



U.S. Department of Agriculture



Office of Inspector General
Great Plains Region

Audit Report

Risk Management Agency Renegotiation of the Standard Reinsurance Agreement

Report No. 05099-109-KC
January 2005



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20250



DATE: January 27, 2005

REPLY TO
ATTN OF: 05099-109-KC

SUBJECT: Risk Management Agency - Renegotiation of the Standard Reinsurance Agreement

TO: Ross J. Davidson, Jr.
Administrator
Risk Management Agency

ATTN: Michael Hand
Deputy Administrator for Risk Compliance

Summary

Federal crop insurance is part of an overall safety net of Federal programs and includes protection for farmers against financial losses caused by droughts, floods, or other natural disasters and against the risk of crop price fluctuations. The U.S. Department of Agriculture's (USDA) Risk Management Agency (RMA) has overall responsibility for the Federal crop insurance program. Each private insurance company approved to sell and service Federal crop insurance policies must enter into a formal agreement with RMA, referred to as the Standard Reinsurance Agreement (SRA). Each agreement establishes the terms and conditions under which the Federal Crop Insurance Corporation (FCIC) will provide subsidies and reinsurance on eligible crop insurance contracts sold or reinsured by the approved crop insurance company.

Program integrity has been identified as a significant challenge within USDA. The Office of Inspector General's (OIG) strategic goal is to increase the efficiency and effectiveness with which USDA manages and employs public assets and resources including physical and information resources. We initiated a review to identify and assess critical issues we believed RMA should consider to strengthen the crop insurance program during the SRA renegotiation process with the private insurance companies. This included the identification of prior SRA issues where RMA indicated that resolution would require a change in the SRA. We also identified and analyzed internal control weaknesses addressed in prior audit reports and those identified in recently completed reviews. In addition, we reviewed and analyzed the model results¹ used by RMA and assessed the many provisions provided in the three draft SRA's for their potential impact on the crop insurance program.

¹ An econometric forecasting model developed by a contractor and used by RMA to evaluate rates of return and dollar amounts for FCIC and the reinsurance companies under different conditions and terms during the renegotiation of the SRA.

During the review, we provided RMA officials with a series of memorandums and held multiple discussions on issues that we believed warranted their consideration during the drafting of the SRA and the renegotiation process. After a 6-month process and prior to the July 1, 2004, deadline, RMA successfully completed the renegotiation and received signed SRA's from all 14 reinsured companies that participated in the 2004 reinsurance year. Yet, much remains to be accomplished regarding incorporation and implementation of the policies and procedures that will be effective for the 2005 reinsurance year. In addition, during the renegotiation, we suggested that RMA include specific authority or language in the SRA, allowing RMA to establish a standard quality control review system by regulations, outside of the SRA. In the past, RMA contended that such SRA language was needed to permit this approach. Language to that effect was included in an initial draft, but subsequently removed. Even though RMA stated that it had received verbal confirmation from the Office of the General Counsel (OGC), we believed that RMA might be hindered in its ability to formalize a quality control review process within regulations without a formal OGC opinion.

Background

RMA establishes the terms and conditions to be used by private insurance companies selling and servicing policies to farmers through an agreement made with the companies called the SRA. The SRA is a cooperative financial assistance agreement between RMA, through the FCIC, and approved private crop insurance companies to deliver Federal crop insurance. An appointed Board of Directors provides overall guidance to FCIC. The Federal Agriculture Improvement and Reform Act of 1996, dated April 4, 1996, amended the Department of Agriculture Reorganization Act of 1994 (Public Law 103-354) (the Act) and created RMA.

Each reinsurance agreement establishes the terms and conditions under which FCIC will provide subsidies and reinsurance on eligible crop insurance contracts sold or reinsured by an approved crop insurance company. By regulation, each insurance company and its managing agent, if applicable, must be in good financial standing and in compliance with the laws of the State where it is domiciled and in the States where its business is written. Insurance companies must be pre-approved to participate in the program.

RMA is responsible for the supervision of FCIC and the administration and oversight of programs authorized by the Act. In 1980, Congress enacted legislation that expanded the program and directed that crop insurance (to the maximum extent possible) be offered through private insurance companies. These companies offer various types of crop insurance policies, share the risk, and market Federal crop insurance. Policyholder premiums are also subsidized in accordance with the Act; the level of subsidies for policyholder premiums was increased significantly under the Agricultural Risk Protection Act of 2000 (ARPA). In addition, FCIC and approved insurance providers share in the underwriting gains and losses attributable to each company's book of business.

For crop year 2003, crop insurance coverage increased to 217 million acres with a total Government insurance liability of over \$40 billion. Indemnity payments for the 2003 crop year totaled over \$3.2 billion while the Government's subsidized share of the insurance premiums totaled over \$2 billion. Also, 2003 program records showed that approved crop insurance

providers serviced about 1.24 million policies. For the 2004 reinsurance year, 14 private crop insurance companies were authorized to sell and service crop insurance policies through a nationwide network of crop insurance agents and loss adjusters.

Under the SRA, FCIC reinsures or subsidizes a portion of the losses and pays the insurance companies an administrative fee or reimbursement expense – a predetermined percentage of premiums – to reimburse the companies for the administrative and operating expenses associated with selling and servicing crop insurance policies including expenses associated with adjusting claims. Under the 2004 SRA, the administrative and operating expenses could not exceed 24.5 percent of a company's net book of premium.

Once signed by each private crop insurance company, the SRA remains in effect until a subsequent renegotiation is authorized by law. The previous SRA was effective for the reinsurance years 1998 through 2004. ARPA, which was enacted on June 20, 2000, authorized (section 148) RMA to renegotiate the terms and conditions in the SRA once during the 2001 through 2005 reinsurance years.

First Draft of the SRA

On December 31, 2003, RMA formally announced its plan to begin the process of renegotiating the terms and conditions contained within the SRA and released its initial draft of the proposed SRA. The announcement showed, in part, that:

“The ARPA authorized renegotiation of the SRA once during the 2001 through 2005 reinsurance years at the discretion of FCIC. The existing agreement has been in place since 1998 even though much has changed in the industry. Some changes have included considerable expansion in the number and nature of insurance products offered, the reinsurance markets, financial stability of some companies and the additional subsidies to producers flowing from ARPA. The ARPA placed additional responsibilities on RMA to ensure program integrity, market coverage, delivery system viability and new product availability. All of these conditions and changes, taken together, suggest that a timely revision of the agreement is necessary to strengthen the crop insurance program.”

RMA indicated it would begin renegotiation of the SRA to make a new agreement effective for July 1, 2004, which is the beginning of the 2005 reinsurance year. RMA reported that the overall objectives of the renegotiation would include:

- Creating a dynamic agreement capable of adapting to future needs.
- Creating simplicity and efficiency in the insurance program.
- Strengthening program integrity and ensuring long-term program and delivery system viability.
- Securing meaningful cost savings and efficiencies throughout the system.

Second Draft of the SRA

On March 29, 2004, RMA released the second draft of the proposed SRA along with three draft appendices to the agreement including 1) Appendix I, Procurement Integrity, Drug Free Workplace and Anti-Lobbying Statements; 2) Appendix II, 2005 Plan of Operations; and 3) Appendix IV, Quality Standards and Control-formerly Manual 14.² RMA reported, in part, when releasing the second draft of the SRA that:

“RMA carefully considered each comment received in response to the initial draft. Despite considerable changes between the first and second draft, this draft maintains RMA’s commitment to maintaining a high degree of service to America’s agricultural producers, ensuring the integrity and stability of the crop insurance program, and providing for the effective and efficient use of taxpayer dollars.” RMA also held industry-wide teleconferences to review and discuss the proposals with private crop insurance representatives and their trade associations.

The release also highlighted some of the more important changes to the modified SRA draft which included:

- Eliminating the requirement for reinsured companies to control their expenses within 2 percent of the administrative and operating (A&O) reimbursement and deleting the 2 percent penalty for exceeding that threshold.
- Restoring the currently available seven reinsurance funds, including the Developmental Fund, for individual policy risk designation.
- Modifying the definitions of affiliate and relative and introducing the definition of service provider, claim, material, etc. to provide greater clarity to various provisions.
- Clarifying the Guarantee Fund and renaming it the Contingency Fund.
- Eliminating the provisions that referenced expanding RMA’s role as a reinsurer, and establishment of shared cost savings identified by collaborative cost reduction studies.
- Allowing policies issued under the status of pilot programs to be designated to the Assigned Risk Fund without regard to State retention limits.
- Clarifying the rebate section and instituting strong consequences for illegal rebates.

RMA also reported that it continued to seek cost savings including:

- A reduction in the FCIC Quota Share from 25 percent to 5 percent.

² Appendix III, Data Transmission Procedures, was not included in this draft.

- Small reductions in the general A&O reimbursement percentages, including adjustments to the A&O reimbursement for 80 and 85 percent coverage levels, Catastrophic Risk Protection (CAT) and all other levels.
- A reduction in the minimum amount of assigned risk a company must retain from 30 to 25 percent, an increase from the current SRA level of 20 percent.

Third Draft of the SRA

The third draft SRA was released on May 20, 2004, and included 1) Appendix I, Procurement Integrity, Drug Free Workplace and Anti-Lobbying Statements; 2) Appendix II, 2005 Plan of Operations; and 3) Appendix IV, Quality Standards and Control-formerly Manual 14.³ In developing the third draft of the SRA, RMA reported that it maintained RMA's commitment to ensuring the integrity of the crop insurance program and providing for the effective and efficient use of taxpayer dollars. The following provides some general changes made to the third draft.

- Revised the definitions of affiliate, relative, service provider, and material.
- Reduced the use of the term affiliate and identified specific entities where possible.
- Defined cooperative associations as those approved by State or Federal law, as determined by FCIC.
- Eliminated most of the detailed provisions involving rebate and cooperative associations.
- Provided more information on the role, timing and responsibilities of RMA involving large claims.
- Instituted 25 percent, 50 percent, and 75 percent tiers on State cession limits while significantly increasing the number of States with 75 percent cession limits (22 States compared to 9 in the 2004 SRA).
- Reduced the company retention in all States with a 75 percent cession limit to 15 percent, a 20 percent company retention for all States with a 50 percent cession limit and a 25 percent company retention for all States with a 25 percent cession limit.
- The cost savings to the program of the third draft was \$36 million reflecting reduced A&O reimbursement and the 5 percent net book quota share as in the second draft, and revised company assigned risk State cession limits and overall company retention percentages. These savings were to be achieved through a phased in implementation of the A&O subsidy and CAT fees change that is,

³ Appendix III, Data Transmission Procedures, was not included in this draft.

implementing half of the reduction in reimbursement in the 2005 reinsurance year, with the full reduction taking effect for the 2006 reinsurance year and beyond. The entire 5 percent quota share revision and revised State cession and company retention percentages would be effective in the 2005 reinsurance year.

- Reduced the total company retention percentage to 35 percent of the total book of business, compared to 45 percent in the second draft.
- Applied a consistent date to make fund designations, with minor exceptions.

Final SRA

On June 10, 2004, RMA released the final SRA and three of the four associated appendices. As of June 30, 2004, RMA reported that they had received signed SRA's from all 14 companies who participated in the 2004 reinsurance year. Based upon an initial review of the information provided by each company, RMA granted conditional approval for the companies to sell and service crop policies including renewals and writing of new fall crop business for the 2005 reinsurance year. However, RMA also cautioned that the final approval would be contingent upon the companies' ability to satisfy the requirements necessary to qualify for reinsurance, including RMA's final approval on the company's Plan of Operations which were due no later than July 30, 2004.

RMA also highlighted the following changes made to the final SRA.

- Clarified several definitions including affiliate, material, cooperative association and settlement.
- Eliminated one definition and added a definition of Plan of Operations.
- Increased the assigned risk cession limits for Colorado, Oregon, and Wyoming to 75 percent.
- Clarified the initial large claims communication process between the company and RMA.
- Clarified RMA's liability for its actions involving large claims.
- Clarified several provisions in the reinsurance section including fund designations and reinsurance documentation.
- Clarified when the payment of A&O subsidies would occur.
- Modified several provisions involving conflict of interest principally through introducing the term "person" and applying "affiliate" where appropriate.

- Modified several provisions involving denial of reinsurance to clarify when a denial is triggered.
- Introduced a provision that clarified the State's role in enforcing the requirements of the Federal crop insurance program.

Objectives

Our primary objectives were to assess the activities associated with renegotiation of the SRA and provide suggestions or clarifications for RMA consideration that would strengthen the integrity of the crop insurance program. We also reviewed the results of the restructuring models used by RMA to analyze and provide information on the potential impacts if various scenarios were implemented in the SRA.

Scope and Methodology

Fieldwork was performed from November 2003 through August 2004 at the RMA National Office located in Washington, D.C., and the RMA office located in Kansas City, Missouri. We reviewed and analyzed the SRA in place for the 2004 reinsurance year and compared it to the 2005 draft SRA's released by RMA. We conducted interviews and discussions with agency officials and reviewed supporting RMA program records. Specifically, we started by identifying issues that had been reported in our prior audit reports but were not yet resolved because RMA had indicated that the issue or resolution would require a change in the SRA to implement the recommendation. We assessed prior audit reports for issues where material internal control weaknesses were identified and reviews that are currently in progress for significant control weaknesses in which the SRA may need strengthening. We compared key points in the various draft SRA's to the existing SRA language as a tool to identify and analyze any significant differences. We also reviewed the results of the restructuring models and their potential impacts.

We conducted the review in accordance with Government Auditing Standards.

Details

RMA SRA Implementation Strategy and Policy Detail is Still Needed

Beginning in November 2003 and concluding in May 2004, we provided RMA officials with memorandums and comments on issues that we believed warranted consideration during the SRA renegotiation process. While RMA did not embrace each of our suggestions or proposals, our review of the final SRA and associated appendices indicated that RMA did take action to address several of our suggestions. Some examples follow (OIG's suggestion followed by RMA's final action in italics):

- *OIG suggested reducing the 8 percent reimbursement rate for loss adjustments on Catastrophic Risk Protection (CAT) policies. The final SRA showed that RMA reduced the existing 8 percent reimbursement rate for loss adjustments on CAT policies.*

- OIG suggested reserving authority to perform pre-verification reviews of claims totaling \$250,000 or more. *The final SRA did include a provision to allow RMA to review claims totaling \$500,000 prior to the private insurance company payment.*
- OIG suggested strengthening the existing conflict of interest provisions. *The final SRA did strengthen conflict of interest provisions by defining the term “relative” to include any individuals with an interest in the farming operation regardless of where they reside. This included requiring approved insurance providers to notify all affiliates, employees, contractors, agents and loss adjusters of their responsibility for notifying the company of any legal, financial, or familial relationships with the crop insurance provider. Agents and loss adjusters were also required to provide an annual certification acknowledging the conflict of interest rules and their agreement to abide by them.*
- OIG suggested strengthening the provisions applicable to Managing General Agents (MGA) to promote their compliance with crop insurance regulations, including appropriate consequences for noncompliance. *The final SRA strengthened the controls over MGAs by requiring their compliance with the SRA provisions, permitting a review of their records, and establishing consequences for failure to comply with the SRA terms and conditions.*
- OIG suggested codifying the RMA’s quality control process (commonly called Manual 14 process) into the Federal regulations. *RMA officials stated that they do plan to codify the subject provisions into the regulations.*

RMA also considered comments provided by the crop insurance companies, trade associations, public citizens and other officials during the negotiation process. RMA now has the responsibility of implementing the many changes into policy, program procedures and regulations. In implementing the many provisions and/or changes, RMA could incorporate public input to the maximum extent possible by using the Federal regulation process. This process provides public notice to the insurance companies and farmers obtaining the insurance of the new or revised provisions. For example, RMA officials stated that they do plan to codify its quality control process into the regulations; however, they did not provide a timetable for accomplishing that goal.

In addition, RMA addressed some but not all of our financial management suggestions. For example, companies would be required to submit actual and estimated cash flow documentation if RMA requested such documentation from the companies. However, it did not take action to address suggestions regarding modification of the existing surplus (or net worth) requirements.

Formal Opinion Needed

In March 2002, we addressed RMA’s continuing problems in implementing an effective and reliable quality control review system capable of evaluating the private sector’s delivery of Federal crop insurance.⁴ We recommended that a standard quality control review system be

⁴ Audit Report No. 05099-14-KC, Monitoring of RMA Implementation of Manual 14 Reviews/Quality Control Review System, dated March 15, 2002.

established by regulation or legislation rather than through inclusion in the SRA. Although RMA opted the regulatory approach, it has not yet aggressively pursued establishing by regulation an effective and reliable quality control review system. In the past, RMA staff believed that, in order to pursue this approach, it needed specific language in the SRA to permit this approach. Therefore, we suggested that RMA add this specific authority or language to the SRA providing RMA the prerogative to pursue the regulatory approach at a later unspecified date. RMA did include the language in an initial draft but removed it as RMA currently believes that it has the authority to move the procedural requirements for the quality control review process from the SRA to Federal regulations. RMA officials have stated that they do plan to codify the quality control provisions into the Federal regulations at some point. However, we are concerned RMA may be hindered in its ability to take such action because a formal Office of the General Counsel (OGC) opinion has not been obtained clarifying whether establishing a quality control system by regulation would require renegotiation of the SRA to implement it.

To initially address this issue, RMA modified the initial draft SRA to include the following language: “Any terms other than the financial terms of this Agreement may be incorporated in the regulations published by FCIC and may be revised at any time in accordance with the Administrative Procedures Act. Incorporation of these provisions in regulations, and any subsequent revisions, shall not be considered a renegotiation of this Agreement.”

However, this language was eliminated from the second draft SRA. For that reason, we remain concerned that RMA may not be in a position to codify the quality control review provisions. RMA officials advised us that they eliminated the wording because they received verbal confirmation from an OGC official that codification of the Manual 14 provisions would not require a formal renegotiation of the SRA. We contacted an OGC official, who confirmed what RMA had stated to us. However, in the past, RMA had contended that specific language in the SRA was needed if it was to implement such changes. Nonetheless, RMA did not request or obtain from OGC a supporting written opinion on that issue. Without a written OGC opinion, we believe that RMA may not have the support necessary in dealing with the reinsurance companies to establish and implement the quality control provisions by regulation.

Recommendations and RMA Response

Recommendation 1

Develop a detailed strategy for implementing key provisions contained in the 2005 SRA that describes RMA timeframes for each key implementation area including codification of the quality control provisions into Federal regulations as well as other identified enhancements and financial management controls where warranted.

RMA Response

RMA’s December 17, 2004, response to the draft report has been included as exhibit A of this report. The written comments on the draft report (see exhibit A) showed that RMA had taken significant actions to address the audit recommendation. Those actions included (1) establishing a formal workgroup to address various implementation issues, (2) holding internal strategy meetings

and conference calls, and (3) conducting meetings with insurance industry officials on the new SRA provisions and requirements. The response also contained data on RMA's plans to address (1) large claim reviews, (2) Plan of Operations reviews, (3) conflict of interest guidance, (4) company contingency plans, and (5) codification of the quality control provisions. Except for codification of quality control provisions, RMA stated these actions should be completed before the beginning of the 2006 reinsurance year.

OIG Position

We concur with the management decision. For acceptance of final action, RMA needs to provide to the Office of the Chief Financial Officer notification that it has completed the planned actions and documentation to support the completed actions. Estimated Completion Date: Summer 2005.

Recommendation 2

Obtain a written legal opinion from OGC regarding whether codifying requirements specified in the 2005 SRA into Federal regulations would necessitate subsequent renegotiation of the SRA to implement the requirements.

RMA Response

The written comments on the draft report (see exhibit A) showed that OGC was reluctant to issue a written legal opinion on the subject issue because of the potential problems including future discussions or litigations such an opinion might create. In our subsequent discussions with OGC, it reiterated its position on the recommendation.

OIG Position

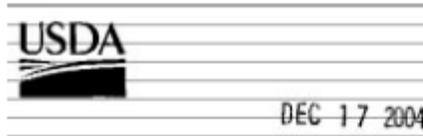
We concur with the management decision based on OGC's reluctance to issue a written opinion on the matter. No further action is needed on this recommendation to achieve final action.

Please follow your agency's internal procedures in forwarding documentation to the Office of the Chief Financial Officer. Final action on the two recommendations that have management decision should be completed within 1 year to preclude being listed in the Secretary's Management Report.

We appreciate the cooperation extended by you and your staff during this review.

/s/

ROBERT W. YOUNG
Assistant Inspector General
for Audit

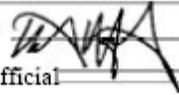


United States
Department of
Agriculture

Risk
Management
Agency

1400 Independence
Avenue, SW
Stop 0806
Washington, DC
20250-0806

TO: Robert W. Young
Assistant Inspector General for Audit
Office of Inspector General

FROM: Michael Hand 
Audit Liaison Official

SUBJECT: Office of Inspector General Official Draft Audit Report 05099-109-KC,
Renegotiation of the Standard Reinsurance Agreement

Attached is a memorandum from the Acting Deputy Administrator for Insurance Services responding to recommendation numbers 1 and 2 in the subject report. Please view this response as the Risk Management Agency's (RMA) official reply to the subject report. RMA requests management decision for both recommendations within the report based on the information provided in the attached document.

Should you have any questions or require additional information, please contact Alan Sneeringer at (202) 720-8813.

Attachment





United States
Department of
Agriculture

December 15, 2004

Risk
Management
Agency

MEMORANDUM

1400
Independence
Avenue, SW
Stop 0801
Washington, DC
202500801

TO: Ernest M. Hayashi
Director, Farm and Foreign Agricultural Division
The Office of the Inspector General

FROM: David C. Hatch
Acting Deputy Administrator for Insurance Services
Risk Management Agency

SUBJECT: 05099-109-KC, RMA Renegotiation of the Standard Reinsurance Agreement

The Risk Management Agency (RMA) has reviewed the official draft report prepared by the Office of Inspector General (OIG) with respect to OIG Audit No. 05099-109-KC, RMA Renegotiation of the Standard Reinsurance Agreement. The following is RMA's response to the two recommendations in the report.

Recommendation No. 1

Develop a detailed strategy for implementing key provisions contained in the 2005 SRA that describes RMA timeframes for each key implementation area including codification of the quality control provisions into Federal regulation as well as other identified enhancements and financial management controls where warranted.

RMA's strategies for implementing key provisions contained in the 2005 SRA include the following elements:

I. General Strategy

- Formation of an SRA implementation workgroup. After the SRA was finalized, a workgroup was formed to consider the implementation of the SRA. This group will remain in effect until all relevant issues are addressed. The following offices are represented on the workgroup.
 - Compliance
 - Insurance Services, including Reinsurance Services, Risk Management Services, and the Regional Offices.
 - Research and Development

Internal strategy meetings. The SRA Implementation Workgroup has conducted numerous internal meetings and conference calls with respect to SRA implementation. These meetings have the purpose of:



The Risk Management Agency Administers
And Oversees All Programs Authorized Under
The Federal Crop Insurance Corporation

- Ensuring that all RMA offices fully understand the provisions of the new SRA;
 - Assigning areas of SRA implementation responsibility; and
 - Considering unforeseen SRA implementation issues as they arise.
- Meetings with the crop insurance industry. On October 14, 2004, RMA met with representatives from approved insurance providers. The meeting focused primarily on Appendix IV of the new SRA. The meeting:
 - Clarified a number of new provisions of the SRA that could require changes in procedures by the companies;
 - Explained the new provisions of the SRA for which procedures or guidance has been established by RMA;
 - Indicated the provisions of the SRA for which procedures and guidance had not yet been established by RMA;
 - Explained the process that RMA would use to enforce the new SRA provisions where procedures either were or were not in place; and
 - Answered the remaining questions companies had with respect to SRA implementation.

II. Strategy for Key Provisions, with Timeframes

- Review of Large Claims. RMA has developed a detailed plan for working with the companies and RMA's Regional Offices in the loss adjustment and settlement of large claims. RMA is well along in the implementation of the plan. Most of the elements of the plan should be implemented before the beginning of the 2006 reinsurance year. The components of the plan include the development of: 1) criteria used by the company to refer large claims to RMA; 2) criteria used by RMA Regional Offices to select claims; 3) training and certification program for Regional Office personnel; 4) quality control and oversight procedures; 5) IT support and performance measures; and 6) procedures for reconsideration, mediation, and NAD appeals.
- Review of Plans of Operations. The new SRA expanded the financial and operational reporting requirements to be included in companies' Plans of Operations. RMA developed two analytical tools to effectively use this new information. The first, the Financial Analysis Template (FAT report) extracts and analyzes key financial indicators from Plans of Operation for each SRA holder and affiliated Managing General Agency, if applicable. The FAT report allows RMA to effectively assess the financial solvency of each company and data are also aggregated to assess the health of the crop insurance industry as a whole. The second tool, the Operational Analysis Template (OAT report), extracts key operational information from the company's Plan of Operations. The report includes analyses of the company's management, operational, and service history; geographical delivery structure; corporate organizational structure; commercial reinsurance arrangements; and underwriting results. An assessment of the company's strengths and weaknesses with respect to the

delivery of Federal crop insurance is also included. The culmination of the FAT and OAT analyses is a rigorous monitoring plan devised for each company. The FAT and OAT analyses have already been implemented for the review of Plans of Operations for the 2005 reinsurance year. RMA intends to refine these analytical tools for the review of 2006 Plans of Operations.

- Conflict of Interest. In the October 14 meeting with the companies, RMA indicated that guidance on the Conflict of Interest issue would be provided. Among the topics this guidance will address include disclosure requirements of the companies and affiliates; company responsibilities in assessing and acting on potential conflicts of interest; and conflict of interest reporting requirements to RMA. RMA expects this guidance to be in place before the March 15, 2005, spring sales closing date.
- Contingency Plans for Companies. RMA is developing guidance for companies in performing risk assessments with associated contingency plans for their operations. A corporate risk assessment is a new requirement, although contingency plans were a feature of the previous SRA. RMA anticipates issuing this guidance to companies prior to the 2006 reinsurance year. Although comprehensive guidance has not yet been issued, RMA directed several companies to strengthen their contingency plans in their 2005 Plan of Operations because their financial position was not as strong as other companies in the Federal program.
- Codification of Quality Control provisions. RMA expects to seek codification of the Quality Control provisions. However, a specific timeline for achieving codification has not yet been approved.

Recommendation No. 2

Obtain a written legal opinion from OGC regarding whether codifying requirements specified in the 2005 SRA into Federal regulations would necessitate subsequent renegotiation of the SRA to implement the requirements.

We have consulted with OGC on this matter. OGC has informed us that it would prefer to not issue a written legal opinion because of potential problems such an opinion might create. OGC has indicated that it would be available to discuss this matter with OIG in more detail.

Informational copies of this draft report have been distributed to:

| | |
|--|-----|
| Administrator, RMA | (5) |
| Government Accountability Office | (1) |
| Office of Management and Budget | (1) |
| Office of the Chief Financial Officer | |
| Director, Planning and Accountability Division | (1) |