



**U.S. Department of Agriculture**



**Office of Inspector General  
Southwest Region**

# **Audit Report**

## **Disaster Assistance Payments for Crop Years 2001 and 2002**

**Audit Report 50601-9-Te  
February 2006**

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UNITED STATES DEPARTMENT OF AGRICULTURE



OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250

February 8, 2006

REPLY TO

ATTN OF: 50601-9-Te

TO: Teresa C. Lasseter  
Administrator  
Farm Service Agency

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

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

SUBJECT: Disaster Assistance Payments for Crop Years 2001 and 2002

This report presents the results of the subject audit. Your response to the official draft report, dated December 14, 2005, is included in its entirety as exhibit C with excerpts and the Office of Inspector General's (OIG) position incorporated into the Findings and Recommendations section of the report. Your response contained sufficient justification to reach management decision on Recommendations 1, 2, 3, 4, 7, 11, 13, 14, 16, and 20. Please follow Departmental and your internal agency procedures in forwarding final-action correspondence to the Director, Planning and Accountability Division, Office of the Chief Financial Officer.

Based on the response, management decisions have not been reached for Recommendations 5, 6, 8, 9, 10, 12, 15, 17, 18, and 19. The information needed to reach management decisions is set forth in the OIG Position section after each recommendation. In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions 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 be reached for all recommendations within a maximum of 6 months from the date of report issuance. Final action on the management decisions should be completed within 1 year of the date of the management decisions to preclude being listed in the Department's annual Performance and Accountability Report.

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

# **Executive Summary**

## ***Disaster Assistance Payments for Crop Years 2001 and 2002 (Audit Report 50601-9-Te)***

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### **Results in Brief**

Administered by the Farm Service Agency (FSA), the Crop Disaster Program (CDP) provides assistance to farmers who have been adversely affected by natural disasters. In 2001 and 2002, FSA issued approximately \$2.5 billion dollars in nationwide CDP payments for disasters ranging from drought to volcanic eruption. The Office of Inspector General (OIG) began its review of 2001/2002 CDP payments in January 2004, focusing on the propriety of those payments and whether producers correctly reported their production, crop shares, and gross income. Our review of approximately \$1.8 million in payments in three Texas counties identified improper CDP payments totaling \$261,767. We also identified additional improper payments, totaling \$116,938, in the Noninsured Crop Disaster Assistance Program (NAP). (See exhibit A.)

FSA's quality control review process for CDP was not, we found, functioning as designed and could not provide the oversight intended. Only three of the nine required reviews were performed in these three counties, and none identified the processing errors disclosed by our audit. OIG attributes this breakdown in the CDP review process to the agency's failure to establish deadlines for reviews, insufficient training for employees performing those reviews, and a sampling methodology that excluded improperly processed payments from the review universe. We also found that the Texas State FSA Office was not effectively monitoring completion of these reviews, and thus was unaware of any trends they might disclose. Each of the processing errors identified in this report is—at least partially—due to these weaknesses in the CDP review regime.

We found that CDP payments to Group Risk Plan (GRP)-insured producers were incorrectly processed in 14 of 15 instances, resulting in improper payments of \$135,437. Processing payments to producers insured under GRP is considerably more complicated than processing payments to producers insured under multiperil crop insurance plans. While multiperil crop insurance plans insure producers for yield losses based on their production history, GRP policies instead use a countywide index as a basis for determining a loss. Payments, in other words, are not based on the individual farmer's loss records. For both sorts of policies, employees use data downloaded from the Risk Management Agency (RMA) to calculate payments. In order to process CDP payments to GRP-insured producers correctly, county employees must first recognize that the data they are downloading belongs to a GRP policy, and then follow FSA's procedures for calculating that payment. FSA county employees were, in general, unprepared to process these claims. Many employees (7 of 15) could not recognize GRP policies on the data downloaded from RMA—thus, they

- tended to process these claims incorrectly. Moreover, because of how FSA has structured the review process, 8 of 15 of these payments were excluded from a second-party review most likely to detect these errors.

Aside from CDP payments to GRP-insured producers, FSA county employees also committed administrative errors when processing payments to producers who had double-cropped or late-planted. Though these 19 errors resulted in only \$23,265 in improper payments, they also indicate that FSA can improve its training and review procedures for payments requiring more intensive and complicated processing.

We also found that 15 cucumber producers received \$103,065 in CDP payments, even though they had signed contracts relinquishing all control of their crops to a vendor. This occurred because employees at the Terry County FSA Office failed to follow procedures for obtaining and reviewing contracts that, in these cases, would have disqualified producers from receiving disaster assistance. According to FSA's eligibility requirements, these producers should have been judged ineligible for CDP assistance. We reviewed these kinds of payments only in Terry County; however, the vendor in question provided OIG with a list of other producers, suggesting that similar contracts may have gone unnoticed in other Texas counties. Furthermore, because NAP and RMA insurance programs have comparable eligibility requirements, both programs should take steps to exclude producers who do not own and, therefore, have no legal claim to benefit from their crop.<sup>1</sup>

On June 6, 2005, the FSA National Office issued a notice relaying many of our concerns to its State and county offices.<sup>2</sup> This notice alerted FSA personnel nationwide to the problems we identified with county offices processing CDP applications for GRP-insured producers, issuing payments to contractually ineligible producers, and failing to conduct reviews in a timely manner. Issuing this notice represents a significant first step in preventing these errors from recurring in future CDP programs; however, before this notice expired on December 1, 2005, FSA should have addressed more systematically the causes of these errors, especially the breakdown in the CDP review process and the need to better prepare employees for recognizing unusual insurance types on the RMA download.

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<sup>1</sup> We found in Terry County an additional \$65,765 in improper payments to cucumber producers insured under NAP. The RMA pilot program insuring cucumbers did not include the counties we reviewed, so we had no opportunity to determine whether RMA payments were affected by these contracts.

<sup>2</sup> Notice DAP-221, dated June 6, 2005.

## **Recommendations In Brief**

In order to rectify these problems, FSA should improve its CDP review process to include the timely completion of all required reviews, appropriate training for reviewers, and an expanded universe for second-party reviews.

FSA also should improve its training of county employees to include identifying insurance plan codes on the data downloaded from RMA, obtaining and reviewing contracts that may disqualify producers, and processing CDP applications that differ from ordinary multiperil crop insurance policies.

Finally, FSA should take steps to correct improper CDP payments totaling \$261,767 and improper NAP payments totaling \$116,938.

## **Agency Response**

In a letter dated December 14, 2005, FSA concurred with the findings and recommendations and provided proposed corrective actions. FSA's written response is included as exhibit C of the report.

## **OIG Position**

We generally concur with FSA response and accept the management decision for 10 of 20 recommendations. We have explained in the Findings and Recommendations section of the report the actions FSA needs to take for acceptance of management decision. Generally, FSA needs to provide more documentation showing the results of its reviews and what actions have been taken to recover payments, including evidence that the overpayments have been waived or collected.

***Abbreviations Used in This Report***

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CDP	Crop Disaster Program
DD	District Director
FSA	Farm Service Agency
GRP	Group Risk Plan
NAP	Noninsured Crop Disaster Assistance Program
OCFO/PAD	Office of the Chief Financial Officer, Director, Planning and Accountability Division
OIG	Office of Inspector General
RMA	Risk Management Agency

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# ***Background and Objectives***

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## **Background**

The Farm Service Agency (FSA), an agency of the U.S. Department of Agriculture, provides many types of assistance to producers and other rural residents experiencing losses due to natural disasters such as drought, fire, flood, storm, earthquake, hurricane, tornado, and volcanic eruption.

One way that assistance is conveyed to producers is through the Crop Disaster Program (CDP), which Congress periodically establishes and FSA administers. The Agricultural Assistance Act of 2003 set provisions for reimbursing agricultural losses occurring in either crop year 2001 or 2002. CDP benefits were paid to producers experiencing crop production losses greater than 35 percent. According to payment limitation regulations, no one person could receive more than \$80,000 in benefits.

The calculation of CDP payments is complicated by a number of variables; generally speaking however, that calculation conforms to the following logic. Payments are calculated by determining the producer's expected production,<sup>3</sup> and multiplying this figure by 65 percent to arrive at the producer's **disaster level**. The value of any crops the producer successfully brought to market (actual production) is then subtracted from the **disaster level** to establish the producer's **net production eligible for payment**. FSA then multiplies the **net production eligible for payment** by the price for a given crop in a given year and the payment rate (50 percent for insured and noninsurable crops, 45 percent for uninsured (see below)). The resulting dollar figure is the producer's **calculated payment**. **Total crop value** is then determined by adding the **calculated payment**, actual production, and any insurance indemnity received for these crops. The expected value of production is assessed,<sup>4</sup> and the **calculated payment** is reduced by any amount which the **total crop value** exceeds 95 percent of the expected value of production. The resulting sum is the producer's final CDP payment.

Of course, all producers do not insure their crops, and so all do not receive an insurance indemnity for their lost production. The amount of producers' CDP payments varies based on whether producers have chosen among the several insurance options available to them, as explained below.

### Insured, Noninsurable, and Uninsured Crops—

Crops covered by CDP are categorized as insured, noninsurable, or uninsured. **Insured crops** are those for which a producer has purchased an insurance policy from insurance agencies reinsured by the Risk Management Agency (RMA), whereas **noninsurable crops** are those for which RMA insurance is not available and therefore covered under the Noninsured

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<sup>3</sup> Producer's average yield multiplied by producer's acreage.

<sup>4</sup> Price of the crop multiplied by acreage devoted to the crop and the acreage's average yield.

Crop Disaster Assistance Program (NAP). **Uninsured crops** are those for which RMA insurance was available but not purchased.

RMA offers a variety of different insurance plans. Multiperil crop insurance policies insure producers for yield losses they can expect on a given crop acreage, based on their production history for that crop on that acreage. Another plan is the Group Risk Plan (GRP), which uses a county yield index to determine producers' indemnity payments. Under a GRP policy, producers can insure their crops for up to 90 percent of the expected county yield; if the county yield for a given crop falls below the trigger level producers have chosen, they are indemnified for their losses.

#### 95-Percent Cap—

For insured, noninsurable, and uninsured crops, CDP benefits are restricted so that the sum value of any production, the CDP payment, and the net crop insurance indemnity cannot exceed 95 percent of normal crop revenue if the disaster had not occurred. This restriction is termed the 95-percent cap.

#### Linkage Requirements—

If producers receive CDP payments for uninsured or noninsurable crops without NAP coverage, they are required to purchase crop insurance or NAP coverage, as applicable, on those crops for the following 2 crop years. Producers who fail to comply with this "linkage requirement" are required to refund all CDP benefits for the uninsured or noninsurable crops.

#### Basic Units and Enterprise Units—

To calculate CDP payments for insured producers, FSA's county office employees download insurance records from RMA. As part of the process of insuring their crops, producers have the option to divide acreage into units. There are two different types of units involved in this process. **Enterprise Units** are comprised of all acreage of the insured crop in the county in which the producer has a share on the date coverage begins for the crop year. **Basic Units** are based on all acreage of the insurable crop in a county for the crop year under either of the following criteria: (1) the person has a 100-percent crop share, or (2) acreage is owned by one person and operated by another person on a share basis. RMA requires insurance agents to limit a producer with a GRP policy to one enterprise unit per crop per county. For example, if, in addition to the land the person owns, the person rents land from five different landlords, three on a crop-share basis and two on a cash basis, then four units will be established: one unit for each crop-share lease and one unit that includes the two cash leases and the land owned by the person. To calculate the CDP payment for GRP policies and other insurance plans recorded in enterprise units, county employees were to convert the RMA database's units into basic units according to FSA's NAP procedures.

**Objectives**

The objective of our audit was to determine the propriety of disaster payments by emphasizing, in particular, whether producers correctly reported their production, crop shares, and gross income. We also assessed FSA's implementation and administration of payments with regard to (1) GRP or other insurance plans with enterprise units, (2) the 95-percent cap, and (3) linkage requirements.

No findings resulted from our review of producers' reported production, gross income, and the 95-percent benefit cap. We were able to perform only a limited review of linkage requirements, because monitoring of the requirement began in 2004 and will extend into the 2006 crop year.

# **Findings and Recommendations**

## **Section 1. CDP Management Controls Need Strengthening**

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### **Finding 1**

#### **CDP Review Process Ineffective**

Each Texas FSA county office is required to perform three types of reviews in order to ensure the accuracy of CDP payments. We reviewed three county offices and thus expected to find that nine reviews had been performed. Instead, we found that the Hale, Lubbock, and Terry County FSA Offices had not completed their reviews in a timely manner. Only three of nine reviews were performed at all; of those three, only two were completed in a timely enough manner to prevent improper payments; of the two reviews that were timely performed, none caught the errors identified by our review. Several contributing causes led to this breakdown: (1) the review regime established in the FSA disaster handbook did not specify when reviews were to be completed; (2) the omission of relevant material in the Texas State FSA Office's training program meant that reviewers were not prepared to identify significant categories of errors; and (3) the procedures established in the disaster handbook excluded from review many types of applications. Due to this breakdown, the Texas FSA county offices did not detect and correct the processing errors described at length in section 2. Until this review regime is improved and fully implemented, the State office can have little assurance that CDP payments are being accurately processed.

The disaster handbook establishes a three-tiered review system for verifying the accuracy of CDP payments.<sup>5</sup> District director (DD), second party, and employee reviews are each designed to provide assurance that no significant problems exist in the processing of payments. Each review serves a different function. DD reviews should provide broad assurance that county offices are processing payments effectively; second-party reviews should verify that those applications requiring more intensive processing are accurate; and employee reviews conducted by their supervisors should ensure that employees are adequately trained and capable. While all three types of reviews should identify errors, the second-party review is best positioned to detect and correct systemic problems in processing applications.

We found that there was no requirement for the State office to monitor the completion of these reviews, and that the State office did not do so on its own initiative. Thus, even if these reviews had been performed as provided for in regulations, State office personnel would not have been able to recognize and rectify problems as they developed. Although our review was strictly limited to FSA county offices in Texas, FSA's notice of

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<sup>5</sup> FSA Handbook 5-DAP, amendment 3, paragraph 125, dated July 22, 2003.

June 6, 2005, indicated that this problem may be more widespread and involve States other than Texas.

### **Timely Performance of CDP Reviews—**

Of the nine different reviews required, only two were performed in a timely manner, both by the Lubbock County FSA Office. Lubbock's county executive director stated that office personnel performed these reviews in a timely manner because he could see no point in doing them after the fact. OIG concurs. Reviews should be performed before payments are issued so that county offices can correct any errors disclosed.

### District Director Reviews—

The disaster handbook directs that DDs or their designees shall perform at least five CDP application reviews in each administrative county office within their district.<sup>6</sup> The disaster handbook, however, fails to establish deadlines for these reviews, or to require they be performed before payments are issued.

In all three of the counties reviewed, we found that the DDs had not timely completed their required reviews. In Terry County, DD reviews were completed the day OIG began its fieldwork. Though these reviews were performed, their performance was not timely enough to provide the intended oversight. If reviews are not performed within 90 days of a producer having been paid, the Finality Rule may exclude FSA from recovering improper payments that might be disclosed, rendering the review useless. Only 1 of 31 Terry County producers in our original sample was paid within 90 days of this DD review. In Hale and Lubbock Counties, the DD had completed no reviews before OIG concluded its work at the county offices in July 2004.

### Second-Party Reviews—

The disaster handbook specifies that second-party reviews are to be performed by county office employees not involved in processing the disaster application being reviewed; it also details the conditions that must be met before a second-party review is required.<sup>7</sup> Applications with disaster determinations based on the RMA download are generally exempted by the sampling methodology (see "Sampling Methodology Excluded Potential Problem Cases" below). Nevertheless, correctly processed GRP disaster applications would have required second-party reviews since RMA's enterprise units

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<sup>6</sup> FSA Handbook 5-DAP, amendment 3, paragraph 125A, dated July 22, 2003.

<sup>7</sup> FSA Handbook 5-DAP, amendment 3, paragraph 125D, dated July 22, 2003.

should have been replaced with basic units.<sup>8</sup> The disaster handbook does not, however, provide a deadline or a timeframe in which second-party reviews should be completed.

In Hale and Terry Counties, we found that second-party reviews had not been completed as required by the disaster handbook. Personnel in the Lubbock FSA County Office had completed their second-party reviews in a timely manner.

#### Employee Reviews—

The disaster handbook specifies that supervisors shall select two applications per employee from the employee's most recent work to determine the quality of their work and the employee's knowledge of program requirements.<sup>9</sup> This is a broad review used for all FSA program activities; it is intended to ensure that employees are following program procedures. The disaster handbook, however, does not specify deadlines for completing employee reviews.

In Hale and Terry Counties, we found that employee reviews had not been completed as required by the disaster handbook. Personnel in the Lubbock FSA County Office had completed their employee reviews in a timely manner.

We conclude that FSA must establish timeframes for the performance of all three types of reviews. In order to ensure the review regime's effectiveness, those timeframes should specify that reviews be completed before payments are issued.

#### **Effectiveness of Reviews—**

Only two reviews—employee and second-party reviews in Lubbock County—were performed soon enough to be useful. Those reviews, however, failed to identify the GRP-related errors disclosed by OIG. Our audit subsequently found that four of five GRP payments in Lubbock County were incorrect and that the county office had issued improper payments of \$74,424 to these four producers. (See Finding 2 for a fuller description of these errors.)

After taking the initiative to conduct their second-party and employee reviews in a timely manner, Lubbock County's failure to note problems with payments to GRP-insured producers illustrates the second cause of the breakdown in the FSA review regime. A review is only useful if reviewers have been well prepared to process the application under review; conversely, if reviewers have not been adequately trained, it is unreasonable to expect

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<sup>8</sup> This alteration in the downloaded insurance information would have required the "Cmd16" override function, triggering second-party review.

<sup>9</sup> FSA Handbook 5-DAP, amendment 3, paragraph 125F, dated July 22, 2003.

that they will detect errors in payment processing. Our review found that the Texas State FSA Office's training program did not prepare employees to process several sorts of CDP payments or to review CDP payments. (See Findings 2 and 3.)

Although FSA did train its county office employees to process 2001/2002 CDP payments, that training was not effective enough to alert employees to the presence of GRP-insured producers on the RMA download. Unless employees were aware of the special processing needs of GRP-insured producers, they were unlikely to calculate the payment correctly.

As part of their training, DDs and county office personnel attended a State training conference. The presentation showed that most insured crops would use RMA's unit structure and generally reinforced the idea that the RMA download was to be accepted as accurate. Though acceptance of the RMA download will suffice for processing most crops insured under multiperil crop insurance policies, it will result in errors when processing other sorts of payments, such as those to GRP-insured producers. Only 1 presentation slide out of 530 indicated that GRP-insured crops would need to be converted from enterprise units—this reference was too limited to prepare employees to process the claims.<sup>10</sup>

When calculating CDP payments on GRP-insured crops, producers must provide evidence of a loss in the form of production receipts or an appraisal. In the absence of this evidence, county employees are required to assign production based on the maximum loss level for a crop in a given county. As discussed in Finding 2, failure to assign production resulted in 13 different errors on payments to 15 producers. Because these GRP-related problems were not directly addressed in the presentation, county employees generally did not perform these calculations.

Finally, the training material did not emphasize the need to locate insurance plan codes on the download as a way of distinguishing one policy from another. Once an employee identified a plan code 12 on the RMA download, that employee should have begun to process the claim according to a different set of procedures. Had employees been trained to identify "12 codes" as GRP-insured policies, many errors might have been avoided. We contend that, as the crop insurance industry diversifies, county employees must be better prepared to identify plan codes on the RMA download and adequately trained to process and review CDP payments made to producers insured under a variety of different plans.

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<sup>10</sup> Texas FSA 2001/2002 Disaster Program Training, page 4-1, dated June 2003.

## Sampling Methodology Excluded Potential Problem Cases—

All CDP payments processed by county offices are included in the universe for DD and employee reviews. Thus, these reviews—if they had been timely performed—could have helped detect a variety of errors. Although second-party reviews are best positioned to detect errors made when processing payments to GRP-insured producers, the second-party review universe presently excludes many incorrectly calculated payments on GRP-insured crops.

FSA has excluded from the second-party review universe all payments processed without altering data downloaded from RMA; in other words, payments made directly from the RMA download are not subject to review. This policy is defensible for multiperil crop insurance policies, as processing these payments is relatively straightforward. There is little reason to include within the second-party review universe payments where the possibility of error is very slight. However, this decision has had the unintended side effect of excluding from review payments that should have altered RMA data but did not. If county employees *correctly* processed payments to GRP-insured producers, then they would have had to alter the information on the RMA download—that application would have then been included in the universe for second-party review. If county employees *incorrectly* processed payments to GRP-insured producers, then they would have often accepted the RMA data and processed the payment as that of a producer insured with multiperil crop insurance—that application would have been excluded from the universe for second-party review. Essentially, the sampling methodology functions correctly only so long as employees identify GRP-insured policies and process them correctly. If they do not identify GRP plan codes on the RMA download, then they will both process the application incorrectly and inadvertently circumvent the review meant to identify these errors. In our sample of 15 GRP-insured producers' CDP applications, we found that 8 (or 53 percent) escaped second-party review in this manner. Although this method of determining the universe for second-party review is acceptable for payments made to producers insured with multiperil crop insurance policies, it is inadequate to help FSA eliminate erroneous CDP payments made to producers insured under GRP.

The recent revision to the disaster handbook for the 2003, 2004, and 2005 CDP has increased the number of DD and employee reviews that must be performed, and required that DD reviews be performed throughout the application process.<sup>11</sup> However, the current handbook does not establish timeframes for completing second-party and employee reviews, nor does it address the problem described with the second-party review universe. Increasing the number of reviews may be an improvement, but those reviews

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<sup>11</sup> FSA Handbook 5-DAP (revision 1), amendment 3, paragraphs 276B and F, dated April 12, 2005. District directors had been required to perform 5 reviews; now they must perform 10. Supervisors had been required to review two applications per employee; now they must review five.



will be effective only if they are performed in a timely manner and include a universe broad enough to detect most significant types of errors.

We also found that the Texas State FSA Office was not monitoring the completion of these reviews and was not aware of the problems in the CDP review process. The State office did set a deadline for the collection of DD reviews but did not enforce that deadline because neither the deadline nor the collection of reviews was required. Moreover, the State office did not analyze the DD reviews that were submitted, which means that State personnel were not cognizant of any widespread problems in processing CDP applications. Even if the DD reviews had been performed as required, the State office would not have been able to identify and correct ongoing problems in CDP payments, such as the errors made while processing payments to GRP-insured producers. (See Finding 2.)

We conclude that FSA's review process for processing CDP payments must be improved to require (1) the timely completion of all reviews, (2) thorough training for county employees, and (3) an expanded second-party review universe for applications likely to be processed with a higher rate of error.

## **Recommendation 1**

Amend applicable FSA procedures to require the completion of internal reviews prior to the issuance of disaster payments. In the interim, notify immediately all FSA county offices that reviews of program payments should be completed prior to the issuance of payments.

### **Agency Response.**

Per FSA's December 14, 2005, written response to the official draft report, FSA already has amended the procedure for internal reviews under the subsequent 2003/2004/2005 CDP to include the requirement that DD reviews be conducted throughout the signup period to catch recurring errors timely enough to be effective for the current program. It was always FSA's intent to have county offices complete all second-party reviews before the issuance of payments. The handbook procedure for any future CDP will be worded to make that clear to field offices. DD and employee reviews are intended to be completed throughout the signup period. The procedure for any future disaster program will include language requiring the completion of all required reviews early in the signup period to catch any error trends.

### **OIG Position.**

We accept the management decision for Recommendation 1. For final action, FSA needs to provide the Office of the Chief Financial Officer, Director, Planning and Accountability Division (OCFO/PAD), with a copy of the amended procedure for conducting internal reviews under the 2003/2004/2005 CDP and documentation showing FSA's plan to ensure these changes are tracked until implementation under future disaster programs.

### **Recommendation 2**

For the 2003, 2004, and 2005 Disaster Assistance Program, issue immediately a notice to all FSA county offices reiterating the identification and use of insurance plan codes in the RMA download when properly handling producers' applications.

### **Agency Response.**

FSA issued Notice DAP-221 on June 6, 2005, calling attention to common disaster program errors discovered during county office reviews, independent audit findings, and OIG audits. The common error findings were listed along with the required corrective action. Some of the errors were specifically associated with GRPs and group risk income plans, which require special handling of the producers' application. The procedure dealing with RMA downloads was expanded upon under the subsequent 2003/2004/2005 CDP and included a chart listing the plan codes on the download which require the county office to obtain additional production evidence. Additional emphasis placed upon the use of insurance plan codes in the RMA downloads will be included with the procedures issued for any future CDP.

### **OIG Position.**

We accept the management decision for Recommendation 2. For final action, FSA needs to provide OCFO/PAD with copies of Notice DAP-221 and the procedure dealing with RMA downloads under the subsequent 2003/2004/2005 CDP.

### **Recommendation 3**

For future disaster programs, provide to FSA county offices training materials that specifically address how to identify and process applications requiring special handling and processing, including applications for GRP-insured crops.

### **Agency Response.**

The procedure to complete the application for the 2003/2004/2005 CDP dealing with RMA downloads for GRP or dollar crop plans was expanded upon in FSA Handbook 5-DAP, revision 1. This procedure will be brought forward to future CDPs if the administrative requirements remain unchanged. Training in this area will be emphasized under future CDPs based upon the availability of funds.

### **OIG Position.**

We accept the management decision for Recommendation 3. For final action, FSA needs to provide OCFO/PAD with a copy of the procedure for dealing with RMA downloads for GRP or dollar crop plans under the subsequent 2003/2004/2005 CDP and documentation showing FSA's plan to ensure these changes (including the emphasis of training in this area (identification and processing of applications requiring special handling and processing) under future CDPs, based upon the availability of funds) are tracked until implementation under the future disaster programs, as applicable.

## **Recommendation 4**

For future disaster programs, expand the sample of disaster payments for second-party review to include applications that require special handling and processing.

### **Agency Response.**

FSA agreed with this recommendation and will expand the second-party review universe to include insured applicants who require special handling and processing for future disaster programs.

### **OIG Position.**

We accept the management decision for Recommendation 4. For final action, FSA needs to provide OCFO/PAD with documentation showing FSA's plan to ensure the agreed-to changes are tracked until implementation under future disaster programs.

## **Recommendation 5**

Instruct the Texas State FSA Office to verify the completion of required reviews by requiring its county offices to submit certifications to that effect, and to provide results of the reviews to the FSA National Office.

### **Agency Response.**

The required CDP reviews have been completed. The Texas State FSA Office has certified the completion of the reviews on the attached memorandum dated December 2, 2005.

### **OIG Position.**

In order to achieve management decision, FSA needs to provide documentation that the Texas State FSA Office has been instructed to provide the results of the reviews to the FSA National Office.

## **Section 2. Improper Payments**

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We identified three problems in the processing of CDP applications in the Texas counties reviewed:

- County employees in Hale, Lubbock, and Terry Counties were unprepared to process disaster payments to GRP-insured producers. Of the 15 producers' applications reviewed, we found processing errors in 14 instances, or a 93-percent producer error rate. These errors resulted in improper payments totaling \$135,437.
- Terry County employees committed administrative errors when processing CDP payments to producers insured under standard multiperil crop insurance plans, particularly when processing those applications required special handling. These errors resulted in \$23,265 in improper payments.
- Terry County employees did not obtain and review disqualifying contracts; as a result, 15 cucumber producers received \$103,065 in CDP payments, even though the contracts rendered them ineligible for disaster assistance.

In sum, of the over \$1.8 million reviewed, OIG identified \$261,767 in improper CDP payments, or an error rate of 14 percent. OIG also identified \$116,938 in improper NAP payments. None of these errors was identified and corrected by FSA's CDP review process.

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### **Finding 2**

#### **GRP-Insured Producers Received Improper Payments**

We found that 14 of 15 GRP-insured producers' CDP payments were incorrectly processed in the 3 Texas counties reviewed. These errors occurred for three reasons: (1) FSA county office employees did not use the insurance plan codes on the RMA download to identify the type of insurance being processed; (2) employees did not follow the procedures in the FSA disaster handbook established for processing payments to GRP-insured producers; and (3) the CDP review process was not functioning as designed and could not identify and correct their errors.<sup>12</sup> Out of \$360,733 of total disaster payments issued to these GRP-insured producers, improper payments totaled \$135,437—12 producers received overpayments totaling \$134,007; 1 producer received an underpayment of \$1,430; and 1 producer's payment was unaffected.

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<sup>12</sup> For the first and third causes, see Finding 1.

FSA handbooks provide comprehensive procedures for processing CDP payments to GRP-insured producers. Broadly speaking, as part of calculating payments, those procedures involve recognizing GRP insurance policies on the RMA download, converting RMA's units to basic units, and determining production for harvested and unharvested acreage.<sup>13</sup>

We found, however, that county employees were not prepared to follow these procedures and made a variety of different processing errors. These errors may be divided into four different categories: county employees failed to (1) identify GRP-insured crops, (2) convert RMA's units to basic units, (3) account for crop production when calculating CDP payments, and (4) utilize correct yields for acreage in multiple counties.

Given the complications involved in processing applications to GRP-insured producers, each of these categories of errors must be regarded as distinct. Single applications often contained multiple types of errors, but because of how inconsistently these applications were processed, there was little or no direct connection between types of errors. (See exhibit B for a comprehensive explanation of which errors occurred on which applications.)

#### 1. Failure to Identify GRP-Insured Crops—

Correct handling of CDP payments to GRP-insured producers requires, first, that employees recognize they are dealing not with a standard multiperil crop insurance policy but with a GRP policy. Had they been trained properly, county employees should have recognized the insurance plan code 12 on the RMA download as identifying GRP-insured producers. In 8 of 15 cases, however, we found that county employees initially failed to recognize that they were processing a GRP-insured producer's application.<sup>14</sup> In two of these eight cases, however, the employee processing the application later realized that something was amiss and responded by calling the Texas State FSA Office. State office personnel then helped the employee identify the GRP policies. Thus, in only 6 of 15 instances was an application miscalculated due to the failure to recognize GRP-insured crops.

#### 2. Failure to Convert RMA Units to Basic Units—

The disaster handbook specifies that, when calculating GRP payments, RMA's enterprise units must be reestablished as basic units.<sup>15</sup> Of the

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<sup>13</sup> 1-NAP, paragraphs 28A and B, amendment 1, dated May 31, 2001; paragraph 797A, amendment 3, dated October 22, 2001, and 5-DAP, paragraphs 30A and B, 60A, 115B, exhibit 2, amendment 3, dated July 22, 2003; paragraphs 203C, 207A and B, amendment 2, dated June 18, 2003; paragraphs 208A and B, 227E and H, dated November 21, 2003.

<sup>14</sup> All eight of these cases took place in Hale and Lubbock Counties. In Terry County, employees recognized GRP in five of five instances due to its unique unit structure. In the fourteenth and fifteenth cases, Lubbock County employees processing the applications recognized the GRP-insured crops.

<sup>15</sup> FSA Handbook 5-DAP, amendment 3, paragraph 30B, dated July 22, 2003.

15 GRP payments we reviewed, we found that employees failed to create correct basic units for 11 producers.<sup>16</sup>

Of these 11 producers, 6 had not been recognized as holding GRP insurance policies.<sup>17</sup> Since employees did not identify GRP policies on the RMA download, they treated GRP-insured crops like any other crop—they used the units listed on the RMA download to calculate CDP payments and did not follow procedures for converting RMA units to basic units. Five other producers were initially recognized as insured under GRP policies, but the employees processing these applications did not correctly follow FSA procedures for converting units because they were unfamiliar with the process of converting enterprise units to basic units.

### 3. Failure to Account for Crop Production—

CDP disaster payments are based on reimbursing producers for production losses.<sup>18</sup> County office employees must, as part of the process of calculating payments, determine how much crop was actually produced on a given acreage.<sup>19</sup> For purposes of this calculation, there are two sorts of acres—harvested<sup>20</sup> and unharvested. For harvested acres, actual production may be directly determined. For unharvested acres, production must, in the absence of an appraisal, be assigned based on the county's maximum loss level rate.<sup>21</sup> The sum of **actual production** from harvested acres and **assigned production** from unharvested acres then serves as the basis for determining the producer's loss.<sup>22</sup>

In terms of how production is determined, GRP insurance policies differ from standard multiperil crop insurance policies. For a multiperil crop insurance policy, a crop insurance adjustor will determine production losses sustained on individual crop units—whether on harvested or unharvested acres. GRP policies, in contrast, rely on the countywide average crop production rather than the individual farm's production performance. The RMA download thus provides production figures for multiperil crop insurance policies, but not for GRP-insured crops, because that information is not critical for determining crop insurance payments under GRP. Instead, the download states crop acreage, if the crop was irrigated or not, and the indemnity payment received. The RMA download does not show if the insured acreage was harvested or

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<sup>16</sup> In two cases, county employees identified GRP policies and correctly calculated basic units on their own; in another two cases, they recognized that they were dealing with unusual cases, contacted the State office, and were walked through the process of correctly converting the units.

<sup>17</sup> See section 1, above.

<sup>18</sup> FSA Handbook 5-DAP, amendment 5, paragraph 2A, dated September 30, 2003.

<sup>19</sup> FSA Handbook 5-DAP, amendment 1, paragraph 45B, dated May 28, 2003.

<sup>20</sup> FSA Handbook 5-DAP, amendment 1, paragraph 47A, dated May 28, 2003.

<sup>21</sup> FSA Handbook 5-DAP, amendment 3, paragraphs 60A and C, dated July 22, 2003. Maximum loss levels for all crops grown in the county are determined by the County Committee and reflect the amount of production that a producer should have made, considering the disaster conditions in the county. [FSA Handbook 5-DAP, amendment 1, paragraph 60B, dated May 28, 2003.]

<sup>22</sup> FSA Handbook 5-DAP, amendment 2, paragraph 203C, dated June 18, 2003.

not, nor does it state the amount of production, if any, harvested on the insured acreage. The production data field in the RMA download is nevertheless retained and left blank. For employees unaware that they were looking at a GRP-insured producer, or even for those aware that the crops were insured under GRP but uncertain how to process such claims, this blank field contributed to processing errors.

The FSA disaster handbook provides sufficient procedures for calculating production on these applications.<sup>23</sup> Had employees been familiar with procedures for processing payments on GRP-insured crops, they would have followed those steps in the handbook for requiring producers to furnish the county office with actual production figures for harvested acres and for determining assigned production based on the county average for unharvested acres.<sup>24</sup> We found, however, that employees seldom followed these procedures.

County employees made 13 production-related processing errors when calculating payments to 11 of 15 GRP-insured producers.<sup>25</sup> These errors can be divided into the failure to assign production on unharvested acres and the failure to obtain production on harvested acres.<sup>26</sup>

- a. *Failure to Assign Production on Unharvested Acres*—In nine cases, employees failed to correctly assign production on unharvested acres. Eight errors occurred when county employees mistakenly took the blank data field on the RMA download to mean that the acreage had been appraised as a total loss. For GRP-insured acreage, they should have used the county's maximum loss level rate for that crop to assign production on unharvested acres. The ninth error occurred because the employee failed to distinguish between harvested and unharvested acres, and thus attributed actual harvested production to unharvested acres.
- b. *Failure to Obtain Actual Production on Harvested Acres*—In four cases, county office employees should have determined the producers' actual crop production from harvested acres but failed, for different reasons, to do so correctly. One county employee accepted the blank field in the RMA download as signifying zero actual production. Another employee accepted the RMA download's statement of a single unit and used production information for only one farm in that unit; the unit, however, was comprised of four farms. Thus, total actual production was understated by the three farms' unaccounted-for actual production. The third employee

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<sup>23</sup> FSA Handbook 5-DAP, amendment 3, paragraph 115B, dated July 22, 2003.

<sup>24</sup> FSA Handbook 5-DAP, amendment 3, paragraph 115B, dated July 22, 2003, and amendment 1, paragraph 60C, dated May 28, 2003.

<sup>25</sup> Four employees did not make any production-related errors. The first employee calculated the entire GRP claim correctly; the second incorrectly calculated the producer's basic units, but, due to chance, these errors did not affect either the production determination or the payment; the third and fourth employees incorrectly calculated basic units, but, due to their knowledge of how local producers sell their crops, they correctly determined production.

<sup>26</sup> Two of these producers' applications had errors for both harvested and unharvested acres.



obtained and used the producer's annual production as reported to the producer's crop insurance agent,<sup>27</sup> even though these figures are not relevant for calculating GRP crop insurance payments. The fourth employee mistakenly used a producer's gross production instead of production figures adjusted for quality.

#### 4. Failure to Use Correct Yields for Acreage in Adjoining Counties—

FSA has different procedures for processing CDP payments to producers with GRP and multiperil crop insurance policies when producers farm acreages in two or more counties. If the producer is insured under a multiperil crop insurance plan, then the county office employees should assess each acreage's losses based on the maximum loss levels in the county where the land is physically located.<sup>28</sup> If the producer is insured under a GRP policy, then the employees should assess all of the producer's acreage according to the maximum loss levels of the administrative county.<sup>29</sup> These different policies are set forth in FSA handbooks.

At the Lubbock County FSA Office, however, we found one employee who did not follow these procedures. One producer was paid disaster benefits for GRP-insured cotton acreage located in both Lubbock and Hale Counties. Approximately 100 acres were located in Hale County, where the county yields were about 150 pounds per acre higher than Lubbock County's respective yields. According to officials at the FSA National Office, the county office should have followed Noninsured Crop Disaster Assistance Program (NAP) procedures, which state that the administrative county's yields should be used for all disaster payment calculations. Though Lubbock County was the administrative county, the producer incorrectly received the Hale County yield for the 100 acres located there, resulting in an overpayment.

As the crop insurance industry continues to diversify, FSA county employees must be better prepared to identify unusual insurance plan codes on the RMA download, and familiar enough with the disaster handbook to find and follow the sections specific to that plan code. By better preparing employees to process different sorts of payments (and by improving the review process as recommended in Finding 1), many processing errors will be avoided in future CDP programs.

### **Recommendation 6**

Recover CDP payments totaling \$134,007 from the 12 overpaid GRP-insured producers.

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<sup>27</sup> The agent used the production figures to maintain the producer's actual production history for possible future use.

<sup>28</sup> FSA Handbook 5-DAP, amendment 1, paragraph 60B, dated May 28, 2003.

<sup>29</sup> FSA Handbook 1-NAP (revision 1), amendment 14, paragraph 107A, dated January 24, 2003.

### **Agency Response.**

The Terry County FSA Office, as instructed by the Texas State FSA Office, expanded its review to include all GRP producers. The Terry County FSA Committee submitted form FSA-321 – finality rule requests for all subject applications. All finality rule requests were approved except one. The funds disbursed under the application that did not receive relief under the finality rule provisions have been recovered. Corrective action was completed in September through November of 2004.

### **OIG Position.**

This recommendation requires the Hale, Lubbock, and Terry County FSA Offices to recover CDP payments. We understand that the Terry County FSA Office has taken action to request the finality rule be applied to all its GRP producers; however, we have not been provided documentation showing the disposition of those requests. In order to achieve management decision, FSA needs to provide documentation showing the action taken to recover the CDP payments totaling \$134,007 from the 12 overpaid GRP-insured producers. Such documentation should include:

- the approved requests for relief or
- (if relief was not approved)
  1. a copy of the bill for collection for the amount owed to the Government and support that the amount has been entered as a receivable on the agency's accounting records, or
  2. evidence of collection.

### **Recommendation 7**

Issue a CDP payment of \$1,430 to the underpaid GRP-insured producer.

### **Agency Response.**

The CDP underpayment in Lubbock County was issued to the applicant. The corrective action was completed in September 2004.

### **OIG Position.**

We accept the management decision for Recommendation 7. The Lubbock County FSA Office provided documentation that the CDP payment of \$1,430 had been issued to the GRP-insured producer on September 23, 2004. For final action, FSA needs to provide OCFO/PAD with a copy of this documentation.

## Recommendation 8

Instruct the Texas State FSA Office to query its county offices with GRP-insured producers to determine whether CDP payments were properly calculated. Require the Texas FSA county offices to provide the results of their reviews to the State office, and to recover any overpayments.

### Agency Response.

The Texas State FSA Office worked with the Southern Regional Compliance Office to obtain a list of GRP producers for the 2001 and 2002 crop years. Texas Notice DAP-112, issued September 4, 2004, instructed counties to review a minimum of 10 producers or 15 percent. If the discrepancy was found to be in excess of 20 percent, then all GRP producer applications were required to be reviewed. After the county completed the review, they were required to submit the results through their DD to the State office. The counties were also required to submit applicable FSA-321s to the State office if one was required. The Texas State FSA Office did not approve all submitted FSA-321s. Those that were not approved had receivables created, and the overpayments were collected. The underpayments found through this review were issued to the applicable producers.

### OIG Position.

We understand that the Texas State FSA Office has instructed the county offices to determine whether CDP payments to GRP producers were properly calculated, provide the results of their review to the State office, and take action on the improper payments. In order to achieve management decision, FSA needs to provide the documentation of the results of its review detailed by producer name, amount of improper payment, and disposition of the improper payment. Such documentation should include:

- the approved requests for relief or
- (if relief was not approved)
  1. a copy of the bill for collection for the amount owed to the Government and support that the amount has been entered as a receivable on the agency's accounting records, or
  2. evidence of collection.

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## Finding 3

### Administrative Errors Resulted in Improper Payments

In Terry County, we found that administrative errors resulted in the incorrect calculation of CDP payments to 19 of 75 producers.<sup>30</sup> These errors occurred

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<sup>30</sup> We reviewed a total of 77 producers in Terry County; however, 2 of these producers were selected as part of a limited review of CDP payments to GRP-insured producers. We therefore excluded them from our sample size for general administrative errors.

due to two contributing causes. First, county employees were not adequately trained to assess benefits on acreage that had been double-cropped or when they were applying late-plant procedures. Second, the CDP review regime was not functioning as designed and could not detect and correct these errors. (See Finding 1.) As a result, FSA issued 18 CDP overpayments totaling \$22,689 and one underpayment of \$576.

These 19 errors were distributed into 4 categories: (1) improper payments on acreage that had been double-cropped, (2) improper payments on acreage that had been grazed or not planted at all, (3) improper payments due to incorrect production information, and (4) improper payments due to the failure to correctly apply CDP late-plant procedures.

#### Terry County CDP Administrative Errors by Type

TYPE OF ERROR	Number of Errors Committed	Overpayments	Underpayments
Double-cropped Land	2	\$8,216	n/a
Acreage Grazed Rather Than Harvested	1	\$5,137	n/a
Incorrect Production Information	3	\$4,744	\$576
Late-plant Procedures	13*	\$4,592	n/a
<b>TOTAL</b>	<b>19</b>	<b>\$22,689</b>	<b>\$576</b>
* The number of errors is equivalent to the number of producers with errors.			

We also found that, due to confusion surrounding late-plant procedures, the Terry County FSA Office had issued an additional \$51,173 in NAP improper payments to 8 of the 13 producers listed in the fourth category.

None of these errors was detected by the CDP review regime. In Terry County, no employee or second-party reviews were performed, and Terry County's DD reviews did not identify them. (See Finding 1 for a fuller description of the problems in the CDP review process.)

## 1. Improper Payments on Double-Cropped Land—

When crops failed in Terry County, farmers replanted crops on the same acreage in order to bring a crop to harvest. Because the County Committee designated wheat followed by grain sorghum as the only crops that could be successfully double-cropped in Terry County, only those crops were eligible for dual CDP payments.<sup>31</sup> According to FSA procedures, when nondesignated crops are double-cropped, the producer elects to receive CDP payments on either the initial or the subsequent crop.<sup>32</sup> Because the RMA download does not differentiate between initial and subsequent crops, FSA county employees must determine crop sequence by reviewing the producer's report of acreage, calculate the payment amount for both crops, and allow the producer to select one of the payments.

Two Terry County producers initially planted cotton. When that crop failed, they planted grain sorghum, which in turn failed. Because this crop sequence was not designated as likely to succeed by the County Committee, these producers should have received CDP payments for one crop or the other. Instead, they were paid for both crops and received overpayments totaling \$8,216.

Since both payments were based on the RMA download, they were not included in the review universe for second-party review.

## 2. Improper Payments on Land That Was Intended to be Grazed Rather Than Harvested—

One producer received disaster benefits based on 356 acres of wheat reported on the RMA download for 2002. However, we found the corresponding Reports of Acreage provided by the producer to FSA reflected only 222.9 acres of wheat for grain. The balance of cropland on the producer's farms was reported specifically as wheat for grazing or as other crops or land uses, i.e., all cropland was reported to FSA. We did not interview the producer to determine the reason for the 133.1-acre difference in wheat for grain acreage for RMA and for FSA purposes. The producer received \$5,137 of CDP payments on the 133.1 acres in question. The county office agreed with our finding and initiated action during the audit to recalculate the producer's disaster benefits based on 222.9 acres of wheat.

This payment was also excluded from the second-party review universe because the payment was based on the RMA download.

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<sup>31</sup> FSA Handbook 5-DAP, amendments 1 and 3, paragraph 37C, dated May 28, 2003, and July 22, 2003.

<sup>32</sup> FSA Handbook 5-DAP, amendment 1, paragraph 37A, dated May 28, 2003.

### 3. Improper Payments Due to Incorrect Production Information—

Terry County issued three improper payments because county office personnel incorrectly calculated production information.

FSA overpaid two producers<sup>33</sup> \$4,744 of improper watermelon payments because it calculated the payments based on an understated amount of production. The producers grew 81 acres of watermelons that had 291,400 pounds of appraised production. The county office employee involved failed to recognize that the 2,914 of appraised production stated on the production worksheet was already expressed in the CDP-required hundredweight measurement and further reduced the production to 29.14. By reducing the farm's production, the employee overestimated the producers' losses, and overpayments of \$4,744 resulted.

A third improper payment—an underpayment of \$576—resulted from the county office's failure to use the correct payment factor and the correct production when calculating the disaster payment. The County Committee is required to establish unharvested factors for crops grown in its county. These unharvested factors represent the percentage of total production costs that are not incurred when the crop is unharvested.<sup>34</sup> Initially, FSA processed the payment based on RMA data stating that three units were unharvested. Subsequently, the producer provided the county office with production evidence for two of the three units. When the county office corrected the initial calculation, it failed to correct the unharvested payment factor: it thus paid harvested acreage at the reduced unharvested payment factor and failed to fully compensate the producer.<sup>35</sup>

### 4. Improper Payments Due to Failure to Correctly Apply CDP and NAP Late-Plant Procedures—

*a. CDP Improper Payments*—According to CDP procedures, the State committee approves final plant dates for all crops within the State—planting after this final plant date is termed “late planting.” The handbook provides a schedule showing the percentage of production assigned based on the number of days that the crop is planted after this date.<sup>36</sup> Generally speaking, production is assigned to late-planted crops because production losses may be attributed to planting crops later than the optimum planting date. Assigning production, therefore, works as a penalty for late-planted crops, reducing the overall payment.

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<sup>33</sup> These two producers were operating as a husband-wife joint venture.

<sup>34</sup> FSA Handbook 5-DAP, amendment 1, paragraph 61B, dated May 28, 2003.

<sup>35</sup> The production from a fourth unit, not associated with the three being discussed, was incorrectly posted to the third unit in question. Initially, the county office calculated the payment for the third unit using its appraised production as stated on the RMA download, but revised its calculation and mistakenly replaced the appraised production with a fourth unit's production, thus contributing to the \$576 underpayment.

<sup>36</sup> FSA Handbook-5-DAP, amendment 1, paragraph 60F, dated May 28, 2003.

We found that 13 producers received CDP overpayments on late-planted 2001 crops because the county office was unaware that CDP had late provisions. It thus failed to follow the correct late-plant schedule for these crops. This failure resulted in overpayments totaling \$4,592.

- b. *NAP Improper Payments*—At the FSA National Office’s request, we then reviewed how NAP insurance payments were processed to these producers. We found that 8 of the 13 had received \$51,173 in improper NAP payments for 2001 late-planted crops.

The Terry County FSA Office explained that it had committed these NAP errors due to confusion over which list of late-plant dates it should apply. Several lists had been presented to the State committee for approval—the county used the wrong one. The State office confirmed that the county offices submitted several different late-plant lists for review, but only one was approved by the State committee. The difference in the two lists’ dates accounts for the errors in processing NAP insurance applications.

We conclude that county employees must be better prepared to process these sorts of CDP payments and that FSA must improve its review process to increase its likelihood of detecting and correcting such errors.

## **Recommendation 9**

Recover CDP overpayments totaling \$17,552.

### **Agency Response.**

All of the overpayments have been collected by the FSA county office.

### **OIG Position.**

In order to achieve management decision, FSA needs to provide documentation showing the \$17,552 in CDP overpayments has been collected.

## **Recommendation 10**

Instruct the Terry County FSA Committee to determine whether the Terry County producer was ineligible for the 133.1 acres of wheat benefits. If so, recover all program payments (plus interest) to this producer as allowed.

### **Agency Response.**

Due to the different reporting dates for RMA and FSA, Texas has a significant amount of acreage differences between the two records for wheat producers. The RMA download will show wheat for grain, while the FSA acreage report may reflect the same acreage as wheat-grazed. Under previous disaster programs, Texas county offices used the referral process in an attempt to reconcile the discrepancies between FSA and RMA records. In most cases RMA confirmed the original intended certification of wheat for grain. Until the acreage reporting dates become standardized between the two agencies, discrepancies will exist regarding the intended use of wheat. At the present time, the Texas county offices accept the RMA downloaded data unless conclusive evidence is available to contradict the data. It is not possible to determine ineligibility.

### **OIG Position.**

We understand that there may be differences in wheat acreages reported for RMA and FSA purposes. However, we disagree that it is not possible to determine whether the Terry County producer was ineligible for \$5,137 of CDP payments on the 133.1 acres in question. In this case, the Terry County FSA Office agreed that the producer received an overpayment, initiated action during the audit to recalculate the producer's disaster benefits based on 222.9 acres of wheat, and provided documentation showing \$4,814 was entered as a receivable in the agency's accounting records and subsequently collected from the producer. When we reconciled the amount entered as a receivable to the amount we questioned, we found that the county office did not apply the correct payment factor when recalculating the payment. In order to achieve management decision, FSA needs to provide documentation showing the final determination and what action has been taken for the entire \$5,137 in question. Such documentation should include (1) a copy of the bill for collection for the amount owed to the Government and support that the amount has been entered as a receivable on the agency's accounting records, or (2) evidence that the overpayment has been collected.

## **Recommendation 11**

Issue a payment of \$576 to the single underpaid producer.



### **Agency Response.**

The underpayment has been issued to the producer.

### **OIG Position.**

We accept the management decision for Recommendation 11. For final action, FSA needs to provide documentation that the \$576 payment has been issued.

## **Recommendation 12**

Recover overpayments of \$51,173 from the eight producers whose crops were insured under NAP.

### **Agency Response.**

It is the intention of the Terry County FSA Committee to request relief based on the finality rule.

### **OIG Position.**

We understand that the Terry County FSA Office intends to request relief based on the finality rule. In order to achieve management decision, FSA needs to provide documentation showing the action taken to recover the NAP payments totaling \$51,173 from the eight producers. Such documentation should include:

- the approved requests for relief or
- (if relief was not approved)
  1. a copy of the bill for collection for the amount owed to the Government and support that the amount has been entered as a receivable on the agency's accounting records, or
  2. evidence of collection.

## **Recommendation 13**

Instruct the Texas State FSA Office to ensure that county office employees are prepared, for future disaster programs, to process and review applications that include late-plant procedures and benefits on subsequent crop losses on the same acreage.

### **Agency Response.**

The Texas State FSA Office expanded the training material for the 2003/2004 CDP to further clarify assigning production for late-planted crops. FSA at the national level included procedure for all field offices to process applications for late-planted crops under the subsequent 2003/2004/2005 CDP. The

procedure included instructions dealing with “when” to assign production due to late-planting. It also includes a chart which outlines the amount of production to assign depending upon the number of days the crop was planted after the established final planting date.

The procedure dealing with a subsequent crop on the same acreage was also added. That procedure may be carried forward under a possible future CDP, if the administrative requirements remain similar to those under past programs. Emphasis will be placed on the established late-planted procedures under any future CDP based upon the training funds available.

#### **OIG Position.**

We accept the management decision for Recommendation 13. For final action, FSA needs to provide OCFO/PAD with a copy of the training material for the 2003/2004 CDP that clarified assigning production for late-planted crops; a copy of the procedure for processing applications for late-plant crops and dealing with a subsequent crop loss on the same acreage under the 2003/2004/2005 CDP; and documentation showing FSA’s plans to ensure these changes (including emphasis of the established late-planted procedures under any future CDP, based upon the training funds available) are tracked until implementation under future disaster programs, as applicable.

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#### **Finding 4**

#### **Contractually Ineligible Producers Received CDP Payments**

We found that 15 Terry County cucumber producers were ineligible for disaster assistance since they had signed contracts relinquishing any control over their crops. Even though the county office was aware of the requirement that eligible producers must retain control over their crops, it did not obtain and review these producers’ contracts. Had it done so, it would have found that none of these producers retained any right, title, or interest to their crops. Due to the office’s failure to obtain and review these contracts, these 15 ineligible producers received disaster benefits totaling \$103,065.

The disaster handbook defines an eligible producer as an owner, operator, landlord, tenant, or sharecropper who shared in the risk of producing the crop and who was entitled to share in the crop available for marketing from the unit, or would have shared had the crop been produced. The producer must be able to show, with verifiable evidence, that the producer had control of the crop acreage on which the commodity was grown at the time of the disaster, which is the basis for the application for payment.<sup>37</sup>

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<sup>37</sup> FSA Handbook 5-DAP, amendment 3, paragraph 10A, dated July 22, 2003.

Although county office personnel were aware that these producers had entered into contracts with the same vendor, they did not require that the producers submit that contract as part of the application process. Instead, the county office relied on the producers' verbal statements regarding the terms of the contract. Most of these producers had certified, as part of their NAP application, that their contract was based on the value of the goods at delivery rather than on a specific amount. Although these producers' payments were based on delivered volume, the contract stipulated that any monies received would be considered rental income for use of the producer's land, not as payment for goods.<sup>38</sup> Because these cucumber producers had already applied for and received NAP insurance payments in 2001 and 2002, the county office assumed they were eligible for CDP benefits. County office personnel, however, did not, as part of either the NAP or the CDP application process, review the contract.

Later, the Terry County FSA Office obtained a copy of the contract that the vendor had provided all 15 producers. The county office acknowledged that it should have obtained this contract earlier and, if it had been unsure of the contract's meaning, requested the State office's assistance in determining if the producers were eligible. The county office personnel further stated that they would follow this procedure for any future production contracts.

That contract stated that "the title to seed and the crops grown therefrom shall at all times be in and remain in Company, and the entire crop, except as herein otherwise expressly provided, shall be delivered to Company. Grower shall not acquire any right, title, or interest in or to the seed furnished him [,] nor the crops grown therefrom, and his interest in the seed and crop shall be that of a bailee<sup>39</sup> only. Grower shall in no way represent or imply to others that he is anything other than a bailee for such seed and crops."

Under the terms of such a contract, the vendor bore crop losses when the bailee (the producer) exercised due care of the crop and the loss was the result of an unforeseeable natural phenomenon. The contract also specified what was acceptable production, the price the vendor would pay for said production, and what expenses the vendor would deduct from gross production income. The contract further stated that any income the producers received from the vendor would be considered rent. According to FSA's definition of eligibility, OIG concluded that this contract disqualified these producers from receiving disaster assistance.

We presented this finding to the Texas State FSA Office staff during the exit conference, and they requested that we have the Office of the General Counsel review the contract and determine the producers' eligibility. After

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<sup>38</sup> According to the terms of the contract, the vendor already owned the goods in question.

<sup>39</sup> Bailment is the legal relationship that arises whenever one person delivers possession of personal property to another under an agreement, express or implied, by which the latter is under a duty to return the identical property to the former or to deliver it or dispose of it as agreed.

reviewing the contract, the Office of the General Counsel concurred with OIG. Its decision states that the producers did not have title to the crop; thus they cannot suffer a loss of the crop. Though the producers may have been at risk of some financial loss because of potential irrigation and pesticide expenses and the use of their land, the producers could not have been at risk for something they did not own. Since the producers did not suffer a loss of the cucumber crop, they should not have qualified for disaster relief under the Agricultural Assistance Act of 2003.

Because NAP has similar criteria for determining producers' eligibility,<sup>40</sup> these producers also were ineligible for the NAP payments they had received. OIG reviewed these payments and concluded that 7 of these 15 producers had received \$31,595 in improper NAP payments for cucumber crops they no longer owned. In addition, we found that six other cucumber producers who had contracted with the above-mentioned vendor received only NAP benefits for their crop year 2001 and 2002 cucumber crops. These producers received \$34,170 of NAP benefits, but either failed to apply or declined to receive CDP benefits for their crops. In sum, then, 13 ineligible Terry County cucumber producers received \$65,765 in improper NAP payments.

We further learned that the vendor in question had contracted with other producers outside Terry County. The vendor provided OIG with a list indicating it had entered into similar contracts with an additional 30 cucumber producers in 6 other Texas counties. Although OIG has twice provided this list to the Texas State FSA Office staff, we have received no indication that a review of producers outside of Terry County has been initiated.

Finally, because bailment contracts like the one used by the aforementioned vendor are common throughout the produce industry, OIG is concerned that such contracts may also affect RMA's insurance programs, e.g., the Pilot Processing Cucumber Crop Insurance Program.<sup>41</sup> We discussed this matter with RMA officials. During the September 28, 2005, exit conference for this audit, an official of RMA's compliance division notified the RMA Southern Regional Compliance Office in Dallas, Texas, that producers may be ineligible for insurance payments due to their having contractually ceded beneficial interest in their crops. The Director of the RMA Southern Regional Compliance Office acknowledged the notification and agreed to take appropriate action.

So long as such contracts remain common in the produce industry, RMA and FSA must require their employees to obtain and review relevant contracts as part of processing payments.

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<sup>40</sup> FSA Handbook 1-NAP (revision 1), amendment 1, paragraph 29B, dated May 31, 2001.

<sup>41</sup> This pilot program was tested in selected States, including Texas, but Terry County was not one of the counties selected. We, therefore, had no opportunity to review whether these contracts had affected the RMA pilot program. The pilot program was implemented for the 2000 through 2005 crop years and terminated for the 2006 crop year.

## **Recommendation 14**

Instruct the Terry County FSA Committee to determine whether the 15 Terry County cucumber producers misrepresented and/or adopted a scheme or device when reporting their crop shares for CDP. If so, recover all program payments (plus interest) to these producers as allowable.

### **Agency Response.**

The Texas State FSA Office previously requested a clarification of the OIG determinations concerning the vendor's contracts. Once the final decision was received from the Office of the General Counsel, the Terry County FSA Office computed all of these overpayments. However, the producers were not notified until this report was received. The Terry County FSA Committee is now in the process of requesting relief. No cases of intentional misrepresentation or scheme to circumvent the program regulations have been uncovered.

### **OIG Position.**

We accept the management decision for Recommendation 14. For final action, FSA needs to provide OCFO/PAD with documentation of the determinations that the 15 Terry County cucumber producers did not misrepresent and/or adopt a scheme or device when reporting their crop shares for CDP.

## **Recommendation 15**

Recover improper CDP payments totaling \$103,065.

### **Agency Response.**

The Terry County FSA Committee is now in the process of requesting relief based on the finality rule.

### **OIG Position.**

In order to achieve management decision, FSA needs to provide documentation showing the action taken to recover the CDP payments totaling \$103,065 from the 15 Terry County cucumber producers. Such documentation should include:

- the approved requests for relief or
- (if relief was not approved)
  1. a copy of the bill for collection for the amount owed to the Government and support that the amount has been entered as a receivable on the agency's accounting records, or
  2. evidence of collection.

## **Recommendation 16**

Instruct the Terry County FSA Committee to determine whether the 13 Terry County cucumber producers misrepresented and/or adopted a scheme or device when reporting their crop shares for NAP. If so, recover all program payments (plus interests) to these producers as allowed.

### **Agency Response.**

FSA referred to its response to Recommendation 14.

### **OIG Position.**

We accept the management decision for Recommendation 16. For final action, FSA needs to provide OCFO/PAD with documentation of the determinations that the 13 Terry County cucumber producers did not misrepresent and/or adopt a scheme or device when reporting their crop shares for NAP.

## **Recommendation 17**

Recover improper NAP payments totaling \$65,765.

### **Agency Response.**

The Terry County FSA Committee is now in the process of requesting relief based on the finality rule.

### **OIG Position.**

In order to achieve management decision, FSA needs to provide documentation showing the action taken to recover the NAP payments totaling \$65,765 from the 13 Terry County cucumber producers. Such documentation should include:

- the approved requests for relief or
- (if relief was not approved)
  1. a copy of the bill for collection for the amount owed to the Government and support that the amount has been entered as a receivable on the agency's accounting records, or
  2. evidence of collection.

## **Recommendation 18**

Instruct the Texas State FSA Office to determine if the cucumber producers in the six other Texas counties appearing on the cucumber vendor's list received improper CDP and NAP payments. Further, instruct the State office to recover any improper CDP and NAP payments paid to the identified cucumber producers.

### **Agency Response.**

The Texas State FSA Office has requested all six counties to review the cucumber vendor's list and determine if 2001/2002 CDP payments were incorrectly issued. Upon the discovery of incorrect payments, the State office will review and comply with the finality rule provisions. The Texas State FSA Office will obtain a final report of county office action. This process is expected to be completed by the end of December 2005.

### **OIG Position.**

This recommendation requires FSA to recover improper CDP and NAP payments paid to the identified cucumber producers. We understand that FSA is in the process of reviewing for incorrectly issued CDP payments. In order to achieve management decision, FSA needs to provide documentation of its determinations as to whether the cucumber producers in the six other Texas counties appearing on the cucumber vendor's list received improper CDP and NAP payments and the action taken to recover any improper CDP and NAP payments. For any identified overpayments, such documentation should include:

- approved requests for relief or
- (if relief was not approved)
  1. a copy of the bill for collection for the amount owed to the Government and support that the amount has been entered as a receivable on the agency's accounting records, or
  2. evidence of collection.

## **Recommendation 19**

Instruct the Texas State FSA Office to require county offices to obtain, review, and retain all producer contracts in order to determine producers' eligibility for NAP and CDP payments.

### **Agency Response.**

The Texas State FSA Office has already amended its procedure to require county offices to obtain copies of producer contracts for the 2003/2004 CDP. This was added to the current CDP program training slides and provided to

each county. The Texas State FSA Office conducted training for the most recent CDP by teleconference at the beginning of the signup period.

**OIG Position.**

In order to achieve management decision, FSA needs to provide documentation that county offices will be required to review and retain all producer contracts in order to determine producers' eligibility for NAP and CDP payments.



### **Section 3. Disaster Handbook Referral Form**

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#### **Finding 5**

#### **Correction to FSA Disaster Handbook Needed Regarding RMA Referral Form**

The disaster handbook did not cite the correct form for making referrals to RMA in order to report discrepancies in the two agencies' data. While the disaster handbook instructs county offices to report discrepancies in producers' information to RMA using Form CCC-458, RMA Compliance Referral Worksheet, RMA requires Form AD-2007, FSA/RMA Compliance Referral Form. If FSA uses the wrong form, RMA is not required to resolve any reported discrepancies. Although FSA had not submitted any referrals to RMA regarding CDP at the time of our audit, the agency should revise the disaster handbook to ensure that the correct referral form is used.

The disaster handbook instructs county offices to use form CCC-458 to report share, acreage, and production variances between the RMA download and the county offices' producer records.<sup>42</sup> FSA officials confirmed that the county offices should process referrals to RMA on form CCC-458. However, our conversations with officials at the RMA Compliance Office in Dallas, Texas, disclosed that RMA Handbook 4-RM does not require them to respond to referrals made on form CCC-458; they are only required to provide FSA with a resolution of issues submitted on form AD-2007. RMA officials assured us, however, that they would keep FSA informed of developments on issues submitted on form CCC-458 in order to maintain their good working relationship with FSA's State offices.

We informed the FSA National Office staff that the disaster handbook cited the wrong form for submitting referrals to RMA for resolution. They agreed that the disaster handbook should be revised and the correct form cited to ensure that discrepancies affecting the integrity of both agencies' programs would be resolved. However, the most recent version of FSA Handbook 5-DAP, issued on February 28, 2005, does not yet include this revision.

#### **Recommendation 20**

Revise applicable FSA procedures to require county offices to use form AD-2007 rather than form CCC-458 when reporting share, acreage, and production discrepancies between the RMA download and FSA data.

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<sup>42</sup> FSA Handbook 5-DAP, amendment 1, paragraphs 62A, C, D, and E, dated May 28, 2003.

### **Agency Response.**

FSA concurs with this recommendation. Under future CDPs, field offices will be instructed to follow the compliance referral procedure in Handbook 4-RM for any suspected abuse cases or data discrepancies originating from internal reviews or employee observations. [OIG NOTE: FSA Handbook 4-RM, paragraph 23A, dated August 23, 2001, requires, "Once a County Office is aware of a suspected fraud, waste, or abuse case, AD-2007 \* \* \* must be completed \* \* \*." Paragraph 181C, dated May 25, 2002, specifies, "County Offices **shall not** use AD-2007 to refer potential data discrepancies to RMA. An automated process has been developed to refer potential discrepancies identified through the data reconciliation reviews to RMA." (Emphasis in original.)]

### **OIG Position.**

We accept the management decision for Recommendation 20. For final action, FSA needs to provide OCFO/PAD with documentation showing FSA's plan to ensure the agreed-to changes are tracked until implementation under the future disaster programs.

# Scope and Methodology

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Our audit covered CDP payments for production losses on crops grown during crop years 2001 and 2002. Fieldwork commenced on January 26, 2004, prior to CDP's final signup date of January 30, 2004. We began our audit with a review of county offices in Texas because Texas producers had received the largest amount of CDP payments as of January 1, 2004.<sup>43</sup>

We obtained and analyzed Texas' most recent CDP application data, dated December 2003, from FSA's Kansas City, Missouri, data warehouse. We sorted the data from the data warehouse and the FSA Intranet based on counties with the highest dollar amount of overall payments and the largest number of insured, noninsurable, and uninsured applications.

We judgmentally selected Terry County because it ranked high in all these categories. Of the \$310.6 million disbursed in Texas as of July 29, 2004, Terry County producers received \$10.9 million, the fourth highest in the State. In Terry County, we reviewed a total of 77 producers who had received a total of \$1,699,104 in CDP benefits.<sup>44</sup> (See breakdown on following page.) The payments reviewed represented approximately 16 percent of all CDP payments made by that county office (\$1.7 million/\$10.9 million).

Our review of Terry County producers was divided into an initial selection of 31 producers, then a limited, focused review of an additional 46 producers.

We initially selected 31 Terry County producers for review, including 10 producers who received the largest total amount of payments, 11 producers with large payments who were either County Committee members or their relatives, and 10 producers who received the largest amount of noninsurable payments. The selected producers received payments totaling about \$1.5 million (or 14 percent) of total payments paid by the Terry County FSA Office.

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<sup>43</sup> The most recent posting of program benefits on the FSA Intranet stated that, as of July 29, 2004, FSA had disbursed CDP benefits totaling \$2.6 billion. Texas producers remained the largest recipients of CDP benefits, with \$310.6 million.

<sup>44</sup> We performed all audit steps for 31 of the selected producers and a limited review of the remaining 46.

The following table shows the number of producers and the dollar amounts of CDP payments we reviewed as part of our initial review in Terry County.

Category	Number of Producers	Payments
<b>INITIAL SELECTION</b>		
Largest Total Payments	10	\$ 745,513
Associated with County Committee	11	442,158
Largest Noninsurable	10	297,882
Subtotal	31	1,485,553

On May 4, 2004, based on our initial sample, we held a conference with the FSA National Office regarding concerns with late-planted, noninsurable crops disclosed at the Terry County FSA Office. After that meeting, we then proceeded to conduct several limited reviews based on the problems we had encountered in our initial review. We then performed a limited review of all late-planted crops, the eligibility of cucumber producers who had signed contracts with vendors, and GRP-insured producers.

Category	Number of Producers	Payments
<b>LIMITED REVIEW</b>		
Late-planted	32	\$ 89,519
Cucumbers	12*	54,685
Additional GRP	2	69,347
Subtotal	46	213,551

\*Our initial selection included 3 cucumber producers, for a total of 15 Terry County cucumber producers.

At the national office's request, we expanded our initial selection to include an additional 32 noninsurable crop producers whose CDP payments totaled \$89,519. Of the 10 NAP crops on which the county office paid 2001 CDP benefits, we reviewed producer payments for 7 crops planted in the spring and summer seasons, from May through August 2001.

Our initial selection of Terry County producers also disclosed that the county office failed to correctly establish basic units when calculating payments to three GRP-insured producers, resulting in overpayments in excess of \$30,000. Officials at the national office agreed we should perform additional limited reviews to determine if overpayments to GRP-insured producers were a CDP-wide problem or isolated to Terry County. Thus, we reviewed two additional GRP-insured producers in Terry County who received payments in excess of \$69,000.

We also obtained a report from FSA's data warehouse regarding Texas producers covered by GRP insurance per the RMA download for crop years 2001 and 2002. The data disclosed that GRP insurance was sold primarily in the High Plains region. Using that information, we selected Lubbock and Hale Counties for additional limited reviews of GRP-insured producers. The five producers we reviewed in Lubbock County had received a total of \$111,606 in CDP payments, and the five producers we reviewed in Hale County had received a total of \$58,038. In sum, we reviewed 15 GRP-insured producers, 5 each in Terry, Lubbock, and Hale Counties.

In each of the counties, we reviewed the selected producers' disaster files to determine if the various elements of the CDP calculation were correct. In Terry County, we also contacted vendors to verify reported production of noninsurable crops and verified linkage requirements by contacting crop insurance agents and producers. In Lubbock County, we contacted producers to determine production for GRP-insured crops. Throughout our fieldwork, we conferred with the FSA National Office, the Texas State FSA Office, and Texas FSA county offices as necessary to resolve audit issues.

At the national office, we conducted interviews to assess the office's oversight of CDP. This included the types of internal reviews the national office staff planned to perform and how they monitored producer compliance with program requirements. The same issues were discussed with State officials. At the RMA Compliance Office in Dallas, Texas, agency officials explained how they processed FSA referrals of discrepancies in producer data identified on the RMA download.

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

# Exhibit A – Summary of Monetary Results

Finding Number	Recommendation Number	Description	Amount	Category
2	6	GRP Overpayments	\$134,007	Questioned Costs – Recovery Recommended
2	7	GRP Underpayment	1,430	Underpayment
3	9	Administrative Errors	17,552	Questioned Costs – Recovery Recommended
3	10	Administrative Errors	5,137	Unsupported Costs – Recovery Recommended
3	11	Administrative Error	576	Underpayment
3	12	Late-planted NAP Crops	51,173	Questioned Costs – Recovery Recommended
4	15	Ineligible CDP Cucumbers	103,065	Questioned Costs – Recovery Recommended
4	17	Ineligible NAP Cucumbers	65,765	Questioned Costs – Recovery Recommended
<b>Total Improper Payments</b>			<b>\$378,705</b>	

# Exhibit B - Breakdown of GRP Errors

CHART OF GRP ERRORS						
Producer	(1) Failure to Identify	(2) Failure to Convert (Basic Units)	(3.a) Failure to Assign Production on Unharvested Acres	(3.b) Failure to Obtain Production on Harvested Acres	(4) Incorrect Yield	Payment Over (Under)
Terry1		√	√			\$ 15,331
Terry2		√	√			12,463
Terry3		√	√			10,248
Terry4						0
Terry5			√	√		1,398
Lubbock1		√	√	√		(1,430)
Lubbock2	√	√		√		43,203
Lubbock3	√	√		√		15,692
Lubbock4	√	√	√		√	15,529
Lubbock5		√				0
Hale1	√*		√			3,928
Hale2	√*		√			3,928
Hale3	√	√	√			1,473
Hale4	√	√				4,905
Hale5	√	√				5,909
<b>Total</b>	<b>8</b>	<b>11</b>	<b>9</b>	<b>4</b>	<b>1</b>	<b>\$135,437</b>

\* = Producers identified and had units correctly assigned by the State office.

# Exhibit C - Agency Response

Exhibit C - Page 1 of 9



United States  
Department of  
Agriculture

Farm and Foreign  
Agricultural  
Services

Farm Service  
Agency

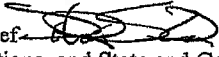
Operations Review  
and Analysis Staff

Audits,  
Investigations, and  
State and County  
Review Branch

1400 Independence  
Ave., SW  
STOP 0540  
Washington, DC  
20250-0540

DEC 14 2005

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

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

**SUBJECT:** Audit 50601-0009-TE, Disaster Assistance Payments for Crop Years 2001  
and 2002

Attached is the Farm Service Agency's Deputy Administrator for Farm Programs response to the official draft of the subject audit.

Please address any questions to Karren Fava 720-6152.

Attachment

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United States  
Department of  
Agriculture

Farm and Foreign  
Agricultural  
Services

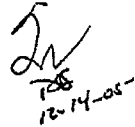
Farm Service  
Agency

1400 Independence  
Ave, SW STOP  
0517  
Washington, DC  
20250-0517

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

**FROM:**   
John A. Johnson  
Deputy Administrator for Farm Programs

DEC 14 2005

  
12-14-05

**SUBJECT:** FSA Response – Disaster Assistance Payments for Crop Years  
2001 and 2002 – Audit Report 50601-0009-TE, Official Draft

#### Recommendation 1

Amend applicable FSA procedures to require the completion of internal reviews prior to the issuance of disaster payments. In the interim, notify immediately all FSA county offices that reviews of program payments should be completed prior to the issuance of payments.

#### FSA Response

FSA has already amended the procedure (Amendments 3 and 6 to Handbook 5-DAP Revision 1), for internal reviews under the subsequent 2003/2004/2005 CDP to:

- Increase the number of required DD reviews from 5 to 10 per county.
- Revise the DD Review worksheet to more comprehensively cover the application procedure (CCC-468, 4-14-05 replaced the previous CCC-466, 7-15-04).
- Require the DD reviews to be conducted throughout the signup period to catch reoccurring errors timely enough to be effective for the current program.
- Increase the minimum number of Employee Reviews from 2 to 5.

It was always FSA's intent to have county offices complete all second party reviews before the issuance of payments. The handbook procedure for any future crop disaster program will be worded to make that intent clear to field offices.

DD and Employee reviews are intended to be completed throughout the signup period. The procedure for any future disaster program will include language requiring the completion of all required reviews early in the signup period to catch any error trends.

#### Recommendation 2

For the 2003, 2004, and 2005 Disaster Assistance Program, issue immediately a notice to all FSA county offices reiterating the identification and use of insurance plan codes in the RMA download when properly handling producers' applications.

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### **FSA Response**

FSA issued Notice DAP-221 on June 6, 2005, calling attention to common disaster program errors discovered during County Office Reviews (COR), Independent Audit Findings and OIG audits. A total of 29 common error findings were listed along with the required corrective action. Included within the listed errors are those specifically associated with Group Risk Plans (GRP), and Group Risk Income Plans (GRIP), which require special handling of the producers' application.

The sign-up period for the 2003 and 2004 CDP ended on September 9, 2005. Therefore additional emphasis placed upon the use of insurance plan codes in the RMA downloads will be included with the procedure issued for any future crop disaster program.

Handbook 5-DAP (2001/2002 CDP), did include procedure for the special handling of certain crop insurance plan codes such as the Group Risk Plans (GRP), and special RMA written agreements (5-DAP, Paragraph 208). We understand that OIG discovered these published procedures were not always followed in the county offices where the reviews were conducted. FSA will also expand the second-party review universe as suggested by OIG to include insured producers under special insurance plans including GRP for future crop disaster programs.

The procedure dealing with RMA downloads was also expanded upon under the subsequent 2003/2004/2005 CDP (Handbook 5-DAP Rev. 1 Subparagraphs 418 A through H). A chart listing the plan codes on the download which require the county office to obtain additional production evidence was included in subparagraph 418 H.

### **Recommendation 3**

For future disaster programs provide to FSA county offices training materials that specifically address how to identify and process applications requiring special handling and processing, including applications for GRP-insured crops.

### **FSA Response**

The procedure to complete the application (CCC-750), for the 2003/2004/2005 CDP dealing with RMA downloads for GRP or Dollar Crop plans was expanded upon in Handbook 5-DAP Rev. 1, Paragraph 246. This procedure will be brought forward to future crop disaster programs if the administrative requirements remain unchanged.

Training in this area will be emphasized under future crop disaster programs based upon the availability of funds.

**Récommendation 4**

For future disaster programs, expand the sample of disaster payments for second-party review to include applications that require special handling and processing.

**FSA Response**

We agree to this recommendation and will expand the second-party review universe to included insured applicants that require special handling and processing.

Under the 2001/2002 CDP, applications where all disaster determinations were based upon RMA downloads were excluded from the required second party review process. However, insured applicants were not excluded from either the Second-Party or Employee Reviews, if additional data was needed to calculate the disaster payment. Both types of reviews will be expanded under future crop disaster programs to implement OIG's recommendation.

**Recommendation 5**

Instruct the Texas FSA State Office to verify the completion of required reviews by requiring its county offices to submit certifications to that effect, and to provide results of the reviews to the FSA National Office.

**FSA Response**

The required CDP reviews have been completed. The Texas STO has certified the completion of the reviews on the attached memorandum dated December 2, 2005.

**Recommendation 6**

Recover CDP payments totaling \$134,007 from the 12 overpaid GRP-insured producers.

**FSA Response**

The Terry County FSA Office, as instructed by the Texas State FSA Office, expanded their review to include all GRP producers. The Terry County FSA Committee submitted form FSA-321 -- Finality Rule requests for all subject applications. All Finality Rule requests were approved except one. The funds disbursed under the application that did not receive relief under the Finality Rule provisions have been recovered.

All other Texas counties also reviewed 100% of the GRP producers and recovered any identified overpayments which were not subject to the Finality Rule. Corrective action was completed in September through November of 2004.

**Recommendation 7**

Issue a CDP payment of \$1,430 to the underpaid GRP-insured producer.

**FSA Response**

The CDP underpayment in Lubbock County was issued to the applicant. The corrective action was completed in September of 2004.

**Recommendation 8**

Instruct the Texas FSA State Office to query its county offices with GRP-insured producers to determine whether CDP payments were properly calculated. Require the Texas FSA county offices to provide the results of their reviews to the State office, and to recover any overpayments.

**FSA Response**

The Texas FSA State Office worked with the Southern Regional Compliance Office to obtain a list of GRP producers for the 2001 and 2002 crop years. Texas Notice DAP-112 was issued September 4, 2004. This notice instructed counties to review a minimum of 10 producers or 15%. If the discrepancy rate was found to be in excess of 20%, then all GRP producer applications were required to be reviewed. After the county completed the review, they were required to submit the results through their district director to the Texas State Office. The counties were also required to submit applicable FSA-321's to the state office if one was required. The Texas State Office did not approve all submitted FSA-321's. Those that were not approved had receivables created and the overpayments were collected. The underpayments found through this review were issued to the applicable producers.

**Recommendation 9**

Recover CDP overpayments totaling \$17,552.

**FSA Response**

All of the overpayments have been collected by the FSA county office.

**Recommendation 10**

Instruct the Terry County Committee to determine whether the Terry County producer was ineligible for the 133.1 acres of wheat benefits. If so, recover all program payments (plus interest) to this producer as allowed.

**FSA Response**

Due to the different reporting dates for RMA and FSA, Texas has a significant amount of acreage differences between the two records for wheat producers. The RMA download will show wheat for grain, while the FSA-578 acreage report may reflect the same acreage as wheat-grazed. Under previous disaster programs, Texas county offices used the referral process in an attempt to reconcile the discrepancies between FSA and RMA records. In most cases RMA confirmed the original intended certification of wheat for grain.

Until the acreage reporting dates become standardized between the two agencies, discrepancies will exist regarding the intended use for wheat. At the present time, the Texas county offices accept the RMA downloaded data unless conclusive evidence is available to contradict the data. It is not possible to determine ineligibility.

**Recommendation 11**

Issue a payment of \$576 to the single underpaid producer.

**FSA Response**

The underpayment has been issued to the producer.

**Recommendation 12**

Recover overpayments of \$51,173 from the eight producers whose crops were insured under NAP.

**FSA Response**

It is the intention of the Terry County FSA Committee to request relief based on the Finality Rule.

**Recommendation 13**

Instruct the Texas FSA State Office to ensure that county office employees are prepared, for future disaster programs, to process and review applications that include late-plant procedures and benefits on subsequent crop losses on the same acreage.

#### **FSA Response**

The Texas FSA State Office expanded the training material for the 2003/2004 Crop Disaster Program to further clarify assigning production for late-planted crops.

FSA at the national level included procedure for all field offices to process applications for late-planted crops under the subsequent 2003/2004/2005 CDP (Handbook 5-PA Rev. 1, Subparagraph 130 F). The procedure includes instructions dealing with "when" to assign production due to late planting. It also includes a chart which outlines the amount of production to assign depending upon the number of days the crop was planted after the established final planting date.

The procedure dealing with a subsequent crop on the same acreage was added in Amendment 8 to 5-DAP Rev. 1 (8-2-05), Subparagraph 130 F. That procedure may be carried forward under a possible future crop disaster program, if the administrative requirements remain similar to those under past programs.

Emphasis will be placed on the established late-planted procedure under any future crop disaster program based upon the training funds available.

#### **Recommendation 14**

Instruct the Terry County Committee to determine whether the 15 Terry County cucumber producers misrepresented and/or adopted a scheme or device when reporting their crop shares for CDP. If so, recover all program payments (plus interest) to these producers as allowable.

#### **FSA Response**

The Texas FSA State Office previously requested a clarification of the OIG determination concerning the [ ] contracts. Once the final decision was received from OGC, the Terry County FSA office computed all of these overpayments. However, the producers were not notified until this report was received. The Terry County FSA Committee is now in the process of requesting relief based on the Finality Rule. No cases of intentional misrepresentation or scheme to circumvent program regulations have been uncovered.

#### **Recommendation 15**

Recover improper CDP payments totaling \$103,065

#### **FSA Response**

The Terry County FSA Committee is now in the process of requesting relief based on the Finality Rule.

**Recommendation 16**

Instruct the Terry County Committee to determine whether the 13 Terry County cucumber producers misrepresented and/or adopted a scheme or device when reporting their crop shares for NAP. If so, recover all program payments (plus interest) to these producers as allowed.

**FSA Response**

See response for #14.

**Recommendation 17**

Recover improper NAP payments totaling \$65,765.

**FSA Response**

The Terry County FSA Committee is now in the process of requesting relief based on the Finality Rule.

**Recommendation 18**

Instruct the Texas FSA State Office to determine if the cucumber producers in the six other Texas counties appearing on the cucumber vendor's list received improper CDP and NAP payments. Further, instruct the State office to recover any improper CDP and NAP payments paid to the identified cucumber producers.

**FSA Response**

A previous meeting between the Texas State Office and OIG was held in August of 2004 to address this concern. That meeting was not presented as an exit conference. Action on this issue was delayed pending the receipt of the final report along with FSA National Office concurrence with the OIG findings. Upon receipt of this report from the FSA National Office, the Texas State Office has requested all six counties to review the cucumber vendor's list and determine if 2001/2002 CDP payments were incorrectly issued. Upon the discovery of incorrect payments, the Texas State Office will review and comply with the Finality Rule provisions. The Texas FSA State Office will obtain a final report of county office action. This process is expected to be completed by the end of December 2005.

**Recommendation 19**

Instruct the Texas FSA State Office to require county offices to obtain, review, and retain all producer contracts in order to determine producers' eligibility for NAP and CDP payments.

**FSA Response**

The Texas FSA State Office has already amended their procedure to required county offices to obtain copies of producer contracts for the 2003/2004 CDP. This was added to the current CDP program training slides and provided to each county. The Texas FSA State Office conducted training for the most recent crop disaster program by teleconference at the beginning of the sign-up period.

**Recommendation 20**

Revise applicable FSA procedures to require county offices to use form AD-2007 rather than form CCC-458 when reporting share, acreage, and production discrepancies between the RMA download and FSA data.

**FSA Response**

We concur with this recommendation. Under future crop disaster programs, field offices will be instructed to follow the compliance referral procedure in Handbook 4-RM (FCIC Program Integrity), for any suspected abuse cases or data discrepancies originating from internal reviews or employee observations.