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United States General Accounting Office
Washington, DC 20548

May 26, 2004

The Honorable Jo Ann Davis
Chairwoman, Subcommittee on Civil Service
and Agency Organization
Committee on Government Reform
House of Representatives

Subject: Posthearing Questions Related to Fragmentation and Overlap in the Federal Food Safety System

Dear Chairwoman Davis:

On March 30, I testified before your subcommittee at the hearing *A System Rued: Inspecting Food*.[1] This report responds to your request that I provide answers to follow-up questions from the hearing. Your questions, along with my responses, follow.

(1) Does the lack of a single official responsible for the operations of all food inspection programs in the federal government decrease the effectiveness of congressional oversight? How has the current system affected the oversight work of GAO?

As the Comptroller General stressed in his September 2003 testimony before the subcommittee,[2] the current structure of the food safety system in general, and the food inspection programs in particular, could be improved by reducing the number of entities charged with oversight, thereby enhancing accountability and increasing government efficiency. From a congressional perspective, the fragmented nature of the food inspection system results in divided, and perhaps diluted, responsibility for ensuring a safe food supply and protecting the public health. For example, congressional oversight committees and GAO must review and analyze multiple agencies' programs, policies, and budgets, in order to address questions of overall food safety oversight, rather than focus on food safety inspection programs under one agency's jurisdiction. In particular, it is difficult to compare program effectiveness when the agencies responsible for maintaining food safety are operating

[1]U.S. General Accounting Office, *Federal Food Safety and Security System: Fundamental Restructuring Is Needed to Address Fragmentation and Overlap*, GAO-04-588T (Washington, D.C.: Mar. 30, 2004).
[2]U.S. General Accounting Office, *Results-Oriented Government: Shaping the Government to Meet 21st Century Challenges*, GAO-03-1168T (Washington, D.C.: Sept. 17, 2003).

under different statutory requirements. In addition, for consumers as well as for GAO, it is at times difficult to determine which agency is responsible for ensuring the safety of a particular food product. For example, the Department of Agriculture (USDA) might be responsible for inspecting a particular food item, but once that item is used in a processed food product, it might be regulated by the Food and Drug Administration (FDA). Arbitrary jurisdictional lines of authority can make the current food safety inspection system difficult to assess and, more importantly, unresponsive to the needs of the public.

(2) Why should the Congress consider a major reorganization of the federal food inspection system at this time?

Beyond the issues of organizational inefficiency and confusing jurisdictional responsibilities, the vulnerability of our food supply to potential attack and deliberate contamination provides a new and compelling impetus for reorganizing the federal food inspection system. As several of our recent testimonies have stressed, bioterrorist attacks could be directed at many different targets in the farm-to-table continuum, including crops, livestock, and food products in the processing and distribution chain. Both FDA and USDA have taken steps to protect the food supply against terrorist attack, but it is, for the most part, the current food safety system that the nation must depend on to prevent and respond to this potential threat. At present, the federal agencies responsible for oversight of food safety have differing authorities. As a result, some inspectors provide daily inspections of certain food products, while others inspect much less frequently—every year to 3 years, on average. Consequently, FDA products are not receiving the same level of scrutiny as USDA products, potentially making FDA products more vulnerable to inadvertent as well as deliberate contamination. This is of particular concern in the case of imported food. Equally important, at a time of increasing budget deficits, the current distribution of inspection resources is not the most efficient use of federal resources. As my recent testimony pointed out, FDA has roughly 1,900 inspectors who must oversee about 57,000 facilities, whereas USDA has more than three times the number of inspectors at about 6,400 establishments—and this distribution of federal resources is not based on the food safety risk of particular products.

(3) Should such reorganization be in the form of putting all of the food inspection functions under an existing agency or should a new agency be created to handle all food inspection functions? Please briefly describe the pros and cons of either option.

In our view, consolidating all food safety functions (e.g. standard setting, inspection, risk assessment, research, and surveillance) under a single independent agency would offer the most logical approach to resolve long-standing problems, address emerging food safety issues, and better ensure a safe food supply. If, instead, all food safety authorities were consolidated under an existing agency, the advantages and disadvantages of charging USDA or FDA with those responsibilities must be considered. At present, USDA has more resources and possibly more experience with food product inspections because of its longer institutional history. However, USDA promotes agriculture, and that may be perceived as a conflict of interest. In contrast, FDA, as a public health agency, has a mission that aligns well with food safety, and it has established scientific expertise in preventing foodborne illness.

If reorganization is limited to the inspection functions alone, it is not cost effective, or reasonable, to create a new agency to take on solely these functions. In the current budgetary climate, it would be better to designate one current agency as the lead agency for all food safety inspection matters. Merging USDA's food inspection responsibilities into FDA would be an alternative that would separate market promotion activities from food safety activities—a criticism that is often raised about USDA's dual mission as promoter of agricultural and food products and at the same time overseer of their safety. Also, it would place food safety oversight under a public health agency. Merging FDA's food inspection activities into USDA has the advantage of needing to move fewer federal personnel. In either case, underlying the transference of inspection responsibilities is the fundamental need to reform the current legislative structure for food safety, so that the lead inspection agency would be able to focus its resources on the foods with the greatest risk to consumers.

(4) What are some of the characteristics that should be inherent in a streamlined federal food inspection system?

In our view, a unified, risk-based approach to federal food safety should characterize any new inspection system. A critical step in designing and implementing a risk-based food safety system is identifying the most important food safety problems, across the entire food system, from a public health perspective. Identifying these problems would help focus federal oversight resources. Comprehensive, uniform, and risk-based food safety legislation is needed to provide the foundation for this approach. We also believe that in order to be effective, a federal food inspection system should include performance standards to help evaluate the effectiveness of federal regulatory requirements for industry and its efforts to meet those requirements.

(5) In the event of some sort of consolidation of the food inspection functions into a "single agency," in either a new agency or an existing one, are there any food inspection functions that should remain outside the "single agency"? If so, please explain the necessity for keeping the function out of the "single agency."

From our perspective, reorganization of food safety authorities, including the consolidation of critical functions such as rule making, inspection, surveillance, and research, does not necessarily mean that all functions should be incorporated into a single food safety agency. In fact, we believe it may make sense to maintain some functions separately. If, for example, FDA's food safety authorities were subsumed under USDA, it might be desirable to keep functions such as foodborne illness surveillance in the Centers for Disease Control and Prevention, which is part of the Department of Health and Human Services. However, in the event of consolidation limited strictly to the food inspection functions, we believe that all food inspection functions should be incorporated into the single food safety agency.

We appreciate the opportunity to comment and hope that these responses are of assistance. If you have any additional questions, please do not hesitate to call me at (202) 512-3841.

Sincerely yours,

Lawrence J. Dyckman
Director, Natural Resources
and Environment

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