



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

March 1, 2013

The Honorable Roy D. Blunt
Ranking Member
Subcommittee on Agriculture, Rural Development,
Food and Drug Administration, and Related Agencies
Committee on Appropriations
United States Senate
190 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of February 25, 2013, regarding the impact sequestration will have on the Department of Agriculture (USDA). I appreciate the opportunity to address your concern about how meat and poultry inspections will be affected in Missouri.

I agree that furloughing USDA's Food Safety and Inspection Service (FSIS or Agency) employees, including our food safety inspectors, would have an adverse impact on those employees and the American public, including those in Missouri. As you emphasized, the negative effect on Missouri-based FSIS employees, establishments, and livestock and poultry producers would be significant. Unfortunately, unless action is taken to resolve sequestration, FSIS will have no choice but to furlough its employees in order to stay within the budget Congress has given it.

FSIS' governing statutes impose an obligation that food safety inspections of meat and poultry products be conducted by FSIS personnel, pending Federal appropriations. However, furloughing inspection personnel to comply with fiscal law enacted by Congress does not violate any provisions of the Federal Meat Inspection Act and Poultry Products Inspection Act. If FSIS does not have the funding available, it must take appropriate steps, including furloughs, to control its expenditures and stay within its funding authority for the fiscal year.

As it relates to identifying "essential" employees, it is important to note the difference between a sequestration caused by the Budget Control Act of 2011 (BCA) and a short-term government shutdown due to an expired continuing resolution. A government shutdown involves a lapse—not a reduction—of budget authority. According to the Anti-Deficiency Act (ADA), agencies are prohibited from accepting voluntary services, "except in cases of emergency involving the safety of human life or the protection of property" (31 U.S.C. § 1342). That provision of the ADA allows agencies to designate classes of essential employees from whom voluntary services may be excepted in emergency situations.

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Such emergency situations exist when there is no budget authority whatsoever—as in a shutdown—so that an entire function of government might cease completely. However, when Congress drafted the Budget Control Act of 2011 directing Federal agencies to reduce their spending at specified levels, it included no exemption for essential employees such as FSIS inspectors.

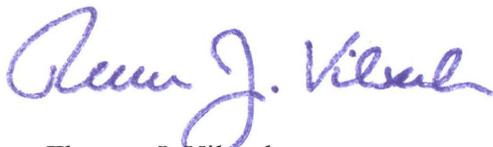
As you cited from the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, Section 256(k)(2)), under sequestration, the same percentage reduction applies to all programs, projects, and activities within USDA's budget accounts. Salaries and benefits comprise 80 percent of total FSIS funding, primarily for frontline personnel. In order to avoid legal requirements to conduct a Reduction in Force (5 U.S.C. § 3501-3503, 5 CFR 351), FSIS could only furlough non-frontline personnel for a maximum of 22 days, which would be insufficient to meet the required funding reduction required by the sequester statute. Furthermore, a furlough that is applied unevenly across the Agency, may substantially impact inspector availability, decrease industry productivity, and potentially compromise food safety due to delays and disruptions in coordinating and scheduling inspector activities and receiving timely administrative and IT support.

In addition to Salaries and Expenses, an additional 15 percent of the FSIS budget is allocated to frontline travel for frontline personnel, fixed support costs, and other inspection services. The remaining 5 percent of FSIS expenditures are allotted for supplies and operating expenses. Even with existing transfer and reprogramming authority, FSIS cannot achieve the requisite spending reductions without resorting to furloughs of frontline personnel.

We fully recognize that furloughing our food safety inspectors would have harmful consequences for consumers, the economy, the meat and poultry industry, or our workforce in Missouri and around the country. This is precisely the reason we view such furloughs as the last option we would implement to achieve the necessary sequestration cut.

Thank you again for your letter and for sharing your concern about the impact of sequestration. If you have further questions, or if we can be of additional assistance, please have a member of your staff contact Brian Baenig, Assistant Secretary for Congressional Relations, at (202) 720-7095.

Sincerely,



Thomas J. Vilsack
Secretary