U.S. Department of Agriculture
Office of Inspector General
Great Plains Region
Audit Report

Farm Service Agency
Flood Compensation Program

Report No.
03099-38-KC
December 2000

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Washington, DC 20250

DATE: December 7, 2000

REPLY TO
ATTN OF: 03099-38-KC

SUBJECT: Flood Compensation Program

TO: Keith Kelly
Administrator
Farm Service Agency

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

This report presents the results of our audit of the Farm Service Agency's 1998 Flood Compensation Program. Your October 24, 2000, response to the draft report is included in exhibit H with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report.

We do not agree with the management decisions for Recommendations Nos. 1 and 2. Information needed to reach management decision is presented 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 action taken or planned and the timeframes for implementation for those recommendations for which a management decision has not yet been reached. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance, and final action to be taken within 1 year of each management decision.

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

/s/

JAMES R. EBBITT
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

FARM SERVICE AGENCY
FLOOD COMPENSATION PROGRAM

AUDIT NO. 03099-38-KC

RESULTS IN BRIEF

The objectives of our review were to determine if the Farm Service Agency (FSA) established adequate controls to implement and administer the 1999 Flood Compensation Program (FCP) and to provide program officials with an independent assessment of the program. The audit covered agency management controls and activities during program implementation. To accomplish our objectives, we judgmentally selected and visited 22 of the 100 counties that participated in the program, including 16 of 39 participating county offices in North Dakota and 6 of 50 participating county offices in South Dakota (see exhibit D). We examined more than 100 program applications and related farm records, as well as documentation submitted by county committees to qualify their counties for participation.

Our audit disclosed that while the FCP reached producers in the areas publicized by the agency as needing relief from flood-related losses, program payments were not based on long-term losses and benefits were not always distributed in areas where producers suffered multi-year losses. Producers in the areas publicized by the FSA as in need of the FCP received only about 35 percent of the disbursed program funds. This occurred because the FSA used two-stage eligibility criteria that allowed farmers and ranchers who had incurred losses in only 1998 to participate. Producers who suffered long-term losses were compensated the same as producers who suffered losses during only 1 year. In addition, the agency did not establish effective controls to ensure that only eligible producers participated in the program and that those who did participate were only compensated for actual losses. Improvements in these areas would help protect the program against waste and abuse.

KEY RECOMMENDATIONS

We recommended that FSA improve the design of future multi-year emergency disaster programs, such as the FCP, by establishing eligibility criteria and benefit determinations that more equitably reflect the severity and duration of losses for affected counties and producers, as well as by applying more effective controls to avoid the payment of program funds for overstated losses and false claims. We also recommended that the agency develop more effective loss verification and compliance testing procedures for future multi-year disaster programs.

AGENCY RESPONSE

FSA's October 24, 2000, written reply to the audit indicates that national program officials do not concur with our audit findings and recommendations. They believe that the FCP was delivered in accordance with the intent of Congress and affected producers and that adequate controls were in place for the program. The reply also describes the method used by the agency to develop the program and explains the agency's rationale for their opinion that no corrective action is necessary. FSA's written reply to our audit is included as exhibit H of this report.

OIG POSITION

FSA's October 24, 2000, reply does not respond to OIG's recommendations in the official draft report. The reply contains the same comments that were provided to OIG earlier in a memorandum dated August 3, 2000. OIG had already considered these comments during its preparation of the official draft report.

FSA responded by stating it still believes that FCP was delivered in accordance with the intent of Congress. However, FSA funded FCP out of funds intended for multi-year losses. According to the conference committee notes, this funding was provided to make available assistance to producers who have incurred multi-year losses in the period to include 1998 and preceding crop years. Therefore, we believe that FSA's two-stage eligibility criteria did not ensure that FCP assistance was effectively and maximally distributed to producers with major multi-year losses regardless of the counties they were located. As a part of our audit, we tested critical program administration functions and identified areas where recommended improvements could enhance the effectiveness of future flood compensation programs. These areas included the need for improved eligibility criteria for counties and producers and increased verification of claimed losses, as well as the need for more reliable compliance test methodologies. To reach management decision for the audit, we request that FSA program officials implement our recommendations or provide alternative actions to prevent recurrence of the conditions reported.

TABLE OF CONTENTS

INTRODUCTION

BACKGROUND

The Farm Service Agency (FSA) implemented the Flood Compensation Program (FCP) as a part of the Crop Loss Disaster Assistance Program (CLDAP) authorized by Title XI of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, Public Law 105-277 (the Act, October 21, 1998). The objectives of CLDAP were to provide producers with disaster assistance for 1998 single-year crop losses, multi-year crop losses (1994 through 1998), flooded acreage not eligible for crop insurance benefits, and quality losses. Handbook 1-DAP, (Amend. 22) states that the FCP was implemented to compensate producers for losses on agricultural land that was incapable of production or inaccessible because of flooding or excessive moisture from October 1, 1997, through September 30, 1998.

The Secretary designated $30 million for the FCP of the $2.375 billion authorized by the Act. The Secretary designated an additional $12 million in special disaster reserve funds exclusively for livestock producers. As of September 28, 1999, the FSA expended a total of $40.9 million in FCP funds, including a total of $24.5 million for livestock producers. FCP funds were disbursed to producers in five States, North Dakota ($22 million), South Dakota ($19 million), Minnesota ($241,000), Iowa ($82,000) and Missouri ($9,000). FCP benefits were limited to a maximum of $40,000 per producer, and producers with annual gross revenues that exceeded $2.5 million were not eligible to participate.

Title 7 of the Code of Federal Regulations (7 CFR), part 1439, states that the FCP was designed to address circumstances where changes in bodies of water may produce widespread losses that might not otherwise generate assistance under other programs. Land that generated payments or other compensation from Federal and State sources was not eligible for the FCP.

OBJECTIVES

Our objectives were to determine if the FSA developed adequate management controls to implement and administer the FCP, and to provide FSA program officials with an independent assessment of the program.

SCOPE

Our review covered management controls and activities during the implementation of the 1999 FCP. We visited the FSA National office in Washington, D.C., and the North Dakota and South Dakota State offices in Fargo, North Dakota, and in Huron, South Dakota, respectively. Our auditors visited 22 of the 100 counties that participated in the program, including 16 of 39 participating county offices in North Dakota and 6 of 50 participating county offices in South Dakota. See exhibit D for a map of the counties visited. The 16 North Dakota counties reviewed received 31.6 percent of the FCP funds expended in North Dakota and the 6 South Dakota counties received about 23 percent of the program funds expended in South Dakota.

Our review included examinations of 108 FCP applications for 64 producers in North Dakota and 44 producers in South Dakota. We also reviewed documentation submitted by nine county committees to support land used to qualify the county for the FCP. We performed our fieldwork from July 13, 1999, to August 18, 1999. The criteria used to judgmentally select the 108 producers for review included participating county committee members and county office employees, and their immediate families, as well as producers who submitted the largest claims for FCP benefits within their respective counties.

FCP was available in 5 States, but 89 of the 100 participating counties were located in North Dakota and South Dakota. FSA disbursed almost $41 million in FCP funds, 99 percent of which were distributed to producers in North Dakota and South Dakota. Nearly $22 million in program funds were disbursed to North Dakota producers and almost $19 million to South Dakota producers (see exhibit G). The producers reviewed in our audit received nearly $862,000 of the FCP funds expended.

We also evaluated the adequacy of agency controls to verify county and producer eligibility for program participation and county office controls to test producer compliance with program requirements.

The audit was conducted in accordance with Government Auditing Standards.

METHODOLOGY

To accomplish our objectives, we interviewed FSA national program officials and reviewed program documentation developed or maintained at the national office.

At the FSA State offices, we reviewed copies of county committee requests to participate in the FCP to identify the counties approved for participation and to evaluate the adequacy of supporting documentation submitted with county committee requests. We also interviewed key program officials and reviewed pertinent documents at the FSA State offices. We judgmentally selected the 22 county offices visited; our county office selections were based on preliminary indications that the counties anticipated high levels of participation, submitted questionable documentation to support county eligibility, or likely did not incur long-term flooding.

We interviewed county office employees and reviewed selected FCP applications at the 22 selected county offices. We also reviewed the farm records and aerial photographs applicable to each FCP application in our sample.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	THE FCP COULD BE MORE EFFECTIVE WITH IMPROVED ELIGIBILITY CRITERIA AND CONTROLS

The Flood Compensation Program did not compensate farmers and ranchers for long-term losses or ensure that benefits were distributed primarily in areas where producers suffered multi-year losses. The agency applied eligibility criteria that allowed participation in areas where producers may have experienced losses from excessive moisture for only the 1998 crop year. Producers who suffered long-term losses were compensated the same as producers who suffered losses during only 1 year, and producers in the areas publicized by the FSA as in need of the FCP received only about 35 percent of the program funds. In addition, more effective controls were needed to help ensure that only eligible producers participated in the program and that those who did participate were only compensated for actual losses. Overall, we questioned whether the FCP had adequate safeguards in place to protect the program from waste and abuse.

FINDING NO. 1

PROGRAM ASSISTANCE NOT TARGETED TO PRODUCERS WITH MULTI-YEAR LOSSES

The FCP was not designed to limit program funds to producers who suffered multi-year losses. Given the heavy county office workload and short timeframe for implementation of the FCP, program officials simplified the eligibility and application processes for counties and producers. We found that the agency applied different eligibility criteria to individual producers than it applied to the counties where they farmed. Also, the FSA county committees were authorized to make eligibility determinations for individual producers on the basis of producer certifications, without documentation to support the claimed losses. As a result, FCP benefits compensated producers for losses sustained only during a 1-year period and were not limited to producers who had incurred substantial and recurring losses over the designated county eligibility period of 1993 through 1998. We found that only about 35 percent of the total program funds disbursed (about $14.5 million of $40.9 million distributed) were distributed to producers in the areas publicized by the agency as having suffered severe and recurring losses due to flooding and excessive moisture. These areas included the Red River Valley and Devil's Lake drainage districts in North Dakota and Day County, South Dakota (see exhibits C and D).

FSA applied a two-stage process for determining eligibility for FCP participation. The agency used the first stage to establish county eligibility. Eligible counties were required to have been included in either a Presidential or Secretarial disaster declaration covering *"excessive moisture, flooding, or other related incident"* during a 1-year period from January 1, 1997, through August 1, 1998. FSA county committees were required to submit evidence that at least one acre of any farm in the county that had been used for agricultural production prior to 1993 and was also incapable of agricultural production due to "continuous flooding"[1] for a 6-year period beginning October 1, 1992, and ending September 30, 1998. In effect, counties could easily establish eligibility by finding one acre of flooded land in the county during the 6-year period. The second stage was used to determine the eligibility of individual producers within eligible counties. Farmers and ranchers were required to identify the land where the losses occurred and then submit an application to participate before the county committees could make an eligibility determination.

The applications included self-certifications of flood-related or excessive moisture losses that occurred from October 1, 1997, through September 30, 1998, and that the claimed acreages were not flooded or subject to excessive moisture during fiscal year (FY) 1992. These certifications were designed, in part, to ease the workload burden on the county offices. We believe that the certification process also encouraged participation by producers in outlying areas where moisture-related losses were common during 1998, but did not recur over all of the 6-year period.

On May 19, 1999, the Secretary issued a notice to announce the FCP. The notice stated that the program was intended to provide relief to producers in areas "damaged by long-term flooding" and provided three examples of these areas. The publicized areas included flooded areas in the vicinity of Day County, South Dakota; Devil's Lake in North Dakota; and the Red River Valley.

On August 31, 1999, the interim regulatory rule for the FCP was published. The background section of the interim rule states:

> *"The rule is designed to focus on counties with generalized flooding problems since 1992, due to, for example the expansion of boundaries of natural bodies of water such as Devil's Lake in North Dakota and Day County and surrounding counties in South Dakota. Such flooding can change the basic character of the land and render it ineligible for other benefits or for enrollment in programs like the Conservation Reserve Program (CRP). Generalized conditions of that sort can produce tertiary effects in the local community and accordingly, problems such as those in Devil's Lake have been the source of*

1 FSA Handbook 1-DAP Amendment 22 paragraph 601

considerable attention and concern with respect to the exercise of discretionary authorities that may be available to the Secretary of Agriculture."

Producers in these publicized areas have undoubtedly suffered long term or multi-year losses due to flooding or excessive moisture from 1993 through 1998. However, our analysis of the distribution of FCP benefits showed that with all counties in the North Dakota Red River Valley drainage basin included, the publicized areas received, only about 35 percent of the total program payments disbursed. Our analysis showed that the remaining 65 percent of the funds were distributed in areas that were not consistent with the example provided in the interim rule and described as "*the expansion of boundaries of natural bodies of water*." Producers in one of the publicized areas, counties adjacent to Devil's Lake (North Dakota), received only about 6 percent of the total program funds. Producers in Day County, South Dakota, received only about 3 percent of the total, while producers in all 33 counties in the Red River Valley drainage basin (17 counties in Minnesota and 16 counties North Dakota) received about 26 percent of the total. It is important to note that 13 of the 33 counties within the Red River Valley drainage basin did not participate in the program. All 13 of these counties were in Minnesota. Therefore, producers in some counties who did not suffer multi-year losses received program funds, while producers in other counties (i.e., in Minnesota) who likely suffered multi-year losses did not participate in the program.

Other circumstances also caused us to question program procedures for determining eligibility. The Red River Valley was the last of three areas noted in the Secretary's press release and was not mentioned in the interim rule. The United States Geological Service's description of the area states that the valley is "nearly level" and is "altered by numerous drainage ditches and flood control structures." The description did not differentiate between Minnesota and North Dakota, except to note that the eastern side of the valley (Minnesota) generally received more rainfall than the western side. We also noted that North Dakota and South Dakota combined to receive over 99 percent of the total FCP funds distributed, leaving the three remaining participating States (Iowa, Minnesota, and Missouri) with a combined total of less than 1 percent of all program funds expended, or about $332,000.

We analyzed the distribution of FCP funds and found that while all of the North Dakota and South Dakota counties in the valley participated in the FCP, only 3 Minnesota counties in the Red River Valley were determined eligible for participation. The Red River drainage basin includes 17 counties in Minnesota, 16 counties in North Dakota, and 1 county in South Dakota (see exhibit D). To illustrate the differences in participation, producers in Richland County, North Dakota, received over $2 million in FCP benefits, the highest total amount disbursed in a single county. Richland County is in the southeast corner of North Dakota and is bordered by two counties in Minnesota (Wilkin and Traverse) and one county in South Dakota (Roberts). All four of these counties are located at or near the beginning of the Red

River Valley drainage basin. While Richland County producers received over $2 million in FCP benefits and Roberts County producers received about $490,000, only producers in Traverse County, Minnesota received FCP benefits (about $9,400). Follow-up interviews with Minnesota county office personnel disclosed that the county committees found it difficult to identify producers who experienced continuous flooding during the designated eligibility period. We believe that if this multi-year criterion had been applied to all producers individually, rather than on a county basis, the distribution of FCP funds would have more likely been limited to participants who actually suffered multi-year or long term flood-related losses.

Producers who only suffered 1998 losses were compensated in the same manner as producers who suffered verifiable flood-related losses over the entire 6-year designated period. Two cases demonstrate this inequity. Producer Y in Ramsey County, North Dakota, suffered long term flood losses that are evident on FSA's annual aerial slide photography (see exhibit A). Ramsey County is located within the designated area of Devil's Lake. The aerial photography shows that Producer Y lost additional land to flooding each year from 1993 to 1998. However, his claim was limited to 1998 flood-related losses on 507.9 acres and his application was approved for $6,493 in program payments. In contrast, Producer X of Walsh County, North Dakota, claimed flood-related losses for 1998 on 195.4 acres of cropland. We reviewed the aerial slides for this acreage and found no evidence that the land was flooded at any time during the 1993 through 1998 period. Producer X needed only to certify that he had incurred losses during 1998 due to "excessive moisture." The Walsh County Committee approved this producer for $7,576 in FCP funds.

In addition, Producer Z in Ward County, North Dakota, obtained over $20,000 in FCP benefits for 1998 claimed losses on 591.8 acres of cropland. There was no evidence that the land was continuously flooded during the 6-year period. The county office program technician provided our auditor with a signed statement that Producer Z's land had not been subjected to long-term flooding. The absence of multi-year flooding was also true for four other producers we reviewed in Ward County. These producers received over $11,500 in FCP compensation without supporting evidence of multi-year losses (see exhibit B). Ward County is located in the northwest corner of North Dakota with a group of counties that generally did not suffer long term flooding. The county executive director in an adjoining county also stated that his county had not experienced long-term flooding.

These examples were neither isolated nor unique. Our review of 108 applications in North Dakota and South Dakota, disclosed 20 applications that contained little or no evidence of multi-year flooding (see exhibit B). These 20 applicants received over $99,500 of the nearly $862,000 total paid to all producers in our sample. Our review showed that the producers for 31 of the 108 FCP applications we reviewed also claimed 1998 losses without providing any evidence of flooding beyond that of the producers' certifications (see exhibit E). Although these numbers and participation values are not valid for statistical projections, we believe they do demonstrate the need for more effective controls over future disaster programs like the FCP.

In summary, we reviewed FCP applications for 108 producers in 22 of the 100 counties approved for the FCP, including 2 counties in the Devil's Lake area and 5 counties in the Red River Valley (see exhibit D). The results of our review showed several applicants did not suffer long-term losses due to flooding on significant portions of the land claimed and that there was little or no evidence of flooding in 1998 available to support the claims of these producers other than their certifications. We found that the publicized areas received only about one-third of the total funds expended for the program and that some producers with questionable histories of long-term flooding actually received more FCP benefits than producers who suffered provable losses from flooding during each year from 1993.

RECOMMENDATION NO. 1

Improve the design and implementation of multi-year emergency disaster programs like the FCP by establishing the following:

- Consistent eligibility criteria that quantify the severity and duration of the multi-year losses of affected counties and producers;

- program benefit determinations based on the number of years of actual losses for affected producers; and

- effective controls to prevent payment of program benefits to producers and counties that did not suffer multi-year disasters.

FSA Response

FSA's written reply did not specifically address this recommendation. However, FSA national program officials disagreed with our draft findings and recommendations. The agency's October 24, 2000, reply to our draft audit states that the FSP was developed by FSA's headquarters staff by working closely with and receiving input from members of Congress and their staffs, FSA State Office personnel, the Risk Management Agency, and producers from the States impacted by flooding. The reply also describes the difficulty and complexity of developing appropriate regulations, policies, and procedures for this program and points out that all parties involved with developing the program, including producers, agreed to the final product. Finally, the reply states that Congress later authorized $24 million for Flood Compensation Program for 2000, and this, along with the general agreement by all involved parties, demonstrates "broad based support" for the program as implemented. The full text of FSA's reply is provided in exhibit H.

OIG Position

In its response, FSA believes that FCP was delivered in accordance with the intent of Congress. However, FSA funded FCP out of funds intended for multi-year losses. According to the conference committee notes[2], this funding was provided to make available assistance to producers who have incurred multi-year losses in the period to include 1998 and preceding crop years. Therefore, we believe that FSA's two-step eligibility methodology did not ensure that FCP assistance was effectively and maximally distributed to producers with major multi-year losses regardless of the counties they were located. We tested critical program administration functions and identified areas where recommended improvements could enhance the effectiveness of future flood compensation programs. These areas included the need for improved eligibility criteria for counties and producers, as well as the basis for program benefit determinations for multi-year losses. To reach a management decision on this recommendation, we request that FSA implement our recommendation or provide an alternative corrective action to prevent recurrence of the conditions presented.

FINDING NO. 2

STRONGER CONTROLS ARE NECESSARY TO PROTECT THE INTEGRITY OF MULTI-YEAR DISASTER PROGRAMS

FSA did not establish effective controls to help ensure producers met program eligibility criteria and complied with program requirements. FSA did not (1) require producers to submit documentation of losses to prevent false and exaggerated loss claims or (2) timely implement an effective methodology to test producer compliance with FCP requirements. We also noted that field visits and examinations of aerial photography could not always establish the validity of claimed losses, because the program was implemented about one year after the losses had occurred. Overall, the agency relied on producer certifications of loss and the knowledge of local county committee members and county office staff to safeguard program funds.

The U.S. General Accounting Office (GAO) ***"Standards for Internal Controls in the Federal Government"*** and Office of Management and Budget (OMB) Circular A-123, ***"Management Accountability and Control"*** requires agency managers to use basic management controls to provide reasonable assurance that assets (such as FCP benefits) are safeguarded against waste, loss, unauthorized use, and misappropriation. The controls should be logical, applicable, reasonably complete, and effective and efficient in accomplishing management's objectives. In this case, management's objectives mirrored those of the program; i.e., to compensate producers for losses caused by flooding and excessive moisture during a specified period.

[2] Joint Explanatory Statement of the Committee on Conference on H.R. 4328 published in the Congressional Record on October 19, 1998.

Producer Applications and Proof of Loss. FSA's written procedures for the FCP placed almost total reliance on producer certifications of loss. We noted that all applicants outlined the flooded areas on copies of aerial photographs maintained in their farm folders. The producers then estimated the number of acres in the affected areas and signed a statement certifying the accuracy of the claim. Program requirements did not require producers to submit evidence of losses or describe the type and amount of any actual losses incurred. For example, producers were not required to disclose their actual crop production to validate their claim of crop losses, to provide documentation of purchases of replacement feed and hay to maintain livestock, or to provide evidence of lost or destroyed livestock.

County Office Verification. FCP procedures did not require county office personnel to verify the accuracy or reliability of the information provided by producers with their FCP applications. The producers' claims of loss were accepted as submitted unless county office employees or the county committee suspected a claim was incorrect. We identified cases where producers claimed land that was ineligible because it was flooded in 1992, erroneously estimated the number of acres damaged, or claimed land that was entered into the Conservation Reserve Program.

We noted that one county office in South Dakota voluntarily measured the affected acreage submitted with most FCP applications. The county executive director stated that both the staff and the producers were unsure of how to determine the number of acres affected even when the areas were outlined on aerial maps. Producers estimated the number of acres, and the county office staff adjusted the claimed acres to match the measured acres on the photomaps.

Many producers claimed losses on land used to produce hay. Without proof of loss, our auditors could not verify that an actual loss occurred because excessive moisture on the hay land was not usually apparent on the aerial photography. One county executive director said that he believed many of the noncropland claims were overstated. He described a situation where a rancher may have several acres of hay land with only a few acres in low spots. The low spots could "drown out" from excessive moisture, while the rancher's overall hay production increased because of the increased moisture in other areas of the fields. Without requiring proof of lost production from excessive moisture, county office personnel could not detect overstated claims.

Compliance Testing. The FSA National Office issued general procedures for compliance requirements on May 31, 1999. The procedures required county office staff to select a sample of 15 percent of FCP applications and to verify the claimed losses. However, the procedures did not include guidance or direction on how county office personnel were to verify the losses. We questioned county and State office personnel during our fieldwork on how compliance tests were to be accomplished. None of the

State or county personnel we interviewed was aware of the method that was to be applied. On August 18, 1999, the North Dakota State Office met with district directors and provided them instructions on how county offices were to perform FCP compliance spot-checks. This occurred after the program was implemented and our audit fieldwork was completed. Neither the FSA National Office nor the State offices issued written guidance explaining how county office personnel should test compliance on the designated 15 percent sample. As a result, the agency lost any potential deterrent to overstated loss claims when it did not apply a compliance test methodology during implementation of the FCP.

We examined county office aerial slide photography for claimed areas in the FCP applications and noted that flooded areas were often easily identifiable and measurable. However, areas with excessive moisture could not be identified or verified using the aerial slides because these areas were not always distinguishable from unaffected areas. Also, the aerial photographs may have been taken before or after any evidence of excessive moisture could be detected by viewing the slides.

The FCP was implemented in the late spring and summer of 1999, at least 7 months after the end of the disaster period used to calculate program benefits. Although many areas with flooded land in or before 1998 remained flooded in 1999, other areas with losses due to “excessive moisture” in 1998 would return to normal conditions without visible evidence of loss. As a result, site inspections conducted in 1999 could not effectively be used to verify 1998 losses or determine compliance with program requirements.

Without effective verification or compliance methodologies, our auditors could not always confirm the conditions claimed by producers on their FCP applications, nor could FSA provide reasonable assurance that FCP funds were safeguarded from waste, loss, and abuse.

We discussed the effectiveness of FSA’s compliance testing with the FSA Deputy Administrator for Farm Programs and his staff. The officials explained that county office personnel performed compliance tests after we had completed our audit fieldwork and noted the procedures used were similar to those used for the Livestock Assistance Program. The officials also provided us with a summary of the results for the compliance tests performed. According to FSA data, the agency conducted compliance tests on 3,567 FCP applications in 5 States. The tests disclosed 144 discrepancies, which resulted in recovery of over $108,000 (see exhibit F).

RECOMMENDATION NO. 2

Develop loss verification and compliance testing procedures for future multi-year disaster programs like the FCP that (1) require producers to submit a description of their actual losses, including evidence of actual losses, such as documented crop production histories and receipts, hay purchase receipts, and/or photos of crop losses; (2) require the county committee to review the documentation presented and verify unsupported loss claims before approving the producers' applications; and (3) develop and implement more timely compliance tests to reduce the vulnerability of the program and to help ensure the objectives of the program are achieved.

FSA Response

FSA's written reply restates the agency's spot check requirement for the FCP and includes a copy of "a compilation of compliance actions conducted by the five States that participated in the 1998 FCP." The compilation discloses that 3,567 spot-checks were performed resulting in the identification of 144 discrepancies and collection of about $108,000 from ineligible producers. The agency contends that the compilation shows that compliance procedures were in place and followed. The agency also notes that the North Dakota and South Dakota State FSA Offices provided written responses to the "OIG draft final report " concerning their oversight of the program and requests that OIG include these responses in the final audit report. The reply also states that it is important to note that the regulation governing the 1998 FCP was filed on August 30, 1999, and that signup ended August 30, 1999, with a 2-week extension for accepting signatures and supporting documentation.

The reply closes by stating that *"It is our intent to administer a fair and equitable program which does not adversely affect any producer needing compensation, nor provide inequitable benefits. As stated earlier the 1998 FCP has sparked no negative comment or concern from any sector of the agricultural community. Therefore, as provided by Congress, it is our intention to determine eligibility, provide assistance, and conduct compliance under the 2000 FCP, similar to administration of the 1998 FCP."*

OIG Position

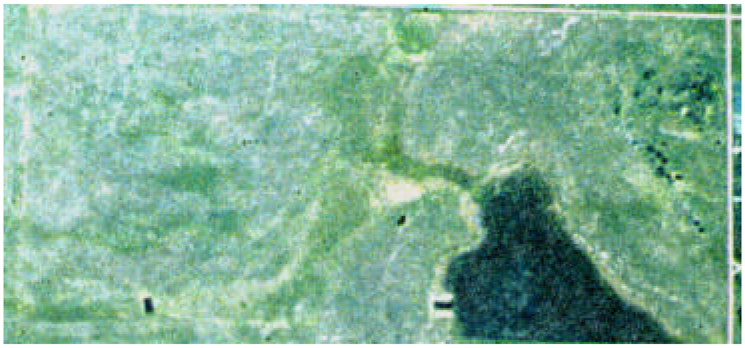
FSA's reply does not respond to the recommendation in the official draft report. The reply addresses some issues and points that were not included in the official draft report sent to the agency for comment. The agency's reply indicates that program officials believe that a single procedural requirement for spot checks, without additional procedures or guidance on how to accomplish the spot checks, is sufficient to assure the integrity of the 1998 FCP and subsequent similar programs. To reinforce this opinion, the compilation shows that compliance test results identified 144 discrepancies resulting in collections of just over $180,000.

The two FSA State offices did not provide responses to our "final draft report." The State office comments were directed to our discussion draft report. The findings to which these comments were addressed were not included in the official draft report and thus were not relevant to the findings included in the official draft report or the final report. For this reason, we did not include the State office comments in the final audit report.

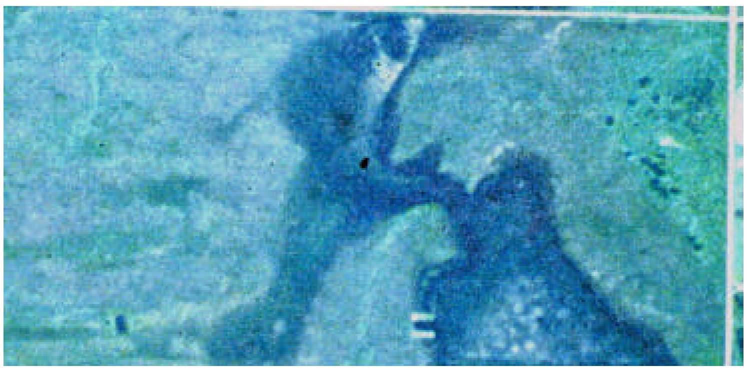
The agency's closing comments indicate that FSA plans to conduct compliance for the 2000 FCP in a similar manner used to administer the 1998 FCP and that the agency strongly believes that corrective action on recommendation no. 2 is unnecessary. The agency also noted the lack of negative comments or concerns from any sector of the agricultural community on the 1998 FCP. We believe that programs that rely heavily on loss claims supported only by producer certifications are particularly vulnerable to fraud and abuse. We continue to believe that future flood compensation programs need specific compliance testing procedures designed to test producer eligibility and other program requirements.

To reach a management decision on this recommendation, we request that FSA implement our recommendation or provide an alternative corrective action to prevent recurrence of the conditions presented.

EXHIBIT A – FLOODED FARM LAND NEAR DEVILS LAKE, 1992 - 1998



Ramsey County, North Dakota
248.1 acres
1992 aerial slide from Ramsey County FSA office



Ramsey County, North Dakota
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1993 aerial slide from Ramsey County FSA office

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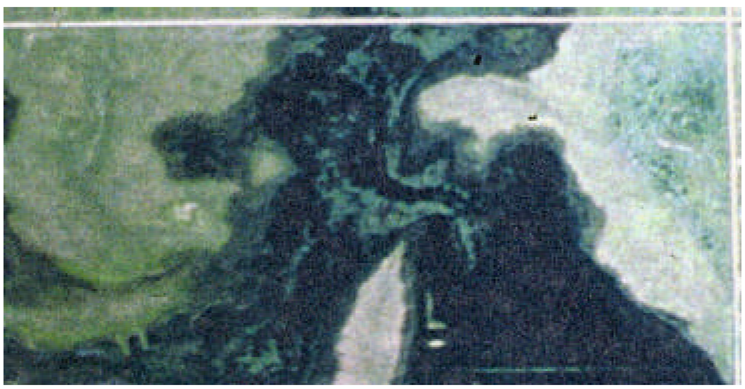


Ramsey County, North Dakota
248.1 acres
1996 aerial slide from Ramsey County FSA office

Ramsey County, North Dakota
248.1 acres
1997 aerial slide from Ramsey County FSA office

Ramsey County, North Dakota
248.1 acres
1998 aerial slide from Ramsey County FSA office.
photo appears blank but it is covered in standing water

EXHIBIT B – FARM LAND WITHOUT EVIDENCE OF FLOOD-RELATED LOSSES

Sample #	County	State	Amount
38-101-1	Ward	North Dakota	$ 276
38-101-2	Ward	North Dakota	49
38-101-3	Ward	North Dakota	20,335
38-101-4	Ward	North Dakota	6,423
38-101-5	Ward	North Dakota	4,970
38-061-1	Mountrail	North Dakota	4,596
38-061-2	Mountrail	North Dakota	1,170
38-061-3	Mountrail	North Dakota	2,820
38-061-4	Mountrail	North Dakota	570
38-105-1	Williams	North Dakota	76
38-105-2	Williams	North Dakota	115
38-013-1	Burke	North Dakota	15,682
38-013-2	Burke	North Dakota	7,496
38-013-3	Burke	North Dakota	4,040
38-055-1	McLean	North Dakota	356
38-055-2	McLean	North Dakota	379
38-017-1	Cass	North Dakota	5,902
38-099-3	Walsh	North Dakota	7,576
38-099-4	Walsh	North Dakota	5,390
46-003-6	Aurora	South Dakota	11,371
Total:			**$99,592**

EXHIBIT C – COUNTY RANKING BY FCP DISTRIBUTION [3]

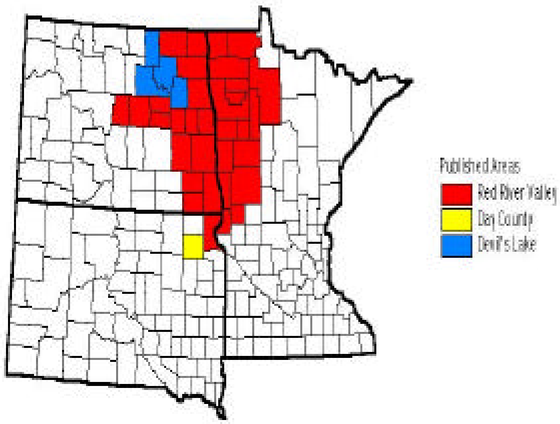
State	County	FCP Distribution	Targeted Area
North Dakota	**Richland**	**2,058,249**	**Red River Valley**
North Dakota	Cavalier	1,617,361	Red River Valley
South Dakota	**Brown**	**1,390,842**	**None**
South Dakota	Spink	1,371,739	None
North Dakota	Bottineau	1,362,824	None
South Dakota	Day	1,320,127	Day County
South Dakota	Edmonds	1,292,674	None
South Dakota	McPherson	1,167,045	None
South Dakota	Clark	1,135,898	None
North Dakota	Traill	1,057,590	Red River Valley
South Dakota	Hand	1,008,527	None
North Dakota	Dickey	1,001,823	None
North Dakota	Towner	961,589	Devil's Lake
South Dakota	**Beadle**	**902,691**	**None**
South Dakota	**Faulk**	**849,392**	**None**
North Dakota	Sargent	834,734	Red River Valley
North Dakota	Ransom	825,845	Red River Valley
North Dakota	Renville	807,766	None
North Dakota	**Kidder**	**801,447**	**None**
North Dakota	McIntosh	782,029	None
North Dakota	Grand Forks	757,684	Red River Valley
North Dakota	**Cass**	**727,797**	**Red River Valley**
North Dakota	Lamoure	710,588	None
North Dakota	Benson	708,310	Devil's Lake
South Dakota	**Aurora**	**672,207**	**None**
North Dakota	Pierce	647,979	None
North Dakota	McHenry	641,688	None
North Dakota	Stutsman	611,941	None
North Dakota	**Logan**	**573,877**	**None**
North Dakota	**Steele**	**555,161**	**Red River Valley**
South Dakota	Marshall	512,271	None
South Dakota	Charles Mix	502,529	None
South Dakota	Roberts	490,596	Red River Valley
South Dakota	Sanborn	475,575	None
South Dakota	Hamlin	467,094	None

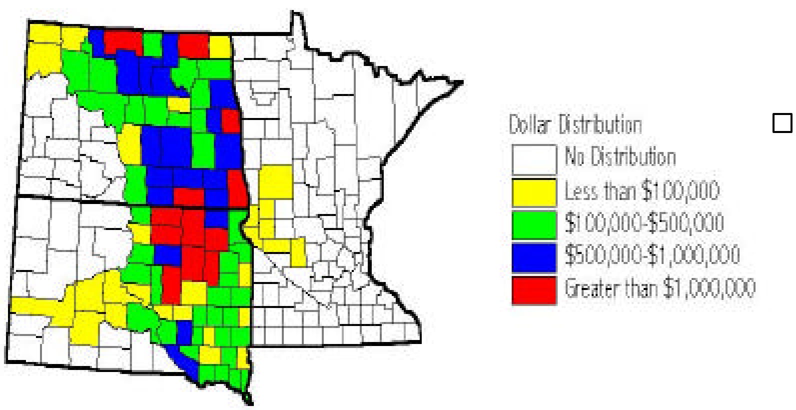
[3] Bold entries denote the locations we visited

State	County	ECP Distribution	Targeted Area
North Dakota	Rollette	458,906	None
North Dakota	**Ramsey**	**412,210**	**Devil's Lake**
South Dakota	Coddington	387,119	None
North Dakota	**Nelson**	**384,418**	**Devil's Lake**
North Dakota	**Barnes**	**381,181**	**Red River Valley**
South Dakota	Lake	316,721	None
South Dakota	Kingsbury	305,163	None
South Dakota	Sully	299,124	None
South Dakota	Campbell	298,753	None
North Dakota	Sheridan	294,410	Red River Valley
North Dakota	**Walsh**	**281,648**	**Red River Valley**
South Dakota	Potter	272,854	None
South Dakota	**Union**	**261,300**	**None**
North Dakota	Wells	260,103	Red River Valley
South Dakota	Yankton	246,270	None
South Dakota	**Douglas**	**243,553**	**None**
North Dakota	**Ward**	**242,560**	**None**
South Dakota	Minnehaha	239,712	None
South Dakota	Miner	220,673	None
South Dakota	Hyde	211,888	None
South Dakota	Clay	200,319	None
South Dakota	Bon Homme	197,193	None
North Dakota	Griggs	196,429	Red River Valley
South Dakota	Bruel	162,438	None
North Dakota	Foster	151,092	Red River Valley
South Dakota	Brookings	150,096	None
North Dakota	Emmons	127,630	None
South Dakota	Grant	127,239	None
South Dakota	McCook	126,732	None
North Dakota	**Mountrail**	**122,615**	**None**
North Dakota	**McLean**	**112,007**	**None**
South Dakota	Lyman	107,366	None
South Dakota	Turner	103,948	None
South Dakota	Davison	102,549	None
No**rth Dakota**	**Burke**	**99,616**	**None**
Minnesota	Stevens	98,556	Red River Valley
South Dakota	Jerald	97,242	None
North Dakota	**Burleigh**	**86,208**	**None**
South Dakota	Haakon	83,862	None
South Dakota	Hutchinson	83,758	None
Iowa	Fremont	81,698	None

State	County	FCP Distribution	Targeted Area
Minnesota	Big Stone	72,668	None
South Dakota	Hanson	68,841	None
South Dakota	Jones	68,093	None
South Dakota	Walworth	61,520	None
South Dakota	Lincoln	60,782	None
North Dakota	Eddy	59,224	Red River Valley
South Dakota	Pennington	43,722	None
North Dakota	**Williams**	**31,345**	**None**
South Dakota	Deuel	31,214	None
South Dakota	Hughes	30,840	None
Minnesota	Swift	30,385	None
South Dakota	Buffalo	28,647	None
North Dakota	**Divide**	**17,989**	**None**
South Dakota	Moody	15,952	None
Minnesota	West Otter Tail	15,022	Red River Valley
Minnesota	Grant	12,058	Red River Valley
North Dakota	Pembina	10,816	Red River Valley
Minnesota	Traverse	9,398	Red River Valley
Missouri	Moniteau	7,518	None
South Dakota	Jackson	3,326	None
Minnesota	Kandiyohi	2,456	None
South Dakota	Stanley	2,158	None
Missouri	Carroll	1,792	None
Minnesota	East Otter Tail	300	Red River Valley

EXHIBIT D – MAPS OF PUBLICIZED COUNTIES, FUND DISTRIBUTION AND COUNTIES REVIEWED





Note: Maps for funds distributed in Iowa and Missouri are not depicted due to the relatively insignificant funds received by them.

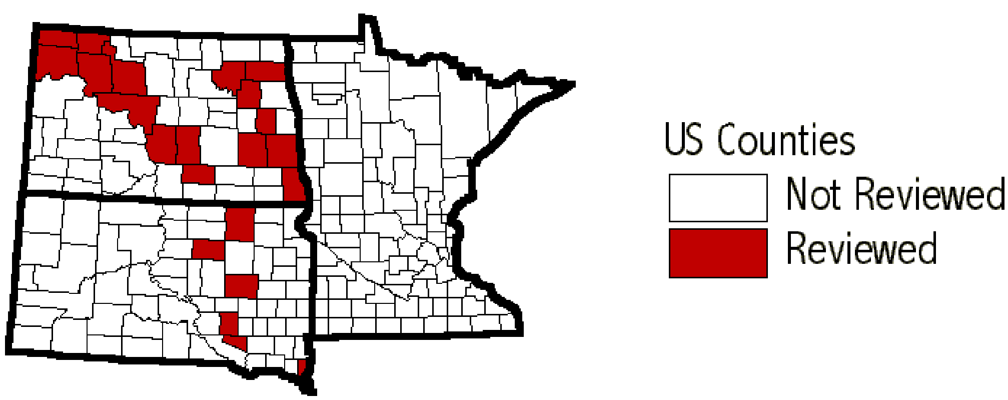


EXHIBIT E – FCP APPLICATIONS FOR CLAIMED LOSSES ON LAND WITH NO SUPPORTING EVIDENCE OF 1998 FLOODING

Sample #	County	State
38-101-1	Ward	North Dakota
38-101-3	Ward	North Dakota
38-101-4	Ward	North Dakota
38-101-5	Ward	North Dakota
38-061-1	Mountrail	North Dakota
38-061-2	Mountrail	North Dakota
38-061-3	Mountrail	North Dakota
38-061-4	Mountrail	North Dakota
38-105-1	Williams	North Dakota
38-105-2	Williams	North Dakota
38-013-1	Burke	North Dakota
38-013-2	Burke	North Dakota
38-013-3	Burke	North Dakota
38-055-4	McLean	North Dakota
38-055-5	McLean	North Dakota
38-071-1	Ramsey	North Dakota
38-071-3	Ramsey	North Dakota
38-071-4	Ramsey	North Dakota
38-071-5	Ramsey	North Dakota
38-071-6	Ramsey	North Dakota
38-003-4	Barnes	North Dakota
38-017-2	Cass	North Dakota
38-017-3	Cass	North Dakota
38-017-4	Cass	North Dakota
38-077-3	Richland	North Dakota
38-077-4	Richland	North Dakota
38-099-2	Walsh	North Dakota
38-099-3	Walsh	North Dakota
38-099-4	Walsh	North Dakota
38-063-1	Nelson	North Dakota
46-003-6	Aurora	South Dakota

EXHIBIT F – COMPILATION OF COMPLIANCE RESULTS

State	No. of Applications Approved	No. of Applications Selected for Spot-check	No. of Spot-checks Completed	No. of Discrepancies Noted	Payments Refunded as Result of Spot-checks
Iowa	56	8	8	1	$2,430
Minnesota	158	78	78	0	0
Missouri	9	9	9	0	0
No. Dakota	10,951	1,855	1,855	83	$97,564
So. Dakota	9,482	1,609	1,617	60	$8,148
Totals	**20,656**	**3,559**	**3,567**	**144**	**$108,142**

Source: **FSA**. "As noted in the above table, compliance procedure was in place and followed, and s were conducted in a manner consistent with procedure used for the Livestock Assistance Program. Also, more than $108,000 was collected from ineligible producers, as a result of these s."

EXHIBIT G – PARTICIPATION SUMMARY BY STATE

	No. of Counties	No. of Participants	FCP Amount Disbursed
Iowa	1 (1%)	84 (0.4%)	$81, 698 (0.2%)
Minnesota	8 (8%)	228 (1.0%)	240,841 (0.6%)
Missouri	2 (2%)	11 (0.005%)	9,310 (0.002%)
North Dakota	39 (39%)	12,235 (53.9%)	21,776,691 (53.2%)
South Dakota	50 (50%)	10,140 (44.7%)	18,820,173 (46.0%)
Grand Totals:	100 (100%)	22,698 (100%)	$40,928,713 (100%)

EXHIBIT H – FSA RESPONSE TO THE DRAFT REPORT

USDA

United States Department of Agriculture

Farm and Foreign Agricultural Services

Farm Service Agency

Operations Review and Analysis Staff

Audits, Investigations, State and County Review Branch

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

OCT 24 2000

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

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

SUBJECT: Response to Audit No. 03099-38-KC, Flood Compensation Program -- North Dakota

Enclosed is a copy of a memorandum dated October 24 from the Farm Service Agency's (FSA's) Deputy Administrator for Farm Programs, which responds to your request for information regarding the subject audit.

Please address any questions to Lisa Goree, FSA, Audits, Investigations, State and County Review Branch, at 720-3583.

Enclosure

USDA

OCT 24 2000

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, State and County Review Branch

FROM: L. W. Mitchell
Deputy Administrator for Farm Programs

SUBJECT: Response to OIG Audit No. 03099-38-KC - Flood Compensation Program - North Dakota

OIG Recommendation No. 1- Program Assistance Not Targeted to Producers with Multi-Year Losses.

OIG's recommendation was to improve the design and implementation of multi-year disaster programs like the FCP by establishing the following:

- consistent eligibility criteria that quantify the severity and duration of the multi-year losses of affected counties and producers;
- program benefit determinations based on the number of years of actual losses for affected producers; and
- effective controls to prevent payment of program benefits to producers and counties that did not suffer multi-year disasters.

FSA Response to No. 1

The FCP was developed by USDA's Farm Service Agency (FSA) Headquarters staff by working closely with and receiving input from Members of Congress and their staff, FSA State Office personnel, and Risk Management Agency, as well as individual producers from the States impacted by flooding.

The FCP was intended to provide assistance to producers in counties that had experienced long-term flooding. In order to ensure program integrity and provide as much oversight as possible, counties must have met two stringent requirements in order to be determined eligible, i.e. a county must have been designated or declared under a Secretarial or Presidential disaster for damages and losses due to excessive moisture, flooding, or other related incident from January 1, 1997, through August 1, 1998; and, the county must provide verifiable evidence (slides, producer certification, etc.) that land on at least one farm in the county in agricultural production prior to 1993 was incapable of agricultural production from October 1, 1992, through September 30, 1998, due to continuous flooding. FSA County Committees were responsible for initiating a request for county approval and for adherence to these rules, with subsequent review and approval by the FSA State Committee.

Final approval for each county was granted by DAFP. (Requests and supporting documentation are on file in Washington, D.C. The requests were the subject of an OIG review, after which DAFP was not notified of any approved counties determined ineligible by OIG.)

All interested parties agreed, and evidence provided DAFP indicates that, although certain publicized regions were subject to considerable flooding of large areas; it was recognized to be of equal importance, that long-term flooding had been occurring over a substantially larger area encompassing a multitude of counties in several States, but with much smaller acreages impacted by the flooding. Consequently, even though entire fields were not flooded, numerous small flooded areas cumulatively negatively impacted a large number of producers due to the loss of production and fewer acres being capable of agricultural production.

Throughout development of FCP regulation, policy and procedure, considerable discussion surrounded the issue of providing assistance in a sliding scale based on length of time eligible land had been flooded, as opposed to providing a payment per acre for all land in an eligible county that met the producer eligibility requirement, i.e. eligible land must have been incapable of agricultural production during FY 1998. It was summarily agreed to by *all* parties involved, including producers, that all of the following were applicable:

- since flooding began in nearly all areas subject to FCP as early as 1993, other federal disaster programs, State-sponsored programs, and crop insurance, may have been available and provided indemnification or assistance for losses in years prior to 1998

- although producers in each eligible county meeting county eligibility suffered from losses due to flooding in varying degrees during the years 1993-1998 it was recognized that nearly all producers in a county subject to flooding since 1992 were impacted due to decreased productivity and other unmeasurable losses

- the most equitable assistance would require payments to be issued in graduated increments for each additional year prior to 1998 the land was incapable of agricultural production. (This would require review of records and county office personnel measuring slides, review of certifications, etc. for each year of the six years 1993 through 1998 for each producer for each eligible area on every one of the producer's farms. For a producer with two farms and three eligible areas on each farm flooded since 1992, six different payment levels would be determined for each of the six years after determining acreages, with 36 measurements having to be completed cumulatively for all fields.)

- the need for provided funds to be disbursed in a timely manner was recognized by everyone; consequently, agreement was reached that in order to do so, payment for flooded land would be provided at one rate per acre for each type of eligible land incapable of agricultural production during FY 1998, regardless of the length of time the land was flooded

In summary of our response to recommendation No. 1, we submit that the regulation governing 1998 FCP was published in the Federal Register, with request for comment during a 60 day comment period. No comments were received, which would seem to indicate little or no disagreement with the methodology of administering 1998 FCP from producers, producer groups, or other interested parties, including Members of Congress. Additionally, Section 257 of the Agricultural Risk Protection Act 2000 (P.L. 106-224) provides $24 million for a 2000 FCP to be administered in the same manner as the 1998 FCP and requires that all counties eligible for 1998 FCP be eligible for 2000 FCP. We must assume once again that constituents, producer groups, or other interested parties must have provided little or no opposition to the 1998 FCP. On the contrary it would seem that broad based support must have been received for 1998 FCP such that Congress authorized $24 million for implementation of a 2000 FCP.

OIG's Recommendation No. 2 - Stronger Controls are Necessary to Protect the Integrity of Multi-Year Disaster Programs

Develop loss verification and compliance testing procedures for future multi-year disaster programs like the FCP that (1) required producers to submit a description of their actual losses, including evidence of actual losses, such as documented crop production histories and receipts, hay purchase receipts, and/or photos of crop losses: (2) require the county committee to review the documentation presented and verify unsupported loss claims before approving the producers' applications; and (3) develop and implement more timely compliance tests to reduce the vulnerability of the program and to help ensure the objectives of the program are achieved.

FSA Response to No. 2

Handbook 1-DAP, paragraph 606 requires a spot check on not less than 15 percent of all FCP applications to verify producers' certified losses. It was agreed that a compilation of spot-check information would become a part of the final OIG FCP report. Therefore, listed below is a compilation of compliance actions conducted by the five states that participated in the 1998 FCP.

STATE	# of application approved	# of applications selected for spotcheck	# of spotchecks completed	# of discrepancies noted	Payment refunded as result of spotcheck
IOWA	56	8	8	1	$ 2,430
MINNESOTA	158	78	78	0	0
MISSOURI	9	9	9	0	0
NORTH DAKOTA	10,951	1,855	1,855	83	$97,564.06
SOUTH DAKOTA	9,482	1,609	1,617	60	$ 8,147.80
TOTAL	20,656	3,559	3,567	144	$108,141.86

As noted in the above table, compliance procedure was in place and followed, and spotchecks were conducted in a manner consistent with procedure used for the Livestock Assistance Program. Also, more than $108,000 was collected from ineligible producers, as a result of these spotchecks.

In addition, written responses to the OIG draft final report were drafted by North Dakota and South Dakota State Office personnel responsible for oversight of FCP in their respective States. DAFP is requesting that these responses be included with this response in the final report. Finally, in response to Recommendation No. 2, it is important to note that the regulation governing 1998 FCP was filed on August 30, 1999, and that signup ended August 30, 1999, with a two-week extension given to accept signatures and supporting documentation.

It is our intent to administer a fair and equitable program which does not adversely affect any producer needing compensation, nor provide inequitable benefits. As stated earlier the 1998 FCP has sparked no negative comment or concern from any sector of the agricultural community. Therefore, as provided by Congress, it is our intention to determine eligibility, provide assistance, and conduct compliance under the 2000 FCP, similar to administration of the 1998 FCP.