



United States Department of Agriculture
Office of Inspector General





American Recovery and Reinvestment Act Trade Adjustment Assistance for Farmers Program

Audit Report 50703-0001-23

What Were OIG's Objectives

Our overall objective was to assess the TAAF Program's controls over application approval, payment distribution, program operations oversight, and agency reporting.

What OIG Reviewed

We examined program activities from FAS, FSA, and NIFA's national offices and third party entities, including a review of TAAF Program activities for 139 applicants at 6 FSA State offices and 21 county offices.

What OIG Recommends

FAS should review its financial accounts for unused funds. Further, if this program is funded after FY 2013, FAS should strengthen its eligibility process and perform ongoing oversight reviews. FSA should review the records of producers that refused submission to OIG, include the program as part of its annual review, and implement stronger controls over its manual override process. NIFA should immediately complete the certification and accreditation process for the program database and implement interim procedures until completed.

OIG audited FAS, FSA, and NIFA's administration of the TAAF Program and assessed the agencies' implementation of program requirements.

What OIG Found

The Trade Adjustment Assistance for Farmers (TAAF) Program is administered by three agencies: the Foreign Agricultural Service (FAS), the lead oversight agency; the Farm Service Agency (FSA), which approves producer applications and makes payments to producers; and the National Institute of Food and Agriculture (NIFA), which provides training and technical assistance for producers. While we found that FAS reported information, such as the amount of funding spent, on Recovery.gov as required, we found issues with the remaining objectives: agencies did not have the appropriate controls in place to ensure that TAAF Program participants were eligible, payments were accurate, or oversight was sufficient.

Specifically, FAS did not return unobligated and unneeded fiscal year (FY) 2009 TAAF Program funds to the Treasury, which amounted to approximately \$65.1 million. Further, FAS granted a broad approval for all eligible producers of five commodities in specified counties or States, called price pre-certifications. However, we found that two price pre-certifications did not meet eligibility criteria because FAS did not sufficiently analyze documentation. As a result, 13 of 37 producers we reviewed did not individually show a price decline and received approximately \$64,600. FAS also did not effectively monitor or review FSA's administration of the program, which allowed 85 producers to receive approximately \$284,000 in benefits to which they were not entitled; however, we only identified approximately \$85,000 of these funds. Also, we found that NIFA did not ensure that the TAAF Program database was compliant with Federal information system security requirements. While FAS and FSA generally agreed with our recommendations, NIFA disagreed with our recommendations.

prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions.

This report contains publically available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.

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Background and Objectives

Background

The Trade Adjustment Assistance for Farmers (TAAF) Program is designed to offer technical and financial assistance to farmers and fishermen impacted by import competition. In particular, the program provides assistance to help farmers and fishermen become more competitive in producing their current commodity or in transitioning to a different commodity. The TAAF Program is administered by three agencies in the Department of Agriculture (USDA)—the Foreign Agricultural Service (FAS), the Farm Service Agency (FSA), and the National Institute of Food and Agriculture (NIFA)—each of which is responsible for implementing specific program requirements (e.g., payments, training). FAS is the lead agency overall for administering the TAAF Program and for certifying eligible commodities and producer groups. FAS also facilitates the appeals process and disapproves applicants, based on recommendations received from FSA. FSA is responsible for processing and approving individual applications, and for making cash payments to eligible producers. NIFA is responsible for providing training and technical assistance to all approved producers; the agency sub-contracted these responsibilities to the Center for Farm Financial Management (CFFM) at the University of Minnesota. Although not an administering agency for this program, the Economic Research Service (ERS) assisted FAS by conducting analyses to determine whether commodities petitioning to be included in the TAAF Program were negatively impacted by imports, resulting in a decline in the commodity prices or in the quantity or value of production.

The American Recovery and Reinvestment Act of 2009 (Recovery Act) reauthorized and modified the TAAF Program, providing \$90 million annually in funding for FYs 2009 and 2010, and \$22.5 million for the first quarter of FY 2011. The funding was to be used for salaries and expenses, including administrative costs, cash payments to producers, and development and implementation of training programs. Although the Omnibus Trade Act of 2010 appropriated an additional \$10.4 million for program activities between January 1 and February 12, 2011, FAS officials did not use these funds because they determined that the administering agencies could not process the necessary commodity petitions and producer applications in accordance with statutory timelines.¹

FAS faced stringent timeframes to implement the program and obligate funds. In February 2009, FAS began developing program regulations, but because of the complexity of the program, these regulations were not issued until March 2010. The administering agencies obligated approximately \$24.9 million for software development, establishment of training modules, and payment of salaries. As such, approximately \$65.1 million of the \$90 million appropriated for FY 2009 was unused, but remained on the agency's accounting records to cover any upward or downward adjustments.²

¹ Public Law 111-344, dated December 29, 2010.

² Adjustments which increase or decrease current obligations for planned expenditures (e.g., salaries, contractual agreements).

The Recovery Act established a two-tiered process for determining eligibility for benefits under the TAAF Program: the petition process and the application process. The petition process was separated into two filing periods, one beginning in March 2010 and the second in May 2010. The first filing period covered those applying for FY 2010 appropriated funds (\$90 million), while the second covered those applying for FY 2011 appropriated funds (\$22.5 million).³ Applicants applying under the FY 2010 filing period were eligible to receive up to \$4,000 in payments for the completion of an approved initial business plan, and an additional payment of \$8,000 for completion of a long-term business plan. In contrast, because the available funding was not sufficient to cover the increased levels of program participation, producers approved under the FY 2011 filing period received pro-rated payment amounts: approximately \$971 for completion of the initial business plan and another \$1,943 for completion of the long-term business plan. Producers have until FY 2013 to complete the program's technical assistance and applicable business plan(s). However, no additional funding has been appropriated to continue the TAAF Program beyond the Recovery Act.⁴

The petition process requires a group of three or more producers, a commodity association, or other organization representing producers of a specific commodity, to provide FAS with documented evidence that the competition from imports of their commodity contributed significantly to a decline of more than 15 percent in at least one of the following areas: (1) national average prices, (2) quantity of production, (3) value of production, or (4) cash receipts compared to the average of the 3 preceding marketing years. Once FAS accepts a petition and publishes it in the *Federal Register*, the agency must determine within 40 days whether it meets Recovery Act eligibility requirements. If so, a separate announcement is published in the *Federal Register*, noting the commodity has been certified for inclusion in the TAAF Program and informing interested parties that the 90-day application period has begun.

Individual producers of that commodity may then submit an application to their local FSA office, which then determines their individual eligibility for program benefits. To be considered eligible, the producers must submit evidence to demonstrate that they produced the certified commodity in the petitioned region during the marketing year covered by the approved petition, and in at least 1 of the 3 prior marketing years. The producer must also meet one of the following Recovery Act eligibility requirements: (1) a decline in production for the petition year, compared to the most recent prior year in which the commodity was produced; (2) a decline in the average unit price received during the petition year, compared to the average price received during the prior 3 years; or (3) a decline in the recorded USDA county price for the petitioned commodity, as of the petition filing date, compared to USDA's average county prices in that county for the prior 3 consecutive marketing years.⁵

³ FAS did not announce a filing period for FY 2009, and thus no commodities were approved and no payments were disbursed to applicants.

⁴ For the FY 2010 commodities certified in June 2010, producers have until June 2013 to complete both the initial and long-term business plans. Similarly, for the FY 2011 commodities certified in September 2010, producers have until September 2013 to complete both the initial and long-term business plans.

⁵ Public Law 111-5, Section 296(a)(1)(a), dated February 17, 2009.

As the agencies continued administering the TAAF Program, FAS and FSA officials modified program requirements to allow applicants to self-certify their individual eligibility. In the official notice issued to program officials, FSA noted that these changes—which significantly reduced the program’s controls for ensuring the individual eligibility of producers—were necessary after being advised of the documentation requirements constraining applicant eligibility.⁶ Prior to this revision, producers were required to certify their eligibility by submitting documentation showing their production quantities and/or the prices received. In addition to these modified program requirements, FAS granted price pre-certification approvals for each of the five agricultural commodities that were certified for the program: catfish, asparagus, blueberries, lobster, and shrimp.⁷ The Recovery Act made no provision for these revisions, but the Office of the General Counsel (OGC) provided a legal opinion that the granting of price pre-certification approvals was consistent with the statutory requirements outlined for the TAAF Program. However, OGC also noted certain requirements that needed to be met before price pre-certification approvals could be granted. These included a requirement that the commodity price information used to support such approvals be representative of prices that producers received in the requested areas, and a further requirement that the price data reflect a decline consistent with the elements of eligibility, as outlined in the Recovery Act. No such program modifications were made by NIFA officials.

Under the FY 2010 program, FAS certified petitions filed by U.S. asparagus and catfish producers, both nationwide, and by U.S. shrimp producers in the Gulf and South Atlantic regions. As a result, 4,522 producers were approved for training and cash benefits. Under the FY 2011 program, FAS certified petitions filed by blueberry producers in Maine, lobster producers in the Northeast region, and shrimp producers in Alaska and the Gulf and South Atlantic regions. As a result, 5,715 producers were approved for training and cash benefits. A total of 10,237 farmers and fishermen applied and were approved for training and cash benefits under the TAAF Program.⁸

Objectives

Our overall objective was to evaluate the internal controls established by FAS, FSA, and NIFA for administering the TAAF Program and to assess the program’s policies and procedures. Specifically, we determined whether (1) TAAF Program recipients were eligible for program participation; (2) funds were properly obligated, timely distributed, and accurately calculated; (3) program reporting requirements were met; and (4) the agencies provided sufficient oversight to ensure that the TAAF Program was administered in an accountable and equitable manner.

⁶ FSA Notice SP-57, “Revised TAA for Farmers Application Requirements,” dated August 2010.

⁷ A pre-certification approval is an approval granted for a commodity based on the data submitted by producers or producer groups that show the prices noted are representative of those prices received by producers in the requested area. Under such approvals, a producer located in the covered geographic area does not have to prove his/her individual price decline, but must meet all other eligibility requirements.

⁸ The Gulf and Atlantic Coast regions represent the following States: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. Likewise, the Northeast region represents Maine, Massachusetts, and Rhode Island.

Section 1: Unobligated TAAF Program Funds

Finding 1: FAS Did Not Timely Return Unobligated Program Funds to the Department of the Treasury

At the close of FY 2009, FAS neither returned unobligated TAAF Program funds to the Department of the Treasury (Treasury) nor provided any evidence to show that all of the funds were needed to meet future financial obligations. FAS officials stated that they are allowed to retain these funds on their accounting records for a complete 5-year budget cycle to account for any changes in program obligations in subsequent fiscal years. FAS also stated that agencies typically would not voluntarily return funds until expired, at which time they are removed from the agencies' accounting records during the year-end closing process. While FAS may need to retain a portion of its unobligated funds, using prudent business practices, the agency should have evaluated its financial obligations and determined the amount of funds needed to cover any potential liabilities and then returned the remaining funds to the Treasury to be used for other critical functions, such as deficit reduction. However, this type of analysis was not performed. As a result, approximately \$65.1 million in unobligated and unneeded TAAF Program funds remain on the agency's accounting records more than 3 years after the close of FY 2009.

In accordance with the United States Code, Federal agencies are allowed to keep remaining budget authority for 5 years after the appropriation expires to pay for any unliquidated obligations and liabilities remaining on the agencies' accounting records at the time of expiration.⁹ At the end of that 5-year period, all budgetary resources—both obligated and unobligated—are canceled and returned to the Treasury, and thus any receivables and payables are canceled.¹⁰ However, the Dodd-Frank Wall Street Reform and Consumer Protection Act, passed in July 2010, emphasized the need for Federal agencies to return to the Treasury any discretionary appropriations that were not obligated by December 31, 2012. Such funds would then be deposited into the General Fund and dedicated for the sole purpose of deficit reduction.¹¹

For FY 2009, the Recovery Act provided \$90 million in funding for TAAF Program activities.¹² During this period, FAS spent the majority of its time developing policies and procedures necessary to carry out the provisions of the TAAF Program. Therefore, it did not initiate the petition and application processes that allowed producers to apply for and receive program payments and, thus, no FY 2009 funds were allocated for program payments. However, FAS allocated approximately \$25 million of the \$90 million to itself, ERS, and the other administering agencies (FSA and NIFA) for developing software; establishing training modules; and paying administrative costs, including salaries. Specifically, FAS allocated approximately \$19.6 million to NIFA for technical assistance and training, \$5.3 million to FSA to develop and maintain the TAAF Program database, \$151,000 to itself for salaries and other administrative costs, and \$75,000 to ERS to review petition proposals submitted by producer groups. Of these

⁹ Title 31 United States Code, Subtitle II, Chapter 15, Section 1552, dated January 7, 2011.

¹⁰ Public Law 101-510, dated November 5, 1990.

¹¹ Public Law 111-203, Section 1613(b)(1), dated July 21, 2010.

¹² Public Law 111-5, dated February 17, 2009. Congress appropriated an additional \$90 million for FY 2010 and \$22.5 million for the first quarter of FY 2011. (October 1 through December 31, 2010).

four agencies, ERS did not obligate any of the funds received because no petitions were submitted and accepted in FY 2009 and FAS only obligated approximately \$16,000 for the payment of salaries and expenses. Thus, a total of \$24.9 million in funding was obligated for FY 2009 TAAF Program operations, leaving an unobligated balance of approximately \$65.1 million. As of May 2, 2013, these unobligated funds still remained on FAS' accounting records.

According to FAS officials, the normal accounting procedure is for funds to remain on the agency's financial records until they expire, which is usually after a 5-year period. Further, the FAS officials stated that they needed to retain sufficient funds to cover any adjustments in the financial obligations over the next 5 years. While this is allowed, over 70 percent of the appropriated funds were unobligated, which we believe should have led FAS to question the need for such a large amount of funds to cover any potential increases in financial obligations. FAS, in coordination with the other agencies, should have performed a year-end review of TAAF Program operations to determine the amount of additional funds needed to meet its FY 2009 financial obligations, and immediately returned the remaining funds to the Treasury.

During a follow-up discussion, FAS officials stated that they had begun to work with the other agencies to determine their outstanding obligations and identify whether additional funds would be needed to cover any potential increases. After these steps are completed, FAS intends to return all unneeded funds to the Treasury no later than June 30, 2013. FAS also stated that, in light of the current economic conditions, the agency intends to review all program accounts for unobligated balances. Even though FAS is currently taking positive steps towards better financial practices, as the lead agency it should have had adequate controls in place to properly monitor and evaluate the agencies' transactions and ensure that any unneeded funds were timely returned to the Treasury.

Recommendation to FAS

Recommendation 1

FAS should immediately return the \$65.1 million in unobligated FY 2009 Trade Adjustment Assistance for Farmers (TAAF) Program funds to the Treasury.

Agency Response

In its September 13, 2013 response, FAS agreed with this recommendation and stated that it would return all unobligated FY 2009 TAAF Program funds to the Treasury by December 31, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation to FAS

Recommendation 2

FAS should review the financial accounts for FY 2010 and FY 2011 TAAF Program operations and determine whether unneeded funds still remain on the financial records. If so, FAS should return any unneeded funds to the Treasury.

Agency Response

In the agency's response dated September 13, 2013, FAS agreed with this recommendation and stated that it would review the financial accounts for FYs 2010 and 2011 TAAF Program operations and return any unneeded funds to the Treasury by December 31, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation to FAS

Recommendation 3

If the TAAF Program is funded after FY 2013, FAS should perform an analysis at the end of each fiscal year, identify all unobligated funds, and return all excess funds to the Treasury.

Agency Response

In the agency's response dated September 13, 2013, FAS agreed with OIG and stated that in any future TAAF Program, if statutory provisions allow, FAS will review all unobligated funds in the TAAF Program financial accounts at the end of each fiscal year and return any unneeded funds to the Treasury.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FAS needs to remove the reference "if statutory provisions allow" from its response since the statute would not specifically describe the policies and procedures for analyzing agency accounts for unobligated and unneeded TAAF Program funds.

Section 2: Price Pre-Certification Approvals

Finding 2: FAS Did Not Use Consistent Factors When Granting Price Pre-Certification Approvals

FAS implemented price pre-certification approvals, which FAS used to determine eligibility by groups, instead of individually, to streamline the two-tiered eligibility process mandated by the Recovery Act. Agency officials believed this action would simplify the application process and, thus, increase program participation. However, citing time constraints, FAS officials did not thoroughly analyze the documentation submitted by producer groups to support their request for price pre-certification approvals for their particular commodities. As a result, we found that two of the five price pre-certifications that FAS approved (for catfish and shrimp) did not meet the criteria outlined in OGC's legal opinion, upon which they based their authority to deviate from the requirements of the Recovery Act. Additionally, while the third price pre-certification we reviewed (for lobster) met the OGC requirements, 4 of the 8 sampled producers (50 percent) were ineligible, according to the Recovery Act, to receive funding based upon their individual qualifications.¹³ We found this percentage to be generally comparable to—if not higher than—the number of ineligible producers for the other two commodities. In all, we found that 13 of the 37 sampled producers (35 percent) who were approved under these provisions and received approximately \$64,600 would not have qualified to participate under the original two-tiered eligibility requirements of the Recovery Act.

The Recovery Act established a two-tiered eligibility process under which both commodities and individual producers had to be determined eligible under the criteria outlined in the Act. Under the first eligibility tier, a group of producers had to submit a petition to FAS on behalf of producers in their State or group of States to request that a commodity be certified as eligible under the TAAF Program. Once FAS certified a particular commodity as eligible, producers of that commodity were required under the second tier to submit documentation to FSA to show a decline in price or production for their specific operations.

In August 2010, FAS officials made the decision to modify the eligibility requirements outlined in the Recovery Act, in order to expedite the approval process and generate higher levels of program participation. To accomplish this, FAS asked OGC whether eligibility requirements would be met if it granted agricultural commodities price pre-certifications for selected groups of individuals who produced an approved commodity, rather than only for individual producers. Doing so would reduce the administrative burden on FSA, as staff would not need to review all individual documentation, as well as on the producers, who would not need to individually establish their eligibility. OGC concurred that the Recovery Act permitted such pre-certification, as long as producers, or a group of producers of that commodity, still submitted each request for approval, and that any price decline documented in the request be representative of prices that

¹³ We reviewed the price pre-certification requests for all five commodities granted approval by FAS. However, our sample of judgmentally selected producers only included those producers approved for three of the five agricultural commodities—catfish, shrimp, and lobster.

producers actually received in the requested area.¹⁴ Under the price pre-certification process that FAS subsequently implemented, individual producers covered by the pre-certifications were only required to prove that they produced the approved commodity in the current marketing year and in 1 of 3 prior marketing years in order to be determined eligible to participate in the TAAF Program.¹⁵

We found that FAS applied the group price pre-certifications too broadly for two of the five commodities: catfish and shrimp. Price pre-certifications were extended either beyond geographical boundaries, or encompassed additional types of the commodity, without adequate support for these determinations. As a result, FAS made questionable eligibility determinations for both groups and allowed ineligible producers to participate in the program. In addition, while a price pre-certification approval granted for lobster was based on information that did support this determination, because FAS did not appropriately review individual eligibility, not all producers met the requirements, based on their own qualifications. These issues generally occurred because FAS wanted to expedite the application process and increase program participation and consequently, given the time constraints of the program, it did not conduct an extensive review of all documentation.

Catfish Producers

Two separate producer groups requested that price pre-certifications be extended to catfish producers. One group (Group A) submitted information in August 2010 that demonstrated a decline in prices for both fingerling and fry-type catfish.¹⁶ A second producer group (Group B) submitted pricing data in September 2010 that showed a similar price decline for food-size catfish.¹⁷ Based on this data, FAS granted its approval for all catfish producers in seven States (Alabama, Arkansas, California, Louisiana, Mississippi, North Carolina, and Texas) to participate in the program, based on price pre-certifications, rather than having to establish their eligibility individually. However, we found that the pricing data submitted by the two producer groups did not support such a broad extension of the price pre-certification authority in four States. Specifically, we found that:

- The data submitted by Group A for fingerling and fry-type catfish showed that, while the prices did decline in five States, this was not the case in the remaining two States (Alabama and Arkansas) for which information was submitted. Thus, producers of fingerlings and fry-type catfish in those two States were allowed to

¹⁴ FAS initially requested this opinion regarding shrimp producers in Louisiana and asparagus producers in Michigan. FAS has applied the OGC opinion more broadly, and implemented pre-certification for all five commodities: catfish, shrimp, lobster, asparagus, and blueberries.

¹⁵ In addition to these requirements, producers also had to submit the required FSA eligibility forms (e.g., form AD 1026, FSA form 502/902).

¹⁶ The data submitted by Producer Group A for fingerling and fry-type catfish exclusively supports a decline in prices in California, Louisiana, Mississippi, North Carolina, and Texas.

¹⁷ The data submitted by Producer Group B for food-size type catfish exclusively supports a decline in prices in Alabama, Arkansas, California, Louisiana, and Mississippi.

participate without submitting proof of individual eligibility, even though the available statistics showed that there was no general price decrease for their commodity.

- Similarly, the data submitted by Group B for food-size type catfish showed that, while the prices declined in five States, this was not the case in the remaining two States (North Carolina and Texas) for which information was submitted. Thus, producers of food-size catfish in those two States were similarly allowed to participate without submitting proof of individual eligibility, even though the available statistics showed that there was no general price decrease for this commodity.

Thus, by combining these two requests into a single authorization, FAS extended the price pre-certification to producers who may not have been eligible and who should have been required to demonstrate their eligibility on an individual basis, as required by the Recovery Act.

We reviewed 16 producers that were granted price pre-certification approvals in 3 of the 7 States (Louisiana, Mississippi, and North Carolina) and found that the producers' individual records did not indicate whether the data they submitted represented fingerling and fry-type or food-size catfish.¹⁸ Further, we found that 4 of the 16 producers (25 percent) would not have qualified for program benefits in the absence of the price pre-certification approval because their records were either insufficient or did not show a decline in prices or production. These four producers received program benefits totaling \$40,000.

Shrimp Producers – Florida

Producer Group C submitted a petition in September 2010 to request that shrimp producers in 21 counties in Florida be approved for price pre-certification. While FAS granted this approval, our review of the documentation supporting this approval disclosed several problems, as follows:

- The data submitted by Producer Group C covered shrimp producers in 21 different counties, which the group presented as being representative of producers in those areas. While the evidence submitted did prove that the overall average prices for shrimp declined when compared with prior years, the actual decline was limited to only 12 of the 21 counties. For the remaining nine counties, shrimp prices either did not decline or there were no data available to support a decline. For example, Group C combined price data for three counties (Santa Rosa, Okaloosa, and Walton Counties), computing an average price of \$2.81 for 2008 and \$2.86 for 2005-2007. However, although price data for Santa Rosa and Okaloosa counties showed a decrease in the shrimp price, there

¹⁸ Originally, we judgmentally selected 19 of these catfish producers for further review. Since 3 of the 19 producers either requested to withdraw their application or were referred to FAS for disapproval at the time of application, we reviewed the records for the remaining 16 producers.

were no price data available for Walton County for this time period.¹⁹ Because Group C informed FAS that all three counties had suffered a price decline for the shrimp commodity, and FAS approved it without confirming the group's documentation, producers in Walton County were allowed to participate in the TAAF Program without submitting proof of individual eligibility, even though the available statistics showed that there were no data available to support a price decrease in that area.

- In a second example, the prices in five counties (all located in Florida's West Central Region) did not support a decrease, but their average prices were combined with three other counties whose prices supported a decline. Without the price data for these five counties combined with other counties, the five counties would not have met the eligibility requirements described under the Recovery Act. Specifically, in determining the average price, the producer group included counties where no price data were available at the time. As a result, the overall average price for the eight counties significantly decreased and program eligibility was granted for these counties. (See Exhibit B.)

Shrimp Producers – Louisiana

Producer Group C also submitted a petition on September 15, 2010, requesting that producers in 16 Louisiana counties be approved for price pre-certification for shrimp.²⁰ However, our review of the documentation supporting this approval disclosed several issues, as follows:

- Producer Group C presented data demonstrating a decline in prices of shrimp in 16 counties in Louisiana. Since some FSA county offices service multiple counties, in order to reduce the administrative burden, FSA included an additional seven counties—which were not proven to have a decline—to the areas covered by the price pre-certification.²¹ FSA officials stated that because the added counties were in close proximity to the counties which had been determined eligible, they requested and were granted permission by OGC to extend the pre-certification approvals there as well. However, in concurring, OGC stipulated that the price pre-certification requests must include sufficient data to document the representative prices received by producers in the applicable area. We found that this requirement was not met for the additional counties. Both FAS and FSA believed that the shrimp prices paid to producers in Louisiana were reasonably consistent throughout the combined counties. However, we found that FAS did

¹⁹ Available statistics confirm that in Santa Rosa county, shrimp prices in 2008 (\$2.09) decreased, when compared to the average prices for 2005- 2007 (\$2.22). The price data also showed that the shrimp price in Okaloosa County decreased in 2008 (\$2.64) when compared to the average prices for 2005-2007 (\$2.66).

²⁰ The 16 counties covered under producer Group C's price pre-certification request include: Orleans County, St. Tammany County, Tangipahoa County, St. Charles County, St. John County, Livingston County, St. James County, Ascension County, Assumption County, Iberia County, St. Martin County, St. Landry County, Evangeline County, Lafayette County, Acadia County, and Jefferson Davis County.

²¹ The seven additional counties approved by FAS include: Terrebonne County, Lafourche County, East Baton Rouge County, Washington County, St. Helena County, Plaquemines County, and St. Bernard County.

not require the producer group to provide any additional information to support this position. This information, had it been obtained, would have shown no overall price decline for the 23 counties collectively. (See Exhibit C.)

Based on our review of 13 shrimp producers from Florida and Louisiana, we found that 5 producers (38 percent) would not have qualified for TAAF Program benefits in the absence of the price pre-certification because they either did not have adequate records, or their records did not support a decrease in their shrimp prices.²² These five producers received approximately \$18,800 in program benefits.

Lobster Producers – Maine

Producer Group D submitted a petition in October 2010 to request that lobster producers for the State of Maine be approved for price pre-certification, which FAS approved. While the data reflected a decline in prices for the entire State, we found that not all producers met the individual eligibility requirements for the TAAF Program. Based on our review of eight lobster producers, we found that four producers (50 percent) would not have qualified for TAAF Program benefits in the absence of the price pre-certification because they either did not have adequate records or their records did not support a decrease in their lobster prices.²³ These four producers received approximately \$5,800 in program benefits. Subsections are Body Text indented half an inch. When written, all text will be indented until the subsection concludes.

The issues for two of the three commodities (catfish and shrimp) occurred because FAS did not sufficiently analyze the documentation submitted by the producer groups. When we spoke to FAS officials regarding this matter, they stated that not enough time was available to thoroughly review each pre-certification request because the end of the application period was near and they needed to make immediate decisions. While we recognize FAS' time limitations, it is critical that FAS thoroughly review all supporting documentation prior to granting price pre-certification approvals. The absence of such reviews increases the risk of allowing ineligible producers to participate in the program and receive payments, as shown by the results of our reviews. As noted above, 25 percent of the catfish producers, 38 percent of the shrimp producers, and 50 percent of the lobster producers we reviewed were ineligible, while 27 percent of the sampled shrimp producers and 53 percent of the lobster producers—any or all of whom may have likewise been ineligible—either did not comply with our requests for records or voluntarily withdrew from the program after receiving our requests. (See Exhibit D.) In the future, if the program is continued after the Recovery Act, to minimize the possibility of granting approval to ineligible producers, FAS should develop a stronger and more effective review process prior to granting price pre-certification approvals. This process could include obtaining the support of other agencies, such as the Economic Research Service, that already have some familiarity with the approved commodities.

²² Initially, we judgmentally selected 22 shrimp producers from Florida and Louisiana for further review; however, 9 producers either did not respond to our request for records (see Exhibit D), withdrew from the program, or were referred to FAS for disapproval at the time of application.

²³ Originally, we judgmentally selected 17 lobster producers from Maine for review; however, 9 producers either did not respond to our request for records (see Exhibit D) or requested to withdraw their application.

Recommendation to FAS

Recommendation 4

If the TAAF Program is funded after FY 2013, develop and implement procedures that require a complete review and analysis of all documentation submitted by producer groups prior to granting price pre-certification approval.

Agency Response

FAS agreed with this recommendation. It stated that in any future TAAF Program, if statutory provisions and funding allow, FAS will implement a more extensive analytical process to determine if prices submitted by producer groups as part of a price pre-certification request are representative of prices received by producers in the requested region. The extent to which this recommendation could be implemented may be impacted by statutory timelines and appropriated allowances for such efforts.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FAS needs to remove the reference “if statutory provisions and funding allow” from its response since the statute would not specifically describe the policies and procedures for reviewing and analyzing the documentation submitted by producer groups and used to grant price pre-certification approval.

Recommendation to FAS

Recommendation 5

If the TAAF Program is funded after FY 2013, require FSA to conduct spot checks of sampled participants that were granted eligibility under the price pre-certification approval to ensure their records support a decline in prices.

Agency Response

In its September 13, 2013 response, FAS stated that in any future TAAF Program, if statutory and regulatory provisions allow, FSA will consider conducting spot checks of producers who applied under a price pre-certification to verify information or certification provided. FAS further stated that any such information supplied by producers under a spot check could not affect their eligibility if a price pre-certification has been approved. It also stated that the extent to which this recommendation could be implemented may be impacted by statutory timelines and appropriated allowances for such efforts.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FAS needs to remove the reference “if statutory and regulatory provisions allow” from its response, and it also needs to state that it will request FSA to conduct the spot checks if the TAAF Program is funded after FY 2013.

Recommendation to FAS

Recommendation 6

If the TAAF Program is funded after FY 2013, ensure that the data provided by the producer groups include prices that support a decline in all counties considered part of a combined county office.

Agency Response

FAS agreed with this recommendation. FAS stated that in any future TAAF Program, if statutory provisions and funding allow, FAS will implement a more extensive analytical process to determine if prices submitted by producer groups as part of a price pre-certification request are representative of prices received by producers in the requested region, including producers that reside within an FSA administrative county (combined county). The extent to which this recommendation could be implemented may be impacted by statutory timelines and appropriated allowances for such efforts.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FAS needs to remove the reference “if statutory provisions and funding allow” from its response since the statute would not specifically describe the policies and procedures for analyzing information submitted by producer groups to support their request for price pre-certification approval.

Recommendation to FSA

Recommendation 7

Require the producers who refused to submit production records to OIG to submit the required documentation to the agency for review. For producers that do not submit the requested documentation, collect all TAAF Program payments, totaling approximately \$27,885, and withhold any future TAAF Program payments. (See exhibits A and D.)

Agency Response

In its September 13, 2013 response, FSA officials stated that the provisions for spot checks of producers are found at C.F.R 1580.502(d) as follows: “...if requested in writing by the U.S. Department of Agriculture or any agency thereof, or the Comptroller General of the United States, the producer shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this subpart...” It further stated that under a pre-certification it is a given that there will be producers who would not have been eligible because they are applying in a county with a price certification and FAS and FSA have determined that it is not necessary for producers who met the program’s price eligibility requirement, as part of an approved price pre-certification, to supply additional documentation. FSA also stated that producers who did not provide documentation to OIG do not need to return any program benefits.

OIG Position

We are unable to reach management decision for this recommendation. As cited in the regulations found at C.F.R 1580.502(d), if requested in writing, producers are required to provide all information and documentation that the reviewing authority determines necessary to verify any information or certification provided. The producers discussed above refused to submit documentation to OIG upon our written request. FSA needs to request the documentation from the producers. As we discussed with FSA, if the producers refuse to provide the records to FSA, it should collect the TAAF Program payments and withhold any future TAAF Program payments. We acknowledge that if the producers provide records that show they do not meet the pre-requisites for individual eligibility, FSA would not need to pursue recovery of the potential overpayment because of the price pre-certification approval. To reach management decision, FSA needs to provide copies of the bills for collection and accounts receivable for producers receiving overpayments. If FSA determines not to collect from the producers, FSA must provide a justification for not recovering the potential overpayments.

Section 3: TAAF Program Oversight

Finding 3: Stronger Oversight of TAAF Program Operations Needed

Although the TAAF Program was administered by three different USDA agencies, FAS, the lead agency for oversight in the TAAF Program, did not effectively monitor or conduct reviews of the other agencies' day-to-day program administration. As a FAS program, FAS is ultimately responsible for ensuring the program is administered as intended. However, FAS did not provide FSA with guidance on when to review records that supported whether program participants were eligible. In addition, FSA did not take adequate corrective actions to eliminate the improper use of the manual override feature in its application processing system, which allowed some program participants to receive TAAF Program benefits prior to meeting all training requirements; instead, FSA treated the issue as a clerical problem, rather than addressing the underlying, systemic cause. FAS officials stated that oversight reviews were not feasible at the time because the agency needed to administer the program within stringent timeframes. As a result, 85 ineligible producers participated in the TAAF Program and received approximately \$284,000 in program benefits to which they were not entitled.²⁴

In FAS' Recovery Act Plan, agency officials acknowledged that it was their responsibility to monitor TAAF Program operations to ensure that the agencies administered the program in accordance with Recovery Act guidance. Further, the plan states that each agency with responsibilities for program implementation would conduct quarterly reviews of program operations. The Office of Management and Budget, Circular A-123, *Management's Responsibility for Internal Control*, dated December 21, 2004, states that continuous monitoring and testing should help the agency to identify poorly designed or ineffective controls. The use of periodic reviews, reconciliation, and comparison of data, and periodic assessments should be integrated as part of management's continuous monitoring of internal controls.

However, neither the program regulations nor the Recovery Act Plan contained specific guidance on performing reviews and oversight within the TAAF Program. In addition, since FAS did not monitor the other agencies' administration of the TAAF Program, it did not identify any of the issues we found in our audit. These issues are discussed in the following sections.

FSA Did Not Verify the Eligibility of Self-Certified Producers

We found that FAS did not provide appropriate guidance or controls to safeguard against weaknesses in the self-certification process. This process allows producers to certify their production quantity and the price received for their commodities, but still requires them to show that they produced the commodity in the current marketing year and one of the 3 most recent prior marketing years.²⁵ While the Recovery Act's two-tiered eligibility structure required applicants of approved commodities to also meet individual

²⁴ While approximately \$284,000 in funding went to ineligible recipients, we are only recommending the recovery of funds OIG identified, which total approximately \$85,000.

²⁵ Self-certification does not require the producers to submit complete records at the time of application to support their individual eligibility.

eligibility requirements, TAAF Program Handbook 1-SP, dated October 2010 only required that producers be asked to document their individual eligibility if selected for a spot check.

We found that FSA did not conduct spot-check reviews for producers who certified their eligibility to receive program benefits under the TAAF Program and Recovery Act requirements. While FSA issued two notices that provided detailed instructions for conducting oversight reviews of its program participants, neither notice specified that these reviews would cover the TAAF Program.²⁶

When we asked FSA officials why they had not developed spot-check procedures for the TAAF Program, they stated they had not received instructions from FAS—the lead agency for the TAAF Program—regarding either type of review that needed to be completed, or their timing, and that without such instruction, no such spot-check reviews would be performed. Because FSA had not performed spot checks or received guidance for such reviews to be performed, eligibility determinations were not verified for producers covered by self-certification. Failure to perform spot-checks increases the risk of disbursing payments to ineligible participants. We reviewed the records for 22 judgmentally selected shrimp producers in Louisiana, Mississippi, North Carolina, and Florida whose TAAF eligibility was established as part of the self-certification approval process. Of these producers, 9 (41 percent) received payments totaling \$84,000, even though the records showed that they did not qualify for TAAF Program benefits. For example:

- One producer in Louisiana was granted eligibility based on a self-certification that a decline had taken place in his production levels during the current marketing year. However, our review of the producer’s documentation disclosed there had been no such decline and that, in fact, production had increased during this time period. Either an upfront review of the applicant’s business records or a subsequent spot check would have revealed that this producer was ineligible to participate in the TAAF Program. The producer received \$12,000 in payments.
- Another producer in Florida, approved under the FY 2010 application period, received \$12,000 in TAAF Program payments upon completion of the initial and long-term business plans, based on a self-certification that the producer’s production levels declined during the current marketing year. However, the producer did not provide us with sufficient documentation to support this certification. Either a check of the producer’s eligibility at the time of certification, or a subsequent spot check would have disclosed that the producer did not meet program eligibility requirements.
- A third producer in Mississippi was determined eligible, based on the producer’s certification that a decline had taken place in his level of production during the current marketing year. In contrast, our review of the producer’s individual

²⁶ FSA Notice CP-667 – “2010 Compliance Reviews and Spot Checks,” dated March 1, 2011, and FSA Notice CP-676 – “2011 Compliance Reviews and Spot Checks,” dated January 1, 2012.

records disclosed that the production quantity had, in fact, increased in comparison to that of the most recent prior marketing year. Had FSA performed either a pre-approval review of the producer's records or a subsequent spot check, it would have revealed that the producer was not eligible to participate. The producer received \$12,000 in payments.

On June 7, 2012, FSA issued its FY 2012 Compliance Reviews and Spot Checks notice, which included a limited review of the TAAF Program. However, this review only required FSA to verify that a valid signature was present on the application, that the application was timely submitted, and whether all required FSA eligibility forms were submitted. While a step in the right direction, these procedures did not include a review of producers' individual records, as stated in the FSA Handbook 1-SP. Without guidance from FAS and diligent reviews from FSA, ineligible individuals may continue to receive payments.

FSA Did Not Effectively Monitor and Evaluate Use of the Manual Override Feature

We also found FSA county offices in eight States manually overrode FSA's automated TAAF Program application system to inappropriately process payments to producers who had not met the program's training requirements. We attributed this to the FSA national office's insufficient monitoring of county offices' activities. As a result, FSA made 118 overpayments, totaling approximately \$200,000, to 76 producers who, at that point, were not eligible to receive them.²⁷

In accordance with TAAF Program policies and an FSA notice, producers are eligible for payment only after all training requirements have been met and the applicable FSA county office receives electronic notification from the Center for Farm Financial Management (CFFM).²⁸ Producers are eligible for the first program payment only after they have completed the initial orientation, intensive training courses, and an approved initial business plan. If producers complete an optional long-term business plan, they are eligible for a second payment. However, in both instances, FSA officials should not initiate a payment until CFFM provides notification that the training is complete.

During our review, the media reported that several producers in New Hampshire had received TAAF Program payments without fulfilling all of the necessary training requirements.²⁹ Upon further inquiry, we found that FSA had identified 66 producers in New Hampshire, 8 in Michigan, and 1 in Arkansas who received approximately \$199,000 in program payments before fulfilling the training requirements. In addition, FSA identified 13 producers in 3 States (Michigan, Rhode Island, and Texas) whose training history had been changed in the application system to incorrectly show that all required training had been completed; however, this change did not result in any overpayments. FSA attributed these errors to the county offices' use of a manual

²⁷ FSA initially identified 75 producers with overpayments totaling approximately \$199,000, and OIG subsequently identified one additional producer with an overpayment totaling approximately \$1,000.

²⁸ FSA Notice PS-684 – "Authorization to Issue Trade Adjustment Assistance for Farmers (TAAF) Program Payments and Payment Processing Software Instruction," dated December 1, 2011.

²⁹ Seacoastonline Article. "N.H. Fisherman Asked to Return Federal Funds," September 22, 2011.

override feature, which allowed county personnel to inadvertently change the producers' training status from "pending" to "approved." With this change, the payment issuance process was initiated after final approval by the county executive director, resulting in overpayments.

FSA officials stated that the override feature was necessary to allow county office staff to change a producer's training status, but only under limited circumstances and with prior concurrence from the FSA national office. However, we found no indication that the county office personnel obtained this type of approval, nor were there procedures in place to monitor the use of the manual override feature. Therefore, these errors circumvented the established controls and resulted in premature payments to producers that had not met the necessary training requirements.

To resolve this issue, on September 15, 2011, FSA issued a reminder to the county offices, instructing them to wait on training notifications from CFFM and not to use the manual override feature without prior approval from FSA Headquarters. We requested that FSA perform a second query to confirm that the manual override feature was no longer used and that no additional payments were issued in error. This query showed that the manual override feature had continued to be used for 11 producers in 3 States (California, Maine, and Tennessee) after FSA issued the new instructions. FSA could not explain the reason why these States failed to follow the instructions set forth in the reminder e-mail. While these changes only resulted in one overpayment, totaling approximately \$1,000, it shows that FSA needs additional controls in place, such as allowing only the national office access to this override feature after verifying that training has been completed.

Even though FSA bears responsibility to oversee county office operations for the TAAF Program, FAS, the lead agency for oversight, must ensure that all Program requirements are met. Without adequate and effective oversight, FAS is unaware of the extent to which weaknesses occur and, thus, is unable to prevent the issuance of erroneous TAAF Program payments.

Recommendation to FAS

Recommendation 8

If the TAAF Program is funded after FY 2013, develop and implement oversight procedures to review TAAF Program operations for weaknesses and areas for improvement.

Agency Response

FAS agreed with this recommendation. FAS stated that the TAAF Program is a complex undertaking with key functions provided by FAS, FSA, NIFA, ERS, and our university partners. It further stated that in any future TAAF Program, FAS will continue to work closely with its program partners with the goal of implementing a process that is accurate, effective, efficient, and meets all statutory and regulatory requirements.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FAS needs to specifically indicate that if the TAAF Program is funded after FY 2013, it will develop and implement oversight procedures to assess program operations for weaknesses and areas for improvement.

Recommendation to FSA

Recommendation 9

Collect TAAF Program payments, totaling \$84,000, from those producers whose self-certification was not supported by their records submitted to OIG.

Agency Response

FSA stated that nine producers were identified by OIG during its field work to have questionable eligibility documentation or who did not respond to OIG's request for additional documentation. The nine producers included; one shrimp producer in Mississippi, two shrimp producers in Louisiana, two shrimp producers in North Carolina, and four shrimp producers in Florida. USDA had previously identified and disapproved for benefits the shrimp producer in Mississippi. FAS has since received an appeal of this disapproval from the producer, and is working with the Office of the General Counsel to make a determination on this appeal. The two shrimp producers in Louisiana have been determined after further review of their records by USDA to be eligible for benefits, thus no further action is required. The two shrimp producers in North Carolina elected to withdraw from the program without receiving any benefits, thus no further action is required. The four shrimp producers in Louisiana have been determined after further review of their records by USDA to be eligible for benefits, thus no further action is required.

OIG Position

We are unable to reach management decision on this recommendation. Based on the documentation provided by the two shrimp producers in Louisiana (Application Numbers 2211300005 and 2211300042) and the four shrimp producers in Florida (Application Numbers 1203300018, 1203300004, 1203300019, and 1203300026) and that were provided to FSA, the documentation did not support the producers' self-certification of their eligibility. To reach management decision for this recommendation, FSA needs to provide a copy of the bills for collection and accounts receivable against these producers or provide a justification for not collecting the overpayments, to include any additional documentation or information supporting the producers' eligibility.

Recommendation to FSA

Recommendation 10

Collect the TAAF Program payment, totaling approximately \$1,000, from the producer that was issued an erroneous payment because of FSA's use of the manual override feature.

Agency Response

FSA has determined that all approved producers who received a cash payment have successfully completed the program's required training elements, or action has been taken to implement statutory and regulatory requirements.

OIG Position

We accept management decision for this recommendation.

Recommendation to FSA

Recommendation 11

If the TAAF Program is funded after FY 2013, include TAAF Program operations, including spot checks of applicants' production records, as part of the agency's annual process for performing compliance reviews.

Agency Response

In its September 13, 2013 response, FSA stated that in any future TAAF Program, if statutory provisions allow, FSA will consider conducting spot checks of producers to verify information or certification provided. The extent to which this recommendation could be implemented will be determined by statutory timelines and appropriated allowances for such efforts. It further stated that the TAAF Program has been added to the FSA National Review and Spot Check process conducted on an annual basis, and that it recognizes that more substantive questions regarding eligibility must be included in the future.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FSA needs to remove the references "if statutory provisions allow" and "consider" and agree that it will conduct spot check reviews of the applicants' production records as part of its annual compliance review process.

Recommendation to FSA

Recommendation 12

If the TAAF Program is funded after FY 2013, establish and implement controls that would require the producers to submit production records at the time of application.

Agency Response

In its September 13, 2013 response, FSA stated that in any future TAAF Program, if statutory provisions allow, FSA will consider requiring producers to submit production records at the time of application. It further stated that the extent to which this will occur largely depends on the agricultural industry that is predominantly participating in the program and the regions in which these industries are located.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FSA needs to remove the reference “if statutory provisions allow” since the statute would not specifically describe the policies and procedures for submitting production records at the time of application.

Recommendation to FSA

Recommendation 13

If the TAAF Program is funded after FY 2013, develop and implement controls to prevent the use of the manual override feature within the TAAF Program Application system in the absence of the training update.

Agency Response

In its response dated September 13, 2013, FSA stated that in any future TAAF Program, FSA Headquarters will continue to work closely with the FSA State offices (STO) in their efforts to administer this complex program. The TAAF software provides the STOs with needed flexibility that allows for administrative decisions to be made based on the applicant’s unique circumstances. We will consider the use of a special authorization feature to be added to the software when the use of a manual override is necessary in the event the program is funded in the future. FSA Headquarters will continue to provide detailed information to the STOs on provisions of the TAAF Program and guidance on proper procedures for approvals and payments per statutory requirements.

OIG Position

We are unable to reach management decision for this recommendation. To reach management decision, FSA needs to remove the reference “we will consider” and agree that it will develop and add a special authorization feature to the TAAF software which will be used when a manual override is necessary.

Section 4: Federal Information System Requirements

Finding 4: The TAAF Program Database Does Not Comply With Security Requirements for Federal Information Systems

We found that NIFA did not ensure that the TAAF Program database, maintained by a contracted vendor, was in compliance with Federal information system security requirements for certification and accreditation.³⁰ Although NIFA officials acknowledged that this database was necessary and instrumental to administering the program, they stated that they did not believe that the system needed the normal Departmental-level review because they considered this to be only an interim system, rather than the primary TAAF Program database. However, an OGC written opinion confirms that this system must meet Federal information security requirements. Without the required Departmental review, NIFA's system may not have adequate security to safeguard sensitive data that it contains, including the personally identifiable information of program participants.

The Federal Information Security Management Act of 2002 (FISMA) requires that each agency be responsible for providing information security protections equal to the risks and magnitude of the potential harm resulting from unauthorized access, use, or disclosure of information.³¹ Both FISMA and USDA directives require that each information technology system pass through a certification and accreditation process and then be approved by USDA's Office of the Chief Information Officer (OCIO) before becoming operational.³²

NIFA entered into a cooperative agreement with the Center for Farm Financial Management (CFFM) at the University of Minnesota to provide training and technical assistance to eligible producers under the TAAF Program. The program has two separate databases, which house producer information and are instrumental in the successful administration and operation of the program. Both systems, individually owned and operated by FSA and CFFM, are each referred to as the TAAF Application. Each database operates concurrently to exchange data regarding the producer's program eligibility and training status, passing information between the two systems.

However, we found that the TAAF Program database operated by CFFM does not comply with security requirements for Federal information systems. Specifically, NIFA had not informed USDA's Chief Information Officer of the TAAF Application's existence, or taken steps to ensure it was managed in accordance with Federal guidelines.

³⁰ According to the NIST Special Publication 800-37, the term certification and accreditation was revised and is now referred to as the Risk Management Framework.

³¹ Public Law 107-347, Federal Information Security Management Act of 2002 (FISMA), Title III, Section 301, Subsection 3544(a)(1)(A), dated December 17, 2002.

³² Certification is a comprehensive assessment of a system's security features and safeguards to establish whether it has met specified security requirements, and accreditation is the formal declaration by a designated accrediting authority that the system is approved to operate using a prescribed set of safeguards. Departmental Manual 3555-001, Chapter 11, part 1, dated October 18, 2005.

This occurred because NIFA did not believe that its database was subject to Federal standards, such as FISMA. When we spoke to NIFA officials, they explained that the TAAF Application was a system to be used only in the interim until a permanent system could be established by FSA; thus, they believed that it did not require the Departmental-level review, as would have been the case with a system that was intended to be in long-term use. However, we found that this application was intended for long-term use because in its cooperative agreement with NIFA, CFFM agreed to develop an on-line database to track all participant training activities associated with the TAAF Program. This database would be used to communicate to FSA the training status of all applicants. Additionally, FISMA requirements apply to all information contained within any system that uses or processes such information on behalf of an agency. Since this system contains sensitive data, including personally identifiable information on program participants, it is critical that the information transmitted and stored in both of the TAAF Program databases be properly secured at all times.

Officials of NIFA and CFFM disagreed with our assessment that the TAAF Application was subject to these requirements, and requested a legal opinion from OGC. Specifically, NIFA requested clarification as to whether CFFM was performing a government function on behalf of USDA, and whether CFFM's administration of the technical and training assistance requirements under the TAAF Program made it necessary for its information system to comply with FISMA's requirements. In response, OGC issued an opinion on March 19, 2012, stating that CFFM was acting on behalf of USDA, since it was functioning as a direct extension of the Federal Government to accomplish a Federal Government function. Further, OGC opined that, since FISMA requirements apply to all Federal contractors and organizations that collect or maintain information on behalf of USDA agencies, CFFM's system must be FISMA-compliant.

FISMA was implemented to improve the security of Federal information systems and the information they contain, and therefore requires Federal agencies to develop, document, and implement agency-wide information security programs. Since OGC has determined that CFFM's system falls under these requirements, it is imperative that NIFA and CFFM adhere to Departmental requirements and perform the necessary certification and accreditation process to protect the security of the data maintained and stored on its system. Without doing so, the sensitive information that is contained in these databases may be compromised.

Recommendation to NIFA

Recommendation 14

Immediately notify USDA's Chief Information Officer of the existence of the TAAF Program database and work with its security personnel to complete the certification and accreditation process.

Agency Response

In its response dated September 25, 2013, NIFA disagreed with this recommendation and stated that it should be directed to FSA since the primary TAAF Program database is maintained by FSA. NIFA also stated that it discussed the existence of this database with USDA's Chief

Information Officer (CIO) who agreed that the database is FSA's responsibility and it is responsible for compliance with FISMA and USDA security requirements for Federal information systems.

OIG Position

We are unable to reach management decision for this recommendation. As stated in OGC's legal opinion, dated March 19, 2012, NIFA entered into a cooperative agreement with the Center for Farm Financial Management (CFFM) to establish a National TAAF Training Coordination Program, which required CFFM to develop and deliver training and technical assistance for program producers. The legal opinion further states that from the terms of the agreement, CFFM was acting as a direct extension of USDA to accomplish the notification, training, and reporting requirements of the TAAF Program. As such, CFFM's information system is in effect a Federal information system and is required to meet FISMA information assurance requirements. To reach management decision, NIFA needs to inform OCIO of NIFA's responsibility for the database and provide a date indicating its planned completion of the certification and accreditation process.

Recommendation to NIFA

Recommendation 15

Work with the Center for Farm Financial Management (CFFM) to implement interim procedures to protect the TAAF Program data until the certification and accreditation process is complete.

Agency Response

In its response dated September 25, 2013, NIFA disagreed with this recommendation and stated that it should be directed to FSA since the primary TAAF Program database is maintained by FSA. NIFA also stated that it discussed the existence of this database with USDA's CIO who agreed that the database is FSA's responsibility, and that FSA is responsible for compliance with FISMA and USDA security requirements for Federal information systems.

OIG Position

We are unable to reach management decision for this recommendation. As stated above, in OGC's legal opinion, it stated that NIFA entered into a cooperative agreement with CFFM to establish a National TAAF Training Coordination Program, which required CFFM to develop and deliver training and technical assistance for program producers. OGC further stated that FISMA requirements apply to all Federal contractors and organizations that collect and maintain information on behalf of an agency. Since the CFFM is performing USDA's congressionally mandated training and technical assistance functions, its information system is required to be FISMA compliant. We believe that since NIFA, not FSA, entered into the cooperative agreement with CFFM, that it is NIFA's responsibility to ensure that the security requirements are met. To reach management decision, NIFA needs to indicate the date that the interim procedures for protecting the TAAF Program data will be implemented.

Scope and Methodology

USDA's FAS received specific Recovery Act funding for administering the TAAF Program in coordination with FSA and NIFA, which subsequently contracted its responsibilities to CFFM at the University of Minnesota. We therefore performed a review of each agency's roles and responsibilities for implementing the TAAF Program requirements, including the provision of training and the issuance of payments to eligible producers. Our review covered the agencies' administration of the program for FY 2009 through FY 2011, totaling \$202.5 million in appropriated funding. As of August 2012, FSA had issued over \$55 million in TAAF Program payments for FY 2010 and FY 2011. In addition, we performed a limited review of the two IT systems used for administering the TAAF Program and assessed the controls over each system's data integrity. (See Finding 3.)

We performed fieldwork between March 2011 and April 2013 at FAS, FSA, and NIFA national offices in Washington, D.C.; 6 statistically selected FSA State offices; and 21 FSA county offices within these States. Specifically, we visited six FSA county offices in Louisiana, four in Mississippi, four in North Carolina, one in Alabama, and three each in Florida and Maine. Our sample also included a review of 139 applications for producers who applied for program participation at these county offices.³³ (See Exhibit F.) For the 139 statistically selected applications, we determined whether the Form FSA 229-1, "TAAF Program Application," was submitted timely, whether the producers completed all of the required FSA eligibility forms (e.g., form AD 1026, form CCC-502/902, form CCC-526/926), and whether adequate internal controls existed at the county offices to ensure that these requirements were met.

In addition, we judgmentally selected 80 of the 139 sampled applications, to determine whether these individuals could establish eligibility using their individual records. This decision was in response to FAS granting price pre-certification approvals, which negated the second step of the two-tiered eligibility process. To judgmentally select our sample of 80 applicants, our criteria consisted of:

- A 100 percent review of the applications within county offices containing 1-3 statistically sampled applications, and
- A 50 percent review of the applications within county offices containing between 4 and 13 statistically sampled applications.

For this sample, we performed a complete analysis of the producers' records to determine whether they met one of the three criteria shown on the TAAF Program application form: (1) a decline in production for the petition year, compared to the most recent prior year in which the commodity was produced; (2) a decline in the average unit price received during the petition year, compared to the average price received during the prior 3 years; or (3) a decline in the

³³ At the sample design stage, a total of eight States were initially statistically selected for review. However, two States (Massachusetts and Texas) were not covered during the audit. For Massachusetts, no audit work was performed because in randomly selecting county offices for review, none were drawn during the sample design stage. In addition, no audit work was performed for the four counties selected in Texas because the audit team had gathered sufficient data in the other six States to conclude that additional controls were needed in the administration of the TAAF Program. (See Exhibits E and F.)

recorded USDA county price for the petitioned commodity as of the petition filing date, compared to USDA's average county prices in that county for the prior 3 consecutive marketing years.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Abbreviations

C&A	Certification and Accreditation
CFFM	Center for Farm Financial Management
ERS	Economic Research Service
FAS	Foreign Agricultural Service
FISMA	Federal Information Security Management Act
FSA	Farm Service Agency
FY	Fiscal Year
NIFA	National Institute of Food and Agriculture
OCIO	Office of the Chief Information Officer
OGC	Office of the General Counsel
OIG	Office of Inspector General
Recovery Act	American Recovery and Reinvestment Act of 2009
TAAF Program	Trade Adjustment Assistance for Farmers Program
Treasury	United States Department of the Treasury
USDA	Department of Agriculture

Exhibit A: Summary of Monetary Results

This exhibit presents the \$65,277,485 in questioned and unsupported monetary amounts referenced in this report as they correspond to the individual findings.

Finding	Recommendation	Description	Amount	Category
1	1	Unobligated and unneeded TAAF Program funds retained on the agencies' accounting records	\$65,100,000	Funds To Be Put To Better Use, Improper Accounting
2	5	Payments made to producers approved under the price pre-certification provisions, and whose records did not support their individual eligibility	\$64,600	Questioned Costs and Loans, No Recovery Recommended
2	7	Payments made to producers that refused to submit documentation to OIG upon request	\$27,885	Unsupported Costs and Loans, Recovery Recommended
3	9	Payments made to producers approved under the self-certification provisions, and whose records did not support their individual eligibility	\$84,000	Unsupported Costs and Loans, Recovery Recommended
3	10	Payment incorrectly made to a producer because of the use of the manual override feature	\$1,000	Unsupported Costs and Loans, Recovery Recommended
Total			\$65,277,485	

Exhibit B: Eligibility Determinations for Shrimp Producers in Eight Florida Counties

County	Individual County Prices (2008) ³⁴	Average County Prices (2005-2007)	OIG Eligibility Determination ³⁵
Charlotte	\$3.00	\$3.20	Yes
Collier	\$0.00	\$2.07	No
Hernando	\$4.24	\$3.50	No
Hillsborough	\$1.81	\$2.11	Yes
Lee	\$1.96	\$2.13	Yes
Manatee	\$0.00	\$1.87	No
Pasco	\$0.00	\$1.16	No
Pinellas	\$1.94	\$1.87	No
<i>Combined County Prices</i> ³⁶	\$1.62	\$2.24	Yes

³⁴ For those counties whose individual county prices are shown as \$0.00, no price data were available at the time when this data was compiled by the producer group.

³⁵ Five of the eight counties did not show an individual price decline in order to meet the individual eligibility requirements.

³⁶ The combined county prices were computed using the sum total prices for all eight counties divisible by the sum totals of their average prices. In computing the combined county price for 2008, the producer group included three counties with no price data, which resulted in a significant decrease in the overall county price for the eight counties.

Exhibit C: Comparison of Originally-Approved Versus Subsequently-Approved Louisiana Counties

This exhibit shows OIG's eligibility determinations based on average prices for counties in Louisiana for FY 2008 and the 3 prior marketing years.

	<u>Average Prices</u> <u>(2008)</u>	<u>Average Prices</u> <u>(2005-2007)</u>	<u>Eligibility</u>	<u>Explanation</u>
<p><u>16 Louisiana Counties, approved on 9/22/10:</u></p> <p>Orleans, St. Tammany, Tangipahoa, St. Charles, St. John the Baptist, Livingston, St. James, Ascension, Assumption, Iberia, St. Martin, St. Landry, Evangeline, Lafayette, Acadia, Jefferson</p>	\$1.52	\$1.79	Yes	This represents the prices for the 16 counties originally granted price pre-certification approval by FAS. The data submitted by the producer group collectively showed a price decline in the 16 counties in the current year compared to the average prices in the 3 prior years.
<p><u>23 Louisiana Counties, approved on 9/29/10:</u></p> <p>Orleans, St. Tammany, Tangipahoa, St. Charles, St. John the Baptist, Livingston, St. James, Ascension, Assumption, Iberia, St. Martin, St. Landry, Evangeline, Lafayette, Acadia, Jefferson, Terrebonne, Lafourche, East Baton Rouge, St. Helena, St. Bernard, Plaquemines, Washington</p>	\$1.40	\$1.18	No	This represents the prices for 23 counties whose prices did not collectively support a price decline. These 23 counties include the 16 counties originally approved by FAS; however, the inclusion of the seven additional counties did not support a price decline.

Exhibit D: Producers That Refused Submission of Records to OIG

This exhibit lists the producers who did not submit documentation to OIG for review.

Application Number	Commodity	State	Payments Received³⁷
2210300011	Shrimp (2010005)	Louisiana	\$12,000
2210300052	Shrimp (2011002)	Louisiana	\$971
1205700008	Shrimp (2010005)	Florida	\$12,000
2303100104	Lobster (2011003)	Maine	\$0
2303100168	Lobster (2011003)	Maine	\$0
2300500315	Lobster (2011003)	Maine	\$0
2303100082	Lobster (2011003)	Maine	\$2,914
2300900265	Lobster (2011003)	Maine	\$0
		Total	\$27,885

³⁷ At the time of our request, four of the producers had not received a payment and are noted as \$0; however, because they were not disapproved by the agency, they may complete the program requirements and receive payments in the future.

Exhibit E: List of FSA State and County Office Visited

This exhibit shows the total number of applications reviewed by the audit team in specific States and counties.

State	FSA County Offices	Total Applications Reviewed
Louisiana	Calcasieu, East Carroll, Franklin, Lafourche, Vermillion, Washington	59
Mississippi	Bolivar, Clay, Quitman, Washington	19
North Carolina	Greene, Pamlico, Pitt, Washington	12
Alabama	Dale	1
Florida	Escambia, Hillsborough, Putnam	19
Maine	Cumberland, Penobscot, Oxford ³⁸	29
		Total: 139

³⁸ Oxford County producers are serviced through the South Paris FSA County Office located in South Paris, ME.

Exhibit F: Sampling Methodology for the TAAF Program

Objective

This sample is designed to support OIG audit number 50703-0001-23. The objective of the TAAF Program audit is to evaluate the internal controls established by FAS, FSA, and NIFA for administering the TAAF Program and to assess the program's policies and procedures. Specifically, the audit team will determine whether (1) the TAAF Program recipients were eligible for program participation; (2) funds were properly obligated, timely distributed, and accurately calculated; (3) program reporting requirements were met; and (4) sufficient oversight exists to ensure that the TAAF Program was administered in an accountable and equitable manner.

The sampling objective is to develop a representative random statistical sample for review, to analyze sample data collected by the audit team, and to provide estimates for criteria being audited.

Audit Universe

The universe list was provided to OIG statisticians by the audit team. The universe consisted of 11,007 TAAF Program applications filed nationwide. Due to resource and travel considerations, we limited our review to the top eight States—those that included at least 200 applications per State. This limited universe represented 89 percent of all TAAF Program applications in the entire United States (US). However, after further planning, we dropped one of the States originally selected for review (Texas) from the sample and the projectable universe. Hence, our final projectable universe consists of 8,711 applications located at 103 county offices in the following seven States: Alabama, Florida, Louisiana, Maine, Massachusetts, Mississippi, and North Carolina. This limited universe includes about 80 percent of all TAAF Program applications filed nationwide. Our statistical projections will only apply to those seven States and 80 percent of applications.

Sample Design

For this audit, we decided to use a clustered, two-stage sample design. TAAF Program applications were spread across county offices in seven States. We clustered the applications based on these filing offices. Hence, at stage 1 of sample selection, we developed 103 clusters. We randomly chose 25 county offices for review, which contained a number of applications. For each of the 25 county offices selected at stage 1, we randomly picked a set of applications for review.³⁹ Our audit team was not able to review one of the applications in our sample due to a mismatched name/application number. We dropped this application from our sample and projectable universe. The final sample application count was 139. The sample selection structure is presented in Table 1 below.

³⁹ At the sample design stage, a total of eight States were initially statistically selected for review. However, two States (Massachusetts and Texas) were not covered during the audit. For Massachusetts, no audit work was performed because in randomly selecting county offices for review, none were drawn during the sample design stage. In addition, no audit work was performed for the four counties selected in Texas because the audit team had gathered sufficient data in the other six States to conclude that additional controls were needed in the administration of the TAAF Program. (See Exhibit E.)

Table 1: TAAF Program Sample Design Structure

Stage 1 selection count	Office location	Office Name	Number of apps per office in universe	Stage 2 selection count - number of apps selected for review at stage 2
1	AL	DALE COUNTY FARM SERVICE AGENCY	1	1
2	FL	ESCAMBIA COUNTY FARM SERVICE AGENCY	31	11
3	FL	HILLSBOROUGH COUNTY FARM SERVICE AGENCY	8	6
4	FL	PUTNAM COUNTY FARM SERVICE AGENCY	2	2
5	LA	CALCASIEU COUNTY FARM SERVICE AGENCY	38	13
6	LA	EAST CARROLL COUNTY FARM SERVICE AGENCY	2	2
7	LA	FRANKLIN COUNTY FARM SERVICE AGENCY	7	5
8	LA	LAFOURCHE COUNTY FARM SERVICE AGENCY	529	13
9	LA	VERMILION COUNTY FARM SERVICE AGENCY	116	13
10	LA	WASHINGTON COUNTY FARM SERVICE AGENCY	65	13
11	ME	CUMBERLAND/YORK COUNTY FARM SERVICE AGENCY	670	13
12	ME	PENOBSCOT COUNTY FARM SERVICE AGENCY	626	13
13	ME	SOUTH PARIS FARM SERVICE AGENCY	3	3
14	MS	BOLIVAR COUNTY FARM SERVICE AGENCY	2	2
15	MS	CLAY COUNTY FARM SERVICE AGENCY	10	6
16	MS	QUITMAN COUNTY FARM SERVICE AGENCY	5	5
17	MS	WASHINGTON COUNTY FARM SERVICE AGENCY	8	6
18	NC	GREENE COUNTY FARM SERVICE AGENCY	2	2
19	NC	PAMLICO COUNTY FARM SERVICE AGENCY	4	4
20	NC	PITT COUNTY FARM SERVICE AGENCY	4	4
21	NC	WASHINGTON COUNTY FARM SERVICE AGENCY	2	2
			Total number of applications in sample:	139

In summary, we selected 139 applications for review. We had no historical information on which to base a sample size calculation. In particular, we did not know where to expect variance to occur. Therefore, the total sample size selected is based on assumptions regarding expected error rate at a desired precision and confidence level.

Results

Our audit team performed an initial review of all 139 applications selected in our sample. They determined whether the Form FSA 229-1, “TAAF Program Application,” was submitted timely, whether the producers completed all of the required FSA eligibility forms (e.g., form AD 1026, form CCC-502/902, form CCC-526/926, etc.), and whether adequate internal controls existed at the county offices. They found zero exceptions for the applications’ timeliness and four exceptions for producers that did not complete all of the required FSA eligibility forms. None of these criteria tested resulted in reportable findings for the audit because the number of instances found was deemed immaterial when compared to the total of applications reviewed. Hence, we will not use projections for these results.

In addition to the initial review of the 139 applications, the audit reviewed applicants’ eligibility based on their own records. They performed a complete analysis of the producers’ records to determine whether they met one of the three criteria shown on the TAAF Program application form: (1) a decline in production for the petition year, compared to the most recent prior year in which the commodity was produced; (2) a decline in the average unit price received during the petition year, compared to the average price received during the prior 3 years; or (3) a decline in the recorded USDA county price for the petitioned commodity as of the petition filing date, compared to USDA’s average county prices in that county for the prior 3 consecutive marketing years.

Because of the time and resources needed to complete this review, the audit team was not able to complete all 139 applications selected in our sample. They selected the 80 applications located at 21 county offices for this review by: (1) reviewing 100 percent of the applications within county offices containing 1 to 3 statistically sampled applications, and (2) reviewing 50 percent of the applications within county offices containing between 4 and 13 statistically sampled applications. Even though the units reviewed remained random, this lower number of sampled applications, combined with the low error rates found, led to poor precision for our estimates. The lower bounds of the projections calculated were large negative numbers. We were not able to do additional audit work to correct for this issue. Hence, our report does not include any estimates to the universe of producers we wanted to project to. Instead, all reported issues are based on actual findings only.

**USDA'S
FAS' RESPONSE, FSA'S RESPONSE, AND
NIFA'S RESPONSE
TO AUDIT REPORT**



United States
Department of
Agriculture

September 13, 2013

Farm and Foreign
Agricultural
Services

Foreign
Agricultural
Service

1400 Independence
Ave, SW
Stop 1060
Washington, DC
20250-1060

TO: Gil Harden
Assistant Inspector General for Audit
Office of Inspector General

FROM: Phil Karsting /s/ Bryce Quick for Phil Karsting
Administrator
Foreign Agricultural Service

SUBJECT: Response to OIG Official Draft Report -- "American Recovery and Reinvestment Act – Trade Adjustment Assistance for Farmers Program" (50703-0001-23)

Thank you for providing the Foreign Agricultural Service (FAS) with the Office of Inspector General (OIG) official draft report on "American Recovery and Reinvestment Act – Trade Adjustment Assistance for Farmers Program." FAS worked closely with the Farm Service Agency (FSA), the National Institute of Food and Agriculture (NIFA), and the Economic Research Service (ERS) in administering this complex program, and is pleased with the statistics OIG included in the official draft report that identifies the positive results.

As indicated in the official draft report, the American Recovery and Reinvestment Act both reauthorized and modified the TAAF Program. FAS took aggressive action to implement statutory changes to the program, including the statutorily mandated relaxing of the eligibility criteria for applicants, which enabled a larger number of agricultural producers and fishermen to be eligible for benefits. In addition, we successfully implemented the enhanced levels of training and technical assistance to more effectively help producers adjust to import competition.

Several OIG recommendations in this draft report relate to administration of the TAAF Program going forward. While FAS generally agrees with many of these recommendations, we cannot know the statutory requirements or administrative flexibility of a future TAAF Program, just as the 2009-2011 TAAF Program differed substantially from its predecessor.

Of the 15 total recommendations made by OIG, please note the seven recommendations addressed specifically to FAS. Responses to the other recommendations will be provided separately by FSA and NIFA.

Recommendation 1:

FAS should immediately return the \$65.1 million in unobligated FY 2009 Trade Adjustment Assistance for Farmers (TAAF) Program funds to the Treasury.

FAS Response:

FAS agrees with this recommendation. FAS will return to the Treasury all unobligated FY 2009 TAAF Program funds by December 31, 2013.

Recommendation 2:

FAS should review the financial accounts for the FY 2010 and FY 2011 TAAF Program operations and determine whether unneeded funds still remain on the financial records. If so, FAS should return any unneeded funds to the Treasury.

FAS Response:

FAS agrees with this recommendation. FAS will review the financial accounts with FY 2010 and FY 2011 TAAF Program operations and return any unneeded funds to the Treasury by December 31, 2013.

Recommendation 3:

If the TAAF Program is funded after FY 2013, FAS should perform an analysis at the end of each fiscal year, identify all unobligated funds, and return all excess funds to the Treasury.

FAS Response:

FAS agrees with this recommendation. In any future TAAF Program, if statutory provisions allow, FAS will review all unobligated funds in the TAAF Program financial accounts at the end of each fiscal year and return any unneeded funds to the Treasury.

Recommendation 4:

If the TAAF Program is funded after FY 2013, develop and implement procedures that require a complete review and analysis of all documentation submitted by producer groups prior to granting price pre-certification approval.

FAS Response:

FAS agrees with this recommendation. In any future TAAF Program, if statutory provisions and funding allow, FAS will implement a more extensive analytical process to determine if prices submitted by producer groups as part of a price pre-certification request are representative of prices received by producers in the requested region. The extent to which this recommendation

could be implemented may be impacted by statutory timelines and appropriated allowances for such efforts.

Recommendation 5:

If the TAAF Program is funded after FY 2013, require FSA to conduct spot checks of sampled participants that were granted eligibility under the price pre-certification approval to ensure their records support a decline.

FAS Response:

The provisions for spot checks of producers are found at C.F.R. 1580.502(d) as follows: "...if requested in writing by the U.S. Department of Agriculture or any agency thereof, or the Comptroller General of the United States, the producer shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this subpart..." In any future TAAF Program, if statutory and regulatory provisions allow, FSA will consider conducting spot checks of producers who applied under a price pre-certification to verify information or certification provided. We note that any such information supplied by producers under a spot check could not affect their eligibility if a price pre-certification has been approved. The extent to which this recommendation could be implemented may be impacted by statutory timelines and appropriated allowances for such efforts.

Recommendation 6:

If the TAAF Program is funded after FY 2013, ensure that the data provided by the producer groups include prices that support a decline in all counties considered part of a combined county office.

FAS Response:

FAS agrees with this recommendation. In any future TAAF Program, if statutory provisions and funding allow, FAS will implement a more extensive analytical process to determine if prices submitted by producer groups as part of a price pre-certification request are representative of prices received by producers in the requested region, including producers that reside within an FSA administrative county (combined county). The extent to which this recommendation could be implemented may be impacted by statutory timelines and appropriated allowances for such efforts.

Recommendation 8:

If the TAAF Program is funded after FY 2013, develop and implement oversight procedures to review TAAF Program operations for weaknesses and areas for improvement.

FAS Response:

FAS agrees with this recommendation. The TAAF Program is a complex undertaking with key functions provided by FAS, FSA, NIFA, ERS, and our university partners. In any future TAAF Program, FAS will continue to work closely with our program partners with the goal of implementing a process that is accurate, effective, efficient, and meets all statutory and regulatory requirements.

If you have any questions or concerns regarding this memorandum, or if you need additional information, please contact James Gartner, FAS's Audit Liaison, on (202) 720-0517.



Farm and
Foreign
Agricultural
Services

Farm
Service
Agency

Operations Review
and Analysis Staff
1400 Independence
Ave, S.W., Stop 0540
Washington, DC
20250

Voice: 202-690-2532
Fax: 202-690-3354

DATE: September 13, 2013

TO: Director, Farm and Foreign Agriculture Division
Office of Inspector General

FROM: Philip Sharp, Director /s/ **Philip Sharp**
Operations Review and Analysis Staff

SUBJECT: Farm Service Agency's Response to Office of Inspector
General Report Official Draft Report, American Recovery
and Reinvestment Act – Trade Adjustment Assistance for
Farmers Program, Audit 50703-0001-23

The Farm Service Agency (FSA) responses to Recommendations 7 and 9 through 13 are listed below for the subject audit.

Recommendation 7

Require the producers who refused to submit production records to OIG to submit the required documentation to the agency for review. For producers that do not submit the requested documentation, collect all TAAF Program payments, totaling approximately \$27,885, and withhold any future TAAF Program payments.

Agency Response:

The provisions for spot checks of producers are found at C.F.R 1580.502(d) as follows: “...if requested in writing by the U.S. Department of Agriculture or any agency thereof, or the Comptroller General of the United States, the producer shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this subpart...” Under a pre-certification it is a given that there will be producers who would not have been eligible for benefits on the basis of their own price data, but who will be eligible because they are applying in a county with a price certification. FAS and FSA have determined that it is not necessary for producers who met the program's price eligibility requirement, as part of an approved price pre-certification, to supply additional documentation. As a result, producers covered under an approved price pre-certification, who did not provide documentation to the OIG, do not need to return cash benefits received for completing the program's training requirements. Whether their price data would have supported their eligibility is of no relevance, thus no further action is required.

Recommendation 9

Collect TAAF Program payments totaling \$84,000, from those producers whose self-certification was not supported by their records.

Agency Response:

Nine producers were identified by the Office of Inspector General during their field work to have questionable eligibility documentation or who did not respond to OIG's request for additional documentation. The nine producers included; one shrimp producer in Mississippi, two shrimp producers in Louisiana, two shrimp producers in North Carolina, and four shrimp producers in Florida. USDA had previously identified and disapproved for benefits the shrimp producer in Mississippi. FAS has since received an appeal of this disapproval from the producer, and is working with the Office of General Counsel to make a determination on this appeal. The two shrimp producers in Louisiana have been determined after further review of their records by USDA to be eligible for benefits, thus no further action is required. The two shrimp producers in North Carolina elected to withdraw from the program without receiving any benefits, thus no further action is required. The four shrimp producers in Louisiana have been determined after further review of their records by USDA to be eligible for benefits, thus no further action is required.

Recommendation 10

Collect the TAAF payment, totaling approximately \$1,000, from the producer that was issued an erroneous payment because of FSA's use of the manual override feature.

Agency Response:

FSA has determined that all approved producers who received a cash payment have successfully completed the program's required training elements, or action has been taken to implement statutory and regulatory requirements.

Recommendation 11

If the TAAF Program is funded after FY 2013, include TAAF Program operations, including spot checks of applicants' production records, as part of the agency's annual process for performing compliance reviews.

Agency Response:

The provisions for spot checks of producers are found at C.F.R 1580.502(d) as follows: "...if requested in writing by the U.S. Department of Agriculture or any agency thereof, or the Comptroller General of the United States, the producer shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this subpart..." In any future TAAF Program, if statutory provisions allow, FSA will consider conducting spot checks of producers to verify information or certification provided. The extent to which this recommendation could be implemented will be determined by statutory timelines and appropriated allowances for such efforts. The TAAF program has since been added to the FSA National Review and Spot Check process conducted on an annual basis, however, we recognize that more substantive questions regarding eligibility must be included in the future. Therefore, no further action is required at this time.

Recommendation 12

If the TAAF Program is funded after FY 2013, establish and implement controls that would require the producers to submit production records at the time of application.

FSA Response:

In any future TAAF Program, if statutory provisions allow, FSA will consider requiring producers to submit production records at the time of application. The extent in which this will occur largely depends on the agricultural industry that is predominantly participating in the program and the regions in which these industries are located. Large numbers of fishermen in the poorer gulf regions, as were predominant with the current program, along with small FSA county offices, complicates the statutorily limited-in-time application process. As a result, decisions will need to be made that provide for greater administrative efficiencies, as was done with this program, by allowing applicants to provide sufficient information at the time of application to satisfy the program's eligibility requirements.

Recommendation 13

If the TAAF Program is funded after FY 2013, develop and implement controls to prevent the use of the manual override feature with the TAAF program application system in the absence of the training update.

Agency Response:

In any future TAA for Farmers Program, FSA Headquarters will continue to work closely with the FSA State Offices (STO) in their efforts to administer this complex program. The TAAF software provides the STO's with needed flexibility that allows for administrative decisions to be made based on the applicant's unique circumstances. We will consider the use of a special authorization feature to be added to the software when the use of a manual override is necessary in the event the program is funded in the future. FSA Headquarters will continue to provide detailed information to the STO's on provisions of the TAAF program and guidance on proper procedures for approvals and payments per statutory requirements.



United States
Department of
Agriculture

Research,
Education, and
Economics

National Institute
of Food and Agriculture

1400 Independence
Avenue SW
Washington, DC
20250

DATE: September 25, 2013

TO: Gil Harden
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Cynthia R. Montgomery, MPA /s/ **Cynthia Montgomery**
Assistant Director
Office of Grants and Financial Management
National Institute of Food and Agriculture

SUBJECT: Response to OIG Official Draft Report-- "*American Recovery and Reinvestment Act- Trade Adjustment Assistance for Farmers Program*" (50703-0001-23)

The National Institute of Food and Agriculture (NIFA) is in receipt of the Office of Inspector General's (OIG) draft report entitled "*American Recovery and Reinvestment Act-Trade Adjustment Assistance for Farmers Program*" (50703-0001-23). The Trade Adjustment Assistance for Farmers Program (TAAF) was created to assist farmers and fisherman impacted by import competition to become more competitive producing their commodity or transition to a different commodity.

NIFA would like to thank the OIG for its thorough review of the TAAF program. The purpose of this memorandum is to provide NIFA's response to the OIG's recommendations.

Recommendation 14:

Immediately notify USDA's Chief Information Officer of the existence of the TAAF Program database and work with its security personnel to complete the certification and accreditation process.

Recommendation 15:

Work with the Center for Farm Financial Management (CFFM) to implement interim procedures to protect the TAAF Program data until the certification and accreditation process is complete.

NIFA's Response to Recommendations 14 and 15

NIFA disagrees with Recommendations 14 and 15, however, as an agency we feel that these recommendations are not applicable to NIFA. The recommendations should be directed to the Farm Service Agency (FSA) as explained below:

The OIG reported that the TAAF program's database was comprised of two components: (a) FSA's TAAF Application and Payment System; and (b) the Center for Farm Financial Management (CFFM) at the University of Minnesota's (UM) National TAAF Training Coordination Center. The OIG reported that NIFA was responsible to secure the CFFM's data because of NIFA's cooperative agreement with CFFM to host the TAAF Training Coordination Center and administer training to eligible TAAF participants. However, NIFA did not secure participants' personally identifiable information contained in its component of the database as required by Federal information system security standards.

The Federal Information Security Management Act of 2002 (FISMA) and USDA's Office of the Chief Information Officer (OCIO) both require that agencies protect Federal information systems against potential harm from unauthorized access to sensitive information. Additionally, USDA's OCIO must approve each information technology system before becoming operational.

NIFA does not support the dichotomy being made by the OIG when it characterizes the TAAF program's database as having two components. NIFA understands there to be a single TAAF database. Specifically, the primary TAAF program database is the TAAF Application and Payment System maintained by the FSA. NIFA is not the system owner and has no access to FSA's Application and Payment System database which is physically located in Kansas City.

As for the cooperative agreement between NIFA and CFFM, there was no requirement or expectation for the CFFM to maintain a component of TAAF Program database. NIFA competitively selected the CFFM to host the National TAAF Training Coordination Center to administer the training component of the TAAF program in compliance with the Trade Act of 2002, amended by the American Recovery and Reinvestment Act of 2009 (ARRA). NIFA is not the owner of CFFM's systems used to administer TAAF training and technical assistance. Additionally, while NIFA can access the National TAAF Training Coordination Center's Distance Learning Portal, access to the TAAF training content is restricted to eligible program participants and educators.

FSA and CFFM do share information regarding producers' program eligibility and training status. However, NIFA believes FSA acknowledged responsibility for securing the data maintained by, and shared between, FSA and CFFM at UM. Specifically, on March 23, 2010, FSA established a Memorandum of Understanding (MOU) with CFFM at UM to "*formally document the data provision arrangement between FSA and CFFM required for FSA to meet the requirements of the TAAF program.*" The MOU

specifically addresses: (a) FSA's and CFFM's responsibilities; (b) access to data; (c) protection and data use requirements; (d) obligation to safeguard FSA data; (e) data transfer requirements; and (f) protocol for security incidents.

NIFA discussed the TAAF program database and data-sharing with USDA's OCIO (Recommendation 14). The OCIO concurred FSA is the rightful owner and responsible for the TAAF program's compliance with FISMA and USDA security requirements for Federal information systems (Recommendation 15).

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