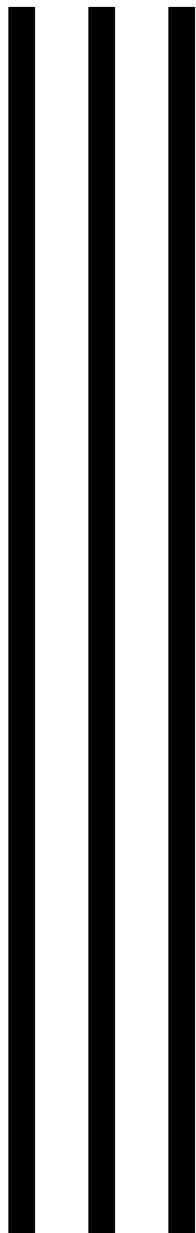


USDA



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

Farm Service Agency
Risk Management Agency
Crop Disaster Program
Washington, D.C.



Report No.
03099-42-KC
JULY 2001



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Washington D.C. 20250



DATE: July 30, 2001

REPLY TO
ATTN OF: 03099-42-KC

SUBJECT: Crop Disaster Program

TO: James R. Little
Acting Administrator
Farm Service Agency

Phyllis Honor
Acting Administrator
Risk Management Agency

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

Garland Westmoreland
Deputy Administrator
for Risk Compliance
Risk Management Agency

This report presents the results of the subject audit. The Farm Service Agency's response to our draft report is included in its entirety as exhibit C, with excerpts and our position incorporated into relevant sections of the report. A formal response was not received from the Risk Management Agency. We have not accepted management decision on any of the recommendations. The Findings and Recommendations section of the report describes the information and/or documents needed to reach management decision on each recommendation.

In accordance with Department Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementation of each audit recommendation. 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.

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

/s/

RICHARD D. LONG
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

Farm Service Agency Risk Management Agency Crop Disaster Program

Audit No. 03099-42-KC

RESULTS IN BRIEF

The 1999 Crop Disaster Program (CDP) was authorized to assist farmers who suffered quantity or quality losses to their 1999 crops due to natural disasters and was to be delivered in the same manner as the 1998 Crop Loss Disaster Assistance Program (CLDAP). The objectives of the audit were to identify and review any new provisions developed and implemented for the 1999 CDP and to evaluate the effectiveness of corrective actions taken by the Farm Service Agency (FSA) and the Risk Management Agency (RMA) on program weaknesses identified by our prior audit of CLDAP (Audit Report No. 50801-3-KC). We placed primary emphasis on whether (1) disaster program payments were properly adjusted when based on excessive crop insurance indemnities, and (2) interagency procedures were implemented to share corrected program records. Even though FSA and RMA had concurred prior to implementation of the 1999 CDP that program improvements were needed, we determined that the 1999 CDP was delivered in the same manner as the 1998 CLDAP, with no significant new provisions developed or implemented to administer the program.

We found that FSA and RMA program managers did not promptly implement corrective action to identify and report excessive indemnities so that disaster payments could be reduced accordingly. As a result, FSA continued to disburse millions of dollars for disaster payments to producers who received excessive crop insurance indemnities in 1999. For example, about \$40 million in questionable crop insurance indemnities were paid on 1999 watermelon losses due to flaws RMA identified in the watermelon crop insurance contract. However, FSA was not advised of the potential excessive indemnities and, therefore, processed CDP applications for about \$12.5 million from the same producers without considering this information in the payment determinations. A similar situation was identified for nonirrigated corn when RMA established an excessively high yield in 1998. In 1999, the improperly established yield caused producers to plant and insure nonirrigated corn in an area where it was normally too dry. As a result, RMA paid about \$12.7 million in questionable indemnities because

the nonirrigated corn yield was too high. However, FSA was not informed of these questionable indemnities and, therefore, processed CDP applications for about \$6.6 million in CDP benefits to the same producers without considering the erroneous data.

Although FSA and RMA shared program records, the CDP was administered without implementation of appropriate interagency procedures to notify the other agency when changes were made or problems were found that could affect payment determinations. To illustrate, RMA compliance identified and recommended collection of improper 1999 and 1998 indemnities that were the basis for 1999 CDP and 1998 CLDAP payments of about \$1 million (see exhibit A, Summary of Monetary Results). However, a process was not in place for RMA to provide the corrected indemnity amounts to FSA so that disaster program payments could be corrected.

In addition, FSA county offices (CO) did not always apply liquidated damages for noncompliance with crop insurance linkage requirements in a fair and consistent manner, as some COs inappropriately allowed exceptions to and waivers of these provisions. As a result, all producers were not treated in the same manner and were not properly assessed liquidated damages for noncompliance with crop insurance linkage requirements. In August 2000, FSA recognized the inappropriate exceptions and waivers granted by COs and directed corrective action.

During the audit, we issued a Management Alert (03099-42-KC(2)) on April 18, 2000, to advise FSA that, as reported in our review of the 1998 CLDAP, procedures were still not in place to adjust CDP payments when indemnities were based on improper crop yields and production guarantees. In response, FSA agreed to grant authority to county committees to change downloaded RMA data any time RMA provided written notification to FSA that excessive indemnities had been paid as a result of erroneous insurance data. We concurred with the action taken by FSA.

KEY RECOMMENDATIONS

FSA and RMA should immediately implement formal interagency procedures to (1) identify and report instances where excessive crop insurance indemnities were paid due to program irregularities, and (2) exchange program data when program reviews performed internally or externally identify payment errors. FSA should recover all CLDAP and CDP payments based on improper indemnities. In addition, FSA should also instruct State FSA offices to follow up on CO application of the liquidated damage provisions to ensure these

provisions are properly applied and liquidated damages or program payments are recovered, as appropriate.

AGENCY RESPONSE

FSA generally agreed with the audit findings and recommendations. RMA did not provide a formal response to our draft report.

OIG POSITION

Additional information is needed to reach a management decision on each of our recommendations. Specific details are incorporated into the Findings and Recommendations section of the report.

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	i
RESULTS IN BRIEF.....	i
KEY RECOMMENDATIONS.....	ii
AGENCY RESPONSE.....	iii
OIG POSITION.....	iii
TABLE OF CONTENTS.....	iv
INTRODUCTION.....	1
BACKGROUND.....	1
OBJECTIVES.....	2
SCOPE.....	2
METHODOLOGY.....	3
FINDINGS AND RECOMMENDATIONS.....	4
CHAPTER 1.....	4
PROGRAM WEAKNESSES WERE NOT CORRECTED.....	4
FINDING NO. 1.....	4
RECOMMENDATION NO. 1.....	7
RECOMMENDATION NO. 2.....	7
RECOMMENDATION NO. 3.....	8
FINDING NO. 2.....	9
RECOMMENDATION NO. 4.....	10
RECOMMENDATION NO. 5.....	11
FINDING NO. 3.....	12
RECOMMENDATION NO. 6.....	14
EXHIBIT A – SUMMARY OF MONETARY RESULTS.....	15
EXHIBIT B – COUNTY OFFICES CONTACTED FOR LIQUIDATED DAMAGES REVIEW.....	16
EXHIBIT C – FSA’S RESPONSE TO THE DRAFT REPORT.....	17
ABBREVIATIONS.....	25

INTRODUCTION

BACKGROUND

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act 2000 (the Act) (PL 106-78), dated October 22, 1999, authorized the

Secretary to establish the Crop Disaster Program (CDP). The objective of the CDP was to assist farmers who suffered losses to 1999 crops due to natural disasters. The Act and the Omnibus Consolidated Appropriations Act 2000, Emergency Supplemental Appropriations, dated November 29, 1999, provided about \$1.4 billion to compensate producers for their losses. In addition, the Act provides that producers who did not purchase crop insurance for the 1999 crop for which CDP benefits were requested had to insure that crop for the 2000 and 2001 crop years.

Producers were eligible for CDP participation if they had suffered losses exceeding 35 percent of historic yields. Eligible producers were compensated at 65 percent of crop insurance market price elections for insured crop losses, 60 percent of the crop insurance market price elections for uninsured crop losses, or 65 percent of the 5-year average of the National Agricultural Statistics Service's prices for noninsurable crop losses.

The FSA developed program regulations and procedures and delivered the program through its network of field offices. The RMA was responsible for providing crop insurance records to FSA county offices before sign-up started on December 13, 1999, to determine the payments for the insured producers. After the sign-up period ended on February 25, 2000, FSA county offices reviewed and approved the applications and prepared the data for upload and analysis by the FSA office in Kansas City. The data was used to develop a National payment factor (69.6 percent) to apply to all payments so that the CDP expenditures did not exceed the amount authorized by law.

In September 2000, we issued Audit Report No. 50801-3-KC on FSA's and RMA's implementation of the 1998 Crop Loss Disaster Assistance Program (CLDAP). We reported that FSA and RMA needed to continue efforts to improve in the administration of the program to ensure effective program delivery. Specifically, producer program payments were not limited to the producer's expected gross returns for the disaster crop, disaster payments were based on improper crop loss determinations and inflated crop insurance indemnities, and producers did not always

accurately report gross revenues, eligible acreages, crop production, crop shares, or other program requirements. In response to the audit, FSA and RMA agreed that, for any future comparable programs, they would ensure that regulations provide for appropriate adjustments to RMA data on which disaster payments are based.

OBJECTIVES

any new provisions implemented for the 1999 CDP.

Our audit objectives were to evaluate the effectiveness of FSA and RMA corrective actions taken on deficiencies identified during our review of the 1998 CLDAP and to review

SCOPE

FSA's Kansas City Finance Office, Debt Management Division; and judgmentally selected FSA State and county offices. As of March 27, 2000, FSA accepted CDP applications totaling \$1.3 billion. The total included \$892 million for insured crops, \$247 million for crops that were noninsurable (that included \$15 million for alfalfa, \$29 million for mixed forage, and \$45 million for grass), \$90 million for uninsured crops, \$57 million for value loss crops¹, and \$4 million for trees.

The audit was performed through interviews and reviews of program documents and records at FSA's and RMA's National offices, RMA's compliance office in Kansas City, Missouri;

We performed field office reviews from May through June 2000, at the Nebraska State FSA office² and the Cheyenne and Kimball County FSA offices (CO). At the two COs, we judgmentally selected and reviewed 22 producers' CDP applications out of 1,247 CDP applications on file. The selections were based on whether the applicant (1) had the potential to exceed the gross revenue limitation, (2) had questionable 1999 indemnity amounts, and (3) applied for CDP benefits on a crop that was noninsurable (i.e., grass, forage, hay, and alfalfa). In Nebraska, 7,390 producers applied for CDP benefits totaling about \$20 million. Noninsurable crop CDP applications in Nebraska totaled \$234,000 for alfalfa, \$39,000 for grass, and \$29,000 for mixed forage. In addition, we contacted 15 FSA COs in nine States (see exhibit B) to determine if liquidated damages for noncompliance with the crop insurance linkage requirements for the 1998 CLDAP were properly applied.

To assess the application of liquidated damages for noncompliance with the crop insurance linkage requirements, we reviewed FSA records of the

¹ Crops unique in nature that do not lend themselves to yield calculations or production loss situations. These crops include, but are not limited to nursery, Christmas trees, and aquaculture.

² The Nebraska State and county FSA offices were selected to review noninsurable CDP applications.

1998 CLDAP. This was necessary because liquidated damages for noncompliance with crop insurance linkage requirements for the 1999 CDP had not been determined at the time of our review.

We conducted the audit in accordance with Government Auditing Standards.

METHODOLOGY

We interviewed RMA and FSA officials in Washington, D.C., and Kansas City, Missouri, to identify the planned action for weaknesses identified during our review of the 1998 CLDAP and to identify applicable laws, regulations, program procedures, and policies for implementing the CDP. We then compared CDP and CLDAP program procedures and interviewed FSA personnel to identify any changes in the administration of the two disaster programs.

We reviewed the FSA CDP data upload from COs to identify the crops and States that were scheduled to receive CDP payments based on insured crops, noninsured crops, uninsured crops, value added crops, and trees. We also reviewed FSA's summary of compliance with crop insurance linkage report to identify states with a high number of producers that were determined to comply with the linkage requirements based on "other" unspecified reasons. We reviewed FSA's data upload on producers' insurance to determine if the producers had purchased crop insurance or provided evidence that crop insurance was not needed to meet the crop insurance linkage requirement³. RMA's compliance report on improper claims was also used to identify 1998 CLDAP payments that needed to be corrected.

In Nebraska, we interviewed State office (SO) personnel to identify policies and procedures issued by the SO, the extent of SO guidance and monitoring of CO CDP sign-up activity, and any problem areas with the administration of the CDP. At the FSA COs in Nebraska, we interviewed personnel and reviewed CDP records to determine whether producers and crops met eligibility requirements. In Nebraska, we also interviewed producers in our sample, as needed, to obtain additional information regarding their reported crop losses. We also interviewed FSA CO personnel in 15 counties to determine if liquidated damages were properly applied.

³ FSA Disaster Assistance Program (DAP) Handbook 1-DAP Amend. 9 dated February 9, 1999; par. 1001A provided that as a condition of receiving benefits under CLDAP, producers who did not insure 1998 crops were required to purchase crop insurance on all insurable crops of economic significance in 1999 and 2000.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	PROGRAM WEAKNESSES WERE NOT CORRECTED
------------------	--

Previously, during our audit of the 1998 CLDAP (Audit Report No. 50801-3-KC), we reported that certain CLDAP payments were based on excessive crop insurance indemnities and that controls over liquidated damages needed to be improved. FSA and RMA officials also acknowledged that procedures were not in place to convey corrected FSA farm program and RMA crop insurance records between the agencies. FSA and RMA officials agreed that, if new disaster programs were implemented, FSA and RMA would take corrective action to preclude recurrence of disaster payments based on excessive indemnities. However, during our review of the 1999 CDP, we found that FSA and RMA program managers still needed to develop controls to ensure that disaster payments were not based on excessive or improper indemnities and to ensure that liquidated damages were properly applied for noncompliance with crop insurance linkage requirements.

FINDING NO. 1

CROP INSURANCE POLICY FLAWS CAUSED EXCESSIVE DISASTER PAYMENTS

CDP payments based on excessive crop insurance indemnities were not identified and corrected. This occurred because program managers did not timely implement agreed-to corrective action that would identify and report overstated indemnities so that disaster payments could be adjusted accordingly. As a

result, FSA approved CDP applications totaling \$12.5 million for insured watermelon losses and \$6.6 million for nonirrigated corn insured losses in Oklahoma, even though we alerted FSA of the inflated watermelon and nonirrigated corn crop insurance indemnities.

During our audit of the 1998 CLDAP, we reported in Management Alert 50801-3-KC(1), dated February 22, 1999, that disaster program payments were based on excessive indemnities paid on certain crops. In May 1999, FSA and RMA officials agreed that, if another crop disaster assistance program was authorized in the future, they will ensure that regulations are enacted that authorize adjustments of disaster payments if inflated or erroneous crop insurance indemnities are to be used as a basis for crop

payments.⁴ However, our audit of the 1999 CDP disclosed that the same condition still existed, and in our April 18, 2000, Management Alert (03099-42-KC(2)), we reiterated our concern that some 1999 CDP payments continued to be based on excessive crop insurance indemnities. Excessive crop insurance indemnities were identified on watermelon crop insurance policies in Texas, Alabama, Florida, and Georgia, and on nonirrigated corn crop insurance policies in Tillman County, Oklahoma, without regulations in place to reduce the disaster assistance payments:

- Watermelon - RMA implemented a pilot watermelon crop insurance program for the 1999 watermelon crop in 15 counties in 7 States. In two States, the number of watermelon acres increased significantly.⁵ The watermelon industry attributed the acreage increases to the entry of nontraditional producers who planted large acreages of watermelons merely to capitalize on the watermelon crop insurance policy that had excessive production guarantees, payment rates, T-yields, etc. By September 1999, RMA recognized problems with the watermelon crop insurance policy and suspended it for the 2000 crop year. Even though RMA knew of the problems with the watermelon crop insurance contract prior to CDP sign-up in December 1999, RMA did not inform FSA that excessive indemnities were paid. In total, RMA paid 232 producers about \$40 million in indemnities for their 1999 watermelon losses.⁶ FSA accepted CDP applications from 201 of the 232 producers totaling about \$12.5 million. We reviewed two producers' watermelon indemnities totaling over \$4.7 million and found that the two producers received advance CDP payments totaling \$56,000.⁷
- Nonirrigated Corn - Erroneous yields were established by RMA for nonirrigated corn in Tillman County, Oklahoma. For the 1998 reinsurance year, RMA established the nonirrigated corn yield for Tillman County at 72 bushels per acre⁸ and the planted acreage went from 500 acres in 1997 to 136,000 acres in 1999. As a result of the increase in planted corn acres and high crop insurance losses, RMA reevaluated the established yield for the 2000 reinsurance year and on September 20, 1999, decreased the nonirrigated corn yield from 72 to a more appropriate 43 bushels per acre. Even though RMA was aware of the excessive corn yield before CDP sign-up,

⁴ Our Audit Report No. 50801-3-KC, dated September 2000.

⁵ In Texas, the watermelon acreage went from 7,300 to about 53,000 acres and in Florida from 5,600 to about 16,000 acres.

⁶ We are performing an audit of the 1999 watermelon claims in Texas (Audit No. 05601-7-Te, Watermelons in South Texas).

⁷ \$80,000 (payment limitation) times 35 percent (advance payment rate) times two producers.

⁸ 72 bushels per acre was also the irrigated yield established for corn in Tillman County, Oklahoma.

RMA did not inform FSA that excessive indemnities were paid. In 1999, RMA paid \$12.7 million in indemnities to about 663 producers and 649 of the producers applied for about \$6.6 million in 1999 CDP benefits. We identified one producer that received a crop insurance indemnity of \$155,942 for his corn loss and applied for CDP benefits of \$81,357.

We also identified one instance where FSA CO personnel recognized a problem with RMA indemnities paid on flooded land. FSA CO personnel in Marion County, Iowa, identified a condition where producers applied for CDP benefits based on crop insurance prevented planting indemnities for farmland flooded by contained water⁹ in the Red Rock Reservoir area. CO personnel withheld CDP payments and referred the questionable indemnities to RMA compliance to determine the propriety of the indemnities. RMA reviewed the indemnities and identified 25 prevented planting claims totaling \$187,124 that may have resulted from contained water. On March 2, 2000, RMA advised reinsured companies that prevented planting provisions might not cover some of the producers' losses because the flooding was from contained water resulting from a flood control project that raised the normal pool level. The memo also stated that contained water might be a factor at other dams and reservoirs.¹⁰ We believe that RMA needs to identify these areas, instruct reinsured companies to collect excessive indemnities, and forward corrected program data to FSA to correct CDP payments. We concur with the action taken by the Marion CO to prevent improper CDP payments. As of October 18, 2000, the CO had not issued CDP payments based on the questionable indemnities.

In their May 4, 2000, response to our Management Alert (03099-42-KC(2)), FSA officials agreed to grant authority to FSA county committees (COC) to change download data any time RMA provided written notification to FSA indicating excessive indemnities had been paid because of erroneous crop insurance data. Upon notification of inflated indemnities from RMA, COC's will review the application and adjust program payments accordingly¹¹. FSA stated that they were unaware, at the time that 1999 CDP payments were issued,¹² of the excessive RMA yields indicated in the Management Alert. In addition, RMA concurred that they should identify and catalog instances where program design or errors resulted in the potential for excessive indemnities for the 1999 crop year to ensure that problems are monitored and corrected for the future by June 1, 2000. However, on July 17, 2000,

⁹ Contained water is water that is held by a reservoir, dam, or other structure.

¹⁰ RMA Bulletin No.: MGR-00-008, dated March 2, 2000.

¹¹ For the 2000 CDP, FSA authorized COC's to adjust RMA data upon notification from RMA of known program deficiencies (FSA Handbook 3-DAP par. 62A).

¹² FSA Notice DAP-74, dated April 4, 2000, provided instructions for issuing CDP final payments.

RMA stated that, due to workloads and other priorities, they had not implemented procedures to identify and catalog excessive indemnities resulting from program irregularities.

Even though excessive indemnities were identified by RMA before the final CDP payments were issued and the conditions were reported to the agencies in a prior audit, corrective actions that were agreed-to were not implemented to ensure that program payments were adjusted to reflect the actual losses incurred by the producers. FSA and RMA need to work together to implement procedures to timely remedy the problem.

RECOMMENDATION NO. 1

To the FSA and RMA Administrators:

Implement procedures to identify and timely report to FSA instances where RMA program design flaws or errors resulted in excessive indemnities.

FSA and RMA Responses

In their June 13, 2001, written reply to our draft audit report (see exhibit C), FSA stated that procedures for State and county committee actions would be implemented when RMA procedures are in place.

RMA did not provide official written comments to the draft audit report.

OIG Position

Since May of 1999, FSA and RMA officials have agreed to implement corrective action that would identify and report overstated indemnities so that disaster payments could be adjusted accordingly. However, corrective action still has not been taken by the agencies and improper program payments continue to be made.

To reach management decision, we need documentation showing that RMA has effectively implemented procedures to identify and report program problems that could adversely impact other programs that use RMA data. We also need to be advised that FSA has implemented appropriate procedures for State and county offices to process identified overstated indemnities.

RECOMMENDATION NO. 2

To the FSA Administrator:

Instruct FSA COs to collect excessive CDP payments, including those for 1999 watermelon and nonirrigated corn, based on the excessive indemnities resulting from crop insurance program design flaws or errors.

FSA Response

In their June 13, 2001, written reply to our draft audit report (see exhibit C), FSA stated that the 1999 CDP payments were issued to producers based on crop insurance indemnity information supplied from RMA. In the absence of a determination by RMA that the producers were not entitled to the indemnities as issued, FSA does not have authority to initiate any recovery of 1999 CDP payments.

OIG Position

FSA needs to proactively coordinate with RMA to identify producers that received excessive watermelon and nonirrigated corn indemnities and recover the excessive CDP payments. These indemnities were based, in part, on a RMA program design flaw or error. We believe that regulations provide for the recalculation of the payment when erroneous information or miscalculations result in an overpayment.

To reach management decision, we need documentation showing each overpayment and that a bill for collection has been sent and the amount entered as a receivable in the agency's accounting records, or evidence that the overpayment has been collected.

RECOMMENDATION NO. 3

To the RMA Administrator:

Identify areas where contained water may have caused prevented plantings and determine if producers, including those in the Red Rock Reservoir area in Iowa, received improper prevented planting indemnities. If so, collect any improper indemnities and report the corrected indemnities to FSA.

RMA Response

RMA did not provide an official written reply to the draft audit report.

OIG Position

To reach a management decision, we need documentation showing the results of RMA's review of prevented planting indemnities in the Red Rock Reservoir area and other areas where contained water resulted in improper prevented planting indemnities. We also need documentation for each overpayment showing that a bill for collection has been sent to the reinsured company and the amount has been entered as a receivable in the agency's accounting records, or evidence that the overpayment has

been collected. In addition, we need documentation showing that the corrected indemnity amounts were sent to FSA.

FINDING NO. 2

**INTERAGENCY PROCEDURES
WERE NEEDED TO EXCHANGE
CORRECTED PROGRAM
RECORDS**

Producers continue to receive FSA program payments and RMA indemnities based on inaccurate producer reports of farm yields and acreages identified by FSA and RMA compliance reviews. FSA and RMA did not implement interagency procedures to exchange corrections made to program records when noncompliance or other

program errors were identified and corrected. As a result, FSA was not aware of about \$1 million¹³ of improper 1999 CDP and 1998 CLDAP payments. In addition, RMA was not always provided with current producer information to help ensure the propriety of indemnities and maintain the integrity of RMA databases.

We obtained and reviewed RMA's compliance reports¹⁴ dated May 4, 2000, and November 22, 2000, and found that, for 1999 and 1998, RMA compliance recommended the collection of about \$5,301,493 from 137 producers. For the 1998 CLDAP, we identified 106¹⁵ producers that would have been deemed eligible to receive payments totaling \$808,380¹⁶ based on erroneous 1998 indemnities. We randomly selected three of these producers and confirmed that they had received about \$86,000 in 1998 CLDAP payments for their insured losses based, in part, on improper indemnities of about \$135,000. As of November 22, 2000, RMA recommended collection of \$315,010 in overpaid 1999 indemnities from 26 producers.¹⁷ These 26 producers were eligible for 1999 CDP payments totaling about \$142,511¹⁸ based on erroneous indemnities. We contacted FSA personnel in four applicable county offices and were advised that they were not aware of the improper indemnities paid to producers and had not initiated collection of overpayments.

In addition to RMA-corrected program records, FSA generally corrects program records when errors are identified during compliance spot-checks and OIG reviews. However, FSA does not report all changes to RMA for their use in correcting crop insurance records. In Audit Report

¹³ See Exhibit A, Summary of Monetary Results (\$808,380 in 1998 plus \$142,511 for 1999 equals about \$1 million).

¹⁴ Compliance reports from RMA's compliance office tracking system (COTS) for part of the 1998 reinsurance year and the compliance tracking system (CTS) for the remainder of 1998 and the 1999 reinsurance years.

¹⁵ In total, there were 111 producers determine to have received excessive indemnities in 1998; however, five of the reduced indemnities would not have impacted the 1998 CLDAP payments.

¹⁶ \$1,464,854 (net of underpayments and adjusted for payment limitations) times 65 percent (the insured payment rate) times 84.9 percent (the CLDAP National payment factor).

¹⁷ 1999 compliance reviews completed as of November 22, 2000.

¹⁸ \$315,010 (adjusted for payment limitations) times 65 percent (the insured payment rate) times 69.6 percent (the CDP National payment factor).

No. 03601-17-KC, 1998 Crop Loan Deficiency Payment Activities, we reported that 17 of 336 producers reviewed had incorrect crop production

and/or share data that was different from other FSA or crop insurance records. When FSA corrected that information, it should have been shared with RMA to determine if the corrected data impacted crop insurance program records. FSA program procedures provide for the correction of certain RMA data downloaded to FSA for disaster programs.¹⁹ FSA personnel stated that they did not have a process in place to report to RMA all changes made to producer records.

However, recent legislation requires improvement in the area of data sharing and reconciliation of agency records. The Agricultural Risk Protection Act of 2000²⁰ provides, in part, that selected records submitted shall be available to agencies for use in carrying out agricultural programs. It also provides for the Federal Crop Insurance Corporation (FCIC) and FSA to reconcile relevant information received by the FCIC or FSA from a producer who obtains crop insurance. Beginning with the 2001 crop year, it also mandated that FCIC and FSA reconcile producer-derived information on an annual basis in order to identify and address any discrepancies.

We found that FSA and RMA did not have procedures in place to exchange corrected program information when errors or irregularities were identified so that all program records could be corrected. Implementation of such procedures would be consistent with the data sharing provisions of the Agricultural Risk Protection Act of 2000.

RECOMMENDATION NO. 4

To the FSA and RMA Administrators:

Develop and implement interagency procedures to exchange program information changes resulting from agency compliance reviews, OIG audits, and other program reviews for use in determining the propriety of program payments.

FSA and RMA Responses

In their June 13, 2001, response to the draft audit report (see exhibit C), FSA stated that the Agricultural Risk Protection Act of 2000 (ARPA) mandates reconciliation beginning in 2001. However, the legislation does not require such procedures and reconciliation for the 1998 and 1999 disaster assistance programs. The establishment of reconciliation procedures with RMA is currently an ongoing project.

¹⁹ FSA Handbook 2-DAP Amend.1 paragraphs 26B and 30, dated December 3, 1999.

²⁰ PL 106-224, dated June 20, 2000.

RMA did not provide an official written reply to the draft audit report.

OIG Position

The areas to be reconciled for the 2001 crop year are limited to the producer identification, producer share, acreage, and production. We do not believe that this would identify changes resulting from agency compliance reviews, OIG audits, and other program reviews that would be performed well after the data reconciliation. We believe that, in addition to the data reconciliation, FSA and RMA need to coordinate to develop and implement interagency procedures to exchange program information changes resulting from such reviews.

To reach management decision, we need to be advised that interagency procedures will be developed to exchange changes resulting from compliance and other reviews and the related timeframes for implementation.

RECOMMENDATION NO. 5

To the FSA Administrator:

Recover improper 1998 and 1999 disaster payments that were based on improper indemnities identified after the payments were issued.

FSA Response

In its June 13, 2001, written reply to our draft audit report (see exhibit C), FSA stated that RMA has not notified FSA of the improper indemnities for 1998 and 1999 identified by compliance reviews.

OIG Position

FSA should proactively coordinate with RMA to obtain listings of improper indemnities identified by RMA compliance for the 1998, 1999, and 2000 reinsurance years and collect any over paid disaster assistance program payments.

To reach a management decision, we need documentation for each overpayment showing that a bill for collection has been sent and the amount has been entered as a receivable in the agency's accounting records, or evidence that the overpayment has been collected.

FINDING NO. 3

**LIQUIDATED DAMAGES
PROVISIONS WERE NOT
PROPERLY APPLIED**

FSA did not always treat producers in the same manner and assess liquidated damages for noncompliance with the 1998 CLDAP crop insurance linkage requirements. This occurred because FSA CO personnel did not follow program procedures and allowed exceptions and waivers of the liquidated

damages provisions or did not make compliance determinations. FSA did not determine if 2,645 producers met the crop insurance linkage requirements and did not ensure that 10,404 of the 20,125 producers were properly assessed liquidated damages.

Program procedures provide that as a condition of receiving 1998 CLDAP payments, producers who did not insure 1998 crops were required to purchase crop insurance for all crops of economic significance in 1999 and 2000. Producers who did not comply with the crop insurance provisions were to be assessed liquidated damages. No authority was provided for meritorious relief and producers who failed to purchase crop insurance for 1999 or 2000 were to be assessed liquidated damages as well. There were to be no exceptions or waivers.²¹

FSA Notice DAP-65, dated February 3, 2000, provided for FSA COs to report noncompliance with the CLDAP crop insurance linkage requirements. FSA National office personnel reviewed the reports and determined that COs had improperly waived or not established receivables for liquidated damages when: (1) producers appealed the noncompliance determination, (2) producers did not report 1999 crops, or (3) misaction/misinformation determinations were made even though procedures stated there would be no exceptions or waivers. In addition, FSA National office personnel ascertained that noncompliance determinations were not made for 2,645 producers because RMA did not have automated crop insurance information for 2,533 producers in Puerto Rico and FSA personnel were not sure if the producers needed to purchase crop insurance. For the remaining 112 producers, no specific reason was provided by FSA for not completing the determinations. The following table presents the results of the CO determinations for producer compliance with the crop insurance linkage requirements:

Producers With Receivables Established	6,414
Producers No Longer Farming	2,627
Producers With No Insurable Crops	3,396
Producers With Crops Not Of Economic Significance	662
Other Producers*	4,381
Sub Total	17,480
Producers Where No Determination Had Been Made By CO	2,645
Total	20,125

²¹ FSA Handbook 1-DAP paragraph 1001 A, dated February 9, 1999, and paragraphs 1001 E and G, dated June 22, 1999.

* Required CO to provide explanation.

On August 21, 2000, the FSA National office issued notice DAP-82 to correct improperly waived liquidated damages and provided additional guidance to COs on collecting them. The notice provided for the COs to immediately establish a receivable for any producer that had not met the crop insurance linkage requirement.

To determine if the COs took immediate corrective action, we contacted 15 COs in 9 States in September 2000. Our review showed that three of the COs contacted still had not properly applied liquidated damage provisions for noncompliance with the crop insurance linkage requirements:

- In Yuma County, Arizona, a producer received a \$73,368 CLDAP payment on a noninsurable crop. The producer did not purchase crop insurance for his 1999 insurable crops as required by program procedures. The CO did not apply liquidated damages because they incorrectly determined that the producer was not required to purchase crop insurance since the CLDAP payment was for a loss on a noninsurable crop.
- In Fayette County, Kentucky, the FSA CO determined that 29 producers were in compliance with the linkage requirements because the producers did not apply for 1999 CDP benefits. Program procedures provide that as a condition of receiving CLDAP payments, producers must purchase crop insurance for all crops of economic significance in 1999 and 2000. Producers not complying were to be assessed liquidated damages and no exceptions or waivers were to be granted. The County Executive Director stated that he understood that liquidated damages were applicable only if the producers applied for 1999 CDP benefits.
- In Barren County, Kentucky, four producers received 1998 CLDAP payments but did not certify to FSA that they planted a crop in 1999. Therefore, the CO did not assess liquidated damages because they did not know if the producers were farming in 1999. CO personnel stated that they did not know how to handle producers who did not certify their 1999 crops.

We concluded that although FSA provided additional guidance in August 2000, the COs still had not confirmed that 10,404 producers should be assessed liquidated damages when they were initially identified as no longer farming, had no insurable crops, or were not assessed liquidated damages for "other" reasons by the COs. In addition, FSA did not make any determinations for 2,645 producers. FSA State offices need to provide additional guidance and supervision to COs to ensure that liquidated

damages are properly applied.

RECOMMENDATION NO. 6

To the FSA Administrator:

Instruct FSA State offices to follow up on CO application of liquidated damage provisions to ensure these provisions are properly applied and liquidated damages or program payments are recovered as necessary, and provide progress reports to the National office.

FSA Response

In their June 13, 2001, reply to the draft audit report, FSA stated that several program notices had been issued on this subject. The notices outlined the corrective action required for both 1998 CLDAP and 1999 CDP.

OIG Position

We recognize FSA's effort to provide guidance to COs through the issuance of program notices. However, we believe that due to the number of improper determinations made by COs as cited in the finding, FSA should require additional SO oversight. This could be accomplished through District Director reviews, county office reviews, or during disaster program compliance reviews.

To reach management decision, we need to be advised of corrective action planned or implemented to improve the application of the liquidated damage provisions for non-compliance with crop insurance linkage requirements.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

FINDING NO.	DESCRIPTION	AMOUNT	CATEGORY
2	Unsupported CDP and CLDAP payments	\$950,891*	Unsupported Costs, Recovery Recommended

*\$808,380 for the 1998 CLDAP and \$142,511 for the 1999 CDP

EXHIBIT B – COUNTY OFFICES CONTACTED FOR LIQUIDATED DAMAGES REVIEW

STATE	COUNTY		STATE	COUNTY
			Louisiana	Rapids
Arizona	Pima			
	Yuma		Georgia	Decatur
California	Kern		Texas	McLennan
	San Joaquin			Hill
Missouri	Dunklin		Kentucky	Fayette
				Mercer
Arkansas	Crittenden			Pulaski
				Henry
Mississippi	Carrol			

EXHIBIT C – FSA'S RESPONSE TO THE DRAFT REPORT



United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

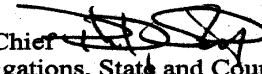
Farm Service
Agency

Operations Review
and Analysis Staff

Audits,
Investigations,
State and County
Review Branch

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

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. 3099-42-KC, Crop Disaster Program

JUN 13 2001

Enclosed is a copy of a memorandum dated June 13 from the Farm Service Agency's (FSA) Acting Deputy Administrator for Farm Programs which responds to your request for information regarding the subject audit.

Please address any questions to Cindy Foister, FSA, Audits, Investigations, State and County Review Branch, at 720-5463.

Enclosure



USDA is an Equal Opportunity Employer



United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

Farm Service
Agency

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

AUDITS & INVESTIGATIONS
GROUP

AUDITS & INVESTIGATION
GROUP

2001 JUN 13 P 3: 32

JUN 13 2001

TO: Philip Sharp, Chief
Audits, Investigations, State and County Review Branch
FROM: *Philip Sharp*
Acting Deputy Administrator for Farm Programs
SUBJECT: Responding to OIG Audit No. 03099-42-KC - Crop Disaster
Program (CDP)

Recommendation 1

Implement procedures to identify and timely report to FSA instances where RMA program design flaws or error resulted in excessive indemnities.

FSA Response

When RMA implements procedure to identify and timely report to FSA those flaws and errors, FSA will implement procedure for STC and COC actions.

Recommendation 2

Instruct FSA CO's to collect excessive 1999 watermelon and nonirrigated corn CDP payments based on the excessive indemnities resulting from crop insurance program design flaws or errors.

FSA Response

The 1999 CDP payments were issued to producers based on crop indemnity insurance information supplied by RMA. For the 2000 CDP, regulatory authority was granted to COC's to change downloaded RMA data. This authority did not exist prior to the 2000 CDP. Therefore, in the absence of a determination by RMA that the producers were not entitled to the indemnities as issued, FSA has no authority to initiate any recovery of 1999 CDP payments. Please see attached 3-DAP Handbook procedure which addresses this issue beginning with the 2000 CDP.

Recommendation 4

Develop and implement interagency procedures to exchange program information changes resulting from Agency compliance reviews, OIG audits, and other program reviews for use in determining the propriety of program payments.

USDA is an Equal Opportunity Employer

Philip Sharp, Chief

Page 2

FSA Response

While the Agricultural Risk Protection Act 2000 mandates such procedures for data reconciliation beginning in 2001, it does not require such procedures and reconciliation for 1998 and 1999 disaster assistance programs. The establishment of such procedures with RMA is currently an ongoing project. Nonetheless, as included in the response to Recommendation 4, procedures were implemented by FSA for the 2000 CDP in which FSA could reduce or not issue CDP payments to producers with insured crop losses if RMA data was questionable and more credible data was available to FSA.

Recommendation 5

Recover improper 1998 and 1999 disaster payments that were based on improper indemnities identified after the payments were issued.

FSA Response

RMA has not provided notice to FSA of the improper indemnities for 1998 and 1999 identified by the audit.

Recommendation 6

Instruct FSA State offices to follow up on CO application of liquidated damage provisions to help insure these provisions are properly applied and liquidated damages or program payments are recovered as necessary; and provide progress reports to the national office.

FSA Response

Several national notices have been issued on this subject. The notices outlined the corrective actions required for both 1998 CLDAP and 1999 CDP and the majority included an established deadline for the completion of the required actions. The notices were as follows: DAP-65, 1998 CLDAP Linkage Noncompliance Report; DAP-75, Crop Disaster Program (CDP) and RMA; DAP-79, 1998 CLDAP Linkage Reminder; DAP-82, Handling CLDAP Overpayments and Liquidated Damages; DAP-97, Linkage Noncompliance Reports; and DAP-99, Incorrect Data on 1999 Linkage Noncompliance Report.

Attachment

62 Adjusting RMA Download Data

**A
Overview**

Because of different program rules of both RMA and FSA, downloaded data from RMA may not agree with FSA records. The basic rule is that RMA data shall be used. Except as provided in subparagraph C concerning LDP/commodity loan records, COC's are not required to compare records in the County Office with RMA downloads unless there is reason to believe that records are inconsistent. If documented evidence is available that COC determines is more accurate for CDP, COC's have the authority to use the most accurate evidence and make changes according to this paragraph. All changes must be supported by documentation.

All changes made to the data downloaded by RMA shall be recorded on CCC-458 and kept in the producer's file.

RMA download data must be changed upon notification from RMA of known program deficiencies. RMA will provide the necessary information to correct the applications.

See paragraph 203 for adjusting data in the system when changes are made according to this paragraph.

**B
Identified ID
Number
Problems**

When the ID number on the download printout does not agree with FSA records, the County Office shall determine the correct ID number to use for applications. If the ID number is:

- incorrect on FSA records, correct records according to 1-CM, paragraph 300 and process applications using the correct number
- correct on FSA records:
 - use the correct number from FSA records for processing CDP applications
 - advise the producer to notify the agent.

Continued on the next page

C

Production Differences

RMA data may differ from FSA data because:

- RMA uses different pack factors for measured production
- RMA may have adjusted production for quality
- bin measurements by 2 persons will seldom be identical
- RMA measured production that has since been marketed.

COC shall review available commodity loan/LDP records to compare RMA and FSA production records for reasonableness.

When discrepancies exist between FSA and RMA production data, COC shall:

- determine whether the difference is a legitimate difference because of RMA adjustments for quality, pack factor, etc.
- use RMA data unless verifiable FSA production is different by more than 10 percent
- refer suspected cases of fraud or abuse to RMA Compliance Field Office

COC shall use CCC-458 to refer the case to RMA when the production discrepancy appears to be a potential abuse case. The following cases shall be referred to RMA Compliance Field Office:

- records available in the County Office are significantly different from production reported to RMA
- some units have losses and other similarly affected units have significantly higher yields, indicating the producer may have switched production between units.

Note: Before referring case to RMA, COC shall attempt to verify with the producer that all production reported to FSA is accurate. Require the producer to provide production records from all units only if records are significantly different.

Continued on the next page

C
Production
Differences
(Continued)

In some cases, COC may have no reason to dispute the validity of the RMA *--appraised or actual production. However, because of factors that may not--* be considered by RMA, but which COC should consider, additional production should be assigned for CDP. Other farming practices, such as seeding rates, seed quality, fertilization, weed control, etc. may not have been standard.

Examples: The following are example:

- soil type is not suitable to achieve yield established for the crop
- the crop was produced organically when the expected yield is based on conventional farming methods
- close-sown crops planted without use of pre-emergency herbicide or herbicide tolerant seed
- seeding rate lower than standard for full production
- crop type or variety not suitable for area or nonirrigation practice
- low germination seed.

D
Share
Differences

RMA data may show producer shares that differ from the information in FSA offices. RMA procedure allows agents to write policies to:

- 1 spouse for the entire crop share instead of just the share of that spouse
- 1 member of a joint operation to insure the total
- a tenant for the landowner's share.

If RMA shares differ from FSA information, COC shall determine how producers actually shared in the 2000 crop, or would have shared if the crop had been produced. COC shall correct share so producers are only paid a share of the disaster payment equal to the producer's share in the 2000 crop.

Note: If COC determines a producer incorrectly reported shares to FSA, COC shall review other 2000 crop year program payments, such as PFC, LDP, etc., to determine the producer's eligibility for those prior payments.

Use CCC-458 to refer cases to RMA Compliance Field Office as potential abuse if COC determines RMA shares are incorrect.

62 Adjusting RMA Download Data (Continued)

**E
Acreage
Differences**

Acceptable acreage differences between RMA and FSA may result when:

- some acreage of the crop is noninsurable and not reflected in RMA data
- producers were not required by loss adjuster to revise RMA acres for small differences.

Use RMA acres unless the difference exceeds the larger of 5 percent or 10 acres. Anytime acreage difference exceeds 50 acres, FSA shall determine acreage and use the determined acres for 2000 CDP. If COC increases RMA downloaded acres for a unit, the additional acres will be paid as uninsured. County Offices must establish a basic unit for the uninsured acres. Production evidence for both the original unit and the additional acres must be provided.

When COC revises acreage, according to this paragraph, use CCC-458 to refer case to RMA Compliance Field Office as potential abuse unless COC has determined the RMA acreage is less because the acres are uninsurable.

**F
Harvested and
Unharvested
Acres**

RMA data may show acres as being unharvested because of appraised acreage that was actually harvested as a use other than intended.

Note: Since RMA does not use payment factors for prevented planting and unharvested acres, the stage code may not accurately reflect whether the crop was harvested as another use.

RMA data shall be used unless FSA has adequate documentation the crop has been mechanically harvested. Harvested includes mechanically harvested as forage (silage or hay). Documentation could include:

- FSA-578 certification and COC determination acreage is eligible for LDP
- evidence the acreage was actually harvested for grain, hay, or silage.

Note: If the crop was appraised by RMA and COC has determined the crop was actually harvested as grain, use CCC-458 to refer case to RMA Compliance Field Office as potential abuse.

Continued on the next page

62 Adjusting RMA Download Data (Continued)

G**Incorrect Unit Structure**

Disaster benefits are based on units as established by RMA for insured crops. This may include optional units for producers who have purchased limited and additional levels of insurance coverage. RMA downloaded data does not contain enough information for County Offices to determine the correctness of downloaded unit structure. This information shall not be changed. Use the downloaded structure. If the County Office suspects an incorrect establishment of units, notify the RMA Regional Compliance Field Office using instructions in paragraph 127.

63 Crops Having Insured and Noninsurable Practices

A**Overview**

There are situations where RMA insures a practice, but does not insure all practices of the crop. If a producer suffers an eligible loss on both practices, the producer may have an insured unit and a separate unit as noninsurable.

Example: Single-cropped (053) soybeans is an insurable crop in the county, but double-cropped (043) soybeans is not insurable.

B**Policy for Producers Who Insure the Available Crop Practice**

For producers that insure the practice recognized by RMA, but also grow a noninsurable practice, 2 separate units for the insured practice and noninsurable practice shall be used. The insured practice will be downloaded by RMA and will be prefilled by the insured application process. County Offices must establish a basic unit for the noninsurable practice and enter the crop in the noninsurable worksheet process. Each unit will stand alone in determining crop loss. Both losses will be computed at the 65 percent payment level.

Note: COC shall assign production according to paragraph 60 for practices that do not reflect the established historic yield.

Continued on the next page

ABBREVIATIONS

CDP	Crop Disaster Program
CLDAP	Crop Loss Disaster Assistance Program
CO	County Office
COC	County Committee
DAP	Disaster Assistance Programs
FCIC	Federal Crop Insurance Corporation
FSA	Farm Service Agency
OIG	Office of Inspector General
RMA	Risk Management Agency
SO	State Office