

Follow-up on Smuggling Interdiction and Trade Compliance Program



Audit Report 33601-0004-23

September 2021

OFFICE OF INSPECTOR GENERAL

IMPORTANT NOTICE

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Audit Report 33601-0004-23

OIG evaluated SITC's corrective actions from a prior audit report and the controls over the identification of internet sales of prohibited products for calendar year 2019.

OBJECTIVE

We evaluated the corrective actions taken by APHIS' SITC Program to implement 13 recommendations from a previous audit issued in August 2012. We also evaluated SITC's controls related to the identification of prohibited product imported through internet sales.

REVIEWED

We reviewed applicable laws, regulations, handbooks, and training materials; interviewed officials; analyzed program data; and reviewed available documentation of the corrective actions taken to address previous audit recommendations.

RECOMMENDS

We recommend that APHIS ensure corrective actions taken to address prior audit recommendations are implemented and effective; develop and implement policies and procedures; establish routine training; determine the appropriate authorities required to regulate e-commerce businesses and implement appropriate policy; confirm and document the parameters for SITC inspections, seizures, and traces; develop inspection procedures for courier distribution sites; and notify SITC officers of the authorities and the procedures for inspections.

WHAT OIG FOUND

We reviewed the corrective actions the Animal and Plant Health Inspection Service's (APHIS) Smuggling Interdiction and Trade Compliance (SITC) Program implemented following a previous audit. While SITC officials implemented the 13 prior audit recommendations, we determined that 4 were not fully implemented and 2 were implemented but not followed. This occurred because APHIS relied on SITC Program officials to fully implement corrective actions without verifying internal controls were in place and functioning. As a result, conditions related to these recommendations persist.

We also found that the SITC Program needs to enhance its controls for searches of prohibited products purchased through internet sales. SITC management relied on the internet team's knowledge and experience instead of documenting controls, such as policies and procedures, and establishing routine training. As a result, this could lead to inconsistent instructions on how to complete tasks effectively.

We found the SITC internet team inconsistently interacted with e-commerce businesses in 2019 and did not request necessary information from 20 of the 22 e-commerce businesses. This occurred because SITC did not have a process for requesting this information, such as a formal agreement or memoranda of understanding. As a result, SITC could not identify all related internet sales of a previously identified prohibited product that had already entered the United States.

Finally, we found that SITC officers were not consistently inspecting sealed package contents, which may or may not constitute prohibited product, at courier distribution sites. This occurred because SITC management relied on their interpretation of statutory authorities without requesting formal clarification and did not develop a separate policy for these inspections. As a result, this increased potential risk for the Department and brings more uncertainty to its managers and officers. Additionally, this could lead to a loss of public trust. APHIS generally agreed with our recommendations, and we accepted management decision on all 13 recommendations.



OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



DATE: September 29, 2021

AUDIT

NUMBER: 33601-0004-23

TO: Kevin Shea
Administrator
Animal and Plant Health Inspection Service

ATTN: Robert J. Huttenlocker
Deputy Administrator
Marketing Regulatory Program Business Services

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Follow-up on Smuggling Interdiction and Trade Compliance Program

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated excerpts from your response, and the Office of Inspector General's (OIG) position, into the relevant sections of the report. Based on your written response, we are accepting management decision for all 13 audit recommendations in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to 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 publicly available information and only publicly available information will be posted to our website (<http://www.usda.gov/oig>) in the near future.

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Background and Objectives

Background

The Animal and Plant Health Inspection Service's (APHIS) mission is to protect the health and value of United States (U.S.) agriculture and natural resources. Within APHIS, Plant Protection and Quarantine (PPQ) programs are designed to safeguard U.S. agriculture and natural resources from risks associated with the entry, establishment, and spread of economically and environmentally significant pests.¹ In 2001, PPQ established the Smuggling Interdiction and Trade Compliance (SITC) Program to handle smuggling and trade compliance issues, primarily at marketplace locations, both to prevent and detect those compliance issues that impact U.S. markets.² APHIS staff conducting SITC activities focus their attention on suspected non-compliant or prohibited products of foreign origin observed in commerce.³ In 2009, SITC started monitoring prohibited agricultural products that enter the United States through e-commerce⁴ businesses and other internet sales. The Animal Health Protection Act, the Plant Protection Act (PPA), and associated Federal regulations provide SITC's authority to hold, seize, and destroy animal or plant prohibited products.⁵

The SITC director, national policy manager, and national operations managers provide oversight for various SITC activities, such as recalls, and issues that are sensitive or national in scope.⁶ In the field, the State plant health directors and/or first-line supervisors have overall supervisory oversight and direction for daily SITC field activities performed by 83 SITC officers located throughout the United States.⁷

¹ A "plant pest" is defined as "any living stage (including active and dormant forms) of insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof; viruses; or any organisms similar to or allied with any of the foregoing; or any infectious agents or substances, which can directly or indirectly injure or cause disease or damage in or to any plants or parts thereof, or any processed, manufactured, or other products of plants." 7 C.F.R. § 340.1.

² The SITC reference guide describes marketplaces as major distribution centers; flea markets; animal, plant, and insect trade shows; large and small chain stores; roadside vendors; and neighborhood corner stores. USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

³ Non-compliant and/or prohibited product will be referred to as "prohibited product" throughout the report.

⁴ Electronic commerce (business transactions on the web) and the information technology industries.

⁵ 7 U.S.C. § 7701 *et seq.*; 7 U.S.C. § 8301 *et seq.*; 7 C.F.R. Subtitle B, Chapter III (plants); and 9 C.F.R. Chapter I (animals).

⁶ For the purposes of this audit, we define "upper management" as the SITC director, national policy manager, and national operations managers.

⁷ "SITC officers" include both SITC officers (who spend all their time performing SITC activities such as market surveys at commerce sites) and plant health compliance officers (who divide their time between performing SITC activities and conducting complex treatments and export activities such as reviewing permits, seizing shipments lacking proper documents at Plant Inspection Stations, International ports-of-entry, and other geographical areas within the United States).



Figure 1. A SITC officer examines a processed food product during a market survey. Photo from USDA’s Flickr account. It does not depict any particular audit or investigation.

SITC officers carry out their mission by performing unannounced visits to marketplaces—called market surveys and inspections⁸—to identify, seize, trace to source, and close pathways for prohibited product.⁹ Closing a pathway prevents future shipments of prohibited products from entering the U.S. marketplace. Once a prohibited product is identified and seized, SITC officers and analysts work closely with the Department of Homeland Security’s Customs and Border Protection (CBP) at the ports-of-entry to interdict other prohibited products and close the pathway. SITC notifies CBP by preparing an Interagency Referral/Request Form (IRRF) or Agricultural Request for Action (ARFA) form that identifies the prohibited product.¹⁰

APHIS may issue a recall on a product if it is deemed to pose a high risk to U.S. agriculture. During a recall, SITC officers work with the importer or owner for the voluntary removal of prohibited products from commerce, and the subsequent treatment, remediation, or destruction of the prohibited product. SITC officers also perform followup market surveys and inspections to validate compliance with the recall by the importer or owner and ensure all of the prohibited product was removed and the pathway was closed.

For internet sales, SITC’s internet team searches e-commerce businesses¹¹ to identify prohibited products.¹² When the SITC internet team identifies a prohibited product, it notifies the e-commerce business’ legal department that an import violation occurred. The team requests the seller’s name and location and a list of all buyers of the product. SITC then initiates a virtual trace, which is a request for SITC officers to complete a market survey and inspection to retrieve prohibited products from all buyers. In addition, SITC requests the e-commerce business to remove



Figure 2. A SITC officer assists a CBP official during inspection of a parcel upon its arrival in the United States at an international mail processing facility. Photo by Erich Glasgow from USDA’s Flickr account. It does not depict any particular audit or investigation.

⁸ The SITC reference guide defines “surveys/inspections” as visits to commerce sites to monitor for prohibited or noncompliant agricultural commodities. USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

⁹ For the purposes of this report, we define “pathway” as the route that a prohibited product or non-compliant product enters the United States and is delivered to a market.

¹⁰ Interdict means to prohibit or forbid.

¹¹ “E-commerce businesses” include large corporations, private websites, and social media platforms.

¹² SITC hub analysts’ primary focus is internet surveillance, and they are referred to as the SITC internet team.

the sales information and to remind the seller that the product needs to comply with U.S. import regulations.¹³

SITC also conducts market surveys and inspections at courier distribution sites, called secondary express courier operations (ECOs),¹⁴ that receive and distribute imported packages that have been cleared by CBP at the port-of-entry and entered U.S. commerce. With permission from a local ECO official, SITC officers enter the secondary ECOs to open and inspect the contents of sealed packages to identify prohibited products.¹⁵ If the product is not prohibited and is compliant, the SITC officer re-seals the package and allows it to continue to the intended recipient or consignee. If the product is prohibited, SITC officers seize the contents and notify the recipient or consignee.

SITC officers record their activities (market surveys, seizures, traces, IRRFs, and ARFAs) in the SITC National Information, Communication, and Activity System (SNICAS).¹⁶ SITC managers, supervisors, and analysts use the system to track and analyze data from the results of SITC activities. SNICAS computes a risk score for each marketplace based on animal and plant risk levels, demographics, and results from past market surveys.¹⁷ SITC guidance identifies the number of times a market should be visited based on risk level.¹⁸

APHIS' Policy and Program Development staff provides policy analysis and budgetary and regulatory development for APHIS consistent with the agency's environmental stewardship goals and legal authorities. APHIS' Policy and Program Development includes the Program Assessment and Accountability (PAA) staff. PAA conducts program reviews that often include examining the effectiveness of internal controls as one of the review objectives. PAA proposes an annual cohort of projects for the APHIS Administrator's consideration by analyzing program risk, conducting environmental scans, and choosing from an established list of programs. If a program has recently been subject to a performance audit—such as by the Office of Inspector General (OIG)—PAA typically considers it to be lower risk as compared to a program or activity that has not been reviewed.

¹³ 7 C.F.R. parts 319, 330, 351, 352, 355, 360, and 361 (plants), and 9 C.F.R. parts 71, 93, 94, 95, 98, 104, 118, and 122 (animals).

¹⁴ "Express courier" is an entity operating in any mode of moving cargo by special express commercial service under closely integrated administrative control. An ECO located at a U.S. port-of-entry is under the authority of CBP. A distribution site beyond the port-of-entry would be considered a secondary ECO.

¹⁵ The SITC reference guide states that "an employee conducting SITC work may, with probable cause and without a warrant, stop and inspect persons and any means of conveyance believed to be carrying into the United States or in interstate commerce a: plant, animal, plant or animal product, biological control organism, noxious weed, plant or animal pest or disease." USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

¹⁶ SNICAS received upgrades from June 2019 to September 2020 to improve features that capture SITC activities and that may be utilized for reporting purposes.

¹⁷ SNICAS generates the following risk levels: high, medium high, medium, medium low, and low. A risk level is based on the demographics, surveys, seizures, traces, and violations for locations being visited. If the marketplace visit resulted in a seizure of a non-compliant product, the risk level will increase. Conversely, a low risk level would be a location that was visited recently and compliant products were identified.

¹⁸ USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

Prior OIG Audit

In August 2012, OIG reported on the effectiveness of SITC.¹⁹ Specifically, SITC's control environment did not include a system of management accountability in order to foster efficiency, adequacy, or accuracy in either achieving its core mission or in reporting its results. OIG concluded that the lack of controls increased the risk that prohibited products would not be identified by SITC officers. OIG issued 13 recommendations, which targeted SITC's ability to provide its officers with guidance to better identify and close new and existing pathways, establish procedures for performing followup market surveys, and ensure managers and supervisors oversee these efforts to analyze officers' effectiveness.

Objectives

To evaluate the corrective actions taken by APHIS' SITC Program to implement 13 recommendations from a previous audit issued in August 2012. We also evaluated SITC's controls related to the identification of prohibited product imported through internet sales.

During this audit, we determined that APHIS fully implemented 7 of the 13 prior audit recommendations and the related corrective actions were effective. Finding 1 includes a discussion of our determinations for the remaining six recommendations. (See Exhibit A.)

¹⁹ Audit Report 33601-0012-CH, *Effectiveness of the Smuggling, Interdiction, and Trade Compliance Unit*, Aug. 2012. Within this report, we refer to SITC as a program, not a unit as it was referred to in our prior audit report.

Section 1: Implementation of Prior Audit Recommendations

Finding 1: APHIS Needs to Improve Its Controls to Ensure Prior Audit Recommendations Are Implemented and Effective

We determined that 6 corrective actions resulting from the 13 prior audit recommendations were not effective.²⁰ Specifically, four of the six were not fully implemented and two were implemented, but staff did not follow the corrective actions. This occurred because APHIS relied on PPQ and SITC upper management officials to fully implement corrective actions from the prior audit without verifying internal controls such as program oversight were in place and functioning. In addition, APHIS did not perform evaluations of the SITC Program to ensure prior recommendations were implemented and effective. As a result of insufficient internal controls, conditions OIG reported more than 8 years ago continue to exist. These conditions reduce SITC's ability to detect and prevent the unlawful entry and distribution of prohibited products.

Departmental regulation states that management is responsible for developing and maintaining internal controls to ensure the efficiency and effectiveness of operations. In addition, systems of internal controls will be evaluated on an ongoing basis and deficiencies, when detected, will be promptly corrected.²¹ According to an APHIS official, APHIS' PAA conducts program reviews with the specific objective of examining the effectiveness of corrective actions from prior audits.

APHIS documented the corrective actions taken on the 13 prior recommendations. However, SITC management did not implement all aspects of the corrective actions, as stated in its documentation, for four recommendations and did not ensure two recommendations' corrective actions were followed. In addition, we found APHIS did not perform any reviews of SITC operations to verify corrective actions were implemented. We discuss these six recommendations, APHIS' response on corrective actions, and what we found during this audit below.

Corrective Actions Not Fully Implemented for Recommendations 1, 2, 4, and 5

Recommendation 1: Implement clear benchmarks and expectations for SITC field staff that will improve the program's effectiveness in meeting its mission objectives, and require SITC managers and supervisors to exercise sufficient oversight to ensure that the [program's] mission is effectively achieved.

In the agency's 2012 response, officials stated they would develop guidance to aid SITC personnel in making risk-based decisions. APHIS officials also stated that, based on guidance and updated performance measures, the agency would establish clear benchmarks and expectations. During this audit, we found that APHIS developed guidance, such as a list of operational priorities for SITC officers to follow. However,

²⁰ Audit Report 33601-0012-CH, *Effectiveness of the Smuggling, Interdiction, and Trade Compliance Unit*, Aug. 2012.

²¹ USDA Departmental Regulation 1110-002, Management's Responsibility for Internal Control (June 17, 2013).

APHIS did not develop specific benchmarks to measure the effectiveness of the SITC officers in meeting those operational priorities. In 2012, we reported that SITC had a 10 percent success rate for market surveys based on either seizing a prohibited product or generating a trace back.²² More than 8 years later, we determined that APHIS had increased its success rate; however, it remained low at 35 percent.²³ During this audit, SITC upper management stated that they would need to examine what performance measure or benchmark would be adequate to measure SITC's success.

Recommendation 2: Develop a time-phased action plan to implement the recommendations of the already-established working group, including procedures for PPQ and SITC upper management to periodically review reports of SITC's effectiveness at meeting established benchmarks and expectations.

In APHIS' 2012 response, officials stated they would require SITC upper management to review reports, at least twice yearly, of SITC's effectiveness at meeting established benchmarks and expectations. During this audit, we found that SITC upper management performed reviews of SITC activity but did not document those procedures or define how to determine SITC's effectiveness.²⁴ SITC upper management stated the SITC review process relies on annual reporting submitted to stakeholders and performance measures for individual performance. While annual reporting states the number of seizures and recalls performed for that year, APHIS does not have established procedures or benchmarks to use this data to assess the overall effectiveness of the program. In addition, we determined that, although performance measures are stated in individual performance plans, APHIS did not document the process for upper management to follow in measuring SITC's overall success. SITC upper management agreed that they need to better define both success and the process to ensure SITC's effectiveness.

Recommendation 4: Develop and implement oversight procedures for regional management and area supervisors to follow that will ensure their officers adhere to the new SITC requirements and best practices in selecting markets to visit.

In the agency's 2012 response, APHIS agreed to provide operational priorities that describe the duties and expectations of its managers and supervisors to ensure SITC officers adhere to SITC requirements. During this audit, APHIS referred to its risk guidance for officers as constituting new SITC requirements. However, the risk guidance did not describe the duties and expectations of its managers and supervisors.

²² In the prior audit, OIG calculated SITC's success rate as a percentage by dividing the number of instances when officers seized prohibited products or generated traces during a particular market survey by the total number of market surveys completed. Given SITC's mission, the higher the percentage, the more successful SITC would be at meeting its mission.

²³ We compared market surveys performed to the number of traces generated and seizures of prohibited product. Part of SITC's mission is to identify prohibited product, therefore, we concluded that a 35 percent success rate is low because that means the officers, on average, are not identifying a prohibited product or initiating a trace at three out of five markets surveyed.

²⁴ SITC upper management reviews were limited to SITC activities relating to targeting requests and traces that were closed. Since SITC did not establish benchmarks and expectations, there were no reports of SITC's effectiveness for upper management to review.

Specifically, SITC guidance stated that officers are to focus on high-risk areas when selecting which markets to visit.²⁵ However, we determined that 71 percent of the markets visited by SITC officers in calendar year (CY) 2019 were medium-to-low risk.²⁶ In discussions with SITC supervisors and officers in the four States we reviewed, we found that market selection procedures varied and that there were no controls to make sure that SITC officers were actually visiting high-risk markets. Some supervisors expected officers to provide a schedule of planned markets to visit, while other supervisors did not. As a result of inefficient market selection, there is an increased risk that prohibited products, which already entered the United States, would not be identified.

Recommendation 5: Develop and implement policies and procedures to require SITC managers and supervisors to obtain and utilize market survey activity analyses to determine their officers' effectiveness, and implement appropriate corrective actions if needed.

In APHIS' 2012 response, officials stated that PPQ would develop a standard operating procedure to guide managers and supervisors in the use of market survey data, as well as data from other trace activities. Officials stated that PPQ management would then utilize SNICAS system reports to determine if officers are effectively identifying new or potential pathways for prohibited products. During this audit, we found that APHIS developed a risk assignment module within SNICAS that assigns risk levels to market locations. APHIS stated that the assignment module was developed for SITC managers and supervisors to utilize in reviewing market survey activity to determine their officers' effectiveness. Also, there is a SNICAS report module that can generate reports to identify data integrity and quality control issues. However, APHIS did not develop procedures to guide SITC managers and supervisors on how and when to use the reports from SNICAS to determine SITC officers' overall effectiveness. We interviewed a total of 10 managers and supervisors from the four States in our sample and determined that managers and supervisors did not use reports consistently to determine officers' effectiveness. Some managers and supervisors routinely used reports to review SITC activity, while others did not. SITC upper management agreed that they could be more specific in instructions to managers and supervisors about monitoring effectiveness.

²⁵ Each market is assigned a level of risk based on an algorithm in SNICAS. The algorithm uses data entered for products seized, the number of market surveys and their results, and the demographics of the market, which gives location risk scores. High-risk markets are premises considered likely to have commodities that could present the risk of the spread of agriculture diseases and pests.

²⁶ We determined that 29 percent of markets visited by SITC officers in calendar year 2019 were high to medium-high risk. The remainder of the markets visited (71 percent) had risk levels that were medium, medium-low, low, or were not documented within SNICAS.

Corrective Actions Not Effective for Recommendations 8 and 9

Recommendation 8: Establish specific procedures that require SITC officers to perform followup surveys at markets from which higher-risk prohibited products were identified and seized.

In APHIS' 2012 response, officials stated that they would provide new standard operating procedures for SITC personnel to use when performing followup market surveys at higher-risk markets. APHIS issued new guidance that required a followup market survey for high-risk markets 4 times every 365 days to ensure the pathway was closed. During this audit, we determined that SITC officers did not adhere to the agency's guidelines for followup surveys at high-risk markets. We reviewed 60 high-risk markets from CY 2019 for the 4 States in our sample.²⁷ Our analysis found that none of the markets we reviewed were visited four times, as required.²⁸ In addition, we determined that 36 of the 60 (60 percent) high-risk markets were not visited at all. Without following up on product seizures at high-risk markets, there is an increased risk that the prohibited product that may harbor plant and animal pests, diseases, or invasive species will continue to be imported and distributed throughout the United States.

Recommendation 9: Establish a procedure for SITC supervisors to ensure that an ARFA is issued for every higher-risk imported product seized or a justification for why an ARFA was not issued. Include a method for supervisors to confirm that the pathway listed on that ARFA was closed.

APHIS' 2012 response stated that APHIS would require SITC supervisors to periodically survey markets to ensure previously identified pathways listed on ARFAs had been closed. During this audit, we found that ARFAs are sent to CBP during the recall process to close the identified pathway. According to SITC's current guidance, the field operations recall coordinator is responsible for validating that SITC officers perform market surveys to verify recall compliance. However, we found that the recall coordinator is no longer performing these compliance checks. As a result, the recall coordinator did not identify that SITC officers did not perform followup market surveys for 33 of the 40 ARFAs issued in fiscal years (FYs) 2017 through 2018. Furthermore, of the seven followup market surveys that were performed, SITC officers found the same recalled prohibited product being sold at all seven markets. Without following up on market seizures at high-risk markets, there is an increased risk that the prohibited product will continue to be imported into the United States.

Since APHIS did not ensure SITC management implemented or followed the corrective actions from these six prior recommendations, the conditions OIG previously reported continue to exist. These conditions include a low (35 percent) success rate in identifying prohibited product, reduced program monitoring by supervisors in the field, SITC staff not adhering to the agency's guidelines, and SITC officers not focusing their efforts on high-risk markets.

²⁷ We selected a non-statistical 10 percent sample of high-risk markets to review for California, Florida, and Texas. We selected all six high-risk markets in Maryland.

²⁸ USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

During discussions with current SITC management, they stated that the previous program managers were no longer with SITC and they were not sure why all the prior recommendations were not fully implemented. In addition, current SITC management was not aware of any reviews performed to assess the implementation or effectiveness of the internal controls and corrective actions for OIG's prior recommendations. SITC management generally agreed with our conclusions on the six prior recommendations we discussed in this finding, and have started discussions on how to define and measure SITC's success. In addition, SITC management stated that they expect their managers and supervisors to ensure staff members are aware of and using risk guidance for selecting markets. SITC management also agreed that developing oversight policies and procedures to ensure this guidance is followed would be beneficial.

We also discussed with APHIS' PAA staff the process for ensuring prior recommendations were effective. PAA conducts program reviews that often include examining the effectiveness of internal controls as one of the review objectives. According to a PAA official, PAA staff follow a risk-based approach to develop potential projects, as well as prioritizing specific requests that are received from the APHIS Administrator and Deputies. Some of the risk factors include: total program or activity funding, program performance, stakeholder interest, and time since last review. A PAA official stated that they had not performed any reviews of SITC operations and considered programs, like SITC, that were audited by OIG to be lower risk. An APHIS official stated that APHIS relied on program management to implement audit recommendations. Since we found that program management did not fully implement the prior audit recommendations, PAA needs to determine how long a program is considered to be lower risk after an OIG audit is completed. PAA should also consider performing verification procedures that would ensure corrective actions from prior audit recommendations are implemented and effective.

While APHIS made some improvements to its SITC Program, additional actions and controls are needed to ensure SITC meets its mission of preventing and detecting prohibited products from entering the United States. Without improvement to the market selection process, there is an increased risk that prohibited product—which may harbor plant and animal pests, diseases, or invasive species—will continue to be imported into the United States.

Recommendation 1

Revise PAA project selection procedures to include consideration for reviews of prior external audits to ensure corrective actions have been effective.

Agency Response

In its July 9, 2021, response, agency officials stated that:

APHIS agrees with this recommendation. APHIS will revise the existing PAA program assessment project selection procedures to include greater consideration for performing reviews of prior external audits, consistent with identified risks. APHIS will establish the new procedures by December 31, 2021.

OIG Position:

We accept management decision on this recommendation.

Recommendation 2

Define the metrics such as benchmarks and performance measures that will measure SITC's effectiveness at meeting its mission to address prior audit Recommendation 1.

Agency Response

In its July 9, 2021, response, agency officials stated that:

APHIS has reviewed the findings and agrees that the metrics set forth in the previous OIG audit of the SITC program no longer accurately reflect the impact of SITC within PPQ. As of March 2021, the SITC program developed a comprehensive project plan to address the 13 recommendations which details next steps for addressing the OIG findings with all project milestones to be completed by September 30, 2022. The plan includes developing a process to assess program performance, including the development of appropriate metrics that address program goals.

OIG Position

We accept management decision on this recommendation.

Recommendation 3

Develop and implement oversight procedures for SITC management and supervisors to periodically review benchmarks and performance metrics and implement corrective actions if the metrics are not being achieved to address prior audit Recommendation 2.

Agency Response

In its July 9, 2021, response, agency officials stated that:

APHIS agrees to review existing SITC program oversight processes and implement additional procedures to ensure adherence to program performance standards. APHIS will implement an appropriate schedule to conduct national and local reviews to audit established processes and procedures to ensure accountability at all levels of the program by September 30, 2022.

OIG Position

We accept management decision on this recommendation.

Recommendation 4

Require supervisors to periodically review SITC officers' adherence to SITC requirements in selecting markets to visit to address prior audit Recommendations 4, 5, and 8. The supervisor reviews should include monitoring whether SITC officers perform timely followup market surveys at higher-risk markets and implement appropriate corrective actions, if needed.

Agency Response

In its July 9, 2021, response, agency officials stated that:

APHIS agrees that SITC supervisors should systematically review officer's market survey selections based on updated metrics and implement appropriate corrective actions as needed. APHIS has successfully upgraded the SNICAS system to monitor SITC officers' performance and automatically alert supervisors when corrective actions are needed. Additionally, by the end of fiscal year 2021, APHIS will implement a monthly status report that highlights high-risk markets in the need of market surveys. APHIS will review the current supervisor oversight processes and update them as needed to ensure adequate oversight by September 30, 2022.

OIG Position

We accept management decision on this recommendation.

Recommendation 5

Implement procedures for SITC supervisors to require compliance checks to ensure that the previously identified pathways were closed to address prior audit Recommendation 9.

Agency Response

In its July 9, 2021, response, agency officials stated that:

APHIS agrees and the SITC program is planning a comprehensive review of existing procedures to ensure compliance checks are conducted according to established policy. APHIS will review existing compliance procedures and recommend revisions to program guidance as needed. The compliance check procedures will be communicated to SITC management and implemented by September 30, 2022.

OIG Position

We accept management decision on this recommendation.

Section 2: Internet Sales of Prohibited Products

Finding 2: SITC Needs to Document its Controls in Identifying Prohibited Product Through Internet Sales

We found that SITC did not document its controls, such as policies and procedures, for conducting internet surveys of e-commerce businesses. Specifically, SITC management relied on their internet team's knowledge and experience instead of documenting policies and procedures and establishing routine training. This could lead to inconsistent and unclear instructions on how to complete tasks efficiently and effectively as the internet team continues to grow. In addition, not having routine training could limit SITC's ability to adequately survey the growing volume of e-commerce sales,²⁹ estimated at more than \$600 billion in CY 2019.³⁰

APHIS guidance states that the SITC internet team is responsible for monitoring, targeting, and identifying internet sales of prohibited and restricted foreign products.³¹ United States Department of Agriculture (USDA) Departmental regulation states that management is responsible for developing and maintaining internal controls to ensure the efficiency and effectiveness of operations.³² In addition, standards set by the U.S. Government Accountability Office (GAO) state that, not only does documentation of internal controls assist in management's design of internal controls, but documented policies allow management to effectively monitor the control activity and provide a means to retain organizational knowledge.³³

We found that SITC did not have written policies and procedures to document the internet team's day-to-day functions and activities to monitor, target, and identify internet sales of prohibited and restricted foreign products. The four analysts that currently make up the SITC internet team have many responsibilities, including: surveying the internet, developing targeting information for local work units, providing intelligence reports, and conducting quality control reviews of data in SNICAS. While the SITC internet team members were able to explain the process they use to search the internet for prohibited products, they did not have standard operating procedures or guidance to follow. SITC management stated that the SITC internet team must follow the USDA SITC Reference Guide,³⁴ the USDA SNICAS User Guide,³⁵ and other specific guidance.³⁶ However, we found that while these guides listed the internet team's responsibilities, they did not contain specific instructions on how to perform internet searches.

²⁹ The volume of e-commerce sales in the United State has grown by more than 13 percent annually since 2015.

³⁰ U.S. Department of Commerce, *Quarterly Retail E-commerce Sales 4th Quarter 2019* (Feb. 19, 2020), <https://www2.census.gov/retail/releases/historical/ecommm/19q4.pdf>.

³¹ USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

³² USDA Departmental Regulation 1110-002, Management's Responsibility for Internal Control (June 17, 2013).

³³ GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Sep. 10, 2014).

³⁴ USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

³⁵ USDA APHIS, *SITC National Information Communication and Activity Systems (SNICAS) Instructions Manual* (April 2013).

³⁶ USDA PPQ, *Smuggling Interdiction and Trade Compliance (SITC) field operations (FO) roles and responsibilities of the SITC operational analysts* (Sep. 2017).

In addition, we found the SITC internet team did not document training requirements. SITC held informal on-the-job training; however, this process was not documented. While SITC management offered extensive training for its SITC officers,³⁷ management did not provide specific training for the internet team on how to effectively survey and identify prohibited products sold on the internet.

When we discussed our concerns with SITC management, a manager stated that this occurred because SITC relied on the internet team's knowledge and experience instead of documenting its policies and procedures. In addition, SITC management relied on coordination between the analysts to train, learn, and adapt to the growing volume of e-commerce sales. SITC upper management indicated that SITC would be developing a document that would address our recommendations to develop written policies and procedures and an organized training plan to manage the SITC internet team's development.

SITC needs to develop and maintain controls that include documented policies and training. Not having these controls could lead to inconsistencies in performing tasks and limit SITC's ability to adequately survey the growing volume of e-commerce sales. E-commerce sales totaled more than \$340 billion in CY 2015 and grew to more than \$600 billion in CY 2019. Additionally, consumer habits are changing as the internet allows individuals to make purchases online and has expanded foreign sellers' market access to U.S. buyers.³⁸ However, these sellers may not have all pertinent information to comply with U.S. law, or might intentionally disregard U.S. law, which could lead to the importation of prohibited products. As the e-commerce industry grows, SITC needs to be able to evolve with the industry and address the challenges e-commerce sales create. Policies and training will ensure that SITC's activities are adequate to monitor, target, and identify internet sales of prohibited products, which enhances its ability to survey the growing volume of e-commerce sales effectively.

Recommendation 6

Develop and implement written policies and procedures to support SITC's e-commerce sales function to ensure efficiency, effectiveness, and consistency in identifying prohibited products and assessing pathways.

Agency Response

In its July 9, 2021, response, agency officials stated that:

APHIS has reviewed the finding and agrees with the need to have more comprehensive process documents, updated [standard operating procedures] (SOPs), and guidance for the SITC internet team. SITC management has developed guidance documents and SOP's for this function; however, those documents are still in draft form and were not recognized by OIG as final approved guidance. SITC will finalize the e-commerce SOPs

³⁷ The SITC officer training is a 2-week in-class training that consists of several modules of slide presentations and numerous practical exercises. Each module has its own folder containing all documents pertaining to that topic.

³⁸ U.S. Department of Homeland Security-CBP, *E-commerce Challenges* (Nov. 3, 2020), <http://www.cbp.gov/trade/basic-import-export/e-commerce>.

and guidance documents and establish a process to vet and approve documents going forward by September 30, 2022

OIG Position

We accept management decision on this recommendation.

Recommendation 7

Establish routine training to support the SITC internet team in identifying prohibited product on the internet.

Agency Response

In its July 9, 2021, response, agency officials stated that:

APHIS is reviewing the existing analyst training to identify additional training needs for SITC analysts related to e-commerce activities. SITC will develop and document a training program specifically for the SITC internet team by December 31, 2021. In addition, SITC will finalize a process to formally approve documents such as SOPs and guidance documents to better align with record-keeping requirements and future audits by September 30, 2021.

In a subsequent email, agency officials revised the estimated completion date to be September 30, 2022.

OIG Position

We accept management decision on this recommendation.

Finding 3: SITC Needs to Improve its Interactions with E-Commerce Businesses

The SITC internet team's interactions with 22 e-commerce businesses identified as having prohibited product sold on their platforms in CY 2019 was not consistent.³⁹ Specifically, SITC did not request the necessary information to target and seize prohibited products from 20 of the 22 e-commerce businesses. This occurred because SITC did not have a process for requesting this information, such as entering into a formal agreement or memorandum of understanding, without obtaining a subpoena. As a result, SITC could not fully identify all related sales of a previously identified prohibited product on the internet that already entered the United States. These prohibited products could move through the country and further spread foreign plant diseases and pests that could harm U.S. agriculture.

APHIS guidance states that the SITC internet team is responsible for monitoring, targeting, and identifying internet sales of prohibited and restricted foreign products. Additionally, the SITC internet team is to interact with the legal departments within large e-commerce businesses and many other sales sites.⁴⁰ Internal controls standards set by GAO state that management should externally communicate the necessary quality information to achieve the entity's objective and select the appropriate methods of communication, such as a written document.⁴¹

The SITC internet team identified 22 e-commerce businesses that sold prohibited product on their platforms in CY 2019, but were inconsistent in how they interacted with those businesses to trace and seize the prohibited product. For two e-commerce businesses, SITC contacted the businesses and received the sellers' list of buyers of the prohibited products the SITC internet team identified. This information was used to identify and target other buyers and seize the prohibited products. For the remaining 20 e-commerce businesses, the SITC internet team did not contact the businesses to request the sellers' list of buyers. The SITC internet team explained that, in their previous requests for sellers' list of buyers, businesses would require subpoenas before providing that data. The SITC internet team also explained that, previously, they had difficulty obtaining subpoenas (e.g., not having proof of sale); therefore, the team did not request the sellers' list of buyers from e-commerce businesses that required a subpoena. As a result, the SITC internet team limited its outreach efforts and sent informal requests to the businesses willing to cooperate and provide the sellers' list of buyers of the prohibited product. However, without sellers' list of buyers from e-commerce businesses, SITC is unable to identify and make contact with buyers and seize prohibited product that already entered the United States.

The SITC internet team's results showed that requesting buyer information (name and address) from e-commerce businesses helps increase the number of traces and seizures by SITC officers.⁴² The 2 e-commerce businesses that did provide sales history accounted for 1,469 traces of prohibited products sold on the internet in CY 2019, while the other 20 e-commerce businesses that did not provide the data accounted for 70 traces. In addition, for CY 2019, when

³⁹ E-commerce businesses include large corporations, private websites, and social media platforms.

⁴⁰ USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

⁴¹ GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Sep. 10, 2014).

⁴² Traces are a way to record and monitor pathway information in SNICAS. Traces may be initiated whenever a pathway needs to be researched or products seized.

SITC officers received seller and buyer data, SITC was able to contact the buyer and identify prohibited products 66 percent of the time. SITC officers were unable to seize the remaining 34 percent of prohibited products because the officers had not performed the survey to collect the item, were unable to locate the buyer, or, for various reasons, the product was no longer at the buyer's location. SITC officials stated that a single seller could have hundreds of buyers resulting in many traces and seizures. This disparity in the number of traces was directly related to SITC's inability to obtain the necessary information to trace and seize the prohibited products, which could cause significant damage to U.S. agriculture.⁴³

SITC management agreed with our conclusions and stated that, through conversations with e-commerce businesses, they are working to gain compliance with APHIS' regulations. SITC's internet team sends an email to e-commerce businesses stating that prohibited product was found on their website and includes a link to the product and the applicable regulations. The businesses that cooperate with SITC will remove the listing from their website. In addition, SITC management agreed to further discussions with e-commerce businesses in order to attempt to establish formal agreements. SITC's lead internet analyst provided OIG with a document that describes the program's internet policy, which states that SITC had specific agreements in place for each e-commerce business. However, SITC staff were unable to locate those signed agreements.⁴⁴

Therefore, we recommend that SITC work with the Office of the General Counsel (OGC) to determine the appropriate authorities required to effectively regulate e-commerce businesses. SITC should also establish formal notification to e-commerce businesses, which could be used to establish that those businesses knowingly continued to sell prohibited product. Such notification could assist in any appropriate enforcement actions involving those businesses.⁴⁵ By taking these corrective actions, SITC will be better able to fulfill its mission of preventing the interstate transportation of prohibited product sold through e-commerce.

Recommendation 8

In coordination with OGC, determine the appropriate authorities required to effectively regulate e-commerce businesses. Based on OGC's determination, implement the applicable policies to ensure SITC will be able to effectively identify buyers and sellers of prohibited products.

Agency Response

In its July 9, 2021, response, agency officials stated that:

⁴³ The Secretary of Agriculture has the authority to issue a subpoena. 7 U.S.C. § 7733. SITC is not considered law enforcement but can request a subpoena from APHIS' Investigative and Enforcement Services (IES). However, SITC internet team members stated that they are often denied a subpoena by IES due to lack of evidence.

⁴⁴ SITC provided OIG with one written agreement; however, it was not signed by the e-commerce business.

⁴⁵ See, e.g., 7 U.S.C. § 7734(a)(1)(B) ("A person that knowingly imports, enters, exports, or moves any plant, plant product, biological control organism, plant pest, noxious weed, or article, for distribution or sale, in violation of this chapter, shall be fined under Title 18, imprisoned not more than 5 years, or both.").

PPQ will consult with OGC regarding APHIS' regulatory authority over the e-commerce industry to better address regulatory compliance concerns by September 30, 2022. Based on OGC's guidance, PPQ will develop policy and procedural documents to govern PPQ's interactions and communications with e-commerce companies.

In a subsequent email, agency officials stated that the implementation will occur after OGC guidance is issued and within the 1 year timeframe of the audit.

OIG Position

We accept management decision on this recommendation.

Recommendation 9

Establish a process to strengthen SITC's ability to receive the necessary data to identify buyers of prohibited products.

Agency Response

In its July 9, 2021, response, agency officials stated that:

As part of the consultation with OGC, PPQ will seek guidance to clarify the regulatory authority PPQ has to compel e-commerce companies to identify the buyers of prohibited products. PPQ will define the data needed to exercise regulatory enforcement over the e-commerce pathway and develop a process to engage with e-commerce companies to request data on non-compliant entities and their sales records based on evidentiary requirements and in accordance with all applicable laws by September 30, 2022.

Based on OGC guidance, PPQ will develop a process to document all regulatory actions conducted regarding e-commerce companies and coordinate with APHIS IES as appropriate to address unresolved issues by December 31, 2021.

OIG Position

We accept management decision on this recommendation.

Recommendation 10

Establish a formal notification document to e-commerce businesses found to be facilitating the sale of or selling prohibited product on the internet.

Agency Response

In its July 9, 2021, response, agency officials stated that:

PPQ will work with APHIS IES to formalize a process for documenting possible e-commerce violations as well as develop best practices and expectations for the SITC internet staff when establishing contact with e-commerce companies by September 30, 2022.

OIG Position

We accept management decision on this recommendation.

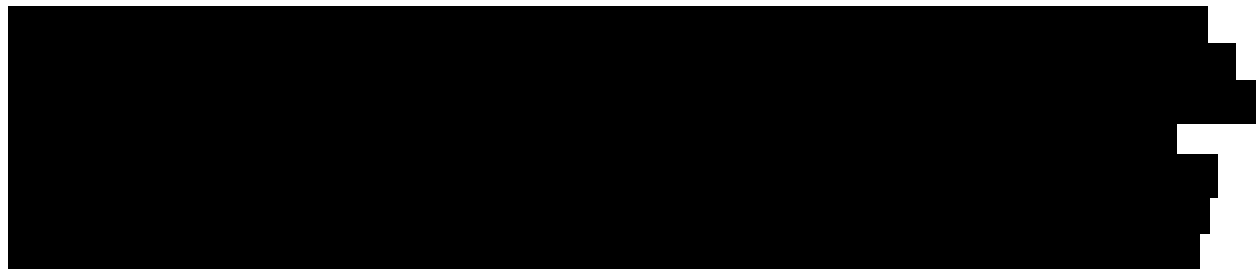
Section 3: SITC Inspections at Secondary ECOs

Finding 4: SITC Needs to Assess Its Policy for Performing Inspections at Secondary ECOs

We found that SITC officers were not consistently performing inspections of sealed package contents, which may or may not constitute prohibited product, at secondary ECOs.⁴⁶ This occurred because SITC did not document a specific policy for performing inspections at secondary ECO sites. In addition, SITC management relied on their interpretation of statutory authorities without requesting formal clarification from OGC regarding SITC's authority to perform inspections at secondary ECOs. As a result, this increased potential risk for the Department and brings more uncertainty to its managers and officers. Additionally, this could lead to a loss of public trust.

According to the SITC reference guide, "an employee conducting SITC work may, with probable cause and without a warrant, stop and inspect persons and means of conveyance believed to be carrying [prohibited product] into the United States or in interstate commerce."⁴⁷ The PPA and the Animal Health Protection Act grant authority for certain inspections provided that such inspections are carried out consistent with guidelines approved by the Attorney General.⁴⁸

SITC officers select and open sealed packages at secondary ECOs to inspect the product inside to determine if the product or its ingredients contain a prohibited plant or pest. We found that SITC upper management did not have specific guidelines for performing inspections at secondary ECO sites. According to SITC upper management, when performing inspections at a secondary ECO site, SITC officers are to follow program guidance after gaining inspection approval from the secondary ECO site's supervisor. We found that program guidance states how to determine where and when to conduct market surveys, and that employees conducting market surveys are to focus their attention on high-risk commodities. However, we determined that SITC guidance does not describe how SITC officers are to identify which sealed packages at a secondary ECO site may contain high-risk commodities and therefore should be inspected further.



⁴⁶ A secondary ECO is a business' private distribution site for parcel packages located outside the port-of-entry. SITC officers generally need to receive permission from a local ECO official or obtain and provide a search warrant to gain access to perform an inspection/survey.

⁴⁷ USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

⁴⁸ 7 U.S.C. § 7731; 7 U.S.C. § 8307.

[REDACTED]

We also determined that SITC officers did not always document all inspection activity at secondary ECOs in SNICAS. According to the SITC reference guide, officers are to record daily activities in SNICAS.⁴⁹ However, we found that officers did not always document the number of packages opened and inspected if the officers' actions did not result in a seizure. While officers documented that an inspection of content was performed and the number of products that were seized, officers were not required to record the number of packages inspected in SNICAS.

In discussions with PPQ and SITC upper management, they stated that the PPA gave the authority to perform inspections at secondary ECOs. While we agree the PPA gives PPQ and SITC the authority to perform inspections (such as market surveys), the inspections of sealed package contents at secondary ECOs may have a limited basis in the PPA. One section of the PPA states that certain inspections are to be carried out consistent with guidelines approved by the Attorney General.⁵⁰ PPQ and SITC management stated that they did not consult with, or receive an opinion from OGC regarding SITC's authority to inspect sealed packages at secondary ECOs. SITC management also stated that they did not develop ECO guidelines for approval by the Attorney General.⁵¹

Additionally, SITC officers informed us that they had questioned APHIS' authority on performing inspections at secondary ECOs. Officers expressed concern that they were opening packages without legal authority under the PPA or did not fully understand what regulation gave them authority to do so. This could cause a loss of public trust and possible legal challenges.

Based on our results, PPQ and SITC management agreed that APHIS should take action to address officer activity at secondary ECO sites. Specifically, SITC management stated that they will develop written policies and procedures for documenting inspection activity at secondary ECOs. SITC management also agreed to seek legal advice regarding the activity at secondary ECO sites and document guidelines, as necessary, to reduce the potential for legal challenges.

We determined that SITC did not have specific guidelines for performing inspections of sealed package contents at secondary ECOs, and the majority of SITC seizures for CY 2019 were from secondary ECO sites.⁵² Therefore, we concluded that SITC needs to document specific guidelines that reflect its authorities and how SITC officers are to select and open sealed packages. SITC's guidelines should also describe the procedures officers need to follow when a product is seized and how to document the activity for ECO inspections. Since SITC officers raised concerns about their authority at secondary ECOs, SITC management needs to address those concerns in an appropriate manner. By performing these actions, SITC will diminish potential risk and bring more certainty to its managers, supervisors, and officers.

⁴⁹ USDA APHIS, *Smuggling Interdiction and Trade Compliance Reference Guide* (Aug. 2015).

⁵⁰ 7 U.S.C. § 7731.

⁵¹ We did not contact the Department of Justice since APHIS' SITC officials did not develop or submit guidelines for performing searches at secondary ECOs to the Attorney General for approval.

⁵² Seizures from secondary ECO inspections represented 51 percent of all SITC seizures for CY 2019.

Recommendation 11

Obtain confirmation from OGC on SITC's authority and the parameters for SITC inspections (including of sealed package contents), seizures, and traces for prohibited animal and plant products at secondary ECO sites.

Agency Response

In its July 9, 2021, response, agency officials stated that:

PPQ will consult with OGC to review and clarify the legal framework for inspections conducted at secondary ECO locations and confirm and document the authorities SITC officers should cite while working in ECOs by September 30, 2022.

OIG Position

We accept management decision on this recommendation.

Recommendation 12

Develop procedures and parameters for SITC officers to follow for performing inspections, seizures, and traces for prohibited products at secondary ECO sites. These procedures should include instruction on how to document inspections of secondary ECO sites in SNICAS.

Agency Response

In its July 9, 2021, response, agency officials stated that:

PPQ will update procedures to document expectations on how SITC officers conduct inspections at secondary ECO sites. Guidance will include standards on how packages are selected for inspection, statutory authority, and how to capture work conducted at ECO facilities in the appropriate information technology systems, both the total number of parcels inspected and the results of those inspections. PPQ will finalize and deploy guidance to SITC supervisors and officers by September 30, 2022.

OIG Position

We accept management decision on this recommendation.

Recommendation 13

Notify SITC officers on the authority and the procedures to follow when performing inspections of sealed packages at secondary ECO sites.

Agency Response

In its July 9, 2021, response, agency officials stated that:

PPQ will revise SITC officer training, specifically the ECO inspection training component, and provide supplemental training to all SITC staff to provide a clear understanding of the authorities used during ECO inspections by September 30, 2022.

OIG Position

We accept management decision on this recommendation.

Scope and Methodology

To accomplish our objectives, we evaluated the adequacy of SITC's implementation of the 13 recommendations from the prior audit.⁵³ We also evaluated SITC's controls related to the identification of prohibited product imported through internet sales. Our audit scope included SITC data for CY 2019 and SITC activities for FYs 2017–2019. We performed our audit at APHIS' PPQ and SITC headquarters in Riverdale, Maryland, and the SITC Field Operations Hub office in Raleigh, North Carolina. SITC officials from the Field Operations Hub office in Fort Collins, Colorado, traveled to APHIS' office in Raleigh, North Carolina to be interviewed. Due to the Coronavirus Disease 2019 pandemic, we were unable to complete onsite visits with State officials and officers as originally planned. Our approach was modified at the State level to a review of APHIS' documentation and interviews with APHIS personnel. We performed our audit fieldwork between November 2019 and January 2021.

We selected a non-statistical sample of four States (the three highest and one lowest) based on activity for market surveys, traces, and seizures.⁵⁴ We selected SITC operations to review in California, Florida, Maryland, and Texas. These four States represented more than 40 percent of the market surveys, more than 50 percent of the traces, and more than 55 percent of the seizures in CY 2019. We interviewed 3 of the 6 operational analysts; 22 of the 52 SITC staff, which included 10 managers and supervisors (State plant health directors, assistant State plant health directors, and first-line supervisors); and 12 SITC officers from the four States.⁵⁵ We analyzed SNICAS data that included 16,282 market surveys, 4,347 seizures, 1,321 traces, 687 targeting requests, and 25 violations to determine SITC Program effectiveness during CY 2019.

To accomplish our objectives, we:

- Reviewed applicable laws, regulations, departmental regulations, agency handbooks, and training material concerning the administration of the APHIS' PPQ SITC Program;
- Interviewed the national policy manager, SITC director, national operations managers, and hub and operational analysts to gain a sufficient understanding of the PPQ SITC Program and its implementation, and overall effectiveness of SITC performance for reporting purposes;
- Interviewed State plant health directors, assistant State plant health directors, and first-line supervisors to gain an understanding of supervisory oversight, coordination with other agencies and departments, and assessment of activity/data entered into SNICAS;
- Interviewed SITC and plant health trade compliance officers to understand the roles and responsibilities for performing SITC activities, assess whether officers followed established policies and procedures, and their knowledge and use of SNICAS;
- Reviewed agency guidance to ascertain the internal controls over the PPQ SITC Program;

⁵³ Audit Report 33601-0012-CH, *Effectiveness of the Smuggling, Interdiction, and Trade Compliance Unit*, Aug. 2012.

⁵⁴ California, Florida, and Texas combined had the highest SITC activity, while Maryland had the lowest activity during CY 2019.

⁵⁵ SITC officers include plant health trade compliance officers. In addition, we interviewed one officer from Pennsylvania who performed inspections for one of our sampled States.

- Reviewed and analyzed PPQ SITC Program data for CY 2019 concerning market surveys, seizures, traces, targeting requests, and violations pulled from SNICAS;
- Reviewed and analyzed FYs 2017–2018 data for ARFAs;
- Reviewed available documentation of the corrective actions taken by APHIS to implement 13 prior audit recommendations;
- Interviewed APHIS’ Information Technology (IT) Division staff to determine if APHIS’ approved IT systems were aligned and follow USDA regulations;
- Analyzed and selected a non-statistical sample of internet sales data from CY 2019 to determine how prohibited products were identified, traced, and seized; and
- Analyzed secondary ECO data for CY 2019 and determined the number of inspections with and without seizure of prohibited products.

During the course of our audit, we did not perform tests to determine the overall reliability of SNICAS because evaluating the effectiveness of this system was not a part of our engagement objectives. However, we assessed information technology controls within SNICAS related to prior audit recommendations. Therefore, we make no representation as to the adequacy of SNICAS. We do not believe the lack of information system testing had an impact on our audit as we received agency confirmation on the accuracy and completeness of SNICAS data.

We assessed internal controls significant to the audit objectives. In particular, we assessed internal controls for implementing corrective action for prior recommendations and SITC internal controls related to the identification of prohibited product imported through internet sales.

The table below lists the internal control component and related principle for the specific controls we assessed.

Component	Principle
Control Environment	Management should evaluate performance and hold individuals accountable for their internal control responsibilities
Control Environment	Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity’s objectives
Risk Assessment	Management should identify, analyze, and respond to risks related to achieving the defined objectives
Control Activities	Management should design the entity’s information system and related control activities to achieve objectives and respond to risks
Control Activities	Management should design control activities to achieve objectives and respond to risks
Control Activities	Management should implement control activities through policies
Information and Communication	Management should internally communicate the necessary quality information to achieve the entity’s objectives
Information and Communication	Management should use quality information to achieve the entity’s objectives

Information and Communication	Management should externally communicate the necessary quality information to achieve the entity's objectives
Monitoring	Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results

Because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

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 objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Abbreviations

APHIS	Animal and Plant Health Inspection Service
ARFA	Agricultural Request for Action
CBP	Customs and Border Protection
C.F.R.	Code of Federal Regulations
CY	calendar year
ECO	Express Courier Operation
FY	fiscal year
GAO	Government Accountability Office
IES	Investigative and Enforcement Services
IRRF	Interagency Referral/Request Form
IT	information technology
OGC	Office of the General Counsel
OIG	Office of Inspector General
PAA	Program Assessment and Accountability
PPA	Plant Protection Act
PPQ	Plant Protection and Quarantine
SITC	Smuggling Interdiction and Trade Compliance
SNICAS	SITC National Information Communication and Activity System
SOP	standard operating procedures
U.S.	United States
U.S.C.	United States Code
USDA	United States Department of Agriculture

Exhibit A: Results of Prior Audit Recommendations

The table below lists the results of APHIS' implementation of prior audit recommendations from Audit Report 33601-0012-CH.⁵⁶

Recommendation No.	Prior Recommendation	Fully Implemented?	Corrective Action Effective?
1	Implement clear benchmarks and expectations for SITC field staff that will improve the program's effectiveness in meeting its mission objectives, and require SITC managers and supervisors to exercise sufficient oversight to ensure that the [program's] mission is effectively achieved.	No	No
2	Develop a time-phased action plan to implement the recommendations of the already-established working group, including procedures for PPQ and SITC upper management to periodically review reports of SITC's effectiveness at meeting established benchmarks and expectations.	No	No
3	Establish minimum requirements and best practices to follow, such as working with and obtaining information from PPQ's Plant Inspection Station and CBP officials, when SITC officers select markets to visit.	Yes	Yes
4	Develop and implement oversight procedures for regional management and area supervisors to follow that will ensure their officers adhere to the new SITC requirements and best practices in selecting markets to visit.	No	No
5	Develop and implement policies and procedures to require SITC managers and supervisors to obtain and utilize market survey activity analyses to determine their officers' effectiveness, and implement appropriate corrective actions if needed.	No	No

⁵⁶ Audit Report 33601-0012-CH, *Effectiveness of the Smuggling, Interdiction, and Trade Compliance Unit*, Aug. 2012.

6	Review the 1,957 seizures made by SITC officers to identify those that still need follow-up, and issue ARFAs as needed, to close the pathways by which higher-risk prohibited products entered the country. Require follow-up visits at those markets to ensure those imported higher-risk products are not still entering the United States.	Yes	Yes
7	Clarify and strengthen SITC instructions on closing pathways, particularly the procedures that an officer must follow to determine if and when to initiate the process to close a known pathway of higher-risk prohibited products.	Yes	Yes
8	Establish specific procedures that require SITC officers to perform follow-up surveys at markets from which higher-risk prohibited products were identified and seized.	Yes	No
9	Establish a procedure for SITC supervisors to ensure that an ARFA is issued for every higher-risk imported product seized or a justification for why an ARFA was not issued. Include a method for supervisors to confirm that the pathway listed on that ARFA was closed.	Yes	No
10	Immediately notify the USDA's Chief Information Officer about the existence of SITC's IT system, complete the [Certification and Accreditation] process, and implement interim procedures to protect data until the process is complete.	Yes	Yes
11	Require IT department staff to review APHIS' servers to identify unauthorized systems until APHIS can implement an automated tool to prevent and detect new systems. If such systems are found, either remove the systems or complete the certification and accreditation process.	Yes	Yes
12	Implement policies and procedures to ensure that accurate data is entered into	Yes	Yes

SITC's IT system by its officers, and subsequently verified by their supervisors.

13	Implement policies and procedures to ensure APHIS analysts document the methodology used in generating system reports to ensure consistency. Create additional procedures to verify the accuracy of those reports through a second party review to ensure the data is accurate and supported.	Yes	Yes
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**Animal and Plant Health Inspection Service's
Response to Audit Report**



United States Department of Agriculture

United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Washington, DC
20250

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

FROM: Kevin Shea
Administrator /S/ July 9, 2021
Animal and Plant Health Inspection Service

SUBJECT: Animal Plant Health Inspection Service (APHIS) Response to the Office of Inspection General Report "Follow-up on Smuggling Interdiction and Trade Compliance [SITC] Unit" (33601-0004-23)

Thank you for the opportunity for APHIS to comment on the report. APHIS agrees with all the OIG recommendations and will take the steps outlined below to implement the necessary programs changes.

Finding 1: APHIS Needs to Improve Its Controls to Ensure Prior Audit Recommendations are Implemented and Effective

Recommendation 1: Revise [Program Assessment and Accountability] PAA project selection procedures to include consideration for reviews of prior external audits to ensure corrective actions have been effective.

APHIS Response: APHIS agrees with this recommendation. APHIS will revise the existing PAA program assessment project selection procedures to include greater consideration for performing reviews of prior external audits, consistent with identified risks. APHIS will establish the new procedures by December 31, 2021.

Recommendation 2: Define the metrics such as benchmarks and performance measures that will measure SITC's effectiveness at meeting its mission to address prior audit Recommendation 1.

APHIS Response: APHIS has reviewed the findings and agrees that the metrics set forth in the previous OIG audit of the SITC program no longer accurately reflect the impact of SITC within PPQ. As of March 2021, the SITC program developed a comprehensive project plan to address the 13 recommendations which details next steps for addressing the OIG findings with all project milestones to be completed by September 30, 2022. The plan includes developing a process to assess program

performance, including the development of appropriate metrics that address program goals.

Recommendation 3: Develop and implement oversight procedures for SITC management and supervisors to periodically review benchmarks and performance metrics and implement corrective actions if the metrics are not being achieved to address prior audit Recommendation 2.

APHIS Response: APHIS agrees to review existing SITC program oversight processes and implement additional procedures to ensure adherence to program performance standards. APHIS will implement an appropriate schedule to conduct national and local reviews to audit established processes and procedures to ensure accountability at all levels of the program by September 30, 2022.

Recommendation 4: Require supervisors to periodically review SITC officers' adherence to SITC requirements in selecting markets to visit to address prior audit Recommendations 4, 5, and 8. The supervisor reviews should include monitoring whether SITC officers perform timely follow-up market surveys at higher-risk markets and implement appropriate corrective actions, if needed.

APHIS Response: APHIS agrees that SITC supervisors should systematically review officer's market survey selections based on updated metrics and implement appropriate corrective actions as needed. APHIS has successfully upgraded the SITC National Information Communication and Activity System (SNICAS) system to monitor SITC officers' performance and automatically alert supervisors when corrective actions are needed. Additionally, by the end of fiscal year 2021, APHIS will implement a monthly status report that highlights high-risk markets in the need of market surveys. APHIS will review the current supervisor oversight processes and update them as needed to ensure adequate oversight by September 30, 2022.

Recommendation 5: Implement procedures for SITC supervisors to require compliance checks to ensure that the previously identified pathways were closed to address prior audit Recommendation 9.

APHIS Response: APHIS agrees and the SITC program is planning a comprehensive review of existing procedures to ensure compliance checks are conducted according to established policy. APHIS will review existing compliance procedures and recommend revisions to program guidance as needed. The compliance check procedures will be communicated to SITC management and implemented by September 30, 2022.

Finding 2: SITC Needs to Document its Controls in Identifying Prohibited Product Through Internet Sales.

Recommendation 6: Develop and implement written policies and procedures to support SITC's e-commerce sales function to ensure efficiency, effectiveness, and consistency in identifying prohibited products and assessing pathways.

APHIS Response: APHIS has reviewed the finding and agrees with the need to have more comprehensive process documents, updated SOPs, and guidance for the SITC internet team. SITC management has developed guidance documents and SOP's for this function; however, those documents are still in draft form and were not recognized by OIG as final approved guidance. SITC will finalize the e-commerce SOPs and guidance documents and establish a process to vet and approve documents going forward by September 30, 2022.

Recommendation 7: Establish routine training to support the SITC internet team in identifying prohibited product on the internet.

APHIS Response: APHIS is reviewing the existing analyst training to identify additional training needs for SITC analysts related to e-commerce activities. SITC will develop and document a training program specifically for the SITC internet team by December 31, 2021.

In addition, SITC will finalize a process to formally approve documents such as SOPs and guidance documents to better align with record-keeping requirements and future audits by September 30, 2021.

Finding 3: SITC Needs to Improve its Interactions with E-Commerce Businesses.

Recommendation 8: In coordination with [Office of the General Counsel] (OGC), determine the appropriate authorities required to effectively regulate e-commerce businesses. Based on OGC's determination, implement the applicable policies to ensure SITC will be able to effectively identify buyers and sellers of prohibited products.

APHIS Response: PPQ will consult with OGC regarding APHIS' regulatory authority over the e-commerce industry to better address regulatory compliance concerns by September 30, 2022. Based on OGC's guidance, PPQ will develop policy and procedural documents to govern PPQ's interactions and communications with e-commerce companies.

Recommendation 9: Establish a process to strengthen SITC's ability to receive the necessary data to identify buyers of prohibited products.

APHIS Response: As part of the consultation with OGC, PPQ will seek guidance to clarify the regulatory authority PPQ has to compel e-commerce companies to identify the buyers of prohibited products. PPQ will define the data needed to exercise regulatory enforcement over the e-commerce pathway and develop a process to engage with ecommerce companies to request data on non-compliant entities and their sales records based on evidentiary requirements and in accordance with all applicable laws by September 30, 2022.

Based on OGC guidance, PPQ will develop a process to document all regulatory actions conducted regarding e-commerce companies and coordinate with APHIS Investigative and Enforcement Services (IES) as appropriate to address unresolved issues by December 31, 2021.

Recommendation 10: Establish a formal notification document to e-commerce businesses found to be facilitating the sale of or selling prohibited products on the internet.

APHIS Response: PPQ will work with APHIS IES to formalize a process for documenting possible e-commerce violations as well as develop best practices and expectations for the SITC internet staff when establishing contact with e-commerce companies by September 30, 2022.

Finding 4: SITC Needs to Assess Its Policy for Performing Inspections at Secondary Express Courier Operations.

Recommendation 11: Obtain confirmation from OGC on SITC's authority and the parameters for SITC inspections (including [inspections] of sealed package contents), seizures, and traces for prohibited animal and plant products at secondary Express Courier Operation (ECO) sites.

APHIS Response: PPQ will consult with OGC to review and clarify the legal framework for inspections conducted at secondary ECO locations and confirm and document the authorities SITC officers should cite while working in ECOs by September 30, 2022.

Recommendation 12: Develop procedures and parameters for SITC officers to follow for performing inspections, seizures, and traces for prohibited products at secondary ECO sites. These procedures should include instruction on how to document inspections of secondary ECO sites in SNICAS.

APHIS Response: PPQ will update procedures to document expectations on how SITC officers conduct inspections at secondary ECO sites. Guidance will include standards on how packages are selected for inspection, statutory authority, and how to capture work conducted at ECO facilities in the appropriate information technology systems, both the total number of parcels inspected and the results of those inspections. PPQ will finalize and deploy guidance to SITC supervisors and officers by September 30, 2022.

Recommendation 13: Notify SITC officers of the authority and the procedures to follow when performing inspections of sealed packages at secondary ECO sites.

APHIS Response: PPQ will revise SITC officer training, specifically the ECO inspection training component, and provide supplemental training to all SITC staff to provide a clear understanding of the authorities used during ECO inspections by September 30, 2022.



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