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Risk Management Agency

Pasture, Rangeland, and Forage Pilot Program

Audit Report 50601-18-Te
August 2010

U.S. Department of Agriculture
Office of Inspector General
Washington, D.C. 20250

DATE: Aug. 27, 2010

REPLY TO
ATTN OF: 50601-18-Te

TO: William J. Murphy
Administrator
Risk Management Agency

ATTN: Michael Hand
Deputy Administrator
for Compliance

FROM: Gil H. Harden /s/
Assistant Inspector General
for Audit

SUBJECT: Pasture, Rangeland, and Forage Pilot Program

This report presents the results of our audit of the Risk Management Agency's (RMA) Pasture, Rangeland, and Forage Pilot Program. Your June 29, 2010, response to the draft report is included in this report.

We accept your management decision for Recommendations 1, 2, 3, 4, 5, and 8 for the subject audit report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer, Director, Planning and Accountability Division.

We are unable to accept management decision for Recommendations 6, 7, 9, 10, 11, and 12. Documentation and actions needed to reach management decision 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 implementation for those recommendations for which a management decision has not yet been reached. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance, and final action to be taken within 1 year of each management decision.

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

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Executive Summary

As the agency of the Department of Agriculture (USDA) responsible for administering the Federal crop insurance program, the Risk Management Agency (RMA) partners with private companies, known as approved insurance providers (AIP), to provide farmers and ranchers a range of varied crop insurance options. Beginning in crop year (CY) 2007, RMA offered two new pilot programs for pasture, rangeland, and forage (PRF).[1] PRF programs offer livestock producers the ability to purchase insurance for losses of forage produced for grazing or harvested for hay—one of the programs is based on rainfall, the other on vegetation growth. The Office of Inspector General (OIG) initiated this audit to determine whether RMA effectively implemented the PRF pilot program, and if RMA's controls for the PRF pilot program were adequate to minimize program losses and ensure program integrity.

Both PRF's rainfall and vegetation growth variants are similar to group risk insurance programs—they insure producers based on the average rainfall or growth in their geographic area instead of how producers fare individually. Under PRF, producers are indemnified when rainfall or vegetation growth in their area falls below historical norms. Such programs are premised on the idea that producers in an area will experience similar losses. In CY 2007, AIPs sold approximately 10,000 policies and insured nearly $388 million in total PRF liabilities.[2] In that year, the AIPs paid $44 million in indemnities.[3]

We found that RMA needs to strengthen its controls over the PRF programs. Several agencies within the Department of Agriculture operate programs that potentially overlap with PRF and can result in paying farmers multiple benefits for the same piece of land. During the development of PRF, we found that RMA could have improved communication with the Natural Resources Conservation Service (NRCS) and had limited communication with the Farm Service Agency (FSA) to ensure that they identified these overlaps. Communicating with other agencies is particularly important because producers who participate in conservation programs operated by FSA or NRCS would not be eligible to participate in PRF if they had agreed that they would not use the land for grazing, hay, or forage purposes. Although RMA responded that it had communicated with FSA's disaster assistance program staff and NRCS staff for technical assistance, it, however, did not consider the possibility of overlap with conservation programs, and does not have procedures in place to assess the risk of program overlap with other agencies as it develops new insurance products. As a result, RMA has reduced assurance that producers are not insuring land in the PRF pilot programs that is ineligible because it is enrolled in other farm or conservation programs.

RMA also needs to improve how it oversees the AIPs and their implementation of the PRF pilot programs. When producers apply for or annually renew their PRF insurance policy, they certify the number of acres they wish to insure. AIPs are required to select and review some of these

[1] A pilot program is an insurance product that the Federal Crop Insurance Corporation board has authorized to be offered on a temporary basis, but that has not yet authorized as a permanent product.

[2] $62 million vegetation index and $326 million rainfall index.

[3] $3.5 million vegetation index and $40.5 million rainfall index.

policies to verify that the producers have accurately reported their acreage, and to submit to RMA a summary of their reviews. As with all group risk insurance policies, it is important that the AIPs perform these reviews because it is the AIPs' only opportunity to review the insured acreage before they calculate and indemnify losses.

We found, however that neither the reviews themselves nor the summaries are currently serving as useful management tools to help RMA monitor AIPs' performance. AIPs do not select policies for review according to RMA's guidance; they do not submit complete information regarding their reviews or in a standardized format that would facilitate analysis; and they do not submit their summaries timely. For its part, RMA was doing little with the summaries it received—it saw them as part of the pilot program's development, rather than as a control for overseeing the program. Since these reviews and their summaries are one of RMA's chief means for ensuring that producers are accurately insuring their acreages and AIPs are correctly operating the program, it is vital that RMA strengthen the control.

Additionally, RMA needs to take steps to ensure that the private contractor responsible for maintaining the PRF computer system complies with Federal information technology standards. RMA relied on this contractor to design the PRF insurance product, and also to provide AIPs with the yearly rainfall and vegetation information the product is based on. Agency officials contended that since the contractor owned and operated the system, RMA did not need to require the contractor to comply with Federal standards for developing, accrediting, and certifying its information technology system. However, RMA relied on data and calculations from this noncompliant system to pay indemnities totaling approximately $170 million.[4]

During our review, we focused on PRF policies in Texas because Texas carried 68 percent of the liabilities for the whole program in CY 2007—$265 million of the total $388 million. Texas producers received $35 million of the program's total indemnities of $44 million. We sampled 15 producers who were insured for $2.8 million and received $1.7 million in indemnities for CY 2007, and we found that 2 were not eligible to insure all or a portion of the land represented on the insurance application or the annual acreage report. One of the producers was a nonresident foreign national, which disqualified the producer from participating in RMA programs. The other did not have the right to graze a portion of the land he insured.[5] We did not uncover evidence that false statements were made. Like many other insurance products, PRF relies on producers to provide accurate information on their applications, but these producers provided erroneous material facts when they applied for the PRF pilot program. Due to these errors, these two ineligible producers received improper indemnities totaling $1.2 million.

Recommendation Summary

We are recommending that RMA take the following steps to strengthen its controls over its insurance programs:

- Develop a procedure for communicating with other agencies during the development of pilot programs to identify areas of program overlap and assess the risks of such overlap.

[4] Includes indemnities paid since inception of the program through March 15, 2009.
[5] Title 8, *United States Code*, section 1611 A.

- Contact NRCS and FSA and determine if any additional areas of program overlap exist for the PRF pilot programs and assess the risks of these overlaps.

- Provide the AIPs with a format for submitting acreage report review summaries completely and consistently.

- Develop procedures for tracking and reviewing AIPs' summaries of acreage report reviews, and taking action to correct any problems identified.

- Coordinate with the Office of the Chief Information Officer and take the necessary steps to ensure that the contractor properly certifies, accredits, and documents the system used for the PRF insurance programs.

- Recover the $1.2 million in indemnities paid to two producers who were ineligible for the PRF.

Agency Response

In its written response dated June 29, 2010, RMA generally concurred with the recommendations. However, RMA did not agree with the recommendation to coordinate with the Office of the Chief Information Officer and ensure that the contractor that developed the PRF pilot program certifies, accredits, and documents its system. Likewise, since it disagreed with OIG's position as to whether the contractor's information system constituted a "Federal information system," RMA plans no further action on the recommendation.

RMA disagreed with OIG's position that the contractor system constituted a "Federal information system" as defined by the Federal Information Security Management Act. Thus, it plans to take no further action concerning Recommendations 6 and 7. RMA cited the contract under which PRF was developed, that requires the development of Perl[6] scripts to extract data and develop derivative and interpolated data from the extracts. Further, RMA stated that the resultant deliverable from this contract is a discrete point of data. RMA contends that this deliverable does not meet the definition of an information system as defined by the Federal Information Processing Standards 199. Thus, RMA believes that the contractor's system does not meet the requirements set out for certification and accreditation.

RMA's response to the official draft report is included at the end of this audit report.

OIG Position

We accepted management decision for 6 of the 12 recommendations. For Recommendations 9, 10, 11, and 12, RMA generally agreed to take action based upon the results of its review. However, RMA did not state what action that it would take based upon the review and, therefore, we were unable to accept management decision. RMA will need to provide additional information outlined in the OIG Position sections presented in the Findings and Recommendations sections of the report.

[6] Perl is a high-level, general-purpose, interpreted, dynamic programming language. Perl was originally developed in 1987 as a general-purpose Unix scripting language to make report processing easier.

For Recommendation 6, we disagree with RMA's position that the contractor's system does not meet the Federal Information Security Management Act's definition of a "Federal Information System." Accordingly we will elevate this issue to the Office of the Under Secretary for Farm and Foreign Agricultural Services for resolution.

OIG believes that Recommendation 7 is distinct and separate from Recommendation 6. For Recommendation 7, RMA needs to ensure that information systems that support future pilot programs are reviewed to determine if they meet the Federal standards for certification and accreditation by including this requirement in the *Program Development Handbook*.

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.

Background

The Department of Agriculture's (USDA) Risk Management Agency (RMA) administers the Federal crop insurance program, and helps insure producers against crop failures due to crop diseases, hurricanes, and other risks. Federal crop insurance is available solely through private companies, known as approved insurance providers (AIP), that market and service crop insurance policies and process claims for loss. AIPs directly insure producers and their crops, and then RMA reinsures the AIPs against a portion of the losses they may suffer.

RMA and the AIPs offer producers a number of different insurance products. While RMA is prohibited by law from developing new risk management products on its own, it can and does assist in developing new insurance products through partnerships and contracts with grower organizations and other groups.[7] Once a new insurance product is developed and approved by the Federal Crop Insurance Corporation (FCIC), RMA initiates the product as a pilot program.

Beginning in crop year (CY) 2007, RMA offered two new pilot programs for pasture, rangeland, and forage (PRF). Unlike other insurance products—which insure individual producers based on their actual loss—PRF insurance is premised on the idea that producers in the same area will tend to suffer similar losses from adverse environmental conditions.

The two new PRF insurance products were designed to provide livestock producers the ability to purchase insurance for losses of forage produced for grazing or harvested for hay. One of the PRF products insures producers based on a rainfall index: if rainfall in an area falls below a historically established norm for that area, then insured producers receive an indemnity based on this deviation.[8] The other PRF product insures producers based on a vegetation index: if vegetation growth in an area falls below a historically established norm, then insured producers receive an indemnity based on this deviation.[9]

RMA employed a contractor to develop the PRF pilot program and produce the rainfall and vegetation indices upon which the insurance products are based. This contractor has developed a computer system that downloads rainfall data from the National Oceanic and Atmospheric Administration and vegetation data from the U.S. Geological Survey. This system then converts this data into the indices used by AIPs to calculate indemnities for all producers insured under the PRF pilot program.

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[7] Title 7, *United States Code*, section 1522.

[8] The rainfall index is computed using a grid system to define loss coverage areas. Producers must select at least two 2-month time periods in which precipitation is important to their livestock operation during the growth and production of the forage species for which coverage is requested. These time periods are called index intervals. Producers' losses are then calculated based on the deviation from normal precipitation during the index interval for the grid in which the producers' operations are located.

[9] The vegetation index is computed by measuring the greenness of vegetation and is correlated to forage condition and productive capacity within grids. With this plan of insurance, producers may select one or more 3-month time period(s) that represent a producer's forage species production. Much like the rainfall index, producers' losses are calculated based on deviations from normal vegetative production during the index intervals relative to the grid where the operation is located.

The contractor provides RMA with premium rates, county values by crop, and the historical indices for rainfall and vegetation growth. Once each insurance interval ends, the contractor provides RMA with the calculated indices for each area. RMA validates the data using statistical analysis software, converts the data to a more user-friendly format, and makes the data available to the AIPs. The AIPs use this data to calculate loss payments to producers who have purchased a PRF policy, and RMA then reimburses the AIPs for a portion of the indemnities they pay.

In order to participate in PRF, producers submit an application and an acreage report to their crop insurance agent no later than November 30th of the previous crop year. As part of this process, producers certify all insurable and uninsurable acreage of the crop type and the general location within a specified grid, but they are not required to insure all eligible acreage or specify which specific acres are insured.[10] To ensure producers have complied with all policy provisions of the insurance contract, AIPs must perform acreage report reviews in which they are required to select some producers, perform field inspections, and verify information they provided, including actual acres, the producers' share of the crop, and the insurability of the acreage.

Producers can be ineligible to participate in PRF if they have enrolled the land in question in other Government programs, especially programs that prohibit them from grazing or haying the land. For example, producers who enroll land in the Farm Service Agency's (FSA) Conservation Reserve Program agree to plant resource-conserving vegetative covers that would generally preclude grazing. Likewise, producers who participate in FSA's Debt for Nature Program or the National Resources Conservation Service's (NRCS) Wetlands Reserve Program also agree that they will not develop or cultivate their land, which would make them ineligible for PRF.

Objectives

The objectives of this audit were to determine: (1) whether RMA effectively implemented the PRF pilot program, and (2) if RMA's controls for the PRF pilot program were adequate to minimize program losses and ensure program integrity, including preventing producers from receiving improper indemnity payments for acres enrolled in FSA and NRCS programs.

As part of the second objective, we also evaluated whether RMA's controls to communicate and coordinate PRF pilot program information with other Departmental agencies helped to ensure that there was no conflict between PRF and programs operated by agencies such as FSA and NRCS.

[10] This varies from other crop insurance programs in which a producer is required to identify specific acreage and must insure all eligible acreage of the insured crop type.

Finding 1: RMA Needs to Improve Communication with Other USDA Agencies to Identify Program Overlap and Assess Associated Risks

Within USDA, several agencies operate programs that may provide farmers with benefits, potentially for the same piece of land—FSA administers a diverse range of programs that provide producers with an equitable financial "safety net;" NRCS works with private landowners to help them conserve, maintain, and improve their natural resources; and RMA administers the crop insurance program. These benefits may even be mutually exclusive since when a producer agrees to implement a conservation practice on his/her land, he/she may be excluded from receiving insurance payments for crops grown on this land. We found, however, that when RMA helps develop new insurance products, it does not effectively communicate or coordinate with other USDA agencies to identify areas where programs may overlap or conflict, nor does it assess the associated risks of improper payments. When we spoke to senior RMA officials about why they had not identified these areas where different agencies' programs may overlap, they stated that they had not considered the possibility of problems of this nature. Without effectively communicating and cooperating with other relevant agencies during the pilot program development process, USDA has reduced assurance that producers are not insuring land in the PRF program (or other Federal crop insurance programs) that is ineligible because it is already enrolled in other farm or conservation programs.

USDA requires its agencies to establish a system of internal controls that will facilitate the efficient and effective use of resources.[11] When a new insurance product is developed, it is possible that the product may overlap or conflict with existing USDA programs. To identify conflicts, RMA needs to communicate with the other agencies with similar missions and cooperate to reduce any potential problems. Communication between the various agencies serving agricultural producers is particularly important because participation in some USDA programs (especially conservation programs) may render a piece of land ineligible for farm benefits and insurance.

We reviewed the steps RMA took during the design and implementation of PRF to identify other programs that would prevent a producer from haying or grazing the land. We found that RMA did communicate with FSA's Production, Emergencies, and Compliance Division in order to make sure that producers did not receive benefits under both the Noninsured Crop Disaster Assistance Program and PRF. However, RMA did not communicate with other divisions of FSA concerning potential program overlap such as the Conservation and Environmental Programs Division, which provides financial incentives to temporarily retire marginal pasture or crop land to vegetative cover through the Conservation Reserve Program. RMA did speak with loan making officials in Farm Loan Programs concerning how pasture losses are established for emergency loans. However, they did not communicate with the Farm Loan Programs' personnel in loan servicing concerning the Debt for Nature Program, which cancels a portion of producer indebtedness to FSA in exchange for a conservation contract. Both of these programs could include restrictions that would prevent producers from grazing the land, which would make the land ineligible for PRF.

[11] Departmental Manual 1110-002, "*USDA Management Control Manual*," chapter 1 paragraph 5, dated November 29, 2002.

When we spoke with RMA concerning similar contacts that they may have had with NRCS, we found that they had consulted with many rangeland specialists about technical aspects of the PRF program. However, we found that RMA did not coordinate with NRCS program personnel to assess risk regarding program overlap, even though participation in several of NRCS' programs might render land ineligible for PRF. For example, NRCS' Wetlands Reserve Program compensates landowners for retiring marginal agricultural land and enhancing wetlands, and the Emergency Watershed Protection Program allows NRCS to purchase floodplain easements as an emergency measure. If producers enroll land in either of these programs, then they cannot graze or cultivate the land without special permission from NRCS. However, when RMA officials developed PRF, they did not communicate with NRCS to assess the possibility of overlap between the agencies' programs. NRCS officials stated that they were unaware of PRF's existence and thus unaware of the possible risk of overlapping or conflicting benefits.

RMA officials stated that they had numerous discussions with subject matter experts from the different USDA agencies concerning the technical aspects of the program. When we asked RMA officials why they had not communicated with FSA and NRCS more comprehensively regarding how PRF might overlap with these agencies' programs, they stated that they were aware of the potential for conflict with the Noninsured Crop Disaster Assistance Program because an employee had expertise in this matter and brought it to their attention. They stated that they never considered that PRF would conflict with other USDA programs, and thus they took no additional action to discuss program overlap and assess this risk with other divisions of FSA or NRCS.

OIG maintains that, as RMA develops new insurance products, the agency needs to develop procedures for communicating with relevant agencies so that it can assess the risk of potential overlap or conflict along with possible improper payments. Once RMA has identified the risks, it can then develop adequate controls and provide guidance to the AIPs so that they can more effectively identify land ineligible for the new insurance product.

Recommendation 1

Develop a procedure for communicating with other agencies during the development of pilot programs to identify areas of program overlap and assess the risks of such overlap.

Agency Response

RMA's written response, dated June 29, 2010, stated that it does not believe OIG's report adequately captures the extent of interagency discussions and coordination. However, it will review its current procedures and contract language and strengthen, where appropriate, contact with other agencies and the review and assessment of other applicable programs to address potential program overlap and associated risks. RMA expects to complete this action by June 30, 2011.

OIG Position

We accept management decision for Recommendation 1.

Recommendation 2

Contact NRCS and FSA and determine if any additional areas of program overlap exist for the PRF pilot program and assess the inherent risks of these overlaps. Once any additional risks have been identified, the agency must develop controls to address the risks and prevent producers from insuring ineligible land under PRF.

Agency Response

RMA's written response, dated June 29, 2010, stated that though the agency believes they have already done this, it will consult with FSA and NRCS to identify additional areas of program overlap and assess the risks identified. Appropriate controls will be developed for any risks identified. RMA expects to complete this action by June 30, 2011.

OIG Position

We accept management decision for Recommendation 2.

Finding 2: RMA Needs to Better Oversee AIPs' Monitoring of Insured Producers

When producers apply for a PRF insurance policy or annually renew their policy by submitting acreage reports, they self-certify the number of acres they wish to insure. As a control, RMA requires that AIPs select and review some of these policies to verify that the acreages have been accurately reported. These acreage report reviews serve an important control function because they are the only reviews AIPs perform before they pay indemnities. We found, however, that the acreage report reviews and the summaries AIPs send to RMA are not currently serving as useful management tools to help RMA monitor AIPs' performance. AIPs do not select policies for review according to RMA's guidance; they do not submit complete information regarding their reviews or in a standardized format that facilitates analysis; and they do not submit their summaries timely. Moreover, RMA was not reviewing or monitoring the information they contain, unless the AIP was selected for a National Program Operational Review (NPOR), long after the indemnity was paid. These problems occurred because RMA has not emphasized these summaries as a useful management tool for monitoring the ongoing performance of the PRF insurance product. Instead, it regards them as part of the pilot program's assessment, not as an internal control. While OIG acknowledges that this control was introduced during the pilot program phase, other permanent group risk insurance programs contain nearly identical provisions, and OIG maintains that these summaries are essential to maintaining control over PRF if it becomes permanent. Without them, RMA has little assurance that AIPs are reviewing the acreage producers self-certify when they purchase a PRF policy.

Based on our review of the summaries submitted by the 13 AIPs who sold PRF policies during the CY 2007, we found a number of weaknesses, both with how the AIPs were performing the reviews and submitting the summaries, as well as with what RMA did with the summaries once it received them.

AIPs Are Not Submitting Complete Information Relating to their Review Summaries, Nor Are They Performing All Required Acreage Report Reviews

RMA has established a two-phase process for how the AIPs should select PRF policies for acreage report reviews. First, AIPs must conduct acreage report reviews for all policies of employees of the insurance provider/FCIC or representatives, adjusters, agents, etc., on which a claim has been paid in the last year; all policies for which misrepresentation or concealment of material facts is suspected; and all policies for which a written application for acreage reduction is made during the CY. Once these mandatory reviews have been selected, the AIPs must then select no less than a 3-percent random sample by crop for PRF policies with reported acreage.[12] After the AIPs have performed their acreage report reviews, they are required to submit a written summary of the review results to RMA's Washington, D.C., Compliance Office, no later than 30 days prior to the end date of the last interval for the CY.[13] The summary must identify any discrepancies from the acreage originally reported.

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[12] FCIC-18110, "*Pasture, Rangeland, Forage Rainfall Index Insurance Standards Handbook*," section 4(F), dated August 2006 and FCIC-18120, "*Pasture, Rangeland, Forage Vegetation Index Insurance Standards Handbook*," section 4(F), dated August 2006.

[13] The CYs for the vegetation and rainfall indices are divided into intervals. The vegetation index consists of four 3-month intervals beginning April 1st of the CY. The rainfall index consists of six 2-month intervals beginning February 1st of the CY.

Phase 1 – Mandatory Reviews

Of the 13 AIPs we reviewed, 4 failed to provide enough information to determine if they had performed all required, first phase reviews. One AIP reported that it had completed 25 reviews, but that information is not adequate to determine if the AIP in question had satisfied this requirement—the AIP could have conducted mandatory reviews of 25 policies because it suspected misrepresentation or concealment of facts, or it could have conducted 25 random reviews to satisfy the 3-percent rule. Without more detailed information concerning the reviews the AIP performed, OIG cannot determine if the AIP followed RMA's guidance.

Phase 2 – 3-Percent Sample

Of the 13 AIPs we reviewed, we found that 2 provided enough information for us to determine that they were not following RMA's guidance when they performed the acreage report reviews required by the 3-percent sample rule. One AIP reported performing 37 reviews (1.9 percent), even though it should have reviewed 59 policies (3 percent). RMA did not take steps to determine why this AIP did not review enough policies, nor did it insist that the AIP complete its required reviews.

Both AIPs did not correctly interpret RMA's guidance for selecting policies for the 3-percent review. AIPs confused the farming practice (haying or grazing) with crop (PRF) which caused them to double count PRF policies with both practices.

RMA lacks assurance that another four AIPs performed their 3-percent reviews correctly since the information they submitted was not detailed enough for us to determine if the AIPs followed RMA's guidance.

AIPs' Summaries Are Too Inconsistent to Facilitate Analysis

All 13 AIPs we reviewed submitted their acreage report review summaries in different formats, which made comparing the information they contained difficult, if not impossible. Some AIPs sent e-mails with very little information, while others sent spreadsheets with fairly comprehensive information. Even the AIPs that used similar formats submitted information so varied that a reviewer could not compare data from one AIP to another.

For its part, RMA did not establish a standardized format for the AIPs to follow so that they would submit the same information. By establishing a standardized format, RMA reviewers could use the information to identify trends, common areas of concern, or errors.

AIPs Did Not Submit Their Acreage Report Review Summaries Timely

Of the 13 AIPs we reviewed, only 2 submitted their acreage report review summaries on or before the due date. These summaries are due 30 days before the end of the last interval of the CY, yet we found that 11 AIPs submitted their summaries from 2 days to 2 months delinquent.

Once RMA receives the AIPs' acreage report review summaries, we found that the agency does little to ensure the completeness or accuracy of the information. RMA's Compliance Office does not review the summaries to determine if the acreage reviews uncovered significant

discrepancies in the acreage reported. The Deputy Administrator for Compliance stated that he does not review these summaries, but that they are kept and used when RMA conducts NPORs, which are RMA's way of ensuring that AIPs comply with all relevant laws and regulations.

According to RMA, 300 policies from 6 AIPs were reviewed as part of its 2007 NPORs. Of these policies, the agency selected and reviewed seven PRF policies from two AIPs with liabilities totaling $786,887 and indemnities of $121,049. One of the policies had an acreage discrepancy but was within tolerance and no monetary adjustments were made.

One of the six AIPs included in the 2007 NPORs was also one of the two AIPs that we visited. In the NPOR for this AIP, RMA found the AIP's plan to be adequate but did note areas where more information would be beneficial in outlining the company's quality control processes. These areas included providing more details for the selection process of each required review and providing more instruction for conducting each type of quality control review. We also noted these conditions when we visited this AIP. This AIP informed us that it follows the RMA handbook for conducting reviews but did not have supplemental detailed instructions for selecting and conducting these reviews.[14] However, RMA did not disclose any problems with the reviews performed by the AIP for PRF policies.

OIG maintains that, since the results of this NPOR were not reported until August 2009, the NPOR process does not allow RMA to timely identify problematic trends in the PRF insurance product.

We concluded that RMA could improve the usefulness of the AIPs' acreage report review summaries by providing the AIPs with a standard format for submitting their information. Additionally, RMA needs to better monitor and analyze these summaries as they are submitted so that the agency can timely monitor the program and identify any significant weaknesses.

Recommendation 3

Provide the AIPs with a standardized format for submitting acreage report review summaries completely and consistently.

Agency Response

RMA's written response, dated June 29, 2010, stated that it concurs with this action. RMA expects to complete this action by June 30, 2011.

OIG Position

We accept management decision for Recommendation 3.

[14] FCIC-18110, "*Pasture, Rangeland, Forage Rainfall Index Insurance Standards Handbook*," dated August 2006 and FCIC-18120, "*Pasture, Rangeland, Forage Vegetation Index Insurance Standards Handbook*," dated August 2006.

Recommendation 4

Develop procedures for tracking the receipt of acreage report review summaries to ensure that each AIP is submitting complete information.

Agency Response

RMA's written response, dated June 29, 2010, stated that it concurs with this action. RMA expects to complete this action by June 30, 2011.

OIG Position

We accept management decision for Recommendation 4.

Recommendation 5

Develop procedures for reviewing the information submitted and acting on any problems identified.

Agency Response

RMA's written response, dated June 29, 2010, stated that it concurs with this action. RMA expects to complete this action by June 30, 2011.

OIG Position

We accept management decision for Recommendation 5.

Finding 3: RMA Did Not Ensure that the Contractor Responsible for PRF Complied with Federal Information Technology Standards

When RMA decided to develop the PRF insurance product, it contracted with a private company that would actually design the product and provide the yearly rainfall and vegetation data the product is based on. RMA relies on this private company, its systems, and its data, but RMA did not require the contractor to comply with Federal standards for developing, accrediting, and certifying its information technology systems. This occurred because the *Program Development Handbook* did not contain controls or procedures that would require certification and accreditation of the contractor's system. [15] Further, RMA officials stated that because the contractor's system was not owned and operated by the Federal Government, the contractor did not have to meet Federal standards. OIG disagrees since RMA relied on the data generated by the contractor's system; the Federal information technology standards are still applicable. Since the program's inception, RMA has relied on the contractor's system for the data that AIPs require to pay indemnities totaling approximately $170 million. With potential liabilities totaling nearly $1.3 billion, RMA has a greater risk and needs to ensure that the contractor's systems meet Federal standards.

RMA's initial agreements with the contractor to develop the PRF plans of insurance date from 2004, but the contracts have been modified repeatedly. In March 2006, the contracts were modified to fund PRF's first-year implementation and monitoring. In April and July 2009, the contracts were modified to continue operation and monitoring.

Since 2002, with the passage of the Federal Information Security Management Act (FISMA), the Federal Government has insisted on strict standards for the information technology systems that any Federal agency uses to manage its programs, including systems that contractors maintain on behalf of a Federal agency.[16] These standards require that such systems are properly certified, accredited, documented, and secured.[17]

We found, however, that RMA did not require the private company it contracted with to comply with these standards. The agency relies on the contractor and its information system to compile rainfall and vegetation data, first, to provide a historical norm in an area and second, to determine what occurred during the insured time period. For the rainfall index, producers insure themselves against rainfall dropping below the historical norm. When precipitation falls below this norm, producers receive indemnities based on this deviation. For the vegetation index, producers insure themselves against vegetation greenness dropping below the historical norm. When the vegetation's greenness falls below this norm, producers receive indemnities based on this deviation. Information about rainfall and vegetation greenness—and the system that collects and calculates it—is therefore essential to the PRF insurance product.

When we asked RMA officials for documentation regarding how they certified, accredited, documented, and secured this critical system, they told us the information was contained in the

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[15] FCIC-23010, "*Program Development Handbook*," dated September 2005.

[16] Public Law 107-347, "*E-Government Act of 2002*," title III, section 302, subsection 11331(g)(1), dated December 17, 2002.

[17] Federal Information Processing Standards Publication 200, *"Minimum Security Requirements for Federal Information and Information Systems,"* dated March 2006.

FCIC board package. The board package, which was required by the contract RMA signed with the private company, describes everything from a general overview of the insurance product to how the producers would be paid. RMA stated that the specific section containing system documentation was entitled "Technical Description of PRF." While this section described what the system was supposed to do, it lacked key elements necessary for proper system documentation, including information concerning how the system was configured, installed, maintained, and operated. It also lacked information concerning the system's security features, known vulnerabilities, and administrative functions.[18] We also noted that the contract signed with the private company did not require the contractor to provide system documentation for the certification and accreditation of its system.

We requested that RMA provide evidence that the system had been certified and accredited. RMA officials responsible for the program's implementation and development stated that before OIG mentioned certification and accreditation they were not aware of the process. The agency responded that the system was wholly owned and maintained by the contractor and not installed on RMA's networks or systems. Further, agency officials stated that their agreement with the contractor was for data analysis and, therefore, no certification and accreditation was required. We do not agree. FISMA defines a "Federal Information System" as an information system used or operated by an executive agency, a contractor of an executive agency, or by another organization on behalf of an executive agency.[19] According to this definition, the contractor system must be certified and accredited. Additionally, in August 2009 OMB released guidance regarding the requirements of FISMA. This document affirmed that contractors must ensure procedures for adequately securing and safeguarding Federal information are consistent with existing policy.[20]

Finally, we reviewed RMA's *Program Development Handbook*—the guidance the agency uses as it develops new insurance products—to determine what information system controls were in place to ensure systems developed for pilot programs were properly documented, certified, and accredited. We found that RMA had no control in place that would ensure systems developed to supply data for new insurance products were documented, certified, and accredited.

Without requiring that the contractor provide adequate system documentation, RMA lacks assurance regarding the integrity of the contractor's data. The agency needs to take necessary steps to ensure that the system developed to calculate rainfall and vegetation data for PRF is properly documented, certified, and accredited. Additionally, RMA should implement a control that will ensure that future systems developed under contract with third parties are properly documented, certified, and accredited.

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[18] National Institute of Standards and Technology Special Publication 800-53, "Recommended Security Controls for Federal Information Systems," dated February 2005.

[19] Public Law 107-347, "*E-Government Act of 2002*," title III, section 302, subsection 11331(g)(1), dated December 17, 2002.

[20] Office of Management and Budget Memorandum 09-29, "*FY 2009 Reporting Instructions for FISMA*," dated August 20, 2009.

Recommendation 6

Coordinate with the Office of the Chief Information Officer and take the necessary steps to ensure that the contractor properly certifies, accredits, and documents the system used for the PRF insurance products.

Agency Response

RMA's written response, dated June 29, 2010, stated that it disagrees with the finding justifying OIG's recommendation. RMA continued that it did not believe the recommendation was applicable or relevant and plans no further actions concerning this recommendation.

RMA's position is that the system operated by the contractor does not meet FISMA's definition of a Federal information system. RMA states that the contract for the PRF product was designed specifically for data analysis of publicly available data. Further, it states that the contract had no requirements for the development of an information technology system that meets FISMA's definition. Additionally, according to RMA, an information system is ". . . a discrete set of information resources . . ." and the resultant deliverable from the contract (the data) is not a discrete set of information resources but rather a discrete point of data. As such, RMA believes that no certification and accreditation of the contractor's information system is necessary.

Further, RMA states that the only development that is explicitly mentioned in the contract is Perl scripts to extract data and develop derivative and interpolated data from the extracts. According to RMA, these are simple routines using publicly available libraries, data, and programming skills. RMA likens the data provided to other data analysis tools that the Government uses on a regular basis such as credit bureaus, LexisNexis, and commercial imagery that, according to RMA, are not subject to the certification and accreditation process.

OIG Position

OIG agrees with RMA's position that the contract in question did not specifically require the development of an information system, but it does require the use of one. Further, we recognize that the source data on which the PRF program is based is publicly available. However, neither of these positions independently nor in the aggregate disqualifies characterization of the contractor's information system as a Federal information system as defined by FISMA.

We also agree that the execution of a "handful of scripts" does not constitute an information system. However, scripts do not execute themselves on discrete points of data. Likewise, discrete points of data do not store themselves. The download of the raw data, execution of the scripts, and storage of the results require the existence of a discrete set of information resources to satisfy the deliverable specified in the contract. This collection of resources is subject to error, accidental destruction, and the malicious intent of unscrupulous individuals in cyberspace.

Thus, we contend that the information system must be properly certified and accredited to protect the data integrity and subsequently millions in indemnities paid by the AIPs and reinsured by RMA.

The definition of a Federal information system, according to FISMA, is "an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency [emphasis added]." The system in question meets two out of the three qualifying criteria set forth in this definition in that the information system is operated by a contractor of an executive agency as evidenced by the contract, and on behalf of the executive agency as evidenced by the data that serves as the basis for the entire PRF program. The data produced by this information system is not simply downloaded from other Federal agencies and analyzed. Rather, the data is manipulated through temperature constraints, averaging, interpolation, smoothing, and finally indexing the manipulated data based on a percent of normal. OIG cannot comment on RMA's comparison of its use of this data to credit bureaus, LexisNexis, and commercial imagery because these services were not reviewed within the scope of this audit. However, based on the results of this audit, RMA may wish to review its use of these products along AIP systems to determine what risks security practices by these service providers pose to RMA assets.

In April of 2010, OMB clarified guidance on questions related to reporting for FISMA and agency privacy management. This specifically stated that agencies are allowed to utilize data services in the private sector provided that appropriate security controls are implemented, tested, reviewed as part of the agency's information security program, and protected as required by FISMA. Additionally, contractors must abide by FISMA and provide necessary security controls commensurate with the risk and magnitude of harm resulting from unauthorized access, use, disclosure, disruption, modification or destruction of information collected or maintained by or on behalf of the agency.[21] Even though RMA contracted for data only, the manner in which RMA uses the data poses a risk to Government assets in the form of reinsured indemnities. As such, RMA cannot ignore the losses that the Government could incur in the event that the contractor's resources are compromised or malfunction causing a loss of data integrity. We concluded that the contractor's system should be certified and accredited according to standards put forth by the National Institute of Standards and Technology to provide assurance as to the integrity and accountability of the contactor's system and the data it produces.

Given RMA's position on this recommendation, we will elevate this issue to the Office of the Under Secretary for Farm and Foreign Agricultural Services for resolution.

Recommendation 7

Incorporate controls into the *Program Development Handbook* that ensure that all systems supporting future pilot programs are properly certified and accredited and that proper system documentation is obtained.

[21] Office of Management and Budget Memorandum 10-15, "*FY 2010 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management,*" questions 22, 36, and 37, dated April 21, 2010.

Agency Response

In its response, dated June 29, 2010, RMA stated that concurrent with its response in Recommendation 6, it disagrees with OIG's position that the company's systems constitute a "Federal information system" as defined by FISMA. RMA plans no further action concerning this recommendation.

OIG Position

As we stated in our response to Recommendation 6, OIG maintains its position that the contractor system satisfies the legal definition for classification as a Federal information system. However, Recommendation 7 was distinct and separate from Recommendation 6 as Recommendation 7 relates to information systems supporting future pilot programs. For this recommendation, RMA needs to add procedures to its *Program Development Handbook* to ensure that future contracts for pilot programs include language that requires an assessment of whether an information system supporting the pilot program should be certified and accredited according to Federal standards. If any such information system is deemed to meet these standards, then proper documentation of certification and accreditation should be obtained.

Finding 4: Producers Insured under PRF Provided Erroneous Facts about their Eligibility for the Program and the Acreage They Insured

Of the 15 producers we reviewed who were participating in the PRF pilot program, we found that 2 were not eligible to insure all or a portion of the land represented on the insurance application or the acreage report—one of the producers was a non-resident foreign national and the other did not have the right to graze a portion of the land he insured. PRF relies on producers certifying the accuracy of the information on their applications and acreage reports, but these producers provided erroneous facts when they applied for the PRF pilot program. Due to these errors, these two ineligible producers received improper indemnities totaling $1.2 million.

When producers sign the insurance application and the acreage report, they certify their eligibility and the accuracy of the information they have provided, including items such as the acreage included in the operation and the extent of the applicant's ownership interest in the land or leasehold interests of the operation.[22]

A non-resident foreign national was paid indemnities as if he were a U.S. citizen

Since crop insurance coverage and premiums are subsidized by the Federal Government for the benefit of American farmers and ranchers, they are not available to non-resident foreign nationals.[23]

We found, however, that a producer received insurance payments under PRF even though the ultimate individual beneficiary of the policy was a non-resident foreign national. On the insurance application, the insured party was listed as a limited partnership, but that partnership is owned through another entity by the non-resident foreign national. The AIP involved verified only that the insured partnership had a valid tax identification number and determined that the producer was eligible based on this number—it did not determine who ultimately owned the partnership.

When we spoke to the agent who sold the policy, he stated that he knew the producer was a foreign national, but that he spoke with the AIP involved and was told that the producer would be eligible, anyway. The AIP stated that it had no record of discussing this issue with the agent, but, after consulting with its legal counsel, maintained that the producer is eligible and refused to provide justification for this determination citing attorney client privilege.

OIG disagrees with the AIP's conclusion. As a non-resident foreign national who owned 100 percent of the insured partnership, this producer is not eligible to participate in the PRF insurance program. After consultation with RMA and the Office of the General Counsel, we referred the issue to RMA's Compliance Office, which has yet to make a determination in the case.

The AIP paid indemnities totaling over $1.13 million to this ineligible producer who insured over 88,000 acres during the CYs 2007, 2008, and 2009. The same ineligible producer holds a policy for 2010 with liabilities totaling about $1.14 million.

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[22] FCIC 24040, "*Document and Supplemental Standards Handbook*," section 7(B), dated November 2006.

[23] Title 8, *United States Code*, section 1611 A.

One producer was paid indemnities for land he could not graze

RMA requires that producers applying for insurance coverage for an insurable crop must have a *bona fide* interest in a crop at the time coverage begins, i.e., that the producer has a stake or claim in the proceeds of the crop and stands to profit or lose money based on its success.[24] In other words, if a producer gives up rights to raise a crop on land by, for example, leasing that land, then he cannot insure any crops on that land.

We identified a producer who overstated the number of insurable acres eligible for the PRF program. This producer leased a large portion of his land to other parties and had enrolled another portion of his land in a USDA conservation program that prohibited him from grazing that portion of the land. He thus had no claim in the profits or losses of the crop from that portion of the land and could not insure the crop harvested from this land. However, this producer overstated the ranch's insurable acreage when he applied for crop insurance and submitted his annual acreage reports because he included ineligible land that had been leased out and that was enrolled in the Government conservation program. Due to these errors, the AIP paid the producer nearly $44,000 in improper payments for over 11,081 acres of ineligible pasture in CYs 2007 and 2008.

Because the producer's total indemnity payments exceeded $100,000 for CY 2007, the AIP involved performed a review of the indemnity and obtained the producer's crop acreage report from the FSA (Form FSA-578). FSA uses this form to document the producer's certification of the intended land acreage and use for the operation during the year. For the producer in question, the report identified the specific acreage associated with the conservation program. Since the AIP had reviewed this form, it should have been fully aware of the land's conservation contract status. Nonetheless, it did not exclude this ineligible land from the PRF policy when the indemnity payments were reviewed and approved. The AIP reviewer also did not discover the 9,676 acres that the producer had leased to other ranchers.

When we discussed this claim with the AIP and RMA, both agreed that the land in question should not have been insured. The AIP informed us that the producer also agreed and has since repaid a major portion of the improper payments he received due to these errors through offsets against his current indemnities. A receivable was established for the remaining overpayment.

Recommendation 8

Make a determination as to the eligibility of the foreign national to participate in the PRF program.

Agency Response

RMA's written response dated, June 29, 2010, stated that it will review the case of the foreign national and take necessary action to address the results of the review. RMA expects to complete this action by June 30, 2011.

[24] FCIC 18010-01, "2007 *Crop Insurance Handbook*," section 4c (1), dated June 2006.

OIG Position

We accept management decision for Recommendation 8.

Recommendation 9

If the agency has determined that the foreign national is ineligible, recover the $1,125,656 for CYs 2007, 2008, and 2009 and any additional indemnity payments made to the producer.

Agency Response

RMA's written response, dated June 29, 2010, stated that it will review this matter and take necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

OIG Position

We are unable to reach management decision at this time. To reach management decision, RMA needs to specify what constitutes necessary and appropriate action in the event that the producer is determined to be ineligible. This determination should include intent to recover the identified funds and a bill for collection or justification for an alternate course of action.

Recommendation 10

If the agency has determined that the foreign national is ineligible, instruct the AIP to cancel any existing and future policies belonging to the producer.

Agency Response

RMA's written response, dated June 29, 2010, stated that it will review this matter and take necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

OIG Position

We are unable to reach management decision at this time. To reach management decision, RMA needs to specify what constitutes necessary and appropriate action in the event that the producer is determined to be ineligible. This decision should include instructions to the AIP to cancel the producer's policies or justification for an alternate course of action.

Recommendation 11

If it is determined that the foreign national is ineligible, place the foreign national and his four entities on the list of ineligible persons who are prevented from receiving crop insurance.

Agency Response

RMA's written response, dated June 29, 2010, stated that it will review this matter and take necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

OIG Position

We are unable to reach management decision at this time. To reach management decision RMA needs to specify what constitutes necessary and appropriate action in the event that the foreign national is determined to be ineligible. This decision should include RMA's intent to place the foreign national and his four entities on the list of ineligible persons or justification for an alternate course of action.

Recommendation 12

Recover the $43,989 paid to the producer who insured land in which he had no bona fide interest.

Agency Response

RMA's written response dated June 29, 2010, stated that it will review this matter and take necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

OIG Position

We are unable to reach management decision at this time. To reach management decision, RMA needs to specify what constitutes necessary and appropriate action in the event that the producer is determined to have had no bona fide interest in the insured land. This decision should include intent to recover the identified funds and a bill for collection or justification for an alternate course of action.

Scope and Methodology

Our audit covered PRF insurance policies sold during CY 2007. In CY 2007, 13 AIPs sold 9,714 PRF policies,[25] insuring $388 million[26] in liabilities and paying $44 million[27] in indemnities. As part of our audit, we reviewed acreage report review summaries from all 13 AIPs that sold PRF. We conducted our fieldwork from April 2008 through December 2009.

Of the $388 million in PRF liability nationwide, the AIPs operating in Texas accepted $265 million, or 68 percent, from Texas producers, and paid $35 million in indemnities. Of the 5,928 policies that were sold in Texas, we judgmentally sampled 15 producers with 31 policies. These producers received $1.7 million in indemnities for CY 2007.

Of these 15 producers, we selected 3 because their indemnities exceeded $100,000; 7 who purchased PRF and also enrolled in the Conservation Reserve Program or Wetlands Reserve Program so that we could check for overlapping participation; and 5 at the request of FSA personnel who asked us to review various anomalies. We also reviewed program enrollment and payment data for CYs 2008 and 2009 for selected producers when errors found in their 2007 policies were likely to have been repeated in subsequent years.

To accomplish our objectives we interviewed officials at the RMA national office in Washington, D.C.; the RMA Southern Regional Compliance Office in Dallas, Texas; and the RMA Office of Product Management in Kansas City, Missouri. Our goal was to determine if RMA effectively implemented the program and had controls in place to ensure program integrity, including reviews designed to minimize program losses. We also reviewed prescribed controls for the application and payment process. We reviewed documents relative to the design, implementation, and security of the contractor-developed computer system. We then reviewed relevant National Institute of Standards and Technology publications on certification and accreditation to determine if the system met Federal requirements.

To evaluate RMA's communication and coordination efforts with other Departmental agencies and to assess what actions were taken to identify programs that might be mutually exclusive with PRF, we interviewed officials at the FSA national office in Washington, D.C.; Texas State FSA Office in College Station, Texas; NRCS national office in Washington, D.C.; and the NRCS State office in Temple, Texas. We also identified controls that the Texas State office had to prevent dual participation in programs that are mutually exclusive with PRF.

We visited the contractor's facilities in College Station, Texas, where we interviewed the contractor's personnel responsible for development of the PRF program and obtained documents pertaining to the pilot program's development. We identified the contractor's responsibilities, reviewed the policy standards, and verified how indemnities and liabilities are calculated. To determine if the contractor's system was performing as stated, we also obtained documentation

[25] 1,688 vegetation index policies and 8,026 rainfall index policies.

[26] $62 million vegetation index and $326 million rainfall index.

[27] $3.5 million vegetation index and $40.5 million rainfall index.

concerning how the rainfall and vegetation data are obtained and translated into the indices. We obtained the reviews performed by the contractor.

We visited the offices of two AIPs, which we selected because one accepted the most liability for vegetation growth PRF policies and the other accepted the most liability for rainfall PRF policies. At these AIPs' offices, we interviewed personnel, and reviewed PRF documentation and the AIPs' control procedures. This work included identifying:

- the responsibility of the insurance agents,
- the procedures the AIPs used to verify the accuracy of producers' reported acreage,
- the reviews that had been performed, and
- program weaknesses, as perceived by the AIP.

In conducting our review, we relied on data generated by RMA's Office of Product Management, FSA's national office, and NRCS' national office. The RMA data included liabilities, indemnities, crop shares, reported acres, producer identification, and numerous other factors relevant to the recording of insurance policies and payment of PRF indemnities. FSA's data included producers' identification, acres enrolled, locations by county, and other factors relevant to the operation and administration of Conservation Reserve Program. Similarly, NRCS data included producers' identification, acres enrolled, locations by county, and other factors relevant to the operation and administration of Wetlands Reserve Program. We used audit command language to make sure that all fields are filled with the correct data type. We cross-referenced common fields, such as producer identification, to identify producers participating in dual PRF and other agencies' programs. These cross-matched records were then used to select the seven producers we reviewed to determine dual participation. For our sample producers, we compared data from selected producers in the database to the actual data recorded on the original application for insurance and the indemnity file.

Our review of the 15 judgmentally selected producers (these producers had 31 policies) included administrative documents (e.g., insurance applications and acreage reports) and financial records (e.g., liability and indemnity documentation), as well as regulations, policies, and procedures used to administer the PRF pilot program. As considered necessary to verify information, we interviewed producers or their respective agents and conducted field visits to producers' farms. For each selected producer we verified the accuracy of the acres reported on the policy by comparing acreage reports to tax documents obtained at county courthouses or documentation provided by FSA county offices (see exhibit B for a list of FSA county offices visited.) We also verified that payments were accurately calculated.

We conducted this performance audit in accordance with generally accepted 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.

Abbreviations

AIP	Approved Insurance Provider
CY	Crop Year
FCIC	Federal Crop Insurance Corporation
FISMA	Federal Information Security Management Act
FSA	Farm Service Agency
NPOR	National Program Operational Review
NRCS	Natural Resources Conservation Service
OIG	Office of Inspector General
PRF	Pasture, Rangeland, and Forage
RMA	Risk Management Agency
USDA	Department of Agriculture

Exhibit A: Summary of Monetary Results

The chart below summarizes the monetary results of the audit. OIG recommends recovery of $1,169,645.

FINDING NUMBER	RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
4	9	Improper Payments to Ineligible Producer	$1,125,656	Questioned Costs, Recovery Recommended
4	12	Improper Payments on Ineligible Land	43,989	Questioned Costs, Recovery Recommended
Total			$1,169,645	

Exhibit B: List of Texas Farm Service Agency County Offices Visited

Knox County, Knox City

Dallam County, Dalhart

Andrews County, Andrews

Martin County, Stanton

Brewster-Presidio-Jeff Davis-County, Alpine

Concho-Menard County, Eden

Kimble County, Junction

Gillespie-Kendall-Blanco County, Fredericksburg

Dimmit-Zavala County, Carrizo Springs

Webb County, Laredo

Brooks-Jim Hogg County, Falfurrias

USDA'S

RISK MANAGEMENT AGENCY

RESPONSE TO AUDIT REPORT

United States Department of Agriculture

Risk Management Agency

1400 Independence Avenue, SW
Stop 0801
Washington, DC
20250-0801

TO: Gil H. Harden
Assistant Inspector General for Audit
Office of Inspector General

June 29, 2010

FROM: Michael Hand
for Audit Liaison Official

SUBJECT: Office of Inspector General Audit 50601-18-Te, Official Draft Report, Pasture, Rangeland, and Forage Pilot Program

Outlined below is the Risk Management Agency's (RMA) response to the subject report.

RECOMMENDATION NO. 1:

Develop a procedure for communicating with other agencies during the development of pilot programs to identify areas of program overlap and assess the risks of such overlap.

RMA Response:

While RMA does not believe the audit adequately captured the extent or depth of interagency discussions and coordination, it will review its current procedures and contract language, and strengthen where appropriate the contact with other agencies and the review and assessment of other applicable programs to address any potential program overlap and associated risks. RMA will complete this action by June 30, 2011.

However, RMA does believe that standard language it includes in its Statements of Work (SOW) raises questions as to the merits of the finding. The current contract language requires contractors for the feasibility and development of a product to list and summarize the provisions and benefits of all state and federal programs that currently support or subsidize producers in addition to providing information on any private insurance products. The following outlines RMA's efforts during the development of the Pasture, Rangeland and Forage insurance product:

The Grazingland Management Systems, Inc. (GMS) Technical Proposal, which was attached to their contract, stated in part that GMS was responsible for market research to determine: (1) the issues of the pasture and rangeland producers, the agricultural community, the Federal and state agencies responsible for administrating pasture and rangeland programs.

GMS identified various USDA programs that included, but were not limited to, the Noninsured Crop Disaster Assistance Program, the Livestock Assistance Program, and various conservation programs such as Emergency Conservation Program, Conservation Reserve Program, Environmental Quality Incentive Programs, Wetlands Reserve Program, and Wildlife Habitat Incentives Program.

The contractor formed Subject Matter Expert (SME) groups in each pilot area. The members of the SME group consisted of Farm Service Agency (FSA) supervisory personnel, Natural Resource Conservation Service (NRCS) personnel, and Extension Service personnel. These individuals were selected due to their intimate knowledge of pasture and rangeland resources available in their respective region.

The SME representatives were well versed on their respective agency programs that were available in their areas. The SMEs were used to develop information for the Pasture, Rangeland, and Forage (PRF) programs including the risk management needs of producers based on available programs.

Risk Management Agency (RMA) included NRCS and ARS personnel as members of the Technical Evaluation Team. The request for NRCS representation was made to the national NRCS office with an outline of our task. The individual NRCS assigned to assist RMA monitored our progress throughout the development and implementation of these programs.

RMA worked closely with the national FSA office that included the Production, Emergencies and Compliance Division (PECD) and the Farm Loan Programs (FLP) Loan Making Division. The FSA Deputy Administrator of Farm Programs was aware of the PRF project and the joint efforts between PECD and RMA.

RMA discussed the project with FLP staff, and requested information regarding the FSA FLP Emergency Loan program price methodology for pasture and hay land. FLP did not mention the FLP Debt for Nature Program during that discussion or when they provided the information that RMA had requested.

RMA routinely incorporates language into the Statements of Work for contracted development of crop insurance programs that requires the contractor to address potential program overlap and to assess the risks of any overlap. For example, the current standard language in the Statement of Work for feasibility studies is:

> Review of Other Programs: The Contractor shall list and summarize the provisions and benefits of all state and federal programs that currently support or subsidize these producers. The Contractor shall also research and describe any private insurance program that is available to these producers. The Contractor shall note any gaps in coverage and constraints of the private insurance programs, if applicable.

The PRF contracts originated from a Statement of Objectives announcement and the contractor wrote the Statement of Work for the feasibility and development of the PRF

products. The PRF SOWs contained various references to the requirement to review other programs and products available. As noted above, the contractor did note other programs available to livestock and forage producers in their reports and the contractors did utilize employees of FSA, NRCS, etc. as SMEs in the development of these products.

OIG had previously audited the RMA contracting process for the development of the Pasture, Rangeland and Forage products. This included a review of the Statement of Objectives, the Technical Evaluation Process (including the utilization of NRCS and ARS), and the awarded SOWs. The contracting documents were made available for OIG.

RMA provided OIG auditors documentation of contact with FSA FLP and with FSA PECD. RMA also believes the fact that travel by FSA National and State Office personnel to Kansas City for a week-long meeting with the sole purpose to discuss the implementation of PRF reflects adequately that there was knowledge and involvement by FSA regarding the PRF programs. Additionally, contact with the NRCS national office for assistance in the Technical Evaluation Process, their providing travel for a week for an employee to participate, and the inclusion of state level NRCS personnel as SMEs provided adequate notification to NRCS.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 2:

Contact NRCS and FSA and determine if any additional areas of program overlap exist for the PRF pilot program and assess the inherent risks of these overlaps. Once any additional risks have been identified, the agency must develop controls to address the risks and prevent producers from insuring ineligible land under PRF.

RMA Response:

As noted above in response to Recommendation 1 these actions have taken place. However, RMA will again consult with FSA and NRCS to determine whether or not there may be additional areas of overlap and assess any risks identified. If risks are identified, RMA will initiate appropriate controls. We expect to complete this action by June 30, 2011.

RMA also believes the current Rainfall Index and Vegetation Index plans of insurance largely address this issue. The 2010 PRF policy requires that the producer provide the farm, tract and field number for insured acres. This information can be used to cross reference land locations with FSA and other agencies to determine program overlap.
Any producer who insures ineligible land under PRF is in direct violation of the terms and conditions of the PRF policy provisions. Section 5(e)(1) of the Rainfall Index and Vegetation Index Plan Common Policy specifically states:
5(e) We will not insure any acreage:

(1) Where the crop was destroyed or put to another use during the crop year for the purpose of conforming with, or obtaining a payment under, any other

program administered by the USDA, such as, but not limited to, the Conservation Reserve Program.

Additionally, effective with the 2010 policies, Section 8(b)(3) requires that producers obtaining PRF insurance provide FSA farm serial numbers, tract and field numbers. This will enable FSA, RMA and NRCS to adequately coordinate benefits and identify potential overlaps using the Common Information Management System.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 3:

Provide the AIPs with a standardized format for submitting acreage report review summaries completely and consistently.

RMA Response:

RMA concurs with this action and will complete it by June 30, 2011.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 4:

Develop procedures for tracking the receipt of acreage report field review summaries to ensure that each AIP is submitting complete information

RMA Response:

RMA concurs with this action and will complete it by June 30, 2011.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 5:

Develop procedures for reviewing the information submitted and acting on any problems identified.

RMA Response:

RMA concurs with this action and will complete it by June 30, 2011.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 6:

Coordinate with OCIO and take the necessary steps to ensure that the contractor properly certifies, accredits, and documents the system used for the PRF insurance products.

RMA Response:

RMA disagrees with the finding justifying this recommendation, that the company's systems are a "Federal Information System" as defined in FISMA. For this reason, RMA finds the recommendation is not applicable or relevant, and plans no further actions concerning this recommendation. The contract for the PRF product was designed specifically for data analysis of already available non-sensitive public data. The contract had no specific requirements for development of an IT system that meets the definition in FISMA. Therefore, RMA does not believe that the certification and accreditation process applies to this project.

The contract for development of the PRF product specifies that the product will be derived from publically available information (pg 20). The contract goes on to further describe the technical development for each of the proposed options. The only development that is explicitly mentioned in the contract is pearl scripts to extract data and develop derivative and interpolated data from the extracts (pp 22, 24, 26, 28). These are simple routines using already available libraries, data, and programming skills (pg 10).

Further, the data provided to the Agency is not in a raw form, but provided as an index, a value added product. This product is similar to other data analysis tools that the government uses on a frequent basis, including credit bureaus, LexisNexis, and commercial imagery that is not subject to the certification and accreditation process and in many cases uses proprietary data and algorithms to determine their results. This contract was developed in order to provide improvements to the PRF program. The end deliverable is value added data, produced by the contractor.

RMA does not believe that the execution of a handful of scripts constitutes an information system as defined in Federal Information Processing Standard 199 (FIPS 199). The definition for an information system is "...a discrete set of information resources..." The resultant deliverable from this contract is not a discrete set of information resources, but rather a discrete point of data. Since the contract specifies this point of data this is the information resource as specified in FIPS 199 and OMB A-130, it does not meet requirements set out for certification and accreditation.

Since the contract delivers the government information as an index, the underlying systems that create that data point are not covered under the FISMA requirements. Simply because the contractor showed their methodology and offered to provide RMA with the pearl scripts that extracted the necessary data and generated the index should not require certification and accreditation of their system. RMA maintains that the deliverable for the contract was value added data and not the system itself. Therefore, the government information was the data and since it was a discrete data point, and not a set of discrete points, it is not subject to FISMA requirements.

The Rainfall and Vegetation Index data subscription is incorporated into a multiple step review process. This review process provides compensating controls checking for data integrity for this public information.

The Risk Management Agency takes information security seriously and places great emphasis and expense on its information security program. The agency evaluates its risk profile and implements controls to manage risk to acceptable levels. RMA has certified and accredited five systems to monitor and protect its information. In applying FISMA, the Agency concludes that this public Rainfall and Vegetation data does not require Certification and Accreditation.

RMA requests this recommendation be removed from the report.

RECOMMENDATION NO. 7:

Incorporate controls into the *Program Development Handbook* that ensure that all systems supporting future pilot programs are properly certified and accredited and that proper system documentation is obtained.

RMA Response:

RMA does not concur. As noted in response to Recommendation 6, RMA disagrees with OIG's position that the company's systems are a "Federal Information System" as defined by FISMA. For this reason RMA plans no further actions concerning this recommendation.

RMA requests this recommendation be removed from the report.

RECOMMENDATION NO. 8:

Make a determination as to the eligibility of the foreign national to participate in the PRF program.

RMA Response:

RMA will review this matter and, based on the results of this review, we will take the necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 9:

If the agency has determined that the foreign national is ineligible, recover the $1,125,656 for CYs 2007, 2008, and 2009 and any additional indemnity payments made to the producer.

RMA Response:

RMA will review this matter and, based on the results of this review, we will take the necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 10:

If the agency has determined that the foreign national is ineligible, instruct the AIP to cancel any existing and future policies belonging to the producer.

RMA Response:

RMA will review this matter and, based on the results of this review, we will take the necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 11:

If the agency has determined that the foreign national is ineligible, place the foreign national and his four entities on the list of ineligible person who are prevented from receiving crop insurance.

RMA Response:

RMA will review this matter and, based on the results of this review, we will take the necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 12:

Recover the $43,989 paid to the producer who insured land in which he had no bona fide interest.

RMA Response:

RMA will review this matter and, based on the results of this review, we will take the necessary and appropriate action to address the results of the review. RMA expects to complete this action by June 30, 2011.

RMA requests management decision for this recommendation.

Should you have any questions concerning the above responses or would like to discuss them in more detail, please contact Alan Sneeringer at (202) 720-8813.