

# Procedures For Premium-Reduction Application

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## I. Definitions.

**Act** – The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

**Administrative and Operating (A&O) Costs** – Costs of the AIP and any MGA and TPA that are related to the delivery, loss adjustment and administration of the Federal crop insurance program.

**Administrative and Operating (A&O) Subsidy** - The subsidy for the administrative and operating expenses authorized by the Act and paid by FCIC on behalf of the producer to the Company.

**Affiliate** – A person or entity, excluding agents, loss adjusters, and employees of the AIP, that enters into partnership or other relationship with an AIP for the purpose of assisting the AIP in making the premium-reduction plan available to producers.

**Agent** - An individual licensed by the State in which the agent does business under contract with a Company, its managing general agent, or any other entity, to sell and service eligible crop insurance contracts. Agents may represent a single AIP or multiple AIP's.

**Application** – A written request to RMA, along with all required supporting documentation, submitted by an AIP for the purpose of obtaining approval to reduce insured's premium in accordance with section 508(e)(3) of the Act.

**Approved Insurance Provider (AIP)** – An insurance company that has been approved by FCIC to sell and service crop insurance policies reinsured by FCIC under the Act.

**Compensation** – Any salary, commission or any other payment, or thing of value or benefit that has a quantifiable value, including, but not limited to, the payment of health or life insurance, deferred compensation (including qualified and unqualified), finders

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fees, retainers, trip or travel expenses, dues or other membership fees, the use of vehicles, office space, equipment, staff or administrative support.

**Cost-Accounting Statement** – An accounting of all of the AIP's A&O costs, identifying and quantifying the efficiency that the AIP expects to realize, and showing the results of the immediate prior year and comparing them to the estimated results of the current or the following year. The estimated accounting shall be for the year in which the proposed premium reduction is to take place.

**Efficiency** – Monetary savings realized when an AIP sells and services its Federal crop insurance policies for less than only the amount of the A&O subsidy paid by FCIC, which may result from changes to the administrative and operating procedures that the AIP employs in delivering Federally-reinsured policies in accordance with the Act, the SRA, and all applicable regulations, directives, bulletins and procedures, or from reductions in compensation provided to its owners, employees, agents, loss adjusters and other service providers. Efficiency does not include any actual or projected underwriting gain earned from the SRA or the investment returns on the AIP's reserves.

**Federal Crop Insurance Corporation (FCIC)** – A wholly-owned government corporation within the United States Department of Agriculture, whose programs are administered by RMA.

**Producer Premium** – The portion of the FCIC-approved insurance premium for the risk of loss that the policyholder must pay.

**Managing General Agent (MGA)** – An entity that meets the definition of managing general agency under the laws and regulations of the State in which the AIP is incorporated, or in the absence of such definition, the definition in the Managing General Agents Model Act, as published by the National Association of Insurance Commissioners. The entity must comply with the managing general agency laws and regulations, if applicable, of each State in which the entity operates.

**Premium Reduction** – Reduction of the insured's premium by the AIP in an amount corresponding to the amount of the efficiency, in accordance with section 508(e)(3) of the Act, all applicable regulations, and these procedures.

**Risk Management Agency (RMA)** – An agency of the United States Department of Agriculture, which administers the programs of the FCIC.

**Sales Closing Date** – The date established by FCIC as the last date on which a producer may apply for an eligible crop insurance contract on a crop in a specific county.

**Standard Reinsurance Agreement (SRA)** – The reinsurance agreement between FCIC and the AIP, under which the AIP is authorized to sell and reinsure the policies for which premium reduction is proposed.

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**Third Party Administrator (TPA)** - A person or organization that processes claims or performs other administrative services and holds licenses, as applicable, in States in which services are provided with respect to the Federal crop insurance business in accordance with a service contract or an affiliate or any other type of relationship.

**Unfair Discrimination** – A premium-reduction plan will be considered unfairly discriminatory to producers if it is based on the loss history of producers or precludes in any manner other producers of an approved crop and in an approved State from participating in the program.

### **II. Basis, Purpose, And Applicability**

This document provides procedures that are applicable to applications submitted by AIPs for the purpose of obtaining approval for a premium-reduction plan in accordance with section 508(e)(3) of the Act and section III. D. of the SRA. The offering of such premium-reduction plans without RMA's written prior approval is prohibited.

### **III. Timing Of Application**

- (a) Applications must be received and deemed complete by RMA not later than 150 days before the first sales closing date (120 days for the September 30, 2003 sales closing date) on any crop for which a premium reduction is requested.
- (b) If RMA determines there is insufficient time to complete the approval process, train agents and permit sales under the premium-reduction plan, complete applications filed less than 150 days before the first sales closing date (120 days for the September 30, 2003 sales closing date) may be considered.

### **IV. Confidentiality Of Application**

Any confidential commercial or financial information submitted with an application will be protected from disclosure to the extent permitted by, and in accordance with, 5 U.S.C. 552(b)(4).

### **V. Contents Required For An Application**

An application must contain the following material, in the order given, and be contained in a 3-ring binder with section dividers clearly labeling each section. The submission must also include computer disks or other electronic media in a format acceptable to RMA, a duplicate of the materials submitted in the binders. Each application must include five identical copies and be sent to the Director of Reinsurance Services (or designee), Risk Management Agency, 1400 Independence Avenue S.W., AgStop 0805, Washington, DC 20250.

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- (a) The name of the AIP, the person(s) who may be contacted for further information regarding the application, and the person(s) who will be responsible for administration of the premium reduction;
- (b) The proposed crops and States where the efficiency is being gained and where the premium-discount plan will be available, reinsurance year the premium-reduction plan will be in effect, the projected total dollar amount of the efficiency and an estimate of the number of producers affected;
- (c) A statement as to the amount of the premium reduction that is proposed to be offered to each eligible producer and how it will be calculated; the crop(s) and state(s), for which it will be provided (must correspond to the crop(s) and state(s) where the efficiencies are gained); and a list of any and all terms and conditions that affect its availability;
- (d) A statement of how the premium reduction will be calculated and presented to producers and reported to RMA;
- (e) A detailed statement explaining how the AIP proposes to revise its procedures for the delivery, operation or administration of the Federal crop insurance program in order to achieve the specified efficiency and an explanation of how and to what extent such revision will actually achieve the efficiency;
- (f) Provide materials demonstrating that the AIP can attain the specified efficiency and that the AIP has the financial capacity and necessary resources to adequately sell and service the Federally-reinsured policies that it has proposed to sell in its Plan of Operations, given the proposed premium reduction. At a minimum, the following must be provided:
  - (1) A detailed statement of efficiencies, supported by a comparison of the cost accounting statement and a statement of the use of A&O subsidy received under the SRA, detailed by expense category before and after the application of the efficiencies.
  - (2) There may be instances where a new AIP is entering into the crop insurance program or an existing AIP may anticipate a growth in business as a result of the implementation of a premium-reduction plan during which the AIP incurs greater-than-normal costs (e.g. first-time marketing costs, IT system purchases). In those instances, the costs that are associated with getting the crop insurance business operational or the changes to the operation necessary to be able to service the increased volume of business may be included in the A&O costs for the purpose of determining the efficiency. For AIPs that meet this criteria, as determined by RMA, the following will apply:
    - (A) The costs associated with the entry into the program or growth should be accounted for separately from all other A&O costs.

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- (B) New AIPs should provide, for the states and crops where the premium reduction plan will be made available for the reinsurance year, a separate estimate of:
  - (i) The A&O costs associated with entry into the crop insurance business; and
  - (ii) All other A&O costs.
- (C) Existing AIPs should provide, for the states and crops where the premium reduction plan will be made available for the reinsurance year:
  - (i) An estimate of the A&O costs associated with the anticipated growth; and
  - (ii) An accounting of all other actual A&O costs.
- (D) The amount of the efficiency for the reinsurance year will be determined by:
  - (i) Subtracting the A&O costs associated with entry into the program (see (B)(i)) or growth (see (C)(i)) from the total of all A&O costs ((B)(i) + (B)(ii) or (C)(i) + (C)(ii), as applicable); and
  - (ii) Subtracting the result of (D)(i) from the A&O subsidy for the reinsurance year for the states and crops where the premium reduction plan will be made available.
- (3) Detailed accounting statements prepared in a manner that permits comparison with the Expense Exhibit that the AIP submits to RMA annually with its Plan of Operations. A certified public accountant must certify to the reasonableness, accuracy, and completeness of the statement. If the AIP employs an MGA and/or TPA, the statement must present the specified information for the AIP and as applicable, the MGA and/or TPA.
- (4) Actual expenses must be submitted for the quarter immediately preceding the proposed premium reduction as support for the AIP's actual estimated expenses. (In addition, RMA may request an estimated monthly cash flow worksheet for a full year containing a detailed description of expenses and income related to the proposed premium reduction plan.)
- (5) The compensation (as defined in this procedure) to be paid to agents by state and amount of premium written before and an estimate of premium written after the introduction of the efficiency.
- (6) A detailed review by the AIP of the potential impact the premium-reduction plan may have regarding the following, and the steps that will be taken to address any potential vulnerabilities:

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- (A) The operational capacity of the AIP; and
  - (B) The level of market penetration of the Federal crop insurance market in the proposed crop(s) or State(s).
  - (C) The ability of the AIP to service all policy holders, including the timely adjustment of claims.
- (7) If the AIP employs an MGA, it shall certify that it's contract with the MGA contains the following language, and that the contract between the MGA and all sub-general agents contain similar language granting the same rights to intervene to the AIP. RMA may, at its sole discretion, accept minor modifications to the following language in order to accommodate specific circumstances.

*“The ( insert AIP's name ) (Company) and ( insert MGA name ) (MGA), as a condition for obtaining approval of a premium reduction plan from the Federal Crop Insurance Corporation (FCIC), which is of mutual benefit to both the Company and the MGA do hereby agree as follows:*

*“In the event that the MGA becomes unable to service the multi-peril crop insurance (MPCI) policies reinsured by FCIC, the MGA shall provide to the Company complete and unlimited access to all of its facilities, files, data systems (including all of the MGA's computer hardware and software programs and applicable licenses), personnel, and related resources and equipment to allow the Company itself and/or the Company's designee(s) to administer directly, in full compliance with all applicable Federal laws, rules and manuals, all aspects of the Company's MPCI policies and claims which the MGA has agreed to service and for which the Company is ultimately responsible. It is understood that the Company, as the holder of a Standard Reinsurance Agreement with the FCIC, shall have sole discretion to determine whether the MGA has become unable to service the MPCI policies or claims at issue. It is further understood, however, that such discretion shall be exercised in good faith and shall be preceded by written notice, which shall be given in as practical a time frame as the particular circumstances permit to both the MGA and the FCIC. Prior to exercising such direct administration, the Company shall grant the MGA ten business days from the date of the Company's written notice to allow the MGA to take remedial or preventative action. Such remedial or preventative action must be completely satisfactory in the Company's judgment, and such judgment shall be exercised in good faith.”*

- (8) An opinion by the AIP's legal counsel that all persons or entities involved with the delivery of the premium-reduction plan, including affiliates, are in compliance with applicable state insurance laws regarding licensing of agents and the conduct of agents in the solicitation and sale of insurance.

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- (g) An analysis of whether or not the proposed premium-reduction plan may be unfairly discriminatory, or potentially perceived to be discriminatory, and if so, what remedies the AIP has to address such situations.
- (h) Any other information that will assist RMA in determining if the application satisfies the criteria for approval.

### **VI. RMA Review**

- (a) Each application will be reviewed by RMA to determine if all necessary and appropriate documentation is included. The applicant will be notified within thirty (30) days after receipt of the premium-reduction plan if the submission does not comply in all material respects with these requirements. RMA will return the premium-reduction submission to the applicant after notification. Any returned application must be resubmitted in its entirety unless otherwise determined by RMA.
- (b) Upon completion of the RMA staff review, all recommendations will be forwarded to the Administrator of RMA (or designee), who will approve or disapprove the application.
- (c) In addition to the written application, RMA may require the AIP to make an oral presentation to RMA.
- (d) After the AIP establishes that it has the ability and capacity to deliver the premium-reduction plan, the AIP may request expansion of the program in accordance with these procedures.
- (e) RMA will notify the applicant at least 60 days before the applicable sales closing date of its approval or disapproval of the submitted premium reduction plan.

### **VII. Criteria For Approval**

RMA may approve the application if, in the sole determination of RMA, the application demonstrates that the following criteria are met:

- (a) The AIP can reduce A&O costs by a specific amount through efficiencies in the delivery of the Federal crop insurance program;
- (b) The premium-reduction plan will not result in a reduction of service to policyholders or be harmful to the interests of producers;
- (c) The premium-reduction plan is not unfairly discriminatory;
- (d) Implementation of the premium-reduction plan does not place financial or operational hardship on the AIP, RMA, or potentially undermine the integrity of the Federal crop insurance program;

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- (e) The AIP has the financial and operational capacity and expertise to properly deliver the Federal crop insurance program once the premium-reduction plan is implemented;
- (f) The AIP's resources, procedures, and internal controls are adequate to make the premium-reduction plan available to producers in a timely manner and to protect the integrity of the Federal crop insurance program, including the prevention of fraud, waste and abuse; and
- (g) The premium-reduction plan meets all other relevant requirements of the Act and the SRA.

### **VIII. Disapproval**

- (a) RMA will disapprove any application that:
  - (1) Does not meet the approval criteria stated in section VII or any other requirement in these procedures;
  - (2) Where the documentary evidence provided does not support the existence or amount of the efficiency or costs.
- (b) If RMA disapproves an application, it will notify the AIP in writing of its disapproval and provide reasons for such disapproval.

### **IX. Terms And Conditions For Approved Premium-Reduction Plans**

The following terms and conditions apply to all AIPs whose applications are approved:

- (a) All procedural issues, questions, problems or clarifications with respect to implementation of the premium-reduction plan must be promptly addressed by the AIP.
- (b) The AIP must implement the premium-reduction plan in accordance with the terms and conditions of approval.
- (c) The AIP must provide quarterly reports or more frequently as determined appropriate by RMA, that permit RMA to accurately evaluate the effectiveness of the premium-reduction plan, and the financial and operational condition of the AIP, in the manner specified by RMA;
- (d) The AIP must provide special reports of any information required by RMA to evaluate the functioning of the premium-reduction plan, as requested by RMA.
- (e) The AIP is solely liable for all damages caused by any mistakes, errors, misrepresentations, or flaws in the premium-reduction plan.



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- (f) The AIP must assist RMA in its periodic review of the operations of the AIP for the purpose of assuring that the efficiency is generated and the premium-reduction plan is administered in the manner presented in the application, that the solvency and operational capacity of the AIP, remain unimpaired, and that the interests of producers and taxpayers are protected.
- (g) AIP must allow any insured to refuse to participate in the premium-reduction plan through the execution of a written waiver. After execution of the waiver, the AIP may elect to offer insurance for the full amount of the premium.
- (h) The AIP agrees to make any substantive changes requested by RMA in the application or its implementation of the premium-reduction plan to ensure compliance with the Act, regulations, the SRA and any applicable policy provisions and approved procedures, and to protect the interests of producers and taxpayers, and the integrity of the program.
- (i) An AIP offering a premium-reduction plan must submit in its annual Plan of Operations, an accounting of the full actual A&O costs associated with operation of the premium-reduction plan incurred during the most recent reinsurance year in which the premium-reduction plan was in effect. In any subsequent reinsurance year, the amount of efficiency that may be used in a premium reduction will not exceed the actual cost savings obtained for the previous reinsurance year unless the AIP can demonstrate additional cost savings.
- (j) RMA may, at its sole discretion, withdraw or modify, effective upon notice, its approval of any premium-reduction plan if RMA determines that it no longer satisfies the criteria for approval; the AIP fails to comply with one or more of the terms and conditions of approval; the stated efficiencies have not realized; any other terms and conditions in these procedures have not been fully and satisfactorily met; or the integrity of the FCIC program is jeopardized in any way, as determined by RMA, by the premium-reduction plan as actually implemented. RMA, at its discretion, may grant a reasonable period of time for the AIP to remedy any discrepancy, flaw, mistake, error or misrepresentation in the premium-reduction plan.