

**AUDIT OF INTERNAL CONTROLS OVER RECEIVERSHIP
EMPLOYEE BENEFIT PLANS**

Audit Report No. 00-001
January 12, 2000

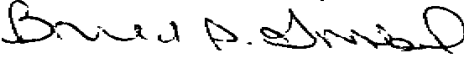



OFFICE OF AUDITS

OFFICE OF INSPECTOR GENERAL

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DATE: January 12, 2000

MEMORANDUM TO: A.J. Felton, Deputy Director
Field Operations Branch
Division of Resolutions and Receiverships


FROM: 
Shirley C. Ward
Regional Director
Office of Inspector General

SUBJECT: Internal Controls Over Receivership Employee Benefit Plans
(Audit Report No. 00-001)

This report presents the results of the Federal Deposit Insurance Corporation (FDIC) Office of Inspector General's (OIG) audit of internal controls over receivership employee benefit plans. Generally, we found that the FDIC's systems of internal controls over receivership employee benefit plans are adequate to protect the FDIC from fraud and abuse. However, we identified several issues that we would like to bring to your attention. These issues regard areas where we believe controls can be enhanced or where the FDIC is at risk because important information is lacking.

BACKGROUND

When the appropriate regulatory authority closes a financial institution, the FDIC is often appointed receiver of the failed institution. If the failed institution sponsored an employee benefit plan (such as an employee pension plan or a medical plan), the FDIC would assume the responsibility of administering the plan for the failed institution's employees. As a result, the FDIC becomes responsible for ensuring that plan assets are safeguarded and appropriately distributed and, ultimately, for terminating the plan. To assist in its administration of these employee benefit plans, the FDIC may call upon the services of financial institution trust departments, commercial benefit plan administrators, actuaries, accountants, and legal counsel.

As of August 31, 1999, the FDIC's Division of Resolutions and Receiverships (DRR) in Dallas was overseeing the activity of seven active receivership employee benefit plans with remaining assets totaling almost \$666,000. At the same time, the Division of Finance's (DOF) Bank Account Directory—which is a database that DOF maintains of FDIC-related bank accounts, including those associated with employee benefit plans—totaled almost \$861,000. In addition to information regarding active plans, the Bank Account Directory includes bank accounts set up for missing participants for plans that are no longer active. Unfortunately, as we explain later in the report, historical information on the employee benefit plans for which the FDIC assumed

responsibility is limited. That is, neither DRR nor DOF can provide us reliable information on the total number of employee benefit plans taken over by the FDIC or the value of those plans when taken over. However, DRR and DOF are now better coordinating their efforts to track pension plan accounts.

A past embezzlement by a former FDIC employee in Dallas demonstrates the risk associated with employee benefit plans. In February 1999, the OIG's Office of Investigations completed an investigation in which it assisted the U.S. Department of Justice in obtaining a criminal conviction against the former FDIC employee. Over a 5-year period ending in September 1996, the employee embezzled over \$650,000 in employee benefit plan funds from six receiverships under the control of the Dallas Office. The FDIC employee worked in what is now DRR's Employee Benefit Group (EBG) and, during the 5-year period, had control over all employee benefit plans from the time that an institution was closed until the plans were officially terminated.

At the time the employee carried out the embezzlement, the FDIC had controls that should have deterred and detected the fraudulent activity. Specifically, the FDIC's *Failed Financial Institution Employee Benefits Termination Manual* contained procedures designed to control and facilitate institution closings. These procedures specified the duties and responsibilities to be performed by an EBG closing team. Specific tasks to be performed at the bank closings included gathering and securing all plan documentation and financial information; identifying and establishing the physical location of plan assets; identifying and placing a hold on any trustee accounts or individually titled trustee accounts for plan participants; and inventorying and receipting all benefit plan documentation, then shipping such documentation to the FDIC's service center. In addition, DRR developed a formal job description for the EBG employee that detailed the employee's duties and responsibilities for handling benefit plans. DRR also designated a supervisor for the employee.

Notwithstanding the controls in place at the time the embezzlement was carried out, the EBG employee was allowed to work alone, and his work was not closely supervised. For example, the employee was often the only EBG person assigned to obtain benefit plan information during a bank closing. The employee was responsible for performing, as well as overseeing, practically all transactions associated with the employee benefit plans. Also, contrary to the FDIC's stated internal controls, the employee possessed pre-authorized DOF vendor identification forms, which are used to establish vendors on the FDIC system. After a vendor is established, the employee could then prepare check requests, withdrawing funds from benefit plan accounts. Further, although the employee's supervisor signed off on the benefit tax returns reviewed by the employee, which showed that plan funds would revert to the FDIC, the supervisor did not ensure that DOF was informed about the fund reversions so they could be properly recorded as receivables in the FDIC's accounting records. It was only after the employee had departed the FDIC that information surfaced revealing questionable transactions and the breakdown of the internal control system.

In December 1998, DRR issued its *Federal Deposit Insurance Closing Manual*. This closing manual superseded the previous termination manual and provided more stringent guidelines to be followed by EBG personnel related to employee benefit plans.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether internal controls are now adequate to protect the FDIC against further fraud and abuse of receivership employee benefit plan funds. The scope of the audit included employee benefit program activities in the Dallas Office from the time the FDIC discovered the embezzlement in July 1997 through the completion of our audit fieldwork in July 1999. Our audit did not cover any employee benefit plan program activity in the FDIC's Northeast Service Center, nor did our audit cover the FDIC's internal controls over plans handled by third-party administrators.

To accomplish our audit objective, we first reviewed the OIG Office of Investigation's criminal case files regarding the embezzlements from six receiverships. From these files we reconstructed the embezzlement activities, developed a timeline of events, and related the fraudulent actions to applicable internal controls contained in DRR's termination manual.

Next, we reviewed DRR's current employee benefit plan policies and procedures, delegations of authority, and position descriptions. We also interviewed cognizant DRR officials regarding policies and procedures used to identify and control employee benefit plans at bank closings. Finally, we reviewed the U.S. General Accounting Office's *Standards for Internal Controls in the Federal Government*.

In addition, to determine whether DRR was complying with controls outlined in the December 1998 closing manual, we evaluated EBG actions at a bank closing that took place in April 1999. This was the first institution closing to occur after the new manual became effective.

To determine whether the FDIC improved controls over cash, we interviewed DOF officials about wire transfers, payment voucher practices, and the establishment of FDIC bank accounts. We reviewed DOF's field office accounting manual sections relating to bank accounts and various directives, circulars, and instructions relating to wire transfers and receivership receipts. Finally, we interviewed Division of Administration (DOA) officials regarding check-handling procedures in FDIC mailrooms.

The audit was conducted primarily in the FDIC's offices in Dallas, Texas. We conducted the audit from November 9, 1998 to July 2, 1999, in accordance with generally accepted government auditing standards.

RESULTS OF AUDIT

Generally, the FDIC's systems of internal controls over employee benefit plans are adequate to discourage fraud and abuse. Although during the time of the embezzlements a lack of adequate supervision and weak cash controls fostered an environment that allowed the embezzlement to occur without immediate detection, we found that the FDIC has since strengthened internal controls over receivership employee benefit plans as well as controls over cash. However, one area where we believe the FDIC can enhance its controls over employee benefit plan funds

relates to benefit plan fund reversions. Specifically, the FDIC needs to properly record excess benefit plan funds that revert to the FDIC.

We identified two additional areas of concern that we want to bring to your attention. These areas relate to DRR's unsuccessful attempt at identifying other funds that the employee may have embezzled and DRR's discoveries of previously unknown employee benefit plan assets.

FDIC'S SYSTEMS OF INTERNAL CONTROLS ARE ADEQUATE FOR RECEIVERSHIP EMPLOYEE BENEFIT PLANS

Our audit indicates that the FDIC's internal controls over receivership employee benefit plans are adequate to protect the FDIC against fraud and abuse. In December 1998, DRR issued its *Federal Deposit Insurance Closing Manual*. This closing manual contained some notable improvements regarding the handling and disposition of employee benefit plans. Specifically, the new closing manual now requires the EBG staff to prepare, sign, and date three separate documents--a pre-closing preparation form, a closing activities form, and an exit memorandum. These documents are then to be returned to the closing manager for inclusion with other institutional records. Moreover, as part of the closing activities, there is a detailed employee benefit plan checklist that shows documentation that should be obtained and maintained as FDIC records. Also, there are instructions calling for a DOF representative to participate in this process, and there is language highlighting the importance of separation of duties so that no one employee controls the disbursement and reconciliation of plan assets. According to EBG staff and DOF cash management officials, the information obtained during the bank closing is given to DOF for inclusion in its Bank Account Directory. These internal control techniques are in line with U.S. General Accounting Office internal control standards.

In April 1999, EBG applied the control techniques detailed in the closing manual during an actual bank closing. We reviewed the results of that effort. During the bank closing, EBG used a two-person team consisting of a benefits specialist and a supervisory benefits specialist. The team used the document checklist and recorded the work it performed. The team prepared an exit memorandum for the closing manager that cited team member responsibilities, described the tasks completed during the closing, and highlighted unresolved issues. DOF officials were also given a copy of all the financial and participant information relating to the benefit plan. We verified that EBG and DOF staff are cooperating and coordinating their activities to make this information a part of the Bank Account Directory.

In addition to DRR's improved controls over actual closings, DOF and DOA officials have revised procedures over the past several years for processing cash, checks, and wire transfers. For example, DOF issued revised policy and procedures circular 4200.1 dated March 31, 1997 regarding the handling of FDIC funds. The revised circular addresses procedures for processing cash, check, and wire transfers due to the FDIC. The policy also describes a process for fund receipts that is consistent with good internal controls. The circular's purpose was to require procedures that minimize the probability of funds being lost, stolen, or misappropriated; to reduce processing time; and to ensure prompt and proper application of funds to the appropriate

FDIC accounts. We concluded that these policies and procedures are consistent with adequate internal controls for handling cash.

Finally, EBG has improved its tracking of employee benefits plans. EBG tracks and monitors employee benefit plan information via a Pension Plan Asset report. On this report, EBG records the identity of the receivership, the types of employee benefit plans associated with the receivership, and the value of plan assets at month-end. EBG updates this report monthly based on changes occurring to the employee benefit plans. Although the Pension Plan Asset report has been around for a number of years, beginning in June 1999, EBG and DOF Bank Account Control Unit staff have been working together to reconcile the information on the Pension Plan Asset report with information on DOF's Bank Account Directory.

We believe that the internal control techniques outlined in the closing manual, along with the revised procedures for processing cash, checks, and wire transfers, together with the EBG and DOF reconciliation efforts represent improvements in the FDIC's internal controls over receivership benefit plans. Accordingly, if these controls are not circumvented and staff members are properly supervised, controls over receivership benefit plans should be adequate to protect the FDIC against fraud and abuse.

REVERSIONS NEED TO BE RECORDED AND RECOVERED

Our review of the investigative case files shows that the past embezzlement occurred in part because the former FDIC employee was able to easily identify funds that would revert to the FDIC by analyzing Internal Revenue Service (IRS) forms and directing these "excess" plan assets into fraudulent bank accounts. EBG did not always provide DOF with copies of the required IRS forms that indicated reversions due to the FDIC. As a result, DOF did not have information to record the reversions as a receivable to the FDIC. Ultimately, the former employee was able to transfer these funds into accounts for his personal use. Although we cannot be certain, it likely would have been more difficult for the employee to commit the embezzlements without detection had the FDIC been aware that funds were due.

The IRS requires a final Form 5500¹ to be filed in the tax year a receivership benefit plan is terminated. DRR's EBG is responsible for reviewing and signing the form based on information provided by the plan trustee. The Form 5500 contains a section that shows the overage, if any, due the FDIC after all plan participants and beneficiaries are paid. In addition, the IRS requires that Form 5310, Application for Determination Upon Termination, be filed prior to termination of a plan and contain a calculated estimate of any reversion due to the FDIC. However, EBG does not provide copies of these forms to DOF. Accordingly, DOF does not have knowledge of the reversion and, therefore, cannot record it as a receivable.

Currently, DOF's Tax Unit prepares the annual tax returns for FDIC receiverships. Because of DOF's experience in preparing tax returns, we believe DOF's Tax Unit could also review the required Forms 5500 and 5310 and any other related tax forms involving receivership pension funds.

¹ An annual tax form reporting employee plan information as required under section 104 and 4065 of the Employee Retirement Income Security Act of 1974.

DOF could provide a copy of the tax forms to EBG for its files. Also, DOF's Tax Unit can prepare documentation needed to record reversions in the accounting records. According to DOF's Tax Unit accounting manager, reviewing Forms 5500 and 5310 would be both practical and prudent.

Recommendation

To enhance internal controls regarding employee benefit plan reversions, we recommend that the Deputy Director, Field Operations Branch, DRR:

- (1) Provide the DOF Tax Unit copies of all benefit plan tax returns (IRS Forms 5500 and 5310). DOF can then use the information on these forms to record reversions in the FDIC's accounting records.

DRR'S ATTEMPT TO IDENTIFY OTHER MISAPPROPRIATED FUNDS WAS UNSUCCESSFUL

As a result of the prior embezzlement, DRR attempted to determine the number of employee benefit plans that were subject to the employee's control and, therefore, may have been at risk of embezzlement. The EBG identified 138 receiverships with possible benefit plans that were under the employee's control during his tenure with the FDIC. From this number, EBG judgmentally selected 10 receiverships to test for potential misappropriation of plan funds.

The FDIC issued a Statement of Work for a contractor to perform limited reviews of the 10 employee benefit plans to detect potential misappropriation of plan funds. The contractor was to trace plan funds from the date of the last IRS Form 5500 filed by the failed financial institution through final distribution of plan assets (including reversion, if any) to the FDIC. However, EBG determined that it could not locate sufficient employee benefit plan documentation for any of the 10 receiverships in its sample to have a contractor conduct the limited review. Subsequently, EBG terminated its efforts to test for possible misappropriation of plan funds.

According to DRR's oversight manager for receiverships, the EBG sampling project was ineffective and incomplete for several reasons. First, from its review of receivership files, the FDIC obtained virtually no plan documents that were useful in determining whether funds had been embezzled. Second, the oversight manager further stated that, with one exception, DRR staff was not able to get any productive responses from plan service providers or documentation for any of the 10 sampled receiverships to perform a review because record retention statutes for these closed plans had expired and many records had been destroyed. Finally, DRR contacted the U.S. Department of Labor, Office of Pension and Welfare Benefit Plans, for assistance in obtaining records from plan service providers, but none was provided. DRR then decided, given the dearth of records, to discontinue its research. EBG's inability to locate the necessary employee benefit records and documentation for any of the 10 receiverships leaves open the question of whether additional funds were embezzled. DRR recognizes that risk still exists for embarrassment to the FDIC; however, DRR believes the risk is minimal.

EBG HAS DISCOVERED PREVIOUSLY UNKNOWN EMPLOYEE BENEFIT PLAN ASSETS

Over the past year and a half, the FDIC has "accidentally" discovered thousands of dollars in employee benefit plan assets. For example, an EBG specialist informed the OIG that in March 1998 she discovered, quite by accident, employee benefit funds belonging to the FDIC that had remained uncollected. Specifically, during a review of a receivership file, she found a Certificate of Deposit (CD) renewal notice dated December 13, 1994 for an employee medical trust related to the Murray Savings Association. This was an overfunded, terminated employee benefit plan. According to the EBG specialist, the plan contained no outstanding participant accounts and no vesting rights. Through follow-up work, the EBG specialist determined that the CD represented over \$189,000 in remaining benefit funds. Subsequently, the funds were remitted to an FDIC bank account, and the FDIC recorded the entire \$189,000 as "discovered" assets. The Murray employee benefit funds are now listed in DOF's Bank Account Directory.

Another example of money in a bank account that the FDIC did not know about was \$90,323 in a Security First employee benefit trust account. Discovery of this account also came quite by accident. In May 1999, an outside legal firm notified the FDIC that a dormant account would be escheated to the state unless claimed by the owner. Subsequently, the FDIC claimed the funds and deposited them in an FDIC-owned bank account.

These discoveries, along with the FDIC's unsuccessful attempt to identify other employee benefit funds subject to embezzlement, give us reason for concern. Although DRR is not engaged in a systematic search to identify previously unidentified employee benefit plan assets, it does recognize that other plans and plan assets may exist. However, DRR's position is that any effort to compile a complete list of receivership employee benefit plans, giving particular attention to proper accounting and disposition of plan assets, would be time consuming and prohibitively expensive. According to DRR's oversight manager for receiverships, a search of all receivership records would simply amount to undertaking a speculative effort where costs could quickly and easily exceed any benefits.

Although DRR has elected not to look into this matter any further, we continue to believe there are risks associated with the FDIC not having a complete inventory of the employee benefit plans that have existed over time and the value of those plans. However, as we previously mentioned, given the closer coordination between EBG and DOF staff, EBG's Pension Plan Asset report should adequately track benefit plan information for current and future receiverships. Accordingly, we make no recommendations on this matter in the report.

CORPORATION COMMENTS AND OIG EVALUATION

On December 17, 1999, DRR's Deputy Director of the Dallas Field Operation Branch provided a written response to a draft of this report. The response is presented in appendix I of this report. The Corporation's response to the draft report provided the elements necessary for management decision on the report's recommendation. Therefore, no further response to this report is necessary.

A summary of the Deputy Director's response to the draft recommendation and our analysis follows.

Consider transferring to the DOF Tax Unit the responsibility of preparing IRS Forms 5500 and 5310 that can then be used by DOF to record reversions in FDIC accounting records (recommendation 1): The Deputy Director generally agreed with our finding and recommendation. However, he pointed out that "The Specialist reviews data on the filings prior to submission but does not prepare the filings." The Deputy Director agreed that sharing the information with DOF would be beneficial and we revised the wording of our recommendation accordingly.

Appendix II presents management's proposed action on the OIG's recommendation and shows that we have a management decision.

**FDIC**Federal Deposit Insurance Corporation
1910 Pacific Avenue, Dallas, TX 75201

CORPORATION COMMENTS

APPENDIX I

Division of Resolution and Receiverships

DATE: December 17, 1999

TO: Shirley C. Ward
Regional Director
Office of Inspector General

FROM: A.J. Felton, Deputy Director
Field Operation Branch
Division of Resolutions and Receiverships

SUBJECT: OIG draft report entitled, "Internal Controls over Receivership Employee Benefit Plans"

On July 1, 1997, the Receivership Benefit Plan function of the Receivership Management Group Division of Resolutions and Receiverships became aware that a former employee might have inappropriately dealt with money. In accordance with Corporate directives, the Office of Inspector General was notified. The documentation was taken by the OIG to the U. S. Attorney for prosecution. Ultimately, the former employee, [name] was sentenced and served time for his embezzlement.

[name] employment with the FDIC began in December 1989 as a technician in the Claims/Settlement department. He was later promoted to Benefits Specialist in the Addison Consolidated Office. During the six years of his employment, he often performed tasks in three areas: claims, settlement, and benefit plans. Although the majority of the time he worked alone, at various times during these years three other specialists were involved with the termination of benefit plans in the Addison Office and a technician often assisted [name] with his duties.

Subsequent to the investigation, the Audit Branch of the OIG conducted an audit of internal controls that culminated in a draft report entitled "Internal Controls over Receivership Employee Benefit Plans." The report contained one recommendation that is shown below:

To enhance internal controls regarding employee benefit plan reversions, we recommend that the Deputy Director, Field Operations Branch, DRR:

- 1) Consider transferring to the DOF tax unit the responsibility of preparing IRS Forms 5500 and 5310 that can then be used by DOF to record reversions in FDIC accounting records.*

In responding to this recommendation, we would like to first mention that the DRR Specialist does not prepare IRS Forms 5500 or 5310. Now, as in the past, these IRS forms are prepared by third party contractors or service providers retained by the FDIC and, in some instances, FDIC Legal. The Specialist reviews data on the filings prior to submission but does not prepare the

Note: To protect individual privacy, the OIG redacted names throughout this response.

filings. Since we are not at liberty to transfer responsibility for that which we do not do, we do agree that sharing the review would be beneficial. We are in the process of developing an

agreement with DOF that will include their review before the documents are presented to the Plan Administrator for signature. This arrangement should be in place by May 2000.

See OIG
Note 1

OIG also mentioned three areas of concern in the report that we feel a need to address. Plus the report included a statement that “the employee’s supervisor signed blank payment authorization vouchers” and this is not correct. In actuality, DRR staff discovered an original FDIC Vendor ID Form, FDIC 4531/04(12-92). No information was contained on the form with the exception of the signatures of [name] as “Name of Requester” and [name], DOF/AP as “Authorized By”. This form is used by the Division of Finance to establish an individual vendor on the system in order for a check to be cut in the future. This form does not authorize payment to a vendor; a Procurement Authorization Voucher (PAV) is required to do that. DRR suggested that OIG investigations follow up and interview [name], currently a DOS Examiner, to determine how [name] used this form. The results of the investigation are unknown.

Below are the three areas of concern mentioned in the report followed by our response to each:

1. Reversions need to be recorded and recovered

The potential for a reversion of plan assets to the FDIC exists only when the failed institution sponsored a defined benefit plan (DB). As the cost and complexity of a defined benefit plan exceeds other plan types, the number of defined benefit plans that require termination has declined dramatically. This office has not had a DB to terminate since 6/96. The estimated amount of reversion in that last plan was booked by DOF as soon as it was ascertained.

Referring to reversions, the audit report refers to incidents that occurred immediately after the closing of the RTC office in Dallas. The RTC chose to fund any deficiencies that appeared in the Plans that they were responsible for terminating. Occasionally, the deficiency failed to materialize resulting in an overfunding. These monies belonged to the receivership. The FDIC is unaware of the methods the RTC used to track their overfundings, and at the time of the closing of the Dallas RTC office, their staff specifically and officially notified the FDIC that no outstanding, unresolved Plan business remained. The FDIC was not required to audit completed RTC work. However, as an aside, the RTC official responsible for Employee Benefit Plans notified [name] of specific funds which had not been recovered. This information and supporting documentation was passed to OIG Investigations.

Another incident of Plan assets being misappropriated by [name] occurred upon the closing of the Oklahoma City Consolidated Office. This sole incident of a FDIC bank revision being misappropriated by [name] occurred under a supervisor who is no longer with the Corporation. This supervisor was found to have liberally signed documents however, it is a problem that exists no longer. This involved the Pension Plan for the First State Bank of Vega.

OIG Note 1: We modified the report to reflect that the former employee possessed pre-authorized DOF vendor identification forms that can be used to establish vendors on the FDIC system.

A total amount of \$662,079.05 was embezzled (please refer to the table below). A quick analysis of the source of the misappropriated funds reveals that reversions accounted for \$559,386.02 of the amount. Analysis shows that there was only one incident of a FDIC bank/reversion while there were two incidents of RTC thrift/reversions (\$312,868.35) both of which occurred after the plans were closed and the final IRS Forms 5500 were filed by the Resolution Trust Corporation.

Amount of Funds Embezzled	Funds due to a reversion?	Date Institution Failed	DB Plans Date Final 5500 Filed	Date Funds Embezzled	Agency Filing Final 5500	Name of Failed Institution	Source of Embezzled Funds
1,664.09	No	1/89	--	8/91	FDIC	Merchants State Bank	13 profit sharing checks received in returned mail
57,684.00	Unkwn	12/76	--	6/92	FDIC	Intl. City Bank & Trust	ICB holding company stock held by pension plan – wire transfer from FHLB to [name] account
35,844.94	No	10/93	--	12/93	FDIC	Heartland Federal S&L	Escrowed funds to pay plan expenses; wire transfer from Bank of Oklahoma to [name] account
246,517.67	Yes	4/93	9/94	6/94	FDIC	First State Bank of Vega	Wire from First Interstate Bank of Texas, NA to [name] account
7,500.00	No	10/93	--	8/95	FDIC	Heartland Federal S&L	FDIC receivership account – FDIC check to purchase 1986 Jaguar
235,636.98	Yes	5/90	10/95	3/96	RTC	Southwest Federal S&L	Wire transfer from Alliance Trust Company to [name] account
77,231.37	Yes	8/89	11/94	7/96	RTC	Metropolitan Federal S&L	Wire transfer from Nations Bank to [name] account

As mentioned earlier in our response, the audit incorrectly states that “The EBP specialist is responsible for preparing the form based on information provided by the plan trustee.” At no time did [name] or any other benefit specialist in the Dallas office prepare a final IRS Form 5500 or IRS Form 5310. Third party service providers retained by the FDIC or FDIC Legal prepare Form 5500 and Form 5310. The benefit specialist reviews IRS forms but does not prepare the filings. While the FDIC ERISA attorney may not prepare the form, the attorney assists with the review prior to submission to the Plan Administrator for signature.

2. *DRR's attempt to identify other misappropriated funds was unsuccessful*

When the embezzlement was first discovered, DRR developed a list of 138 institutions to research. Criteria for inclusion on the list included:

- Institutions which failed in the Southwest Service Center (inclusive of all consolidated field offices) from January 1989 through September 1996 ([name] was employed from 12/89 through 9/96 in the Addison Consolidated Office)
- Institutions that had evidence of benefit plans recorded on the former WIT system and the REMATS system. All types of benefit plans were included (defined benefit, defined contribution, welfare)

The purpose of DRR's efforts was twofold:

- Identify and locate any funds that may belong to participants or the FDIC
- Attempt to negate an early plea agreement whereby [name] would remain free and not be imprisoned for his crime

DRR investigators discovered additional misappropriated funds when they reviewed (1) [name] personal bank records and (2) a Payment Authorization Voucher prepared by [name] and paid by DOF.

Although only 84 of the 138 institutions (First City Banks, M Banks, and Texas American Banks were excluded since their benefit plans were sponsored by their respective holding companies) were known to have some type of benefit plan, DRR conducted an extensive search on the REMATS system for records of all 138 institutions. Fifty-five boxes were retrieved from storage and reviewed. Records for two institutions housed on site were also reviewed. Although DRR staff researched all files at least twice, there was no evidence of the mishandling of funds detected in the documents reviewed. The records search did not reveal evidence of additional wrong doing and the six-year statute of limitations for plan record retention limited prospects of obtaining additional documentation.

See OIG
Note 2

DRR Customer Service staff reviewed closing books maintained by Records Management and DRR Investigations reviewed FDIC Legal Closing Books for pertinent information; however, nothing was discovered to merit additional research.

The Receivership Benefits Section notified the Department of Labor, Pension and Welfare Benefits Administration. The first meeting occurred 2/26/98. DOL responded and assigned an investigator to the case. All plan files were made available and full cooperation was given to DOL. A subsequent meeting was held with an Auditor from the Pension and Welfare Benefits Administration. All information and documentation regarding the embezzlement in DRR's possession was shared with the Auditor. The Auditor interviewed the Receivership Benefits Specialist and the Specialist also assisted the Auditor by copying records for PWBA use.

OIG Note 2: The information provided in the response regarding the extent of work performed by DRR is not consistent with information provided to us during the course of the audit. As such, we have not audited the new information.

However, the Pension and Welfare Benefits Administration, Department of Labor, elected not to pursue the matter.

Additionally, DRR requested that the Division of Supervision contact all banks and savings and loans in this region for information on deposit accounts set up by the RTC and FDIC. However, the Division of Supervision did NOT act on the request.

The Office of the Inspector General was notified within hours of the discovery of the possible defalcation. All information in the possession of the Benefits Specialist was given to the OIG Agent and all information obtained subsequent to the initial review was provided to the OIG. The OIG did not discover any losses, used only the findings of the Employee Benefits staff, relied entirely on DRR developed evidence, and endorsed the steps taken by DRR. While afforded the opportunity to expand their investigation, the OIG believed that the extent of [name] damage had been essentially determined and declined to investigate further.

DRR allocated extensive time and resources to the investigation and contacted various federal agencies—DOL, PWBA, FBI, and OIG for assistance in efforts to ensure that all misappropriated funds were identified. Full cooperation was given to these agencies.

Utilizing various reports and warehouse records, DRR identified the banks and savings and loan institutions that had sponsored benefit plans. A thorough search of Remats was conducted, 55 boxes were identified, records were retrieved from storage and reviewed, and identified plan service providers were contacted for plan information. Benefit plan records housed on site were also reviewed. Even though there was no evidence that a benefit plan existed, an additional 26 institutions were searched on REMATS as a precautionary measure to ensure that no plans or plan assets were overlooked.

Customer Service reviewed Closing Books on 138 institutions and Investigations reviewed the Legal Closing Books.

No additional benefit plans or plan assets were discovered. Because of the thorough, though unsuccessful, efforts to locate sufficient plan information and to enlist the aid of other agencies, the effort to retain a CPA firm to review plan records was discontinued.

3. EBG has discovered previously unknown employee benefit plan assets

The Receivership Benefits unit thoroughly researches all participant inquiries received and will continue to do so. Extensive man-hours are spent researching questions on pension benefits submitted by former plan participants. FDIC and RTC records from Chicago, Irvine, Atlanta and all the RTC offices consolidated into those sites are thoroughly researched to be responsive to former plan participants.

The Receivership Benefits Unit is acutely aware of its responsibility and is alert to any situation that might reveal plan assets. When discovered, every effort is made to determine the rightful owner of the funds. The instances noted in the report attest to that fact as well as to the procedures instituted with DOF to insure that the location of all accounts is identified in the future and known not only to DRR but to DOF.

cc: Mitchell Glassman, Acting Director, Division of Resolutions and Receiverships
Goivanni G. Recchia, Associate Director, Division of Resolutions and Receiverships
Vijay Deshpande, Director, Office of Internal Control Management
Fred Ozyp, Assistant Director, Division of Resolutions and Receiverships
Jim Forrestal, Associate Director, Division of Resolutions and Receiverships
Tom O'Keefe, Assistant Director, Division of Resolutions and Receiverships
Alan Rouse, Assistant Regional Manager, Division of Resolutions and Receiverships
Howard Furner, Section Chief, Office of Internal Control Management
Rick Hoffman, Manager, Office of Internal Review, Division of Resolutions and Receiverships
Ben Groner, Section Chief - Terminations, Division of Resolutions and Receiverships
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MANAGEMENT RESPONSES TO RECOMMENDATIONS

The Inspector General Act of 1978, as amended, requires the OIG to report the status of management decisions on its recommendations in its semiannual reports to the Congress. To consider FDIC’s responses as management decisions in accordance with the act and related guidance, several conditions are necessary. First, the response must describe for each recommendation

- the specific corrective actions already taken, if applicable;
- corrective actions to be taken together with the expected completion dates for their implementation; and
- documentation that will confirm completion of corrective actions.

If any recommendation identifies specific monetary benefits, FDIC management must state the amount agreed or disagreed with and the reasons for any disagreement. In the case of questioned costs, the amount FDIC plans to disallow must be included in management’s response.

If management does not agree that a recommendation should be implemented, it must describe why the recommendation is not considered valid. Second, the OIG must determine that management’s descriptions of (1) the course of action already taken or proposed and (2) the documentation confirming completion of corrective actions are responsive to its recommendations.

This table presents the management responses that have been made on recommendations in our report and the status of management decisions. The information for management decisions is based on management’s written response to our report.

Rec. Number	Corrective Action: Taken or Planned/Status	Expected Completion Date	Documentation That Will Confirm Final Action	Monetary Benefits	Management Decision: Yes or No
1	DRR will develop an agreement with DOF that will include DOF’s review of the IRS Forms before the documents are presented to the Plan Administrator for signature.	May 31, 2000	Agreement	None	Yes