



United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-259329

December 16, 1994

The Honorable Patrick J. Leahy
Chairman
The Honorable Richard G. Lugar
Ranking Minority Member
Committee on Agriculture,
Nutrition, and Forestry
United States Senate

The Honorable E (Kika) de la Garza
Chairman
The Honorable Pat Roberts
Ranking Minority Member
Committee on Agriculture
House of Representatives

Pursuant to the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624), we are reporting on the national Fluid Milk Processor Education and Promotion Program, also known as the fluid milk check-off program.¹ This program, established through December 1996 as a trial program, is intended to maintain and expand markets for and uses of fluid milk products--such as whole milk, skim milk, and buttermilk--produced in the United States. Under the program, the National Fluid Milk Processor Promotion Board, appointed by the Secretary of Agriculture, carries out promotion, research, and consumer education activities. The program is funded by processors who pay assessments on the fluid milk products they market commercially.²

¹The term check-off refers to the way that the research and promotion programs are funded: A small portion is deducted from the checks of those being assessed for each unit of a commodity sold.

²The Fluid Milk Promotion Amendments Act of 1993 (P.L. 103-72) requires the assessment to be limited to fluid milk processors who process and market commercially more than 500,000 pounds of fluid milk products per month.

The act required GAO, by January 1995, to (1) determine the effectiveness of the promotion program on fluid milk sales, (2) make recommendations for the program's future funding and assessment levels, and (3) determine if the assessments for the program have been passed back to milk producers³ by fluid milk processors, an action prohibited by the program.

In summary, the Board only began operating in July 1994; therefore, it is too early to determine the effectiveness of the program or make recommendations for funding levels. Therefore, this correspondence provides information on the Board's planned activities and uses of funds for the trial program. It also reports on expenditures made by other national and state programs that promote fluid milk consumption. Finally, experience with the program to date indicates that controls are in place to detect passbacks if they appear as unauthorized deductions from processors' payments to milk producers. However, the detection of passbacks cannot be ensured in all cases because the inherent complexity of milk pricing mechanisms allows passbacks to be hidden.

BACKGROUND

Voluntary promotional and research programs funded through check-off contributions have been in effect at the local, state, and regional levels for over 50 years. These programs are designed to expand the market for a given agricultural commodity, such as apples, potatoes, and citrus fruit. In an effort to encourage equitable participation from all those who benefit from these programs and to create a larger funding base, commodity industry groups eventually began to seek federal legislative authority to establish national programs. Currently, there are 18 federally authorized check-off programs.⁴

The U.S. Department of Agriculture (USDA), through the Agricultural Marketing Service (AMS), is responsible for

³A milk producer is a dairy farmer who delivers bottling-quality milk, known as "Grade A," to a regulated processor.

⁴For more information on check-off programs, see Agricultural Marketing: Federally Authorized Commodity Research and Promotion Programs (GAO/RCED-94-63, Dec. 29, 1993).

(1) developing regulations to implement these check-off programs, in consultation with the affected industry, and (2) ensuring compliance with the authorizing legislation and the agency's related orders. Legislation and orders generally have provisions specifying allowable activities, such as the type of promotion or research activities, the level and collection of assessments, the composition of the board, and the types of allowable expenditures. To ensure compliance, AMS reviews a board's budgets, projects, and contracts to prevent the board from engaging in prohibited activities, such as lobbying. Boards reimburse AMS for its oversight costs.

In the late 1980s, some fluid milk processors identified a need to address declining milk sales and consumption and sought legislative authority to establish a national promotion program. While the National Dairy Board operates a check-off program for producers of dairy products, including fluid milk, these fluid milk processors wanted consumers to have additional information about milk to address concerns about milk's relationship to diet, fat, and cholesterol. Industry participants agreed on a basic framework for such a program, including the level of assessment and various program activities, such as conducting promotion, advertising, and research and providing consumer information. The 1990 farm bill authorized the creation of a fluid milk check-off program.

To become effective, however, the program had to be approved in a referendum by at least half of the processors voting, who also had to account for at least 60 percent of the total volume of fluid milk products marketed. Approximately 72 percent of the processors voting, representing 77 percent of fluid milk volume, approved the program in October 1993. The program became effective in December 1993. As USDA required, assessments on processors were collected between February and July 1994. In June 1994, the Secretary of Agriculture named members of the National Fluid Milk Processor Promotion Board, and the Board held its first meeting in July 1994.

The Board consists of 20 industry members, 15 representing geographic regions and 5 at large. Members of the Board serve 3-year terms, but initial appointments are for 1, 2, and 3 years, so as to stagger membership.

The program is funded by an assessment on fluid milk products--20 cents per hundredweight of fluid milk

processed and marketed commercially. These funds go to the National Fluid Milk Processor Promotion Board. The Board uses a portion of these funds to reimburse USDA for oversight costs and to provide California's Fluid Milk Processor Advisory Board with an amount equivalent to 80 percent of the assessment funds paid by California's fluid milk processors, as USDA's fluid milk order requires. The California fluid milk processors have operated a statewide promotion program since February 1993--nearly 17 months before the national fluid milk program began operations--to address the decline in per capita consumption of fluid milk in their state.

WHILE PROGRAM ACTIVITIES HAVE BEGUN,
IT IS TOO EARLY TO DETERMINE THEIR EFFECTIVENESS

Because the fluid milk program only began operations in July 1994, it is too early to determine its impact on fluid milk sales. The Board, however, has taken the first steps toward establishing a comprehensive program designed to increase the uses of fluid milk products.

At its initial meeting, the Board adopted bylaws, appointed officers, named an executive director, and approved agreements for administrative, financial, and promotional services. The Board also agreed on the basic mission of the trial program: to achieve a measurable improvement in consumers' knowledge, attitudes, and perceptions of fluid milk products by educating consumers, health care professionals, and others about the nutritional attributes of milk. To achieve its mission, the Board plans to use a number of marketing techniques, including print and television advertisements, celebrity endorsements, product samplings, and a toll-free consumer information hotline.

According to both the Board's Chairperson and Executive Director, the Board recognizes that it has a very short time in which to launch program activities and measure their impact before the program expires in December 1996.⁵ Therefore, it has adopted a schedule that does not allow for delays. The Board began program activities with a benchmark study of consumers' attitudes, will continue with an advertising campaign based on the results of that study, and will conclude with another referendum in October 1996.

⁵The Board calls the program the Milk Processor Education Program (PEP).

(See enclosure I for a detailed schedule of activities.) The Board will initially focus its program activities on adult women and phase in other segments of the population after it evaluates the trial effort.

The Board has approved a plan to evaluate how well the program is accomplishing its mission. Initially, the Board will conduct two surveys: one of consumers' attitudes about milk that are impeding milk consumption and another of health professionals' attitudes about milk, diet, and nutrition. The consumer survey will serve as a benchmark for measuring the results of the final evaluation. A final evaluation of the program is scheduled for April 1996. The Board will determine whether the program has been effective by measuring changes in consumers' attitudes and behavior.

ANY RECOMMENDATIONS FOR FUTURE
FUNDING AND ASSESSMENT LEVELS
WOULD BE PREMATURE AT THIS TIME

We cannot yet determine whether the current funding level will enable the program to achieve its objectives because the program has been in operation for only a few months. About \$54 million was collected from 434 processing plants between February and July 1994.⁶ The Board has a plan for spending these funds through the end of the trial program. The assessment level, currently 20 cents per hundredweight of milk sold, could be changed through a referendum, pursuant to the fluid milk legislation, but officials told us that processors would not consider a change until the trial program is evaluated.

Table 1 shows how the Board plans to spend the \$54 million it had collected in assessments through July 1994.

⁶The USDA order requires that fees be collected only during this period for the trial program.

Table 1: Proposed Budget, July 1994 Through December 1996

Activity	Amount
Promotion activities	\$45,020,000
General and administrative activities	2,530,000
Research	850,000
Payments to USDA	800,000
Grant to California	5,000,000
Total	\$54,200,000

The Board plans to spend 83 percent of its funds on promotion activities, which include developing marketing plans and carrying out an advertising campaign. The Board plans to unveil its advertising campaign in January 1995. Program expenditures for general and administrative costs--about 5 percent of the budget--include payments for travel expenses, legal services, and accounting and auditing expenses. One of these audits will be to determine whether all eligible processors paid their assessments. Research expenditures, which are slated to account for about 1.6 percent of the budget, include payments for consumer surveys and research on milk labeling and terminology. Another 1.5 percent of the budget will reimburse USDA for administrative costs incurred while performing oversight and evaluation activities.

As the USDA order requires, the Board must grant the California Fluid Milk Processor Advisory Program 80 percent of the funds collected from the California processors. During the trial period, the grant will account for 9.2 percent of the program's total budget. California's processor program began operations in February 1993 and is scheduled to end in December 1995.

While certainly not providing a definitive basis for determining whether the current \$54 million funding level for the national fluid milk check-off program will be adequate for the task, existing state and industry promotion programs may provide some early insights into this issue. California's processor program has a budget of \$22 million for its trial period; its board spends over 95 percent of its budget on marketing activities, such as

television and radio advertising, public relations, and in-store promotions.

In addition to the California processor program, Dairy Management Incorporated, the Wisconsin Milk Marketing Board, and the California Milk Advisory Board are among the industry groups that have programs to promote the consumption of fluid milk. Dairy Management Incorporated, a joint venture of the National Dairy Board and the United Dairy Industry Association, plans to spend \$80 million on its fluid milk program between September 1994 and December 1995. The Wisconsin Milk Marketing Board spent \$3 million⁷ and the California Milk Advisory Board spent \$7 million on fluid milk promotion during 1994. Each group promoting fluid milk has different levels of funding, focuses promotional efforts on different segments of the market, and uses a variety of factors to evaluate the program's results.

CONTROLS ARE IN PLACE, BUT DETECTION OF
PASSBACKS CANNOT BE ENSURED

The federal Milk Marketing Order Program sets acceptable marketing practices, the terms and conditions of milk sales, and milk prices. Each order fixes the minimum prices that must be paid by regulated plants that purchase milk and specifies how these payments are to be distributed among farmers. According to AMS and producer groups, controls are in place that would detect passbacks that appeared as unauthorized deductions from "milk checks." One control is the milk producers themselves. Milk producers closely monitor payments from milk processors for milk purchases, according to USDA and producer associations. Producers will quickly detect unauthorized deductions from their milk checks. Such a case occurred when the fluid milk assessments were first collected in February 1994. A producer complained to AMS about an unauthorized deduction for a processor's assessment. AMS contacted the processor, who, after being advised of the illegality of the passback, refunded the amount to the producer.

Another control over unauthorized deductions is AMS' monthly audits of payments to milk producers. Market

⁷Figure provided for fiscal year 1994--July 1993 through June 1994.

administrators use these audits to determine whether payments are made in accordance with the terms of the marketing orders. Federal milk marketing orders cover 80 percent of the milk produced in the United States.⁸ The audits determine whether fluid milk processors are paying milk producers the minimum milk prices required under the marketing orders, less any authorized deductions. According to USDA officials, the audits will detect unauthorized deductions, such as one for the fluid milk check-off program. When the fluid milk program was first implemented, USDA officials notified local market administrators that processors' assessments were not an authorized deduction.

However, milk processors frequently pay producers prices that exceed the required minimum prices. These negotiated prices could exceed the required minimums for a variety of reasons. The amounts by which they exceed the minimums vary from month to month and are influenced by many factors. A processor's assessment is one factor among many that could raise a processor's expenses and thereby affect the negotiated price. According to AMS and producer groups, in these cases it would be difficult, if not impossible, for an outside party to detect a passback because of the difficulty of isolating the effect of the assessment in any given instance.

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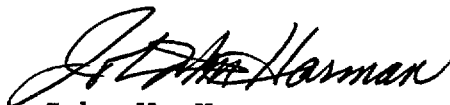
To address the legislative requirements for the fluid milk program, we interviewed AMS' Director of the Dairy Division; the Market Administrator for the Washington, D.C., region; and staff of the Promotion and Research Branch. We also interviewed the President of the Milk Industry Foundation, the Executive Director of the National Fluid Milk Processor Promotion Board, and state and national producer organizations. We attended the Board's first meeting in Washington, D.C. We also reviewed USDA's orders, the Board's bylaws and agreements, and proposed schedules to identify program requirements and implementation efforts to date. We also reviewed the Board's proposed budgets, bank statements, lists of processors eligible for the program's assessment, and monthly remittance reports from processors to determine the

⁸California is not covered by the federal marketing orders, but it has a state program that audits payments for milk.

level of funding for and participants in the program. We did not independently verify the assessments paid, earnings paid, or the eligibility of processors to pay assessments. We reviewed producers' vouchers, USDA's milk price announcements, and USDA's and California's marketing order rules and regulations to identify the controls in place to prevent passbacks.

We discussed the information in this correspondence with officials at AMS headquarters in Washington, D.C. They agreed with the facts presented, and we have included their comments where appropriate.

We are sending copies of this correspondence to other interested congressional committees, the Secretary of Agriculture, and other interested parties upon request. Please call me at (202) 512-5138 or Juliann Gerken, Assistant Director, at (202) 512-9824 if you or your staff have any questions or need any further information.



John W. Harman
Director, Food and
Agriculture Issues

SCHEDULE OF PROGRAM ACTIVITIES

December 1993	Fluid milk check-off program becomes effective.
February 1994	U.S. Department of Agriculture begins collecting assessments.
June 1994	Secretary of Agriculture names Board members.
July 1994	First Board meeting is held. Collection of assessment ends.
August 1994	Benchmark research study on consumers' attitudes begins.
October 1994	Milk Processor Education Program begins. Results of research study are presented.
January 1995	Educational advertising begins. Scientific Advisory Board meets. Toll-free consumer telephone number opens.
April 1996	Final evaluation study conducted.
June 1996	Research results disseminated.
August 1996	Results of final evaluation study.
October 1996	Second referendum held.
December 31, 1996	Legislative authority for program ends.

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