



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

Farm Service Agency
Risk Management Agency
Crop Loss Disaster Assistance Program



Report No.
50801-3-KC
September 2000



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



DATE: September 28, 2000

REPLY TO
ATTN OF: 50801-3-KC

SUBJECT: Crop Loss Disaster Assistance Program

TO: Keith Kelly
Administrator
Farm Service Agency

Kenneth D. Ackerman
Administrator
Risk Management Agency

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

Garland Westmoreland
Deputy Administrator
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Risk Management Agency

This report presents the results of the subject audit. Farm Service Agency's June 29, 2000, and Risk Management Agency's July 13, 2000, written comments on the draft report are included as exhibits D and E, respectively, with excerpts and the Office of Inspector General's (OIG) position incorporated into relevant sections of the report. Your responses provided sufficient information to reach management decision for Recommendations Nos. 9, 10, and 12. We need additional information for management decision on Recommendations Nos. 1, 2, 3, 4, 5, 6, 7, 8, 11, 13, 14, and 15. Information needed to reach management decision is presented in the OIG Position section after each recommendation.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken or planned, and the timeframes for implementation for those recommendations for which a management decision has not yet been reached.

Please note that the regulation requires a management decision on all findings and recommendations within a maximum of 6 months from report issuance and final action to be taken within 1 year of each management decision. Correspondence concerning final action should be addressed to the Office of the Chief Financial Officer.

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

/S/

JAMES R. EBBITT
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

CROP LOSS DISASTER ASSISTANCE PROGRAM

AUDIT NO. 50801-3-KC

RESULTS IN BRIEF

We undertook a review of the Crop Loss Disaster Assistance Program (CLDAP) in cooperation with the two agencies that jointly administered the program--the Farm Service

Agency (FSA) and the Risk Management Agency (RMA). Joint administration was necessary because FSA's disaster assistance amounts depended on whether the producers' crops were insured by RMA. Because the CLDAP, like prior disaster assistance programs, had a short implementation timeframe, we agreed with FSA and RMA that the best assistance we could offer would be to critique program activities sooner rather than later. The primary objective of our review, therefore, was to provide FSA and RMA program managers with an ongoing assessment of the CLDAP as it evolved so they could respond at the earliest signs of a problem.

This proactive approach to program administration--bringing delivery, oversight, and enforcement into play simultaneously--had an observable impact on the program's integrity. Despite the complexities associated with the administration of this program, FSA and RMA delivered it with relatively few errors and within a reasonable period. We only identified errors on about 6.5 percent of the CLDAP applications in our samples that were serious enough to impact program payments. Overall, the FSA field offices provided about \$2 billion in emergency assistance to about 273,000 producers by the end of May 1999, or within 120 days of the start of the signup period.

The results of our reviews demonstrated the efficacy of early intervention in all phases of program delivery. FSA and RMA's positive response to potential problems served to maintain a high level of integrity in the program.

During the early phase of the program, we focused on yields, payment rates and factors. We noted that FSA used crop yields (bushels, etc.) to determine losses, whereas RMA insured certain crops in dollars. As a result of these reviews, FSA issued procedures for converting dollar insurance policies to units of measure, to ensure compatibility in loss claims.

- Also during the early phase, we reported differences between producer yields, acreages, and shares as identified by FSA and by RMA. FSA and RMA acted to resolve these discrepancies in the two agencies' records.
- During the application phase, we found that producers did not always correctly certify their losses. For example, four Louisiana catfish producers claimed losses on ponds that were not used for catfish production. Another 19 producers misreported production, income, or some other eligibility factor because they misunderstood CLDAP requirements. In a timely response to our report, FSA corrected about \$359,000 in potential overpayments and ruled the four catfish producers ineligible for the CLDAP.
- Also during the application phase, we noted that State offices did not always establish correct payment rates or factors. California's CLDAP payment rate for peas was more than double the payment rate established for the Noninsured Crop Disaster Assistance Program (NAP). Colorado's payment factors for various crops were likewise excessive. FSA corrected the payment rates and factors and avoided issuing overpayments.

In other areas, continued efforts were needed. We alerted FSA and RMA early in the signup period to the possibility that producers could receive overpayments (1) if their payments exceeded their expected gross revenues for the crops or (2) if their disaster payments were based on inflated crop insurance indemnities. However, the agencies did not act in a timely manner to preclude these overpayments. Twenty-nine corn producers (from a sample of over 500 policies) received about \$80,000 in CLDAP benefits in excess of their expected gross revenues. Texas corn and cotton producers received millions in excessive CLDAP benefits because their payments were based on about \$20 million in improper crop insurance indemnities.

Our review also showed that producers did not always accurately report their eligible acreage, crop production, crop shares, and other qualifying data. Inaccurate reporting resulted in \$821,500 in overpayments. In one case, a crop insurance agent and two producers created excessive yield histories for crop insurance purposes. Another eight producers, including a county committee chairman, incorrectly certified to their gross revenue.

In several instances, we found that program managers did not effectively apply program provisions.

The amount of liquidated damages for noncompliance was not included on the CLDAP contract, and CLDAP payments were made to producers on RMA's ineligible producer list.

About 21,400 uninsured producers received about \$70 million in CLDAP benefits but did not purchase crop insurance for the 1999 crop year (producers who were uninsured in 1998 could receive CLDAP payments for that year only if they insured their crops in 1999 and 2000).

969 producers on RMA's ineligible producer list were paid about \$8.8 million in CLDAP payments without proper assurances that these producers paid their prior years' crop insurance premiums.

47 producers received CLDAP payments from both the single and multi-year CLDAP funds. Program rules allowed producers to claim a loss for either 1998 or for the years 1994 through 1998, but not both. These 47 producers were overpaid \$292,500.

Producers received questionable CLDAP payments on 16 crops where payment factors were higher than those established for the NAP.

We also noted that NAP applications in one county in Texas had been filed after the end of the designated disaster period, and that field inspections for these applicants were made when it was no longer possible to verify a crop loss. In their response to our review, Texas State FSA officials initiated target reviews for the NAP throughout the State. The results of these reviews will be used to address cross-cutting issues in NAP and other crop emergency programs.

KEY RECOMMENDATIONS

FSA should follow up with the State offices and determine if overpayments were collected or claims properly established for the cases cited in the Statement of Conditions that we issued for each State. We also recommend that FSA develop and implement procedures to limit future disaster payments to the producer's expected gross return for the disaster crop and to adjust disaster program payments downward when inflated crop insurance indemnities are to be used as a basis for payment. FSA should emphasize to producers the importance of providing correct information and making correct certifications, as well as direct their compliance reviews toward the areas where most program errors occurred.

AGENCY RESPONSE

In their written comments on the draft report (see exhibits D and E) the agencies generally agreed with the audit findings and recommendations with the exception that FSA believes that sufficient safeguards were in place to prevent producers from exceeding their expected gross returns for the crop.

FSA agreed to follow up with State offices to determine if overpayments were collected or claims properly established for the cited cases. FSA also agreed to emphasize to producers the importance of providing correct information and making correct certifications and to direct their compliance reviews towards areas where most program errors occurred.

OIG POSITION

We generally agree with the proposed corrective actions for the audit findings and recommendations except for FSA's response to our finding that FSA did not develop procedures to limit disaster benefits to the value of the expected gross returns for the crop.

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INTRODUCTION

BACKGROUND

Title XI of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, Public Law 105-277 (hereinafter referred to as the Act), dated October 21, 1998, authorized

the Secretary to establish the Crop Loss Disaster Assistance Program (CLDAP). The objectives of CLDAP were to provide producers with disaster assistance for 1998 single-year crop losses; multi-year crop losses from 1994 through 1998; flooded land ineligible for crop insurance benefits; and quality losses. In addition to the disaster assistance, premium discounts were offered as incentives for producers to increase their crop insurance coverage for the 1999 crop year.

The Act provided \$1.5 billion to assist producers for losses suffered due to the 1998 disaster, and \$875 million to assist producers who incurred multi-year losses in the years 1994 through 1998. Producers could receive payments under either the single-year or multi-year provisions, but not both. The Farm Service Agency (FSA) automatically determined which payment was higher and paid the producer accordingly. In addition, the Act provided that producers who did not purchase crop insurance for the 1998 crop shall agree by contract to purchase crop insurance for the 1999 and 2000 crop years.

Producers were eligible for 1998 single year assistance if they had suffered losses exceeding 35 percent of their historical yields. Producers with losses on insured crops were entitled to 65 percent of crop insurance market price elections. Producers who did not insure their crops were entitled to compensation at 60 percent of the crop insurance market price. Producers with noninsurable crops were compensated at 65 percent of the 5-year average price as determined by the National Agricultural Statistics Service (NASS).

Under the multi-year provisions, FSA paid farmers for losses in 3 or more years from 1994 through 1998 at a rate equal to 25 percent of the insurance indemnities during that period. FSA also paid farmers with eligible losses on noninsurable crops at a rate equal to 25 percent of their Noninsured Crop Disaster Assistance Program (NAP) payments. No individual producer would receive more than \$80,000 or be eligible for payment if their annual gross revenues were greater than \$2.5 million.

FSA, acting as the lead agency, developed the program regulations and procedures and delivered the program through its network of field offices and its Kansas City Management Office (KCMO). Risk Management

Agency (RMA) was responsible for crop insurance policies and procedures and providing crop insurance records to FSA county offices before sign-up started on February 1, 1999. These records were used as the basis for payment for the insured producers. RMA's regional offices assisted the FSA field offices by helping resolve any questions on the crop insurance records provided to them.

After the sign-up period ended on April 16, 1999, FSA county offices reviewed and approved the applications and prepared the data for upload and analysis by the FSA National Office. On May 5, 1999, FSA county offices uploaded the CLDAP program data to its KCMO. The data was then used to develop a national payment factor to apply to all payments so that CLDAP expenditures did not exceed the amount authorized by law. On May 26, 1999, FSA issued procedures authorizing county offices to issue the CLDAP payments.

NAP benefits are authorized for approved areas where the average yield for the crop falls below 65 percent of the expected area yield. Eligible producers are covered for losses of expected production in excess of 50 percent of the producer's approved yields. Notice of loss must be filed within 15 calendar days of the prevented planting, the end of the planting period, the disaster occurrence, or the date damage is apparent to the producer. The payment rates for the 1995 through 1998 crop years are 60 percent of the average market price established for the commodity. Producers are not eligible for NAP benefits if their gross revenue exceeds \$2 million.

OBJECTIVES

The overall objective of the audit was to assist program managers by providing them an ongoing assessment of the program as it evolved through the development, implementation, and execution stages. In particular, we focused on the development of program regulations and procedures, program sign-up operations, the establishment of payment rates, the transfer of data between agencies, the eligibility of producers and crops, producer payment limitation determinations, crop insurance purchase requirements, and the establishment of quality controls.

SCOPE

The audit was accomplished using a multiple phase approach. Phase I of the review was performed during February and March of 1999. We visited or contacted the FSA and RMA National Offices; FSA's KCMO; RMA's Research and Development Division in Kansas City, Missouri; RMA Regional Service Offices in St. Paul, Minnesota; Springfield, Illinois; Billings, Montana; and Topeka, Kansas. We also visited 14 FSA State and 59 county offices (see exhibit B for States and counties selected for Phase I of the review). Our selection of State and

county offices was based on the level of 1998 crop insurance indemnities, percentage of producers with at least three crop insurance losses in the last 5 years, and 1998 NAP approved areas.

Our Phase II review was performed from March through May 1999, at 40 FSA county offices in 14 States (see exhibit B for States and counties selected for Phase II of the review). We usually performed our Phase II reviews at the same county offices selected during Phase I. However, we did include additional county offices in order to expand our overall review. Also, one county office was selected based on a request by the Louisiana State FSA Office and a separate audit report (50801-9-Te) was issued in August 1999. At the county offices, we judgmentally selected and reviewed 1,855 out of about 43,009 CLDAP applications and 54 out of 661 NAP applications. The selections were based on whether the applicant (1) was a county committee member or county office employee, (2) had the potential to exceed the gross revenue limitation, (3) had questionable 1998 indemnity amounts, (4) had a 1998 NAP application, and/or (5) had the largest projected CLDAP payments.

Overall, producers received about \$1.3 billion in single-year and \$575 million in multi-year CLDAP payments. The States selected for our Phase II review accounted for about \$877 million (66 percent) of the total single-year payments and \$380 million (66 percent) of the total multi-year payments. As of February 11, 1999, about \$7 million in NAP benefits had been disbursed for the 1998 crop year with about \$5.7 million (81 percent) in our sampled States.

As part of the review, we used the RMA download of crop insurance indemnities for the 1994 through 1998 reinsurance years dated March 3 and March 4, 1999. We also used RMA's ineligible producer lists as of February and June 1999, and the FSA upload files dated May 5, June 2, and July 21, 1999, to identify all producers scheduled to receive CLDAP payments. In addition, we used FSA's producer payment reporting system files as of August 1999 and 1998 NAP and CLDAP crop tables dated May 14 and May 25, 1999, respectively, during our review.

Exhibit A presents the summary of monetary results for the audit (also see exhibit C, Summary of Statements of Conditions Issued). The audit was conducted in accordance with Government Auditing Standards.

METHODOLOGY

To accomplish the objectives, we initially interviewed FSA and RMA officials in Washington, D.C., and Kansas City, Missouri, to identify the applicable laws, regulations, program procedures, policies for implementing the CLDAP, and assessed the reliability of computer system software and input data. We then

contacted personnel at the RMA Regional Service Offices to determine the procedure for handling of producer disputes of crop insurance data.

During Phase I, we interviewed FSA State office personnel to determine the nature and scope of policies and procedures issued and extent of their outreach activities. At the FSA county offices, we interviewed personnel and reviewed program records to identify any concerns with crop loss evidence, assignment of production and maximum payment limits, and outreach efforts.

As part of Phase II at the FSA county offices, we reviewed CLDAP applications, supporting documents, and other program records, to determine whether producers and crops met eligibility requirements, and if payment and gross revenue limitation provisions were properly applied. We also interviewed producers if we needed additional information regarding their reported crop losses or revenues.

We performed computer analyses of the single-year and multi-year indemnity payment files to verify the accuracy of the downloaded databases and the producer payment reporting system files for CLDAP payments to identify producers receiving payments from both funds. We also compared RMA's ineligible producer file and the producer payment reporting system file to determine if ineligible producers improperly received CLDAP payments. NAP and CLDAP crop table files were compared to ensure that payment rates and factors were consistent between the two programs. We also reviewed RMA databases to identify the highest indemnities in our sample counties for further review. In addition, we reviewed the CLDAP payment files used to establish the national payment factor.

In addition, we issued a Management Alert (No. 50801-3-KC (1)) on February 22, 1999, to advise FSA and RMA managers of issues identified during Phase I. We also issued Statements of Conditions to each of the applicable FSA State offices and two RMA compliance field offices to provide them the opportunity to review and comment on the results of our reviews (see exhibit C for a list of the Statements of Conditions issued).

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	AGENCIES WORKED TOGETHER EFFECTIVELY TO DELIVER THE CLDAP
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FINDING NO. 1

Despite the complexities associated with the implementation of this program, FSA and RMA effectively delivered the 1998 CLDAP and provided about \$2 billion in payments to about 273,000 producers within a reasonable time

and with few errors. We found that only about 6.5 percent of the disaster applications included in our sample had errors serious enough to impact program payments. In terms of numbers, we only found 58 county office errors, 58 producer errors, and 4 State office errors during our review of 1,909 disaster applications. Because FSA and RMA coordinated their efforts and proactively addressed program deficiencies, they were able to timely resolve program administrative issues, and avoid \$458,041 in potential overpayments and \$39,813 in potential underpayments, as shown in exhibit C.

Our objective was to assist FSA and RMA program managers with the delivery of the new CLDAP, by providing them an ongoing assessment of the program as it evolved through the development, implementation, and execution phases. During the program development phase, we reviewed and evaluated the CLDAP legislation, regulations, and procedures and tested the accuracy and reliability of RMA insurance contract information downloaded to FSA county offices. We also participated in CLDAP training sessions and provided input into the development of spot-check procedures that FSA used to control producer compliance with program provisions. We reviewed CLDAP development and implementation in two phases at FSA State and county offices.

During the Phase I fieldwork from February 22, 1999, to March 30, 1999, we reviewed program signup operations at 14 FSA State offices and 59 FSA county offices. While at these offices, we evaluated the establishment of yields, payment rates and factors, program outreach efforts, county office workloads, and any inconsistencies between FSA and RMA farm records. We held three conference calls with FSA and RMA program managers to inform them of the results of our review. As a result of these conference calls, the FSA National Office issued procedures for

converting dollar insurance policies to a unit of measure¹, and placed more emphasis on outreach efforts at FSA State and county offices. In another case, we issued Management Alert No. 50801-3-KC (1) on February 22, 1999, advising RMA and FSA that procedures were needed for resolving differences among farm yields, acreages, and producer shares in their agency records. FSA and RMA agreed and issued instructions on April 7, 1999, to their field offices on how to resolve these differences.

During the Phase II fieldwork from March 24, 1999, to June 25, 1999, we reviewed 438 multi-year and 1,417 single-year CLDAP applications and 54 single-year NAP applications in 40 FSA county offices in 14 States. We determined if producers and crop losses met eligibility requirements and if payment and gross income provisions were correctly applied. An example of proactive agency involvement in the CLDAP occurred during Phase II fieldwork in Louisiana: On April 12, 1999, the Louisiana State FSA Office requested the Office of Inspector General's (OIG) assistance in reviewing applications for CLDAP benefits for catfish losses on ponds that were not used for catfish production. On June 8, 1999, we advised the Louisiana State FSA Office that four of the five producers reviewed had misrepresented their catfish losses (audit no. 50801-9-Te). On July 7, 1999, the State office stated that the Franklin Parish county committee (COC) had determined these producers were ineligible to receive \$223,307 in CLDAP benefits because they had misrepresented material facts on their applications.²

Our Phase II fieldwork in the other States showed that:

Nineteen producers did not correctly certify one of the following program requirements: crop production, gross income, crop acreage, producer shares, or causes of loss. This occurred because of producer oversight and misunderstanding of CLDAP requirements. FSA corrected the applications and prevented improper overpayments of \$135,609 and an underpayment of \$556.

Fifty-four producers' disaster applications contained incorrect program information relative to payment rates, crop yields, crop production, crop acreages, and/or producer shares. This occurred because FSA county office personnel did not properly apply program provisions. Before payments were approved, FSA county offices corrected the applications and prevented overpayments of \$47,041 and underpayments of \$39,257.

¹ A revenue guarantee per acre is established rather than a yield guarantee per acre. Therefore, FSA and RMA needed a procedure to convert dollars into a unit of production.

² The \$223,307 savings were reported in audit no. 50801-9-Te, CLDAP in Louisiana – Phase II, as funds to be put to better use.

In California, the CLDAP prevented planting payment rates for snow, snap, and English peas were excessive. The California State FSA Office established the CLDAP payment rate for peas at 30 percent of the average market price adjusted for unincurred expenses, even though the NAP payment rate for peas was 11 percent of the market price. The State office agreed with our finding and corrected the payment factor. As a result, the San Luis Obispo County Office did not issue overpayments totaling \$18,963 to six producers.

In Stanislaus County, California, the CLDAP unharvested payment factor for cherries was excessive. The California State FSA Office established the unharvested rate for cherries at 65 percent of the average market price rather than the correct rate of 45 percent. The FSA State office promptly corrected the payment factor and prevented six producers from receiving overpayments totaling \$33,121.

In Colorado, the CLDAP unharvested and prevented planting payment factors for crops were excessive and would have resulted in excessive CLDAP benefits. We found that the Colorado State FSA Committee did not include machinery costs (depreciation, wear and tear) when establishing the payment factors. Prior to the issuance of program payments, the Colorado State FSA Office issued a memorandum informing the county offices of the corrected unharvested factors for calculating CLDAP payments and avoided issuing overpayments to affected producers.

In summary, the agencies timely delivered a new and complex disaster program. When program deficiencies were identified, FSA and RMA, with few exceptions, timely reacted and initiated corrective action on program deficiencies and any associated erroneous payments. On June 8, 1999, the Secretary of Agriculture recognized FSA and RMA employees for their efforts and services in helping farmers and ranchers get through the farm crisis. In view of the manner in which this program was delivered to farmers by FSA and RMA personnel, we encourage RMA and FSA to use the same proactive techniques and practices during the delivery of future programs involving their agencies.

CHAPTER 2

CLDAP POLICY DECISIONS RESULT IN PROGRAM OVERPAYMENTS

Program managers did not adjust disaster assistance payments when other program payments exceeded the expected gross returns³ for the crop and did not adjust payments that were based on inflated crop insurance indemnities. We attributed these deficiencies, in part, to lack of coordination between agencies on these issues and the unwillingness to change the basis for CLDAP payments when inflated crop insurance indemnities are involved.

FINDING NO. 2

PAYMENTS EXCEEDED EXPECTED GROSS RETURNS

Producer program payments (CLDAP payments and crop insurance indemnities) were not limited to the producers' expected gross returns for the disaster crop⁴. FSA did not develop procedures to limit disaster benefits to the value of the expected crop

production. As a result, producers, insured at the 75 percent coverage level with unharvested production, received crop insurance and CLDAP benefits that exceeded their expected gross returns for the disaster crop. In our analysis of corn producers having crop insurance coverage at the 75 percent level, we found that 29 producers received CLDAP and crop insurance benefits that exceeded their expected gross returns by a total of about \$80,000.

On February 22, 1999, we first reported in Management Alert 50801-3-KC (1) that current program procedures did not provide a methodology for ensuring that total program benefits including CLDAP payments did not exceed the expected gross returns for the crops. On March 24, 1999, the agencies' responded that a formula to determine the cap was being developed. On June 2, 1999, the agencies further responded that they had performed their own review of the CLDAP payment formula for single year payments and that it was mathematically possible, but highly unlikely, that a combination of CLDAP payments and insurance indemnities would exceed a producer's expected gross returns for the crop. FSA believed that adequate safeguards to prevent excessive payments were in place and that producers would not exceed their expected gross returns. The safeguards included the payment limitation of \$80,000, gross income criteria, unharvested and prevented planting

³ The producer's expected level of income to be generated from producing the crop.

⁴ Federal Register, Vol. 64, No. 72, Thursday, April 15, 1999, 7 CFR Part 1477 provides, in part, that "No person shall receive disaster benefits under this part in an amount that exceeds the value of the expected production for the relevant period determined by the Commodity Credit Corporation (CCC)."

payment factors, and the 85 percent national factor applied to all payments. Therefore, for these reasons, FSA did not establish a producer gross return cap for the CLDAP.

As part of our review, we examined 570 crop insurance policies for the 1998 corn crop at the 75 percent coverage level with indemnities and unharvested production.⁵ Our review showed that 29 producers received CLDAP payments and crop insurance indemnities that exceeded their expected gross returns by an average of about \$2,749 per producer. For example, one producer with a 50 percent share in 584.4 acres of corn had expected gross returns⁶ of about \$73,000 for the crop.⁷ However, the producer received over \$79,000 in CLDAP and crop insurance benefits for the 1998 corn crop or about \$6,000 more than the expected gross return for the crop.

Both agencies, in the past, placed limits on program payments when the total exceeded the producers' expected gross returns. Federal Crop Insurance Corporation (FCIC) Handbook 18010, section 4D(2)(a) provides that eligible insured producers may receive crop insurance indemnities and any other U.S. Department of Agriculture (USDA) program benefits for the same loss; however, the total benefit may not exceed the amount of the actual loss sustained by the insured. FSA is responsible for making additional payments due after considering the amount of crop insurance indemnity received. FSA program procedures⁸ also provided for payment reductions when the sum of the crop insurance indemnity and the disaster payment earned exceeded the producer's expected gross returns. However, FSA did not establish program procedure to implement the regulations that provided for payment reductions when CLDAP and crop insurance payments exceeded the producer's expected gross returns for the crop.

We concluded that some producers did receive CLDAP benefits in excess of their expected gross return for the crop and that FSA did not prescribe program procedures to implement the excessive benefits provisions of the CLDAP regulations. FSA needs to develop procedures to ensure that any future disaster program limits the total program payments to the expected gross returns for the disaster crop.

⁵ Only one CLDAP payment was made for producers with multiple disaster crops. Therefore, we only determined if CLDAP and crop insurance payments exceeded expected gross returns for the disaster crop when corn was the only eligible crop.

⁶ FSA Handbook 1-PAD (Rev 2) Amend 24, par. 85C, dated August 30, 1993 - Expected gross income be determined by: multiplying the disaster payment acres X the disaster payment yield X the payment rate X the producer share.

⁷ 584.4 acres X 96 bushel yield X \$2.60 price X 50 percent share = \$72,933.

⁸ FSA Handbook 1-PAD (Rev 2) Amend 24 par. 85D dated August 30, 1993.

RECOMMENDATION NO. 1

To the FSA Administrator:

Implement regulations and procedures to limit disaster payments to the value of a producer's expected gross return for the crop.

FSA Response

In its written comments on the draft report (see exhibit D), FSA did not agree with the methodology used by OIG to determine expected gross returns for the crop and stated that only a small percentage of producers would be effected. FSA also stated that to reduce disaster payments for those producers who purchased Federal crop insurance at the 75 percent level would directly conflict with the intent of Congress to utilize the disaster program to promote the purchase of buy-up crop insurance. FSA determined that adequate safeguards were in place to prevent producers from exceeding their expected gross 1998 return for the crop by taking into account: (1) 1998 actual market prices, (2) FSA \$80,000 payment limitation, (3) FSA gross income restrictions, (4) FSA unharvested and prevented planting factors, and (5) FSA maximum loss levels.

OIG Position

The expected gross returns methodology and the results of our finding were discussed with FSA personnel during the audit. FSA personnel stated that they did not have a documented formula for determining expected gross returns for the CLDAP but agreed that some producers could receive benefits in excess of their expected gross returns. We do not believe that limiting CLDAP payments to the expected gross returns for the crop would directly conflict with the intent of Congress to promote the purchase of crop insurance because \$400 million of the disaster funding was specifically set aside to promote the purchase of crop insurance for the 1999 crop year. In addition, some of the factors used by FSA to evaluate CLDAP payments would not preclude producers from receiving crop insurance indemnities and CLDAP benefits in excess of their expected gross returns (i.e., the payment limitation, gross income, etc.).

We continue to believe that, for future disaster programs, FSA needs to implement regulations and procedures to limit the level of disaster payments to the producer's expected gross return for the crop. These regulations and procedures should be consistent with FCIC procedures⁹ already in place that limit total benefits to the amount of the actual loss sustained by the insured. The Act provided for the CLDAP funds to be

⁹ FCIC Handbook 18010, section 4D(2)(a).

distributed in a fair and equitable manner to producers who incurred crop losses. However, some producers were allowed to receive total disaster benefits in excess of their losses. The excessive benefits were paid at the expense of all CLDAP participants because the CLDAP payments were factored downward so that appropriations were not exceeded.

To reach a management decision we need to be advised that for future disaster programs FSA will, as appropriate, implement regulations and procedures to limit disaster payments to the value of a producer's expected gross return for the crop. We also need a copy of FSA's evaluation performed showing that adequate safeguards were in place to prevent producers from exceeding their 1998 expected gross returns for a crop.

FINDING NO. 3

UNSUPPORTED PAYMENTS

Producers received CLDAP payments that were based on improper crop loss determinations and inflated crop insurance indemnities. FSA and RMA did not act promptly to prevent the improper CLDAP

payments even though they were aware early in the development of this program that the supporting crop insurance indemnities were excessive for certain popcorn, corn, and pima cotton producers in Texas. As a result, producers who received about \$20 million in improper crop insurance indemnities also received millions of dollars in excessive CLDAP benefits.

On February 22, 1999, we initially reported to FSA and RMA in Management Alert 50801-3-KC (1) that several producers in Texas received improper pima cotton, popcorn, and corn indemnities of more than \$20 million in 1998 because RMA approved yields that were too high for the insured crops. If no action was taken, we reported that millions of dollars in CLDAP payments would be issued to these producers in addition to the inflated crop insurance indemnities. For example, one producer received a \$135,209 indemnity for his non-irrigated pima cotton crop even though it was not feasible to produce cotton without irrigation in the county. This same producer was also eligible to receive a \$67,920 (\$80,000¹⁰ x .849 factor) CLDAP payment. In their June 2, 1999, response, the agencies stated that they had made a policy decision to make CLDAP payments based on crop insurance indemnities of record and that CLDAP payments to producers who received improper indemnities for the cited commodities would be made in accordance with existing regulations because:

- Office of the General Counsel (OGC) stated there was no basis to recover the indemnities paid in the Texas counties in 1998. Since RMA cannot recover the excessive indemnities, the agencies would

¹⁰ The CLDAP payment limitation was \$80,000.

need to amend the CLDAP regulations to not use the indemnities as a basis for multi-year payments. FSA and RMA personnel also stated that revising the regulation prior to distribution of the expected disaster assistance payments is impractical, as it would require a fundamental redesign of the CLDAP structure.

- The program structure had been widely publicized and understood by producers for many months. Producers have used letters from FSA county offices to secure financing, and withdrawing portions of the program from some producers could create unintended consequences and would certainly result in criticism for late program changes.
- The final CLDAP regulations were thoroughly reviewed and approved by all responsible parties before they were published on April 15, 1999.
- The affected producers clearly suffered from a disaster in 1998 and would be entitled to a partial payment based on their history of planting other crops in the past even if they had not received indemnities on the questioned guarantees. After calculating the difference between what they otherwise would have received versus the actual indemnities paid in 1998, the amount of funds questioned is considerably less than indicated by OIG.¹¹

We disagree with the agencies' policy decision to use the inflated crop insurance indemnities to make excessive CLDAP payments. The inflated indemnities were used to calculate both multi-year and single-year CLDAP payments.¹² The excessive CLDAP payments only involved about 491 crop insurance policies on three crops in eight counties in Texas and would not have required a fundamental redesign of the CLDAP structure as indicated by the agencies. In addition, OIG believes that the estimates of the CLDAP overpayments are reasonable because the producers could not produce nonirrigated crops in these areas and losses were 100 percent certain even in normal crop years.

At a meeting in May 1999 with representatives from OIG, RMA, FSA, the OGC, and the Office of the Under Secretary for Farm and Foreign Agricultural Services, OGC clarified its earlier position and stated that it was a policy matter as to whether or not the inflated crop insurance indemnities could be restricted (and therefore, potentially the amount of CLDAP payments). However, such action would require the regulations to indicate that such adjustments could be applied. FSA and RMA officials stated that

¹¹ OIG later found that the agency did not have any calculations supporting this statement.

¹² The single year CLDAP payment was 65 percent versus 25 percent of the average insurance indemnity and NAP payments for the multi-year CLDAP payment.

since they could not restrict 1998 CLDAP payments without regulations authorizing such adjustments and they could not process the regulatory and/or procedural changes by the scheduled date of payments to producers, they decided not to adjust the 1998 CLDAP payments that were based on the excessive indemnities. Both agencies agreed that if another comparable crop disaster assistance program were authorized in the future they would ensure that regulations authorizing such adjustments would be implemented.

Based on this reassurance from these two agencies that future disaster assistance programs would authorize the adjustment of excessive payments, we agreed that no further action by FSA and RMA was required on the 1998 CLDAP payments. But the agencies would need to amend procedures for any future disaster assistance programs by adjusting the disaster payments in cases where inflated or erroneous crop insurance indemnities could be used as a basis for payment.

RECOMMENDATION NO. 2

To the FSA and RMA Administrators:

Develop procedures and regulations that adjust payments for any cases where inflated or erroneous crop insurance indemnities are used as a basis for payment in future disaster programs.

FSA & RMA Response

In its written comments on the draft report (see exhibit D), FSA stated that they agreed to grant authority to county committees to change download data any time RMA provides written notification to FSA indicating excessive indemnities have been paid as a result of erroneous insurance data. Such authority would only be granted in specific areas indicated by RMA.

In its written comments on the draft report (see exhibit E), RMA stated that in the event of enactment of another disaster program, RMA would at that time issue procedures to address the recommendation, to the extent that inflated or erroneous indemnities are known.

OIG Position

We do not agree with RMA's proposed corrective action. RMA needs to work with FSA to develop a process to ensure that inflated or erroneous crop insurance indemnities are reported to FSA in a timely manner. Also, RMA's written response is inconsistent with correspondence dated May 1, 2000, in which RMA agreed to identify and catalog instances where program design or errors resulted in the potential for excessive indemnities for the 1999 crop year to assist in ensuring that all identified

problem areas are monitored and corrected for the future. In addition to identifying and cataloging potential excessive indemnities, RMA needs to prescribe procedures on how to provide information on excessive indemnities to FSA so that the disaster payments can be adjusted.

To reach a management decision we need to be advised that FSA and RMA will develop and implement procedures that provide for the identification of excessive indemnities and the adjustment of disaster program payments that are based on erroneous crop insurance indemnities. We will also need the timeframes necessary to implement corrective action.

FINDING NO. 4

Producers did not always accurately report their gross revenues, eligible acreages, crop production, crop shares, causes of loss, insurance purchase requirements, or other program requirements. This occurred primarily

because they overlooked or misunderstood program requirements. These producers were scheduled to receive or received CLDAP and NAP overpayments totaling about \$821,548¹³ and excessive crop insurance indemnities and loan deficiency program (LDP) payments totaling \$36,605.

Program regulations provide that a person shall be ineligible to receive disaster assistance if it is determined by the State or county committee or an official of FSA that such person has misrepresented any fact affecting a program determination. If disaster benefits were received because of erroneous information or a miscalculation, the assistance or payment should be recomputed and any excess refunded with applicable interest.¹⁴

We reviewed 1,855 of 43,009 CLDAP, and 54 of 661, 1998 NAP applications in 40 counties located in 14 States and found that 58 producers improperly certified information on program documents. We referred five producers and one crop insurance agent to OIG Investigations (OIG-I) for further review for potential misrepresentations on their crop insurance claims and/or disaster applications. The same conditions have been reported in prior OIG audits of disaster assistance programs and continue to result in program overpayments. The following are examples of our audit results:

- Eight producers did not correctly certify to the \$2.5 million CLDAP gross revenue limitation. The producers received or were scheduled to receive \$363,520 in improper CLDAP payments. One of the eight producers was a county committee chairman who received or was scheduled to receive \$67,920 in CLDAP benefits.
- Two producers did not correctly certify to the \$2 million NAP gross revenue limitation and received improper NAP payments totaling \$45,107.
- Twelve producers did not accurately report the number of acres eligible for the CLDAP and NAP. The producers were scheduled to

¹³ \$135,609 of this \$821,548 was reported in Finding No. 1.

¹⁴ Federal Register/Vol. 64, No. 72/Thursday, April 15, 1999, Subsection 1477.109(c), (f), and (g).

receive or received excessive CLDAP and NAP payments of \$77,477 and \$190,864, respectively.

- Ten producers did not correctly certify their production and were scheduled to receive or received improper benefits of about \$26,413 for CLDAP and \$1,178 for NAP. Two of the 10 producers were referred to the OIG-I for further review because the producers reported different production quantities for crop insurance than they did for the LDP.
- Three producers did not accurately report their crop shares for the CLDAP and NAP and were scheduled to receive or received about \$24,203 in improper CLDAP payments and \$55,079 in improper NAP payments.
- A crop insurance agent and two producers created excessive yield histories for crop insurance purposes and received improper indemnities of \$114,931. As a result of the excessive indemnities, the producers were scheduled to receive \$21,468 in improper CLDAP benefits. We referred this case to the OIG-I and RMA compliance officials for further review.
- Three producers submitted CLDAP applications for ineligible causes of loss and were scheduled to receive about \$16,239 in improper CLDAP payments.
- Seventeen producers did not properly complete form CCC-541, Statement of Agreement to Purchase Crop Insurance, and may not have purchased crop insurance as required.
- Four producers misrepresented their production to increase their crop insurance indemnities and FSA LDP payments. Two producers received improper indemnities of \$34,247 and two producers received excessive LDP payments totaling \$2,358. Two of the producers were referred to the OIG-I for further review.

In conclusion, most producers properly completed program applications and received proper program payments. However, as reported in prior audits of disaster assistance programs, we still found producers who were overpaid because they improperly certified to or misrepresented key program information. FSA needs to emphasize to producers the importance of providing correct information and making accurate certifications and to direct compliance reviews towards areas that continue to result in producer overpayments. Also, FSA needs to correct \$394,746 in CLDAP overpayments resulting from county office errors that we reported in the Statement of Conditions issued to the FSA State Offices.

RECOMMENDATION NO. 3

To the FSA Administrator:

Remind county offices to inform all applicants of the importance of providing correct information and making correct certifications for future disaster assistance programs. Also, instruct FSA compliance personnel to direct their 1999 Crop Disaster Program (CDP) compliance reviews toward the areas where most program errors occurred.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that they would continue to emphasize the importance of accurate producer certifications and associated adverse consequence of false data. FSA compliance personnel developed a random sample selection process to target county offices with the greatest probability of problems for the 1999 CDP. FSA directed compliance reviews toward county offices with the highest volume of applications in each State and where RMA records were not available because the crops were not insured.

OIG Position

We agree with the actions taken to target compliance reviews to county offices with the greatest probability of problems and the plan to direct compliance reviews toward the most vulnerable areas. However, FSA needs to provide written guidance to county offices for improving producer provided information and certifications.

To reach a management decision we need to be advised of the corrective action planned or taken to remind county offices to inform all applicants of the importance of providing correct information and making correct certifications for future disaster assistance programs and the timeframe to implement the corrective action.

RECOMMENDATION NO. 4

To the FSA Administrator:

Instruct the FSA State offices to correct the CLDAP and NAP program overpayments and underpayments as described in the Statements of Conditions.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that by July 15, 2000, FSA would contact each applicable State office to ensure that all required follow-up action has been completed.

OIG Position

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. We also need to be advised that underpayments have been corrected.

RECOMMENDATION NO. 5

To the FSA Administrator:

Instruct the State offices to coordinate with OIG-I for those cases referred for further review and determine if the producers made misrepresentations on their CLDAP or LDP applications and to recover any CLDAP or LDP overpayments.

FSA Response

In its written comments on the draft report (see exhibit D), FSA agreed to implement the recommendation as presented.

OIG Position

To reach a management decision we need to be advised of the action taken on the cases referred for investigation and provided documentation 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 CLDAP or LDP overpayments have been collected from the cited producers.

RECOMMENDATION NO. 6

To the RMA Administrator:

Follow up and determine if the producers cited in the Statements of Conditions issued to the St. Paul and Kansas City Compliance Offices misrepresented their 1998 production in order to increase their crop insurance indemnities. Also, coordinate with OIG-I on the case involving the crop insurance agent and two producers and recover any overpaid indemnities as needed.

RMA Response

In its written comments on the draft report (see exhibit E), RMA concurred with the recommendation and will provide copies of the final determinations made by each compliance office.

OIG Position

To reach a management decision we need to be advised of the action taken on the cases referred to RMA compliance and OIG-I and provided documentation 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.

CHAPTER 4

SOME PROGRAM AREAS NEEDED IMPROVEMENTS

Program managers did not always effectively apply certain program provisions. They did not correctly establish liquidated damages in the CLDAP contract; restrict payments to producers on RMA's ineligible producer list; establish appropriate program payment factors; preclude producers from receiving both single-year and multi-year CLDAP payments; make appropriate gross revenue determinations; and ensure that claims for NAP assistance were based on verifiable disaster losses. This occurred because of oversight by FSA personnel and because they did not always coordinate the development of program payment factors and the processing of payments to multi-county producers. These deficiencies contributed to program waste and abuse and reduced the effectiveness of the program payments.

FINDING NO. 5

LIQUIDATED DAMAGES WERE NOT SPECIFIED IN THE CONTRACT

FSA did not include in the CLDAP contract the amount of liquidated damages for noncompliance with the crop insurance linkage requirements. FSA personnel stated that the omission was an agency oversight. As a result, producers were not adequately informed

of the liquidated damages, and significant noncompliance existed with this requirement in the 1998 CLDAP. RMA and FSA records show that 48,785 producers were required to purchase crop insurance for 1999 and 2000 to comply with the crop insurance linkage requirements. However, as of January 20, 2000, about 21,400 producers who received about \$70 million in CLDAP payments had not purchased crop insurance.

The Act¹⁵ provides that the amount of the liquidated damages shall be specified in the contract agreed to by the producer. However, forms CCC-540, Crop Loss Disaster Assistance Program, CCC-540A Notice of Loss/Production Worksheet 1998 Crop Loss Disaster Assistance, and CCC-541, Statement of Agreement to Purchase Crop Insurance, did not show the amount of liquidated damages that would be assessed for non-compliance with the crop insurance linkage requirements. FSA National Office personnel and OGC personnel agreed that the CLDAP contract did not contain the required statement. FSA personnel stated that they had overlooked the requirement while OGC personnel attributed the omission to the short time frame for implementing the program.

As of January 20, 2000, FSA and RMA have identified 21,363 producers who received 1998 CLDAP payments but did not have a 1999 crop

¹⁵ The Omnibus Consolidated and Emergency Supplemental Appropriations Act, Public Law 105-277, dated October 21, 1998.

insurance policy on file in RMA's database. This number does not include all producers who were paid for uninsured crops in 1998 and were required to purchase crop insurance in 1999 and 2000 on all crops of economic significance in their farming operations.¹⁶ FSA did not collect sufficient information to identify these producers when they processed the CLDAP applications for payment. FSA personnel advised us that they planned to follow up on the noncompliance cases in February 2000. They intend to assess liquidated damages in accordance with program procedures.

In conclusion, FSA did not fully implement the liquidated damage provisions for noncompliance with the crop insurance linkage requirements as required under the Act. Therefore, participating producers were not properly notified of the liquidated damages provision. Significant noncompliance with this requirement existed in the 1998 CLDAP. Therefore, FSA and RMA need to work together to improve producer compliance with this program provision. FSA recognized the omission of the required statement on the 1998 CLDAP contract and for the 1999 CDP the liquidated damages provisions were included on form CCC-549, Crop Insurance Agreement

RECOMMENDATION NO. 7

To the FSA and RMA Administrators:

Jointly develop and implement a plan to improve compliance with the crop insurance

linkage requirement.

FSA & RMA Response

In its written comments on the draft report (see exhibit D), FSA stated that linkage requirement procedures were changed for the 1999 CDP. The linkage requirement was made crop specific which will increase FSA's ability to target producers who have not fulfilled their linkage requirement. FSA and RMA will merge files to identify producers who received disaster program payments but who have no corresponding active insurance file for the required following years.

In its written comments on the draft report (see exhibit E), RMA concurred with the recommendation and with FSA's proposed corrective action.

OIG Position

We agree with the proposed corrective action. To reach a management decision we need to be advised of the timeframe for implementation of the corrective action.

¹⁶ 7 CFR Part 1477.108 and FSA Handbook 1-DAP, Amendment 12, par. 1001 A.

FINDING NO. 6
PAYMENTS TO INELIGIBLE
PRODUCERS

Producers ineligible for crop insurance because they were indebted for prior year premiums were allowed to receive CLDAP benefits, because FSA and RMA program managers did not implement controls to prevent the ineligible producers from receiving

CLDAP payments. In effect, the producers were not required to pay their prior year debts and establish their eligibility for CLDAP payments. We determined that 969 of the 1,118 ineligible producers listed on RMA records were improperly paid about \$8.8 million in CLDAP payments.

FSA Handbook 1-DAP, paragraph 1001A, dated March 24, 1999, provided that producers who are ineligible to purchase crop insurance because of indebtedness shall not be eligible to receive CLDAP payments. FSA and RMA personnel stated that even though the procedures were in place, the agencies decided to allow the ineligible producers to sign-up for the program. This decision was made because the program sign-up period ended before the crop insurance sales closing date of March 15, and the agencies did not want to discourage producers from signing-up for the program. They maintained that the producers could easily become eligible for CLDAP by paying their crop insurance debt before the sales closing date. However, the CLDAP sign-up period was extended to April 16, 1999, which was beyond the latest crop insurance sales closing date for buy up policies and shortly before the latest date to purchase catastrophic coverage of April 28, 1999.

When the 1999 crop insurance sales closing date ended (April 8, 1999), the producers with delinquent crop insurance debts were essentially ineligible for CLDAP benefits. However, FSA began making CLDAP payments about 30 days after the last sales closing date and did not require producers on the ineligible list to show proof of eligibility prior to disbursing payments. FSA personnel stated that ineligible producers receiving CLDAP payments would be identified during the crop insurance linkage spot checks and will be assessed liquidated damages for not having crop insurance. We question whether the producers are eligible for any benefits since they cannot satisfy a basic eligibility requirement.

We obtained RMA's list of ineligible producers for February and June 1999 and identified the producers that remained on the ineligible list after the crop insurance sales closing date. We contacted the reinsured companies to confirm that the producers were ineligible to purchase crop insurance according to their records. We identified 1,118 producers that were potentially ineligible for CLDAP because of an outstanding crop insurance debt. We compared these producers to RMA's policy database and found that 139 of the producers had either paid their crop insurance debt prior to the sales closing date, were improperly included on the list due to a data transmission error, or were in bankruptcy. The remaining

979 producers should not have received CLDAP payments. However, CLDAP payment files show that 969 producers received CLDAP payments totaling \$8,793,695 (\$5,158,280 single-year payments and \$3,635,415 multi-year payments) and 10 producers received no CLDAP payments. Further analysis of the ineligible list showed that some of the producers had been on the list for several years. The list included 23 producers from 1990 to 1996, 393 from 1997, 258 from 1998, and 295 from 1999 determinations, respectively.

FSA did not implement procedures to preclude producers on RMA's ineligible list from improperly receiving CLDAP payments. The producers were ineligible to receive CLDAP benefits because they could not purchase crop insurance, which is a basic requirement for receiving the CLDAP payments. Therefore, these producers should be required to repay the entire amount of their CLDAP payment. FSA also needs to implement procedures to prohibit the payment of disaster payments until producers have fully established their eligibility. Implementation of all CLDAP eligibility requirements could have significantly reduced the number of producers receiving CLDAP overpayments.

RECOMMENDATION NO. 8

To the FSA Administrator:

Instruct the State offices to review the producers who did not purchase crop insurance and recover any unearned CLDAP benefits, or assess liquidated damages, as appropriate.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that FSA and RMA merged computer files to identify producers who received CLDAP program payments and had no corresponding active insurance file for the required following years. On February 3, 2000, FSA issued Notice DAP-65 that outlined procedures for county offices to follow for determining compliance with crop insurance linkage requirements. On June 23, 2000, FSA issued Notice DAP-79 that provided for State and county offices to document the results of compliance with the crop insurance linkage requirements for CLDAP.

OIG Position

To reach a management decision we need documentation showing the results of FSA's compliance reviews of crop insurance linkage requirements for the 1998 CLDAP. We also need documentation 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 for noncompliance determinations.

RECOMMENDATION NO. 9

To the FSA Administrator:

Require producers to fully establish their eligibility for disaster benefits including the purchase of required crop insurance policies before issuing program payments to them.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that the 1998 CLDAP and the 1999 CDP have been completed and no changes are possible for those programs at this time. FSA stated that upon passage of new disaster legislation they would review the legality and timeliness of requiring producers to establish their eligibility before issuing program benefits to them.

OIG Position

We accept the management decision.

FINDING NO. 7

INCORRECT PAYMENT FACTORS ESTABLISHED

Disaster program payment factors for CLDAP and NAP in Texas, California, and Colorado were improperly established. FSA National and State office personnel did not coordinate the establishment of the rates and did not reconcile the established payment rates

between the two disaster programs. As a result, producers in Texas received questionable CLDAP payments on 16 crops where the CLDAP payment factors were higher than those for the NAP.

CLDAP procedures¹⁷ require the State committees to establish prices for noninsurable crops that need a new or modified price. In addition, for each crop produced with a significant and variable harvesting expense, the State committee shall establish unharvested and prevented planting payment factors using guidelines outlined in FSA Handbook 1-NAP. The State committee will submit the payment factors to the FSA National Office for concurrence.

As reported in Finding No.1, the CLDAP prevented planting payment rates for snow, snap, and English peas and the unharvested payment factor for cherries in California were established at different levels than those used for the NAP. Also, the Colorado State FSA Committee did not include machinery costs (depreciation wear and tear) when establishing the payment factors. Our review also showed that the Texas State FSA Office

¹⁷ FSA Handbook 1-DAP, Amendment 9, par.1057, dated February 9, 1999, and Amendment 12, par. 1056, dated March 24, 1999.

did not ensure that payment factors for CLDAP and NAP were established at the same level. We identified 21 crops that had different levels of prevented planting and/or unharvested factors established for each program. The following table illustrates the variances we found in a sample of 5 payment factors.

PAYMENT FACTOR DIFFERENCES						
CROP	PREVENTED PLANTING PAYMENT FACTOR			UNNHARVESTED PAYMENT FACTOR		
	NAP	CLDAP	DIFF	NAP	CLDAP	DIFF.
GRAIN SORGHUM	.18	.55	.37	.70	.86	.16
FIGS	0	0	0	.49	.60	.11
MILLET	.10	.55	.45	.70	.70	0
SOYBEANS	.40	.50	.10	.85	.80	-.05
TOMATOES	.15	.38	.23	.45	.45	0

In addition to the variances found between the payment factors established for the two disaster programs, we also found differences in payment factors between counties in Texas. For example, the CLDAP unharvested payment factor for cattail millet in Burleson County, Texas, and the NAP unharvested payment factor for alfalfa in Floyd County, Texas, were established at different levels when compared with the other counties in the State (i.e., .80 compared to .70 established for cattail millet and .70 compared to .75 for alfalfa).

Texas State Office personnel generally agreed that the payment factors for CLDAP and NAP should be similar. They stated that the differences in the payment factors occurred because the State office did not coordinate the establishment of the payment factors internally. The Production Adjustment Division established the factors for CLDAP and Compliance/Risk Management Division established the factor for the NAP. On September 14, 1999, FSA National Office personnel stated that they had reviewed the submitted payment rates and factors to ensure they were established at a reasonable level but did not compare them to rates established for other programs.

In summary, we identified inconsistent payment factors for similar programs in Texas, California, and Colorado that created erroneous payments for the affected producers. In the future, FSA needs to reconcile payment data for multiple programs and resolve differences prior to making program payments.

RECOMMENDATION NO. 10

To the FSA Administrator:

Direct FSA State office personnel to coordinate internally and reconcile the development of crop payment factors and rates used for similar disaster programs.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that to increase program compatibility between the 1999 CDP and the NAP program, NAP procedures were adopted for the 1999 CDP. FSA required unharvested and prevented planting factors to be the same throughout the State and equal to the factors used under the NAP program. FSA also agreed that, to the extent allowed by disaster legislation, payment rates should be consistent among programs.

OIG Position

FSA adopted one set of program procedures to increase program compatibility between disaster programs for the 1999 CDP. The FSA National office required that 1999 CDP factors be the same throughout the State and be equal to NAP factors. We accept the management decision.

FINDING NO. 8

PRODUCERS RECEIVED SINGLE AND MULTI-YEAR PAYMENTS

Producers received both single-year and multi-year CLDAP program payments. This occurred, in part, because FSA county offices did not always coordinate multi-county producer payments with the control county and FSA's automated system allowed producers to receive disaster benefits from both single-year and multi-year CLDAP programs under one producer's identification number. We identified 47 producers who were overpaid \$292,589 in CLDAP payments, 11 producers who were underpaid \$70,165, and 5 producers who were paid from the wrong fund.

Program regulations¹⁸ provide that a producer may receive disaster benefits under either the single-year or multi-year CLDAP provisions, but not both. The regulation also provides that a producer qualifying for disaster benefits under both the single-year and multi-year programs may receive payment from the program that provides the greatest benefit to the producer.

Our review of the program payment data files disclosed 63 producers who received payments for both single-year and multi-year losses. We determined that 55 of the producers received an initial payment from the wrong program funds (single-year or multi-year) because the producer's

¹⁸ Federal Register Vol. 64, No. 72, dated April 15, 1999, 7 CFR Part 1477.106(a) and (b).

most beneficial program changed later. When the producer's most beneficial program changed, the final payment was made from a different fund and the initial payment was not corrected in the automated system. Twenty-four of these overpayments occurred when the producer had multi-county interests and the control county changed as a result of a change in the most beneficial program. We also found that one producer was paid as an individual from the single-year program fund and then again as a revocable trust from the multi-year program. Both payments were issued under the same identification number. In addition, five payments were made from the wrong fund, in one instance the entity members were paid rather than the entity resulting in an underpayment, and one producer initially received both a single-year and multi-year payment.

FSA program procedures¹⁹ provide that if a producer was inadvertently paid from both programs, the initial payment will be listed on the overpayment register and a notification letter will be mailed to the producer. The procedures also provide for county offices to calculate overpayments for all producers at least once every 60-calendar days to ensure that the finality rule will not apply. On September 13, 1999, we contacted a county office concerning payments to a producer from both the single-year and multi-year program funds. FSA county office personnel stated that they were not aware the producer had received an initial multi-year CLDAP payment on June 4, 1999, and a revised most beneficial single-year CLDAP payment on June 23, 1999, because the most beneficial payment was made by another FSA county office. Further review disclosed that the producer was listed on the FSA county office's overpayment register and as the result of our inquiry, the county office initiated collection of the overpayment. However, in 10 days, the finality rule²⁰ would have applied and FSA may not have been able to collect the \$22,475 overpayment.

In conclusion, FSA is aware of these cases and FSA county offices were provided guidance to resolve the CLDAP overpayments. However, FSA county offices did not always coordinate multi-county producer payments with the control county and ensure that the payments were corrected.

RECOMMENDATION NO. 11

To the FSA Administrator:

Follow up with FSA State offices and determine if the CLDAP overpayments resulting from duplicate benefits were properly resolved and any overpayments collected or claims established as appropriate.

¹⁹ FSA Handbook 1-DAP, Amend. 24, par. 1291 and 1292, dated July 14, 1999.

²⁰ A farmer need not repay an overpayment unless it is discovered within 90 days of the date of the payment or the application for program benefit, fraud is involved, or the farmer was aware that an error had occurred.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that additional requirements were placed upon District Directors to ensure the overpayment process was followed in all county offices. In addition, software modifications were made to “force” an overpayment register if it has not been run in the previous 60 days.

OIG Position

To reach a management decision we need documentation 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. We also need to be provided documentation that underpayments have been corrected.

FINDING NO. 9

INCORRECT FSA COUNTY OFFICE DETERMINATIONS

In San Joaquin County, California, FSA personnel did not properly make gross revenue determinations, and did not use the proper payment rate for cherries. This occurred because the COC and county office personnel did not always follow program procedures. As

a result, 10 of 44 applications reviewed were overpaid \$448,006 in CLDAP and NAP benefits.

CLDAP and NAP program handbooks require COC members to review county office records and use personal knowledge of the “person’s” interest to determine whether they [the COC] are satisfied that the “person” is not likely to have exceeded the \$2.5 million revenue limitation for CLDAP and \$2 million revenue limitation for NAP. The COC’s are also directed to identify those “persons” for whom they [the COC] have insufficient information to determine whether the qualifying gross revenue limitation has been exceeded, and notify these “persons” that evidence of their eligibility must be provided. The COC should ensure that no payment is issued to any “person” who has not satisfactorily established eligibility for payment.²¹ FSA procedures require that NAP assistance for crops with a specific intended use be based on the smaller of the approved average market price established for either (1) the specific intended use reported, or (2) the actual market or actual use for which more than 50 percent of the acreage’s harvested production is marketed.²² NAP guidance does not give State committees, COC’s and their employees or representatives’ authority to

²¹ FSA Handbooks, 1-DAP, Amendment 9, par. 1002 C, dated February 9, 1999, and 1-NAP, Amendment 7, paragraph 31 G, dated September 1, 1998.

²² FSA Handbook 1-NAP, Amendment 9, par. 174 B, dated November 20, 1998.

modify or waive any regulatory provisions or procedures applicable to NAP.²³

We reviewed 30 of 2,287 CLDAP, and 14 of 354, 1998 NAP applications in San Joaquin County, California, and found that the COC and county office personnel did not make correct gross revenue determinations and used incorrect payment factors:

- Seven CLDAP and NAP applicants exceeded the gross revenue limitations for the programs. This occurred because the San Joaquin COC did not follow up or take action on income documents provided by the producers that indicated that the producers may have exceeded the gross revenue threshold. We obtained additional information from the applicants and confirmed that all seven producers were ineligible for program benefits because they exceeded the gross revenue limitation. The producers received overpayments totaling \$251,312.²⁴
- Three producers received excessive NAP payments for processed cherries. This occurred because the FSA county executive director used the fresh cherry market price of \$2,310 per ton rather than the processed cherry market price of \$517 per ton. The county executive director stated that the fresh cherry market price was used because the NAP did not fairly compensate producers. As a result, the producers were overpaid \$196,694.²⁵

We concluded that the COC and county office personnel did not always follow program procedures and disbursed improper CLDAP and NAP payments. The California State FSA Office needs to provide guidance to the San Joaquin COC for determining if the qualifying gross revenue limitation has been exceeded and to follow up on the program deficiencies.

RECOMMENDATION NO. 12

To the FSA Administrator:

Require the California State FSA Office to provide additional guidance to the San Joaquin COC for determining if the gross revenue limitation has been exceeded and to county office personnel on the use of payment rates.

²³ FSA Handbook 1-NAP, Amendment 7, par. 1 E, dated September 1, 1998.

²⁴ The 7 producers also incorrectly certified to their gross revenue (see Finding No. 4).

²⁵ The monetary amount is included in Findings Nos. 1 and 4.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that a county executive director was hired for the San Joaquin county FSA office and the California State FSA Office program specialist has provided training and instructions to the county executive director and the COC regarding all FSA provisions dealing with gross revenue limitations and program payment rates. The California State FSA Office also issued a State notice clarifying gross revenue issues to all of their counties.

OIG Position

We agree with the management decision.

RECOMMENDATION NO. 13

To the FSA Administrator:

Follow up with the California State FSA Office to ensure that the improper program payments described in the Statement of Conditions were corrected or claims established as appropriate.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that by July 15, 2000, FSA would contact each applicable State office to ensure that all required follow-up action has been completed.

OIG Position

To reach a management decision we will 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 provided evidence that the overpayment has been collected.

FINDING NO. 10

UNSUPPORTED NAP CLAIMS

NAP claims in Lynn County, Texas, were based on disaster losses that could not be verified. This occurred because the county's disaster designation was approved 4 to 12 months after the losses had occurred, producers did not timely file notices of loss, and field inspections were not always performed to verify existing crop losses. As a result, payments were made without reasonable assurance that the crop losses actually occurred and that the benefits paid were justified.

To be eligible for disaster assistance, the producer must provide the FSA with a notice of loss within 15 calendar days after the disaster occurred or

the date damage to the crop becomes apparent to the producer.²⁶ The COC can accept late filed notices of loss if the reported disaster information can be verified by inspection of the specific acreage involved. In addition, if there is a question regarding the specific crop acreage or claimed disaster condition, including the amount of acreage or inventory for value loss crops, the FSA county office is required to make a field visit within 5 calendar days after a notice of loss is filed.²⁷

Our review showed that the Lynn FSA County Office had 151 NAP applications for the 1998 crop year. We reviewed 10 of the applications for peppers, peanuts, sudan grass, sunflowers, peas, corn, and pecans with final planting dates for the crops ranging from June 10, 1998, through July 15, 1998, and found the following.

- The producers filed their notices of loss from July 28, 1998, through March 9, 1999, with six producers filing their notices of loss after January 15, 1999; 15 calendar days after the end of the STC-designated disaster period. The State office did not waive the notice of loss requirements.
- A field inspection was not made for one application, and, in four cases, the inspections were not made until March and April 1999, when it was not possible to verify disaster losses.
- In 1 of the 10 cases, the producer planted a crop after the final planting date for that crop. The producer reported on Form FSA-574, Request for Acreage/Disaster Credit, that sunflowers were planted through July 4, 1998, which is after the June 30, 1998, normal planting date.

FSA county office personnel acknowledged forms FSA-574 were not timely filed. They said that because of the nature of the disaster conditions (drought and heat), most of the producers were not aware of the extent of their losses until after the crops failed. Therefore, on April 13, 1999, the Lynn FSA County Office submitted a 1998 NAP area request to the State office. On April 20, 1999, the Texas State Committee approved Lynn County as a designated NAP area due to drought and excessive heat from April through December of 1998. The disaster designation for losses in Lynn County was approved approximately 4 months after the disaster occurred. As of August 27, 1999, the Lynn FSA County Committee had not approved any 1998 NAP applications.

In their response to our Statement of Conditions, Texas State FSA officials disagreed that the untimely notices of loss for NAP were the result of the

²⁶ FSA Handbook 1-NAP, Amendment 2, par. 401 A, dated March 28, 1997.

²⁷ FSA Handbook 1-NAP, Amendment 9, paragraphs 401 B and E, dated November 20, 1998.

STC's late approval of Lynn County's disaster designation. A State office official believed that NAP procedures require producers to timely file notices of loss, regardless of the anticipated approval, or disapproval, of a NAP area and that the State office approval date should not be identified as a reason why notices of loss were not filed timely by producers. A Fact Sheet was developed by the Texas State FSA Office and distributed to counties in September 1999 to help county offices ensure producers understand the requirements for filing notices of loss and other producer responsibilities under the NAP provisions. FSA was conducting target reviews of the NAP throughout Texas and a report of the findings from these reviews will be used by the State FSA office to address additional concerns with the implementation of NAP and other crop emergency programs.

The Texas State Office was in a position to identify and prevent the approval of a NAP area designation based on the timing of the county office NAP area request. The FSA county office should ensure that notice of losses are timely filed and that field inspections are timely performed.

RECOMMENDATION NO. 14

To the FSA Administrator:

Instruct the Texas State FSA Office to review NAP area requests more closely and to confirm that the NAP area requests submitted by FSA county offices are proper and satisfy program requirements.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that the FSA Compliance Branch has reminded the Texas State FSA Office of the importance to confirm the legitimacy of all proposed NAP areas before submission to the FSA NAP Branch for consideration.

OIG Position

To reach a management decision we need documentation showing the personnel involved in the discussion and a copy of the correspondence sent to the Texas State FSA Office.

RECOMMENDATION NO. 15

To the FSA Administrator:

Require the Texas State FSA Office to review the cases and determine if producers complied with NAP provisions and recover any improper NAP payments made.

FSA Response

In its written comments on the draft report (see exhibit D), FSA stated that the Texas State FSA Office and Lynn County FSA staff reviewed the applicable program applications. The Texas State FSA Office required the county office to undertake any corrective action needed to correct deficiencies. The State office will follow up to ensure all required corrective action has been completed.

OIG Position

To reach a management decision we need documentation of the cases reviewed and the Texas State FSA Office compliance determinations for the cited cases. For any identified overpayments, we need documentation 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 provided evidence that the overpayment has been collected.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

FINDING NO.	DESCRIPTION	AMOUNT	CATEGORY
1 and Exhibit C	Agencies Worked Together to Preclude Improper Payments	²⁸ \$274,547	Funds to Be Put to Better Use (FTBPTBU)
4 and Exhibit C	Improper CLDAP and NAP Payments Due to Producer and/or County Office Errors	²⁹ 1,080,685	Questioned Costs, Recovery Recommended
		65,655	Underpayments
	Excessive Crop Insurance Indemnities	³⁰ 149,178	Questioned Costs, Recovery Recommended
	LDP Overpayments	³¹ 2,358	Questioned Costs, Recovery Recommended
6	CLDAP Payments Issued to Producers Ineligible for Crop Insurance	8,793,695	Questioned Costs, Recovery Recommended
8	Producers Received Both Single- and Multi-Year CLDAP Payments	292,589	Questioned Costs, Recovery Recommended
	Producers Were Not Paid Under Most Beneficial (Single-Year or Multi-Year) Provisions	70,165	Underpayments
Total³²		\$10,457,232	

²⁸ \$497,854 (\$458,041 potential overpayments and \$39,813 potential underpayments) less \$223,307 reported in Audit No. 50801-9-Te., dated August 1999.

²⁹ \$821,548 in producer overpayments and \$394,746 in county office errors less \$135,609 reported in finding no. 1. Exhibit C, actual overpayment of \$1,083,043 includes this amount and \$2,358 in LDP overpayments.

³⁰ \$114,931 was referred to OIG-I and \$34,247 was reported in our Statements of Conditions to the Kansas City and St. Paul RMA Compliance Offices.

³¹ See footnote 30.

³² Net Amount.

EXHIBIT B – AUDIT SITES

PHASE I			
STATE	STATE	STATE	STATE
Arkansas	California	Georgia	Illinois
Miller	Tehama	Grady	Clark
Lincoln	Tulare	Decatur	Piatt
White	Kings	Dooley	Champaign
Jefferson	Merced	Crisp	Douglas
	Ventura	Burke	
Michigan	Minnesota	North Carolina	North Dakota
Shiawassee	Redwood	Wake	Cass
	Marshall	Johnston	Benson
	West Polk	Nash	Cavalier
	Clay	Grandville	Hettinger
		Edgecombe	
South Dakota	Texas	Martin	Wisconsin
Beadle	Comanche	Pitt	Marathon
Charles Mix	Brooks	Greene	
Brown	Floyd	Wilson	Missouri
Perkins	Willacy	Franklin	Vernon
	Wharton	Wayne	
Virginia		Duplin	Kansas
Dinwiddie		Bladen	Douglas
Amelia		Sampson	Jefferson
Mecklenburg		Columbus	Shawnee

PHASE II			
STATE	STATE	STATE	STATE
Arkansas	California	Colorado	Georgia
Chicot	Glenn	Otero	Bulloch
Desha	San Joaquin	Phillips	Decatur
	San Luis Obispo	Weld	
	Stanislaus	Yuma	
Kansas	Louisiana	Michigan	Missouri
Douglas	Franklin	Berrien	Clark
Jefferson		Gratiot	Pemiscot
Shawnee			
North Carolina	North Dakota	South Dakota	Texas
Columbus	Benson	Beadle	Hidalgo
Robeson	Nelson	Brown	Lamar
Sampson	Ramsey	Kinsbury	Lynn
Wayne		Perkins	
		Charles Mix	
Virginia	Wisconsin		
Pittsylvania	Ashland		
Dinwiddie	Marathon		
Amelia*			

Amelia County also administers Chesterfield and Powhatan Counties

EXHIBIT C – SUMMARY OF STATEMENTS OF CONDITIONS ISSUED

<u>State</u>	<u>Audit No.</u>	<u>Issue Date</u>	Potential Over/ (under) Payments <small>³³</small>	Actual Over/ (under) Payments <small>³⁴</small>
Wisconsin	50801-10-Ch	July 9, 1999	\$1,181	\$ 0
Kansas	50801-3-KC	July 14, 1999	0	0
North Carolina	50801-10-At	July 20, 1999	6,917	0
Arkansas	50801-10-Te	July 28, 1999	5,177	7,456
Louisiana ³⁵	50801-9-Te	August 2, 1999	223,307	0
Virginia	50801-3-Hy	August 5, 1999	0	0
Missouri	50801-9-KC	August 20, 1999	8,220 (1,643)	8,242
Michigan	50801-9-Ch	August 20, 1999	0	21,468
Texas	50801-8-Te	August 30, 1999	32,167 (10,257)	26,292
South Dakota	50801-6-KC	September 1, 1999	51,759	
California	50801-2-SF	September 9, 1999	76,139 (27,744)	988,507 (65,655)
North Dakota	50801-10-KC	September 20, 1999	3,924	3,018
Colorado	50801-7-KC	September 29, 1999	9,390 (169)	
Georgia	50801-9-At	October 4, 1999	39,860	28,060
TOTALS			\$458,041 (\$39,813)	\$1,083,043 (\$65,655)

<u>RMA Office</u>	<u>Audit No.</u>	<u>Date</u>	<u>Overpayments</u>
St. Paul RMA Compliance Office	50801-10-KC	October 8, 1999	Questionable crop insurance claim – unreported production- \$14,220
Kansas City RMA Compliance Office	50801-9-KC	October 8, 1999	Questionable crop insurance claim – unreported production- \$20,027

³³ Monetary amounts in this column pertain to Finding No. 1.

³⁴ Monetary amounts in this column pertain to Finding No. 4.

³⁵ This was an Audit report to the Louisiana State FSA Office.

EXHIBIT D – FSA RESPONSE TO DRAFT REPORT



United States
Department of
Agriculture

June 29, 2000

Farm and Foreign
Agricultural
Services

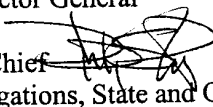
Farm Service
Agency

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. 50801-3-KC, Crop Loss Disaster Program

Enclosed is a copy of a memorandum dated June 29 from the Farm Service Agency's (FSA's) Deputy Administrator for Farm Programs, which responds to your May 10 request for information regarding the subject audit.

Please address any questions to Karren Fava, FSA, Audits, Investigations, State and County Review Branch, at 720-6152.

Enclosure

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JUN 29 2000

United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

Farm Service
Agency

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

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

FROM: *for* L. W. Mitchell
Deputy Administrator for Farm Programs *Christie White*

SUBJECT: Response to OIG Audit No. 50801-3-KC, Crop Loss Disaster Program

The official draft report lists 15 Recommendations to FSA. This memorandum addresses FSA's response to each of those items.

Recommendation No. 1

Implement regulations and procedures to limit disaster payments to the value of a producer's expected gross income for the crop.

FSA Response to No. 1

Of the 570 crop insurance policies reviewed at the 75 percent coverage level, OIG determined 29 received more than their expected gross returns for corn. This represents 5 percent of the policies reviewed.

In determining producers who received more than the expected gross income for the crop, OIG used a formula for calculating expected gross income obtained from the FSA Handbook 1-PAD. However, it does not appear that OIG deducted the crop insurance premiums paid by the producer from the disaster payment before comparing net disaster benefits to expected gross income. Taking the cost of the producers' paid premium into the account would likely show that the amounts are nearly equal.

To reduce disaster payment for those producers who purchase Federal crop insurance at the 75 percent level would directly conflict with the intent of Congress to utilize the disaster program to promote the purchase of buy-up of crop insurance.

FSA has evaluated CLDAP payments taking into account:

- 1998 actual market prices
- FSA \$ 80,000 payment limitation
- FSA Gross Income restrictions
- FSA unharvested and prevented planting factors
- FSA maximum loss levels

FSA stands by the previous evaluation that adequate safeguards are already in place to prevent producers from exceeding their expected gross 1998 returns.

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Recommendation No. 2

Develop procedures and regulations that adjust payments for any cases where inflated or erroneous crop insurance indemnities are used as a basis for payment in future disaster programs.

FSA Response to No. 2

See attachment of previous FSA response to the OIG management alert on this issue.

Recommendation No. 3

Remind county offices to inform all applicants of the importance of providing correct information and making correct certifications for the impending year 2000 and future disaster assistance programs. Also, instruct FSA compliance personnel to direct their 1999 crop disaster program compliance review toward the areas where most program errors occurred.

FSA Response to No. 3

The 1999 disaster compliance program targets county offices with the highest volume of applications in each State. The national selection criteria places a priority upon areas where applications were not able to make use of RMA records because the crops were not insurable. Emphasis was also place on county offices where there was a high percentage of multiple market crops and uninsured crops.

In addition to the national compliance selection process:

- Each State FSA office is being directed to add additional county offices to the spot check list if problem areas are known or suspected .
- Each selected county office chosen for spot-checking is being directed to add to the random sample any applications in which suspected or potential irregularities exists.

Although a random selection process is being used for the 1999, FSA is targeting county offices with the greatest probability of problems, and flexibility has been build into the process to allow the capture of suspected problem areas in addition to a purely statistical random selection criteria.

In response to the 1998 CLDAP spot check results, FSA added to the compliance program procedures for district Director reviews, second party reviews, and employee reviews (Handbook 2-DAP, paragraph 379).

Philip Sharp, Chief

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FSA will continue to emphasize to producers the importance of accurate producer certifications and associated adverse consequences of false data. This includes training sessions, conference calls, national notices, disaster handbooks, and amendments.

Recommendation No. 4

Instruct the State FSA offices to correct the CLDAP and NAP program overpayments and under payments as described in the Statements of Conditions.

FSA Response to No. 4

FSA will implement Recommendation 4 by contacting each applicable State office to be certain all required follow-up action has been completed. This will be completed through memorandums to the State offices by July 15.

Recommendation No. 5

Instruct the State offices to coordinate with OIG-I for those cases referred for further review and determine if the producers made misrepresentations on their CLDAP or LDP applications and to recover any overpaid CLDAP or LDP payments.

FSA Response to No. 5

FSA will implement the OIG Recommendation No. 5 as presented. Exhibit C of this report indicates six producers were referred to investigators for potential misrepresentations on their crop insurance claims and/or disaster applications. Although Exhibit C did not list the individual producers, follow-up action will be taken upon receipt of the individuals names, State, and county to FSA by OIG.

The appropriate State FSA offices will be contacted by memorandum, by July 15 to coordinate investigation efforts and take follow up action on any resulting overpayments.

Recommendation No. 6

Recommendation No. 6 was directed to RMA. No FSA response is warranted.

Recommendation No. 7

Jointly develop and implement a plan to improve compliance with the crop insurance linkage requirement.

Philip Sharp, Chief

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FSA Response to No. 7

FSA has improved the linkage requirement compliance procedure with a change implemented under the 1999 CDP. The linkage requirement was made "crop specific." This will greatly increase FSA's ability to target producers who have not fulfilled their linkage requirement.

Just as under the 1998 CLDAP, FSA and RMA will merge computer files to come up with a listing of producers who received disaster program payments but who have no corresponding active insurance file for the required following years.

The listing of producers will be downloaded to all county FSA offices. Follow-up action will be required by county offices to obtain a certification statement or proof of crop insurance coverage on eligible crops.

Producers determined to be out of compliance with the linkage requirements will be assessed liquidated damages according to Handbook 2-DAP, paragraph 8.

FSA Notice DAP-65 outlined the procedures for county offices to follow under the CLDAP. Due to the positive results of this effort, a similar procedure will be adopted for the 1999 CDP and additional follow up under the 1998 CLDAP. See attached FSA notice.

FSA has followed up on the requirements of Notice DAP-65 by issuing Notice DAP-79 to all field offices. A copy of Notice DAP-79 is attached.

Recommendation No. 8

Instruct the State offices to review the producers who did not purchase crop insurance and recover any unearned CLDAP benefits, or assess liquidated damages, as appropriate.

FSA Response to No. 8

See FSA response to No. 7.

Recommendation No. 9

Require producers to fully establish their eligibility for disaster benefits, including the purchase of required crop insurance policies, before issuing program payments to them.

Philip Sharp, Chief

Page 5

FSA Response to No. 9

The CLDAP and CDP disaster programs have been completed. No changes are possible to those programs at this time.

FSA cannot commit program procedures to a year 2000 disaster program which has not yet been enacted.

Upon the passage of new legislation, this issue will be reviewed for legality and timeliness regarding the implementation of a new disaster program.

Recommendation No. 10

Direct State FSA office personnel to coordinate internally and reconcile the development of crop payment factors and rates used for similar disaster programs.

FSA Response to No. 10

A change was implemented for the 1999 program by FSA to increase compatibility with NAP. The NAP procedures were adopted for CDP. Previously, the CLDAP unharvested and prevented factors could vary by county. Under the 1999 CDP, FSA required factors to be the same throughout the State and equal to the factors used under the NAP program.

FSA agrees with the OIG position that unharvested and prevented planting factors should be the same between NAP and the disaster program.

We agree to the extent that disaster legislation allows, that payment rates should be consistent among the programs.

Recommendation No. 11

Follow up with the State FSA offices and determine if the CLDAP overpayments resulting from duplicate benefits were properly resolved, any overpayments collected, or claims established as appropriate.

FSA Response to No. 11

In response to the potential duplicate payments (multi-year and single year), FSA has already issued instructions to all field offices. The procedures listed in Notice DAP-45 were designed to identify overpayments and provide procedures for recollections.

The issue was heavily addressed and incorporated into Handbook 1-DAP under paragraph 1292. In addition to requiring county FSA offices to run the computerized overpayment register every 60 days, additional requirements were placed upon District Directors to insure the process is followed in all offices.

Software modifications were made which "force" each county office to take the "all producer" option if an overpayment register has not been run in the previous 60 days.

With the actions already taken by FSA, Recommendation No. 11 has been adequately implemented.

Recommendation No. 12

Require the California State FSA Office to provide additional guidance to COC's for determining if the gross revenue limitation has been exceeded and to county office personnel on the use of payment rates.

FSA Response to No. 12

The OIG recommendation has already been adopted.

The issues raised by OIG concerning San Joaquin County have been fully investigated and addressed by the California STO. The bulk of the gross revenue problems were traced to "off farm" income by program participants. There was also an absence of a CED in that office at the time of program implementation which contributed to the lack of COC guidance.

The personnel deficiencies in San Joaquin County have been resolved with the hiring of a new CED. The California STO specialists have also provided training and instructions to the CED and COC regarding all FSA provisions dealing with gross revenue limitations and program payment rates. The California STO has also issued a State notice clarifying gross revenue issues to all of their county offices.

Recommendation No. 13

Follow up with the California State FSA Office to ensure that the improper program payments described in the Statement of Conditions were corrected or claims established as appropriate.

FSA Response to No. 13

See FSA response to recommendation No. 4.

Recommendation No. 14

Instruct the Texas State FSA Office to review NAP area requests more closely and confirm that the NAP area requests submitted by county FSA offices are proper and satisfy program requirements.

FSA response to No. 14

The Texas STO, through contact with the OIG investigators and the FSA Compliance Branch, has been reminded of the importance to confirm the legitimacy of all proposed NAP areas before submission to the FSA NAP Branch for consideration.

In drought situations, it is not unusual for producers to determine the extent of their loss after harvest. Since the impact of the disaster cannot be fully documented until harvest is complete, NAP applications are sometimes submitted to national headquarters for approval several months after the normal harvest dates. This was the case in Lynn County.

The OIG report also states Texas was conducting target reviews of the NAP throughout Texas at the same time as the OIG investigation. It was the intent of the Texas STO to use the results of the target review to address not only the concerns raised by OIG, but any additional concerns which were discovered.

A Fact Sheet developed by the Texas State FSA Office in 1999 will help deal with the problem of untimely notices of loss.

FSA believes the recommendation by OIG regarding Texas has already been achieved and no further action is needed.

Recommendation No. 15

Require the Texas State FSA Office to review the cases and determine if producers complied with NAP provisions and recover any improper NAP payments made.

Philip Sharp, Chief
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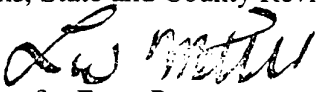
FSA Response to No. 15.

The Texas STO was aware of the OIG review and had taken follow-up action with Lynn County at that time. Each of the program applications in which OIG expressed a concern was reviewed between the Texas STO and Lynn County Office staff. The STO required the Lynn County Office to undertake any corrective action needed to correct deficiencies. The Texas STO will further follow up with the Lynn County Office during the week of June 27 to insure all required corrective action has been completed. As noted in the OIG report, FSA target reviews of NAP were conducted throughout the State to improve NAP implementation.

Attachments

MAY 4 2000

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

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

SUBJECT: OIG Management Alert Audit No. 03099-42-KC(2), Crop Disaster Program

FSA agrees to grant authority to county committees to change downloaded data any time RMA provides written notification to FSA indicating excessive indemnities have been paid as a result of erroneous insurance data. Upon RMA's notification to FSA of the affected State, county, crop, type, practice, and intended use, county committees will be instructed to review the application without regard to the RMA data indicated in error. In such cases, county committees would calculate payments for a particular crop, type, and practice based on the county average yield or other calculation as provided by RMA. Such authority would only be granted in the specific areas indicated by RMA.

FSA was unaware, at the time that 1999 CDP payments were issued, of the excessive RMA yields indicated in the OIG Management Alert. FSA did, however, have in place referral instructions in Handbook 2-DAP for cases of suspected program abuse. These instructions provide a form for FSA offices to use in cases where the county committee becomes aware of potential abuse of the crop insurance program. Instances where the county committee believes excessive indemnities were paid when there are no weather-related disaster conditions are forwarded along with supporting documentation to the RMA Regional Compliance Office for further review. This procedure was used to address the situations outlined in the OIG Management Alert.

EXHIBIT E – RMA RESPONSE TO DRAFT REPORT



United States Department of Agriculture

Farm and Foreign Agricultural Services
Risk Management Agency

TO: James R. Ebbitt
Assistant Inspector General for Audit
Office of Inspector General

FROM: Kenneth D. Ackerman
Administrator

A handwritten signature in dark ink, appearing to read "K. Ackerman", written over the printed name.

JUL 13 2000

SUBJECT: Office of Inspector General (OIG) Draft Audit Report, 50801-3-KC, Crop Loss
Disaster Assistance Program

Outlined below is our response to recommendation numbers 2, 6, and 7 in the subject report.

RECOMMENDATION NO. 2

Develop procedures and regulations that adjust payments for any cases where inflated or erroneous crop insurance indemnities are used as a basis for payment in future disaster programs.

Risk Management Agency (RMA) Response:

In the event of enactment of another disaster program, RMA will at that time, issue procedures to address the above recommendation, to the extent that inflated or erroneous indemnities are known.

RMA requests management decision be reached on recommendation 2.

RECOMMENDATION NO. 6

Follow up and determine if the St. Paul and Kansas City Compliance Offices properly determined if the producers cited in the Statements of Conditions misrepresented their 1998 production to increase their crop insurance indemnities. Recover any overpaid indemnities as needed.



1400 Independence Ave., SW • Stop 0801 • Washington, DC 20250-0801

The Risk Management Agency Administers and Oversees
All Programs Authorized Under the Federal Crop Insurance Corporation

An Equal Opportunity Employer

RMA Response:

RMA concurs with the recommendation and, when issued, will provide to OIG a copy of the final determination issued by each Compliance Office.

RECOMMENDATION NO. 7

Jointly develop and implement a plan to improve compliance with the crop insurance linkage requirement.

RMA Response:

RMA concurs with the recommendation and agrees with the Farm Service Agency's response to this recommendation.

RMA requests management decision be reached on recommendation 7.

If there are any questions, please contact Alan Sneeringer on (202) 720-8813.

ABBREVIATIONS

CCC	
Commodity Credit Corporation.....	8
CDP	
Crop Disaster Program.....	17
COC	
County Committee	6
CLDAP	
Crop Loss Disaster Assistance Program.....	1
FCIC	
Federal Crop Insurance Corporation.....	9
FSA	
Farm Service Agency	1
KCMO	
Kansas City Management Office	2
LDP	
Loan Deficiency Program.....	15
NAP	
Noninsured Crop Disaster Assistance Program.....	1
NASS	
National Agricultural Statistics Service	1
OGC	
Office of the General Counsel.....	11
OIG	
Office of Inspector General – Audit	6
OIG – I	
Office of Inspector General – Investigations	15
RMA	
Risk Management Agency.....	2
USDA	
U.S. Department of Agriculture	9