

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF  
INVESTIGATION



**AGENCY: OHIO DEPARTMENT OF AGRICULTURE**  
**FILE ID NO.: 2011-081**  
**DATE OF REPORT: JANUARY 24, 2012**

## The Office of the Ohio Inspector General..... The State Watchdog

*“Safeguarding integrity in state government”*

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

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The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



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RANDALL J. MEYER, INSPECTOR GENERAL

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2011-081

**SUBJECT NAME:** Aquaculture Assistance Grant

**POSITION:** American Recovery and Reinvestment Act of 2009 (ARRA) Grant

**AGENCY:** Ohio Department of Agriculture

**BASIS FOR INVESTIGATION:** Initiative by the Office of the Ohio Inspector General

**ALLEGATION:** Failure to monitor grant requirements

**INITIATED:** April 25, 2011

**DATE OF REPORT:** January 24, 2012

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

In 2009, the Ohio General Assembly expanded the authority of the Office of the Ohio Inspector General to monitor the state government's expenditure of funds received from the United States government under the American Recovery and Reinvestment Act of 2009 (ARRA).<sup>1</sup> In April 2011, investigators met with employees of the Ohio Department of Agriculture (ODA) to review the Aquaculture Assistance grant the department received from the United States Department of Agriculture (USDA).

During an initial review of the documents provided, several items of concern were identified, including corrections made to original documents and possible overpayments to applicants. As a result, an investigation was opened on April 25, 2011.

## **BACKGROUND**

### *The American Recovery and Reinvestment Act of 2009 (ARRA)*

The American Recovery and Reinvestment Act of 2009 (ARRA) was passed by Congress on February 17, 2009. The intent of ARRA was to create new jobs and save existing ones, spur economic activity and invest in long-term growth, and foster accountability and transparency in government spending. These goals were to be achieved by providing \$288 billion nationally in tax cuts and benefits for working families and businesses; increasing federal funds for entitlement programs, such as extending unemployment benefits, by \$224 billion; making \$275 billion available for federal contracts, grants, and loans; and requiring recipients of ARRA funds to report quarterly on how they were using the money. Among other areas, ARRA funds were targeted at infrastructure development and enhancement.<sup>2</sup>

From February 17, 2009, through December 31, 2010, the state of Ohio was awarded a total of \$8,604,763,955 in ARRA funds via 1,106 contracts, 7,856 grants and 49 loans.<sup>3</sup> The majority of the ARRA awards went to supplement current programs.

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<sup>1</sup> See Ohio Revised Code §121.53, "Deputy inspector general for funds received through the American Recovery and Reinvestment Act of 2009."

<sup>2</sup> Source: <http://recovery.gov>.

<sup>3</sup> Source: <http://recovery.gov>.

### *Office of the Ohio Inspector General and ARRA*

The Ohio General Assembly enacted Ohio Revised Code §121.53 effective July 1, 2009, which created the deputy inspector general for funds received through the American Recovery and Reinvestment Act (ARRA) of 2009. This statute provided the Office of the Ohio Inspector General oversight to monitor state agencies' distribution of ARRA funds from the federal government and to investigate all wrongful acts or omissions committed by officers, employees, or contractors with state agencies that received funds from the federal government under ARRA. In addition, the Office of the Ohio Inspector General was required to conduct random reviews of the processing of contracts associated with projects to be paid for with ARRA money.

### *Aquaculture Assistance Grant*

Aquaculture is the farming of aquatic life (e.g., fish and shellfish) for the purpose of commercial sale or to stock bodies of water for fishing. According to the most recent United States Department of Agriculture Census of Aquaculture published in 2005, Ohio had 55 farms with total sales of approximately \$3.2 million. This was an increase over the 1998 census that identified 33 farms and approximately \$1.8 million in sales.<sup>4</sup>

ARRA made \$50 million available to the USDA Farm Service Agency to assist aquaculture producers with losses associated with high feed costs in 2008. Funding was allocated to each state based on the total amount of feed delivered to that particular state in 2007, as reported by each state's Department of Agriculture. Ohio received \$63,202 under ARRA in mid-2009.<sup>5</sup>

In order to qualify for assistance in Ohio, aquaculture producers were required to demonstrate that their feed expenditures in 2008 exceeded the previous five-year average cost (2003-2007) by 25 percent. Initially, the Ohio Department of Agriculture estimated the five-year average by determining the cost the Ohio Department of Natural Resources spent on feed at their aquaculture facilities.<sup>6</sup> However, when potential applicants notified ODA the average rate was

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<sup>4</sup> Full report is located at: <http://www.agcensus.usda.gov/Publications/2002/Aquaculture/index.asp>.

<sup>5</sup> Source: <http://www.fsa.usda.gov>.

<sup>6</sup> The Ohio Department of Natural Resources owns and operates six aquaculture facilities throughout the state that are administered by the Ohio Division of Wildlife. For more information see: <http://www.dnr.state.oh.us/Home/FishingSubhomePage/fisheriesmanagementplaceholder/fishinghatcherieshatchmain/tabid/6153/Default.aspx>.

too high and very few would be able to qualify for the program, ODA contacted the five largest feed suppliers and determined a new five-year average. The following table shows, based on the five-year average calculated by ODA, the cost per pound that would qualify for reimbursement.

2003-2007 Feed Tiers	2003-07 Average Price/lb.	For Reimbursement, 2008 Costs Must Exceed Average by 25%
Tier 1 - Protein level greater than 45%	\$0.518	\$0.648
Tier 2 - Protein level between 35%-45%	\$0.337	\$0.421
Tier 3 - Protein level less than 35%	\$0.257	\$0.321

To determine the amount eligible for reimbursement, applicants were to:

- 1) List the fish species produced and protein level tier;
- 2) Calculate the 2008 feed cost per pound by dividing the cost paid by pounds purchased;
- 3) List the average price as determined by ODA based on the tier level of feed purchased;
- 4) Subtract the actual cost per pound from the average price to determine the difference; and
- 5) Multiply the difference by the number of pounds purchased. **(Exhibit 1)**

If the difference calculated in Step 4 above was less than the five-year average multiplied by 125 percent, the applicant was not eligible for reimbursement. According to officials at ODA, when determining the actual 2008 feed cost, applicants could not include shipping and handling if it was invoiced separately, nor could they determine an average price for the total year's purchases in order to meet the qualification rates.

After ODA received all the applications and determined the amounts eligible for reimbursement, the total amount required to reimburse all of the applicants exceeded the grant amount available. To try and ensure all eligible applicants received some type of reimbursement, ODA prorated each request by 78.48 percent to provide an equal share to all who were eligible. This resulted in a total final payout of \$63,201.99 – leaving \$0.01 of the grant unspent.

### **INVESTIGATIVE SUMMARY**

During the initial meeting with the Ohio Department of Agriculture, the Office of the Ohio Inspector General made copies of all applications and supporting documentation for further

review. Copies of the supporting receipts and/or invoices were then sent to the Ohio Department of Natural Resources to determine if the type of feed purchased would be used for the fish species listed. An official at the Ohio Department of Natural Resources stated he did not see any inconsistencies. It could not be determined if the tier level would be correct for each species of fish, as the life cycle was not required to be listed on the aquaculture facilities' applications. Using the instruction form provided for completing an application (**Exhibit 1**), the Office of the Ohio Inspector General then recalculated the amounts based on the invoices and receipts obtained. The following are the results of that review.

#### *Corrected Applications*

Of the 15 applications reviewed, there were three instances where amounts were crossed out and corrected by ODA personnel, either as a result of incorrect calculations or because the amounts claimed were not eligible for reimbursement. There were also two instances in which ODA returned applications to the applicants for correction because the applications contained errors. Rather than making changes to applications fraught with errors, ODA should have returned all of the applications in instances where problems were noted. This would have allowed the applicants to provide additional documentation to support the original calculations, if available, or would have allowed the applicants to sign a new copy of the application, approving the changes.

#### *Ineligible Reimbursements*

The Office of the Ohio Inspector General noted two instances where possible ineligible reimbursements occurred. Dennis, Jerry, and Richard Shaferly each submitted separate applications; however, on further review, the same supporting documentation was submitted and each individual received one-third of the total amount requested. For the purposes of analysis, all three applications were combined into one.

When investigators recalculated the average price of feed during transactions for April 8, August 6, and September 10, 2008, the average price on all three dates did not meet the threshold limit needed for reimbursement, as shown:

<b>Invoice Date</b>	<b>Feed Tier</b>	<b>2003-07 Average Price/lb.</b>	<b>Price/ lb. Recalculated (from Invoice)</b>	<b>For Reimbursement, Cost Must Exceed Threshold</b>
4/8/08	Tier 1	\$0.518	\$0.533	\$0.648
8/6/08 & 9/10/08*	Tier 1	\$0.518	\$0.598	\$0.648
9/10/08	Tier 1	\$0.518	\$0.531	\$0.648

\*Invoices dated 8/6/2008 and 9/10/2008 were submitted as one invoice.

As the price per pound recalculated is lower than the allowable threshold, the purchases on these days were not reimbursable under the established guidelines. The amount claimed for the days in question totaled \$1,720.84.

The Office of the Ohio Inspector General asked why these amounts would have been reimbursed, and officials at ODA stated it was possible the wrong feed tier was used in making the calculations. Investigators recalculated the amounts based on a different feed tier and concluded if the ODA assumption had been the case, an underpayment of \$4,800.90 would have occurred.

As mentioned earlier, ODA officials corrected applications that had incorrect calculations. On the Freshwater Farms of Ohio, Inc., application, ODA officials removed five transactions that did not meet the eligibility requirements. Recalculations during the course of the investigation identified a sixth transaction that also should have been removed. Regardless, the analysis still showed an overall underpayment of \$133.15 to Freshwater Farms of Ohio, Inc., even with the removal of the sixth unallowable transaction.

*Application Form Instructions*

A review of application form instructions identified areas in which the lack of clear instructions resulted in potential overpayments. While the Office of the Ohio Inspector General calculated potential overpayments and underpayments, the findings will be referred to the U.S. Department of Agriculture for final determination. All references to potential overpayments and underpayments in this report were calculated by the Office of the Ohio Inspector General based on documentation provided by the Ohio Department of Agriculture.

The application form instructions did not include guidance on determining reimbursement amounts by aggregating individual purchases to calculate an overall average cost. In some instances, individual purchases would not qualify for reimbursement. However, by combining multiple purchases and averaging the cost, applicants would receive reimbursement for purchases that would otherwise not qualify. An ODA official was asked if averaging multiple transaction amounts was allowable, and responded that they were not. Individual actual transaction amounts needed to be used when determining if the transaction was eligible for reimbursement.

There was one instance where it appeared a vendor, Marlows Fisheries, averaged the cost of feed purchased based on feed type. In other words, all purchases of the same brand or type of feed were grouped together and averaged for the year. Investigators recalculated the individual amounts, and it was determined only one individual transaction met the threshold requirements. As a result, Marlows Fisheries received a potential overpayment of \$874.20.

Additionally, the instructions failed to state that shipping and handling costs had to be deducted from the invoice price when calculating reimbursement amounts. ODA officials stated that if these costs were billed separately they were not allowable. In other words, if the shipping and handling costs were included in the price per pound, and could not be separated, those costs were allowable. A review identified one instance in which shipping and handling costs were billed separately but used in the calculation of the actual costs of the feed purchased by Barbara Zwick. Recalculations performed during the investigation removed these costs, and identified a potential overpayment of \$490.63. In an interview with the Office of the Ohio Inspector General, Zwick said ODA officials reported shipping and handling costs were allowable as several applicants had questions regarding shipping and handling costs.

#### *Insufficient Supporting Documentation*

During the review of applications, two instances were noted where the supporting documentation did not correspond to the reimbursement calculations. Fredericktown Aquaculture provided a summary statement from a feed supplier showing the total amount purchased in dollars and pounds for 2008. An invoice from a second feed supplier listed different amounts and appeared

to be the statement used when calculating the reimbursement request. When recalculating the amounts using the second invoice, the results showed a potential underpayment of \$931.97 to the applicant.

The supporting documentation submitted by another vendor, Laurel Creek Farm, did not match either the dates or the pounds purchased when compared to the reimbursement calculations. Using the invoices provided, the amounts were recalculated by the Office of the Ohio Inspector General and determined an overpayment of \$504.66 may have occurred.

**CONCLUSION**

During the application process, the Ohio Department of Agriculture attempted to include as many eligible applicants as they could in the reimbursement. This included prorating the amounts to ensure that all eligible applicants received some reimbursement. However, ODA lacked sufficient oversight of the application process, which resulted in potentially incorrect payments. ODA officials acknowledged they should have made the application instructions clearer on what was allowable. However, they faced deadlines limiting the time to expend the funds.

The following is a summary of overpayments and underpayments based on information obtained from ODA. While the Office of the Ohio Inspector General calculated potential overpayments and underpayments, the findings will be referred to the U.S. Department of Agriculture for final determination.

<b>Vendor</b>	<b>Over Payment</b>	<b>Under Payment</b>	<b>Reason</b>
Shaferly	\$1,720.84		Ineligible reimbursement
Freshwater Farms		\$133.15	Incorrect calculations
Marlows Fisheries	\$874.20		Used average costs
Barbara Zwick	\$490.63		Included shipping & handling
Fredericktown Aquaculture		\$931.97	Insufficient documentation
Laurel Creek Farm	\$504.66		Insufficient documentation
<b>TOTAL</b>	<b>\$3,590.33</b>	<b>\$1,065.12</b>	

The net amount calculated by the Office of the Ohio Inspector General is an overpayment of \$2,525.21. However, if the assumption that the wrong tier was used when calculating the amount for the Shaferlys', the amount is an overall underpayment of \$1,471.32.

**Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe acts of wrongdoing or omission occurred in these instances.**

### **RECOMMENDATIONS**

The Office of the Ohio Inspector General makes the following recommendations and asks the Ohio Department of Agriculture respond within 60 days with a plan detailing how these recommendations will be implemented. The Ohio Department of Agriculture should:

- 1) Follow-up with the applicants to determine if repayment is required in the instances identified by the Office of the Ohio Inspector General.
- 2) Ensure future reimbursement requests include correct calculations and return requests to the vendor for correction when discrepancies are found.
- 3) Develop clear instructions on allowable costs for inclusion in future reimbursement requests.
- 4) Ensure supporting documentation validates the reimbursement request.

### **REFERRALS**

The Office of the Ohio Inspector General will forward a copy of this report of investigation to:

- 1) The United States Department of Agriculture as the grantor agency of the Aquaculture Assistance-ARRA grant.
- 2) The Ohio Auditor of State as the agency responsible for the State of Ohio Single Audit and the audit of the Ohio Department of Agriculture.



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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Agriculture**  
**FILE ID #: 2011-081**

**KEEPER OF RECORDS CERTIFICATION**

**This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.**

**Jill Jones**  
**KEEPER OF RECORDS**

**CERTIFIED**  
**January 24, 2012**

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