



**U.S. Department of Agriculture
Office of Inspector General
Southwest Region
Audit Report**

**FARM SERVICE AGENCY
RISK MANAGEMENT AGENCY
RESOLUTION OF PRODUCTION
DIFFERENCES FOR CROP INSURANCE
AND DISASTER ASSISTANCE AND/OR
LOAN DEFICIENCY PAYMENTS**



**Report No.
50099-2-Te
May 2001**



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL



Washington D.C. 20250

DATE: May 14, 2001

REPLY TO
ATTN OF: 50099-2-Te

SUBJECT: Resolution of Production Differences for Crop Insurance and Disaster Assistance and/or Loan Deficiency Payments

TO: James R. Little
Acting Administrator
Farm Service Agency

Phyllis Honor
Acting Administrator
Risk Management Agency

ATTN: T. Mike McCann
Director
Operations Review and Analysis Staff
Farm Service Agency

Garland Westmoreland
Deputy Administrator
for Risk Compliance
Risk Management Agency

This report presents the results of our audit of the resolution of production differences for crop insurance and disaster assistance and/or loan deficiency payments. The written responses to the draft report are included as exhibits B and C with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report.

Management decisions have not been reached for Recommendations Nos. 1, 2, and 3. The Findings and Recommendations section of the report includes a description of the status of the management decision for each recommendation.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementation for those recommendations for which a management decision has not yet been reached. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance, and final action to be taken within 1 year of each management decision. Correspondence concerning final actions should be addressed to the Office of the Chief Financial Officer.

We appreciate the assistance and cooperation provided by your staff during the audit.

/s/
RICHARD D. LONG
Acting Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

FARM SERVICE AGENCY RISK MANAGEMENT AGENCY RESOLUTION OF PRODUCTION DIFFERENCES FOR CROP INSURANCE AND DISASTER ASSISTANCE AND/OR LOAN DEFICIENCY PAYMENTS

REPORT NO. 50099-2-Te

RESULTS IN BRIEF

We initiated this audit to identify cases with significant differences in reported production for crop insurance indemnities and Crop Loss Disaster Assistance Program (CLDAP) payments and/or Loan Deficiency Payments (LDP) to determine if producers obtained unwarranted benefits under these programs. Generally, we selected for review a number of producers in Texas who received LDP's on commodities for which Risk Management Agency (RMA) showed zero production. We also wanted to determine whether adequate follow-up actions were taken by RMA Compliance and Farm Service Agency (FSA) to resolve crop production differences that were reported to them.

In the majority of the cases we reviewed, the differences in production were resolved without fault to either the producer or the agency. In our sample cases, we found that production differences could generally be attributed to fundamental differences in FSA and RMA definitions and program procedures. For example, FSA allowed LDP's when crops were contaminated with aflatoxin with no production adjustment for quality. However, crop insurance reduces production to count when the crop contains aflatoxin. Because no major problem areas came to our attention during the review, we determined that additional audit work relating to differences in 1998 crop-year production was not necessary and ended this phase of the audit.

Although we found RMA and FSA follow-up actions were adequate, in one isolated incident, we determined that RMA did not properly resolve discrepancies between crop insurance records and FSA records. We found that producers A and B were overpaid a total of \$56,175 in crop insurance indemnity payments because their claim was based on unsupported information and improper loss adjustment procedures.

Test results based on corn samples submitted to a lab by producers A and B's loss adjuster were used in the loss adjustment. The test results reduced the producer's production to count to zero due to high aflatoxin levels. We determined these results were questionable because:

- 1) there was no documentation showing that a loss adjuster visited producer A's farm and no identification on any of the testing lab documents to indicate that the corn samples used came from producer A's farm,
- 2) testing of the corn performed at a local grain elevator shortly after harvest showed low levels of aflatoxin and producer A subsequently sold the corn near the market price, and
- 3) samples used for the testing lab were not representative of producer A's corn crop because the results only showed samples of white corn when more than half of producer A's corn in was yellow corn.

In our opinion, the lab results should not have been used to reduce production to count for aflatoxin. Additional evidence suggests that the corn did not have an economic level of aflatoxin that would result in a quality adjustment. We also questioned why the corn was not destroyed, considering the reportedly high levels of aflatoxin contamination reduced the production to count to zero. Without a quality adjustment, producers A and B would have exceeded their guarantee and would not have been paid a crop insurance indemnity payment.

We provided the insurance company with a Statement of Conditions that provided them with information about our findings and recommendations. The insurance company disagreed that the claims were incorrectly adjusted. Further, both the insurance company and RMA Compliance determined that RMA procedure did not require destruction of the crop because producer A's corn was not "zero-valued." (The adjuster had assigned to the crop a value of \$0.22 per bushel.) In its written response to this report, RMA national office stated that this crop should have been destroyed and provided the appropriate manual instruction.

In addition, producer A received a 1998 LDP from FSA on ineligible corn production. This occurred because the producer had previously put the same production into a commodity loan. As a result, producer A was paid a LDP of \$721.14 for which he was not eligible.

KEY RECOMMENDATIONS

We recommend RMA: (1) recover the 1998 crop insurance payments totaling \$56,175 because of a flawed loss appraisal, and (2) perform a limited review of claims to determine whether zero-valued crops are being destroyed in accordance with procedure. Also, we recommend that FSA recover the \$721.14 ineligible LDP paid to producer A.

AGENCY RESPONSE

RMA and FSA provided written responses to the draft report (see exhibits B and C) concurring with our recommendations to recover monies from producers A and B. RMA did not concur with Recommendation No. 2 as previously stated in the draft report.

RMA interpreted the recommendation as instructing RMA to review all zero-production claims and determine if the production was destroyed in accordance with the Loss Adjustment Manual (LAM). RMA said it is not possible or feasible to review and make determinations for all zero-production claims.

OIG POSITION

We agreed with RMA's and FSA's planned corrective action for Recommendations Nos. 1 and 3 but we need additional documentation to reach management decision. We revised

Recommendation No. 2 because we believe that there needs to be at least a limited review of zero production claims due to public health concerns. The conditions needed to reach management decision are set forth in the findings and recommendations section of the report.

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INTRODUCTION

BACKGROUND

The Federal Crop Insurance Corporation (FCIC) is a wholly owned Government corporation created under Title V of the Agricultural Adjustment Act of 1938, dated February 16,

1938, to improve the economic stability of agriculture through a system of crop insurance. The Federal Crop Insurance Act of 1980, dated September 26, 1980, contained provisions for expanding crop insurance to more crops and for providing coverage in most counties throughout the United States. This Act mandated, to the maximum extent possible, delivery of Federal crop insurance by privately owned insurance companies and provided for subsidizing the program by FCIC. Insurance companies enter into standard reinsurance agreements with FCIC, which contain provisions for the marketing, distributing, servicing, training, and loss adjusting by companies for crop insurance that they sell. Insurance companies depend on agents and contracted loss adjusters to aid in selling and administering their policies. The RMA within the United States Department of Agriculture (USDA) has the overall responsibility to administer the Federal crop insurance program.

Producers can obtain crop insurance from FCIC on most crops for protection against losses from natural disasters such as drought and hail. When losses are incurred, the crops are adjusted by an insurance company to determine the producers' actual production in relation to guaranteed yields that are set for insurance purposes. Producers receive crop insurance indemnity payments when actual production is lower than the guaranteed yields.

The FSA within USDA has responsibility for administration of price support programs. Legislative authority for the price support programs is contained in the Agricultural Adjustment Acts of 1933 and 1938, as amended by the Food Security Acts of 1981 and 1985, the Food, Agriculture, Conservation, and Trade Act of 1990, and the Omnibus Budget Reconciliation Acts of 1990 and 1993, and the Federal Agriculture Improvement and Reform (FAIR) Act of 1996. Sections 131 through 136 of the FAIR Act required administration of a nonrecourse marketing assistance loan and LDP program on a total of 16 commodities for the 1996 through 2002 crop years.

Producers can also obtain commodity loans from FSA for the production they harvest from the crops that they raise. In lieu of loans, producers can obtain LDP's when the market price of a commodity (crop) is below the

county loan rate. Producers are required to report their actual harvested production for use in computing the LDP's they receive.

For the 1998 crop year, the Secretary authorized LDP benefits on corn silage or wheat harvested for hay or other crops harvested as silage, ensilage, cobbage, cracked, rolled, or crimped, or using machinery that mutilates or mixes the grain with other parts of the plant. In addition, contaminated (e.g., aflatoxin) commodities were eligible regardless of the contamination levels for LDP with no production adjustment for quality.

Also, for the 1998 crop year, producers who received crop insurance indemnity payments for crop disaster losses were also eligible for CLDAP payments from FSA. RMA provided FSA with a computer-generated download for use in making CLDAP payments to crop insurance producers who received indemnity payments for crop losses. FSA Notice DAP-25 provided actions to be taken to address suspected program abuse discovered by FSA county offices. When the suspected abuse is determined to involve crop insurance, the county offices were instructed to refer the case to the FSA State Office, who then sent the case to the nearest RMA Risk Compliance Field Office. The notice required the county offices to include information such as crop acreage, producer shares, reported production, and other producer information as reported to FSA and RMA. RMA Compliance Field Offices were to review the information and conduct the fieldwork necessary to explain the discrepancies. RMA Compliance would take action, if necessary, to correct any problems related to crop insurance. RMA Compliance would then forward their findings to the FSA State Office so that FSA could make any changes, if necessary, to the producers' CLDAP applications.

OBJECTIVES

The objective of this audit was to identify cases with significant differences in reported production for crop insurance indemnities and CLDAP payments and/or LDP's to determine if producers obtained unwarranted benefits under these programs. We also determined whether adequate follow-up actions were taken by RMA Compliance and FSA to resolve crop production differences that were reported to them.

SCOPE

We queried the RMA data base in Kansas City for the 1998 crop year and identified, as of December 15, 1999, 54,058 indemnities totaling over \$302 million paid on zero production for all crops in Texas. We also obtained a listing of 1998 LDP's from the USDA FSA website. The FSA listing showed, as of April 6, 1999, LDP's of over \$107 million were paid to producers in 180 Texas counties for the 1998 crop year. We compared the RMA and

FSA listings and selected for review five counties that had both high indemnities and high LDP's.

At each FSA county office, we judgmentally selected for review a number of producers who generally received LDP's on commodities for which RMA showed zero production:

County	Number of Producers Reviewed	Crop	LDP's ¹	Indemnities ²
Dawson	10	Cotton	\$100,258.23	\$274,446
Gaines	10	Cotton	220,209.85	1,022,879
Lamar	23	Soybean	11,239.44	113,321
McLennan	12	Corn	36,911.95	367,072
Williamson	5	Corn	67,585.89	57,409
Total	60		\$436,205.36	\$1,835,127

1 Cotton payments earned prior to adjustments for cotton research and promotion deductions

2 Includes only indemnities on units with zero production to count

For selected producers, we compared all production reported to FSA and RMA. We did not perform a reliability test on the RMA and FSA data used to select sample counties and producers. During our analysis of the samples cases, we verified the accuracy of the RMA and FSA data and found no errors.

In addition, we performed a preliminary review of the 18 Texas cases (20 producers) that FSA referred to RMA to resolve differences in 1998 crop-year production used by the agencies to compute crop insurance and disaster benefits. We reviewed the information memorandums and documentation provided by RMA on all 18 referrals and determined that 17 cases were properly resolved. However, we determined that one referral involving two corn producers in Uvalde County required a more thorough review. The audit fieldwork was conducted from November 1999 to December 2000.

This audit was conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, the audit included such tests of program and accounting records as considered necessary to meet the audit objectives.

METHODOLOGY

To accomplish the audit objectives, we obtained and used 1998 crop insurance indemnity data based on zero production for all crops in Texas and a listing of 1998 LDP's in Texas to select sample counties for review. We obtained and reviewed referrals and their supporting documentation at the Texas State FSA Office in College Station, Texas, and RMA Compliance Office in Dallas, Texas, to determine if the

referrals were properly resolved. At the county offices, we reviewed selected producers' crop insurance download data and CLDAP and/or LDP files to determine if the producers obtained unwarranted benefits under any of these programs. This included, but was not limited to, interviewing and obtaining documentation from producers, cooperative and grain elevator managers, insurance agency personnel, testing lab personnel, and other sources as deemed necessary.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	UVALDE COUNTY PRODUCERS RECEIVE INELIGIBLE RMA AND FSA BENEFITS
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For crop year 1998, producer A raised corn on 269 acres of his own land at a 100 percent share and on 440 acres of producer B's land at an 80 percent share. Producer B received a 20 percent share as a landowner but had no other involvement in the crop. We found that producers A and B received excessive crop insurance payments totaling \$56,175, because their crop insurance claims were improperly adjusted, and producer A received an ineligible LDP payment on corn of \$721.14 because the corn had already been used as collateral for a commodity loan.

FINDING NO. 1
CROP INSURANCE CLAIMS
NOT PROPERLY ADJUSTED

Producers A and B received crop insurance indemnity payments on their 1998 corn crop for which they were not eligible. This occurred because their claim was based on an unsupported quality adjustment for aflatoxin. As a result, producers A and B were overpaid \$47,526 and \$8,649, respectively.

During the 1998 CLDAP, FSA Notice DAP-25 required FSA county offices to report suspected abuse of crop insurance to the State FSA office, which in turn referred the matter to the nearest RMA Risk Compliance Field Office. In May 1999, the Uvalde County FSA Office sent a referral of suspected crop insurance abuse by producers A and B to the Texas State FSA Office. The abuse related to differences in reported crop shares, production, and acres. The State office sent this information to the RMA Risk Compliance Field Office for resolution. The RMA field office, in turn, sent the referral to the insurance company who sold the insurance and adjusted the claims.

The insurance company found the producers incorrectly reported their 1998 corn acreage, but that the differences did not result in an overpayment that exceeded the RMA approved tolerance. RMA stated the insurance company would revise the acreage amounts on actual production history data for crop year 1999. As for the production differences, the insurance company concluded the insurance adjuster correctly determined production to count by using a quality adjustment factor for aflatoxin to adjust the production to zero.

Aflatoxin is a by-product of fungal activity promoted by environmental conditions that are stressful to affected host plants, such as corn. Most grain elevators and livestock feed yards have aflatoxin testing equipment but for insurance purposes, an aflatoxin test must be performed by a disinterested testing facility that conducts certified industry-standard tests. Aflatoxin tests that result in 20 parts per billion (ppb) or less are considered safe for human consumption by the Food and Drug Administration. Corn with aflatoxin levels between 20 and 300 ppb can be fed to livestock and used for other purposes, depending on the level. Corn with aflatoxin levels of higher than 300 ppb cannot be used for any purpose. However, the corn can be reconditioned using a variety of methods to lower the aflatoxin levels to a usable condition, but these methods are expensive and usually not cost beneficial.

FSA records show that on November 16, 1998, producer A applied for a farm-stored loan on 54,400 bushels of 1998 crop-year corn. The production was based on the producer's certified production shown stored in 6 bins. A loan of \$112,608 was disbursed to the producer based on the 54,400 bushels of certified production. To qualify for the loan, the producer provided the county office results of aflatoxin sample testing of the corn by a local farmer's cooperative. Corn has to have less than 20 ppb aflatoxin to qualify for an FSA commodity loan. Information about the aflatoxin levels and type of corn for each bin follows:

Bin No.	Estimated Bushels	Product Description	Aflatoxin Level
1	12,000	Yellow Corn	0 ppb
2	12,000	Yellow Corn	7 ppb
3	7,700	White Corn	0 ppb
4	7,700	White Corn	0 ppb
5	9,000	White Corn	7 ppb
7	6,000	Yellow Corn	8 ppb
Total Bushels	54,400		

Both producers A and B had their 1998 corn insured by the insurance company through a local insurance agency in Hondo, Texas. FCIC records provided by the insurance company showed that the producers provided a notice of loss on December 15, 1998. Loss adjuster A took three samples of corn to a certified testing facility in Selma, Texas.

The corn was tested on December 29, 1998, and showed the following:

Sample No.	Sample Description	Aflatoxin Level
1	White Corn	685 ppb
2	White Corn	451 ppb
3	White Corn	602 ppb

Loss adjuster B completed the loss adjustment records on January 20, 1999, showing harvested production of 37,478 bushels in 6 farm-stored bins. However, because of excess aflatoxin shown on the results of the tested corn, the adjuster assigned a value of only \$0.22 per bushel to the corn, and further quality adjustments reduced the production to count to zero.

We question the validity of the aflatoxin test results from the testing lab because:

- 1) There was no documentation showing that a loss adjuster visited producer A's farm and no identification on any of the testing lab documents to indicate that the corn samples used came from producer A,
- 2) Testing of the corn performed at a local grain elevator shortly after harvest showed low levels of aflatoxin and producer A subsequently sold the corn near the market price, and
- 3) Samples used for the testing lab were not representative of producer A's corn crop because the results only showed samples of white corn when more than half of producer A's corn was yellow corn.

Possibly Not Producer A and B's Corn

There was no information in the claims documents that shows loss adjuster A ever visited grain elevators which contained producer A's corn. Loss adjuster A subsequently left the insurance company before the test results were completed. Loss adjuster B assumed the claim and obtained the lab results.

We visited the lab and the lab manager provided us with documentation that was used to submit the corn samples and showed us their copy of the lab results. Neither the lab results nor the documents used to submit the corn samples had producer A's name on them. Also, the manager said the person that brought the samples for testing did not provide any identifying information. Several copies of the lab results sent to us by the insurance company had producer A's farm numbers handwritten on the lab results. However, they provided us one copy that also had no identifying information and the lab facility manager told us lab personnel did not handwrite the farm numbers on the lab results.

Indications of Low Aflatoxin Levels

Depending on the level of aflatoxin, grain elevators and other commodity brokers will discount the price they pay for corn. This discount varies from buyer to buyer. Although loss adjusters must use disinterested facilities to perform the aflatoxin test for claims, the presence of aflatoxin must have resulted in an actual reduction in value to qualify for a quality adjustment.

This puts the validity of the corn used for the lab samples further in question because producer A sold his corn near the market price. Producer A received between \$2.20 to \$2.40 per bushel for his corn sold between February 1999 and August 1999. An independent broker that purchased some of producer A's corn believed that the corn he bought contained aflatoxin levels between 20 and 100 ppb but had no documentation to support it. A local cooperative, which purchased the remaining amount of corn from producer A, said the corn was discounted for aflatoxin but did not have any records of aflatoxin testing.

Neither buyer would tell us what the full market price was at the time they purchased producer A's corn. Through interviews with other corn buyers in the area, we estimated that the full market price for good corn during this period ranged from \$2.52 to \$2.69. The corn buyers we interviewed said they discount 25 cents from the price they pay for corn when the level of aflatoxin is from 20 to 150 ppb. The buyers also said they would not purchase corn with aflatoxin levels exceeding 150 ppb. Therefore, we determined that the price producer A received for his corn reflected average discounts by grain elevators for corn with aflatoxin content ranging from 20 to 150 ppb.

In addition, an economic level of aflatoxin must be present in the grain prior to grain storage. Since aflatoxin levels can increase in grain storage, any potential loss due to aflatoxin presence in stored grain will be covered only if it is determined that economic levels occurred before storage.

As stated earlier, aflatoxin results from a local cooperative in November 1998, shortly after grain storage, showed aflatoxin levels less than 20 ppb. This corn was sold many months later at prices that reflect only a small increase in the levels of aflatoxin. This suggests that the corn did not have an economic level of aflatoxin present prior to grain storage.

Corn Samples Used For Testing Not Representative

Further proof that the corn used for the lab testing was not producer A's lies in the fact that only white corn was tested. If loss adjuster A had gathered samples from producer A's storage structures for testing, he would have also submitted a minimum of 3 samples of yellow corn for testing. Producer A had 3 bins of yellow corn along with 3 bins of white corn, which are supported by FSA loan documents and sales records.

The RMA Loss Adjustment Manual, section 5, paragraph 112 B, January 1998 edition, states that the adjuster is responsible for taking enough samples to ensure that the combined samples will be representative of all production in the storage structure. This is done by using a probe or

other various means to extract samples from various depths and areas of the storage structure. Therefore, if the loss adjuster had actually visited producer A's farm to take representative samples for aflatoxin testing, the samples should have included yellow corn.

In addition, through the Uvalde FSA County Executive Director and the RMA Compliance review, we found that 2 of the 6 bins (bin nos. 3 and 4) actually contained producer A's 1997 white corn. (Although this meant that producer A received a 1998 commodity loan on 1997 corn, FSA did not take any further action on this issue because producer A had paid back his commodity loan with interest.) If loss adjuster A had actually sampled producer A's corn, the sample would have represented only 23 percent of the total 1998 corn crop (9,000 bushels of white corn in bin 5 divided by 39,000 total 1998 bushels of corn) and possibly used corn from the producer's 1997 corn crop.

Based on our findings, we believe that producer A's corn contained at worst very low levels of aflatoxin and should not have qualified for a quality adjustment. Producer A and B's coverage level on their crop insurance policies was 50 percent, and their production guarantee was 36,008 bushels of corn. Prior to adjustments for quality, loss adjuster B documented in his appraisal that producers A and B had 37,478 bushels of corn in storage structures, which exceeded their guarantee and, therefore, producers A and B would not have qualified for a loss.

Insurance Company Position

We sent the insurance company a Statement of Conditions that provided information about our findings and recommendations. In the response to the Statement of Conditions, the insurance company disagreed that the claims were incorrectly adjusted.

The insurance company stated when samples are taken from farm-stored production or from unharvested, mature production to obtain quality determinations only adjusters can extract the samples. The samples used by the insurance company were extracted by an insurance company adjuster and taken to an approved testing facility. The results of the test were published in the adjuster's name which is not an uncommon practice used by adjusters.

The response also stated that the samples used for the FSA loan were extracted by producer A and taken to a local cooperative. They also contend that the FSA samples could have come from anywhere, possibly from previous crop-year production that was stored in the same bin(s).

Conclusion

The insurance companies response to the Statement of Conditions did not address:

- 1) that the samples contained only white corn when only one of the four 1998 bins contained white corn while the other three contained yellow corn,
- 2) the lack of evidence to indicate that loss adjuster A ever visited the grain elevators which contained producer A's corn, and
- 3) lack of evidence to indicate that the corn used for the lab testing actually came from producer A's farm.

We determined the aflatoxin testing lab results to be unsound because either: 1) the loss adjuster did not extract the lab samples from producer A's farm, or 2) the samples were highly unrepresentative of producer A's crop and possibly were from the previous year's corn crop. Therefore, we relied on FSA loan documentation and sales receipts to determine whether producers A and B's corn had an economic level of aflatoxin prior to grain storage. We believe the local cooperatives testing of producer A's corn better reflects its condition because the price that producer A received several months after harvest reflects aflatoxin levels between only 20 and 150 ppb. Since the corn was not tested prior to storage, there must be evidence present to prove there was an economic level of aflatoxin prior to grain storage. The insurance company lacks that evidence and, therefore, should be held liable for the improper indemnities of \$47,526 paid to producer A and \$8,649 paid to producer B.

Destruction of Zero-Valued Grain

During the audit, we questioned the nondestruction of producer A's crop, since the level of aflatoxin contamination was such that it reduced the production to count to zero. Both the insurance company and RMA Compliance stated that, according to RMA procedure, the corn did not have to be destroyed. Specifically, RMA's Loss Adjustment Manual¹ requires destruction of any mycotoxin-contaminated grain which is declared to be of "zero value." Since producer A's corn had value (of \$0.22 per bushel, as determined by the adjuster), the corn was not required to have been destroyed. The insurance company and RMA Compliance determined that when the crop has some value, even though quality adjustments may result in zero production-to-count, the crop may be released to the producer to sell.

In an informational memorandum dated March 1, 2001, the Director of RMA's Claims and Underwriting Division stated that he has repeatedly reinforced to the insurance companies that for the 1998 crop year any zero

¹ FCIC-25010, paragraph 118 F (1), dated January 1998.

value crop was required to be destroyed. According to the Director, the fact that an initial value was assigned to the production does not end the computation of value. After all the required computations were made, the value of the production was zero and the grain was required to be destroyed. RMA has already incorporated changes in the 2001 Loss Adjustment Manual to ensure that such crops are destroyed. The changes include language to clarify that claims cannot be settled with zero production to count until the production is destroyed. Additionally, the computation for determining the reduction in values for the 2001 crop year has been amended on all special provisions of insurance.

RECOMMENDATION NO. 1

RMA should recover the 1998 crop insurance payments for corn of \$47,526 and \$8,649 paid to producers A and B, respectively, from the insurance company.

RMA Response

RMA concurred with the recommendation. The Director of the Southern Regional Compliance Office plans to issue Reports of Initial Findings to the insurance company for crop year 1998 indemnity payments to producers A and B, as identified in the audit. RMA plans to complete this action by October 2001.

OIG Position

We agree with the planned corrective action. To reach a management decision, we need documentation showing the amounts owed the Government have been collected or set up as accounts receivable.

RECOMMENDATION NO. 2

Instruct RMA Compliance to perform a limited review of zero production claims and determine if the crops have been destroyed in accordance with the Loss Adjustment Manual procedures.

RMA Response

RMA did not concur with the recommendation as previously stated in the draft report. RMA interpreted the recommendation as instructing RMA to review all zero-production claims and determine if the production was destroyed in accordance with the LAM. In Texas alone, there were over

54,000 indemnities with zero production; further, the RMA database does not capture the information necessary to identify production zeroed-out due to aflatoxin. Given the current level of resources available within RMA, it is not possible or feasible, i.e., cost effective, to review and make determinations for all zero-production claims. Further, RMA does not believe OIG has shown vulnerability exists of such magnitude as to require sure action on all zero-production claims.

OIG Position

OIG did not intend to recommend that RMA review all zero-production claims. During the exit conference, OIG and RMA discussed the feasibility and cost effectiveness of conducting such review. Because grain contaminated with a high level of aflatoxin is not considered safe for human or animal consumption, we strongly feel that there needs to be at least a limited review of zero-production claims. It was OIG's intent to make a general recommendation that RMA review such claims and to allow RMA flexibility in determining the scope of such review. We have revised our recommendation accordingly.

**FINDING NO. 2
INELIGIBLE LOAN
DEFICIENCY PAYMENT**

Producer A received a 1998 LDP on ineligible corn production. This occurred because the producer had previously put the same production into a commodity loan. As a result, producer A was paid an LDP of \$721.14 for which he was not eligible.

As presented previously in Finding No.1, on November 3, 1998, producer A applied for a 1998 farm-stored commodity loan on 54,400 bushels of corn which improperly included 15,400 bushels of 1997 white corn. This left an estimated 39,000 bushels of 1998 corn in the remaining 4 bins (30,000 bushels of yellow corn and 9,000 bushels of white corn).

Producer A's 1998 commodity loan application should have been for only the 1998 corn of 39,000 bushels. Therefore, he used up his entire crop loan eligibility because he only had actual 1998 production of 37,549 bushels. On March 1, 1999, producer A applied for a 1998 LDP on 5,151 bushels of corn and received \$721.14. According to regulations,² for the production to be eligible for an LDP, the producer must agree to forego obtaining a commodity loan. Therefore, since producer A had previously pledged all of his 1998 production as collateral for a commodity loan, the production was not eligible for an LDP.

RECOMMENDATION NO. 3

FSA should recover the ineligible 1998 LDP of \$721.14 paid to producer A.

FSA Response

FSA concurred with the recommendation and has instructed the Texas State FSA Office to advise the Uvalde County FSA Office to immediately take actions to collect the ineligible LDP amount.

OIG Position

We agree with the planned corrective action. To reach a management decision, we need documentation showing the amount owed the Government has been collected or set up as an account receivable.

² 7 CFR 1421.29 (b), dated January 1, 1998, edition.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

FINDING NUMBER	RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
1	1	Improperly Adjusted Crop Insurance Indemnities	\$56,175	QCRR
2	3	Ineligible Loan Deficiency Payments	721	QCRR
Total			\$56,896	

QCRR – Questioned Costs, Recovery Recommended

EXHIBIT B – FSA RESPONSE TO DRAFT REPORT



APR 12 2001

United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

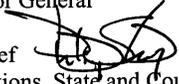
Farm Service
Agency

Operations Review
and Analysis Staff

Audits,
Investigations,
State and County
Review Branch

1400 Independence
Avenue, SW
Stop 0540
Washington, DC
20250-0540

TO: Director, Farm and Foreign Agriculture Division
Office of Inspector General

FROM: Philip Sharp, Chief 
Audits, Investigations, State and County Review Branch

SUBJECT: Response to Audit No. 50099-2-TE, Loan Deficiency
Payment

Enclosed is a copy of a memorandum dated April 12, 2001, from the Farm Service Agency's (FSA's), Director, Price Support Division which responds to your request for information concerning the subject audit.

Please address any questions to Cindy Foister, Audits, Investigations, State and County Review Branch, at 720-5463.

Enclosure



USDA is an Equal Opportunity Employer



APR 12 2001

United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

Farm Service
Agency

1400 Independence
Avenue, SW
Stop 0512
Washington, DC
20250-0512

TO: Philip Sharp, Chief
Audits, Investigations, State and County Review Branch

FROM: Grady Bilberry, Director
Price Support Division

SUBJECT: OIG Audit No. 50099-2-TE, ...Loan Deficiency Payments

On March 28, the attached memorandum was issued to Texas.

A copy of the audit identifying the producer responsible for the overpayment was received in the Texas State FSA Office last week.

Efforts are now being made to collect the overpayment.

Attachment

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MAR 28 2001

TO: SED, Texas State FSA Office

FROM: Grady Bilberry, Director
Price Support Division

Grady Bilberry

SUBJECT: OIG Audit No. 50099-2-TE, ...Loan Deficiency Payments

Please refer to the subject audit for specifics on Recommendation No. 3 in Uvalde County.

We concur with the OIG Recommendation No.3 that we should recover the ineligible 1998 LDP for \$721.14 paid to the producer identified as producer A in the subject audit. Please advise the Uvalde County FSA Office to immediately take actions to collect the ineligible LDP amount.

Please provide information to the Price Support Division when the collection actions are taken so that we can bring closure to the audit.

cc: PSD:DO:4095-S
PSD:PPB:4709-S
PPB:GBilbery:4095-S

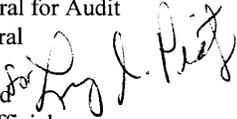
EXHIBIT C – RMA RESPONSE TO DRAFT REPORT



United States Department of Agriculture
Farm and Foreign Agricultural Services
Risk Management Agency

MAY 2 2001

TO: James R. Ebbitt
Assistant Inspector General for Audit
Office of Inspector General

FROM: Garland D. Westmoreland 
Agency Audit Liaison Official

SUBJECT: OIG Audit Report (Draft) 50099-2-TE: Resolution of Production Differences
for Crop Insurance and Disaster Assistance and/or Loan Deficiency Payments

Outlined below is our response to recommendations 1 and 2 presented in the subject audit report.

Recommendation 1

RMA should recover the 1998 crop insurance payments for corn of \$47,526 and \$8,649 paid to producers A and B, respectively, from the insurance company.

Risk Management Agency's (RMA) Response. RMA concurs with this recommendation as presented. The Director of the Southern Regional Compliance Office plans to issue *Reports of Initial Findings* to the insurance company for crop year 1998 indemnity payments to producers A and B, as identified in the audit. We plan to complete this action by October 2001.

RMA request management decision on this recommendation.

Recommendation 2

Instruct RMA Compliance to review zero production claims and determine if the crops have been destroyed in accordance with the Loss Adjustment Manual. RMA should take corrective action as deemed necessary.

RMA Response. RMA does not concur with the recommendation. This recommendation instructs RMA to review [all] zero production claims and determine if they have been destroyed in accordance with the *Loss Adjustment Manual (LAM)*. The audit report identifies in Texas



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

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alone over 54,000 indemnities with zero production. Further, the RMA database does not capture the necessary information to electronically discriminate the data to the required level. Given the current level of resources available within RMA, it is not possible nor feasible, i.e. cost effective to implement this recommendation. Nor do we believe OIG has shown a vulnerability exists of such magnitude as to require the recommended action.

The procedures outlined in the *LAM* for the 1998 crop year required when an insurance provider declared production to be zeroed-value, the crop be destroyed prior to finalization of the claim. A Certification Form was required to record the insured's certification which must be received by the insurance provider prior to the claim being finalized. In the *LAM*, for the 2001 crop year, an adjuster is now required to review the certification for accuracy and forward it to the insurance provider within prescribed time frames prior to the loss being paid. In the case of mycotoxin infected production, the insured is required under Federal or State laws to destroy the damaged crop, and a farm inspection is required after the insured has certified the destruction of the mycotoxin damaged production. RMA believes these changes in procedure strengthen the verification process in a way that minimizes any potential vulnerability, and limits the opportunity for indemnity payments to be made on zero value production that it is not destroyed.

RMA request management decision on this recommendation.

If you have any questions regarding this audit response, please contact Rich Steffens at (202) 720-0929.

ABBREVIATIONS

CLDAP	Crop Loss Disaster Assistance Program
FAIR Act	Federal Agriculture Improvement and Reform Act
FCIC	Federal Crop Insurance Corporation
FSA	Farm Service Agency
LAM	Loss Adjustment Manual
LDP	Loan Deficiency Payment
ppb	parts per billion
RMA	Risk Management Agency
USDA	United States Department of Agriculture