larger? In particular, how are USDA investments in research and innovation leveraged to help farmers adapt and become more resilient to climate change?

Response: Greater investments in research and innovation by USDA Research, Education, and Economics (REE) bureaus will enhance our ability to ensure that U.S. agriculture and forestry sectors and food systems are more resilient to extreme weather and climate-related disasters. REE’s science portfolio has long been focused on improving the climate mitigation and adaptation potential of agriculture and forestry systems, as well as supporting agriculture and forestry communities through creation and deployment of tools and technologies developed through systems-focused, interdisciplinary science. Recent REE agency efforts include the use of advanced genetic approaches to develop crop germplasm with enhanced nutritional content and climate resilience; the development of integrated strategies involving cover crops and microbials that reduce impacts of weeds, insects, pathogens, and drought on cropping systems in response to climate change; the development of crop production systems that reduce greenhouse gas emissions through better nitrogen and methane management and the development of farming and production practices and technologies that improve food security in rural and urban communities. Efforts are also underway to develop more weather resilient and climate adapted livestock production systems and livestock production systems that generate less methane.



The USDA National Institute of Food and Agriculture (NIFA) has doubled investments to bolster agriculture's resilience to climate change from \$10.21 million in fiscal year (FY) 2020 to \$21.62 million estimated in FY 2022. NIFA formed a cross-agency climate priority team to ensure that climate smart agricultural and forestry research and extension and climate related educational projects are supported across a range of competitive programs, such as Agriculture and Food Research Initiative (AFRI), Beginning Farmers and Ranchers Development Program, 1890s Capacity Building Grants Program, and Regional Rural Development Centers.

#### USDA Climate Hubs

Ms. Lee: You set up the USDA Climate Hubs during your previous tenure as Secretary of Agriculture during the Obama administration, and your FY24 budget for USDA calls for \$10 million to fund the Climate Hub and Climate Hub fellows.

What do you hope the Climate Hubs can accomplish in spreading information about the likely impacts of climate change with those resources?

Response: USDA's Climate Hubs have established themselves as being especially valuable at translating regionally relevant science and scientific data into applicable knowledge, information, guidance, and tools for land managers and technical service providers across our agriculture and forest production systems. A five-year review of the Hubs indicated that the demand for such knowledge, information, guidance and tools greatly outpaced the ability of the current Hubs staffing to provide that assistance. The requested increases will help expand the capacity of the 10 existing Climate Hubs to improve outreach to customers and stakeholders as well as reach members of the scientific community, building those networks for the translation, assimilation and delivery of the most regionally relevant products. The proposed increase is also intended to provide for two new Climate Hubs with an emphasis on Alaska and Hawaii and the Affiliated Pacific Islands. These two geographic areas, which have quite unique agricultural, forestry, and community needs have been served by Climate Hubs in the Northwest and Southwest respectively. Finally, continuing and expanding the Climate Hubs Fellows initiative strengthens the Hubs by providing critical expertise via term appointments, but also helps to ensure availability of future researchers, leaders, and experts in the applied sciences of agricultural climate change adaptation and mitigation.

#### Agricultural Research

Ms. Lee: The Foundation for Food and Agricultural Research was established in the 2014 farm bill as a means of leveraging federal agricultural research dollars by requiring the Foundation to obtain matching funds from non-federal entities to invest in priority areas that do not normally receive adequate funding from either public or private sources.

Does your Department engage with the Foundation on research funding priorities to ensure that your research agencies are complementing the efforts being conducted under FFAR-funded projects?

Response: USDA staff interact with Foundation for Food and Agricultural Research (FFAR) in a range of research capacities, including as FFAR-funded principal investigators, lead scientists, or collaborators, but also by providing facilities, data, support letters, project staff, and collaborative funding, and by acting as reviewers or advisors. USDA reviews proposed FFAR programs to ensure they are complementary and not duplicative of current or planned USDA programs. USDA and FFAR recently collaborated on multiple high-level strategic initiatives, including the AIM for Climate Summit, held on May 8-10, 2023 and gathering stakeholder input on programs and partnerships to support implementation of the USDA 2023-2026 Science & Research Strategy and the Agriculture Advanced Research and Development Authority. The USDA National Institute of Food and Agriculture (NIFA) and Agricultural Research Service (ARS) staff have engaged with Scientific and Senior Program Directors at FFAR to advise on: Historically Black Colleges and Universities' capacity building and workforce development efforts; food safety, diet, chronic disease, and metabolic health; sustainable nutrition; and vaccine development. USDA and FFAR have supported workforce development through the participation of NIFA funded National Needs Fellows and ARS funded scientists in the FFAR Fellows program.