



U.S. Department of Agriculture

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Office of Inspector General  
Southwest Region

# **Audit Report**

**Federal Assistance Grants to Producers Along  
the Rio Grande in Texas**

**Report No. 03099-180-Te  
September 2004**

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UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250



DATE: September 30, 2004

REPLY TO  
ATTN OF: 03099-180-Te

SUBJECT: Federal Assistance Grants to Producers Along the Rio Grande in Texas

TO: James R. Little  
Administrator  
Farm Service Agency

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

This report presents the results of our audit survey of Federal Assistance Grants to Producers Along the Rio Grande in Texas. Your agency's response to the draft report is included as exhibit B, and the Texas Department of Agriculture's response is included as exhibit C. Excerpts of the responses and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report.

Based on the response, management decision has been reached on Recommendation No 3. Follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer, Planning and Accountability Division. The actions needed to reach management decisions for Recommendations Nos. 1, 2, and 4 are described in the OIG Position sections of the report.

Please furnish the information needed to reach management decisions on the recommendations within 60 days. Please note that Departmental Regulation 1720-1 requires a management decision for all recommendations within a maximum of 6 months from the date of report issuance, and final action to be taken within 1 year of the date of the management decision 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 and by the Texas Department of Agriculture officials.

/RWY/  
ROBERT W. YOUNG  
Assistant Inspector General  
for Audit

# ***Executive Summary***

## ***Federal Assistance Grants to Producers Along the Rio Grande in Texas (Audit Report No. 03099-180-Te)***

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### **Results in Brief**

For crop-years 2001 and 2002, Congress authorized two grants totaling \$20 million to assist agricultural producers located along the Texas Rio Grande. These producers experienced water losses due to Mexico's failure to deliver river water to the United States in accordance with a treaty governing the use of water from the Rio Grande. The grants were funded through the Commodity Credit Corporation (CCC)<sup>1</sup> and were administered by the State of Texas through the Texas Department of Agriculture (TDA). Our objectives were to determine the adequacy of controls over the approval and distribution of grant funds, eligibility of producers for payments, and correctness of payments made to producers.

Our review of the Federal assistance grants determined that TDA made a conscious effort to administer the grants in an effective and efficient manner and generally established reasonable controls related to approval of grant funds and eligibility of producers. However, TDA's controls over the accuracy of producer payments could have been improved. Of the 1,416 payments sampled, totaling \$6,460,269, we determined that TDA paid four producers duplicate payments totaling over \$54,000, of which all but \$392 has been recovered.

Additionally, TDA officials developed a plan for disbursing the \$20 million in grant assistance in a manner they considered legal and appropriate based in part on studies by the Texas Cooperative Extension Service and U.S. Department of Agriculture's (USDA) Office of the Chief Economist. However, we are asking that the Office of the General Counsel (OGC) review the plan to determine whether the plan fully conformed to the law.

Further, we found that the Farm Service Agency (FSA) did not incorporate into the grant agreement a requirement for TDA to offset Federal debt owed by producers against the grants' funds. Therefore, TDA did not offset any Federal debt, but did offset \$17,462 in State debt.

We identified four additional issues that are discussed in the general comments section of the report. Specifically, TDA had not always forwarded earned interest on grant funds quarterly; TDA had not planned to report payments as income to the Internal Revenue Service; TDA had not developed written procedures to require monitoring of user access to the accounting system; and TDA had not returned the remaining grant funds at the end of the

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<sup>1</sup> CCC has no operating personnel, but generally relies on employees and facilities of FSA to administer and support its operations. Further, FSA's Administrator is CCC's Executive Vice President.

grant periods. These matters were satisfactorily resolved during our review, and therefore, we are not making any recommendations.

**Recommendations  
In Brief**

We recommend that FSA direct TDA to review producers' payments for 2001 and 2002 crop-years to determine if additional duplicate payments were made. We recommend that the FSA National Office request OGC to determine whether grant assistance was disbursed in accordance with the law. We further recommend that FSA request OGC to determine whether Federal debt offset procedures can be incorporated as a requirement in CCC-funded grant agreements.

**Agency Responses**

FSA and TDA officials concurred with the recommendations in our audit report. (See exhibits B and C.)

**OIG Position**

We concur with TDA's planned corrective action measures; however, to reach management decisions for Recommendations Nos. 1, 2, and 4, we need further information. We have explained in the Findings and Recommendations section of the report the actions that are necessary to reach management decisions for Recommendations Nos. 1, 2, and 4 and the actions necessary for final action on Recommendation No. 3.

## ***Abbreviations Used in This Report***

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CCC	Commodity Credit Corporation
CFR	Code of Federal Regulations
FSA	Farm Service Agency
IRS	Internal Revenue Service
OGC	Office of the General Counsel
OIG	Office of Inspector General
TDA	Texas Department of Agriculture
USDA	U.S. Department of Agriculture

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# ***Background and Objectives***

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## **Background**

The 2002 Supplemental Appropriations Act (Public Law 107-206) and the Agricultural Assistance Act of 2003 (Public Law 108-7) authorized the Secretary of Agriculture to assist agricultural producers located along the Rio Grande for water losses. Pursuant to these laws, CCC provided \$20 million, \$10 million for each of the 2001 and 2002 crop-years, in grant assistance to the State of Texas, acting through the TDA. CCC and TDA officials signed two grant agreements, dated October 28, 2002, and March 27, 2003, for each of the 2001 and 2002 crop-years, respectively. This assistance was directed to agricultural producers who rely on irrigation water from the Rio Grande and who suffered economic losses because of the decreases in water allocations due to Mexico's noncompliance with the treaty between the United States and Mexico.<sup>2</sup> The treaty requires, in part, that Mexico allot one-third of the water flow reaching the main channel of the Rio Grande provided that this third shall not be less, as an average amount in cycles of 5 consecutive years, than 350,000 acre-feet annually.

As of January 2004, Mexico owed the United States 1.3 million acre-feet of water because it had not complied with the treaty when it fell behind on its water allotments over the past 10 years. An acre-foot of water is enough to cover one acre of land with one foot of water. In the spring of 2004, Mexico began repaying its water debt to the United States.

Based on TDA-established requirements, agricultural producers were eligible for grant assistance if (1) their farming acreage was located in Cameron, Hidalgo, Kinney, Maverick, Starr, Val Verde, Webb, Willacy, or Zapata Counties, Texas; (2) acreage on which the producer was farming was eligible for water allocations for agricultural use in the Rio Grande water master system<sup>3</sup> through irrigation water rights either individually, or through a water irrigation district during the 2001 and 2002 crop-years; and (3) the producer had the right to farm eligible acreage as of January 1, 2001, and 2002. The distribution of assistance was based upon the number of acres eligible for water allocation for agricultural use. Assistance primarily went to the agricultural producers; however, the State could use grant funds for reasonable administrative costs.

TDA made the applications for Federal agriculture assistance available through local water irrigation district offices, FSA county offices, and the Rio Grande water master. Producers submitted their applications to their local water irrigation district office for certification of the amount of acreage eligible for assistance. If no irrigation district was located in their county,

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<sup>2</sup> Treaty Series 994, Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande (59 Stat.1919), Article 4, effective November 8, 1945

<sup>3</sup> The Texas Commission on Environmental Quality is responsible for the administration of water rights in Texas. The Texas Commission on Environmental Quality's water master programs (i.e., Rio Grande water master) ensures compliance with water rights by monitoring stream flows, reservoir levels, and water use. The water master regulates reservoirs as needed to prevent the wasting of water or to prevent usage beyond a user's right.

producers were to submit their applications to their FSA county offices for certification. An agricultural producer included persons or entities conducting a farming operation on eligible acreage, but did not include a landowner unless the landowner was also the producer. After certifying the amount of acreage eligible, the local irrigation district offices or FSA county offices were responsible for forwarding the completed applications to TDA for processing. TDA calculated the payments due and processed the producers' payments.

## **Objectives**

The objectives of this survey were to determine the adequacy of controls over (1) approval and distribution of grant funds, (2) eligibility of producers for payments, and (3) correctness of payments made to producers.



# Findings and Recommendations

## Section 1. Grant Administration

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### Finding No. 1      **Controls Over Payments to Producers Could Be Enhanced**

TDA's controls over the producer payment process were generally effective. For example, TDA identified and resolved several kinds of problems, such as duplicate acreage and duplicate applications in the same irrigation district, before making payments. However, additional procedures, such as computer data analysis techniques, could have detected producers who applied for payments on the same acreage in multiple irrigation districts. As a result, TDA issued duplicate payments to four producers totaling over \$54,000 for 2002 crop-year payments, of which all but \$392 has been recovered.

Federal regulations<sup>4</sup> state that grantees are responsible for managing the day-to-day operations of grant activities. Grantees must monitor grant-supported activities to ensure compliance with applicable Federal requirements and that performance goals are being achieved. It further states that grantee monitoring must cover each program, function, or activity.

We determined that TDA's temporary employees entered the application data into Excel spreadsheets by each irrigation district. The staff then compared the data on the applications to the data entered on the spreadsheets as a check for duplicate acreage within each irrigation district. Before the payments were issued, the staff sorted the data by account number and then by unique number<sup>5</sup> within the irrigation district.

For 11 of the 32 irrigation districts, we analyzed the application data in the Excel spreadsheets to identify whether payments for 2002 crop-year losses included duplicate acreage. We selected these 11 irrigation districts because they had a large number of payments, or because we had already selected the irrigation district for review of producers' application data. Producers in these 11 irrigation districts received 1,416 payments totaling \$6,460,269. We found that four producers received duplicate payments totaling \$54,174. One producer received duplicate payments totaling \$52,968 because he claimed the same acreage in two different water districts. We identified the duplicate payments by sorting each irrigation district by unique number and account number and then checking for duplicate account numbers.

We informed TDA officials of the duplicate payments, and they took action to recover the payments. As of June 3, 2004, TDA officials had recovered three of

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<sup>4</sup> Title 7, Code of Federal Regulations (CFR), Chapter XXX, part 3016, section 3016.40(a), revised January 1, 2004

<sup>5</sup> A control number TDA assigned to each application for tracking purposes

the four duplicate payments totaling \$53,782. TDA officials notified the remaining producer on May 7, 2004, that he and another producer made claims on the same acreage and requested repayment of \$392.16.

Additionally, TDA officials have developed a plan to identify whether other duplicate payments were made. TDA's information technology staff plans to merge the Excel files and import the files into Access and then into Oracle for analysis. If additional duplicate payments are identified, TDA will recover the duplicate payments from the producers.

## **Recommendation No. 1**

Direct TDA to review producers' payments for duplicate payments for 2001 and 2002 crop-years, recover all duplicate payments, and report the amount to the Office of Inspector General (OIG).

**FSA Response.** The Financial Management Division (FMD) will request TDA to review producer payments for the 2001 and 2002 crop-years and recover all duplicate payments identified. FMD will also request TDA to report the results of their review and subsequent collections to FMD. The data will be provided to OIG. The request to TDA will be sent by October 15 and a report from TDA will be requested by November 30.

**TDA Response.** TDA concurs with the recommendation. TDA stated that it completed an analysis of all payments for 2001 and 2002 crop-years. Its review discovered an additional duplicate payment. TDA is currently in the process of recovering those funds. TDA agreed to provide the results of its analysis and recovery efforts when it has recovered the duplicate payment.

**OIG Position.** To accept a management decision, please provide the details of TDA's review, including the number and amount of duplicate payments, the amount recovered and the disposition of funds recovered.

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## **Finding No. 2**

### **Distribution of Grant Funds Needs Legal Review**

TDA provided \$20 million in grant assistance to producers based on a flat rate per-acre of irrigation allocation right instead of basing the payments on the economic losses producers incurred. TDA used the alternative methodology in part because studies by the Texas Cooperative Extension Service and USDA Office of the Chief Economist indicated that producers' losses could not be readily quantified. As a result, it appears TDA's method of providing assistance may not conform to the law.

Two public laws<sup>6</sup> required the amount of grant assistance provided to individual producers with farming operations along the Rio Grande to be proportional to the actual or economic losses<sup>7</sup> incurred by the producers due to the failure of Mexico to deliver water to the United States in accordance with the treaty. Both of the grant agreements TDA signed with CCC required TDA “to use the funds only in a manner that is in accordance with the terms of the authorizing legislation.”

We found that TDA officials distributed grant funds to producers based on a flat rate per-acre of irrigation allocation right, which it believed was the only possible way to efficiently disburse the payments. TDA calculated the flat rate by dividing each year’s \$10 million grant minus administrative costs by the total number of acres determined eligible for payment. TDA’s justification for attributing the losses to all irrigated farms, and allowing all who were eligible for water allocations to be eligible for a portion of the economic loss assistance, was based on its conclusion that payments on actual annual losses would be virtually impossible to compute in this situation. In reaching this conclusion, TDA officials relied on two studies issued by the USDA Office of the Chief Economist and the Texas Cooperative Extension Service, as well as input from Rio Grande Valley stakeholders, State agriculture economists, and State and Federal representatives .

Conference report 107-275 requested USDA to estimate the value of the annual loss of U.S. agricultural production due to the deficit in Mexican water deliveries. In answer to the conference report, the Office of the Chief Economist reported that insufficient water likely played an important role in cropping choices of Rio Grande Basin producers; however, it gave three reasons for being unable to quantify the losses. First, the water deficit in Mexican deliveries could not be related to the annual surface water withdrawals by agricultural irrigators due to lack of data. Second, data on acreage planted to all crops, irrigated and dry land, was incomplete. Third, there were numerous factors affecting planted areas in the region during the period of deficit deliveries. Among others, these factors included insect losses, devastating freezes, low crop prices, rising farm production costs, and concerns over pesticide use and regulations.

The Texas Cooperative Extension Service’s study concluded that crop data limitations did not allow for a comprehensive treatment of the issue using the “historical damages approach.” However, based on the “value of water approach,” the study estimated the average annual regional economic loss

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<sup>6</sup> Public Law 107-206, Title I, Chapter 1, section 102(a) and (b), dated August 2, 2002, and Public Law 108-7, Title II, section 209(a) and (b), dated February 20, 2003

<sup>7</sup> Although the authorizing legislation for the 2 years is essentially the same, Public Law 107-206, Title I, Chapter 1, section 102(b) uses the term “actual losses” while Public Law 108-7 Title II, section 209(b) uses the term “economic losses.”

associated with a water shortage of 350,000<sup>8</sup> acre-feet would be about \$134.6 million.

Prior to signing the first of two grant agreements with CCC, TDA officials submitted a draft agreement to FSA National Office officials outlining their proposed disbursement plan. The draft agreement contained language stating that payments would be based on total farming acres eligible in 2001 to receive water allocations from the Rio Grande water master system divided by the \$10 million in disaster assistance. Accompanying the draft agreement was an executive summary that outlined TDA's justification for the proposed disbursement plan.

FSA National Office officials did not submit the draft agreement with accompanying executive summary to OGC to determine legal sufficiency. Also, FSA National Office officials stated they neither approved nor disapproved the proposed disbursement plan. When asked why they neither approved nor disapproved the State's disbursement plan, one official stated that FSA does not typically provide programmatic oversight for CCC-funded grants unless the legislation requires it, and the legislation for these grants did not.

In conclusion, even though TDA officials provided a copy of the proposed disbursement plan that did not appear to conform to the law, CCC officials tacitly approved the plan by signing the grant agreements, which did not disavow TDA's proposed disbursement plan.

## **Recommendation No. 2**

Seek clarification from OGC regarding whether the methodology TDA used to disburse grant assistance to producers conformed to the law, and take appropriate action to address OGC's clarification or advisory opinion.

**FSA Response.** Based on discussions between FSA and OGC this recommendation will be addressed upon issuance of final report.

**TDA Response.** TDA concurs with the recommendation. Early on in the planning phase to distribute the first assistance payments, TDA determined, based on the studies conducted by the USDA Chief Economist, the Texas Cooperative Extension Service, as well as input from Rio Grande Valley stakeholders, State agriculture economists, and State and Federal representatives, that it was not possible to distribute the monies in accordance with a strict interpretation of the law. TDA developed an alternative proposal for the distribution of the payments and sought and obtained the written approval of FSA and CCC prior to the distribution of the funds.

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<sup>8</sup> Average annual required minimum water delivery from Mexico under the 1944 treaty

TDA also stated that it feels confident that OGC will conclude that TDA's methodology for the distribution of the assistance payments was the only way to fairly distribute the funds and this method also complied with the spirit and intent of the law.

**OIG Position.** Although TDA officials believed FSA had provided written approval of their alternative proposal for distribution of payments, FSA officials indicated they neither approved nor disapproved the plan, and our review of FSA and TDA records did not confirm written approval. However, we did conclude, as noted on the previous page, that FSA officials tacitly approved TDA's plan.

To accept a management decision, please provide a copy of OGC's opinion, and as necessary, provide FSA's planned actions and time frame for addressing OGC's clarification or advisory opinion.

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**Finding No. 3****FSA Did Not Require Offset of Federal Debt**

TDA offset \$17,462 in State debt owed by producers against grant assistance, but did not offset Federal debt because FSA National Office officials did not consider including Federal debt offset procedures in the grant agreements. As a result, FSA missed opportunities to initiate offset actions on at least \$244,900 in Federal debt.

Federal regulations<sup>9</sup> state that unless otherwise required by statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless the grantee or subgrantee is indebted to the United States.

To determine whether debts/delinquencies existed that could have been subject to offset actions, we identified the number of FSA producers having outstanding FSA debt older than 60 days in one of the nine counties and the number of delinquent FSA borrowers having delinquent amounts in four counties. We then compared these producers to TDA's list of producers receiving payments. We identified 25 producers with FSA debts totaling \$2,690,687. Since these producers were indebted to the United States, we concluded that FSA officials could have had a legal basis for incorporating the requirements in the grant agreements for offset of Federal debt. However, because procedures were not established for offsetting Federal debt, FSA missed opportunities to initiate offset actions involving \$32,228

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<sup>9</sup> Title 7, CFR, Chapter XXX, part 3016, subpart C, section 3016.21(g), revised January 1, 2004

from 4 producers on FSA's debt register and \$212,672 from 21 delinquent FSA borrowers, for a total offset of \$244,900.

TDA's check against State debt, on the other hand, resulted in the State offsetting \$17,462. Also, because of TDA's threat of offset, 16 producers cleared State debt so they could receive their payments totaling \$75,195.

### **Recommendation No. 3**

Request OGC to determine whether FSA can, for these types of grants, legally require grantees to reduce recipients' grant payments by the amount of their Federal debt.

**FSA Response.** The Financial Management Division will request OGC to determine whether FSA/CCC can, for these type grants, legally require grantees to reduce recipients' grant payments by the amount of their Federal debt. This request to OGC will be sent by October 15 requesting a response by November 30.

**TDA Response.** TDA concurs with the recommendation.

**OIG Position.** We accept the management decision. For final action, please provide the Office of the Chief Financial Officer, Planning and Accountability Division a copy of the letter requesting the OGC opinion.

### **Recommendation No. 4**

If OGC identifies no legal barriers, incorporate Federal debt offset requirements in future CCC-funded grant agreements, as appropriate.

**FSA Response.** Based on the results of the OGC determination, any future similar grant agreements will be modified to include the OGC determination, as applicable.

**OIG Position.** To accept a management decision, please provide a copy of OGC's opinion, and as applicable, provide FSA's planned actions, including draft manual directives, and timeframe for incorporating Federal debt offset requirements in CCC-funded grant agreements.

## General Comments

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We identified four additional issues during our review. Since either the State took corrective action during the review or no additional funding is under consideration, we are providing these comments for your information and consideration when providing oversight for future grants.

Interest TDA Earned on Grant Funds Was Not Forwarded to CCC Quarterly - We determined that, as of March 26, 2004, TDA paid CCC \$72,769 for interest earned on 2002 grant funds and \$55,584 for interest earned on 2003 grant funds. While CCC received all interest TDA earned on the grant funds, TDA had not remitted interest earned quarterly to CCC totaling \$30,367 prior to our visit. This occurred because TDA lacked monitoring controls to ensure that interest earned was promptly paid to CCC. As a result, TDA did not always forward interest earned in accordance with the grant agreement. The grant agreement requires that interest earned by the State be handled in accordance with Title 7, CFR, part 3016. Federal regulations<sup>10</sup> state that grantees should promptly, at least quarterly, remit interest earned on advances to the Federal agency. We found that three of nine payments (33.33 percent) were made at least 5 months after the interest was earned, and two of the three payments were made 8 months after the interest was earned. All three of these interest payments were made after our visit to TDA. TDA plans to implement a control requiring personnel to monitor the accounts to ensure interest earned is returned to the grantor in a timely manner.

Payments May Not Have Been Reported as Income to the Internal Revenue Service (IRS) – We found that TDA had not scheduled payments to be reported as income to the IRS prior to our review. This occurred because the grants were not coded as 1099 eligible in the TDA accounting system. As a result, over \$19 million in producer payments would not have been subject to Federal income tax. The grant agreements stipulated that the State was responsible for reporting all the funds expended as required by the IRS. After bringing the matter to the attention of State officials, TDA officials determined that the payments should be reported as income per their discussion with representatives of the IRS. TDA officials reported the payments as income to the IRS on March 29, 2004.

Controls Over Accounting System Access – We noted that two TDA employees unknowingly had super-user access allowing them full access to everything in the accounting system,<sup>11</sup> including the ability to enter and make

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<sup>10</sup> Title 7, CFR, Chapter XXX, part 3016, subpart C, section 3016.21(i), revised January 1, 2004

<sup>11</sup> TDA's internal accounting system is referred to as GFAS (graphical financial accounting system).

changes to producers' payments in TDA's accounting system. This occurred because there were no controls in place to require periodic review of employees' access levels. Federal regulations<sup>12</sup> state that key duties and responsibilities in authorizing, processing, recording, and reviewing official agency transactions should be separated among individuals. Managers should exercise appropriate oversight to ensure individuals do not exceed or abuse their assigned authorities. Upon notifying TDA of the system weakness, the employees' user profiles were immediately corrected. All payments we tested were appropriately authorized.

We determined that the State has a process to monitor user access to the accounting system; however, it was not formally documented. To ensure the integrity of accounting system user access, we conclude that the State should strengthen internal controls by establishing written procedures requiring periodic review of user access to the accounting system.

Funds Remain at End of Grant Period – TDA did not expend all grant funds for 2001 crop-year losses before the end of the grant period. This condition occurred because TDA's and FSA's internal control procedures did not ensure that an extension of the grant period was obtained before the end of the grant period. As a result, \$50,018 in grant funds for 2001 crop-year losses was not returned to CCC. Federal regulations<sup>14</sup> state that where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted. Federal regulations<sup>15</sup> state that the Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant have been completed. Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. The grantee must immediately refund to the Federal agency any balance of unencumbered cash advanced that is not authorized to be retained for use on other grants.

Provisions in the grant agreements provide that the State shall have a period of 1 year from receipt in which to complete its own distribution of the funds made available by the grant. The agreements between CCC and TDA for 2001 and 2002 crop-year losses were signed on October 28, 2002, and March 27, 2003, respectively. TDA received the grant funds for both years on November 1, 2002, and April 4, 2003, respectively. The first grant period was November 1, 2002, through November 1, 2003, and the second grant period was April 4, 2003, through April 4, 2004. TDA reported all funds expended for the first grant for the quarter ended June 30, 2003. All grant funds for both years should

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<sup>12</sup> Office of Management and Budget Circular No. A-123, section II, revised June 21, 1995

<sup>13</sup> Appendix III to Office of Management and Budget Circular No. A-130, Security of Federal Automated Information Resources, revised November 28, 2000

<sup>14</sup> Title 7, CFR, Chapter XXX, part 3016, subpart C, section 3016.23(a), revised January 1, 2004

<sup>15</sup> Title 7, CFR, Chapter XXX, part 3016, subpart D, section 3016.50(a-b) and (d), revised January 1, 2004



have been expended by November 1, 2003, and April 4, 2004. In January 2004, \$50,018 in grant funds was reported as available for the first grant. Therefore, an extension of the grant period was needed once the funds were reported as available since the grant period ended on November 1, 2003. TDA officials requested guidance for obtaining grant extensions from FSA National Office officials on March 22, 2004. On April 16, 2004, TDA officials submitted a letter to CCC requesting extensions for both grant periods. CCC approved the request for grant period extensions on April 29, 2004, giving TDA officials until September 30, 2004, to disburse remaining funds for both grant periods.

## ***Scope and Methodology***

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Federal assistance grants totaling \$10 million each year were provided for producers' 2001 and 2002 crop-year losses in nine counties along the Rio Grande in Texas. We reviewed payments related to both 2001 and 2002 crop-years. As of January 21, 2004, the State made 1,870 payments totaling \$9,917,538 and 2,019 payments totaling \$9,859,813 to producers for 2001 and 2002 crop-year losses, respectively. The balance of the \$20 million in grant funds was available to TDA for administrative costs.

We performed fieldwork at the TDA State Office in Austin, Texas; Hidalgo County FSA Office in Edinburg, Texas; Texas Commission on Environmental Quality (water master) in Harlingen, Texas; and 21 irrigation district offices located in Cameron, Hidalgo, and Maverick Counties. There were 32 irrigation districts<sup>16</sup> in the 9 eligible counties. We also performed fieldwork via telephone and requested documentation from the FSA National Office. We judgmentally selected 40 payments totaling \$1,686,071 of \$9,859,813 (17 percent) made to 31 producers for 2002 crop-year losses. We based our selection on high dollar payments or payments made to producers identified as irrigation district employees in these counties. We also reviewed five high dollar payments for 2001 crop-year losses totaling \$448,708 made to five producers who also received payments in our 2002 sample. We reviewed the 2001 and 2002 crop-year loss payments to determine the adequacy of controls over producer eligibility and correctness of producer payments.

To accomplish our objectives and support our results, we (1) reviewed Federal regulations, legislative history and laws, and agency policies and procedures, (2) examined reports and studies about the economic impact of drought and water availability to the Rio Grande, (3) reviewed controls over approval and distribution of grant funds, eligibility of producers, and accuracy of payments, (4) reviewed an internal report by the TDA internal audit staff, and (5) relied upon documentary, analytical, physical, and testimonial evidence while conducting our review.

We conducted our fieldwork from January through June 2004 in accordance with Government Auditing Standards and OIG policies and procedures.

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<sup>16</sup> The usage of irrigation districts here means 28 irrigation district offices, 3 FSA County Offices, and the Rio Grande Water Master's Office.

## **Exhibit A – Summary of Monetary Results**

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Exhibit A – Page 1 of 1

Finding Number	Recommendation Number	Description	Amount	Category
1	1	Duplicate payments	\$ 54,174	Questioned costs, recovery recommended

# Exhibit B – FSA Response



SEP 30 2004

United States  
Department of  
Agriculture

Farm and Foreign  
Agricultural  
Services

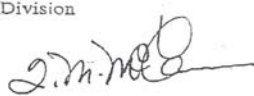
Farm Service  
Agency

Operations Review  
and Analysis Staff

Audits,  
Investigations and  
State and County  
Review Branch

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

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

FROM: T. Mike McCann, Director  
Operations Review and Analysis Staff 

SUBJECT: Office of Inspector General (OIG) Audit Report 03099-0180-TE,  
Federal Assistance Grants to Producers Along the Rio Grande in Texas

In response to the official draft report dated August 25 regarding the subject audit, following is the Farm Service Agency's (FSA) response to the recommendations:

**Recommendation 1:** Direct the Texas Department of Agriculture (TDA) to review producers' payments for duplicate payments for 2001 and 2002 crop years and recover all duplicate payments and report the amount to OIG.

**Response:** The Financial Management Division (FMD) will request TDA to review producer payments for the 2001 and 2002 crop years and recover all duplicate payments identified. FMD will also request TDA to report the results of their review and subsequent collections to FMD. The data will be provided to OIG. The request to TDA will be sent by October 15 and a report from TDA will be requested by November 30.

**Recommendation 2:** Seek clarification from the Office of the General Counsel (OGC) whether the methodology TDA used to disburse grant assistance to producers conformed to the law, and take appropriate action to address OGC's clarification or advisory opinion.

**Response:** Based on discussions between FSA and OGC this recommendation will be addressed upon issuance of final report.

**Recommendation 3:** Request OGC to determine whether FSA/Commodity Credit Corporation (CCC) can, for these type grants, legally require grantees to reduce recipients' grant payments by the amount of their Federal Debt.

**Recommendation 4:** If OGC identifies no legal barriers, incorporate Federal debt offset requirements in future CCC-funded grant agreements, as appropriate.

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Director, Farm and Foreign Agricultural Division

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Response to Recommendations 3 and 4: FMD will request OGC to determine whether FSA/CCC can, for these type grants, legally require grantees to reduce recipients' grant payments by the amount of their Federal debt. This request to OGC will be sent by October 15 requesting a response by November 30. Based on the results of the OGC determination, any future similar grant agreements will be modified to include the OGC determination, as applicable.



SUSAN COMBS, COMMISSIONER

TEXAS DEPARTMENT  
OF AGRICULTURE

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September 27, 2004

Mr. James R. Little  
Attn: Mike McCann, Director  
Operations Review & Analysis Staff  
USDA-FSA-ORAS  
STOP 0540  
1400 Independence Ave. SW  
Washington, DC 20250-0540

Dear Mr. Little:

We have reviewed the report "Federal Assistance Grants to Producers Along the Rio Grande in Texas" prepared by the Office of Inspector General, United States Department of Agriculture. Generally, we concur with the findings and recommendations in the report.

Please see the attached responses to the report's findings and recommendations.

If you have any questions, please contact Gilberto F. Mendoza, CPA at (512) 463-8251.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Combs".

Susan Combs  
Commissioner

sc/gm  
Attachment

*Making Texas the nation's leader  
in agriculture while promoting  
excellence in children's nutrition,  
rural economic development and  
providing efficient and  
extraordinary service*

Attachment 1

**Finding No. 1 Controls Over Payments to Producers Could Be Enhanced**

**Recommendation No. 1**

Direct TDA to review producers' payments for duplicate payments for 2001 and 2002 crop-years, recover all duplicate payments, and report the amount to the Office of Inspector General (OIG).

**TDA Response**

TDA concurs with the recommendation. We have completed an analysis of all payments for 2001 and 2002 crop-years. Our review discovered an additional duplicate payment. TDA is currently in the process of recovering those funds. We will report the results of our analysis and recovery efforts when we have recovered the duplicate payment.

**Finding No. 2 Distribution of Grant Funds Needs Legal Review**

**Recommendation No. 2**

Seek clarification from the Office of the General Counsel regarding whether the methodology TDA used to disburse grant assistance to producers conformed to the law, and take appropriate action to address the Office of the General Counsel's clarification or advisory opinion.

**TDA Response**

TDA concurs with the recommendation. Early on in the planning phase to distribute the first assistance payments, TDA determined, based on the studies conducted by the USDA Chief Economist, the Texas Cooperative Extension Service, as well as input from Rio Grande Valley stakeholders, State agriculture economists, and State and Federal representatives, that it was not possible to distribute the monies in accordance with a strict interpretation of the law. TDA developed an alternative proposal for the distribution of the payments and sought and obtained the written approval of FSA and CCC prior to the distribution of the funds.

We feel confident that the Office of the General Counsel will conclude that TDA's methodology for the distribution of the assistance payments was the only way to fairly distribute the funds and this method also complied with the spirit and intent of the law.

**Finding No. 3 FSA Did Not Require Offset of Federal Debt**

**Recommendation No. 3**

Request OGC to determine whether FSA can, for these types of grants, legally require grantees to reduce recipients' grant payments by the amount of their Federal debt.

**TDA Response**

TDA concurs with the recommendation.

Informational copies of this report have been distributed to:

Farm Service Agency	(4)
Director, OCFO/Planning and Accountability Division	(2)
General Accountability Office	(2)
Office of Management and Budget	(1)

