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Southeast Region

Audit Report

Risk Management Agency
Compliance Activities

Report No. 05601-11-At
September 2009

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington, D.C. 20250

September 16, 2009

REPLY TO
ATTN OF: 05601-11-At

TO: William Murphy
Administrator
Risk Management Agency

ATTN: Michael Hand
Deputy Administrator
Risk Compliance

FROM: Robert W. Young /S/
Assistant Inspector General
for Audit

SUBJECT: Risk Management Agency Compliance Activities

This report presents the results of the subject audit. Your written response to the draft report, dated August 14, 2009, is included as exhibit A with excerpts and the Office of Inspector General's (OIG) position incorporated into the relevant Finding and Recommendation sections of the report.

We agree with your management decision on 10 of the report's 22 recommendations. However, we are unable to accept management decision on Recommendations 1, 2, 3, 5, 6, 7, 8, 10, 15, 16, 19, and 22. Documentation and actions needed to reach management decisions for these recommendations are described in the OIG Position sections of the report.

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 implementing the recommendation for which management decision has not been reached. Please note that the regulation requires a management decision to be reached on all recommendations within 6 months from report issuance, and final action to be taken within 1 year of each management decision to prevent being listed in the Department's annual Performance and Accountability Report. Please follow your agency's internal procedures in forwarding documentation for final action to the Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during this audit.

Executive Summary

Risk Management Agency Compliance Activities (Audit Report 05601-11-At)

Results in Brief

The U.S. Department of Agriculture's (USDA) Federal Crop Insurance Program is crucial to preserving the economic stability of American farmers, who make vital contributions to a large sector of the economy—USDA estimates that cash receipts for crops grown for both domestic use and export will total $141.5 billion in 2008.[1] In support of this sector of the economy, USDA has established the Federal Crop Insurance Corporation (FCIC), which manages the crop insurance program. During crop year (CY) 2007, the FCIC's insurance policies provided $67.3 billion in protection for our nation's crops, and indemnities paid to farmers for crop losses totaled $3.54 billion.[2]

USDA's Risk Management Agency (RMA) is responsible for the administration of these insurance policies. The Office of Inspector General (OIG) performed an audit of RMA's compliance activities to determine if they are adequate to improve compliance and integrity in the crop insurance program, and reduce fraud, waste, and abuse. Specifically, we examined RMA's internal controls to determine whether: (1) the agency's organization provides the control environment necessary to support and sustain effective controls; (2) risk assessments are performed to identify internal and external risks, identify program vulnerabilities, and allow for efficient and effective allocation of resources; (3) policies and procedures are in place to ensure adequate controls over compliance activities; (4) relevant, timely, and useful information is communicated throughout the agency; and (5) adequate monitoring is performed and deficiencies identified are appropriately addressed. We also examined RMA's compliance with the Improper Payments Information Act (IPIA) of 2002 and evaluated what actions RMA has taken to address prior audit recommendations relating to the scope of this audit.

We concluded that RMA's compliance activities can be strengthened to improve compliance and integrity in the crop insurance program. Although RMA has taken steps to improve its program compliance and integrity activities, its organizational structure does not provide the environment necessary to support and sustain effective controls because the agency lacks a comprehensive, systematic, and well-defined strategy for improving the integrity of the crop insurance program (see Finding 1). RMA has not developed such a strategy because it primarily focuses on program delivery—providing and

[1] USDA Agricultural Projections to 2016, the Office of the Chief Economist, World Agricultural Outlook Board, USDA. Prepared by the Interagency Agricultural Projections Committee, Long-term Projections Report OCE-2007.
[2] The source of CY 2007 information is RMA's Summary of Business Report as of September 8, 2008.

expanding crop insurance coverage for farmers. Different units within RMA play an important role in ensuring the integrity of the program, but there is no defined strategy for coordinating all compliance-related tasks, or for ensuring that they are completed.

A comprehensive strategy is essential for RMA because it will help the agency identify its greatest vulnerabilities and allocate its resources accordingly. In our discussions with RMA officials, they frequently stated that they could not accomplish various compliance-related goals—even Congressional mandates—because they lacked the resources they needed. A strategy is a highly effective, indeed essential, tool for determining how limited resources can efficiently and effectively be used to accomplish the best possible results.

RMA has not performed and documented an overall risk assessment of its program operations to identify areas vulnerable to fraud, waste, and abuse. Although RMA performed program/function risk assessments in 2006, we found that these risk assessments did not identify specific threats or areas vulnerable to fraud, waste, and abuse. RMA officials stated that the risk assessments they performed assessed the controls in place to address known risks, and that they had not documented these risks because they are well known to agency officials and are identified through their business processes such as the Product Management Division's evaluation of insurance programs. They thus do not find it necessary to document these risks formally.

Without a formal understanding of the problems, risks, and threats a program faces—a fundamental element of a comprehensive strategy—RMA's compliance activities are piecemeal and fragmented, focusing on individual policy errors rather than on systemic problems with the program or with insurance products. This problem is compounded by the fact that RMA Compliance relies on other RMA offices, such as Product Management and Insurance Services, to share some of the responsibilities relating to program integrity. For instance, Compliance relies on its National Program Operations Reviews (NPOR) and on Product Management's evaluation of insurance programs as its primary tools for identifying program weaknesses. These NPORs, however, randomly select policies to detect approved insurance provider (AIP) noncompliance, and do not focus on program weaknesses (see Finding 2). Thus, they are not well designed to identify systemic problems.

The IPIA of 2002 specifies a process that will assist the agency in understanding the problems, risks, and threats the crop insurance program faces. Agencies are required to determine their improper payment error rate, identify what causes the errors, and correct the

underlying weaknesses that allowed the errors to occur. However, we found that RMA is not meeting the requirements of IPIA because it excluded $3.95 billion of payments from its error rate determination in CY 2007. Moreover, the agency is neither reporting a reliable error rate nor is it setting meaningful goals for reducing its rate of improper payments (see Finding 3). This rate should provide the agency with a baseline for improving its compliance activities, yet because the agency lacks confidence in the rate it has reported, RMA cannot adequately describe its accomplishments. Moreover, RMA's performance measures describe the number of reviews it performs rather than how effectively those reviews have reduced its rate of improper payments—a critical distinction (see Finding 4). Without outcome-based performance measures for compliance activities, RMA cannot adequately determine how successful its efforts are in reducing fraud, waste, and abuse. As a result, RMA's many compliance activities are not always focused on correcting program vulnerabilities.

One of the greatest compliance-related challenges RMA faces involves its relationship with the private insurance companies (known as AIPs) that directly administer insurance policies. Without the AIPs, the crop insurance program cannot function. OIG and the Government Accountability Office (GAO) have repeatedly reported problems in this relationship, as AIPs do not always comply with regulations and program requirements.[3] For more than 14 years, OIG and GAO have been recommending that RMA improve its oversight of AIPs (see Finding 5). RMA, however, has not always taken the recommended corrective action. Two significant OIG recommendations made to improve the accuracy of program payments and AIP compliance remain without agreement as to the actions that should be taken to correct the reported weaknesses.[4] In addition, RMA did not follow through on corrective actions to address GAO's recommendation to strengthen its oversight of the insurance companies' implementation of the quality control review system.[5]

Even when RMA has responded to OIG recommendations—as it did when it implemented a large claims review of indemnities likely to

[3] GAO-05-528, "Crop Insurance: Actions Needed to Reduce Program's Vulnerability to Fraud, Waste, and Abuse," dated September 2005; Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 2002; Audit Report 05801-2-At, "Report to the Secretary on Federal Crop Insurance Reform," dated April 1999; Audit Report 05601-5-Te, "Prevented Planting of 1996 Insured Crops," dated March 1999; Audit Report 05005-1-Ch, "Controls Over Monitoring of Private Insurance Companies," dated January 1999; Audit Report 05099-2-At, "Nursery Crop Insurance Program, CY 1995 through 1996," dated December 1998; Audit Report 05099-2-KC, "Quality Control for Crop Insurance Determinations," dated July 1998; Audit Report 05601-3-Te, "Federal Crop Insurance Claims," dated February 1998; Audit Report 05099-1-Te, "Reinsured Companies' Actual Production History Internal Reviews," dated September 1997; Audit Report 05099-1-At, "Crop Insurance on Fresh Market Tomatoes, CY 1996," dated September 1997; Audit Report 05600-4-Te, "Crop Year (CY) 1991 Claims," dated September 1993; Audit Report 05099-51-Te, "Compliance Review Program 1988-1989 Review Schedule," dated March 1991; Audit Report 05600-1-Te, "Crop Year 1988 Insurance Contracts with Claims," dated September 1989.

[4] Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 2002.

[5] GAO-05-528, "Crop Insurance: Actions Needed to Reduce Program's Vulnerability to Fraud, Waste, and Abuse," dated September 2005.

reach $500,000 or more—the agency did not effectively implement the recommendation. We found that RMA limited the effectiveness of this new review by failing to establish standardized criteria for selecting large claims for review, by excluding losses caused by disasters, and by not identifying systemic problems (see Finding 6). Moreover, against its own policy,[6] RMA terminated large claims reviews when those reviews indicated AIPs may not have complied with laws, regulations, and program requirements (see Finding 7).

We also noted that RMA has not implemented Congressional mandates when it finds them difficult to implement. Almost a decade ago, Congress passed the Agricultural Risk Protection Act (ARPA), which required RMA to: (1) use data mining to identify policies that should be reviewed; (2) reconcile its agricultural data with the Farm Service Agency's (FSA); (3) review agents and adjusters whose performance seems disparate; and (4) require AIPs to evaluate annually the performance of all agents and adjusters they use. None of these mandates have been fully implemented.

While RMA has begun using data mining to positive effect, it often runs analytical reports that indicate problems in the crop insurance program, but then merely passes these reports on to AIPs without following up to see that any action is taken (see Finding 8).

The agency has done little to implement three other ARPA requirements:

- RMA has not completed a reconciliation of its data with FSA's, even though it was mandated to do so in 2001, and OIG first noted this problem in 2003 (Finding 9);[7]
- RMA has not reviewed agents and adjusters whose performance is disparate (Finding 10); and
- RMA has not developed procedures to require an annual review by an AIP of the performance of each agent and loss adjuster used by the AIP (Finding 11).

RMA officials stated that they were unable to fulfill all these requirements due to the agency's lack of resources. OIG maintains RMA cannot simply choose not to comply with the law. It must either find a way to comply, or it must return to Congress, fully disclose the difficulties it faces in complying, and seek legislative change.

[6] Bulletin No.: MGR 05-009, "RMA Participation in Large Claims," paragraph 5c, states that RMA should opt out (or terminate a large claims review) only if the claim is likely to be less than $500,000 or if the policy is not eligible for insurance.
[7] Audit Report 50099-12-KC, "USDA Implementation of the ARPA," dated September 2003.

We conclude that RMA must improve its compliance activities, focus those activities on systemic problems, and conform to all Federal laws and requirements.

Recommendations In Brief

Develop a comprehensive, systematic, and well-defined strategy for its compliance-related efforts, to include the organization structure needed to support the strategy.

Conduct and document an overall risk assessment of program operations to identify major program vulnerabilities and focus, coordinate, and prioritize resources on high-risk areas.

Develop and implement a new method for calculating RMA's improper payment error rate that meets the requirements of IPIA.

Develop outcome-based performance measures to help measure the agency's effectiveness in improving the integrity of the crop insurance program.

Improve the large claims review process by establishing standardized criteria for selecting large claims for review, including losses caused by disasters, and identifying systemic problems uncovered during these reviews.

Cease terminating large claims reviews when problems with AIP performance are found.

Conform with all ARPA requirements, or return to Congress, report the agency's noncompliance, and seek legislative change.

Agency Response

In its August 14, 2009, written response to the draft report, RMA generally agreed with 14 of the report's 22 recommendations. RMA did not agree with our recommendation to develop a comprehensive, systematic, and well-defined integrated strategy for its compliance related efforts, or our recommendation to conduct and document an overall risk assessment of program operations to identify major program vulnerabilities and focus, coordinate, and prioritize resources on high-risk areas. The agency's response stated that its strategy for improving the integrity of the Federal Crop Insurance Program is outlined in the RMA Strategic Plan for 2006 – 2011, and in each of the 2005 through 2010 President's Budget Submission Explanatory Notes. RMA further states that its compliance strategy was not contained in a single source document for the auditors to evaluate, but can be found within each division's function statements, delegations of authority, procedures, documents, and emails. Regarding our recommendation to

perform an overall risk assessment, RMA responded that it completed risk assessments of its program operations in 2006 in accordance with *Departmental Regulation* 1110-2 and *Departmental Manual* 1110-2.

RMA did not agree with our recommendation to develop and implement a new method for calculating RMA's improper payment error rate that meets the requirements of IPIA by including all payments, premium subsidies, and denied claims because OMB had approved its current plan. Nor did RMA agree with our recommendation to develop outcome-based performance measures to help measure the agency's effectiveness in improving the integrity of the crop insurance program because it believed that it is currently being performed by the agency and is being reported in the *Risk Management Agency Program Compliance and Integrity Annual Report to Congress*.

RMA's response to the draft report is included as exhibit A of the audit report.

OIG Position

We accepted management decision for 10 of the report's 22 recommendations. For the five recommendations that RMA agreed to, but for which we were unable to accept management decision, RMA will need to provide additional information outlined in the OIG Position section presented in the Findings and Recommendations sections of the report.

We cannot accept management decision for our recommendations that RMA develop a comprehensive agency strategy for addressing compliance activities and perform an overall risk assessment to identify program vulnerabilities. Given the crop insurance program's growth and increasing total crop insurance liability from 2005 to 2008—from $35 billion to nearly $90 billion—we continue to insist that it is critical for RMA to develop an integrated, comprehensive, and well-defined strategy focusing its many compliance activities on areas of highest risk. RMA acknowledges that its compliance strategy was not contained in a single source document, but rather in the multitude of each division's function statements, etc., which do not include a determination of the risks, goals, objectives, and steps needed to reduce vulnerabilities. Further, RMA does not identify specific threats or areas vulnerable to fraud, waste, and abuse. Identifying overall program vulnerabilities and systemic problems should provide RMA a more solid basis for allocating its resources.

We also cannot accept management decision regarding our recommendation that RMA implement a new method for calculating improper payments error rates for IPIA. We maintain that RMA should

include all payments it makes—including premium subsidies—in its error rate determination.

Finally, we cannot accept management decision for our recommendation that RMA develop outcome-based performance measures gauging its compliance activities. At present, RMA's reporting relies on output-related goals, i.e., the number of reviews performed, instead of outcome-related goals. In the *Risk Management Agency Program Compliance and Integrity Annual Report to Congress*, the agency is reporting the output of its compliance activities, but it is not reporting how these activities helped the agency achieve its strategic goal of providing oversight of the Federal Crop Insurance Program.

We have incorporated applicable portions of RMA's written responses into the draft report along with our position in the Findings and Recommendations sections of this report.

Abbreviations Used in This Report

AIP	Approved Insurance Provider
ARPA	Agricultural Risk Protection Act
CAE	Center for Agricultural Excellence
CIMS	Comprehensive Information Management System
CY	Crop Year
FCIC	Federal Crop Insurance Corporation
FSA	Farm Service Agency
FY	Fiscal Year
GAO	Government Accountability Office
GPRA	Government Performance and Results Act
IPIA	Improper Payment Information Act
NPOR	National Program Operations Review
OIG	Office of Inspector General
OMB	Office of Management and Budget
RMA	Risk Management Agency
SDAA	Strategic Data Acquisition and Analysis
USDA	United States Department of Agriculture

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Background and Objectives

Background

The 1996 Farm Bill created the Risk Management Agency (RMA) to administer Federal Crop Insurance Corporation (FCIC) programs and other non-insurance-related risk management and education programs that help support U.S. agriculture. Managed by a board of directors, FCIC is a wholly owned Government corporation that publishes insurance regulations and manages the Federal Crop Insurance Program fund. FCIC also takes actions necessary to improve the actuarial soundness of the crop insurance program and applies the system to all insured producers in a fair and consistent manner. Federal crop insurance is available solely through approved insurance providers (AIP) that market and service crop insurance policies and process claims for loss. RMA develops and publishes the crop insurance rates that must be used by AIPs.

RMA administers the crop insurance program through a joint effort with AIPs under the Standard Reinsurance Agreement, a cooperative financial assistance agreement allowing AIPs to sell and service crop insurance program policies. Under the Standard Reinsurance Agreement, FCIC reinsures or subsidizes a portion of the losses and pays AIPs an administrative fee—a predetermined percentage of premiums—to reimburse the companies for their administrative and operating expenses associated with selling, servicing, and adjusting crop insurance policies and subsequent claims. For crop year (CY) 2008, 16 AIPs have signed Standard Reinsurance Agreements with RMA.

The Federal Crop Insurance Program provides crucial support for strengthening and preserving the economic stability of American agricultural producers, and is the primary source of risk protection for our nation's farmers. During CY 2007, FCIC provided $67.3 billion (total liability) and paid $3.5 billion in indemnities to insured farmers.[8] In comparison, during CY 2006, FCIC provided about $49.9 billion in total liability and paid about $3.5 billion in indemnities.

RMA's mission is to promote, support, and regulate sound risk management solutions to strengthen and preserve the economic stability of American agricultural producers. To do this, RMA has established four activities, which we will hereinafter refer to as divisions. These include: (1) Program Management, which includes the FCIC Board of Directors and RMA's Administrator's office; (2) Product Management, which involves the design and development

[8] The source of CY 2007 information is RMA's Summary of Business Report as of September 8, 2008.

of crop insurance programs, policies and standards, and the establishment and maintenance of rate and coverage for crops in each county; (3) Insurance Services, which has the responsibility for delivering FCIC programs through a system of 10 regional offices and through the AIPs; and (4) Compliance, which includes 6 regional compliance offices that provide program oversight and quality control of AIPs to ensure the integrity of the crop insurance program. RMA Compliance[9] is composed of approximately 101 employees, including 23 headquarters employees and 78 employees located in 6 regional compliance offices.

Additionally, under Program Management, the Strategic Data Acquisition and Analysis (SDAA) staff provides data mining services to all of RMA to help identify potential fraud, waste, and abuse. The enactment of the Agricultural Risk Protection Act (ARPA) in 2000 and Improper Payment Information Act (IPIA) in 2002 required RMA to perform additional tasks intended to help ensure the integrity of the crop insurance program.

Among their many responsibilities, AIPs are responsible for ensuring program integrity by (1) performing growing season inspections, (2) reviewing reported producer yields, (3) performing onsite inspections, (4) ensuring there are no conflicts of interest, (5) initiating and engaging in litigation for issues important to the program, and (6) ensuring indemnity payments are valid. In addition, the Standard Reinsurance Agreement also requires that AIPs monitor the work of their agents and loss adjusters by conducting quality control reviews of their own operations and reporting suspected instances of fraud, waste, or abuse to RMA. As such, AIPs are an important source of information concerning program vulnerabilities.

Prior audits by both the Office of Inspector General (OIG) and Government Accountability Office (GAO), dating back to 1993, have identified deficiencies in how RMA is overseeing the crop insurance program.[10] RMA has not yet reached management decision on some recommendations made to address the concerns identified by these audits.

[9] Compliance is one of four major functions within RMA that has direct responsibility for addressing program integrity. The other three are Program Management (RMA and FCIC senior officials), Insurance Services, and Product Management.

[10] These audits include: GAO-05-528, "Crop Insurance: Actions Needed to Reduce Program's Vulnerability to Fraud, Waste, and Abuse," dated September 30, 2005; Audit Report 50099-12-KC, "USDA Implementation of ARPA of 2000," dated September 30, 2003; Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 15, 2002; Audit Report 05005-01-Ch, "RMA Controls Over Monitoring of Private Insurance Companies," dated January 22, 1999.

Agricultural Risk Protection Act (ARPA)

ARPA enhanced incentives for producers to buy higher levels of coverage by increasing the premium subsidy, and also provided the Department with new tools for monitoring and controlling program abuse.[11] To strengthen program integrity, it required RMA and the Farm Service Agency (FSA) to work together to reconcile inconsistencies in their databases on crop production and yields. Further, ARPA provides for the use of data mining as a new technology for targeting compliance reviews and investigations. Additionally, ARPA requires RMA to develop procedures to be used by AIPs to annually review the performance of their agents and loss adjusters. ARPA also requires that RMA identify and evaluate any agents and loss adjusters who have an unusually high rate of loss claims when compared to other agents and adjusters in that same area.

Improper Payments Information Act (IPIA)

In 2002, IPIA was passed, which requires Federal agencies to identify programs and activities that are susceptible to improper payments.[12] Improper payments are defined as payments that should not have been made, were improperly denied, or were made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. For those programs that are determined susceptible, the agency must estimate the level of improper payments, identify the causes of the improper payments, and take actions to reduce them. In May 2003, the Office of Management and Budget (OMB) issued guidance for implementing IPIA. It requires agencies to perform risk assessments to identify its high-risk programs—those susceptible to significant overpayments. For those programs and activities that are identified as high-risk, agencies are required to estimate the amount of improper payments based on a valid statistical sample with a confidence of 90 percent and precision of 5 percent.

Objectives

The overall objectives of the audit were to determine if RMA's compliance activities are adequate to improve program compliance and integrity, and to detect and reduce fraud, waste, and abuse. Specifically, we examined RMA's internal controls to determine whether: (1) the organizational structure provides the control environment necessary to support and sustain effective controls; (2) risk assessments are performed to identify internal and external risks, identify program vulnerabilities, and allow for efficient and effective allocation of resources to mitigate the risks; (3) policies and procedures are in place to ensure adequate controls over compliance activities; (4) relevant,

[11] Public Law 106-224, "ARPA," dated June 20, 2000.
[12] Public Law 107-300, "IPIA," enacted November 26, 2002.

timely, and useful information is communicated throughout the agency; and (5) adequate monitoring is performed and deficiencies identified are appropriately addressed. We also assessed RMA's corrective actions taken in response to compliance issues identified in prior OIG and GAO reports[13] and assessed how RMA is complying with IPIA.

[13] GAO-05-528, "Crop Insurance: Actions Needed to Reduce Program's Vulnerability to Fraud, Waste, and Abuse," dated September 2005; Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 2002; Audit Report 05099-12-KC, "USDA Implementation of the ARPA of 2002," dated September 2003.

Findings and Recommendations

Section 1. RMA Lacks an Overall Strategy for Improving Integrity of the Federal Crop Insurance Program

Finding 1 RMA Needs to Develop an Overall Strategy for Improving the Integrity of the Federal Crop Insurance Program

Although RMA has taken some steps to improve program compliance and integrity, additional actions can be taken to identify and address those areas most at risk. RMA lacks a comprehensive, systematic, and well-defined strategy for improving the integrity of the Federal Crop Insurance Program. RMA investigates individual instances of noncompliance, but does not always identify and address program vulnerabilities.[14] Instead, RMA's primary focus is on program delivery—providing and expanding crop insurance coverage for producers. Even though different units within RMA play important roles in ensuring the integrity of the program, there is no defined strategy for coordinating all compliance-related tasks, or for ensuring that they are completed. As a result, RMA has limited its ability to accomplish its strategic objective of overseeing the crop insurance industry and enhancing deterrence and prosecution of fraud, waste, and abuse.

OMB requires that agency management have a clear, organized strategy for agency activities.[15] GAO has described the concept of an effective strategy as one that offers policymakers and implementing agencies a management tool that can help ensure accountability and more effective results. It includes the following six elements: (1) a clear purpose, scope, and methodology; (2) a detailed discussion of the problems, risks, and threats the strategy intends to address; (3) the desired goals and objectives, and outcome-related performance measures; (4) a description of the resources needed to implement the strategy; (5) a clear delineation of the agency's roles, responsibilities, and mechanisms for coordination; and (6) a description of how the strategy is integrated internally.[16] Clear operations objectives and strategies are fundamental to success because they provide a focal point toward which the entity will commit substantial resources.[17]

OIG acknowledges that RMA has made some progress in improving program-related compliance: the Compliance Division has

[14] Finding 2 further discusses identifying and addressing program vulnerabilities.
[15] *OMB Circular A-123*, revised, "Management's Responsibility for Internal Controls," dated December 21, 2004.
[16] GAO-06-0788, "Rebuilding Iraq: More Comprehensive National Strategy Needed to Help Achieve United States Goals," dated July 2006.
[17] *Internal Control – Integrated Framework*, prepared by The Committee of Sponsoring Organizations of the Treadway Commission, May 1994.

implemented National Program Operations Reviews (NPOR) to assess AIP compliance with FCIC policies and procedures; the Reinsurance Services Division[18] has developed written policies and procedures for approving AIPs' plan of operations; RMA has issued manager's bulletins reminding AIPs of the requirement to conduct $100,000 claims reviews; and the Risk Management Services Division[19] has begun conducting large claims reviews of claims over $500,000. We recognize that each of these steps is positive. However, the results of these activities are not coordinated to ensure appropriate followup nor are they used to help identify areas of potential vulnerabilities. Without an overall strategy for coordinating the various activities, RMA's approach to compliance is fragmented—it performs a number of activities, but it does not assess its program vulnerabilities and allocate its resources accordingly.

Ultimately, RMA's efforts to improve compliance within the Federal Crop Insurance Program are hampered by the absence of a single official to direct and monitor all compliance-related activities and ensure that those activities are carried out efficiently and effectively. Different offices and divisions within RMA are responsible for tasks that affect—in one way or another—program compliance, yet we found that these offices and divisions do not always coordinate with one another. The resulting lack of communication and coordination between divisions is one of the major challenges facing RMA.

We found that, because RMA does not have an overall strategy linking each of its compliance-related activities to its objective(s), RMA has not (1) performed and documented an overall risk assessment of program operations to identify vulnerable areas, (2) determined an error rate as required by IPIA, (3) developed performance measures to assess the outcome of compliance activities, (4) fully implemented prior OIG and GAO recommendations for improving oversight of the AIPs,[20] (5) ensured the effectiveness of its large claims reviews, or (6) fully implemented the requirements of ARPA.

RMA Has Not Performed and Documented an Overall Risk Assessment That Identifies Specific Threats and Vulnerabilities

One of the fundamental elements of a comprehensive and well-defined national strategy is that it would include a detailed discussion of the problems, risks, and threats the strategy intends to address. For RMA, such a discussion would involve identifying

[18] A division within Insurance Services.
[19] A division within Insurance Services.
[20] GAO-05-528, "Crop Insurance: Actions Needed to Reduce Program's Vulnerability to Fraud, Waste, and Abuse," dated September 2005; Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 2002.

program areas and insurance products that are most vulnerable to fraud, waste, and abuse. As we discuss in Finding 2, however, RMA has not performed an overall risk assessment of its program operations to identify specific threats and areas vulnerable to fraud, waste, and abuse.

In 2006 RMA performed risk assessments of its programs/functions. However, these assessments did not identify specific threats or vulnerabilities that needed to be addressed; instead, they were assessments of the control environment, risk,[21] and safeguards provided by RMA's existing control mechanisms, An RMA Compliance staff person stated that the threats and vulnerabilities were well known to RMA management through its ordinary business processes and thus RMA did not need to document them formally. The staff person also stated that the other reviews RMA performs (such as NPORs) provide it with an understanding of program vulnerabilities. However, even when regional compliance offices find, during their NPORs, a possible systemic program weakness, such as producers not correctly updating their annual yields, RMA does not take steps to determine if it represents a systemic program vulnerability.

RMA Has Not Determined a Reliable Error Rate for IPIA

When determining the vulnerabilities that the crop insurance program faces, RMA should develop a reliable estimate of its improper payment rate, and set targets for reducing that rate, as required by the IPIA. RMA, however, has not met the intent of this legislation. Although OMB approved RMA's method for determining its rate of improper payments, RMA did not fully disclose to OMB the limitations and exclusions involved with its alternate methodology. RMA itself does not have confidence in the rate it has reported to Congress, and actually set targets for reducing its rate of improper payments that are *higher* than its reported rate (see Finding 3).

RMA Has Not Developed Performance Measures to Assess the Outcome of Compliance Activities

Another element of a comprehensive and well-defined national strategy is that it includes the desired goals and objectives, and outcome-related performance measures. As discussed in Finding 4, RMA has no meaningful way of assessing the effectiveness of its

[21] The "risk" that is being evaluated is whether the program/function is stable, impacted by outside persons, and has the appropriate degree of management oversight and control, etc. RMA was not identifying what threats or vulnerabilities these program/functions were designed to address.

compliance activities, since some of the agency's current performance measures do not address compliance, while others measure the number of reviews the agency performs (output) rather than how effective those reviews are in improving program compliance (outcome).

RMA Has Not Fully Implemented Prior OIG and GAO Recommendations for Improving Oversight of the AIPs

In order to improve the integrity of the crop insurance program, RMA also faces the challenge of providing better oversight of AIPs. OIG and GAO reviews continue to find serious issues of AIP noncompliance with laws, regulations, and program requirements.[22] As we discuss in Finding 5, for more than 14 years, OIG and GAO have been recommending that RMA improve its oversight of AIPs and the AIPs' quality control review processes. RMA has agreed with these recommendations, but has not fully implemented the recommended corrective actions; RMA officials have stated that other actions it has taken, such as implementing the NPORs, provide adequate program oversight.

RMA Has Not Ensured the Effectiveness of its Large Claims Reviews

According to the 2005 Standard Reinsurance Agreement, RMA may review claims greater than $500,000 before they are paid in order to provide reasonable assurance that AIPs are properly adjusting these high-dollar claims. RMA's implementation of large claims reviews is an important step forward for the agency; however, as we discuss in Findings 6 and 7, the agency has not maximized the effectiveness of these reviews. RMA has not established standardized criteria for ensuring consistency in selecting large claims for review; it excludes from the large claims reviews losses caused by disasters even though such claims are vulnerable to fraud, waste, and abuse; and it does not track the results of large claims reviews to identify common errors, specific concerns, or ways to better select future large claims for review. The agency also chooses—contrary to its own policy[23]—to terminate its participation in large claims reviews when it finds instances of AIP noncompliance. Furthermore, RMA does not follow up to determine what actions the AIP took to resolve the program noncompliance. As a result, RMA's ability to use the

[22] See footnote 3.
[23] Bulletin No.: MGR 05-009, "RMA Participation in Large Claims," paragraph 5c, states that RMA should opt out (or terminate a large claims review) only if the claim is likely to be less than $500,000 or if the policy is not eligible for insurance.

large claims review process to improve the integrity of the crop insurance program is greatly diminished.

RMA Has Not Fully Complied With ARPA Requirements

When Congress passed ARPA—almost a decade ago—it provided RMA with new tools to improve the integrity of the crop insurance program. We found, however, that the agency has not fully complied with four requirements of ARPA.

- ARPA requires RMA to use the information technology known as data mining to improve program compliance and integrity. While RMA has had success with data mining, we found that the agency is not maximizing the potential of this technology because it has excluded many claims from its data mining analyses, and has not followed up on several significant data mining reports to identify non-compliance or improper payments, take appropriate corrective action, and correct any systemic problems (see Finding 8).
- ARPA requires RMA and FSA to annually reconcile the agricultural data they maintain separately, beginning in CY 2001. However, RMA has not yet completed a single year's full data reconciliation, 8 years after the passage of the law. OIG first noted this problem in 2003, and made recommendations which have not been implemented (see Finding 9).[24]
- ARPA requires that RMA review agents and adjusters whose performance it identifies as "disparate"—i.e., agents and adjusters associated with higher than normal loss claims.[25] Although RMA has taken action to identify disparately performing agents and adjusters, RMA has not determined if the higher loss claims associated with the agents or adjusters identified are the result of potential fraud, waste or abuse (see Finding 10).
- ARPA requires that RMA "develop procedures to require an annual review by an [AIP] of the performance of each agent and loss adjuster used by the AIP," which means that agents' performance must be evaluated as they sell policies and adjusters' performance as they determine losses on

[24] Audit Report 50099-12-KC, "USDA Implementation of the ARPA," dated September 2003.
[25] Congress initially defined disparately performing agents and adjusters as those associated with loss claims that are greater than 150 percent of the means for their peers within the same area.

claims. RMA, however, has not developed such procedures (see Finding 11).

While OIG acknowledges that RMA's resources may be limited and that it may not be able to comply with these requirements, we also maintain that the agency must report its inability to comply with ARPA to Congress and seek legislative change.

In addition to addressing the concerns described above, a comprehensive strategy for RMA's compliance activities should include a clear delineation of the agency's roles, responsibilities, and mechanisms for coordination, which we also found to be a problem at RMA. Many different offices and divisions within RMA are responsible for tasks that affect program compliance; yet these offices and divisions do not always effectively coordinate with one another.

RMA did not have adequate policies and procedures for ensuring that Product Management receives information it needs for monitoring new insurance products known as pilot programs.[26] Product Management relied on other units to provide this information, yet it did not always receive what it needed, as OIG noted in a recent report.[27] If RMA formalized the process by which Product Management receives information from other units, it could proactively identify vulnerabilities in new insurance products.[28]

RMA needs to improve its communication and coordination between SDAA—the unit responsible for data mining—and other RMA divisions (Compliance, Insurance Services, and Product Management). Compliance does not always follow up on anomalies identified through data mining because of their concerns that the reports contain too many "false positives." However, we found that SDAA and Compliance do not effectively work together to identify ways of improving perceived deficiencies in these data mining reports (see Finding 8). By working together, SDAA, Compliance, Insurance Services, and Product Management can enhance RMA's ability to make more effective use of data mining to reduce fraud, waste, and abuse in the program.

We concluded that, for compliance activities to perform efficiently and effectively, RMA needs to develop a comprehensive, systematic, and well-defined strategy. We also concluded that a single official within

[26] RMA defines pilot program as an insurance program that the FCIC Board has authorized as a pilot (on a test basis), but has not yet authorized as a program. Pilot programs are used to test new types of crop insurance policies.
[27] Audit Report 05601-4-SF, "RMA Adjusted Gross Revenue Program," dated January 2007.
[28] In response to this audit, RMA's Product Management subsequently agreed to revise its *Program Evaluation Handbook* and *New Product Development Handbook* to incorporate procedures for completing periodic pilot program evaluations that includes samples of individual policyholder file reviews to help ensure that Product Management has information necessary to manage pilot programs. However, at the time of our audit, these conditions existed, illustrating a weakness in RMA's processes and procedures.

RMA should be responsible for directing and monitoring all compliance-related activities and ensuring this strategy is carried out effectively and that the strategy is integrated with other United States Department of Agriculture (USDA) agencies, such as FSA.

Recommendation 1

Develop a comprehensive, systematic, and well-defined strategy for its compliance-related efforts that includes the following six elements: (1) a clear purpose, scope, and methodology; (2) a detailed discussion of the problems, risks, and threats the strategy intends to address; (3) the desired goals and objectives, and outcome-related performance measures; (4) a description of the resources needed to implement the strategy; (5) a clear delineation of the agency's roles, responsibilities, and mechanisms for coordination; and (6) a description of how the strategy is integrated with other USDA agencies.

Agency Response.

RMA does not concur. RMA has a comprehensive, systematic, well-defined strategy for improving the integrity of the Federal Crop Insurance Program. This strategy is outlined in the RMA Strategic Plan for 2006 – 2011 as required by the "Government Performance Results Act of 1993 (GPRA), Section 3 Strategic Planning," and in each of the 2005 through 2010 President's Budget Submission Explanatory Notes, required in GPRA Section 4, "Annual Performance Plans and Reports." RMA further states that its compliance strategy was not contained in a single source document for the auditors to evaluate, but can be found within each division's function statements, delegations of authority, procedures, documents, and e-mails.

OIG Position.

We cannot reach management decision on this recommendation. The documents RMA has referenced have been compiled in response to legislative mandates, as in the case of GPRA, or for budgetary purposes—each of these documents have specific purposes, and do not involve a single comprehensive and integrated strategy to address all of the agency's compliance-related activities and programs. RMA's strategic plan, written in response to GPRA, includes a strategic objective to "ensure effective oversight of the crop insurance industry and enhance deterrence and prosecution of fraud, waste, and abuse." However, the plan provides only very general information on actions the agency plans to take to achieve that goal, such as to "[c]ontinue to review insurance providers to ensure full compliance with the terms and conditions of all agreements, contracts and initiating corrective

action for non-compliance." The plan does not include a determination of the risks, goals, objectives, and steps needed to reduce vulnerabilities, or the corresponding outcome-based measures to gauge the agency's performance. We examined the various documents provided by RMA, and found that none of the documentation provided a comprehensive, systematic, and well-defined strategy for all of the agency's compliance activities. Even RMA acknowledges that its compliance strategy was not contained in a single source document, but in the multitude of each division's function statements, etc. Given the crop insurance program's growth and increasing total crop insurance liability from 2005 to 2008—from $35 billion to nearly $90 billion—we believe that it is critical that RMA develop an integrated, comprehensive, and well-defined strategy consolidating its many compliance activities and duties.

Recommendation 2

Designate an official within RMA who has the responsibility to direct and monitor all compliance-related activities and ensure that those activities are carried out efficiently and effectively.

Agency Response.

RMA does not concur. The Administrator and the Associate Administrator are responsible for ensuring the functions are carried out in an efficient and effective manner as allowed by resources and outside constraints.

OIG Position.

We cannot reach management decision on this recommendation. In its response, RMA stated that its compliance strategy was not contained in a single source document for the auditors to evaluate, but can be found within each division's function statements, delegations of authority, procedures, documents, and emails. Each of these divisions has its own line of responsibilities and authority, mission goals, etc. To ensure that all of these compliance-related activities are coordinated throughout the agency and that the activities carry out the agency's strategic goals, an official with designated authority should be involved in directing, monitoring, and coordinating these activities across RMA's mission areas. Furthermore, a position with that authority can better ensure that resources for compliance activities are focused on high-risk areas, and that individual RMA offices and divisions and the agency as a whole are working effectively toward reducing fraud, waste, and abuse in the Federal Crop Insurance Program. To reach management decision,

RMA must designate an official with the authority to manage compliance issues that span the agency's units.

One of the fundamental elements of a comprehensive strategy for improving integrity in the Federal Crop Insurance Program is understanding the problems, risks, and threats the strategy intends to address. Without such an understanding, compliance activities will be piecemeal and fragmented, focusing on errors on individual policies rather than on systemic problems with the program or with insurance products.

RMA, however, has not performed an overall risk assessment of its program vulnerabilities which identifies threats or specific areas vulnerable to fraud, waste, or abuse. An RMA official stated that, within the agency, Compliance looks to its NPORs as its primary tool for identifying program weaknesses, but these are reviews of AIP compliance, rather than an assessment of program weaknesses. During an NPOR, reviewers randomly pick policies at an AIP, and determine if the AIP administered those policies correctly. To assess program vulnerabilities, however, RMA would need to identify the program deficiency, why it occurred, and then determine whether it is systemic or isolated (see Finding 2).

Although RMA is reporting an improper payment error rate, RMA has not met the intent of the IPIA, because the agency itself has no confidence in its error rate. RMA sets goals for reducing its rate of improper payments that are higher than its reported rate. RMA's methodology for determining this rate has been approved by OMB, but we found exclusions and limitations in RMA's methodology which prevented the methodology from meeting IPIA's requirements. Unless RMA is producing an improper payment rate which allows it to set meaningful goals for reducing its rate of improper payments and is correcting the causes of these improper payments, it cannot meet the intent of the legislation (see Finding 3).

Once an agency has determined its vulnerabilities, estimated a meaningful improper payment error rate, and set goals for improving its performance, it will then have established a baseline against which it can assess future performance. We found, however, that RMA measures performance by output (how much work it is doing) instead of the outcomes of its efforts (how effectively that work accomplishes the agency's goals). Thus, the agency is better prepared to state, for example, the number of reviews it performs, than how effective those reviews are in reducing its rate of improper payments (see Finding 4).

While RMA conducts many compliance activities, they are not always well focused on addressing program vulnerabilities. RMA can improve

the integrity of the crop insurance program by focusing more precisely on areas of systemic vulnerability.

Finding 2 RMA Needs to Perform an Overall Risk Assessment of its Program Operations

RMA has not performed an overall risk assessment of its program operations to identify areas that are vulnerable to fraud, waste, and abuse. Although in 2006 RMA conducted risk assessments of its programs/functions, these assessments did not identify specific threats or areas vulnerable to fraud, waste, and abuse. An RMA official stated that the threats were well known to managers and that the agency did not see a need to document them formally. This official further stated that, as part of carrying out its compliance and oversight responsibilities, RMA performs reviews such as the NPORs, which assess program vulnerabilities. However, we concluded that the NPOR focuses on AIPs' compliance with laws, regulations, the Standard Reinsurance Agreement, associated appendices, and approved FCIC policies and procedures rather than program vulnerabilities. Without identifying systemic, material vulnerabilities, RMA cannot prioritize its compliance activities according to the risk they pose to the Federal Crop Insurance Program.

OMB requires that "[m]anagers should define the control environment . . . and then perform risk assessments to identify the most significant areas within that environment in which to place or enhance internal control. The risk assessment is a critical step in the process to determine the extent of controls."[29] *OMB Circular A-123* further states that "internal control applies to program, operational, and administrative areas as well as accounting and financial management." Once significant areas of risks have been identified, control activities should be implemented, and continuously monitored and tested, to help to identify poorly designed or ineffective controls. Management is then responsible for redesigning or improving upon those controls.

Although RMA has performed risk assessments of its financial operations, and in 2006 performed program/function risk assessments, these risk assessments did not identify the specific threats or areas vulnerable to fraud, waste, and abuse. Instead, the program/function risk assessments they performed assessed the controls in place to address their known risks. These risk assessments evaluated whether the program/function in question was stable, was affected by outside persons, and had the appropriate degree of management oversight and

[29] Revised *OMB Circular A-123*, pg. 5, "Management's Responsibility for Internal Controls," dated December 21, 2004.

control, etc. RMA did not identify what threats or vulnerabilities these program/functions were designed to address.

An RMA Compliance staff person stated that the agency had not documented these risks because they are identified through the agency's ordinary business processes, specifically Product Management's evaluation of insurance programs, and the agency thus does not find it necessary to document these risks formally. Further, the staff person stated that RMA compliance identifies threats and vulnerabilities through the NPOR. We found, however, that the NPOR is not well designed to identify systemic problems, and that RMA does not always review individual problems to determine if they represent systemic vulnerabilities. OIG maintains that performing an overall risk assessment of program operations that identifies specific threats and areas vulnerable to fraud waste and abuse will improve RMA's compliance efforts because the agency will then be able to prioritize activities based on risk, and allocate its resources accordingly.

National Program Operations Reviews

Since each NPOR is designed and intended to focus on an individual AIP's compliance with laws, regulations, and the Standard Reinsurance Agreement, this review is not well designed to assess systemic weaknesses in the overall crop insurance program or in individual insurance products. A given NPOR may focus on detecting and correcting problems with an AIP's operations, but it does not necessarily consider problems that derive from systemic problems in crop insurance products or in overall program implementation. Thus, NPORs do not give RMA an overall tool for prioritizing its compliance activities.

When NPOR reviewers find issues at an individual AIP that have the potential to affect other AIPs, RMA does not always take steps to proactively detect and correct problems that may also be occurring elsewhere. For example, two regional compliance offices chose, during their NPORs, to review policies identified by the misreported claim production data mining report. This report is designed to identify producers who may not have correctly updated their annual yields and, thus, may have received improper crop insurance guarantees and misstated their liabilities. For both NPORs, the RMA reviewers found that the misreported claim production report identified a significant number of errors at these two AIPs. Since all AIPs receive production reports from producers, this evidence indicated a potential systemic program vulnerability. However, RMA did not take steps to determine if this program vulnerability is, in fact, common to other AIPs. Nor

did RMA management ask other regional compliance offices to include this issue in their NPORs.

Special Request Reviews

Special request reviews—conducted by regional compliance offices in response to complaints received from the public, OIG hotline complaints, or requests from other agencies—are not used to identify program vulnerabilities or to prioritize compliance activities. These special request reviews are often focused on a single issue, but RMA has not ensured that the most important special request reviews, i.e., those most likely to identify fraud, waste, or abuse, are addressed first. RMA reported to Congress that it had developed a prioritization process for selecting the highest priority cases for review; however, it has not required that cases be selected based on this ranking. Instead, each regional compliance office independently determines which cases it will work.

When a special request review uncovers potential systemic program vulnerabilities, RMA does not have a formal process for determining if the vulnerability is indeed systemic, and for taking appropriate corrective action. Without a formal process, RMA cannot ensure that it is focusing its resources on the most vulnerable areas, or that it is prioritizing compliance activities that are most likely to identify fraud, waste, or abuse.

Overall, we concluded that RMA needs a formal process for identifying, based on its compliance reviews, systemic vulnerabilities in the Federal Crop Insurance Program. We recommended in 1999 that RMA establish a system to collect and analyze review results to determine trends and areas vulnerable to abuse.[30] RMA agreed and established MAGNUM, an automated system that can be used to track and trend the results of its compliance reviews.

We found, however, that MAGNUM is not designed to capture the specific causes of errors resulting in improper payments or other types of noncompliance, and is not used to aid RMA in identifying systemic program weaknesses. Instead, MAGNUM captures the general descriptions of issues identified during case investigations, but it does not provide sufficient detail to identify program vulnerabilities or other trends. MAGNUM includes a field that records who caused the error (i.e., agent, loss adjuster, or producer) and a field that records the general type of error (i.e., actual production history error, acreage

[30] Audit Report 05005-01-Ch, "RMA Controls Over Monitoring of Private Insurance Companies," dated January 1999.

report error, or production worksheet error). It does not, however, include a sortable data field to specify the root cause of the error.[31] RMA Compliance staff persons stated that they had tried to improve the categories MAGNUM used to capture errors. However, in doing so, the system became confusing because there were overlapping categories.

RMA needs to capture more specific causes for errors so that it may identify and implement appropriate corrective actions. For example, in the first 900 policies RMA reviewed to determine its improper payment error rate, 43 percent of the errors were identified as "actual production history" errors. However, the actual production history errors could have been caused by an adjuster (1) not verifying the yield reported by the producer, (2) incorrectly assigning a yield to a producer that does not have an adequate yield history, or (3) making a computational error in applying the yield when adjusting a claim. By identifying and capturing these more detailed causes, RMA could more easily identify appropriate corrective action and possible systemic issues.

Additionally, we noted that Record Type 57—RMA's automated system for recording the results of the AIPs' quality control review process—should also be integrated into a formal process for identifying systemic program vulnerabilities. At present, however, Record Type 57 is not functioning as designed because data previously submitted by the AIPs is overwritten and lost when new data is downloaded into the system. An RMA official stated that RMA is continuing to work on correcting the problems with Record Type 57.

We concluded that RMA needs to perform an overall risk assessment of its program operations that identifies specific threats and areas vulnerable to fraud, waste, and abuse, so that it can identify potential program vulnerabilities, and prioritize its compliance activities accordingly. It also needs to establish a formal process for determining if specific problems uncovered by its various compliance reviews indicate systemic problems. Once that process is in place, RMA should periodically update its risk assessment as it identifies systemic problems in the crop insurance program.

Recommendation 3

Conduct and document an overall risk assessment of program operations to identify major program vulnerabilities and focus, coordinate, and prioritize resources on high-risk areas.

[31] The RMA Compliance investigator would have to document this information in a text field, which does not permit efficient trending of data.

Agency Response.

RMA does not concur with this recommendation. RMA completed risk assessments of its program operations in 2006 in accordance with *Departmental Regulation* 1110-2 and *Departmental Manual* 1110-2. The strategy used to complete these assessments was to first identify each agency program operation in place to implement, maintain, and oversee each crop insurance program (assessable units); and then assess each one to ensure reasonable and necessary controls are in place within these operations to identify and address both individual and systemic problems, risks, and threats to the integrity of the each program within a reasonable amount of time, and as resources or other priorities allow. RMA's completion of its risk assessments and the strategy used to complete them address this recommendation.

The audit report questions these risk assessments and states that "RMA did not identify what threats or vulnerabilities these program/functions were designed to address." As stated above, these assessments were not intended to list (as desired by the auditors) in one document all risks associated with the crop insurance program, but to assure that reasonable systems, processes, and controls are in place within each operation to identify and address the above threats or vulnerabilities.

OIG Position.

We cannot reach management decision on this recommendation. RMA's response refers to risk assessments of its financial operations and program/function risk assessments, which do not identify specific threats or areas vulnerable to fraud, waste, and abuse. In its response, RMA points out the size and complexity of the crop insurance program as well as the agency's resources available to oversee its rapidly increasing program liability. Because of these factors, RMA must ensure that its compliance resources are focused on areas of highest risk. We believe that identifying overall program vulnerabilities and systemic problems would provide RMA a more solid basis for allocating its resources. To reach management decision, RMA will need to perform and document an overall risk assessment to identify major program vulnerabilities and focus its resources on high-risk areas.

Recommendation 4

Develop and implement a process for trending the results of its compliance reviews to identify vulnerabilities and systemic problems.

Agency Response.

RMA concurs with this recommendation and will use its newly implemented Compliance Activities and Results System to develop a report trending the results of its compliance reviews to show any applicable vulnerabilities and systemic problems. RMA expects to complete this action by August 2010.

OIG Position.

We accept management decision for this recommendation.

Recommendation 5

Use the results of the reviews it performs to periodically update risk assessments to ensure that it is effectively identifying and addressing high-priority program vulnerabilities and systemic problems.

Agency Response.

RMA conditionally concurs with this recommendation. RMA will provide the results from Recommendation 4 to the Deputy Administrators for Product Management and Insurance Services, and the SDAA staff for their use in identifying program vulnerabilities and systemic problems. RMA expects to complete this task by August 20l0.

OIG Position.

Although RMA conditionally agreed with this recommendation, we need additional information before we can accept management decision. We agree that providing the results to Insurance Services, Product Management, and SDAA will be useful in helping RMA as a whole identify program vulnerabilities and systemic problems. But RMA's Compliance Division should also take an active role in identifying vulnerabilities or systemic problems in the Federal Crop Insurance Program. These results should also be used by Compliance in focusing its resources on the most vulnerable areas. To achieve management decision, RMA needs to develop policies and procedures to document how all four of these operational areas—Compliance, Insurance Services, Product Management, and SDAA— plan to use the results of compliance reviews to update risk assessments and identify program vulnerabilities or systemic problems within their respective operations.

Finding 3 RMA Excludes Significant Amounts of Payments from its IPIA Error Rate Determination

According to IPIA, Federal agencies must estimate the rate at which they are issuing improper payments, determine the causes of those improper payments, take action to correct them, and set meaningful targets for reducing the agency's overall improper payment rate.[32] We found that, in CY 2007, RMA excluded from its IPIA error rate determination at least $3.95 billion of the $7.36 billion (53 percent) in payments it made.[33] This occurred because RMA's methodology for determining the error rate excludes large categories of potential improper payments, such as (a) premium subsidy payments, (b) indemnity payments under $2,500, and (c) improperly denied claims. We also found that, when RMA identified improper payments, it was not determining the improper payment's root cause, which prevents the agency from determining and taking the appropriate corrective action. Finally, RMA's sampling method does not represent its overall claims because RMA samples 50 policies with indemnities from each AIP, even though some AIPs are much larger than others. As a result of these problems, the error rate RMA reports to Congress does not represent a reliable, overall rate of improper payments. The agency will not be able to meet the requirements of IPIA until it identifies the causes of payment errors in the crop insurance program, determines and takes corrective actions to address the causes of those errors, and reduces its error rate.

IPIA requires agencies to annually review their programs and activities to determine if they are susceptible to significant improper payments.[34] If agencies determine that their programs and activities are susceptible to improper payments, they are required to reliably estimate the rate of improper payments they are issuing, so they may set targets for reducing future erroneous payment levels and a timeline by which these targets will be reached.[35] IPIA defines an improper payment as any payment that should not have been made or that was made in an incorrect amount including overpayments and underpayments. Agencies must also identify precise reasons for improper payments and put in place a plan to reduce them. To reliably estimate the rate of

[32] Public Law 107-300, "IPIA," enacted November 26, 2002. See also OMB Memorandum M-03-13, "Implementation Guidance for the IPIA," dated May 21, 2003.
[33] Of the $3.95 billion excluded from the error rate determination, $3.82 billion was from premium subsidies and $125 million was from claims less than $2500. The $7.36 billion of payments was made up of $3.82 billion in premium subsidies and $3.54 billion in total indemnities. RMA does not track the amount of denied claims.
[34] Public Law 107-300, "IPIA," section 2, paragraph a, enacted November 26, 2002.
[35] OMB Memorandum M-03-13, "Implementation Guidance for the IPIA," dated May 21, 2003.

improper payments agencies are issuing, OMB requires that agencies must use a valid statistical sample or its equivalent.[36]

RMA officials told us that they notified OMB in May 2004 that it would be a burden to the agency, given its limited resources, if it had to develop an estimate of its improper payments based on a statistically valid sample. As an alternative, OMB suggested that RMA develop a partial error rate focusing on known areas of risk, and then identify appropriate internal control changes, eligibility changes, or other applicable changes to reduce erroneous payments associated with the specific risk areas reviewed. RMA officials stated that they preferred to find a "meaningful process that addresses the single most important program payment, the claim for indemnity."

According to RMA officials, they proposed to OMB an alternative methodology that did not involve a statistically valid sample, but instead involved reviewing "samples of the established premiums and indemnities" at "15 participating insurance companies' books of business by randomly[37] selecting 750 policies (50 [for] each [AIP]) over 3 years."[38] RMA officials felt that this review, combined with its NPORs, should provide the agency with sufficient data to establish an acceptable error rate and satisfy the requirements of IPIA. In October 2004, OMB approved RMA's proposed methodology as an alternative for arriving at this estimate, stating that "OMB will periodically review agency measurement plans to ensure continued compliance. Based on circumstances, we may require agencies to enhance their level of effort."

Our review of RMA's error rate determinations disclosed the following important limitations involved in how RMA selects policies for review.

RMA's Alternate Sampling Methodology Excludes Large Categories of Potential Improper Payments

Although the alternate methodology RMA proposed to OMB for arriving at an estimate of its rate of improper payments called for a random selection of policies from the AIPs' books of business, the agency's actual sample does not meet the statistical rigor OMB expected because it is biased by several exclusions.[39]

[36] OMB Memorandum M-03-13, "Implementation Guidance for the IPIA," dated May 21, 2003.
[37] RMA downloads crop policy data for all policies having claims that exceed $2,500 into a spreadsheet and uses a random number generator to select the sample of 50 policies.
[38] The actual number of policies reviewed over a 3-year period will vary depending on the number of AIPs, which is subject to change.
[39] OMB Memorandum, M-03-13, "Implementation Guidance for the IPIA," dated May 21, 2003, states that improper payment estimates should be based on sample sizes sufficient to yield an estimate with a 90 percent confidence interval plus or minus 2.5 percent.

(a) Premium subsidy payments

RMA's alternate methodology for computing its improper payments error rate is based only on improper indemnities and does not include improperly computed premium subsidies. When RMA reviews a claim, it sometimes finds that the premium for the policy is not properly determined by the AIP. Not only does RMA exclude the premium subsidies paid in error on those claims it reviews, it also excludes from its universe for determining the error rate all policies for which premium subsidies were the only form of payment (i.e., policies with no claim payments). Because AIPs receive a Government-subsidized premium for policies they issue, such errors can result in AIPs receiving premium subsidies they should not have received.[40] This is another form of improper payment, but one that RMA has excluded from its current method of determining the rate of improper payments.

For CY 2007, RMA paid $3.82 billion in premium subsidies and $3.54 billion in indemnities. Therefore, RMA has excluded more than half of the payments it issued in 2007 from the determination of its improper payment rate.

(b) Indemnity payments under $2,500

RMA's alternate methodology for computing its improper payments error rate also excludes indemnity payments under $2,500. These indemnities may be relatively small, but excluding them prevents the agency from reliably identifying its error rate.

For CY 2007, RMA paid $125 million in indemnities for 122,672 claims that were each, individually, under $2,500.

(c) Improperly denied claims

If a claim is improperly denied, then that denied payment is also an improper payment, albeit an underpayment—an indemnity that should have been paid, but was not.[41] If RMA were to fully disclose its improper payment rate, then it should include underpayments from denied claims, but these claims are currently excluded from RMA's alternate methodology.[42]

[40] For CY 2007, RMA paid $3.82 billion in premium subsidies and $3.54 billion in indemnities.
[41] An improper denial of a crop insurance claim would represent a potential underpayment in accordance with OMB Memorandum M-03-13, which states that an "erroneous payment is any payment . . . in an incorrect amount, including inappropriate denials of payment."
[42] RMA currently requires AIPs to report all denied claims. As such, RMA could sample some of the denied claims.

RMA is not Determining Root Causes for the Improper Payments Identified by its Alternate Sampling Methodology

Ultimately, the point of identifying a Federal agency's rate of improper payment is to reduce the improper payments the agency is making. In order to accomplish this goal, the agency must first identify the cause of improper payments and then take corrective action to prevent that error from recurring. IPIA requires that Federal agencies report "what actions the agency is taking to reduce improper payments, including a discussion of the causes of the improper payments identified, actions taken to correct those causes, and results of the actions taken to address those causes."[43]

As we discussed in Finding 2, RMA's MAGNUM system for tracking and trending the results of its compliance reviews—including improper payment reviews—does not capture sufficient details for agency officials to identify systemic problems and take adequate corrective action.

Unless it is improved to help identify precise causes and systemic trends, MAGNUM limits RMA's ability to reduce its improper payment error rate by identifying and correcting error trends and policy concerns. In the 2007 Performance and Accountability Report, RMA stated that "in the first 600 policies reviewed" under the requirements of the IPIA, it has identified "no definitive trends, or underlying policy or underwriting issues." We concluded that the apparent absence of trends may be due to how the agency is tracking data in MAGNUM, and by the vagueness of the descriptors in that system.

IPIA was intended not simply to state an error rate, but to serve as a tool for helping agencies reduce that error rate by correcting underlying problems. Unless RMA identifies the root causes for these errors, it will not be able to identify and take adequate corrective action.

RMA's Alternate Sampling Methodology Does Not Reliably Represent its Overall Claims

RMA's methodology was not meant to be statistically valid, but it was intended to represent the universe of policies from any given crop year. We found, however, that selecting 50 policies from each of the AIPs is not representative of the book of business of each AIP. Some AIPs administer thousands of policies, while others

[43] Public Law 107-300, "IPIA," enacted November 26, 2002.

administer relatively few. By selecting 50 policies for review from each AIP, RMA has underrepresented the larger AIPs and overrepresented the smaller. For example, in CY 2007, the largest AIP administered over 250,000 policies, while the smallest administered approximately 3,000; RMA sampled about 1.5 percent of the smallest AIP's book of business, but just under .02 percent of the largest AIP's book of business.

Since reporting its first improper payment rate in 2004, RMA has reported a lack of confidence in its improper payment error rate, disregarded those rates, and proposed "target" rates that are much higher than the error rates it has reported. For example, in the 2006 Performance and Accountability Report, RMA reported an error rate of 1.92 percent, and reported that this rate is "lower than expected." Yet it established its next 3-year "target" error rates at 4.7 percent, 4.6 percent, and 4.5 percent, respectively. Clearly, the goal of estimating an agency's improper payments under the IPIA is to set targets for *reducing* improper payments. RMA's targets have, however, no clear relationship to the improper payments error rates it has reported in 2005 and 2006. [44]

Before it can meet the requirements of IPIA, RMA must develop an improper payment rate in which it has confidence, and which provides a reasonable baseline for future reductions in improper payments.

Recommendation 6

Develop and implement a sampling method for determining and calculating RMA's rate of improper payments that fully meets the requirements of IPIA by including all payments, premium subsidies and denied claims.

Agency Response.

RMA does not concur with this recommendation as the current sampling method has been approved by OMB.

OIG Position.

We cannot accept management decision on this recommendation. Since Congress enacted IPIA in 2002 and OMB provided guidance to Federal agencies in May 2003, ample time has passed to allow RMA to develop and implement a comprehensive and statistically valid improper payments error rate. The OMB-approved sampling method RMA refers

[44] The cumulative error rate for the 3-year period reported in the 2008 PAR was 4.7 percent. Error rates for the individual years' sample results were 1.92 percent for CY 2005, 3.2 percent for CY 2006, and 7.1 percent for CY 2007.

to in its response appears, we believe, to be an interim method to be used while the agency developed a more statistically sound approach. To be in compliance with IPIA, RMA must take a sample of its payments to identify the rate of improper payments and the causes of those improper payments, and then develop and implement a plan for reducing improper payments. The Act states that payment means any payment derived from Federal funds or other Federal sources or that will be reimbursed from Federal funds or other Federal resources that is made by a Federal agency. RMA should include all payments it makes—including premium subsidies—in its error rate determination. Additionally, IPIA requires that agencies identify potential underpayments, which include inappropriate denials of payments, as could be the case with denied claims. To reach management decision, RMA needs to develop and implement a sampling method that includes all payments, premium subsidies, and denied claims.

Recommendation 7

Identify the causes of any errors, develop and implement appropriate corrective actions to reduce or eliminate those errors, and establish targets for reducing the overall error rate.

Agency Response.

RMA does not concur with this recommendation. This is currently being performed by the agency and was most recently reported in RMA's fiscal year (FY) 2009 Corrective Action Plan dated May 2009 and provided to the Department.

OIG Position.

We cannot accept management decision for this recommendation. The May 2009 corrective plan does not identify causes of the payment errors. Instead, RMA stated that "there are still no definitive trends in the last of the 900 policies reviewed." The plan also states that it will be "several cycles before RMA would amass sufficient numbers of samples on any particular crop to draw meaningful comparisons in the errors identified." Yet IPIA mandated Federal agencies to identify the causes of improper payments and to develop and implement a plan for reducing improper payments. We believe that RMA still needs to address the causes for the errors in its current sampling methodology.

Given the statistical limitations of RMA's current sampling methodology and the problems inherent in compiling data over different crop years with policy changes, we believe that RMA needs to expeditiously reevaluate the current sampling methodology and

develop a more comprehensive methodology that can address the intent of IPIA (see Recommendation 6). In addressing Recommendation 6, RMA will be better able to address this recommendation as well. Further, while addressing Recommendation 6, RMA must also identify the causes of the errors and implement corrective actions to address the causes identified, which will help it reach management decision on this recommendation.

Finding 4 RMA Needs to Measure the Effectiveness of its Compliance Activities

RMA does not assess the effectiveness of its compliance activities, and has not established adequate performance measures and goals for reducing fraud, waste, and abuse in the Federal Crop Insurance Program. Some of the agency's current performance measures do not address compliance, while others measure the number of reviews the agency is performing (output) rather than how effective those reviews are in improving program compliance (outcome). RMA's strategic plan does not provide a link between the agency's long-term goals and objectives related to the integrity of the program and the effectiveness of its various compliance activities. Without meaningful outcome-oriented performance measures, RMA is not reporting useful information in the Performance and Accountability Report and is not providing policymakers with necessary information concerning how effective its compliance-related activities are in preventing fraud, waste, and abuse in the crop insurance program.

The GPRA sought to improve Federal programs' effectiveness by promoting a new focus on results. GPRA requires agencies to: (1) develop strategic plans that identify their general goals and objectives, including outcome-related goals and objectives for the major functions and operations of the agency; (2) set annual performance goals to define the level of performance to be achieved by a program activity; and (3) report annually on actual performance compared to goals in the Performance and Accountability Report.[45] Annual program performance reports are the feedback to managers, policymakers, and the public concerning what was actually accomplished for the resources expended.[46]

One of the fundamental distinctions GPRA introduced is that agencies should measure the outcomes of their actions rather than simply measuring the actions themselves.[47] GPRA requires that agencies

[45] Public Law 103-62, "GPRA," enacted August 3, 1993.
[46] Senate Report 103-58, "GPRA," Report of the Committee on Governmental Affairs.
[47] *OMB Circular A-136*, "Financial Reporting Requirements," dated July 2006.

measure not just what they do (output), but how successfully their actions contribute to their goals (outcome). For RMA's compliance-related activities, an output-based performance measure might state how many NPORs the agency performs each year, while an outcome-based performance measure might state how those NPORs reduce the agency's improper payments.

RMA's compliance-related performance measures are output-based, and, therefore, not designed to measure how the agency's compliance activities contribute to achieving the agency's compliance goal of reducing fraud, waste, and abuse in the crop insurance program. In RMA's 2006 to 2011 Strategic Plan, for example, the agency reported how many NPORs, annual and quarterly financial reviews, and large claims reviews it planned to complete. Since these standards measure output, not outcome, they do not provide a meaningful assessment of how well these reviews are in accomplishing their intended purpose of providing effective oversight of the crop insurance industry and enhancing the deterrence and prosecution of fraud, waste, and abuse.

We found similar problems with how RMA identifies its compliance-related activities for OMB's Program Assessment Rating Tool.[48] OMB developed the Program Assessment Rating Tool to assess and improve performance so that the Federal Government can achieve better results. It looks at all factors that affect and reflect program performance including program purpose and design; performance measurement, evaluations, and strategic planning; and program management and program results. The results are intended to provide lawmakers with accurate data about how the agency is accomplishing its mission.

In the 2005 Program Assessment Rating Tool, OMB reported that RMA has "a limited number of specific long-term performance measures that focus on outcomes and meaningfully reflect the purpose of the program."[49] We found that these outcome-based measures do not measure compliance activities at all. Instead, they focus on RMA's mission of increasing the value of risk protection provided to producers through FCIC-sponsored insurance, which is focused on the agency's primary mission, program delivery. As such, RMA does not have meaningful performance measures that address the outcome of its compliance activities, or measure how well RMA is deterring and prosecuting fraud, waste, and abuse.

The Program Assessment Rating Tool review does note that "RMA has . . . initiated data mining to promote efficiency by assisting in the

[48] The Program Assessment Rating Tool is a collaborative effort between agencies and OMB. Agencies are required to provide information to OMB in response to a standard set of questions. In turn, OMB assesses the agency's response.
[49] The 2005 Program Assessment Rating Tool was the most recently completed.

detection of anomalies in program vulnerabilities and, with the assistance of FSA offices, conducts growing season spot checks to ascertain the cause of the results. RMA believes that over $320 million in estimated savings for the last 4 years is attributable to this process." RMA has often cited savings from data mining as evidence of success in pre-empting fraud, waste, and abuse. For instance, in his May 1, 2007, testimony, the RMA Administrator reported that:

> RMA is making significant progress in pre-empting fraud, waste, and abuse through the expanded use of data mining. We have pre-empted millions of dollars' worth of expected payments and RMA continues to identify ways to reduce program abuse. RMA continues to use data mining to identify anomalous producer, adjuster, and agent program results and with the assistance of FSA offices, conducts growing season spot checks to ensure that new claims for losses are legitimate. These spot checks based on data mining have resulted in a significant reduction in anomalous claims for certain situations. Specifically, reduced indemnities on spot checked policies were approximately $112 million in 2002, $82 million for 2003, $71 million in 2004, $138 million in 2005, and $35 million in 2006.

While these statistics appear to show significant reductions in fraud, waste, and abuse, they do not reflect the actual results of compliance activities by RMA, nor do they identify the cause of improper payments and the corrective actions needed. RMA's reported savings represent changes in claims from one year to the next that RMA attributes to notifying producers that their claims have been identified on spot check lists.[50] RMA has concluded that this notification discourages future questionable behavior.

While it is possible that RMA's spot check process may have deterred those who may deliberately file questionable claims in multiple years, the agency lacks a process for reliably measuring the effectiveness of its various compliance-related activities.

Recommendation 8

Develop outcome-based performance measures and goals to measure the agency's progress in achieving its strategic goal of providing oversight of the crop insurance industry and enhancing deterrence and prosecution of fraud, waste, and abuse.

[50] See Finding 8, where we discuss spot check lists more fully.

Agency Response.

RMA does not concur with this recommendation as this action is currently being performed by the agency and is being reported in the *Risk Management Agency Program Compliance and Integrity Annual Report to Congress* as required under the Federal Crop Insurance Act (7 U.S.C. sec. 1515). This report provides information on how the program is monitored for compliance and describes the steps taken to improve the way compliance detection and enforcement activities are conducted and their results.

OIG Position.

We cannot accept management decision for this recommendation. GPRA requires agencies to measure not just what they do (output), but how successfully their actions contribute to their goals (outcome). GPRA also requires that agencies develop strategic plans that include outcome-related goals and objectives for its major functions and operations, set annual performance goals to define the level of performance to be achieved by a program activity, and report annually on actual performance compared to goals in the Performance and Accountability Report. However, RMA's strategic plan, in response to the GPRA mandate, lacks outcome-related goals for its compliance activities; instead, its current reporting relies on output-related goals, i.e., the number of reviews to be performed. In the *Risk Management Agency Program Compliance and Integrity Annual Report to Congress*, RMA is reporting results of its compliance activities—results that were 7-years old—but it is not reporting how these activities helped the agency achieve its strategic goal of providing oversight of the Federal Crop Insurance Program. To reach management decision, RMA needs to develop outcome-based performance measures and goals.

Given how the Federal Crop Insurance Program is structured, the relationship between RMA and AIPs is fundamental to administering the program and to delivering benefits to producers. Many OIG and GAO audits have found, however, the relationship between RMA and AIPs is often problematic; AIPs do not always comply with program regulations and insurance requirements.[51]

OIG and GAO continue to find serious deficiencies in the administration of crop insurance programs by AIPs and have made numerous recommendations to RMA to strengthen its oversight. For example, a recent review of 19 nursery policies indemnified due to Hurricanes Katrina, Rita, and Wilma found that the AIP involved had erred on each of the 19 policies we reviewed, and had not effectively underwritten those policies (see Finding 5).

Even when RMA has responded to OIG recommendations, as it did when it implemented a large claims review of indemnities likely to reach $500,000 or more, we found that it did not always implement new controls effectively. Three years after including this requirement in the 2005 Standard Reinsurance Agreement, RMA has not established standardized criteria for ensuring consistency in selecting large claims for review. RMA excludes from large claims reviews losses caused by disasters even though such claims are vulnerable to fraud, waste, and abuse; and it does not track the results of large claims reviews to identify common errors, specific concerns, or ways to better target future large claims for review (see Finding 6). Moreover, contrary to its own policy,[52] RMA terminates large claims reviews when they indicate AIP noncompliance with laws, regulations, and program requirements (see Finding 7).

Finding 5 RMA Has Not Implemented Recommendations for Improving its Oversight of AIPs and their Quality Control Review Process

Although RMA's relationship with AIPs is critical for implementing the Federal Crop Insurance Program, the agency has not always implemented recommendations intended to improve its oversight of AIPs, including their quality control review process. For more than 14 years, OIG and GAO have been recommending that RMA improve

[51] See footnote 3.

[52] Bulletin No.: MGR 05-009, "RMA Participation in Large Claims," paragraph 5c, states that RMA should opt out (or terminate a large claims review) only if the claim is likely to be less than $500,000 or if the policy is not eligible for insurance.

its oversight of AIPs and the AIPs' quality control review processes. RMA agreed to implement these recommendations but the agency has not always fully implemented the recommended corrective actions. Instead, RMA has altered its position on what corrective actions it would take. RMA officials believe that other actions—such as implementing the Standard Reinsurance Agreement for 2005, establishing the NPOR process, utilizing data mining, conducting special reviews, and other actions—address the vulnerabilities OIG and GAO have identified. However, these actions, while covering a wide array of activities, do not directly respond to OIG's and GAO's recommendations.[53] Without improving its oversight, RMA cannot effectively evaluate each AIP's performance or the overall performance of the program as a whole, and cannot ensure that AIPs are complying with the crop insurance program's rules and requirements.

The Federal Agriculture Improvement and Reform Act of 1996 directed the Secretary of Agriculture to establish an independent office, the Office of Risk Management responsible for administering and overseeing the Federal Crop Insurance Program.[54,55] Crucial to administering that program is the relationship RMA maintains with AIPs—private insurance companies that underwrite policies and adjust claims for losses. While RMA works closely with AIPs to implement the crop insurance program, the agency itself remains responsible for reviewing, evaluating, and overseeing the program.

Agency managers should continuously monitor and improve the effectiveness of internal controls associated with their programs.[56] As part of that effort, agency managers must take timely and effective action to correct deficiencies identified by sources such as OIG and GAO reports.[57]

An important part of RMA's oversight of AIPs involves ensuring that they are operating an effective quality control review process. According to the 2005 Standard Reinsurance Agreement, AIPs are responsible for implementing a quality control review process that, among other things, includes verifying that information provided by the policyholders, agents, and loss adjusters is true and accurate; verifying that the crop insurance contract constitutes an eligible crop insurance contract; implementing procedures for detecting and reporting any instance of fraud, waste, and abuse by policyholders, AIP employees or affiliates; and taking any such actions as directed by RMA to correct

[53] Currently OIG has an audit underway that will assess whether these actions adequately address these outstanding recommendations (Audit 05016-1-KC, "RMA's Implementation of AIPs' Appendix IV/Quality Control Reviews").
[54] This later became the Risk Management Agency.
[55] Public Law 104-127, "Federal Agriculture Improvement and Reform Act of 1996," title 1, section 194, enacted April 4, 1996.
[56] *OMB Circular A-123* revised, "Management's Responsibility for Internal Controls," dated December 21, 2004.
[57] *OMB Circular A-123* revised, "Management's Responsibility for Internal Controls," dated December 21, 2004.

systemic, procedural, or other problems revealed by the quality control reviews.[58]

RMA has not fully implemented all recommendations OIG has made to improve oversight of AIPs.

In 1993, OIG first reported on problems related to RMA's oversight of AIPs.[59] That audit recommended that RMA improve how it reviewed AIPs' performance, standardize what it considered errors, and determine how it would hold an AIP accountable for its poor performance. RMA agreed to the recommended actions, but OIG later reported in 2002 that its efforts to implement these recommendations were unsuccessful.[60]

In early 1998, OIG reported that, since 1993, RMA made little progress to improve its oversight of the quality of the crop insurance program.[61] This audit noted that AIPs' $100,000 claims reviews were not effective in identifying and correcting program violations.

Later in 1998, OIG again reported that AIPs' internal reviews remained ineffective and that RMA was not effectively monitoring the progress of AIPs' quality control review activities to ensure that they produced meaningful results.[62]

In 1999, OIG found that RMA was still struggling to determine how to define errors that might be committed by AIPs, and that it had not determined what constituted the minimum level of acceptable AIP performance.[63]

Later in 1999, OIG issued a special report to the Secretary, noting that AIPs' internal reviews were superficial and did not provide independent verification of proper claims activities.[64] We recommended that RMA improve its oversight of AIPs' quality control review processes to improve the effectiveness of these reviews.

In 2002, OIG reported on RMA's efforts to oversee AIPs' performance, and concluded that these efforts had been hampered because the agency had not determined what should be measured

[58] 2005 Standard Reinsurance Agreement, Appendix IV, section III.A.
[59] Audit Report 05600-4-Te, "Crop Year 1991 Claims," dated September 1993.
[60] Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 14, 2002.
[61] Audit Report 05601-3-Te, "Federal Crop Insurance Claims," dated February 18, 1998.
[62] Audit Report 05099-2-KC, "Quality Control for Crop Insurance Determinations," dated July 14, 1998.
[63] Audit Report 05005-1-Ch, "Controls Over Monitoring of Private Insurance Companies," dated January 22, 1999.
[64] Audit Report 05801-2-At, "Report to the Secretary on Federal Crop Insurance Reform," dated April 19, 1999.

and what standards of accountability should apply.[65] Even basic issues—such as how an "error" should be defined—had not been resolved. In part, we recommended that RMA: (1) define and describe its oversight responsibilities in regulations; (2) issue basic program policy decisions, such as those reflecting the intended objectives of its oversight, including meaningful performance measures, and commit itself to implementing those objectives; and (3) develop a plan of action, a document specifically describing how the agency expects to oversee AIPs over the long term.[66]

In response to the recommendations in the 2002 audit report, the agency stated that it was in the process of awarding a contract to study its program delivery process, and expected the results to be available in 2003. At that time, we expressed concern that RMA's approach appeared to be an extension of its longstanding management philosophy to continually study its systemic quality assurance weaknesses rather than implementing effective corrective actions to address them.

On April 25, 2003, RMA issued a $307,400 contract for performance management experts to (1) develop and establish an oversight system capable of evaluating the private sector's performance and delivery of Federal Crop Insurance Program, (2) provide documentation that would define and describe how it would oversee AIPs, and (3) provide a draft of the oversight system that would be written in the format of a proposed rule to be published in the Code of Federal Regulations.

In September 2005, GAO also reported that RMA was not effectively overseeing the AIP quality control review process. GAO's review of 120 cases showed that companies completed only 75 percent of the required reviews and those that were conducted were largely paper exercises, such as computational verifications, rather than comprehensive claim analysis.[67] Concerning RMA's general oversight of AIPs, GAO found that RMA did not ensure that companies conducted all reviews called for under its guidance and did not examine the quality of the companies' reviews. In response to the issues raised by GAO, RMA officials acknowledged that their agency's guidance for conducting quality control reviews of AIPs' performance needed

[65] Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 14, 2002.

[66] We also recommended that RMA recognize and report the absence of a reliable quality control review system to evaluate private sector delivery of the crop insurance program as a material internal control weakness under the Federal Manager's Financial Integrity Act, and to annually disclose the noted weakness until such time as a reliable quality control review system has been developed and fully implemented. RMA has not agreed to this recommendation.

[67] GAO Report GAO-05-528, "Crop Insurance-Actions Needed to Reduce Program's Vulnerability to Fraud, Waste, and Abuse," dated September 30, 2005.

revision to improve program compliance. GAO recommended that the Secretary of Agriculture direct RMA to strengthen its oversight of the insurance companies' implementation of the quality control review system. USDA informed GAO that RMA was strengthening its oversight through the development and implementation of a "quality performance indicator." This indicator was part of the system the contractor had been developing.

Even before GAO's final report was issued, however, RMA cancelled this contract, after spending $303,835 of the $307,400 it had budgeted. In response to our inquires concerning the status of the contract, RMA officials informed us that, "due to competing agency priorities, lack of management support and accountability, and numerous delays in reaching management decisions on key elements of the work to be performed by [the contractor], the contract was terminated on July 22, 2005, without all deliverables being received by RMA."

RMA then shifted its position concerning whether it needed to improve its oversight. Whereas before it had acknowledged that it needed to strengthen its oversight of AIPs' performance, it began to argue in April 2006 that other reviews, activities, and documents—the 2005 Standard Reinsurance Agreement, NPORs, compliance special reviews, and several other activities—obviated any need for a more systematic process of oversight of AIPs.

In a September 13, 2005, response to GAO, USDA reported that RMA had "stepped up the rigor in which it evaluates AIPs' quality control plans and required several companies to revise their plans." The response also stated that after the plans were evaluated, RMA's Compliance Division had the responsibility of detecting if a company failed to implement required quality control measures through its NPORs. NPORs are only performed to determine whether AIPs conducted the reviews required by Appendix IV of the 2005 Standard Reinsurance Agreement. Therefore, as performed, the NPORs may not necessarily detect whether the AIPs have performed adequate quality control reviews.

In August 2008, we reported to the Secretary that among USDA's most serious management challenges is the absence of a reliable quality control review system to evaluate private sector delivery of the Federal Crop Insurance Program. We also reported this challenge in 2002 through 2007.

The importance of a reliable quality control review system cannot be overstated. OIG continues to identify weakness in the Federal Crop Insurance Program and AIPs' quality control review procedures. For example, an OIG review of payments to Florida nursery producers found that an AIP's quality control process was unable to detect serious problems with all 19 indemnity claims we reviewed. Quality control reviewers failed to correct loss adjusters' determinations when they made erroneous calculations or incorrectly applied loss adjustment policies and procedures. Of the $66.3 million of indemnities paid on these 19 claims, $11.1 million was incorrect, amounting to an error rate of approximately 17 percent. More troubling, however, is the fact that the quality control reviewers failed to detect problems with the underlying insurability of these policies. OIG questioned whether any of the policies for these 19 claims should have been written, or thus whether any of the $66.3 million in indemnities should have been paid.[68]

Given the seriousness of these ongoing problems, we concluded that RMA needs to take steps to improve its oversight of AIPs, including how AIPs implement their quality control review process. Currently, we are making no additional recommendations since there are OIG recommendations outstanding, and another OIG review is looking more closely at whether RMA's current oversight activities address the intent of the outstanding recommendations.[69]

Finding 6 RMA Has Not Maximized the Effectiveness of its Large Claims Reviews

According to the 2005 Standard Reinsurance Agreement, RMA may review claims likely to exceed $500,000 in order to provide reasonable assurance that AIPs are properly adjusting these high-dollar claims. From FY 2005 through 2007, RMA participated in large claims reviews for 193 of the 1,377 large claim notifications AIPs reported (14 percent), but it did not maximize the effectiveness of these reviews. RMA has not established standardized criteria for selecting large claims for review; it excludes from large claims reviews losses caused by disasters even though such claims are vulnerable to fraud, waste, and abuse. Also, it does not track the results of large claims reviews to identify common errors, specific concerns, or ways to better select future large claims for review. An RMA official stated that the agency has not addressed these issues with the large claims review because its resources are limited and other tasks have higher priority.

[68] Audit Report 05099-28-At, "2005 Emergency Hurricane Relief Efforts", March 4, 2009.
[69] Audit 05016-1-KC, "Oversight of Approved Insurance Providers' Quality Control Process."

In the 2005 Standard Reinsurance Agreement, RMA established a large claims review process that requires AIPs to notify the agency of claims likely to exceed $500,000. RMA may participate in the loss determination or review the AIPs' determination to ensure that AIPs are properly adjusting these high-dollar claims.[70]

Large claims reviews are one of RMA's compliance activities that are conducted by a division other than RMA Compliance—in this case, Insurance Services.[71] When AIPs receive notice of a claim likely to exceed $500,000, they are required to notify their Insurance Services' regional office. Officials at the regional office may respond to this notification in one of three ways: (1) they may decline to participate in the loss determination; (2) they may go into the field and actively participate in the loss determination; or (3) they may choose not to actively participate in the loss determination, but to review the actions taken by the AIP in settlement of the claim before payment of any indemnity or prevented planting payment. The regional offices have 3 days to decide between these options.

RMA Has Not Established Criteria for Selecting Large Claims for Review

Insurance Services' 10 regional offices are responsible for deciding how they will respond to AIPs' notifications of large claims, and which large claims they will review. In 2005, Insurance Services acknowledged the agency's need for standardized criteria to help the regional offices select large claims for review: "RMA at some point will need to provide the criteria for selections to our oversight bodies to show that we are making informed and beneficial decisions. Currently each [regional office] establishes the criteria it believes best meets the objectives for the region."

However, after 3 years of conducting large claims reviews, Insurance Services still lacks standardized criteria for helping its regional offices select the large claims that most merit review (i.e., those that pose the greatest risk of fraud, waste, or abuse).

[70] 2005 Standard Reinsurance Agreement, section II.A.13.
[71] Large claims reviews are performed by Insurance Services' regional offices and overseen by Insurance Services' Risk Management Services Division.

RMA Excludes Disaster-Related Claims from its Large Claims Review

Of the $787.3 million in indemnities paid on individual claims greater than $500,000 in CY 2006, $200.9 million was paid due to hurricane-related losses. However, Insurance Services excludes all of these claims from its large claims review. RMA issued guidance to its staff that allows them to exclude all disaster-related claims from the large claims reviews. RMA officials stated that they lack the resources needed to review all large claims and, moreover, in the case of the hurricanes, the cause of these losses is well known. While the direct cause of the damage may be well known, a large claims review is intended to verify that AIPs are determining losses and adjusting claims correctly. Like all disasters, hurricanes increase the possibility for fraud, waste, and abuse since there are numerous losses, and AIPs are under pressure to settle claims quickly.

For example, during a recent OIG audit of nursery producers who claimed hurricane-related damage in Florida due to the 2005 hurricanes, we found that AIPs, agents, and adjustors made errors in each of the 19 claims we reviewed, resulting in erroneous payments of more than $15.6 million.[72] Insurance Services excluded these claims from its large claims review since it was well known that the hurricanes potentially caused these losses.

While OIG acknowledges that RMA's resources are not unlimited, we concluded that RMA should not exclude all disaster-related claims because these claims are high risk for error and should be monitored. RMA should develop a process for selecting and reviewing some of the large disaster-related claims based on supportable criteria intended to minimize improper payments.

RMA is Not Tracking the Results of its Large Claims Reviews

In January 2008, Risk Management Services Division[73] implemented a tracking system for its large claims reviews, but that system tracked only the number of reviews completed and the cost incurred in conducting the reviews. The system is not designed to capture important details regarding the outcome of the reviews, including information regarding any program noncompliance by the AIP, its agents, or its loss adjusters, or corrective actions needed to address issues identified during the reviews. An RMA official stated that the tracking system lacked

[72] Audit Report 05099-28-At, "2005 Emergency Hurricane Relief Efforts," dated March 4, 2009.
[73] Risk Management Services Division is a division of Insurance Services.

these elements because Risk Management Services Division had limited time to implement the system; it did not include these elements to allow for a more expedient implementation. Without tracking the results of its large claims reviews, RMA is limited in its ability to identify potential vulnerabilities or systemic weaknesses.

Monitoring the results of large claims reviews should include a number of steps to detect and correct vulnerabilities in the Federal Crop Insurance Program, including identifying trends from the results of the large claims reviews in which RMA participates, and tracking large claims reviews to determine what corrective actions are recommended and if the recommended corrective actions are implemented. Monitoring the results may also help RMA identify trends or other information that can be used in determining what large claims reviews it should participate in.

Overall, we concluded that RMA should take steps to improve the effectiveness of its large claims review.

Recommendation 9

Establish and implement a process for performing large claims reviews that includes standardized criteria for selecting claims for review.

Agency Response.

RMA concurs in part. The regional offices have had a standardized procedure since RMA began participation in large claims. The Center for Agricultural Excellence (CAE) developed a scoring tool that incorporates various criteria.

This tool is available to each regional office on the CAE Dashboard. Once the regional office receives a large claim notice, the regional office can score the policyholder based on the above referenced criteria. Also, the Risk Management Services Division has created a separate Nursery Spot Check Procedure (see Attachment 1). In addition to the criteria noted above, RMA recently added additional criteria for selection of claims for RMA's participation. RMA expects to finalize and issue a *Large Claims Handbook* by January 1, 2010 (see Attachment 2), which will include additional criteria (see Attachment 3).

OIG Position.

We accept management decision for this recommendation.

Recommendation 10

Include claims resulting from disaster when selecting large claims for review.

Agency Response.

RMA concurs with the recommendation. CAE has established a process to include large claims that result from disasters in large claim reviews. This report can be generated at will through the CAE tool at the time of disaster for the specific area to the level of detail required. This report is optional under the selection criteria.

OIG Position.

We cannot reach management decision for this recommendation. Although we agree with RMA's approach in developing a tool or report to assist in selecting large claims resulting from disasters, we are concerned that its use is optional. OIG reviews have found that disasters tend to increase the vulnerability for fraud, waste, and abuse because there are numerous losses and the AIPs' need to expeditiously settle claims may often result in inadequate or improper application of loss adjustment procedures. For this reason, RMA must include disaster-related claims as part of the large claims reviews, not as an option but as a routine part of the review. To reach management decision, RMA should include such a requirement in its *Large Claims Handbook*.

Recommendation 11

Modify its system for tracking and monitoring large claims reviews to include the results of the reviews.

Agency Response.

RMA concurs with the recommendation. RMA has developed a Large Claim Log system. This system is internal to RMA's regional offices and Insurance Services and is located on Share Point. The Large Claim Log allows the regional office to enter the initial claim, generate a Notice of Acceptance email to the appropriate RO, track the status of the claim, and document the results of the claim activity at the end of the process. Reports can be generated from the Large Claim Log to

provide the number of claims in the system and the status of the claims for a specific point in time. (See Attachment 4.)

OIG Position.

We accept management decision for this recommendation.

Recommendation 12

Analyze and trend the results of its large claims reviews to identify potential systemic vulnerabilities.

Agency Response.

RMA concurs with the recommendation. The large claim database is being updated to track and monitor the results of large claim reviews. This system will enable RMA to analyze and trend the results of large claim reviews to identify potential systemic vulnerabilities, and is expected to be operational by January 2010.

OIG Position.

We accept management decision for this recommendation.

Finding 7 RMA Terminated Large Claims Reviews When it Identified Noncompliance by AIPs and Did Not Follow Up on Instances of Noncompliance

According to provisions in the 2005 Standard Reinsurance Agreement, RMA assumes responsibility for disputes with producers when it conducts large claims reviews since RMA, instead of the AIP, determines or approves the loss. To avoid assuming responsibility for problematic claims, RMA has terminated its large claims reviews when it found indications of improper actions or noncompliance on the AIP's part. RMA chose to terminate these reviews because it did not want to assume responsibility for disputes with policyholders. However, according to RMA's own policies, an AIP's failure to comply with FCIC's policies and procedures is not a valid basis for terminating a large claims review. From a compliance standpoint, terminating a review when the reviewer finds evidence of improper AIP actions defeats the purpose of performing the review.

For any large claims review RMA conducts, it determines or approves the loss for that claim. If the policyholder disputes the amount of the

claim, that dispute must be brought to FCIC.[74] According to its own policies and discussions with OGC, RMA may only terminate a large claims review if the claim is likely to be less than $500,000 or the policy is not eligible for insurance,[75] in which case RMA should deny reinsurance.

We found, however, that Insurance Services regional offices terminated at least four large claims reviews when they discovered that the AIP failed to fully comply with FCIC policy or procedure.[76] However, RMA did not follow up to ensure that the claim was properly paid and that any necessary corrective action was implemented.

- For the first terminated claims review, the regional office found that the AIP failed to complete a grading sheet for each of the samples taken to determine the crop quality of the onions, a violation of *FCIC handbook 25209, 2004 Onion Loss Adjustment Standards*. The regional office notified the regional compliance office about its concerns. The regional compliance office said that RMA was conducting a general review of onion crop policies and believed that its review would address concerns raised by Insurance Services. However, the general review would not ensure that this particular claim was paid in accordance with FCIC policies and procedures.
- For the second terminated claims review, the AIP did not perform the required pre-acceptance inspection for the crop policy as required by *FCIC handbook* 24090, *2005 Nursery Crop Insurance Underwriting Guide*. The regional office notified the regional compliance office and Reinsurance Services Division. The compliance office did not review the claim because it believed that the Reinsurance Services Division should address the concerns. When we contacted the responsible staff at Reinsurance Services Division, they could not find a referral from the regional office of Insurance Services, nor could they recollect any review of the claim.
- For the third terminated claims review, the regional office found that: (1) representative samples of the cotton were not left in the field; (2) no photographs, appraisals, or documentation of actual production history were in the claim file as required by the Standard Reinsurance Agreement; and (3) the cause of loss and date of loss were not supported by documentation in the file. The regional office notified the regional compliance office of its

[74] 2005 Standard Reinsurance Agreement, section II.A.13.
[75] Bulletin No.: MGR 05-009, "RMA Participation in Large Claims," paragraph 5c.
[76] For FYs 2005 through 2007, RMA terminated 21 large claims reviews. However, because RMA does not track the reason for terminating the reviews, we were unable to determine how many of these reviews were terminated because of an AIP's noncompliance with FCIC policies and procedures.

concerns. We were told that the regional compliance office did not do a review because it was notified after the crop was harvested and there was nothing for the compliance staff to review.

- For the fourth terminated claims review, the regional office found that, although the pre-acceptance inspection showed that the coverage should be denied because of weeds and other problems with the growing conditions, the AIP still issued an insurance policy. When notified by the regional office, the regional compliance office conducted a review because the producer's claims for prior nursery crops were reduced through mediation. Based on the regional compliance office's review, the claim was paid at a reduced amount.

In three of the four cases we reviewed, although RMA detected AIP noncompliance, it did not ensure the claims were paid correctly and that appropriate corrective actions were taken to address the noncompliance. Therefore, the large claims reviews did not always serve to ensure that these high-dollar claims were properly adjusted and paid. RMA should follow up on all large claims reviews it terminated to determine if others were terminated because of an AIP's noncompliance with FCIC policy and procedure. Where RMA identifies noncompliance, it should further review these claims to ensure that they were paid in accordance with FCIC policies and procedures.

Recommendation 13

Cease terminating large claims reviews when the reviewer finds evidence of AIPs' noncompliance with FCIC-issued policies and procedures. Issue an informational memorandum or manager's bulletin instructing RMA staff not to terminate a large claim review because of an AIP's noncompliance.

Agency Response.

RMA concurs with the recommendation. RMA had ceased opting out under these circumstances before the audit report was issued. RMA expects to finalize and issue a *Large Claims Handbook* by January 1, 2010, which will include this instruction.

OIG Position.

We accept management decision for this recommendation.

Recommendation 14

Review those large claims reviews identified above to ensure that the claims were paid in accordance with FCIC policies and procedures. Take appropriate corrective actions if the claims were not paid in accordance with FCIC policies and procedures.

Agency Response.

RMA concurs with the recommendation. Within the year, Insurance Services will assess the above reviews, and if appropriate refer them to Compliance for further review and necessary corrective actions. (An RMA staff person subsequently clarified that RMA would complete this assessment by August 2010.)

OIG Position.

We accept management decision for this recommendation.

Recommendation 15

Determine whether other large claims reviews were terminated because of an AIP's failure to comply with FCIC policies and procedures and review those claims to ensure that the claim was correctly paid. Take appropriate corrective action if claims were not paid in accordance with FCIC policy and procedure.

Agency Response.

RMA concurs with the recommendation. As stated in the above recommendation, Insurance Services will assess the reviews discussed above and determine whether it is appropriate to refer them to Compliance for further review and necessary corrective actions.

OIG Position.

We cannot reach management decision for this recommendation. We recommended that RMA determine whether there were other large claims reviews—beyond those identified in our report—terminated because of an AIP's failure to comply with FCIC policies or procedures. To reach management decision, please review all large claims that were accepted for review and determine whether there were any other large claims reviews not referenced in our report as being terminated resulting from any identified noncompliance by the AIP,

agent, or adjuster. If such claims are identified, review them to ensure that that the claim was paid correctly and take appropriate corrective action if claims were not paid in accordance with FCIC policy and procedure.

When Congress passed ARPA in 2000, it made crop insurance more attractive to producers, but it also gave RMA new tools and responsibilities for overseeing the crop insurance program. More specifically, ARPA required RMA to: (1) use data mining to identify policies that should be reviewed; (2) reconcile its agricultural data with FSA's; (3) review agents and adjusters whose performance is disparate;[77] and (4) develop procedures to require an annual review by an AIP of the performance of each agent and adjuster used by the AIP.

RMA has begun using data mining as a tool for improving program compliance, but it has not always maximized the effectiveness of the data mining reports it receives. The agency often runs reports that indicate potential problems in the crop insurance program, but then merely passes them on to AIPs without following up to verify that any action is taken. RMA officials stated that they do not require action because of the number of "false positives" in these reports (see Finding 8). RMA did not provide evidence to support its assertion that requiring action by AIPs is not justified because of the number of "false positives." If there are, in fact, "false positives," AIP feedback would be beneficial in refining RMA's data mining analyses and more effectively identifying those policies that may require review for potential fraud, waste, or abuse.

Otherwise, RMA has done little to implement these ARPA requirements. RMA has still not completed a reconciliation of its data with FSA's, even though it was mandated to do so in 2001, and OIG first noted this problem in 2003 (see Finding 9).[78] Nor has RMA reviewed agents and adjusters whose performance is disparate (see Finding 10), or required AIPs to evaluate annually the performance of all agents and adjusters they use (see Finding 11).

In our discussions with RMA officials, they stated that they have not complied with all the requirements of the law because RMA lacked the resources to do so. OIG acknowledges that RMA does not have unlimited resources and that some of the ARPA requirements may be labor intensive. However, RMA must either find a way to comply, or must return to Congress, fully disclose the difficulties it faces in complying, and seek legislative changes.

[77] Disparate performance is defined and further discussed in Finding 10.
[78] Audit Report 50099-12-KC, "USDA Implementation of the ARPA," dated September 2003.

Finding 8 RMA Has Not Maximized the Effectiveness of its Data Mining Reports

ARPA requires RMA to use the information technology known as data mining to improve program compliance and integrity. Although RMA is producing data mining reports and has reported on the success of its data mining, the agency is not maximizing its potential to detect and correct problems in the crop insurance program. We noted two problems: RMA has excluded many claims from data mining analyses, and has not followed up on several significant data mining reports to identify fraud, waste, and abuse, take appropriate corrective action, and correct any systemic problems identified. An RMA official stated that the agency lacks the resources to follow up on all data mining reports, and that some reports include too many "false positives" for RMA or AIP employees to deal with them. However, many of these reports also contain instances of actual problems. Unless RMA follows up on, and refines the data mining reports it runs, the agency will not realize the full potential of data mining as a tool to help reduce fraud, waste, and abuse in the crop insurance program.

ARPA requires RMA to use "the information technologies . . . known as data mining to administer and enforce" the provisions of ARPA for improving program compliance and integrity."[79]

Data mining involves analyzing databases to identify correlations and patterns that differ from the norm or from the expected outcome. For instance, data mining might identify a producer with significantly higher losses than his peers in the same county for a given insurance type and a particular crop. Similarly, data mining may be used to identify an agent who sold policies with significantly higher losses than other agents selling policies in the same area. These correlations and patterns are identified in a report that explains the potential problem and lists those producers, agents, or adjusters who exhibit anomalous behavior. Once apparent anomalies of this sort have been identified, a more in-depth review is needed to determine if these are actual cases of noncompliance with program regulations.

To fulfill this ARPA requirement, RMA contracted with the Center for Agribusiness Excellence at Tarleton State University. The Center for Agribusiness Excellence conducts data mining research to assist RMA in its compliance efforts and any other research deemed necessary by the agency. Each year, the center produces a variety of data mining reports to address RMA's concerns. These reports include statutory

[79] Public Law 106-224, "ARPA," subtitle B, section 121, enacted June 20, 2000.

reports such as the annual spot check list[80] and list of agents and adjusters with disparate performance;[81] reports developed with potential nationwide implications such as the misreported claim production report and the misused actual yields report; and reports addressing anomalies in particular areas such as the reports that Compliance requests for its NPORs.

RMA can improve the effectiveness of its data mining efforts by including disaster-related claims in its data mining reports, by developing policies and procedures to evaluate data mining reports to assess their potential for improving program compliance and integrity, and by following up on data mining anomalies when it is likely that some of these anomalies indicate actual problems.

RMA Excludes Disaster-Related Claims from its Data Mining[82]

RMA excludes claims that are paid due to catastrophic weather and claims in counties where over 50 percent of units[83] experience a loss from certain data mining reports.[84] For example, we found that $1.4 billion of the $3.3 billion in claims paid for CY 2006 were excluded from the data used to develop the 2007 spot check list. The Director of SDAA explained that RMA excluded these claims from its data mining because including them created "natural clusters of severe losses" that would make identifying anomalies difficult. The Deputy Director of SDAA stated that RMA Compliance Division has not requested a special analysis to identify anomalies within disaster-related claims.

OIG acknowledges that including losses from disasters with ordinary losses presents certain problems. However, since these claims are at high risk for error, RMA needs to determine how they can be analyzed and targeted for in-depth review. When loss adjusters, quality control reviewers, and AIPs are asked to process a large number of claims, often with very large dollar amounts in a relatively short time, and in adverse circumstances, they are more likely to make errors. OIG and GAO reports have illustrated significant incidences of fraud, waste, abuse, and other vulnerabilities in such claims.[85] Therefore, we concluded that

[80] The spot check list is discussed in detail later in this finding.
[81] These reports are considered statutory because they are used to address specific legislative requirements mandated by ARPA.
[82] For the purposes of data mining, we are considering "disaster-related claims" as those claims resulting from what RMA calls "catastrophic weather events" (such as hail) and claims in counties where at least 50 percent of the units in that county experienced a loss.
[83] Units are defined as "that acreage of the insured crop in the county which is taken into consideration when determining the guarantee, premium, and the amount of any indemnity (loss payment) for that acreage."
[84] The spot check list and the disparate performance were major reports in which these exclusions were noted.
[85] GAO-07-300, "Hurricanes Katrina and Rita Disaster Relief: Continued Findings of Fraud, Waste, and Abuse," dated March 2007; GAO-06-618, "Enhanced Leadership Capabilities and Accountability Controls Will Improve the Effectiveness of the Nation's Preparedness, Response, and Recover System," dated September 2006; Audit Report 05099-27-At, "RMA Citrus Indemnity Determinations Made for 2004 Hurricane Damages in Florida," dated March 2007.

RMA should develop policies and procedures for including disaster-related claims in data mining analyses.

RMA Does Not Always Follow Up to Correct Problems Identified by Data Mining

While RMA runs many different data mining analyses, it does not always follow up and ensure that corrective actions are taken to address potential problems identified (we noted lack of such follow up for the spot check list, the misreported claim production report, and the misused actual yields report). An RMA official stated that the agency's use of the reports has been limited because he is concerned that there are too many "false positives," i.e., instances where data mining yields an anomaly that is not actually a case of noncompliance or a program weakness. Given these concerns, he stated that requiring AIPs to review all of the reports would not be an efficient use of RMA's limited number of requests, since the agency can only request that AIPs review 3 percent of indemnified policies.[86] Because RMA has not integrated these reports into its compliance activities, the agency is not effectively using its data mining resources and has missed opportunities to target fraud, waste, and abuse in the crop insurance program.

When data mining reports identify anomalies, they are identifying only potential problems. To determine if a potential problem is an actual problem, RMA must engage in additional analyses to identify whether the producer, agent, or adjuster identified in the report is engaged in improper activities or noncompliance. As such, "false positives" are a necessary part of the process. By determining why "false positives" are included in the report and providing this feedback to the Center for Agribusiness Excellence, RMA can refine its reports and improve the likelihood that the anomalies identified are actual cases of noncompliance or program weakness. As an RMA official acknowledged, the Center for Agribusiness Excellence has been successful in refining many of its data mining reports. Thus, a report with many perceived "false positives" can and should be refined so that it is more focused; it should not be discarded if it is likely that it includes actual problems.

In his May 3, 2007, testimony before the House Committee on Oversight and Government Reform, the RMA Administrator stated that RMA uses data mining to verify compliance with established

[86] 2005 Standard Reinsurance Agreement for Reinsurance Year 2005, Appendix IV, section III, paragraph C (1) (a) states, "The Company is required to conduct the following reviews on a crop year basis… Review the anomalies identified by FCIC, or its designee that suggest abnormal or unusual underwriting or loss performance and conduct reviews of eligible crop insurance contracts for which the anomalies appear, not to exceed 3 percent of indemnified eligible crop insurance contracts for the crop year, unless information from the review or other information received by FCIC leads FCIC to require the Company review additional contracts to address particular program integrity concerns."

rules and regulations. He cited an example in which RMA learned through data mining that AIPs had often failed to use claim production data to establish future approved yields, as required by regulation. He stated that RMA is providing the information to AIPs to assist them in correcting producer data when such errors are found. However, we found that once RMA passes this information on to AIPs, it does not require them to evaluate the data to identify errors or noncompliance and implement corrective action. Also, it does not require AIPs to report the results of their evaluations to RMA nor has it established procedures to determine what evaluations or corrective actions, if any, AIPs have taken.

When we spoke to an RMA official about why RMA does not follow up on some data mining reports, he explained that agency employees did not have the time to follow up on every data mining report, but that the agency has distributed data mining results to AIPs for their use. He also stated that RMA has not mandated that AIPs perform reviews because it is concerned about requiring reviews without knowing the benefits likely to be gained versus the costs that would be incurred. He pointed out that the 2005 Standard Reinsurance Agreement requires that AIPs review anomalies identified by RMA that suggest abnormal or unusual loss performance, but that those reviews are not to exceed 3 percent of indemnified eligible contracts for the crop year.[87] We noted, however, that RMA may require AIPs to exceed this cap—the Standard Reinsurance Agreement goes on to state that the companies may be required to review additional contracts to address particular program integrity concerns. By not evaluating the effectiveness of the data mining reports or requiring AIPs to report how, or if, they are used, RMA has significantly reduced the effectiveness of data mining as a tool to detect and prevent abuse in the crop insurance program.

The following are three examples where RMA did not follow up to ensure that appropriate corrective actions were taken to address the problems identified by data mining.

Spot Check List

By requiring FSA and RMA to work together to identify fraud, waste, and abuse in the crop insurance program, ARPA sought to improve coordination between FSA and RMA.[88] Using data mining, RMA develops a list of producers who should be subjected to additional review for a variety of reasons, such as their losses

[87] 2005 Standard Reinsurance Agreement, Appendix IV, section III, paragraph C (1) (a).
[88] Public Law 106-224, "ARPA," subtitle B, section 121, enacted June 20, 2000.

not being consistent with the losses of other producers in their area. RMA then provides this list to FSA so that it can conduct growing season inspections, referred to as spot checks, of these producers to determine if their farming operation is complying with good farming practices. FSA then reports back to RMA whether it conducted a growing season inspection and, if so, whether the inspection identified (1) concerns with the producer's crop, (2) no concerns about the crop, or (3) the likelihood of a loss being reported, but that the producer's loss would correspond to other producers' losses in the area.

However, once RMA receives FSA's report, it does not always follow up to determine whether the producers FSA reported are actually engaged in fraud, waste, or abuse. Using data mining, in 2005, RMA identified 2,057 crop policies meriting further review and forwarded this list to FSA. Of these 2,057 policies, FSA performed spot checks on 1,564, but RMA has no formal procedures for how to handle the remaining 493 policies that FSA did not inspect. Of the 1,564 crop policies FSA did inspect, it reported concerns about the producer or the crop in 72 cases. We found, however, that RMA had no formal procedures for reviewing or following up on policies such as the 72 identified, or for determining if any abuses represented larger trends in program vulnerability.[89]

Additionally, RMA lacks formal procedures for following up on cases where producers report losses after FSA has determined, based on performing its spot check, no loss should occur. As an example, a recent OIG investigation uncovered a case where RMA did not appropriately follow up on claims by producers included on the CY 2007 spot check list. FSA conducted growing season inspections for three producers between June 26, 2007, and August 29, 2007, because the producers appeared on the 2007 spot check list provided by RMA. During the inspection, FSA staff noted that the production was good and that based on their observations there should be no claims. In August 2007 one producer stated that he expected no problems, indicating that he would not file a claim.[90] FSA reported to RMA Compliance that production was good and there should be no claims associated with the observed fields. Since FSA identified no concerns, the regional compliance office did not take any action on the report.

[89] In February 2008, RMA revised its guidance to require regional compliance offices to determine if fields spot checked by FSA and identified as having concerns warrant further review. If RMA deems that additional review is necessary, the compliance office could refer the case to the AIP or OIG. This change in procedure did not affect the specific problems we describe above.
[90] This assertion was made by only one of the producers in regard to only one of the crops that were spot checked.

However, on August 15, 2007, the producers reported losses to the AIP almost 2 weeks *prior* to the one producer advising FSA that he would not be filing a claim.[91] The claim documentation showed production to be much lower than what FSA observed—resulting in claim payments totaling $102,719. Likewise, OIG Investigations identified another producer who had been subject to a spot check inspection by FSA, which identified no concerns with the crop, yet the producer filed a claim for $195,191. In both cases officials at RMA's regional compliance office did not notice the discrepancy between FSA's spot check conclusions and the producers' claims, and did not follow up to determine the reason for this discrepancy.

Misreported Claim Production Report

Apart from the data mining reports required by law, RMA has developed reports designed to identify potential problems affecting the crop insurance program, such as the misreported claim production report. This report lists producers who have not correctly updated their annual yields, a problem that causes improper crop insurance guarantees and misstated liabilities. In September 2004, the Director of SDAA sent a decision memorandum to RMA's Associate Administrator that identified 31,217 yield records with discrepancies, or yields that had appeared to have not been properly updated. These discrepancies resulted in potential misstated liabilities totaling $16.2 million for CYs 2002 to 2004.

We found, however, that RMA has not adequately followed up to address concerns raised by the misreported claim production report. RMA did provide this report to AIPs, but did not require AIPs to take any particular action or to report any results to the agency. On October 4, 2004, and again on June 27, 2005, RMA issued "stop the clock" letters to AIPs. These letters informed AIPs that "RMA believes that the company may be responsible for failure to follow FCIC approved procedures, and as a result, a debt may be owed to the FCIC."

Two of RMA's regional compliance offices conducted investigations supporting the general accuracy of the misreported claim production data mining reports. The Western Regional Compliance Office reviewed 43 policies and identified 14 policies (33 percent) in which monetary errors occurred due to producers not correctly updating their annual yields; these errors resulted in overstated indemnity discrepancies totaling $535,579 of the

[91] The date of damage, August 15, 2007, was reported by all three producers for all crops that were subject to a spot check.

$4,229,899 (or 12.7 percent) reviewed. Similarly, the Central Regional Compliance Office reviewed 25 of the policies on the list and found that 13 policies (52 percent) involved erroneous reports of production. In contrast, the Southern Regional Compliance Office began reviews of all policies appearing on the misreported claim production list at two insurance agencies (54 policies) in November 2004, but as of 2006 it had not completed those reviews because it had focused its efforts on other priorities.

As a result of the reviews completed by Western and Central Regional Compliance Offices, the AIPs took corrective actions to address some of the errors identified by the misreported claim production report. Additionally, both the Western and Central Regional Compliance Offices recommended that AIPs develop their own version of the misreported claim production report to prevent future problems. Despite the fact that two regional investigations indicated that the misreported claims production report is reliable and indicates actual noncompliance or program vulnerabilities, RMA has not taken action to ensure that the anomalies (or at least the most significant anomalies) are investigated and appropriate corrective action is taken.

Misused Actual Yields Report

With the Center for Agribusiness Excellence's assistance, RMA developed another report that identifies producers who use a crop type or practice with a "higher actual production history" to improperly establish the approved yield for a different crop type or practice. For example, a producer might use the actual production history of an irrigated crop to establish the approved yield for a non-irrigated crop. Problems with actual production history are well known to RMA, as 73 of the 170 (or 43 percent) errors identified during the first 3-year NPOR cycle were actual production history errors.[92] The misused actual yields reports are one data mining tool designed to identify this type of problem.

On December 17, 2003, the Director of the Western Regional Compliance Office informed the Deputy Administrator for Compliance that the misused actual yields report had revealed $14 million in potential overpayments over the last 3 years, and an additional $4 million in potential excessive administrative costs paid to AIPs. As with the misreported claim production reports, RMA provided AIPs this misused actual yields report and information identifying liability and indemnity overstatements due

[92] RMA reviewed 900 policies during this 3-year period. These reviews identified 170 errors.

to misused yields, but it did not require AIPs to take any particular action, or to report to RMA the results of actions they might take. Nonetheless, in October 2004, the Center for Agribusiness Excellence noted that some AIPs responded to this information and corrected the misused yields. Officials at the center stated that these changes resulted in potential indemnity savings of $1.3 million for reinsurance year 2002. On July 13, 2005, SDAA reported that potential indemnity overpayments resulting from misused yields had risen to an estimated $18.7 million with an additional $5.6 million in potential excessive administrative costs paid to AIPs.

Despite these findings, RMA has not required AIPs to correct misused yields, nor has it followed up to determine what action AIPs may have taken in response to the misused actual yields report. An RMA official stated that the agency continues to provide AIPs with the reports, but only for use at their discretion. He explained that he does not require them to take any action because he believes there are still too many "false positives." He provided no support for this assertion.

OIG maintains that, if there are too many "false positives" in the misapplied actual yields report, then RMA needs to work with the Center for Agribusiness Excellence to refine the report. By doing so, it can increase the percentage of anomalies that are actual errors. Once it is established, however, that a data mining report discloses actual problems, the report should not be discarded, or simply sent to the AIPs without requiring a response. Additionally, if the report cannot be further refined to eliminate "false positives," but identifies potentially significant problems RMA should require reviews by either RMA or AIPs of those anomalies that represent the most significant potential misstatements of liabilities and indemnity payments.

Overall, we concluded that RMA needs to develop policies and procedures for (1) reviewing data mining reports, (2) providing feedback to the Center for Agribusiness Excellence data mining team so that they can refine the reports, (3) investigating anomalies identified by these reports, and (4) following up to confirm that effective corrective action is taken to remedy any problems. Since RMA's resources are not unlimited, the agency should consider requiring that AIPs perform as much of this work as possible.

Recommendation 16

Develop and implement policies and procedures for including claims from disasters in separate data mining reports.

Agency Response.

RMA conditionally concurs with the recommendation. The SDAA staff have met and conferred with property casualty companies affected by the Hurricane Katrina disaster. These companies were faced with some of the same difficulties faced by AIPs in disaster situations. Their approach was to identify particular aspects in damaged properties and focus on those claims where damage fell outside the norm. SDAA and CAE will attempt to conduct a similar analysis of claims from previous disasters. SDAA will choose disasters from several distinct and different causes, such as hurricane, drought, etc. SDAA will then attempt to discern if there are uniform and distinctive characteristics about the nature of the reported damage. Once damage characteristics to a particular disaster cause are identified, SDAA will "ground truth" the results in "real time" with the next similar occurrence of the event (the next hurricane, drought, etc.). If the field results show that the absence of identified characteristics are reliable indications of anomalous claims, SDAA will begin comparing this data to all subsequent events. It is often weeks and months after the fact before CAE receives claims data and, by that time, it will be too late to make onsite field verifications.

Because the occurrence of each specific disaster is unpredictable and may not occur for several years, RMA cannot establish a reasonable completion date for the recommendation as stated. As a result, the recommendation may remain open without management decision for several years until such occurrence(s) take place. For this reason, RMA proposes management decision be reached for this recommendation based upon RMA's completion of its analysis of claims from previous disasters, and once a determination is made as to whether there are potential aspects that can be used in subsequent data mining reports. Implementation of Recommendation 17 establishes the RMA policy and procedures for assuring any potential aspects will be tested and appropriate actions taken by RMA. RMA expects to complete the analysis and evaluation by August 2010.

OIG Position.

We cannot accept management decision on this recommendation. To reach management decision, please provide us with a copy of the results of RMA's analysis of claims from previous disasters and of

RMA's proposed corrective actions to address the analysis, to include a timetable for implementing the proposed corrective actions.

Recommendation 17

Develop and implement policies and procedures for requiring RMA staff or AIPs to review data mining reports, investigate anomalies identified by these reports, provide feedback to the SDAA data mining team, and take corrective actions to remedy any problems.

Agency Response.

RMA concurs with the recommendation. SDAA will develop a policy of "ground truthing" or field verification of data mining products through the appropriate field offices. Once the product is found to be a reliable indicator of likely policy service problems the final report will be delivered to the responsible division. The responsible unit will take the actions appropriate to the nature of the problem and report back results to SDAA. RMA expects to implement this policy and procedure by July 2010.

OIG Position.

We accept management decision for this recommendation.

Finding 9 RMA Has Not Reconciled Data with FSA

Even though ARPA required that RMA and FSA begin reconciling their data in 2001, and annually thereafter, more than 7 years later no data has been completely reconciled. In 2003, OIG noted this problem, and recommended that RMA take immediate action to complete this requirement. RMA agreed that it would work with FSA to develop a plan, but did not complete the corrective action.[93] An RMA official stated that RMA will not complete the 2001 data reconciliation or perform complete data reconciliations for subsequent years because there are too many discrepancies to reconcile, and RMA does not have sufficient resources to reconcile them all. While OIG acknowledges that RMA's resources are not unlimited, the agency cannot ignore a Congressional mandate. RMA is working with FSA to develop the Comprehensive Information Management System (CIMS), which RMA officials assert will serve as a reasonable alternative to accomplishing the data reconciliation.[94] At present, however, CIMS

[93] Audit Report 50099-12-KC, "USDA Implementation of the ARPA," dated September 2003.

[94] The Farm Security and Rural Investment Act of 2002 was enacted requiring USDA to establish a comprehensive information management system to be used by FSA and RMA to administer their programs. In implementing this system, RMA and FSA are to combine, reconcile,

remains a distant prospect as it is not scheduled for implementation until 2012. Until then, RMA remains in noncompliance with ARPA.[95]

RMA and FSA maintain separate agricultural data relating to producers and their farms. Since the two agencies use their data to accomplish different purposes, RMA and FSA have used different definitions of common terms. FSA describes producers' farms in its records as tracts (parcels of land) made up of one or more fields, and producers report their land accordingly. RMA reinsures producers' land according to units, which do not necessarily correspond to tracts. This is one of many items that make comparing the two agencies' data difficult. Recognizing that reconciling this data would improve program integrity, Congress mandated in ARPA that FSA and RMA comprehensively reconcile their data for CY 2001, and at least annually thereafter.[96]

As RMA reported to Congress, RMA and FSA began working to reconcile discrepancies between their data in 2002. At the beginning of the reconciliation process, RMA provided FSA with 1.3 million producer records. FSA was responsible for comparing the data to identify producers who did business with both agencies. For these producers, FSA then compared the data to determine whether discrepancies exist due to acceptable share differences or acceptable acreage differences.[97] After sorting and culling these records, FSA identified 284,991 records as potential data discrepancies that could not be explained as acceptable discrepancies based on the differing reporting requirements of FSA and RMA. FSA then returned these records to RMA for further evaluation.[98]

RMA also reported that, later in 2002, it further culled these 284,991 records to 16,154 potential, significant discrepancies and then reviewed a statistical sample of 160 discrepancies, determining that 24 percent of the discrepancies were in need of reconciliation.[99] According to our analysis, this rate indicates that 3,877 discrepancies of the 16,154 potential, significant deficiencies were in need of reconciliation. More than 5 years later, however, RMA has not completed a full reconciliation of this data, or reported that it

redefine, and reformat the current data in such a manner so that the agencies can use the system that is created. However, this new legislation did not state that RMA and FSA were not required to reconcile their data that was reported prior to the implementation of the new system.

[95] CIMS is being implemented in phases. In 2012, RMA and FSA expect the system to be fully implemented between these two agencies. However, CIMS is also to be used by other agencies within USDA. At present, there is not a timetable as to when CIMS will be fully implemented by all USDA agencies.

[96] Public Law 106-224, "ARPA," subtitle B, section 121, enacted June 20, 2000.

[97] Acceptable share differences may result from rounding rules, since FSA uses a 4-digit share while RMA uses a 3-digit share. Likewise, acceptable acreage difference may result when some acreage of the crop is non-insurable and is therefore not reported to RMA.

[98] "RMA Preventing Fraud, Protecting Farms. Program Compliance and Integrity Annual Report to Congress, January 2002 - December 2002," dated November 2004.

[99] "RMA Preventing Fraud, Protecting Farms. Program Compliance and Integrity Annual Report to Congress January 2002 - December 2002," dated November 2004.

reconciled any of these identified discrepancies. Despite the work that both agencies did to cull this universe, a complete reconciliation was not performed.

In September 2003, OIG issued an audit report evaluating RMA's progress in implementing ARPA's data reconciliation provisions.[100] This report found that the Department's efforts to reconcile CY 2001 data were not "timely or effective," and recommended that RMA: (1) promptly complete the CY 2001 reconciliation and any associated corrective actions for all identified discrepancies; and (2) obtain written legal opinions from OGC as to whether the limited sampling plan being used to resolve the discrepancies identified during the 2001 reconciliation would satisfy ARPA's requirements.

RMA generally agreed with these two recommendations, yet, more than 4 years later, we found that RMA has failed to implement the corrective actions. In reference to the first recommendation, the agency has not completed the ARPA-mandated data reconciliation for CY 2001 or for any subsequent year. An RMA official now states that the agency will not comply with the ARPA requirements and will not complete the 2001 data reconciliation or perform complete data reconciliations for subsequent years, arguing that there are too many discrepancies for RMA to reconcile and that the agency does not have sufficient resources to perform the reconciliation. Further, RMA officials stated that they were reconciling some of the data for producers receiving crop disaster payments from FSA. However, RMA officials did not respond to our request for documentation to show the extent of these reconciliations.

In reference to the second recommendation, RMA did not request a written OGC opinion as to whether the limited sampling plan would satisfy ARPA's requirements, but the agency is aware that OGC expressed reservations concerning the validity of the sampling methodology RMA used as an alternative to reconciling all data records. Instead, RMA requested and obtained an opinion from OGC as to whether the CIMS project will meet the ARPA data reconciliation requirements. The OGC opinion stated that once the CIMS is fully implemented and operational, it *may* (OIG emphasis added) meet the requirements of the Act. The opinion goes on to state, however, that "the problem is that section 515(c) of the Act requires reconciliation to start with the 2001 crop year. …. [O]nly data received after implementation of the CIMS system will be combined, reconciled, defined, translated, and formatted. Historical data will not be reconciled."

[100] Audit Report 50099-12-KC, "USDA Implementation of ARPA," dated September 2003.

OIG also found that RMA has not clearly reported to Congress concerning its failure to reconcile data. ARPA requires the Secretary to submit an annual report to Congress describing activities carried out to address program integrity and compliance activities required by the legislation.[101] Entitled "Risk Management Agency Program Compliance and Integrity, Annual Report to Congress," the first report was submitted in 2002, but did not mention any problems with the data reconciliation process.[102] The second report was submitted in 2004, and described the results of RMA's sampling of discrepancies, which we have already described above.[103] The third report was submitted in 2006 and stated that CIMS would satisfy ARPA's requirement that RMA and FSA reconcile their data.[104] The fourth, and most recent, report was submitted in 2007; it stated that CIMS would satisfy ARPA's requirements for reconciling information that producers submitted to FSA and RMA.[105]

These four reports did not clearly inform Congress that RMA had not completed a full reconciliation of any crop year's data, nor did they state that CIMS would not be implemented until after 2012 and that RMA did not intend to reconcile any data, except for crop disaster payment data, from 2001 to implementation of CIMS. While RMA officials insist that they have kept Congress notified through its testimonies with the various subcommittees, we were not provided with documentation showing the disclosures made by RMA, nor Congress' acceptance of RMA's alternative actions.

We concluded that RMA has not met this Congressional mandate. Either the agency must reconcile data with FSA, as required in the ARPA, or it must return to Congress, report its inability to comply, and seek legislative change.

Recommendation 18

Reconcile data with FSA from CY 2001 to the present, or seek legislative change regarding this mandate.

[101] Public Law 106-224, "ARPA," subtitle B, section 121, enacted June 20, 2000.
[102] "RMA Program Compliance and Integrity Annual Report to Congress, June 2000-December 2001," dated September 2002.
[103] "RMA Preventing Fraud Protecting Farms Program Compliance and Integrity Annual Report to Congress," January-December 2002, dated November 2004.
[104] "RMA Program Compliance and Integrity Annual Report to Congress, January-December 2003," dated January 2006.
[105] "RMA Program Compliance and Integrity Annual Report to Congress, January-December 2004," dated December 2007.

Agency Response.

RMA does not concur with this recommendation. It is nearly identical to Recommendation 2b in Audit Report 50099-12-KC, "Implementation of the Agricultural Risk Protection Act of 2000," and basically restates that recommendation. RMA has not been ignoring a Congressional mandate as stated in the report. Since ARPA's enactment, RMA has briefed Congressional committees and their staffs over the years concerning the problems associated with reconciliation. In fact, the finding for this recommendation neglects to include the following information from the OIG Management Challenges Report showing CIMS was the result of Congressional awareness of the problems and its solution. "Since ARPA was enacted, section 10706 of the Farm Security and Rural Investment Act of 2002 directed the Secretary of Agriculture to develop a comprehensive information management system (CIMS) to be used in implementing the programs administered by RMA and FSA. Under section 10706, all current RMA and FSA information is to be combined, reconciled, redefined, and reformatted in such a manner that the agencies can use the information management system. It was the sense of Congress that CIMS, developed for RMA and FSA, would demonstrate substantial efficiencies and serve as a first step toward broader, Department-wide integration[, and] that valuable groundwork would be laid for further modernization of information technology systems of USDA agencies in the future, and for the incorporation of those systems into CIMS." In the interim period, RMA and FSA have consistently reconciled the data used in implementing authorized disaster programs that required the use of RMA data downloads. RMA Compliance received over 6,600 Crop Disaster Program referrals for the 2005, 2006, and 2007 crop years as a result of the FSA county offices identifying discrepancies between the data reported for crop insurance and the producer certifications to FSA. This information was repeatedly made available to OIG over the course of the audit.

OIG Position.

We accept management decision on this recommendation, because as stated by RMA, it is very similar to Recommendation 2b in Audit Report 50099-12-KC, which was issued on September 30, 2003. Therefore, we will continue to track RMA's corrective action under this earlier issued report.

We planned on acknowledging RMA's reconciliation of disaster program data in our audit report. However, contrary to RMA's assertion that this information was made available to OIG, RMA did not provide OIG with written documentation that supported the results

of the reconciliations, even after several requests. As far as we can determine, these reconciliations only addressed a small number of the differences between RMA and FSA data. In RMA's response, the agency stated that for CYs 2005-2007 RMA received over 6,600 referrals identifying discrepancies between FSA and RMA data. However, the initial data comparison of the CY 2001 data indicated over 280,000 discrepancies for CY 2001. As such, a very small percentage of discrepancies have been identified. Further, RMA has not provided OIG with evidence that these differences have been appropriately resolved and corrected.

Finding 10 RMA Has Not Reviewed Agents and Adjusters Identified as Disparate Performers

Another of ARPA's key mandates is that RMA review agents and adjusters whose performance it identifies as "disparate"—i.e., agents and adjusters associated with higher than normal loss claims.[106] Eight years after Congress passed the Act, we found that RMA does not review disparately performing agents and adjusters. However, RMA did not return to Congress and seek to improve the law, and instead chose to focus its resources on other compliance activities. RMA identifies agents and adjusters whose performance it considers disparate, but instead of reviewing these agents and adjusters itself, it sends these lists to AIPs. RMA does not require AIPs to take any specific actions to address these agents' and adjusters' performance, nor does it follow up to determine what action, if any, AIPs have taken. As a result, almost a decade after the passage of ARPA, RMA has not satisfied the intent of the legislation, has not complied with the law, and has not reviewed agents and adjusters whose actions can contribute to fraud, waste, and abuse in the Federal Crop Insurance Program.

To improve the integrity of the crop insurance program, ARPA instructed RMA to identify agents and adjusters who are disparate performers. Once RMA identifies a list of agents and adjusters whose performance is disparate, ARPA requires that the agency review these individuals "to determine whether the higher loss claims associated with the agent or higher number of accepted or denied claims (as applicable) associated with the person performing loss adjustment services are the result of fraud, waste, or abuse." When fraud, waste, or abuse is identified as a result of these reviews, ARPA requires RMA to take appropriate remedial action.[107]

[106] Congress initially defined disparately performing agents and adjusters as those associated with loss claims that are greater than 150 percent of the mean for their peers within the same area.
[107] Public Law 106-224, "ARPA," subtitle B, section 121, enacted June 20, 2000.

In the legislation itself, Congress included its own definitions of agents and adjusters whose performance might be considered disparate, but also permitted RMA to revise those definitions if needed.[108] The legislation defined a disparately performing agent as "any agent engaged in the sale or coverage offered under this title where the loss claims associated with such sales by the agent are equal to or greater than 150 percent (or an appropriate percentage specified by [FCIC]) of the mean for all loss claims associated with such sales by all other agents operating in the same area." ARPA defined a disparately performing adjuster as "any person performing loss adjustment services relative to coverage offered under this title where such loss adjustments performed by the person result in accepted or denied claims equal to or greater than 150 percent (or the percentage specified by [FCIC]) of the mean for all accepted or denied claims (as applicable) for all persons performing loss adjustment services in the same area."

In 2001, RMA attempted to implement ARPA using Congress' definitions, but found that many agents and adjusters had loss ratios that exceeded 150 percent of the county average. Of the 14,547 agents it considered for CY 2000, RMA identified more than 6,000 who had exceeded 150 percent of the county average. Of the 3,256 loss adjusters it considered for CY 2000, RMA identified 2,594 that had loss ratios greater than or equal to 150 percent of the county average. RMA concluded that Congress' definition of disparate performance yielded too many agents and adjusters for it to reasonably review them all.

RMA did not consult Congress regarding this problem, nor did it seek legislative clarification. Instead, from 2002 to 2006, RMA restricted how it defined disparate performance so that the list it produced would be more manageable. It accomplished this by using different criteria which it redefined each year based on research conducted by the Center for Agribusiness Excellence. These criteria focus on agents and adjusters who appear to participate in questionable practices, as defined by that year's criteria.[109]

When RMA reported these changes in its method to Congress, it did not clearly and transparently identify how it had redefined disparate performance. For 2002 and 2003, for instance, RMA reported that it had identified as disparate performers "the top 5 percent of agents who had the greatest disparities in loss claims relative to their local agricultural production area," and "the most egregious cases of adjusters who consistently reported lower production yields than their peers." It did not, however, report precisely what percentage it used to

[108] Public Law 106-224, "ARPA," subtitle B, section 121, enacted June 20, 2000.
[109] Public Law 106-224, "ARPA," subtitle B, section 121, enacted June 20, 2000.

define "greatest" or "most egregious," nor did it describe clearly and transparently how its criteria differed from the law's original language.

No matter what method is used to produce these lists, RMA is not reviewing these disparately performing agents and adjusters to determine and correct any actions that may undermine the integrity of the crop insurance program. This occurred even though the agency's revised definitions of disparate performance did produce much more manageable lists of agents and adjusters. For 2001, RMA found more than 6,000 agents and 2,594 adjusters who were identified as disparate performers, according to Congress' definition, but in 2006, RMA identified 119 agents and 181 adjusters as disparate performers, according to its own restricted definition for that year.[110]

Even when the list of disparate performers was reduced, RMA did not review the agents and adjusters whose performance it identified as disparate.[111] The agency forwards these lists to the AIPs, but does not require them to review the disparate performers or take any particular action. An RMA official stated that the agency does not require AIPs to review agents and adjusters identified as disparate performers because the 2005 Standard Reinsurance Agreement does not require AIPs to review agents and adjusters, unless RMA identifies them as a program review under Section III.C.1 of Appendix IV. The official said that he is reluctant to include these reviews among AIPs' program reviews because AIPs are required to review only 3 percent of indemnified policies; he did not want to include reviews of agents and adjusters from the disparate performers list because he felt there were too many "false positives" on that list. The RMA official did not, however, provide analysis or documentation to identify any "false positives" on these lists or what could have caused them.

OIG maintains that reviewing disparately performing agents and adjusters is a Congressional mandate, and not an option for RMA to decide that it either will or will not follow. At present, however, agents and adjusters placed on this list are not being reviewed by either RMA or the AIPs. Varying the size of the disparate performers list to make it more manageable is not a useful exercise if the agents and adjusters on that list are not being reviewed. To date, 8 years have lapsed since

[110] In 2006, RMA identified disparate performance as those agents or adjusters who met at least one of 3 scenarios: (1) Agent Anomalous Losses – This scenario flags agents with disproportionate losses in comparison with other producers in the country for the same crop, crop type and practice. Group insurance plans and catastrophic coverage were excluded from this scenario. (2) Adjuster Severe Adjustments – Loss adjusters are flagged when their loss cost appears much higher than other adjusters in the area. An adjuster's losses are compared by cause of loss for a crop, type, and practice in a county. The adjusters loss cost is compared to that of all other adjusters in the same area. (3) Adjuster/Producer Linkage – Adjusters sometimes make judgments favoring particular producers repeatedly over the years and in different counties.

[111] RMA stated that it does evaluate anomalous agents and adjusters using the triplet scenario of its spot check list—a different list than the disparate performance list. In RMA Program Compliance and Integrity Annual Report to Congress January—December 2002, RMA explained that the "triplet scenario" included agents, adjusters, and producers linked in irregular behavior that suggests collusion. Although these spot check list reviews may include agents and adjusters, they are usually reviews of producers, and would not necessarily identify agents or adjustors who were not adhering to crop insurance policies and procedures.

ARPA was enacted, but RMA has not reviewed the agents and adjusters it identifies as disparate.

We concluded that RMA is not meeting ARPA's requirement that the agency identify and review disparately performing agents and adjusters.

Recommendation 19

Develop policies and procedures that require RMA to review disparately performing agents and adjusters to assess whether the higher than average loss ratios for the agents and adjusters identified are the result of potential fraud, waste, or abuse.

Agency Response.

RMA concurs in part with this recommendation. RMA has made efforts to address the intent of Congress, but will reevaluate its procedures to determine whether changes can be made to meet the specifics of the ARPA language. RMA expects to complete this action by August 2010.

OIG Position.

We cannot accept management decision for this recommendation. ARPA allows RMA discretion in establishing the threshold for identifying "disparate performance." In prior years, RMA established data mining reports that identified what RMA believed to be "disparate performance." We believe that this is a positive action. However, our recommendation results from our observation that, although RMA was identifying "disparate performance" by the agents and adjusters, RMA was not following through to determine whether those agents and adjusters identified were engaged in fraud, waste, or abuse. To accept management decision, we need clarification whether any revised RMA policies and procedures will include followup steps to assess or verify whether the agents and adjusters identified as disparate performers are engaged in fraud, waste, or abuse.

Finding 11 RMA Has Not Implemented the Requirement for AIPs to Annually Evaluate Agents' and Adjusters' Performance

We found that RMA did not develop or implement procedures requiring AIPs to perform annual reviews of the performance of their agents and adjusters. Unlike the requirement that agents and adjusters be certified, trained, and licensed according to the laws of the States where they work—a requirement included in the Standard Reinsurance Agreement—this ARPA requirement concerns evaluating agents'

performance as they sell policies and adjusters' performance as they determine losses on claims. An RMA official stated that the ARPA requirement for evaluating agents' and adjusters' performance was not directly included in the 2005 Standard Reinsurance Agreement, but that "the strict ongoing testing requirements of agents and loss adjusters in the [agreement] and under various State laws ensure that the intent of the law has been carried out." However, neither State law nor the Standard Reinsurance Agreement require annual evaluations of the performance of AIPs' agents and adjustors—they involve the separate requirement that agents and adjusters be certified, trained, and licensed. Without annually evaluating the performance of agents and adjusters, RMA and AIPs have limited their ability to identify agents and adjusters with poor performance, correct performance problems, and improve the integrity of Federal Crop Insurance Program.

ARPA requires that RMA "develop procedures to require an annual review by an [AIP] of the performance of each agent and loss adjuster used by the [AIP]." ARPA further states that RMA "shall oversee the conduct of annual reviews and may consult with an [AIP] regarding any remedial action that is determined to be necessary as a result of the annual review of an agent or loss adjuster."[112]

We found that RMA has not satisfied this legislative requirement. After Congress passed ARPA in 2000, RMA reported to Congress in April 2002 that "[t]he approved insurance provider's annual review of each agent's and loss adjuster's performance will be implemented when the [Standard Reinsurance Agreement] is renegotiated."[113] RMA, however, did not include language requiring an annual review of agents' and adjusters' performance in the 2005 Standard Reinsurance Agreement.

When we asked RMA's Director of Reinsurance Services Division why the agency did not include this review in the agreement, he explained that, in Appendix II, RMA required that agents and adjusters be subjected to "strict ongoing testing requirements" and "various State laws," and that these requirements would ensure that ARPA's intent was carried out. These testing requirements, however, pertain to licensing agents and adjusters and not to their performance.[114] None of these requirements involve evaluating the performance of agents' and adjusters' annually.

[112] Public Law 106-224, "ARPA," subtitle B, section 121 enacted June 20, 2000.
[113] "RMA Program Compliance and Integrity Annual Report to Congress, June 2000 – December 2001," dated April 2002.
[114] Appendix II of the 2005 Standard Reinsurance Agreement requires that AIPs ensure that all of their employees, agents, agency employees, loss adjusters, and contractors acting on behalf of AIPs with respect to the applicable procedures and requirements associated with selling and servicing eligible crop insurance contracts are properly licensed by the State in which they are doing business if required by the State, and trained in accordance with Appendix IV.

RMA has not kept Congress apprised of its noncompliance with this ARPA requirement. In 2002, RMA reported to Congress that it would include, in its next renegotiated Standard Reinsurance Agreement, a requirement that AIPs review agents and adjusters annually. When RMA renegotiated the agreement for CY 2005, it did not report to Congress that it did not carry through on its plan, or seek Congressional approval for an alternate means of satisfying the law. Based on RMA's reporting, Congress has every reason to believe that the 2005 Standard Reinsurance Agreement includes this ARPA-mandated requirement. Eight years have passed, but RMA is no closer to requiring AIPs to review their agents' and adjusters' performance.

Meeting this requirement is all the more pressing because recent OIG reviews have found that agents and adjusters working for AIPs make numerous and significant errors when selling policies and indemnifying producers under FCIC programs. For example, in an audit of nursery indemnities paid during CY 2005 and 2006, we found that loss adjusters made serious errors on each of the 19 claims they processed, leading to $10.6 million in indemnity overpayments; this audit also found that an agent failed to write insurance policies in accordance with FCIC policies and procedures.[115] If AIPs are adequately evaluating the performance of their agents and adjusters, they would likely identify agents and adjusters who, like these, did not adequately perform their duties, no matter how they were certified, trained, or licensed.

We concluded that RMA should take steps to comply with this ARPA requirement, including developing the policies and procedures AIPs should apply when annually evaluating the performance of their agents and adjusters. In addition, the agency must report to Congress concerning its longstanding noncompliance with this legislative mandate.

Recommendation 20

Develop policies and procedures for AIPs to follow as they evaluate the performance of their agents and adjusters.

Agency Response.

RMA concurs with this recommendation. The Standard Reinsurance Agreement (SRA) contains in Appendix IV, section II.A, an informal requirement for AIPs to evaluate the performance of their agents and adjusters. RMA will develop procedures requiring AIPs to conduct a formal review of the performance of each agent and loss adjuster to

[115] Audit Report 05099-28-At, "2005 Emergency Hurricane Relief Efforts," dated March 4, 2009.

supplement the current proficiency requirements in the 2005 SRA and in various State laws. RMA will consider including the annual review procedures in the 2010 SRA which is currently being renegotiated. RMA expects to complete this action by August 2010.

OIG Position.

We accept management decision for this recommendation.

Recommendation 21

Develop and implement policies and procedures for monitoring AIPs' completion of the annual performance evaluations of agents and loss adjusters. This monitoring should ensure that AIPs conduct the annual evaluations of all agents and loss adjusters and that the corrective actions taken by AIPs are adequate to resolve any deficiencies.

Agency Response.

RMA concurs with this recommendation. RMA will develop policies and procedures to ensure there is sufficient oversight of the annual performance evaluation of agents and loss adjusters, and that corrective actions are adequate to resolve any identified deficiencies. RMA expects to complete this action by August 2010.

OIG Position.

We accept management decision for this recommendation.

Recommendation 22

Report to Congress concerning the agency's delay in implementing this requirement.

Agency Response.

RMA does not concur with this recommendation. RMA did not delay its implementation of the ARPA-mandated requirement. RMA did, as stated in the report; include a requirement in the 2005 SRA that in its opinion met the requirement and intent of Congress. Appendix IV Section II.A. (1) of the SRA states that companies are responsible for "[i]dentifying and documenting the training needs of the employees, agents, agency employees, loss adjusters and contractors that act on behalf of the Company with respect to the applicable procedures and requirements associated with selling and servicing eligible crop insurance contracts." To comply with this requirement, RMA expects

companies to perform an evaluation of the performance of agents and loss adjusters in order to determine such training needs. For this reason, RMA's requirement did meet the intent of Congress, and therefore, this recommendation is not valid or appropriate. RMA did agree with Recommendations 20 and 21 to implement more formal and detailed instructions to better define the AIPs required performance and improve RMA's oversight concerning this requirement.

OIG Position.

We cannot reach management decision on this recommendation. We agree that the SRA prescribed that AIPs are responsible for identifying and documenting the training needs of the AIPs' employees, agents, etc. These training needs are generic in nature; i.e., they involve training agents and adjusters so that they will be professionally qualified to perform their duties and to meet State and local insurance regulations. In contrast, ARPA specifically prescribed that RMA develop procedures to require an annual review by an AIP of the *performance* of each agent and loss adjuster, which we believe goes beyond current SRA requirements. Such performance evaluations of agents and loss adjusters could be used to identify employees' training needs. Therefore, we still believe that RMA did not timely issue policies and procedures implementing the specific performance evaluation requirements of ARPA. Consequently, to reach management decision, RMA still needs to report its delay to Congress.

Scope and Methodology

Audit fieldwork was performed from November 2005 to August 2008, and included visits to RMA Headquarters in Washington D.C.; RMA Product Management in Kansas City, Missouri; and RMA regional compliance offices in Kansas City, Missouri; Davis, California; and Dallas, Texas.

We assessed the broad spectrum of compliance activities performed by RMA's Compliance, Product Management, Insurance Services, and the Office of the Administrator. We examined the extent of coordination and integration of the various compliance functions among the divisions. We also assessed how compliance activities were performed at three of the six regional compliance offices—the Western, Central, and Southern Regional Compliance Offices.

The review consisted of the analysis of compliance activities, such as NPORs, special request reviews, the plan of operation approval process, large claims reviews, and data mining reports; and the policies, and procedures for conducting these activities for CYs 2002 through 2007, as applicable. We also evaluated how RMA complied with the requirements of IPIA and assessed actions taken by RMA to address selected prior audit recommendations.

To accomplish our objectives, the audit included interviews with RMA personnel and examinations of policies, procedures, and activities. Specifically, we:

- Reviewed relevant laws, regulations, policies, and procedures applicable to the crop insurance program, including ARPA, IPIA, Manual 14, and the 2005 Standard Reinsurance Agreement and related appendices.
- Reviewed relevant laws, regulations, policies, and procedures regarding internal controls, including GPRA and GAO's Standards for Internal Controls in the Federal Government and *OMB Circular A-123*.
- Interviewed RMA's management and staff to identify and assess internal controls over compliance activities.
- Reviewed RMA's Performance and Accountability Reports for FY 2004 through FY 2007, Program Assessment Rating Tool review, and RMA's Program Compliance and Integrity Annual Report to Congress for 2001 through 2004.

- Identified and reviewed selected data mining reports produced for RMA.
- Reviewed how RMA selected policies and determined error rates for IPIA.
- Evaluated RMA's policies and procedures for conducting its compliance activities, including Compliance's *NPOR handbook*, compliance manual, manager's bulletins, and other internal guidance.
- Reviewed working papers prepared by the regional compliance offices that documented the work performed during NPORs, special request reviews, and reviews of data mining reports.
- Evaluated RMA's policies and procedures for approving the Standard Reinsurance Agreement.
- Evaluated RMA's policies and procedures for conducting large claims reviews.
- Reviewed NPOR reports issued during FYs 2004 and 2005.
- Evaluated RMA's database (MAGNUM) that is used to record the results of its compliance reviews.
- Assessed whether corrective actions were implemented for recommendations from selected prior GAO and OIG audit reports.[116]

We conducted this performance audit in accordance with government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[116] GAO-05-528, "Crop Insurance: Actions Needed to Reduce Program's Vulnerability to Fraud, Waste, and Abuse," dated September 2005; Audit Report 05099-14-KC, "Monitoring of RMA's Implementation of Manual 14 Reviews/Quality Control Review System," dated March 2002; Audit Report 05099-12-KC, "USDA Implementation of the ARPA of 2002," dated September 2003.

USDA

AUG 1 4 2009

United States Department of Agriculture

Risk Management Agency

1400 Independence Avenue, SW
Stop 0801
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20250-0801

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

FROM: Michael Hand
Audit Liaison Official

SUBJECT: Office of Inspector General Audit 05601-11-At, Official Draft Report
Risk Management Agency Compliance Activities

Outlined below is the Risk Management Agency's (RMA) response to recommendation numbers 1 through 22 in the subject report.

The Risk Management Agency (RMA) has assessed each of the twenty-two (22) recommendations in the subject report. According to RMA's records this audit originally began as an audit survey (05601-8-At) initiated on March 26, 2004, was converted to an audit (05601-11-At) on October 31, 2005, and the discussion draft report was issued on January 16, 2009, a period of time spanning nearly five (5) years. This passage of time to complete the audit report raises questions regarding the impact this had on the relevance, validity, and reliability of the information and data used to support certain findings, especially for a program as large and dynamic as Federal crop insurance. RMA's primary reason for meeting with the auditors regarding the discussion draft report was to highlight inaccuracies in the reflection of RMA's operations and controls used to enforce compliance with the program's statutory requirements and program financial arrangements. The auditors did not agree with most of RMA's concerns that are now articulated below.

General Concerns

The apparent methodology used for this audit was to perform a review of selected segments of RMA's functions and operations, and to combine the limited exceptions identified as a result of these reviews with previous open and closed audit report findings where RMA disagreed with the Office of Inspector General (OIG) auditors. The auditors then restated these differences as being unresolved issues that question RMA's management and its strategy for overseeing the crop insurance program. RMA's position concerning these past issues is that the Agency continues to run the program consistent with the Department's policies and management directives. The auditors have rehashed and restated old audit issues, while RMA moved forward to implement the policies and new program mandates that cannot be delayed while auditors review and track matters made irrelevant by time, progress, and shifting priorities. RMA continues to allocate and adjust its limited resources to accomplish RMA's ongoing program goals and objectives.

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

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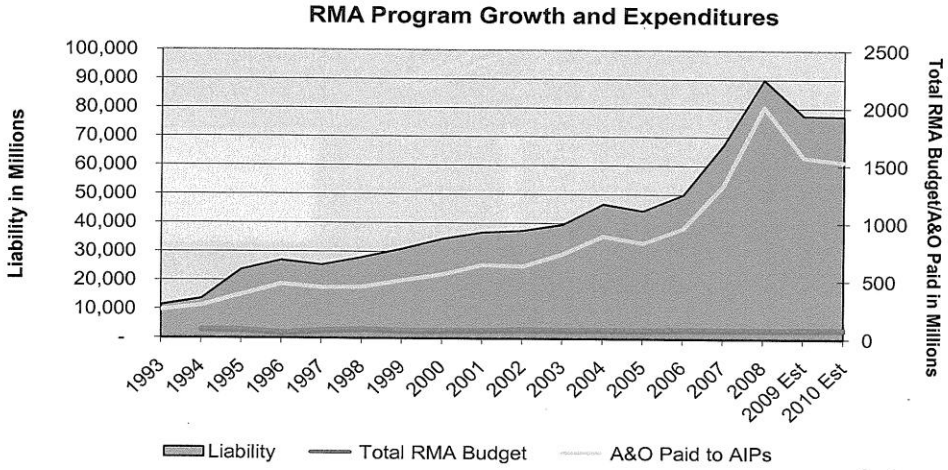
To provide a simple graphic of the resource challenge RMA faces, the following chart of RMA's annual budget compared to program liability is included below:



It is not insignificant to note that when the Agricultural Risk Protection Act of 2000 (ARPA) was passed into law the program's liability was approximately $35 billion, in 2005 when this audit began about $44 billion, and in 2008 the program had increased to nearly $90 billion dollars in liability. Thus, RMA questions the regressive view taken in this audit in light of the complex dynamics of the Federal crop insurance program. This is particularly significant for a process that requires audits to be conducted in a manner intended to provide evidence which is applicable, reliable, and sufficient to support the findings and conclusions. Lastly, it is noted for the record that RMA requested the audit work papers in order to perform an assessment of the supporting documentation for certain recommendations, but the request was declined.

RECOMMENDATION NO. 1: Develop a comprehensive, systematic, and well-defined strategy for its compliance related efforts that includes the following six elements: (1) a clear purpose, scope, and methodology; (2) a detailed discussion of the problems risks, and threats the strategy intends to address; (3) the desired goals and objectives, and outcome-related performance measures; (4) a description of the resources needed to implement the strategy; (5) a clear delineation of the agency's roles, responsibilities, and mechanisms for coordination; and (6) a description of how the strategy is integrated with other USDA agencies.

RECOMMENDATION NO. 2: Designate an official within RMA who has the responsibility to direct and monitor all compliance-related activities and ensure that those activities are carried out efficiently and effectively.

RMA Response:

We do not concur with these recommendations. The audit report suggests that RMA's management fails to have a strategy and necessary management oversight in place to assure compliance actions are efficiently and effectively implemented to improve the integrity of the Federal crop insurance program. The report fails to provide appropriate and sufficient evidence and/or a standard to support the finding and conclusions. To support the finding and recommendation number 1, OIG devised an unofficial standard that is applicable only to RMA, and cited individual operational issues that fail to sufficiently support such sweeping recommendations. The standard applied is based upon the report's interpretation of two statements and examples taken from three different sources which are combined to create an unofficial standard. The finding cites as evidence a few one-time operational issues, policy differences between OIG, RMA and the Office of Management and Budget (OMB), and the auditor's interpretations and understanding of the purpose and objectives of certain RMA operations. These issues are not the result of a failure to have and implement a compliance strategy, but are due to policy differences between RMA and OIG concerning the strategy, and RMA's ability to implement its strategy in an efficient and effective manner given the overwhelming amount of compliance workload, their priorities, and the utilization of limited available resources. The audit fails to provide an assessment of the efficiency and effectiveness of RMA's current strategy. The crop insurance program is large and diverse; however, the concepts and risks are relatively consistent for each individual program, as is the overall strategy for assuring its integrity. RMA devoted its resources and time to work with the auditors to explain and help them understand the internal workings and challenges facing RMA. Information that collectively represents RMA's compliance strategy was not contained in a single source document for the auditors to evaluate, but can be found within each division's function statements, delegations of authority, procedures, documents, and emails. The auditors were unable to effectively synthesize the various documents in order to analyze and evaluate RMA's strategy with the result that the audit report assumes and states that a compliance strategy does not exist and is not being carried out by management.

RMA has a comprehensive, systematic, well-defined strategy for improving the integrity of the Federal crop insurance program. This strategy is outlined in the RMA Strategic Plan for 2006-2011 as required by the "Government Performance Results Act of 1993 (GPRA), Section 3 Strategic Planning", and in each of the 2005 through 2010 President's Budget Submission Explanatory Notes, required in GPRA Section 4, "Annual Performance Plans and Reports". Each of these documents was completed in accordance with Departmental requirements and guidance, and a copy was provided to the auditors. Included in RMA's strategy is the completion of a risk assessment conducted on each of RMA's program operations. These assessments were performed in accordance with Departmental Manual 1110-002, USDA Management Control Manual (DM-1110-002) as part of RMA's strategy to implement an effective management controls process within the crop insurance program in accordance with Departmental Regulation 1110-2 Management Accountability and Control (DR-1110-002); and provides the basis for RMA's determination of its compliance with the Federal Manager's Financial Integrity Act and OMB Circular A-123 Revised. The purpose or strategy of the risk assessments was not to establish a list of all possible risks to the crop insurance program as desired by OIG, but to determine whether RMA has in place the necessary processes and

controls to assure risks are identified and ensure that proper internal controls are in place to manage identified risks. This strategy provides RMA with reasonable assurance that each crop insurance program is developed, implemented, and maintained in such a manner that areas most at risk are identified and addressed as allowed by available resources. RMA met with the auditors on several occasions to outline and explain the above strategies and to provide documents to show how RMA was in compliance with applicable laws, circulars, and departmental regulations and procedures concerning strategic planning and management accountability and controls and their relationship to the integrity of the Federal crop insurance program. In the exit conference for this audit, RMA made inquiries about the documentation provided and whether it showed RMA was in compliance with the respective requirements. The Regional Inspector General for the region that conducted the audit stated that RMA was not in violation of any of the above requirements but, in their opinion, RMA needs to do more than meet these requirements. RMA does not agree with OIG's assessment.

The requirement referenced above and the associated standard that is applied to RMA to justify the finding and recommendations is outlined in the audit report on page 5 in the second paragraph where the report lists and combines three citations from different sources to create a requirement or standard applicable only to this agency. RMA questions the appropriateness and application of this requirement, and the relevance, validity and reliability of the citations it is based upon. The first citation is the auditor's interpretation of one sentence taken out of context from OMB Circular A-123 Revised, "Management's Accountability and Control" which is referencing a strategy solely for the performance of risk assessments, and not as stated in the report, specifying a requirement that a strategy be developed for all agency activities. As stated above, RMA has a strategy for performing its risk assessments. The next citation is three sentences taken from the General Accountability Office's report (GAO) -06-0788, "Rebuilding Iraq: More Comprehensive National Strategy Needed to Help Achieve United States Goals," dated July 2006, in which GAO outlines their concept for devising a national strategy to rebuild Iraq. This situation is not applicable to RMA. The final citation is a single sentence taken out of context from the four volume report, "Internal Control – Integrated Framework, prepared by The Committee of Sponsoring Organizations of the Treadway Commission, May 1994" which provides a framework for which internal control systems may be assessed and improved, and not for developing an overall strategy. It appears OIG has combined these three citations to create an audit standard or requirement for RMA that is not relevant, valid, nor reliable.

RMA questions the first citation concerning OMB Circular A-123 Revised. This circular does not state that, "OMB requires that agency management have a clear, organized strategy for agency activities", as stated in the audit report. OMB A-123 states, "While the procedures may vary from agency to agency, management should have a clear, organized strategy with well-defined documentation processes that contain an audit trail, verifiable results, and specific document retention periods so that someone not connected with the procedures can understand the **assessment process**." The term assessment, as used in this statement, is referring to Risk Assessments, not an overall agency management strategy for improving program integrity.

RMA questions the relevance of the second citation concerning GAO's report on rebuilding Iraq. The term "strategy", as referred to by GAO's Rebuilding Iraq report, refers to the National Strategy for Victory in Iraq or the political, economic, psychological and military force for

implementing national policies. This situation requires a multifaceted and complex strategy involving many diverse groups and interests which are not applicable to the situations RMA faces relative to the integrity of the Federal crop insurance program. In addition, the report's reference to A-123 together with the GAO report is erroneous because the two requirements are not related and the second one does not apply to USDA or RMA. What GAO has described in their report is a concept that is applicable to the specific situation. OIG has taken this concept and directly applied it to RMA without any basis or validity for making this association.

RMA questions the third citation concerning a concept taken out of context and interpreted by the auditors from the "Internal Control – Integrated Framework", prepared by The Committee of Sponsoring Organizations (COSO) of the Treadway Commission, May 1994, report. The Treadway Commission is a private-sector initiative, formed in 1985 to inspect, analyze, and make recommendations on fraudulent corporate financial reporting. In September 1992, the Commission published the above four volume report presenting a common definition of internal control and provided a framework against which internal control systems may be assessed and improved. A review of a short summary of the key points in the report shows its content to be similar or identical to the content contained in OMB Circular A-123 Revised, and Departmental Manual 1110-002, USDA Management Control Manual.

In 2004, as a result of high-profile business scandals and failures (e.g. Enron, Tyco International, Adelphia, and WorldCom), COSO published Enterprise Risk Management – Integrated Framework, expanding on internal control and focusing on the broader subject of enterprise risk management. The enterprise risk management framework includes four categories and eight framework components. The categories are identified as Strategic, Operations, Reporting, and Compliance. The "Strategic" category is defined as high-level goals, aligned with and supporting its mission. The eight components include five from the internal control frame work plus three others. Two of them are "objective setting" and "event identification". "Objective setting" states, "Objectives must exist before management can identify potential events affecting their achievement. Enterprise risk management ensures that management has in place a process to set objectives and that the chosen objectives support and align with the entity's mission and are consistent with its risk appetite", while "event identification" states, "Internal and external events affecting achievement of an entity's objectives must be identified, distinguishing between risks and opportunities. Opportunities are channeled back to management's strategy or objective-setting processes." RMA does have similar operational components and associated processes. The citation in the report states, "Clear operations objectives and strategies are fundamental to success because they provide a focal point toward which the entity will commit substantial resources." RMA questions the relevance and validity of OIG's interpretation and application of the above components of the Treadway report and therefore questions the reliability of the statement and the appropriateness of applying it to RMA. RMA requested a copy of the work papers relative to this finding and recommendations to assess OIG's basis and position for this statement to determine its relevance and reliability, but the request was declined by OIG.

The finding for this recommendation cites several issues the auditors believe are appropriate to and provide support for the finding and associated recommendations. Outlined below is RMA's

assessment of each issue identified and the reason(s) why it is not relevant, valid, and/or reliable to the finding and/or recommendation.

RMA Has Not Determined a Reliable Error Rate for IPIA

This issue is not applicable to the finding and recommendations. The issue is unreliable because it states OIG's unsubstantiated conclusions about OMB's acceptance of RMA's Improper Payment Information Act of 2002 (IPIA) results without verification from OMB. The matter as to whether an error rate is acceptable is not evidence to support the contention that a strategy is not in place. This is a policy and operational difference between OIG, RMA, and OMB. OIG acknowledges that RMA has an error rate in place for IPIA which meets one of the requirements outlined in the OIG devised standard. OIG further states that OMB approved RMA's IPIA methodology, but that RMA did not fully disclose to OMB the OIG perceived limitations and exclusions with this methodology. OIG stated that they did not discuss this finding with OMB. This lack of validation and verification by OIG makes this issue one of speculation on OIG's part, and not based on a true and legitimate interpretation by OMB. Ultimately, the concerns expressed by OIG are inappropriate because OMB *did* approve the IPIA plan being used by RMA, based on the complexity of the program and the limited resources available to RMA to conduct IPIA reviews. Furthermore, OIG failed to recognize that the targets set each year in the Agency's corrective action plan are approved by the Department in consultation with RMA.

RMA Has Not Developed Performance Measures to Assess the Outcome of Compliance Activities

This issue has no relevance to the finding as RMA does report the outcome of its compliance activities in the Risk Management Agency Program Compliance and Integrity Annual Report to Congress and the IPIA. In addition, this concern fails to consider and acknowledge that the vast majority of Compliance's activities and resources are allocated to performing reviews required by Congressional mandates. For this reason, RMA's performance measures primarily focus on the completion of these activities and their results. Mandates include the ARPA required spot checks, FSA referrals, IPIA, OIG Audit and Investigation findings, assessing and reviewing Data Mining Reports of apparent anomalies to determine if it is an actual case of noncompliance with program regulations, and reported instances of suspicion of fraud, waste, and abuse. Because RMA's resources are limited and the number of reviews generated by these mandates far exceeds its capacity, RMA is forced to strategically focus its resources to identify and address those issues where the risk is the highest. The report failed to assess whether RMA was performing this strategy. Instead, it cited RMA for not performing reviews it was required to perform but could not complete because of resource constraints (which the audit report acknowledges).

RMA Has Not Fully Implemented Prior OIG and GAO Recommendations for Improving Oversight of the AIPs

This issue is not reliable, has no relevance, and provides no validity to the finding and/or recommendations. The report fails to correctly state the examples that are not the result of a lack of a strategy, but are due to disagreements between RMA and OIG over the policy and appropriate actions necessary to address the issues. The report incorrectly states that RMA has

agreed with these recommendations. If this were true, then there would be management decision for these recommendations and RMA would have implemented them. The issue cited concerns oversight of the Approved Insurance Providers (AIP) and the AIPs quality control review processes, and whether RMA and the Department agree with the OIG's recommendations for addressing these matters. This is an issue of disagreement between OIG, and RMA (with the Department's concurrence) over the appropriate policy and actions to be pursued in the above manner, and the direction and subsequent actions taken by RMA to implement the Departmental policy. RMA has an overall strategy; however, OIG does not agree with it and, therefore, states none exists. The report leads the reader to believe RMA agrees with OIG on the recommendations, but has not implemented them. This is not completely true. RMA agreed with one of the recommendations and proceeded to implement it through a contractor. The contractor was unable to complete the task as envisioned by a previous Administrator, and failed to deliver any product of value or use to RMA. RMA communicated this to OIG. RMA has implemented, or is in the process of implementing, every OIG recommendation where management decision has been reached for all current audits. It is important to note, Departmental Regulations are in place instructing OIG to seek resolution of audit recommendations through the elevation of such matters to the next management level. Although RMA has requested this action on several occasions, OIG has not agreed to elevate the matters for resolution. Instead, OIG continues to recycle these recommendations in subsequent audits as issues and a failure on the part of RMA.

RMA Has Not Ensured the Effectiveness of its Large Claims Reviews

This issue has no relevance to the finding and recommendation, and does not show a lack of strategy on the part of RMA, but lists operational issues concerning the number of reviews RMA can perform due to resource constraints (sufficient number of trained and qualified personnel and travel funds to participate in reviews) that are beyond RMA's control. Despite the constraints mentioned above, RMA has been able to attain its initial strategic goal and purpose for performing these reviews in order to ensure the integrity of the crop insurance program. As previously stated, resource constraints prevented RMA from ensuring the effectiveness as envisioned by OIG; however, RMA contends the strategy applied allows RMA to focus its limited resources upon those areas where indicators showed the greatest potential or likelihood for fraud, waste, or abuse. Included in RMA's strategy is the knowledge by producers of a potential review upon their operations, and its deterrent effect.

The operational issues raised by OIG in this finding are issues that RMA is already aware of, and primarily involve the lack of formal procedures and the scope of the universe for selecting large claims. RMA will continue to address these issues as resources become available.

RMA Has Not Fully Complied With ARPA Requirements

This issue does not show a lack of strategy on the part of RMA, but lists operational issues concerning the number of reviews RMA is prevented from performing due to resource constraints. The conclusion in the report for this issue confirms and states, "While OIG acknowledges that RMA's resources may be limited and that it may not be able to comply with these requirements, we also maintain that the agency must report its inability to comply with

ARPA to Congress and seek legislative change." For this reason, RMA sees no logical relationship of this issue to the finding and recommendations. During the audit, RMA advised OIG that RMA has communicated its inability to fully comply with the requirements of ARPA to Congress. It is RMA's compliance strategy that the program would benefit from Congress appropriating additional funds to provide more Compliance resources rather than, as OIG suggests, have Congress revise the requirements found in ARPA that RMA believes would benefit the program if resources were available to complete the required tasks.

RMA's response to other comments made by OIG in support of this finding and recommendations.

The report states on page 5 first paragraph second sentence, "RMA investigates individual instances of noncompliance but does not always identify and address program vulnerabilities." This statement has no application to the finding, and there is no validity or reliability of the evidence supporting it. RMA could never comply with the absolute standard outlined by OIG in this statement given the size and complexity of the crop insurance program, and the resources allocated to its oversight. Also, there is no valid and relevant evidence provided to support the statement, such as percent of reviews where this situation exists. Individual isolated instances are not sufficient to support the lack of and need for compliance strategy. RMA's strategy is to determine whether the situation mandates a review be conducted, the evidence and severity of a violation, and the resources that are immediately available to perform the review. In most cases this will result in an individual review being conducted. If there is enough evidence of a systemic problem then RMA conducts program reviews as resources are available. RMA has requested additional resources in each of its last five budget request for compliance purposes. It is interesting to note that OIG cites one instance where RMA did not effectively apply this strategy to a program matter and now cites it as if RMA never had a strategy or applied it.

The report states on page 5, first paragraph 5th sentence, "Even though different units within RMA play important roles in ensuring the integrity of the program, there is no defined strategy for coordinating all compliance-related tasks, or for ensuring that they are completed." This statement is not valid as RMA has in place functional statements and delegations of authority for each organizational unit instructing each one as to what they are required to perform and the authority for performing it. The Administrator and/or the Associate Administrator are responsible for ensuring the functions are carried out in an efficient and effective manner as allowed by resources and outside constraints. This statement appears to stand by itself and is not supported by any appropriate and/or sufficient evidence. OIG has made comments concerning some individual situations, but has not provided a logical relationship and sound reasoning to associate these situations to a failure to have a strategy.

OIG essentially restates the above statement again on page 10 in the second paragraph last sentence, "yet these offices and divisions do not always effectively coordinate with one another." Any organization the size and complexity of the crop insurance program and the limited resources allocated to oversee it, will not *always* effectively coordinate in *every* situation, even with a strategy as desired by OIG,

The first example is no longer applicable to the concern since the matter was agreed to by OIG and RMA and addressed two years ago. The example outlines a three sentence paragraph that includes the interpretation of a finding from an audit report issued in 2007 which has since been closed. The finding in the original report was that Product Management had not specified in detail the information it required, nor identified who was to obtain the information. This is completely different than what has been stated in this report. The report does not include a statement indicating that RMA addressed the recommendation several years ago, but puts in a footnote explaining that RMA has addressed this matter, which includes the following statement, "However, at the time of our audit, these conditions existed, illustrating a weakness in RMA's processes and procedures." This is a weakness RMA has addressed and that no longer exists, and is not applicable to other RMA units. For this reason, this situation provides no relevance to the statement it is supposed to support. This matter was associated with a pilot program that was 0being tested to determine where weaknesses may exist. The fact that a weakness was found is not considered a failure, but a success on the part of the process, even one that is found by OIG as well.

The other example cited involves the interaction between Strategic Data Acquisition and Analyses Staff (SDAA) and Compliance and the contention they do not effectively work together to identify ways of improving perceived deficiencies in data mining reports. The report goes on to state that Compliance does not always follow up on anomalies identified because of their concern that the reports contain too many false positives. This statement is true; however, it fails to mention that Compliance does not have the resources to examine all of these false positives to determine their validity. For this reason, Compliance believes it has a strategy in place for this concern that allows it to effectively and efficiently perform given the level of resources and other priorities. The OIG assessment is one dimensional and fails to consider all the variables that can determine the effectiveness of an operation. RMA's position is that it addresses the highest priority compliance issues in all its operations within the confines of its resources.

OIG states on page 5, first paragraph last sentence, "As a result, RMA has limited its ability to accomplish its strategic objective of overseeing the crop insurance industry and enhancing deterrence and prosecution of fraud, waste, and abuse." This statement confirms that RMA has a strategy in place, but that OIG believes RMA's ability to achieve its strategic objective is limited, and therefore another strategy is needed to achieve it. The audit report does not provide any assessment as to how much of RMA's ability is impaired and the necessity for their proposed strategy. Other than citing a few operational issues, issues of policy differences, and insufficient resources, as the basis for this statement, the auditors do not provide any assessment of RMA's level of impairment due to these matters. RMA may be operating at a 95% ability level and due to the instances cited by the auditors it is now at 93%. Prudent management requires a qualified assessment of an endeavor before reallocating limited resources away from one important area to another area. The only evidence provided is OIG's judgment that it must be done.

RECOMMENDATION NO. 3: Conduct and document an overall risk assessment of program operations to identify major program vulnerabilities and focus, coordinate, and prioritize resource on high-risk areas.

RMA Response:

RMA does not concur with this recommendation. As previously stated in the response to recommendation numbers 1 and 2 above, RMA completed risk assessments of its program operations in 2006 in accordance with Departmental Regulation 1110-2 and Departmental Manual 1110-002. The strategy used to complete these assessments was to first identify each Agency program operation in place to implement, maintain and oversee each crop insurance program (assessable units), and then assess each one to ensure reasonable and necessary controls are in place within these operations to identify and address both individual and systemic problems, risks, and threats to the integrity of the each program within a reasonable amount of time, and as resources or other priorities allow. RMA's completion of its risk assessments and the strategy used to complete them address this recommendation.

The audit report questions these risk assessments and states, "RMA did not identify what threats or vulnerabilities these program/functions were designed to address." As stated above, these assessments were not intended to list (as desired by the auditors) in one document all risks associated with the crop insurance program, but to assure that reasonable systems, processes, and controls are in place within each operation to identify and address the above threats or vulnerabilities. The audit report confirms this approach and states, "An RMA Compliance staff person stated that the agency had not documented these risks because they are identified through the agency's ordinary business processes, specifically Product Management's evaluation of insurance program, and the agency thus does not find it necessary to document these risks formally." RMA questions OIG's definition of "formally" and the need or benefit to meeting their requirement as all risks are documented and addressed within the above identified processes for each crop insurance program. For example, the Program Evaluation Handbook, FCIC 22010 outlines steps that must be completed in the evaluation of each crop insurance program in order to assure risks are identified and addressed. Two risks the Handbook identifies that must be assessed for every crop insurance program are morale and moral hazards. These are standard risks within the insurance industry and are well know by all participants. Participation in the crop insurance program is based on self certification by participants, and determinations of program benefits based on judgments by AIP sales and service personnel. There are known risks of improper payments due to failure to follow approved policy and procedure, simple mistakes, or intentional attempts to collect a payment through misrepresentation or fraud. These inherent risks are well known within the crop insurance industry. Although these risks are not documented in a manner suitable to OIG, they are identified in the above Handbook and USDA/RMA Measurement Plan, and are the basis and context for the following RMA statement, "An RMA official stated that the threats were well known to managers and that the agency did not see a need to document them formally."

The finding assesses the National Program Operations Review (NPOR) program and states, "We found, however, that the NPOR is not well designed to identify systemic problems, and that RMA does not always review individual problems to determine if they represent systemic vulnerabilities." The portion of the above finding, "does not always review", is not supported by appropriate or sufficient evidence to show whether this is a one-time instance, an occasional matter due to resource constraints, or a systemic issue. The 100 percent standard implied by this

statement is unreasonable for a program the size and magnitude of the crop insurance program. The statement, "not well designed to identify systemic problems", indicates a failure to fully comprehend the purpose of the NPOR program and how its components relate to assuring the integrity of the crop insurance program. As stated in the audit report, the NPOR focuses on an AIP's compliance with laws, regulations, the Standard Reinsurance Agreement (SRA), and FCIC policies and procedures. This highlights another OIG failure to grasp the purpose of these requirements and their application to ensuring program integrity. The primary purpose of these requirements is to identify and address one or more of the above inherent or subsequently identified risks. If the requirement identifies a risk and it is considered systemic, then it is addressed by reporting the matter to the appropriate RMA organizational unit. There are numerous examples of such interaction between RMA and AIPs. The RMA strategy used to complete each NPOR is the same as the one applied to completing its risk assessment. During an NPOR, each AIP is assessed to determine whether or not they have the necessary and appropriate systems, processes, procedures, personnel, and controls in place to ensure each requirement is being met. This provides assurance to RMA that reasonable controls are in place and are operational. As a result, individual and systemic program risks are detected, reported and addressed.

The finding makes comments relative to Special Request Reviews and states the following, "These special request reviews are often focused on a single issue, but RMA has not ensured that the most important special request reviews, i.e., those most likely to identify fraud, waste, or abuse, are addressed first." The finding then further states, "When a special request review uncovers potential systemic program vulnerabilities, RMA does not have a formal process for determining if the vulnerability is indeed systemic, and for taking appropriate corrective action. Without a formal process, RMA cannot ensure that it is focusing its resources on the most vulnerable areas, or that it is prioritizing compliance activities that are most likely to identify fraud, waste, or abuse." The above statements are based on conjecture with no relevant, valid or reliable evidence to support them. A formal system, as envisioned by OIG, cannot be devised because of the many different variables and judgments associated with each situation in order to determine its merits and whether and what further action is appropriate. The system employed by RMA uses both formal aspects and judgment on the part of the regional Compliance Directors. Such judgments are not exercised in a vacuum, but include consultation and discussions with the Deputy Administrator for Compliance and, when appropriate, other organizational units. No system is perfect and will have instances that can be questioned or seconded guessed. However, OIG has not provided any empirical evidence to show that RMA's system is not working, such as a percentage of failure and its impact.

RECOMMENDATION NO. 4: Develop and implement a process for trending the results of its compliance reviews to identify vulnerabilities and systemic problems.

RMA Response:

RMA concurs with this recommendation and will use its newly implemented Compliance Activities and Results System to develop a report trending the results of its compliance reviews to show any applicable vulnerabilities and systemic problems. RMA expects to complete this action by August 2010.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 5: Use the results of the reviews it performs to periodically update risk assessments to ensure that it is effectively identifying and addressing high-priority program vulnerabilities and systemic problems.

RMA Response:

RMA conditionally concurs with this recommendation. RMA will provide the results from recommendation number 5 to the Deputy Administrators for Program Management and Insurance Services, and the Strategic Data Acquisition and Analysis staff for their use in identifying program vulnerabilities and systemic problems. We expect to complete this task by August of 2010.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 6: Develop and implement a sampling method for determining and calculating RMA's rate of improper payments that fully meets the requirements for IPIA by including all payments, premium subsidies and denied claims.

RMA Response:

RMA does not concur with this recommendation as the current sampling method has been approved by the Office of Management and Budget. Please refer to RMA's response to this issue in its response to recommendation number 1.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 7: Identify the causes of any errors, develop and implement appropriate corrective actions to reduce or eliminate those errors, and establish targets for reducing the overall error rates.

RMA Response:

RMA does not concur with this recommendation. This is currently being performed by the agency and was most recently reported in the Risk Management Agency FY 2009 Corrective Action Plan dated May 2009 and provided to the Department.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 8: Develop outcome-based performance measures and goals to measure the agency's progress in achieving its strategic goal of providing oversight of the crop insurance industry and enhancing deterrence and prosecution of fraud, waste, and abuse.

RMA Response:

RMA does not concur with this recommendation as this action is currently being performed by the agency and is being reported in the Risk Management Agency Program Compliance and Integrity Annual Report to Congress as required under the Federal Crop Insurance Act (7 U.S.C. sec. 1515) Risk Management Agency. This report provides information on how the program is monitored for compliance and describes the steps taken to improve the way compliance detection and enforcement activities are conducted and their results.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 9:

Establish and implement a process for performing large claim reviews that includes standardized criteria for selecting claims for review.

RMA Response:

RMA concurs in part. The Regional Offices (ROs) have had a standardized procedure since RMA began participation in large claims. The Center for Agricultural Excellence (CAE) developed a scoring tool that incorporates the following:

- Random Spot Check List
- Yield Switching
- Prevented Planting
- New Producer
- Frequent Filer
- Rare Big Losers
- Triplets
- All or nothing losses

This tool is available to each RO on the CAE Dashboard. Once the RO receives a large claim notice, the RO can score the policyholder based on the above referenced criteria. Also, the Risk Management Services Division (RMSD) has created a separate Nursery Spot Check Procedure (See attachment 1).

In addition to the criteria noted above, RMA recently added additional criteria for selection of claims for RMA participation. RMA expects to finalize and issue a Large Claims Handbook by January 1, 2010 (See attachment 2), which will include the following additional criteria (See attachment 3):

1. RMSD Considerations – National perspective

a) RMSD will identify systemic problems on a national basis. RMSD will request potential large claim participation through the RO Director:
   (1) By AIP.
   (2) By Crop.
   (3) Related to any other issue.

2. RO Considerations – Regional perspective

a) AIP Considerations
   (1) Review a variety of AIP's (especially AIP's new to region or program).
   (2) Previously identified systemic issues for a particular AIP within the region. Any systemic problems should be referred to RMSD.

b) Program Considerations
   (1) New policies, procedures or pilot programs. ***NOTE:*** *Reviews of these items may also be completed outside of large claim participation.*
   (2) Areas of probable/potential program vulnerabilities (changes in planting, crop, or management practice decisions/behavior).
   (3) Unusual fluctuations in loss ratios (not on an individual policy basis).
   (4) Previously identified systemic issues for a particular policy or procedure. Any systemic problems should be referred to RMSD.

c) Regional Considerations
   (1) Crop distribution (participate in a variety of crops in the region).
   (2) Geographical distribution (participate in a variety of areas within the region).

d) Seasonal Considerations
   (1) Unique claim circumstances: quality, aflatoxin, market losses, etc.

3. Additional Resources

a) CAE Selection Routine Project
   (1) All policy data including producer score.
   (2) CAE Spyder Network to analyze associated entities.

RMA requests management decision for this recommendation.

RECOMMENDATION NO, 10:

Include some large claims that result from disasters in the large claims reviews.

RMA Response:

RMA concurs with the recommendation. CAE has established a process to include large claims that result from disasters in large claim reviews. This report can be generated at will (ad hoc

report) through the CAE tool at the time of disaster for the specific area to the level of detail required. This report is optional under the selection criteria.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 11:

Modify its system for tracking and monitoring large claims reviews to include the results of the reviews.

RMA Response:

RMA concurs with the recommendation. RMA has developed a Large Claim Log system. This system is internal to RMA ROs and IS and is located on Share Point. The Large Claim Log allows the RO to enter the initial claim, generate a Notice of Acceptance email to the appropriate RO, track the status of the claim, and document the results of the claim activity at the end of the process. Reports can be generated from the Large Claim Log to provide the number of claims in the system and the status of the claims for a specific point in time. (See attachment 4.)

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 12:

Analyze and trend the results of its large claims reviews to identify potential systemic vulnerabilities.

RMA Response:

RMA concurs with the recommendation. The large claim database is being updated to track and monitor the results of large claim reviews. This system will enable RMA to analyze and trend the results of large claim reviews to identify potential systemic vulnerabilities, and is expected to be operational by January of 2010.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 13:

Cease terminating large claims reviews when the reviewer finds evidence of AIP's noncompliance with FCIC-issued policies and procedures. Issue an informational memorandum or Manager's Bulletin instructing RMA staff not to terminate a large claim review because of an AIP's non-compliance.

RMA Response:

RMA concurs with the recommendation. RMA had ceased opting out under these circumstances before the audit report was issued. RMA expects to finalize and issue a Large Claims Handbook by January 1, 2010, which will include this instruction, as well.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 14:

Review those large claims reviews identified above to ensure that the claims were paid in accordance with FCIC policies and procedures. Take appropriate corrective actions if the claims were not paid in accordance with FCIC policies and procedures.

RMA Response:

RMA concurs with the recommendation. IS will within the next year assess the above reviews, and if appropriate refer them to Compliance for further review and necessary corrective actions.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 15:

Determine whether other large claims reviews were terminated because of an AIP's failure to comply with FCIC policy and procedures and review those claims to ensure that the claim was correctly paid. Take appropriate corrective action if claims were not paid in accordance with FCIC policy and procedure.

RMA Response:

RMA concurs with the recommendation. IS will as stated in the above recommendation within the next year assess the above reviews and determine whether it is appropriate to refer them to Compliance for further review and necessary corrective actions.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 16:

Develop and implement policies and procedures for including claims from disasters in separate data mining reports.

RMA Response:

RMA conditionally concurs with the recommendation. The SDAA staff have met and conferred with property casualty companies affected by the Hurricane Katrina disaster. These companies were faced with some of the same difficulties faced by AIPs in disaster situations. Their

approach was to identify particular aspects in damaged properties, and focus on those claims where damage fell outside the norm. SDAA and CAE will attempt to conduct a similar analysis of claims from previous disasters. SDAA will choose disasters from several distinct and different causes, such as hurricane, drought, etc. SDAA will then attempt to discern if there are uniform and distinctive characteristics about the nature of the reported damage. Once damage characteristic to a particular disaster cause is identified, SDAA will "ground truth" the results in "real time" with the next similar occurrence of the event (the next hurricane, drought, etc.). If the field results show that the absence of identified characteristics are reliable indications of anomalous claims, SDAA will begin comparing this data to all subsequent events. It is often weeks and months after the fact before CAE receives claims data and by that time it will be too late to make on site field verifications.

Because the occurrence of each specific disaster is unpredictable, and may not occur for several years; RMA cannot establish a reasonable completion date for the recommendation as stated. As a result, the recommendation may remain open without management decision for several years until such occurrence(s) take place. For this reason, RMA proposes management decision be reached for this recommendation based upon RMA's completion of its analysis of claims from previous disasters, and a determination as to whether or not there are potential aspects that can be used in subsequent data mining reports. Implementation of recommendation number 17 establishes the RMA policy and procedures for assuring any potential aspects will be tested and appropriate actions taken by RMA. RMA expects to complete the analysis and evaluation by August of 2010.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 17:

Develop and implement policies and procedures for requiring RMA staff or AIPs to review data mining reports, investigate anomalies identified by these reports, provide feedback to the Strategic Data Acquisition and Analysis data mining team, and take corrective actions to remedy any problems.

RMA Response:

RMA concurs with the recommendation. The SDAA will develop a policy of "ground truthing" or field verification of data mining products through the appropriate field offices. Once the product is found to be a reliable indicator of likely policy service problems the final report will be delivered to the responsible division. The responsible unit will take the actions appropriate to the nature of the problem and report back results to the SDAA unit of the Office of the Administrator. RMA expects to implement this policy and procedure by July of 2010.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 18:

Reconcile data with FSA from CY 2001 to the present, or seek legislative change regarding this mandate.

RMA Response:

RMA does not concur with this recommendation. It is nearly identical to recommendation 2b in audit report 50099-12-KC, Implementation of the Agricultural Risk Protection Act of 2000 and basically restates this recommendation. RMA has not been ignoring a Congressional mandate as stated in the report. Since ARPA's enactment, RMA has briefed Congressional Committees and their staffs over the years concerning the problems associated with reconciliation. In fact, the finding for this recommendation neglects to include the following information from the OIG Management Challenges Report showing CIMS was the result of Congressional awareness of the problems and there solution. "Since ARPA was enacted, section 10706 of the Farm Security and Rural Investment Act of 2002 directed the Secretary of Agriculture to develop a comprehensive information management system (CIMS) to be used in implementing the programs administered by RMA and FSA. Under section 10706, all current RMA and FSA information is to be combined, reconciled, redefined, and reformatted in such a manner that the agencies can use the information management system. It was the sense of Congress that CIMS, developed for RMA and FSA, would demonstrate substantial efficiencies and serve as a first step toward broader, Department-wide integration that valuable groundwork would be laid for further modernization of information technology systems of USDA agencies in the future, and for the incorporation of those systems into CIMS." In the interim period, RMA and FSA have consistently reconciled the data used in implementing authorized disaster programs that required the use of RMA data downloads. RMA Compliance received over 6,600 Crop Disaster Program referrals for the 2005, 2006, and 2007 crop years as a result of the FSA County Offices identifying discrepancies between the data reported for crop insurance and the producer certifications to FSA. This information was repeatedly made available to OIG over the course of the audit.

RMA requests management decision for these recommendations.

RECOMMENDATION NO. 19:

Develop policies and procedures that require RMA to review disparately performing agents and adjusters to assess whether the higher than average loss ratios for the agents and adjusters identified are the result of potential fraud, waste, or abuse.

RMA Response:

We concur in part with this recommendation. RMA has made efforts to address the intent of Congress, but will re-evaluate its procedures to determine whether changes can be made to meet the specifics of the ARPA language. RMA expects to complete this action by August of 2010.

RMA requests management decision for these recommendations.

RECOMMENDATION NO. 20:

Develop policies and procedures for AIPs to follow as they evaluate the performance of their agents and adjusters.

RMA Response:

We concur with this recommendation. The SRA contains in Appendix IV Section II.A an informal requirement for AIPs to evaluate the performance of their agents and adjusters. RMA will develop procedures requiring approved insurance providers to conduct a formal review of the performance of each agent and loss adjuster to supplement the current proficiency requirements in the 2005 SRA and in various State laws. RMA will consider including the annual review procedures in the 2010 SRA which is currently being renegotiated. RMA expects to complete this action by August of 2010.

RMA requests management decision for these recommendations.

RECOMMENDATION NO. 21:

Develop and implement policies and procedures for monitoring AIPs completion of the annual performance evaluations of agents and loss adjusters. This monitoring should ensure that AIPs conduct the annual evaluations of all agents and loss adjusters and that the corrective actions taken by AIPs are adequate to resolve any deficiencies.

RMA Response:

We concur with this recommendation. RMA will develop policies and procedures to ensure there is sufficient oversight of the annual performance evaluation of agents and loss adjusters, and that corrective actions are adequate to resolve any identified deficiencies. RMA expects to complete this action by August of 2010.

RMA requests management decision for these recommendations.

RECOMMENDATION NO. 22:

Report to Congress the agency's delay in implementing this requirement.

RMA Response:

We do not concur with this recommendation. RMA did not delay its implementation of the ARPA-mandated requirement. RMA did, as stated in the report; include a requirement in the 2005 SRA that in its opinion met the requirement and intent of Congress. Appendix IV Section II.A. (1) of the SRA states, Companies are responsible for, "Identifying and documenting the training needs of the employees, agents, agency employees, loss adjusters and contractors that act on behalf of the Company with respect to the applicable procedures and requirements associated with selling and servicing eligible crop insurance contracts." To comply with this

requirement, RMA expects companies to perform an evaluation of the performance of agents and loss adjusters in order to determine such training needs. For this reason, RMA's requirement did meet the intent of Congress, and therefore, this recommendation is not valid and/or appropriate. RMA did agree in Recommendation Numbers 20 and 21 to implement more formal and detailed instructions to better define the AIPs required performance, and RMA's oversight concerning this requirement.

RMA requests management decision for these recommendations.

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

Attachments

Nursery Spot Check Procedure

Approved for Use as of April 1, 2009

I. PURPOSE

Nursery Spot Check will be conducted to verify compliance to MGR-08-003 - Documentation to Support Plant Inventory Value Report and Claims for Indemnity by the Approved Insurance Providers (AIPs).

II. BACKGROUND

For 2008 and succeeding crop year claims for indemnity, AIPs must obtain and inspect the records to support the PIVR, revised PIVR, Peak Inventory Value Report and the NGPE, if applicable, and determine whether the records are acceptable before completing any claim for indemnity. AIPs and their agents must ensure that policyholders are reminded of the record retention requirements and that failure of the producer to provide the documents supporting the PIVR, revised PIVR, Peak Inventory Value Report and the NGPE when requested at any time during the record retention period will result in a determination that no indemnity is due as provided in section 21(f) of the Basic Provisions.

AIPs must:

1. Obtain and inspect records to support the PIVR, revised PIVR, Peak Inventory Value Report and the Pilot Nursery Growers Price Endorsement (NGPE);

2. Obtain documentation to support the PIVR and Peak Inventory Value Report that may include but is not limited to:

   • A detailed plant inventory listing that includes the name, the number, and the size of each plant, and the wholesale price of each plant;

   • Acceptable records of sales and purchases of plants for the crop year. Policyholders may be asked to provide acceptable records of plant purchases and sales for the three previous crop years. ***Note: we will accept a summary of sales but only if the required information is on the summary.***

   • Evidence of the policyholder's ability to properly obtain and maintain nursery stock.

   Acceptable records must contain the name and telephone number of the purchaser or seller, as applicable, names of the plants, the number of each plant sold or purchased, and the sales price for each plant;

3. Ensure that policyholders are reminded of the record retention requirements and reporting requirements and that failure of the producer to provide the documents supporting the PIVR, revised PIVR, Peak Inventory Value Report and the NGPE when requested at any time during the record retention period will result

Nursery Spot Check Procedure
Approved for Use as of April 1, 2009

in a determination that no indemnity is due as provided in section 21(f) of the Basic Provisions; and,

4. Ensure that Policyholders have provided acceptable, verifiable wholesale sales records by the sales closing date if the plants are priced at least 50 percent higher than the EPL/PPS price schedule for the same plant in accordance with the NGPE.

RMA must also comply with MGR-08-003 by conducting annual spot checks to determine compliance by the AIPs to the bulletin.

1. Each Regional Office (RO) shall spot check one ***(1) paid nursery claim for each AIP*** operating in the States served by the RO.

2. Regional Offices who have a large number of paid nursery claims ***may be asked*** to do more than one (1) spot check.

3. Regional Offices who do not have one (1) paid nursery claims for the crop year ***may be asked*** to support other ROs who have a greater workload.

4. Decisions on items 2 and 3 will be determined by the RO Director and the RMSD Director.

5. A paid nursery claim is a claim where the amount of indemnity exceeds the crop year deductible or occurrence deductible.

6. Each RO shall submit a RO Review Plan, which includes claims selected for review, person assigned to conduct the review, and estimated time of completion. Note: Please attach the "RO Review Plan" to this report.

III. PREPARING FOR THE SPOT CHECK

1. The RO shall use the CAE program to identify paid nursery claims in their region for the applicable crop year.

2. From the query, the RO shall select the paid nursery claim files for spot check, ensuring that files from each AIP servicing nursery policies in the area are represented. Note: Claims for which RMA participated or conducted file review during large claim participation or that are under investigation by either Compliance or OIG shall not be selected.

3. For each paid nursery claim file selected, the RO shall notify the AIP Regional Claims Manager in writing (designated as the "RO File Request Letter" for purposes of this procedure) of the file selected for spot check and request **a copy of the completed claim with all supporting documentation for the PIVR for the applicable crop year paid nursery claim file, including the pre-acceptance**

inspection, for review. A copy of the signed and dated "RO File Request Letter" should be attached to this procedure.

The "RO File Request Letter" noted above shall require the AIP to notify the policyholder, in writing, that:

a. the paid nursery claim file has been selected for spot check by RMA;
b. all records supporting the crop year paid claim and all supporting documentation of the PIVR for crop year paid claim, including the pre-acceptance inspection, shall be provided to RMA for review;
c. AIP and RO representatives may visit the nursery; and,
d. if the nursery is visited, the visit shall include inspection of the nursery and policyholder's records, including, but not limited to, records to support the PIVR, the revised PIVR, Peak Inventory Value Report, the NGPE (as applicable) and the claim.

A courtesy copy of the letter shall be sent to RMSD. The signed letter may be scanned as a PDF file and sent via email to the AIP Regional Claims Manager, cc RMSD.

4. Upon receipt of the AIP completed claim file, the RO shall review the file for completeness and accuracy of the required records and documentation (use the Spot Check Report Checklist found on page 4). The RO shall notify RMSD that the file review has been completed and request a teleconference to discuss the results of the review.

   NOTE: If the file is *not received* or if the received file is *incomplete*, the RO shall immediately report the deficiency to RMSD. Heyward Baker, Director, RMSD will contact the AIP.

5. The RO and RMSD will evaluate the results of the RO completed file review and determine if a field review or Compliance referral is required.

6. The RO notifies, via email, the AIP Claims Manager if a visit to the policyholder is needed and of the proposed date. The RO will assist the AIP to coordinate the logistics of the visit with the policyholder.

IV. CONDUCTING THE SPOT CHECK

The Spot Check will consist of:

1. Using the claim file to inspect records to determine if adequate records support the PIVR, revised PIVR, Peak Inventory Value Report and NGPE, as applicable, and the paid claim;

2. Verify plant purchase and sales records and receipts to corresponding plants on the PIVR.

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Approved for Use as of April 1, 2009

3. Verify that the pre-acceptance inspection was properly and accurately completed, and appears reasonable.

4. Interviewing the policyholder by phone or in person to determine if he/she is aware of the retention requirements and reporting requirements of the policy;

5. At the time of the on site visit, determine the policyholder's ability to take care of nursery stock, and if possible, evaluate evidence from the claim file; and,

6. Documenting the results of the spot check in a report, including photographs and copies of records, as needed.

V. COMPLETING THE SPOT CHECK REPORT

The Spot Check Report shall contain five (5) sections:

Section 1	Policy Specific Information
Section 2	Adequate Records
Section 3	Policyholder's Knowledge of Record Retention and Reporting Requirements
Section 4	Evaluate Evidence of the Policyholder's Ability to Maintain the Nursery and Nursery Plants
Section 5	Summary

Nursery Spot Check Procedure

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The RO shall use the following Nursery Spot Check Matrix to complete the report:

NURSERY SPOT CHECK MATRIX		
Section 1 Policy Specific Information - Using the paid nursery claim file of the policyholder, verify:		
AIP:		
Agent:		
Loss Adjuster:		
Verify the policyholder's Name:		
Policy Holder Number:		
County:		
State:		
Crop Year:		
Liability by Type:		
Indemnity by Type:		
Companion Contract:		
	PASS/FAIL (USE EITHER "P "FOR PASS OR "F" FOR FAIL FOR ALL COLUMNS UNLESS NOTED OTHERWISE)	**SUPPORTING DOCUMENTS* (*LABEL AND ATTACH SUPPORTING DOCUMENTS FOLLOWING THE REMARKS SECTION)**
Section 2 - Adequate Records		
Answer the following questions using "P" or "F" as described in the headers on the right. Use the Remarks Section at the end of this document to (1) describe the records contained in the file: state any discrepancies or omissions; note all concerns; label and attach supporting documentation; and/or (2) describe records presented by the policyholder or provided by AIP to support the PIVR, revised PIVR, Peak Inventory Value Report and NGPE (as applicable) and the claim. State any discrepancies or omissions. Note all concerns. Label and attach supporting documentation. ***Note: Do not consider records determined to be inadequate. The amounts or values represented in inadequate records shall not be included or considered as supporting the PIVR, revised PIVR, the Peak Inventory Value Report, the NGPE, as applicable and the claim.***		
1. When describing the acceptable records: Do the acceptable records meet the Nursery policy requirements? If "F" for Fail, be specific in describing why not in the **remarks section.**		
2. Do the acceptable records support the PIVR, revised PIVR, the Peak Inventory Value Report and the NGPE (as applicable)? If "F" for Fail, be specific in describing why not in the **remarks section.**		

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3. Is the pre-acceptance inspection documentation in the file? Is the pre-acceptance inspection complete? If "F" for Fail, be specific in describing why not in the remarks section.		

	PASS/FAIL	SUPPORTING DOCUMENTS*
Section 3 - Policyholder's Knowledge of Record Retention Requirements specified in the Nursery Policy		
1. Ask the policyholder if he/she are aware of the record retention and reporting requirements of the policy.		
2. Use the Remarks Section to document the complete responses of the policyholder. Ask who, if anyone, discussed record retention and reporting requirements with him/her. ***Note: if anyone else is speaking on behalf of or in conversation with the policyholder such as the Nursery Manager, etc., identify the person and person's position or relationship to the policyholder***		
Review the record retention requirements and reporting requirements with the policyholder.		
	PASS/FAIL	**SUPPORTING DOCUMENTS***
Section 4 - Evaluate Evidence of the Policyholder's Ability to Obtain and Maintain Nursery Plants		
1. Ask the AIP representative how he/she made this determination (that policyholder has ability to obtain and maintain nursery plants).		
2. Ask the policyholder about restocking, labor, shipping, nursery licensing and certifications, etc.		
3. Ask enough questions and visually inspect the nursery if required to identify if it appears to be a viable wholesale nursery.		
4. Fully document responses and take photographs to support the documentation. Make certain that the photographs show the date the photos were taken either by the camera's date stamp or by displaying within the photographed area a clear sign designating the date and location of the nursery.		
5. Evaluate evidence from the claim file (or on site visit) of the policyholder's ability to obtain and maintain nursery stock; such as, but not limited to: • Check the acreage of the nursery, including greenhouses and ensure the nursery is able to physically house the amount of plant material. This may be accomplished by checking the area required for the type plant to produce a finished nursery product and comparing this to the amount of acreage in the nursery. • Insure the plants are spaced properly as to allow for normal growth without being		

Nursery Spot Check Procedure

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crowded by adjacent plants. (Check the top of the plant and insure it is a well balanced plant. If the plants, either field grown or container are not spaced properly they will normally have a misshapen top or trunk/limb damage from adjacent plants. This would be considered uninsurable damage.) • Insure the nursery is capable of providing the appropriate cold storage requirements for all plants requiring cold protection. • Check the nursery equipment to ensure the nursery has the proper equipment for the plants grown. If a nursery grows large field grown plants then they should have a large mechanical spade for harvesting the trees. If a nursery grows large container plants i.e. 45 to 400 gallon containers they should have the appropriate equipment to move and ship heavy plants. • Check the nursery's equipment for fertilization, pesticide, and herbicides. A nursery should have equipment compatible to any other farming operations dependent on the size of the nursery and plant material i.e. if a nursery is growing large trees 15 feet and above they should have spray equipment comparable to any grove or orchard operation.		
		SUPPORTING DOCUMENTS*
Section 5 - Summary The RO shall objectively evaluate the four sections (noted above) of the completed spot check and score the results. The RO shall **not** discuss the report with the policyholder. The RO is spot checking compliance with FCIC issued procedures and **will not change or approve changes** to insurance documents.		
TOTAL PASS (Count the number of "P" entries and total)		
TOTAL FAIL (Count the number of "F" entries and total)		

Nursery Spot Check Procedure

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Remarks Section:

Note: For each remark, note the section number and the question number. (Section 4, Q #1:)
Copy and attach this page as necessary to document all remarks and observations.

Nursery Spot Check Procedure

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SPOT CHECK REPORT DISTRIBUTION:

1. The RO shall retain one copy of the Spot Check Report with supporting documentation and photographs. The RO shall forward a second copy of the report with supporting documentation and photographs to RMSD.

2. If the Spot Check Report indicates the AIP failed in all four areas of the review, an additional copy of the report with supporting documentation, photographs and the policyholder's paid nursery claim file shall be sent to RMSD with a recommendation for referral to the appropriate Compliance Field Office. The file must also contain documentation the PIVR, revised PIVRs, the Peak Inventory Value Report and the NGPE (as applicable).

SUMMARIZING SPOT CHECK REPORTS:

RMSD shall summarize spot check reports conducted by the ROs and then notify the Deputy Administrator, Insurance Services; the Deputy Administrator, Compliance; and, the Director, Reinsurance Services Division of the AIP's non-compliance with MGR-08-003.

United States
Department of
Agriculture

Federal Crop Insurance
Corporation

Insurance
Services

FCIC-XXX (XX-2010)

LARGE CLAIMS HANDBOOK (LCH)

2010 and Succeeding Crop Years

DRAFT
Dated 07/15//09

DRAFT SC 1 FCIC-(LCH)

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DRAFT SC 2 FCIC-(LCH)

FEDERAL CROP INSURANCE HANDBOOK	NUMBER: XXXXX
SUBJECT: LARGE CLAIMS HANDBOOK (LCH) 2009 AND SUCCEEDING CROP YEARS	OPI: Product Development Division Approved: DRAFT Date: Deputy Administrator for Insurance Services

THIS HANDBOOK CONTAINS THE FCIC-ISSUED STANDARDS AND PROCEDURES FOR HANDLING LARGE CLAIMS DETERMINATIONS. THIS HANDBOOK IS EFFECTIVE THE 2009AND SUCCEEDING CROP YEARS. ALL REGIONAL OFFICES AND INSURANCE PROVIDERS MUST USE THESE PROCEDURES WHEN MAKING LARGE CLAIMS DETERMINATIONS.

SUMMARY OF CHANGES/CONTROL CHART

This is the initial issuance of this handbook for the 2009 and succeeding crop years.

Control Chart For: Large Claims Handbook						
	SC Page(s)	TC Page(s)	Text Pages	Reference Material	Date	Directive Number
Current Index						

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LARGE CLAIMS HANDBOOK

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1. INTRODUCTION

A. GENERAL INFORMATION

(1) The definition of "Large Claim" is a potential claim on an eligible crop insurance contract with an indemnity in excess of $500,000, or such other amounts as determined by Federal Crop Insurance Corporation (as defined in MGR 08-010)*, and the production losses under such claim are likely to exceed such amount.

(2) In case of a conflict between this procedure and other documents issued by the Risk Management Agency, the following order of precedence will apply with the most important document listed first.

(a) Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.) (Act)

(b) The Catastrophic Risk Protection Endorsement, as applicable

(c) Written Agreement

(d) The Special Provisions and other actuarial documents (refer to the RMA Loss Adjustment Manual for order of precedence of actuarial documents)

(e) Crop Endorsement/Options

(f) Crop Provisions

(g) Common Crop Insurance Policy (Basic Provisions)

(h) Final Agency Determinations

(i) Manager's Bulletins

(j) Requests for Determinations and Reconsiderations Regarding Good Farming Practices Handbook

(k) Crop Insurance Handbook and other applicable Underwriting Guides

(l) Loss Adjustment Manual

(m) Crop Loss Adjustment Standards Handbooks

(n) R&D Informational Memorandums

(o) Informational Memorandums

(p) Large Claims Handbook

* MGR-08-010 issued June 27, 2008

Comment [I1]: This footnote needs to be formatted and numbered which is caused the others to be renumbered as well

B. **EFFECTIVE DATE**

This procedure is effective on the date that this handbook is issued. This handbook remains in effect until superseded by reissuance of either the entire handbook or selected portions (either through slip sheets or an RMA Manager's Bulletin). If slip sheets have been issued for this handbook, the original handbook as amended by slip sheet pages shall constitute the handbook. An RMA Manager's Bulletin supersedes either the original handbook or subsequent slip sheets, as specified.

C. **ABBREVIATIONS OR ACRONYMS**

AIP	Approved Insurance Provider
APH	Actual Production History
CAE	Center for Agribusiness Excellence
CIH	Crop Insurance Handbook
DAIS	Deputy Administrator of Insurance Services
DAS	Data Acceptance System
ECIC	Eligible Crop Insurance Contract
FCIC	Federal Crop Insurance Corporation
FSA	Farm Service Agency
GFP	Good Farming Practices
LC	Large Claim
LCR	Large Claims Review
LCTL	Large Claims Team Leader
NAD	National Appeals Division
NCRS	Natural Resources Conservation Service
OGC	Office of General Counsel
RMA	Risk Management Agency
RMSD	Risk Management Services Division
RO	Regional Office
SRA	Standard Reinsurance Agreement

D. **DEFINITONS**

Approved Insurance Provider (AIP)	A legal entity, including the Company, which has entered into a Standard Reinsurance Agreement with FCIC for the applicable reinsurance year.[1]
Authorized Representative	Any person, whether or not an attorney, who is authorized in writing by the insured to act for the insured.
Field inspections[2]	A visit to the policyholder's farming operation for the purpose of making findings necessary to determine eligibility, compliance

1 SRA
2 Guidance for large claims from RMSD dtd 10/31/06

with program terms and conditions, the correct premium and any indemnity, prevented planting or replant payment, whether agents and loss adjusters have complied with all applicable procedures and include, but are not limited to, reviews for preliminary and final loss adjustment, pre-harvest or growing season inspection, and pre-acceptance inspections, the verification of adequate records, a determination that the report practice is being carried out in accordance with good farming practices, a determination of whether the crop has been replanted, or to evaluate agent or loss adjuster conduct or the circumstances of a loss.

Eligible Crop Insurance Contract[3]

Under the current SRA an insurance contract for an agricultural commodity authorized by the Act and approved by FCIC, with terms and conditions in effect as of the applicable contract change date, that is sold and serviced consistent with the Act, FCIC regulations, the procedures and this Agreement, having a sales closing date within the reinsurance year, and with an eligible producer (Commonly referred to as a county/crop contract). Compliance and Insurance Services will use the ECIC definition as the basis for identifying claims that must be reviewed. Claims that fall within the ECIC definition for this purpose include:

any single claim that exceeds the threshold for an ECIC due to prevented planting and/or production losses or area loss,

any aggregate ECIC claims including claims that were closed and subsequent claims that exceed the threshold due to prevented planting and/or production losses,

any ECIC claim that exceeds the threshold due to "calculated revenue" loss on an Adjusted Gross Revenue, Crop Revenue Coverage, Group Risk Income Protection, or Revenue Assurance plan of insurance.

Exception:

For the Crop Revenue Coverage and Revenue Assurance plan of insurance; if neither the ECIC prevented planting and production losses nor the calculated revenue claim exceed the threshold, but the entire claim exceeds the threshold, RMA will <u>not</u> include the policy under the review requirement.

3 BULLETIN NO: MGR-05-010

Verification[4]	The determination of whether information submitted is true and accurate through independent means in accordance with procedures. With respect to certifications, asking the provider of the information whether the information is true and accurate does not constitute verification. Information from independent third parties or independent documentation must be obtained.
Written Documentation	Includes any written information in hard copy or compatible electronic format (including facsimile).

2. TIME LINES

A. REGIONAL OFFICE SELECTIONS[5]

Based on RMA established criteria, the RO will select what action it will take with respect to the potential claim.

(1) Within 3 full business days of the RO's receipt of potential claim notice, the RO will enter the claim into the Large Claim Log, complete its evaluation and notifiy the AIP of the action using the large claims log.

(a) If for any reason the RO is closed when the notice is received or the response is due, notification will be considered as received, or the response will be provided, the next business day.

(b) The RO shall consider any notice of potential claim received after 2:00 pm. local time as received on the next business day.

3. CLARIFICATION OF FCIC-ISSUED POLICY AND OR PROCEDURE

A. AIP INQUIRIES

For interpretations of the meaning or applicability of procedure, prepare the request according to the criteria for requesting an interpretation of procedures in MGR-05-018.

4 Guidance for large claims from RMSD dtd 10/31/06
5 BULLETIN NO.: MGR-05-009

[BLANK PAGE]

B. RMA INQUIRIES

(1) Understanding the meaning and the proper application of FCIC-issued policies and procedures is critical to successfully "working" a claim, documenting claim determinations, and defending the RO decision through mediation, administrative review, NAD appeal, reconsideration and judicial review.

(2) All questions or issues requiring clarification, explanation or interpretation of policies or procedures for LCR and GFP determinations shall be directed to your first line contact. RMSD will develop the request for clarification, explanation or interpretation to the appropriate RMA office and provide a written response to all ROs. Verbal responses or phone conversations conducted outside this process are not adequate support for RO determinations in court.

4. INSURANCE SERVICES RESPONSIBILITIES

A. NOTICE OF LARGE CLAIM[6]

When written notice of a potential claim on an eligible crop insurance contract where the production loss or indemnity is likely to exceed $500,000 is received, RMA may elect to participate in the loss determinations, perform a file review the actions of the AIP taken in the settlement of the claim before agreement is reached with the insured and before payment, or decline participation or review of the claim.

(1) Based on RMA established criteria, the RO will select what action it will take with respect to the potential claim:

(a) Within 3 full business days of the RO's receipt of the potential large claim notice, the RO will notify the AIP of the action it will take and the name of the RO contact person;

1 If for any reason the RO is closed when the notice is received or the response is due, notification will be considered as received, or the response will be provided, the next business day.

2 The RO shall consider any notice of potential claim received after 2:00 p.m. local time as received on the next business day.

(2) Potential RO actions include:

(a) Decline to review or participate in the loss determination process.

6 BULLETIN NO.: MGR-05-009

(b) Participate in the loss determination.

(c) File review of the actions taken by the AIP in settlement of the claim before agreement is reached with the insured and before payment of any indemnity or prevented planting payment.

(3) The RO will review mandatory APH reviews required by the SRA or FCIC-issued procedure conducted by the AIP.

B. RO PRELIMINARY REVIEW [7]

This review is taken to determine if the RO should participate. Refer to Section 19, Exhibit B.

(1) Enter the LC into the Large Claim Log Application.

(2) Gather policyholder information and notice and provide to the LCTL.

(a) Gather the following:

1 policyholder information,

2 APH (if applicable)

3 CAE (producer scoring upgraded)

4 if needed, check with local FSA, Extension and NRCS to ascertain extent of loss event and if there is a likelihood of other potential notices.

(3) Review the policyholder information and reports and determine if the RO should participate.

(4) Consider special demographic objectives such as:

(a) geographic distribution: select notices to gain the largest geographic distribution possible.

(b) AIP representation: assure involvement with all eligible AIP's for our region.

(c) new / revised policies / pilots

(5) Review the findings with RO Director, LCTL or designee.

(a) If accepting:

7 From the Underwriting Operations Review Workgroup headed by Evelyn Johnson

1 Determine if the Regional Compliance office has an ongoing review

2 Visit with their Special Investigations Branch: Is entity under review? **Special Note:** consider declining if there is an ongoing review for the current crop year

3 Meet with Director, assign the claim, and notify that LC Team member.

4 Notify AIP of intent using Large Claim Log Application (cc: RO Dir., RO Deputy Dir. & LC team)

5 Print out copy of response to AIP for the file

6 Create File in accordance with the LC Case File Organization Procedure (Exhibit 19 E.)

a Large Claim Checklist (Exhibit 19 A) and Large Claims Guidelines (Exhibit 19 B)

b Required Documentation specified on Selected Policies Guidelines

c Refer to accompanying Selected Policies Guidelines regarding next steps

(b) If Declining:

1 Notify AIP of intent using the Large Claim Log Application (cc: RO Dir.) File notice and response to AIP with back up materials in Large Claims File

C. LARGE CLAIM FILE REVIEW

(1) RMA must hold an Entrance Conference or Teleconference with the AIP.

(2) RMA must audit the following documents as applicable:

(a) Schedule of Insurance

(b) Insured Acreage Report

(c) FSA-578 forms, Report of Acreage

(d) Actual Production History Form

(e) Mandatory APH Review conducted by the AIP[8]

1 Review documents of the AIP Mandatory Review

2 Choose a representative sample of units to determine if AIP calculated correctly

(f) Notice of Loss

(g) Production Worksheets and Appraisal Worksheets

(h) Loss Summary of Coverage/Proof of Loss

(i) Aerial photographs, and crop photographs

(j) Miscellaneous loss documents

(3) RMA must participate in the Exit Conference or Teleconference with the insured and the AIP.

(4) RMA must issue the Decision Letter.

(5) Within 2 weeks of issuing the decision letter the RO must update the LC Log to record the results of the LC activity.

D. LARGE CLAIM FIELD REVIEW

For case file documentation refer to Section 19, Exhibit B

(1) RMA must hold an Entrance Conference or Teleconference with the AIP.

(a) Conduct interview with AIP/Adjuster to review large claim process and develop plan.

(b) Request entire loss file and gather materials and review the following:

1 AIP Claim File (items not available from RMA database)

2 Mandatory APH Review [9]

a Review documents of the AIP Mandatory Review

b Choose a representative sample of units to determine if AIP calculated

8 Items 1 &2 – new information
9 Items a & b – new information

correctly

3 Pre-Acceptance Inspection/ legal's/ acreage report/ loss experience

4 Verify insurability of all acreage in the unit(s) involved

(c) Review any special underwriting actions, e.g. Written Agreements, Added Land, etc.

(d) Adjuster briefs RMA Specialist on expected issues/difficulties and other pertinent grower file information

(e) Plan Field Review Strategy

(2) Keeping producer informed.

(a) Inform insured of RMA presence and work with AIP to keep producer informed

(b) Complete Claim Checklist Form (Section 19. Exhibit A.)

(c) Stalled review: consider a weekly conference call with AIP & insured

(3) Hold Exit Conference or Teleconference with Insured and AIP[10]

(a) Review findings/issues when signing Production Worksheet(s)

(b) Contact insured to review final loss numbers (prior to RMA sign-off on field participation or file review)

(4) Issue Decision Letters in accordance with the LC Case File Organization Procedure (Exhibit 19 E). **Note:** Policyholder is given 10 calendar days to provide additional information. A letter is issued documenting RO large claim determinations along with signed loss documents.

1 Use templates for large claim decision letter (Exhibit 19).)

2 Letters will be reviewed by AIP for concurrence

Comment [I3]: It has to be clear that IF the RO Director wants Paul or Dale to review the RO Decision letter, the Director must request it. All requests must come through the Director.

(5) Officially Close the Claim:

(a) The RO must record the results of the claim activity in the LC Log.
(b) After appeal completion or time has expired for the policyholder to request review or appeal.
) (c) Document "lessons learned" and add to the file and debrief the LC team (including RO Director)

10 From Heyward Baker email dtd 11/01/07

E. LARGE CLAIM FILES

The LC Case File Organization Procedure (Exhibit 19 E) will be used to develop the claim case file, including exhibits, photographs and related documentation and Decision Letters (Exhibit 19 E, Attachments A1 and A2.)

5. TRAINING REQUIREMENTS FOR RMA EMPLOYEES

A. TRAINING CURRICULUM[11]

Training curriculum must include at a minimum (for employees new to large claims, all of the following and for employees experienced with large claims, updates and changes), sufficient information to make such persons proficient in:

(1) The following:

(a) The meaning of the terms and conditions of the Common Crop Insurance Policy, Basic Provisions and applicable Crop Provisions, published at 7 C.F.R. part 457, and the other available plans of insurance such as the Group Risk Plan published at 7 C.F.R. part 407, and the revenue insurance plans, pilot programs, and other plans of insurance found on FCIC's website at www.rma.usda.gov, and any changes thereto;

(a) All applicable endorsements, Special Provisions and options and any changes thereto;

(c) The benefits and differences between the applicable plans of insurance specified in subparagraph (a);

(d) The actuarial documents and their usage;

(e) How to properly fill out and submit all applicable forms, documents, notices and reports;

(f) How to recognize anomalies in reported information and common indicators of misrepresentation, fraud, waste or abuse, the process to report such to FCIC, and appropriate actions to be taken when anomalies or evidence of misrepresentation, fraud, waste or abuse exist; and

11 (Based off AIP requirements in SRA Appendix IV)

(g) Other requirements as may be determined by FCIC.

(2) The requirements in the procedures applicable to adjustment of claims for eligible crop insurance contracts and any changes thereto;

(1) How to properly verify the accuracy of the information contained on applicable forms, documents, notices and reports;

(2) How to properly determine the amount of production to be used for the purposes of determining losses;

(3) The requirements under applicable Federal civil rights statutes; and

(4) Other requirements as may be determined by FCIC.

B. TRAINING REQUIRMENTS[12]

Before RMA, may permit employees, to adjust or sign, any claim for any eligible crop insurance contract:

(1) For employees who have not be certified on large claim reviews:

These employees must participate in a structured training program of at least 60 hours on all of the items listed in paragraph (A) (including at least 24 hours of classroom training).

Conditional Certification:

24 hours	*Certification Training*
13 hours	*Ag-Learn Courses (3 hours of Ethics)*
23 hours	*Mentoring with Senior or Coordinator*

Total: 60 hours

(2) For employees who required re-certification on large claim reviews

These employees must annually complete at least 18 hours of structured training (including at least 6 hours of classroom training), on updates or changes specifically related to the areas listed in paragraph (A).

Re-Certification:

6 hours	Re-Certification Training
3 hours	Ag-Learn Course (Ethics)
10 hours	Crop School or similar field coursework

Total: 19 hours

12 (Base off AIP requirements in SRA Appendix IV).

C. COMPETENCY TESTS AND MAINTAINING RECORDS[13]

(1) All employees working with large claims and other applicable persons must pass a basic competency test. Basic competency tests must specifically relate to the areas listed in paragraph (A) and determine the proficiency of the persons who completed the required training to accurately and correctly determine the amount of the loss and verify applicable information. Additionally, RMA's RO must review the test results and document follow-up training initiatives for any area of identified weakness on the part of any employee working with large claims.

(2) All employees working with large claims and other applicable persons must retake and pass the competency test every three years.

(3) RMA's RO Directors are responsible to ensure all appropriate staff are certified and maintain certification. The RO will maintain records of certification for their staff.

(1) appropriate actions to be taken when anomalies or evidence of misrepresentation, fraud, waste or abuse exist;

(2) The requirements in the procedures applicable to adjustment of claims for eligible crop insurance contracts and any changes thereto;

(3) How to properly verify the accuracy of the information contained on applicable forms, documents, notices and reports;

(4) How to properly determine the amount of production to be used for the purposes of determining losses;

(5) The requirements under applicable Federal civil rights statutes; and

(6) Other requirements as may be determined by RO Director or RMSD.

D. TO MEET THESE REQUIREMENTS THE LARGE CLAIM TEAM CAN USE THE FOLLOWING ACCEPTABLE SOURCES OF CLASSROOM AND RIELD TRAIING:

- RMSD provided training
- In-house training (RO personnel)
  - Including actuarial documents, policy, handbooks, and procedures review
  - Loss adjustment topics
  - RO personnel led field training
- Graduate School/Ag Learn

13 SRA format used to create this section

- AIP adjuster schools (specific by RO region)
- NCIS meetings/schools (specific by RO region)
- University/Extension schools/classes/field days
- Invited outside speakers (RO specific)
- Crop industry field days
- Large claim library (i.e. PowerPoint presentations, modules, etc.-SharePoint site to be developed)
  - Crop/claims training modules (Stored in SharePoint site)
- Insurance Industry Schools (i.e. Insurance Institute of America)
- USDA/State Departments (i.e. FSA, NAD, Ag Departments)
- Crop Adjuster Proficiency program. (RMSD checking on)
- Certified Adjuster /Consultant Certification program. (RMSD checking on)
- Commodity industry meetings
- AIP update training
- Ethics training (As Learn)
- Graduate School/Ag Learn

E. TRAINING LIBRARY (Located on SharePoint site):

Many of the following modules are available and/or should be developed and placed on the SharePoint site. The outline below could serve as the basic structure of the SharePoint site. We will survey the offices to see what is currently available and work with RMSD to populate the Training Library.

Crop Program Modules
- Various Crop Programs (Crop Provisions, Crop Loss Manual, Underwriting)

Program Modules
- APH Review
- Entity: Types, Requirements, Changes
- Unit Structure
- Acceptable Records
- Written Unit Agreements
- Master Yields
- 1st Crop / 2nd Crop
- Fundamentals of Crop Insurance, Policy, Crop Provisions, Special Provisions
- Late Planting
- Plans of Insurance

Large Claim Modules
- Large Claim Process: Start to Finish
- Case File Organization
- Report Writing - LC
- Report Writing – GFP

- Documentation and Report Writing Preparing and Defending the Case
- Maintaining Proper Documentation

Program Integrity Modules
- Fraud Prevention
- $100,000 Reviews
- Conflict of Interest

Loss Adjustment Modules
- Going to the Field (Claim Determination 101)
- Acreages and Destroying Acreage Without Consent
- Acreage reporting and what to look for with LC review
- Use of MIF and LAF
- Verifying the Cause of Loss
- Determining Acreage
- Establishing Production
- Adjustment to Production
- Handling Unusual and Controversial Claims
- Replanting Provisions and Payments
- Prevented Planting
- Specific Crop Modules

Lessons Learned

Directives

Correspondence
- Templates (Letter etc.)

Other
- CAE new tools training (HyDRA, Dashboard, Maps, Weather Data)
- Using GPS Camera (documentation with photo's, downloading, and filing)
- Preparing for a NAD Appeal

F. TRAINING PLANS:

RO Large Claims Coordinator and RO Director should establish a plan considering their selection criteria and using a mixture of the above tools to ensure all RO staff assigned large claims are properly trained on an annual basis. Refer to the above training options for a good outline to consider when developing the annual training plans and make sure each employee has a formal plan in place documented on their IDP as part of their performance requirements.

G. LARGE CLAIMS TRAINING LOG TEMPLATES

Staff 1
Last Exam Date: 6/20/2008
Certified: Y
Calendar Year: 2009
Fiscal Year:

Date	City or County	State	Source of training (organization or entity)	Name of Trainer	Duration (Hours) Classroom	Field	Ethics	Duration (Hours)	Crop(s)	Summary of Training Activities
5-Mar-09	Fresno	CA	NCIS	NCIS Personnel	0	3	0	3	Tomatoes	Claim Field Day
30-Apr-09	Spokane	WA	RMA RO	RO/Personnel	1	3	0	4	Cherries	Review loss procedures and conduct appraisal
6-Jun-09	Davis	CA	RMA RO	Ag Leam	0	0	3	3	Not Crop Specific	Ethics
					1	6	3	10		

Calendar Year: 2008
Fiscal Year:

Date	City or County	State	Source of training (organization or entity)	Name of Trainer	Duration (Hours) Classroom	Field	Ethics	Duration (Hours)	Crop(s)	Summary of Training Activities
20-Jun-08	Kansas City	MO	GFP & Large Claims Trg	KCO/Personnel	28	0	0	28	Not Crop Specific	GFP and Large Claims Certification Training
30-Oct-08	Davis	CA	UC Davis Field Day	UC Davis	0	6	0	6	Small Grains	New varieties/Water situation
					28	6	0	34		

Staff 2										
Last Certification Date:	6/6/2008									
Certified	Y									
1	2	3	4	5	6	7	8	9	10	11
			Source of training			Duration	(Hours)	Duration		
Date	City or County	State	(organization or entity)	Name of Trainer	Classroom	Field	Ethics	(Hours)	Crop(s)	Summary of Training Activities
20-Oct-08	Stanislaus	CA	NCIS and CA Dept of Ag	Mr I. m. Trainer	3	3	0	6	Apples	Grading Standards
5-Mar-09	Fresno	CA	NCIS	NCIS Personnel	0	3	0	3	Tomatoes	Claim Field Day
30-Apr-09	Davis	CA	RMA RO	Ag Learn	0	0	3	3	None	Ethics
5/6/2009	Davis	CA	RMA RO	RMS	6	0	0	6	None	File Maintanence
30-Jun-09	Davis	CA	Ag Learn	Director	3	0	0	3	None	Passed Re-certification test
					12	6	3	21		

6. AIP RESPONSIBILITIES

A. INITIAL NOTIFICATION[14]

(1) The AIP must notify the RMA RO in whose area the insured acreage is located of the potential claim by facsimile or e-mail to the general RO e-mail address, to the attention of the Director, clearly identifying the message as a Potential Large Claim Notice.

(a) A potential claim is a notice of loss where the production loss or the amount of indemnity is likely to exceed $500,000, or other amount as determined by RMA.

(b) The notice to the RO must include, to the extent possible, the policyholder's name, policy number, crop, acreage affected, reported cause of loss, and intended use for the damaged acreage.

(2) The AIP may respond to the notice of loss and prepare for loss activities but shall not conduct any field loss adjustment activities until the RO responds to its notice of potential claim, or until the 3-day notice period has elapsed.

B. LARGE CLAIM SCREENING[15]

(1) To fulfill its responsibility to only report those claims that are likely to exceed $500,000, the AIP must conduct certain activities to determine that a notice of potential claim will likely result in a production loss or indemnity exceeding $500,000. These activities may include field visits and communications with the insured producer or others to collect loss and cause of loss information. Appraisals may be performed to ascertain an estimate of the production potential.

(2) However, during this screening process, the AIP shall not:

(a) Make any actual determinations of the amount of loss;

(b) Release the acreage for other use;

(c) Reach an agreement with the insured as to appraisals, the amount of uninsured causes, production to count and the amount or cause of loss; or

(d) Allow the loss adjuster or the insured to sign any production worksheets or appraisal worksheets.

(3) The screening process could involve collecting certain information that supports or confirms a cause of loss has occurred. This information may be collected from agricultural experts as necessary prior to notifying the RMA RO.

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14 BULLETIN NO.: MGR-05-009 and MGR-05-009.1
15 BULLETIN NO.: MGR-05-009 and MGR-05-009.1

(4) All documentation relied upon by the AIP to conclude that the claim is likely to exceed $500,000, which may include all unsigned documents used in the process of making the assessment, any third-party documents or information collected by the AIP and any other information used by the AIP to determine whether the loss reached the required threshold must be forwarded to the RMA RO upon their request.

(5) The RMA RO will review this information and documentation as well as any other information at their disposal to determine whether the large claim notice should be accepted for RMA participation.

(6) If RMA opts out because the potential claim will be less than $500,000, the AIP must provide an additional notice when future damage occurs or becomes known that may cause the potential claim to exceed $500,000.

(7) The AIP must contact the RO contact person to coordinate all loss adjustment activities.

(8) The AIP may not conduct a loss adjustment activity without first coordinating such activity with the RO, unless otherwise authorized by the RO.

(9) The AIP must contact the RO contact person if additional damage occurs.

(10) The AIP is responsible for communications with the insured and will inform the insured of RMA's review or participation in the loss determination.

(a) Any written communication with the insured pertaining to review or loss determinations for which RMA is involved, must be approved in writing by the RO or Risk Management Services Division (RMSD).

(11) AIPs should involve its field supervision early in the process to ensure that all requirements are met. If RMA determines that all requirements have not been met, RMA will take the appropriate action as authorized under the SRA.

7. DAS OR eDAS REPORTING[16]

A. REPORTING

The AIP must report the action taken by RMA on the applicable loss record, to the RMA DAS or eDAS according to Appendix III of the SRA/LPRA. If the record is part of a potential claim on the eligible crop insurance contract reported under paragraph 1, the large Claim Flag must be;

(1) N = AIP notified RMA of excessive indemnity and RMA did not participate in the determinations, or

(2) R = RMA participated in loss determinations or reviewed loss determinations before payment.

8. AIP SERVICING OR LOSS ADJUSTMENT ISSUES

A. DOCUMENTATION OF AIP SERVICING OR LOSS ADJUSTMENT ISSUES:[17]

(1) While carrying out RO functions, if the RO finds the AIP failed to follow FCIC Issued policies and procedures, the RO shall:

(a) Document and cite applicable FCIC-issued policy and procedure, material facts, and failure to perform;

(b) Include available documentation, record of visits and conversations, and a recommendation for referral to Compliance Division, Reinsurance Services Division, Product Management, Civil Rights and Outreach or a combination in accordance with Informational Memorandum "Procedures for Internal Controls' dated July XX, 2009;

(c) Send documentation package to RMSD; and

(d) Maintain a working file that includes ALL documentation obtained in the field whether used in the decision letter or not.

16 BULLETIN NO.: MGR-05-006
17 INFORMATIONAL MEMORANDUM IS-07-016

9. CASE FILE DOCUMENTATION

A. GENERAL INSTRUCTIONS:[18] **In addition to guidelines found in Exhibit 19 E of this handbook, the RO must:**

(1) Take photographs with appropriate landmarks and labeling as you visit the field site and conduct appraisals or otherwise document crop and field conditions. Remember, you must label photos so that anyone unfamiliar with the issue can understand what the photo is intended to communicate. Keep and document all photos.

(2) Complete and sign Claim Checklist (see section 19 Exhibit A) for each claim review. Explain all responses. Fully document any "No" answers using page 2. Include references to the documents reviewed, interviews conducted, telephone conversations, and/or applicable policy and procedure supporting your determination.

(3) Complete field notes within 24 hours of completion of the field inspection after leaving the field using "Claim Checklist Form Remarks & Field Notes", Section 19, Exhibit C. This is necessary to assert the notes were contemporaneous.

(4) Prepare and submit to the RO Director a trip report that includes your observations, findings, and recommendations based on information documented in your Claim Checklist and Field Notes. This information provides the basis for making a decision whether there is an adverse determination, and if appropriate, to begin drafting the body of your adverse decision letter.

(5) Develop a record of phone conversations and interviews for the file as they occur. Include the time of day, date, the name, address and contact information for the person you are talking to, the purpose of the call and a written overview of the conversation. In some cases, you may want to document what the person is saying word for word. Do not hesitate to ask them to repeat something to ensure that you clearly understand what they are saying. Use of the Interview / Telephone Record, (Section 19. Exhibit D), aids in this documentation.

(6) You may be asked to keep the person's name and contact information confidential, do so. It is very important to comply with the person's wishes. If the information provided is pertinent to the issue or supports an adverse finding then, if possible, verify the validity of the information through other sources.

(7) Ensure that copies of all documents are clear, easy to read, and understandable. Include a narrative when appropriate to ensure a person unfamiliar with the issue can understand its purpose and how it pertains to the proper determination of the claim amount.

18 INFORMATIONAL MEMORANDUM IS-07-010

(8) Obtain copies of all documents in the AIP underwriting and claim files. **Note:** AIP field notes may be located in the agent's copy of the policyholder file.

(9) Any requests for AIP action, such as measuring insured and determining uninsured acres, obtaining documentation, completion of the mandatory APH review, researching a GFP issue, etc. must be in writing and submitted to the AIP as soon as possible. E-mail is acceptable. Telephone requests in accordance with item (4) above, followed up in writing is recommended. Set a reasonable date for completing the action and document when it is complete. If not completed by the set date, immediately contact by telephone and follow up in writing with the AIP about the matter. Document your actions and the AIP's responses in the official file. This documentation will show that any delays were not under your control.

(10) Electronic document naming convention and case file organization shall be made in accordance with FCIC / RMA Records Management standards.

10. SELECTION CRITERIA

Comment [I4]: LC Selction Criteria here?

A. POLICYHOLDER REVIEW[19]

(1) RMA regional office participation contingent upon the following:

(a) Review policyholder information

1 Policyholder Experience

2 Actual Production History

3 CAE Report

(b) Consider special demographic objectives such as

1 Geographic distribution: select notices to gain the largest geographic distribution possible

2 AIP representation: assure involvement with all eligible AIP's for RO region

3 New/Revised Policies/Pilots

(2) Additional considerations regarding should the regional RMA office participate given to:

(a) Program reviews targeting problematic crop programs

(b) Written Agreement Issues

19 Note items listed in 1 were taken from the Pre-Commitment Guidelines developed by the Underwriting Operations Review Workgroup headed by Evelyn Johnson. Regarding items for 2 the following was considered: The Guidance for Large Claims issued June 30, 2005 requested RO's to submit criteria for their region for decisions to participate, review, or waive participation to RMSD who would compile the criteria. Formal written criteria were not received from the RO's. The RO's were allowed discretion to select individual producer reviews based on some of the items listed in 2 below.

(c) State/County Issues

(d) AIP or RMA Compliance requests

11. APH REVIEWS

A. APH REVIEW REQUIREMENT[20]

(1) The RO will review mandatory Actual Production History reviews required by the SRA or FCIC issued procedure conducted by the AIP.

(2) For RO/AIP to complete Large Claim reviews and properly establish the guarantee and indemnity, records substantiating the APH certification and the claim for indemnity must be examined and verified for accuracy. RO/AIP must verify the information on the documents is correct via third parties to the extent practical.

(3) RO/AIP must review APH records in accordance with section 21 of the Basic Provisions which require the producer to maintain adequate records for three years after the end of the crop year in which such records were initially certified. If acceptable records are not provided, the APH must be corrected in accordance with approved policy and procedure.

(4) When conducting APH reviews, AIPs must ensure that FCIC established tolerances are applied for non-loss units. When completing claims for indemnity, AIPs must ensure APH discrepancies between the insured's reported yield and the reviewer's determined actual yield are corrected for loss units without regard to FCIC established tolerances.[21]

(5) RO/AIP refers to the Crop Insurance Handbook for APH procedure and APH review requirements.

20 BULLETIN NO.: MGR-08-016

21 BULLETIN NO.: MGR-09-003

12. 100K CLAIM REVIEWS PROCESS[22]

A. AIP RESPONSIBILITIES

(1) The AIP is responsible for reviewing claims in excess of $100,000 and reporting the results to FCIC in the annual report.

(2) The $100,000 review will consist of an examination of the information pertaining to the guarantee and loss, including the results of field inspections, to determine whether the claim can be substantiated. The AIP must document verification of the reported information pertaining to the claim and the sources used for verification.

(3) For the AIP to complete $100,000 claim reviews and properly establish the guarantee and indemnity, records substantiating the Actual Production History (APH) certification and the claim for indemnity must be examined and verified for accuracy. The AIP must verify the information on the documents is correct via third parties to the extent practical.

(4) The AIP must review APH records in accordance with section 21 of the Basic Provisions which require the producer to maintain adequate records for three years after the end of the crop year in which such records were initially certified. If acceptable records are not provided, the APH must be corrected in accordance with approved policy and procedure.

(5) When conducting APH reviews, AIPs must ensure that FCIC established tolerances are applied for non-loss units. When completing claims for indemnity, AIPs must ensure APH discrepancies between the insured's reported yield and the reviewer's determined actual yield are corrected for loss units without regard to FCIC established tolerances[23]

B. RO RESPONSIBILITIES

(1) RO will use the same $100,000 claim review process as the AIP when the RO participates in a large claim.

(a) RO review will be conducted according to all applicable policies and procedures, including the SRA[24]

13. LC CASE FILE ORGANIZATION

The LC Case File Organization Procedure is located in Exhibit 19 E. The procedure includes the templates for RO Decision Letters. The template shall be used for both adverse and non-adverse letters.

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22 BULLETIN NO.: MGR-08-010
23 BULLETIN NO.: MGR-09-003
26 Draft manager bulletin Actual production history reviews and claims for indemnity needs to be incorporated

(1) Complete the formal draft of the Decision Letter within 15 days of receiving all information necessary to complete the claim, and forward to the AIP and RMSD for review and comments;

(2) The RO will obtain the AIP's comments and concurrence on the final decision letter and request the AIP calculate, verify and initiate any change in APH, acres, guarantee and indemnity due;

(3) The RO must issue the decision letter as soon as possible after all information is available to complete claim determinations and there is a determination that an adverse condition exists; and

(4) The Decision Letter shall be delivered by certified mail or overnight delivery, will include production worksheets and proof of loss, revised APH if applicable, prepared by AIP and a stamped self-addressed envelope or FedEx return delivery envelope for the producer to return signed documents. Under no circumstances will the AIP be authorized to visit the policyholder to discuss adverse determinations. In all cases when it is determined that a visit with the policyholder to discuss adverse findings is necessary, the RO must accompany the AIP.

14. DISPUTE RESOLUTION[25]

A. GENERAL INFORMATION

(1) If there are any disputed or unresolved issues regarding a loss determination during RMA's review or participation in such loss determination, such disputes or unresolved issues:

(a) Will be elevated to the AIP's National Claims Manager and RMA's RMSD.

(b) Will not, without RMA concurrence, be discussed in the presence of the producer or anyone else outside of RMA or the AIP.

(2) If there is a dispute between RMA and the AIP with respect to RMA's determination of a loss, the AIP will pay the claim according to RMA's written approval. The AIP retains the right to dispute RMA's actions in accordance with administrative appeals procedures found in 7 C.F.R. § 400.169.

(3) If RMA elects to participate in the loss determination, or modifies, revises or corrects a claim during review prior to the AIP reaching agreement with the producer or prior to the AIP making payment to the producer on the claim, and the producer disputes the claim, the producer's dispute on the RMA modification, revision or correction will be with RMA.

(a) The producer must request administrative review, mediation, or appeal to RMA in accordance with section 20(e)(f) &(g) of the Basic Provisions.

(b) The AIP shall provide RMA with cooperation and assistance as needed in any dispute with the producer.

(c) The producer may not bring arbitration, mediation or litigation action against the AIP.

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(4) If the RO opts out of participating in the claim before any field loss determination is made in accordance with the above procedures, RMA's obligation to participate with or assist the AIP in defending any subsequent dispute of the claim will be the same as it is for any other claim in which RMA has not intervened.

15. REQUEST AN ADMINISTRATIVE REVIEW

A. GENERAL INFORMATION

If the insured does not agree with FCIC's determination, they have a right to:

(1) **Request an administrative review** of the FCIC decision within 30 calendar days from receipt of this letter in accordance with 7 C.F.R. part 400, subpart J, by providing the required information to the RMA Deputy Administrator for Insurance Services at:

Deputy Administrator for Insurance Services
USDA/RMA/Insurance Services/STOP 0805
ATTN: LARGE CLAIM ADMINISTRATIVE REVIEW
1400 Independence Avenue SW
Washington, DC 20250-0805

First class mail to Washington, DC is often delayed for security measures. Participants are encouraged to send information by a delivery service that records pickup or postmark, and records and guarantees delivery.

16. REQUEST MEDIATION

A. GENERAL INFORMATION

If the insured does not agree with FCIC's determination, they have a right to:

(1) Request mediation of the FCIC decision within 30 days from receipt of the decision letter.

(2) The mediation process will vary by state.

(a) The following states have USDA State Agricultural Mediation Programs:

Alabama, Arizona, Arkansas, California, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming

Contact the State Mediation Coordinator/Director for information.

(b) For all other states, contact the State FSA office where the land is located. This information is available at http://www.fsa.usda.gov/FSA/stateoffices

(3) The mediation service generally requests the participant to include a copy of the RMA decision letter with the request.

17. REQUEST AN APPEAL

A. GENERAL INFORMATION

If the insured does not agree with FCIC's determination they have a right to:

(1) **Request an appeal** within 30 calendar days from receipt of the RO decision letter in accordance with 7 C.F.R. part 11, by writing directly to the National Appeals Division (NAD) at the following address:

Regional Assistant Director
National Appeals Division
(Refer to their website at: www.nad.usda.gov/ for the correct address)

Nothing herein precludes an insured from electing both an administrative review and mediation. Further, if they elect to utilize the administrative review and/or mediation they can still appeal to NAD within 30 calendar days from the receipt of the administrative review or completion of the mediation, whichever is later.

B. PREPARING TO DEFEND ADVERSE DECISION[26]

In the event of an adverse decision and a filing for an appeal, the following guidelines are required:

(1) Prepare agency decision letter to include:

(a) regulatory and statutory basis for your decision;

(b) the facts of the situation; and,

(c) the evidence and documents used to arrive at your decision;

(2) If applicable:

(a) Obtain written opinions from experts in the field;

(b) Obtain published documentation supporting your decision; and

(c) Prepare a witness list.

18. CONDUCTING EXIT CONFERENCE

A. GENERAL INFORMATION[27]

26 Preparing for Adverse Decision Guidelines dated March 14, 2006
27 Email message from Haywood Baker dated November 1, 2007

(1) An exit conference, between the RMA RO, the AIP, and policyholder, must be scheduled before RMA signs off on the decision letter for field participation or file review documents. A review of the preliminary determinations will allow the policyholder an opportunity to provide additional information to support their position prior RMA to issuing the decision letter.

(a) In most cases, the exit conference can be accomplished via the telephone, but in some adverse or controversial cases a face-to-face meeting is recommended.

The policyholder should be given 10 calendar days to provide additional information, and if none is received, issue the decision letter along with the signed loss documents. Reasonable extensions to provide additional information may be documented and granted in writing.

19. EXHIBITS

A. CLAIM CHECKLIST FORM[28]

Check list can be found on the next page

28 INFORMATIONAL MEMORANDUM IS-07-010

CLAIM CHECKLIST FORM

Insured's Name _____ Claim Number _____ Policy Number _____

Crops(s) – Unit(s) _____

YES	NO		
☐	☐	1	Insured Present _____
☐	☐	2	Insurable Entity Verified _____
☐	☐	3	Timely Notice _____
☐	☐	4	Share Verified _____
☐	☐	5	Companion Contract Verified (if applicable) _____
☐	☐	6	Legal Description Verified _____
☐	☐	7	Practice(s) Insurability Verified _____
☐	☐	8	Insurable Type/Variety Verified _____
☐	☐	9	Planting Dates Verified _____
☐	☐	10	Unit/Unit Division Verified _____
☐	☐	11	Risk Area Verified _____
☐	☐	12	Insurable Cause of Loss _____
☐	☐	13	Similar Damage _____
☐	☐	14	Reasonable APH _____
☐	☐	15	Insurable Acreage _____
☐	☐	16	Sharing Interests _____
☐	☐	17	Options/Endorsements _____
☐	☐	18	Review Previous Reports _____
☐	☐	19	Previous Appraisals _____
☐	☐	20	Quality Adjustment Eligibility Verified _____
☐	☐	21	Acreage Determined/Method _____
☐	☐	22	Acreage Replanted _____
☐	☐	23	Replanting Payment _____
☐	☐	24	Certification Form _____
☐	☐	25	Sold Production Verified _____
☐	☐	26	Farm-stored Production Verified _____
☐	☐	27	Commingled Production _____
☐	☐	28	Fed Production Verified _____
☐	☐	29	Other Names/Entities for Production Verified _____
☐	☐	30	All Production Accounted For _____
☐	☐	31	Unusual/controversial Circumstances _____
☐	☐	32	Reviewed completed claim with Insured or Insured's Representative _____
☐	☐	33	Obtain Signatures _____
☐	☐	34	Second Crop Acreage _____
☐	☐	35	Signatures _____
☐	☐	36	Other _____
☐	☐	37	Other _____
☐	☐	38	Remarks & Field Notes on Pages(s) _____
☐	☐	39	Mandatory $100,000 QC (APH) Review Completed by AIP & Approved by RMA _____

Fully explain all answers. Document the basis of answers on page 2.

1)	First inspection	RO Representative (signature)	Date
2)	Second inspection	RO Representative (signature)	Date
3)	Third inspection	RO Representative (signature)	Date
4)	Final Inspection	RO Representative (signature)	Date

19. EXHIBITS

DRAFT 34 FCIC-LCH

B. LARGE CLAIMS GUIDELINES [29]

LARGE CLAIMS
Pre-Commitment Guidelines

Entity Name:_____ Policy #:_____

(1) Notice received from AIP and logged in.
  (c) Gather the following
    1 policy holder information,
    2 APH (if applicable)
    3 CAE (producer scoring upgraded)

(2) Provide notice with backup materials to Large Claim Team Leader (LCTL) or designee

(3) Preliminary review by LCTL or designee
  Special Note: RO has three business days to provide company notice of participation. (day received is day 1 if received by 2:00 PM)

  (a) Obtain or validate the following from the company (if not provided with notice)
    1 date and cause of loss
    2 degree of damage and producer's intent (UH to be release/carry to harvest etc.)
    3 units, legal and extent of damage (to include: estimated $ amount or $ reserve)
    4 policy number and companion contracts if any

  (b) *If (3a) is limited in scope*: check with local Farm Service Agency, Extension and Natural Resources Conservation Services to ascertain extent of loss event and if there is a likelihood of other potential notices.

  (c) Review the following policyholder information: formatted report of experience/APH/CAE Report

  (d) Policyholder Review
    Objective: Determine if RO should participate.

    1 Consider special demographic objectives such as:
      (a) geographic distribution: select notices to gain the largest geographic distribution possible.
      (b) AIP representation: assure involvement with all eligible AIP's for our region.
      (c) new / revised policies / pilots

(4) Review findings with RO Director or LCTL (If Director and LCTL are unavailable, review with RO Deputy Director)

  (a) If Accepting:

29 From the Underwriting Operations Review Workgroup headed by Evelyn Johnson

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1 Determine if the Regional Compliance Office has an ongoing review
2 Visit with their Special Investigations Branch: Is entity under review?
Special Note: consider declining if there is an ongoing review for the current crop year
3 Meet with Director, assign the claim, and notify that LC Team member
4 Notify AIP of intent using LC application system (cc: RO Director, RO Deputy Director & LC Team
5 Print out copy of response to AIP for the file
6 Create File to include (or specify a filing directory location):
a this Check List
b Required Documentation specified on Selected Policies Check List
7 Refer to accompanying Check List for Selected Policies regarding next steps

(b) If Declining:
1 Notify AIP of intent using the Large Claim application system (CC RO Dir.)
2 File notice and response to AIP with back up materials in Large Claims File

LARGE CLAIMS
Selected Policies Guidelines

(1) Entrance Conference with AIP
(a) Conduct interview with AIP/Adjuster to review large claim process and develop plan
(b) Gather Materials and review the following:
1 AIP Claim File (items not available from RMA database)
2 Review APH/ Pre-Acceptance Inspection/ legal's/ acreage report/ loss experience
3 Verify insurability of all acreage in the unit(s) involved
(c) Review any special UW actions, e.g. Written Agreements, Added Land, etc.
(d) Adjuster briefs RMA Specialist on expected issues/difficulties and other pertinent grower file information
(e) Plan Field Strategy

(2) Keeping producer informed
(a) Inform insured of RMA presence and work with AIP to keep producer informed
(b) Complete Claim Checklist Form (Section 19. Exhibit A.)
(c) Stalled review: consider a weekly conference call with AIP & insured

(3) Exit Conference with Insured (must involve AIPs)
(a) Review findings/issues when signing PWs
(b) Contact insured to review final loss numbers (prior to RMA sign-off on field participation or file review)

(4) Decision Letters
Note: Policyholder is given 10 calendar days to provide additional information. A letter is issued documenting RO large claim determinations along with signed loss documents. The template for the decision letter is located in Exhibit 19E of the Large Claims Handbook.

(5) Closed Claims
(a) After appeal completion or time has expired for the policyholder to request review or appeal.
(b) Document "lessons learned" and add to the file and debrief the LC team (including RO Director)

(6) Refer to Section 3 if clarification of FCIC-issued policy and/or procedure is needed.

Required Documentation

Photographs	Must be labeled
Section 19, Exhibit A.	Complete & Sign – explain all responses
Complete Field Notes "Remarks & Field Notes" (Section 19 Exhibit C.)	Recommend within 2 but not later than 24 hours of field inspection. Include: date, time, signature, applicable observations, and recommendations.
Provide RO Director Trip Report	include observations, and recommendations as applicable
Record of Phone Conversation & Interviews	"Interview /Telephone Record" template (Section 19, Exhibit D.)
Copies of Documents	Must be clear and concise (include a narrative if needed) Obtain Copies of ALL Documents in AIP Underwriting & Claim Files
Requests for AIP Actions	Must be in writing (E-mail is acceptable) Set a reasonable date for completing. Examples include: requesting APH reviews, researching GFP issues etc.
AIP Servicing or Loss Adjustment Issues	If you suspect the AIP failed to follow FCIC-issued policies and procedures refer to Section 8 for direction

19. EXHIBITS

C. REMARKS AND FIELD NOTES[30]

REMARKS & FIELD NOTES

Insured's name Claim number Policy number

Crop(s)-Unit(s)

Associated or related materials (e.g. worksheets, photos, etc.):

Date: _____ **Name / Signature:**_____

Pg ___ of ___

30 INFORMATIONAL MEMORANDUM IS-07-016

B. LARGE CLAIMS GUIDELINES [29]

LARGE CLAIMS
Pre-Commitment Guidelines

Entity Name:_____ Policy #:_____

(1) Notice received from AIP and logged in.
   (c) Gather the following
      1 policy holder information,
      2 APH (if applicable)
      3 CAE (producer scoring upgraded)

(2) Provide notice with backup materials to Large Claim Team Leader (LCTL) or designee

(3) Preliminary review by LCTL or designee
   Special Note: RO has three business days to provide company notice of participation. (day received is day 1 if received by 2:00 PM)

   (a) Obtain or validate the following from the company (if not provided with notice)
      1 date and cause of loss
      2 degree of damage and producer's intent (UH to be release/carry to harvest etc.)
      3 units, legal and extent of damage (to include: estimated $ amount or $ reserve)
      4 policy number and companion contracts if any

   (b) *If (3a) is limited in scope*: check with local Farm Service Agency, Extension and Natural Resources Conservation Services to ascertain extent of loss event and if there is a likelihood of other potential notices.

   (c) Review the following policyholder information: formatted report of experience/APH/CAE Report

   (d) Policyholder Review
      Objective: Determine if RO should participate.

      1 Consider special demographic objectives such as:
         (a) geographic distribution: select notices to gain the largest geographic distribution possible.
         (b) AIP representation: assure involvement with all eligible AIP's for our region.
         (c) new / revised policies / pilots

(4) Review findings with RO Director or LCTL (If Director and LCTL are unavailable, review with RO Deputy Director)

   (a) If Accepting:

29 From the Underwriting Operations Review Workgroup headed by Evelyn Johnson

19. EXHIBITS

E. LC CASE FILE ORGANIZATION PROCEDURE

Insurance Services
Large Claim
Case File Organization Procedure

Table of Contents

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Who is Responsible for What? 3
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Section I – Case File Standards
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Section II – Letter Templates
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- **A – Letter Templates**
  - **A-1 RO Large Claim Review Decision Letter**
  - **A-2 RMSD Large Claim Administrative Review Letter**
- **B – Exhibit Index**

I. PURPOSE:

The purpose of this procedure is to ensure necessary documents are collected and retained, to develop consistency in communication between Insurance Services and the insured, to preserve file integrity, assist in preparing for the next level appeal and simplify transmission to RMA's records management system. The process should also reduce mailing cost; ensure the file is complete, eliminate loss of file documents; and, ensure the file documents are current and accessible.

In order to accomplish this goal, two directives are developed:

- a letter template, and
- a file storage procedure.

The letter template is developed to assure that (1) the RO has gathered all required information for the case from the insured, the AIP and other experts as needed, (2) all positions of the impacted parties are listed, validated or rejected, and (3) the findings of the RO are justified by law, policy, procedure and preponderance of evidence. A similar letter template will be used by RMSD to communicate its decision to the insured if a next level review or reconsideration is requested.

The file storage procedure is developed to assure that the information collected by the RO is named in a consistent manner. This allows the information to be easily identified and used and also provides a method to add new or revised information to the file without losing pre-existing documentation. The scanning process in the procedure preserves documents in multiple areas and provides easy access to the information from multiple groups involved in the case.

This procedure is effective for all LCR cases beginning on or after February 2, 2009. **Unless specified otherwise, the procedure applies to both the RO and to RMSD staff.**

II. WHO IS RESPONSIBLE FOR WHAT

RO Responsibilities: When the RO participates in a Large Claim Review (LCR), the RO will create and maintain the hard copy files in the RO office and electronic files on the RO's s:drive as well as on the SharePoint "gfplc" site in accordance with this procedure. ***Note**: Once the new Electronic Records Management System is in place, this procedure will be modified. The modification may or may not require the RO office to upload to SharePoint.*

When the RO completes a LCR review, the RO is responsible for responding to the insured using the letter template. The signed RO Decision Letter is scanned in accordance with this procedure.

If RMSD review of the draft letter is requested, the RO is responsible to notify RMSD, via email, when the draft letter and file are on SharePoint for their review. The RO is responsible for adding subsequent information to the file that is received in the RO and to assure that once the scanned files are posted electronically to the s:drive and SharePoint, the hardcopy file and electronic files match at all times.

RMSD Responsibilities: If the insured requests a large claim Administrative Review, RMSD is responsible for scanning the signed decision letter and all additional documentation received from the insured or other impacted parties to the applicable RMSD s:drive folder and to the "gfplc" Share Point site in the WDC folder . RMSD is also responsible for notifying the RO, via email, that the scanned document has been uploaded to the SharePoint "gfplc" site, WDC folder.

III. HOW IS THE INFORMATION USED

The hard copy folder is maintained by the RO and contains the original documents. The RO shall provide copies of the original documents when documents are requested. The best business practice is to email the scanned document as an attachment or, when applicable, the requestor should be directed to the SharePoint "gfplc" site

to view the pdf files. NOTE: If e-mailing to someone outside RMA, the sender must use Secure Delivery if the contents contain PII.

SECTION I – CASE FILE STANDARDS

I. HOW TO GET STARTED

Guidance for Large Claim Reviews:

1. Within 3 full business days of the receiving notice of potential loss, the RO shall **log the claim into the Large Claim Log.** The application can be found by clicking on the Start, All Programs, Specialized Applications, Large Claims App. You will use your log-in information for the KC-101. If you do not see the application here, contact the RMA Help Desk. The process will generate a notice to the AIP of the RO's intent.
2. **Set aside blocks of quiet time for reading & research.** Constant starting and stopping does not help.
3. **Build your file** according to the Case File Organization Standards, including the Exhibit Index in page 36. This will ensure all documentation is appropriately referenced and maintained and ensure your review and presentation of facts is organized.
4. **Read, tag as you go.** Keep original documents free of comments, and highlighting. Use sticky notes or work copies to mark important facts, figures and details for easy reference. This will help when developing your decision letter.
   Servicing issues should be tagged for separate follow up. These issues will be forwarded to RMSD and discussed between the RO and RMSD for appropriate referral and tracking.
5. **Complete File** – the RO must receive a complete claim and underwriting file. Ask for copies of all documents including the application and phrase your written request to include any and all documents and correspondence for this policy and/or policyholder. It is appropriate to request the AIP to conduct additional research, verify documentation, and collect information necessary to make a claim determination.
6. **Independent research.** You may direct the AIP to conduct necessary research and/or to assist you in conducting research necessary to complete claim determinations.
7. **Remain objective.** Review every case with fresh eyes. Make your decision based on the preponderance of the evidence (more than 50%). Examine your personal bias (everyone has them) and ensure your decisions are impartial, supported by verifiable evidence in the file, and FCIC issued policies and procedures.
8. **Evaluate Written Opinions.** Is the opinion on target and addresses the issues? Does the person writing qualify as an agricultural expert? Is the opinion or published material generally recognized? If the opinions cannot be considered, you must explain why not in the decision letter. See MGR-005-010 Part I, Par. B, C, and D.
9. **Use Copies as Exhibits**. Rather than typing lengthy quotes into decision letters, summarize or reference the statement and identify the exhibit by the exhibit label number. You must use the source document as Exhibits to the statement made in the decision letter. Scan your exhibits into PDF documents; complete instructions are included in the Case File Organization presentation.
10. **Make Your Decision:** Your decision is: does the preponderance of the evidence support your decision; is your decision supported by FCIC issued policies and procedures. Ensure all producer statements are written and producer actions are explained. Logically develop your decision letter. Include all findings beginning with the finding with the greatest impact.
12. **Servicing Issues:** When allegations of AIP servicing issues are made during the LC process, the AIP does not have an opportunity to respond. Without all the facts, the RO cannot make a determination as to the validity of the accusation. Accusations of the AIPs failure to properly service the policy shall be documented and the report forwarded to RMSD, who will compile and refer to RSD and/or Compliance. Likewise, if you identify a failure of the AIP to follow FCIC-issued policies and procedures, you must

document your findings and forward the report to RMSD.

The accusation of servicing issues alone is not a basis to find in favor of the producer, nor is it a finding that you can develop to be addressed by the insured. The insured cannot respond to AIP or agent servicing issues, but – you should develop a report to RMSD for referral to RSD and/or Compliance.

13. **For Questions, Support, and Discussion of Issues**: All questions and discussion concerning your work on Large Claims' issues should be discussed with your RO Director and LC or GFP Coordinator. If approved by your Director, you may also contact Dale Miller at (530) 792-5873 or Paul Walden (229) 219-2206. Dale and Paul will assist you and when appropriate, elevate the issues to WDC. Procedural interpretations and support information will be posted on the SharePoint "gfplc" site.

14. **Prepare Your Draft for Review:** The scanned case file (exhibits) will be posted to your RO folder on the SharePoint "gfplc" site. Your Draft Letter must be discussed with and approved by your RO Director. Dale Miller and Paul Walden may also review the letter for policy and procedure sufficiency and compliance to this procedure if requested by the RO Director.

15. **Finalizing the Case:** If OGC legal sufficiency is needed, RMSD will coordinate that effort. If the case is forwarded by RMSD to OGC for legal sufficiency review, all pertinent information related to the final decision will be included unless otherwise specified by OGC. When the letter is in final format, the RO will forward the LCR Decision Letter to the AIP for their concurrence. The RO Director will sign the letter and forward the letter and exhibits referenced in the letter to the insured with copies of the letter only to persons designated on the letter to receive courtesy copies (cc) and RMSD.

16. **Maintaining the Integrity of the Case File:** The following procedure describes how the case file documents are to be created, maintained and stored. There are two types of files to be maintained: the hard copy file; the electronic file.

17. **Reconsiderations or Administration Reviews**: If the producer requests a Large Claim Administrative Review, RMSD will notify the RO of the request. RMSD will review the SharePoint documents and if necessary contact the RO, the producer or AIP for additional information or documentation. RMSD is responsibility to scan, appropriately name and upload new additional information to SharePoint. RMSD follows the same steps noted above (except for #12) to conduct its review.. A Decision Letter is drafted and cited Exhibits are attached. Prior to the DAIS signature, RMSD will debrief the RO as to its decision. RMSD is responsible to scan, name and upload the signed Decision Letter to SharePoint and to send the Decision Letter and Exhibits to the insured in accordance with PII requirements. The RO shall receive a cc of the decision letter.

II. The Hardcopy File

File Storage -

- The file must be placed in a large accordion pocket folder (s).
- The folder(s) must have a label, centered on the front of the folder (s), that contains the following information:
  - crop year,
  - name of the insured or entity,
  - the crop name, crop code
  - the policy number,
  - file type (LCR, GNP, or GFP), and
  - the month and year of the case being opened.

Example:

2008 Crop Year
Farmer Farm, c/o Joe Farmer
Potatoes (084)
Policy Number: XXXXXXX
Large Claim
February 2009

The folder(s) must be kept in a locked cabinet. Please note that anyone, including other agency co-workers, working with or viewing the folder(s) is responsible for maintaining the privacy of the personal information contained within the folder(s).

File Contents –

- **PII Authorization Letter:** A copy of the PII Authorization Letter signed by the RO Director giving authorization to the staff members(s) to take the file out of the office to work the claim.
- **RO Decision Letter:** A copy of the Final signed letter is the RO Decision Letter. The letter is created using the template ***(Attachment A)***. The RO Decision Letter must reference additional documentation, as Exhibits, to support the findings ***(Attachment A).*** The template letter may be used for both Adverse and Non-Adverse decisions.
- **Exhibit Index:** The Exhibit Index is a table of contents of the exhibits that holds the supporting documentation. The Exhibit Index must be placed directly behind the RO Decision Letter. ***(Attachment B).***
- **Required Exhibits:** The required exhibits are listed in the exhibit index as each exhibit is described.
  - The Exhibits for the file must be separated from each other. You must place a tabbed index sheet between the exhibits even if there are no documents in the Exhibit.
  - On the tab, write the applicable Exhibit name (i.e. EX A, EX A.1, etc). Each Exhibit must have a cover page that states the:
    - exhibit name and title,
    - crop year
    - insured's name or entity name
    - crop name, crop code, and

- the policy number.

Example:

Exhibit A – Policy and Procedure
2008 Crop Year
Farmer Farms, c/o Joe Farmer
Potatoes (084)
Policy # XXXXXX

- Each page of the Exhibit must be numbered, including the cover page. The pages are numbered by Exhibit and page number. All of the pages are numbered in consecutive order from the cover page through the last page of the Exhibit. (EX A-1, EX A-2…EX A-230).
- The page numbers are marked on a post-it and centered at the bottom of the page. When the letter is ready for signature, the post-its must be replaced by final page numbers centered at the bottom of the page. The numbers must be marked in dark ink or with a black sharpie.

Example:

EX A-1

- The completed hardcopy folder resides in the submitting Regional Office.

Additional Information –

- Duplicate Materials: the same (exact) information may be received from different sources. Use one set for the exhibit(s) and store all duplicated materials at the end of the file. This material should be separated with a label stating "Duplicate Materials". It is not necessary to scan duplicate materials.
- File Retention: The file will be maintained in accordance with the agency's Record Keeping Management System guidelines.
- When information is requested, copies of the documentation will be forwarded. Original materials must remain in the Regional Office.

III. The Electronic File

The hard copy folder must be substantially complete before any documents are numbered and scanned. Substantially complete means you have collected pertinent documentation and you are ready to begin your decision letter.

All documentation contained in the hardcopy folder must be scanned as pdf files (in file order) with the exception of:

- data that is too large to be scanned (such as periodicals),
- data not suitable for scanning (such as certain types of photographs), or
- data marked as duplicated data.

For these exceptions, the Exhibit will only include a page noting where the information is located in the RO and a copy is available upon request.

When the data is the Basic Provisions, CIH, LAM or other large handbooks, **in lieu of copying the entire document,** copy the cover page, the table of contents, the actual page(s) that you are referencing and add a note on the Exhibit cover page of the document citation and the pages copied. **Please note however, this does not apply to the Crop Provisions – it is smaller document and must be copied in its entirety**.

Data marked as "Duplicated Materials" in the hard copy file is not required to be scanned; however, if the RO chooses to scan the material it should be added as a sub-exhibit to the Exhibit that holds the original document.

For example, if the acreage report is submitted by the AIP and the insured, one acreage report is used in the Exhibit (EX B.2); the duplicate acreage report is labeled EX B.2.1.

Example:

The documentation for this exhibit is located in the (Name of the Regional Office) and is available upon request.

The Naming Convention for each "pdf" file will be:

- insured's **last name** or entity name,
- exhibit id and exhibit name, and

Example:

Farmer Farms Potatoes EX A.1 Basic Provisions.pdf

- the file extension is .pdf
- there is a space between segments:
  - Farmer Farms(space).pdf

After the draft RO Decision Letter is signed, it becomes the Final signed version. The final signed version will be scanned prior to mailing and will use the same naming convention as follows:

Example:

2008CY Farmer Farms Potatoes XXXXXX LCR Final Letter 01-23-09.pdf

All subsequent letters and exhibits are scanned and uploaded as they are delivered or revised. Any revised files must contain the letters "REV" prior the new date (date of revision).

Example:

Farmer Farms EX A.1 Basic Provisions REV 02-18-09.pdf

To prepare for the electronic file process, the RO will create a new folder on their internal s:drive. The scanned pdf files will be stored in this directory. The folder will be named with the crop year, insured's name or entity name, crop name, and file type.

Example:

2008CY Farmer Farms Potatoes LCR

The RO then prepares a folder on SharePoint "gfplc". The naming convention for the folder will be the same as the s:drive folder name (noted above). The SharePoint folder is created when the case is opened. As files are scanned, they are uploaded from the RO s:drive to SharePoint "gfplc" site:

Each RO office and WDC has an existing folder on the LC site.

When the upload is completed, the electronic folder must contain all of the documentation contained in the hard copy file (not including the exceptions noted earlier). The s:drive and the SharePoint folders for GFP and LCR documents must always match.

Revisions may occur such as receiving additional information from the producer or a second opinion from an independent consultant. For these revisions, as exhibits are added or revised, the hardcopy file, the electronic file, the s:drive folder and the SharePoint folder must be updated accordingly.

SECTION II – LETTER TEMPLATES

Note: Letters and Exhibits mailed to the policyholders must be packaged, marked and processed according to PII requirements.

ATTACHMENT A-1

RO Large Claim Review Decision Letter Template

GENERAL RULES FOR WRITING THE LETTER:

- **Follow the format. Do Not Change or Substitute Section Headers. Address Each Section as indicated in the example.**
- **Write clearly in simple terms**
- **Write in a logical manner**
- **Write to follow the exhibits in a sequential manner**
- **Use spell check and grammar check**
- **Watch for tone and personal bias**
- **Use non-controversial terms**
- **Double check all references and quotations**
- **Make certain that you use the correct version (applicable crop year and plan of insurance) of the Crop Policy, Provisions, Manager's Bulletins, etc. used as your exhibits**
- **Update the Header to reflect the Insured's Name**
- **Refrain from stating personal opinions or observations assumed but not supported by facts**
- **The Template Letter may not be in the exact font and margin size of the approved letter format used by RMA for correspondence. Please format accordingly in terms of letterhead, font and margins.**

USDA

United States Department of Agriculture

VIA OVERNIGHT MAIL

XXXX (Insured or Legal Representative Name/Title)
XXXX (Address)
XXXX (Address)
XXXX (Address)
XXXXX

RE: Large Claim Review
for (Name of Insured)
(Crop Year) (Crop) (Policy #XXXXXXX)
(County Name), (State Name)

Dear Sir (or Madam):

(Full Name of AIP) (AIP acronym) notified you that the Federal Crop Insurance Corporation (FCIC) had elected to [participate or conduct a file review] in the loss adjustment of your claim for the above referenced policy. This policy is reinsured by FCIC under the provisions of the Federal Crop Insurance Act (the Act) (7 U.S.C. 1501 *et. seq.*). As a Federal regulator of the crop insurance program, FCIC has the authority to take such actions as are necessary to ensure the program is administered in accordance with the Act, applicable regulations, policy provisions, and procedures. In its exercise of this authority, FCIC, through the Risk Management Agency (RMA), (Name of Regional Office) (RO acronym) is authorized to make large claim determinations on behalf of FCIC. RMA has issued procedures regarding such review in FCIC Manager's Bulletins No. 05-009 and 05-009.1 (available at www.rma.usda.gov).

The RO and the AIP have reviewed all applicable documents; e.g. application, notice of loss, acreage report, weather data, the XXX field inspections, correspondence and documents provided by you to complete this claim determination. (Include Exhibit name and page with each document or published material referenced.) (Each referenced Exhibit will be sent to the producer with the determination letter).

This is RMA's final determination on your claim.

RMA
The Risk Management Agency Administers
And Oversees All Programs Authorized Under
The Federal Crop Insurance Corporation
An Equal Opportunity Employer

DRAFT 54 FCIC-LCH

Background:

Concisely summarize the background of the claim – this is the "FACTS" of the letter. You must document when, where, why, how and who as it pertains to this claim in a logical sequence. The insured producer's position, documents, explanations etc., should be included in this section.

Claim Determinations:

Before writing the letter, determine the issues, number them and address each issue in this section. For example:

ISSUE #1: Failure to File a Crop Insurance Acreage Report.

Identify all issues, starting with the issue with the most impact as issue #1.

For each issue:

Write your determination for each issue in a clear and logical manner.

Justify your determination: **You must establish a policy basis for each determination!**

Reference Exhibits (which contain the specific policy or to other pertinent documentation) (See "Exhibit Index" for examples)

Reference the page and paragraph of the Exhibit you are using to justify your determination.

Use language with a matter of fact, non-controversial tone.

Be aware of personal bias and eliminate it from your writing.

Write your statements to display only the facts, not your feelings.

Each issue will include a final conclusion statement that clearly states the RO determination and the impact, such as: **The (RO Name) RO and (AIP acronym) determined that you did not file a crop insurance acreage report by the acreage reporting date as required by your Federal crop insurance contract; therefore, no liability was established, no premium was earned, and no indemnity is due.**

The producer is not responsible for AIP servicing issues and cannot respond. AIP servicing issues should be documented for separate, appropriate action by RMSD, RSD and/or Compliance.

Reference the exhibits containing specific documents rather than quoting large portions directly from the Policy, Provisions, the insured or consultants. However, when it is necessary to quote the document or a person, indent the quotation, set the statement between quotation marks, italicize the statement, and use font 1 point smaller. (See Example 1)

If quoting a phrase or sentence that is not indented, set the statement between quotation marks and italicize the statement. (See Example 2)

State the facts. Do not expand, change, re-state, or interpret for presumed intent or clarity.

Example for Quotation:

In response to the Jackson RO claim determination, Mr. X submitted a December 14, 2007 statement, incorporated as Exhibit O, relating to the destruction of damaged and indemnified nursery stock:

Example 1:

"All of the 2005 nursery stock that was determined to be destroyed was in fact destroyed as observed by the adjuster Bunny Rabbit and supervisor Peter Cottontail, as well as myself to the best of my knowledge and numerous workers on hand at the time. The certification forms are attached as the stock that was to be destroyed was in fact destroyed. Pictures are included of some of the stock that was destroyed from the 2005 claim."

Example 2:

By letter dated XXXX, your neighbor, Roger Rabbitt said *"it was just plain bad this year."*

Your Right To Appeal:

If you do not agree with FCIC's determination in this letter you have a right to:

1) **Request an administrative review** of the FCIC decision within 30 calendar days from receipt of

this letter in accordance with 7 C.F.R. §400.93 by providing the required information to the RMA Deputy Administrator for Insurance Services at:

William Murphy
Deputy Administrator for Insurance Services
USDA/RMA/Insurance Services/STOP 0805
ATTN: LARGE CLAIM ADMINISTRATIVE REVIEW
1400 Independence Avenue SW
Washington, DC 20250-0805

First class mail to Washington, DC is often delayed for security measures. You are encouraged to send your information by a delivery service that records pickup or postmark and records and guarantees delivery.

2) **Request mediation** of the FCIC decision within 30 calendar days from receipt of this letter by writing to the XXX Mediation Service (include the correct name and address) in accordance with 7 C.F.R. §400.94. The mediation service generally requests that you include a copy of this decision letter with your request.

3) **Request an appeal** within 30 calendar days from receipt of this letter in accordance with 7 C.F.R. part 11, and 7 C.F.R. §400.92 by writing directly to the National Appeals Division (NAD) at the following address:

Regional Assistant Director
National Appeals Division
(Appropriate) Regional Office
Appropriate Address

Nothing herein precludes you from electing both an administrative review and mediation. Further, if you elect to utilize the administrative review and/or mediation you can still appeal to NAD within 30 calendar days from the receipt of the administrative review or completion of the mediation, whichever is later.

Sincerely,

Name
Regional Office Director

Exhibits:
(List Exhibits in numeric order using the Exhibit Index. Make sure your letter follows the exhibit order as you are composing your findings)

cc: (Name of AIP Point of Contact)
(AIP Address)

cc: (Insured or Insured's Legal Representative)
(Address)

cc: Director, (Name of RO) Regional Office

cc: Director, (Name of Compliance Office)

DRAFT 56 FCIC-LCH

Note: Letters and Exhibits mailed to the policyholders must be packaged, marked and processed according to PII requirements.

ATTACHMENT A-2
RMSD Large Claim Administrative Review Letter Template

USDA

United States Department of Agriculture

Risk Management Agency

1400 Independence Avenue, SW Stop 0801 Washington, DC 20250-0801

VIA OVERNIGHT MAIL
(Insured or Legal Representative Name/Title)
(Address)
(Address)
(Address)
RE: Administrative Review Decision
for (Name of Insured)
(Crop Year) (Crop) (Policy #XXXXXXX)
(County Name), (State Name)

Dear Sir (or Madam):
The Risk Management Agency (RMA), which administers the program of the Federal Crop Insurance Corporation (FCIC), has completed its administrative review of the claim determinations issued by RMA's (RO Name) Regional Office (RO) on (date of RO Letter), incorporated as Exhibit B.
To complete this administrative review of the large claim, RMA has carefully reviewed the (RO Name) RO decision file, related information submitted on behalf of the (insured's name), and documentation provided by (insured's name).

(RO Name) Position: (prior to writing the letter, determine the issues, number them and address them in the section as part of the summary. For example, Issue No. 1:)
Concisely summarize the RO's position listing and addressing each issue separately.
Reference the exhibits containing specific documents rather than quoting large portions directly from the Policy, Provisions, the insured or consultants. However, when it is necessary to quote the document or a person, indent the quotation, set the statement between quotation marks, and italicized the statement (See Example below).
State the facts as given. Do not expand, change, re-state, or re-interpret the RO letter for intent or clarity.
Example for Quotation:
Mr. Adjuster stated:
"All of the 2005 nursery stock that was determined to be destroyed was in fact destroyed."
(Insured Name) Position: (restate each issue identified above in the RO and address each one using the same issue number)
Concisely summarize the Insured Producer's position listing and addressing each issue separately.
Reference the exhibits containing specific documents rather than quoting large portions directly from the Policy, Provisions, the insured or consultants. However, when it is necessary to quote the

document or a person, indent the quotation, set the statement between quotation marks, and place the statement in italics.

State the facts as given. Do not expand, change, re-state, or re-interpret the Insured's letter for intent or clarity.

Administrative Review Determination: ***(restate each issue identified above in the RO and Insured positions and address each one using the same issue number)***

Write your determination in a clear and logical manner. Address each concern stated by either the RO or the insured. State your agreement or disagreement with the position of either or both. Justify your position with the law, policy, procedures or related documentation (this information must be part of the Exhibits). Reference the page and paragraph of the Exhibit you are using to state your justification. Use language with a matter of fact tone. Be aware of personal for bias. Write your statements to display only the facts, not your feelings.

Your Right to Appeal:
If you do not agree with FCIC's determination in this letter you have a right to exercise one of the following options:
1. **Request mediation** of the FCIC decision within 30 calendar days from receipt of this letter by writing to the XXX Mediation Service (include the correct name and address) in accordance with 7 C.F.R. §400.94. The mediation service generally requests that you include a copy of this decision letter with your request, or (If applicable.)
2. **Request an appeal** within 30 calendar days from receipt of this letter in accordance with 7 C.F.R., part 11, and 7 C.F.R. §400.92 by writing directly to the National Appeals Division (NAD) at the following address:

Regional Assistant Director
National Appeals Division
(Address)
(Address)

If you have questions concerning this determination or your right to appeal, you may contact Heyward Baker at (202) 720-4232.

Sincerely,

William J. Murphy
Deputy Administrator
for Insurance Services

Exhibits:
(List Exhibits in numeric order using the Exhibit Index. Make sure your letter follows the exhibit order as you are composing your findings)
cc: (Name of AIP Point of Contact)
(AIP Address)

cc: (Insured or Insured's Legal Representative)
(Address)

cc: Director, (Name of RO) Regional Office

cc: Director, (Name of Compliance Office)

Note: Letters and Exhibits mailed to the policyholders must be packaged, marked and processed according to PII requirements.

ATTACHMENT B
(Exhibit Index)

Exhibit Index

Note: The exhibit index and exhibits are attachments to the RO Decision Letter and must be included at the end of the letter. The Exhibit Index shall be divided into two (2) Headings:

(Heading 1)
The following exhibits are supporting documentation cited in the Decision Letter and included with this correspondence.
(Place the exhibits cited in the letter under this heading)

(Heading 2)
The following exhibits are supporting documentation examined as part of the review but was not cited in the Decision Letter and are therefore not included in this correspondence. This information is located at the (RO Name) Regional Office.
(Place the remaining exhibits, not cited in the letter, under this heading)

The list of exhibits as follows:

EX A Policy and Procedure
A.1 Basic Provisions
A.2 Crop Provisions
A.3 Actuarial Documents
A.4 RMA Handbooks, Memos, Manuals or Bulletins*
*(*You may either copy only the portion applicable and then cite on the exhibit cover page the publication, the section or paragraph number and the page number or you may include a statement for this exhibit that directs the reader to the RMA website (include exact location on the website.)*

EX B Insurance and Claim Documents for Insured
B.1 Insured Application
B.2 Insured Acreage Report (or in the case of Nursery: PIVR, CIVER, etc.)
B.3 Notice of Loss
B."X" Other documents such as production summaries, APH reviews, schedule of insurance, non-waiver agreements, previous production and/or claim histories, etc.

EX C Insured Position
C.1 Letter from the Insured to the RO
C."X" Other documents from the producer such as personal financial statements, expert opinions to support insured's position, other data submitted from the insured such as weather data, published materials (may include consultant reports, journal articles, independent surveys, university studies, newspaper or magazine articles), photographs, GIS data, communications (may include secondary sources such as neighbors, bankers, etc.) This should include, but not be limited to, telephone notes or emails pertinent to the findings that were submitted by the insured.

EX D AIP Position

D.1 Letter from AIP to Insured

D.2 Denial Letter from the AIP to the Insured

D.X Other data to support AIP, including but not limited to expert opinions to support the AIP's position, weather data, published materials (may include consultant reports, journal articles, independent surveys, university studies, newspaper or magazine articles), photographs, GIS data, communications (may include secondary sources such as neighbors, extension services, FSA, etc). This should include but not be limited to telephone notes, emails or observations pertinent to the findings submitted by the AIP or AIP representatives.

EX E Other Pertinent Data Collected by RO

*(*this section may include as many items as collected and may be re-organized to accommodate those items at the discretion of the RO)*

E.1 Herbicide labels *(for example)*

E.2 Soil Survey information *(for example)*

E.3 Communications (RO phone logs and /or notes and should also include any additional communication source submitted by either insured or AIP to support the RO findings or to validate the information provided by either the AIP or the insured).

E."X" Basically anything that the RO collected (not submitted by either insured or AIP) to assist in a determination

If the LCR goes to administrative review, RMSD will provide the following exhibits to the RO for the hard copy file and will scan the information, store it on the RMSD S:drive and then upload the exhibits to SharePoint. RMSD will notify the RO, via email, that the exhibits have been added.

EX F A copy of the decision letter to the Insured from the RO

EX G Letter from the insured to RMDS to initiate Reconsideration or Administrative Review Process

EX H Additional information submitted by insured to support his request for Reconsideration and Administrative Review.

EX H Additional pertinent data collected by RMSD to validate or reject information and data submitted by the insured, the AIP or the RO.

EX I A copy of the signed Decision Letter on the Reconsideration or Administrative Review Findings to the insured from RMSD.

Notes following May 12, 2009 teleconference
(Developed by Workgroup – Jackson, Raleigh and Spokane)

Large Claims Selection Criteria

1. RMSD Considerations – National perspective

a) RMSD will identify systemic problems on a national basis. RMSD will request potential large claim participation through the RO Director:

(1) by AIP.

(2) by Crop.

(3) related to any other issue.

2. RO Considerations – Regional perspective

a) AIP Considerations

(1) Review a variety of AIP's (esp. AIP's new to region or program).

(2) Previously identified systemic issues for a particular AIP within the region. Any systemic problems should be referred to RMSD.

b) Program Considerations

(1) New policies, procedures or pilot programs. NOTE: Reviews of these items may also be completed outside of large claim participation.

(2) Areas of probable/potential program vulnerabilities (Changes in planting, crop, or management practice decisions/behavior).

(3) Unusual fluctuations in loss ratios (not on an individual policy basis).

(4) Previously identified systemic issues for a particular policy or procedure. Any systemic problems should be referred to RMSD.

c) Regional Considerations

(1) Crop distribution (participate in a variety of crops in the region).

(2) Geographical distribution (participate in a variety of areas within the region).

d) Seasonal Considerations

(1) Unique claim circumstances: quality, aflatoxin, market losses, etc.

Additional Resources

CAE Selection Routine Project

a) All policy data including producer score.

b) CAE Spyder Network to analyze associated entities.

Note: *The following is not part of the selection criteria. These are additional comments and recommendations of the group for RMSD's consideration.*

Planning

RO's will need to plan ahead to identify AIP's, crops, geographic areas, or crop programs where large claim participation would be most beneficial. As large claim notices are received, these priorities would have to be balanced against current workload and availability of staff. Policies would be selected according to where oversight is considered to be most needed. Policies would not be selected according to individual policy information; however, information like that available from CAE (see above) should be used as a tool reviewed before participating in the claim.

Justification for participating or not participating.

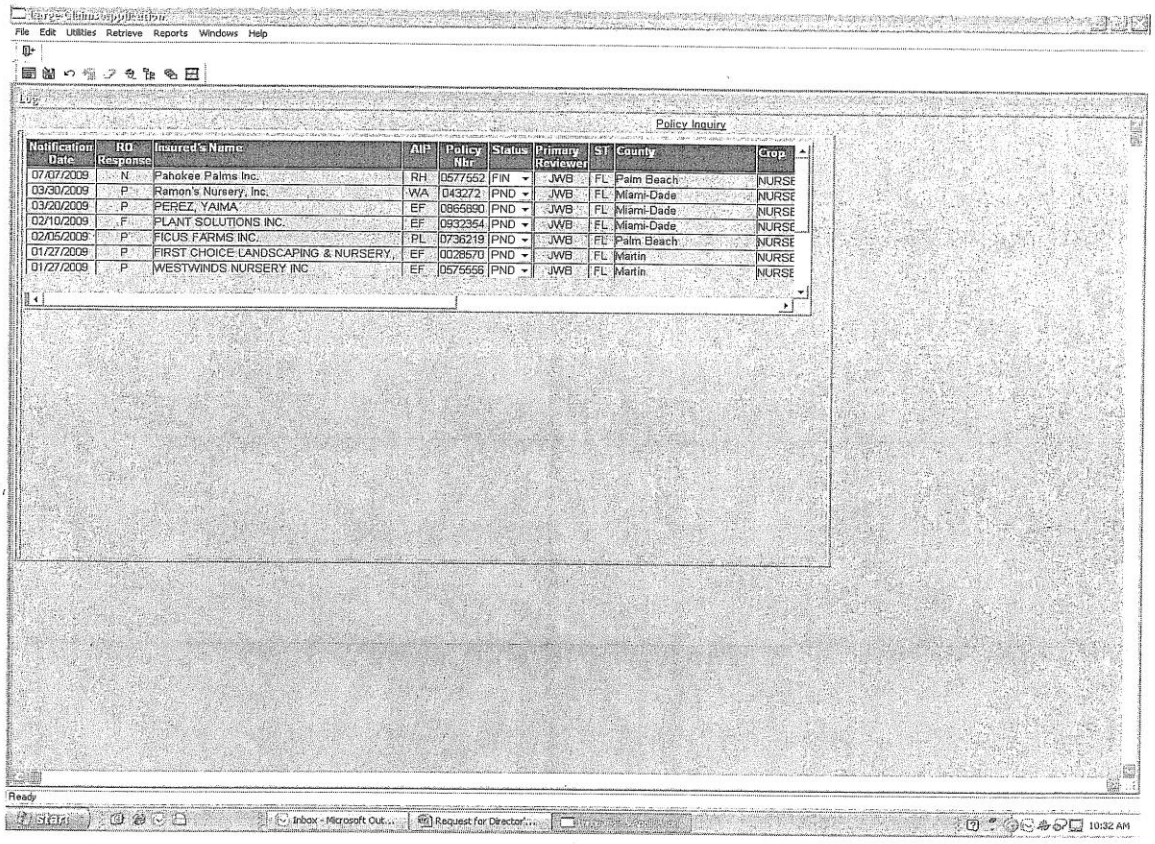
The group recommends that justification for participating/not participating in a large claim should be focused on the reason that RMA does participate and not various reasons to not participate. For example, the log would record the reason ***for*** participation. By definition, the reason for not participating in a large claim would be that it did not meet the criteria. The group recommends that RMA does not document reasons to not participate based on individual policy information. Since we would not choose to participate on an individual policy basis, neither would we choose to not participate on an individual policy basis.

The large claim log currently has a field for the response basis code. Possible entries for this are: 1) Cause of loss general, 2) CAT policy, 3) no unusual circumstances, and 4) excellent loss history. These are generally related to circumstances on an individual policy basis and would not be reasons to document RMA's decision to not participate in a large claim.

The other possible entries for the response basis code include: 1) Below liability limits, 2) moratorium, and 3) active compliance investigation. Number 1) one indicates that the notice that should not have been submitted to RMA because it did not meet the criteria of a potential large claim. Number 2) and 3) indicate internal RMA decisions and processes. These response basis codes could remain as possible entries for future use. Additional new codes will likely be needed for our documentation.

The group feels that not logging reasons to not participate in a large claim solves two of the "additional comments" from the April 09 meeting in KC by making them a moot point. Those two comments were: "Is there a need for criteria to NOT select a LC as when a Disaster occurs or widespread losses?" and "Can "lack of resources" be a reason to enter on the LC log"?

Attachment 4 - Large Claims Application



Notification Date	RO Response	Insured's Name	AIP	Policy Nbr	Status	Primary Reviewer	ST	County	Crop
07/07/2009	N	Pahokee Palms Inc.	RH	0577552	FIN	JWB	FL	Palm Beach	NURSE
03/30/2009	P	Ramon's Nursery, Inc.	WA	043272	PND	JWB	FL	Miami-Dade	NURSE
03/20/2009	P	PEREZ, YAIMA	EF	0865690	PND	JWB	FL	Miami-Dade	NURSE
02/10/2009	F	PLANT SOLUTIONS INC.	EF	0932354	PND	JWB	FL	Miami-Dade	NURSE
02/05/2009	P	FICUS FARMS INC.	PL	0736219	PND	JWB	FL	Palm Beach	NURSE
01/27/2009	P	FIRST CHOICE LANDSCAPING & NURSERY,	EF	0028570	PND	JWB	FL	Martin	NURSE
01/27/2009	P	WESTWINDS NURSERY INC	EF	0575556	PND	JWB	FL	Martin	NURSE

Informational copies of this report have been distributed to:

Administrator, RMA (3)
Attn: Agency Liaison Officer
Government Accountability Office (1)
Office of Management and Budget (1)
Office of the Chief Financial Officer (1)
Director, Planning and Accountability Division