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Hurricane Indemnity Program - Integrity of Data Provided by the Risk Management Agency

Audit Report 50601-15-At
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SUBJECT: Hurricane Indemnity Program – Integrity of Data Provided by the Risk
Management Agency

This report presents the results of the subject audit. Your written response to the draft report, dated December 24, 2009, and February 4, 2010, is attached with excerpts and the Office of Inspector General's (OIG) position incorporated into the relevant Finding and Recommendation sections of the report.

We accepted management decision on Recommendation 1. We cannot accept management decision on the remaining six recommendations. Documentation and/or actions needed to reach management decisions for the recommendations are described in the OIG Position sections of the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementing the recommendation for which management decision has not been reached. Please note that the regulation requires management decisions to be reached on all recommendations within 6 months

from report issuance, and final action to be taken within 1 year of each management decision to prevent being listed in the Department's annual Performance and Accountability Report. Please follow your agency's internal procedures in forwarding documentation for final action to the Office of the Chief Financial Officer.

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

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Hurricane Indemnity Program – Integrity of Data Provided by the Risk Management Agency

Executive Summary

In May 2006, the Secretary of Agriculture authorized the Hurricane Indemnity Program (HIP) under the Farm Service Agency (FSA) to help producers who suffered crop losses from a series of 2005 hurricanes. We assessed FSA's delivery of HIP and evaluated the agency's management controls to determine if they were adequate to minimize improper payments and fraud. Since FSA relied on data supplied by the Risk Management Agency (RMA) to administer HIP, we also examined RMA's control over that information. Specifically, we reviewed changes to loss claims in RMA's database made by approved insurance providers (AIP) that retroactively qualified producers for HIP. Overall, we concluded that HIP was adversely affected by a lack of coordination between RMA and FSA, and that improper payments resulted from AIPs disregarding RMA controls intended to ensure accurate, supported changes to its data.

As of February 2008, FSA had paid a total of \$40 million in HIP payments.¹ We reviewed the AIPs' supporting documentation associated with 219 Federal crop insurance policies for crop years 2005 and 2006 with changes to the cause of loss and/or date of damage, which made producers eligible for HIP payments totaling \$2.7 million. RMA had previously requested from the AIPs justification and documentation for the changes in 206 of these policies. We reviewed the documentation that the AIPs had provided to RMA.

We also selected 53 of these 206 policies, plus 13 other policies for a total of 66 policies, to review onsite the AIPs' claim files to verify whether the changes were adequately supported. In total, the AIPs made unsupported changes on 145 policies.² As a result, FSA may have issued over \$1 million in potential overpayments based on unsubstantiated information it received from RMA and lacks assurance about an additional \$1.6 million.

Federal regulations required FSA to determine which insured producers qualified for HIP based on crop insurance loss claim information maintained by RMA.³ Through a memorandum of understanding, RMA agreed to search its database and send weekly downloads of eligible producers to FSA. By regulation, FSA was required to use RMA's information and could not make changes to the data. In essence, FSA's HIP payments were predicated entirely on RMA's participant information.

FSA was not allowed to change RMA's data, but the AIPs were. The *2005 Loss Adjustment Manual Standards Handbook* (LAM) permits the AIPs to change some information on claims

¹ HIP provided payments to eligible agricultural producers who suffered crop losses from Hurricanes Dennis, Katrina, Ophelia, Rita, or Wilma, and received a crop insurance payment or a noninsured crop disaster assistance program payment. This audit did not focus on noninsured producers.

² 127 of these unsupported 145 changes were reported by the AIPs to RMA; however, at the time of our fieldwork, the changes had still not been reported and forwarded to FSA for adjustment. These 127 unsupported changes resulted in \$815,612 in HIP payments. We also found 18 other policies with unsupported changes, resulting in \$246,346 in HIP payments.

³ Title 7, *Code of Federal Regulations*, part 760, subpart C.

after they have been submitted to RMA.⁴ For example, the AIPs can change a claim in RMA's database to show hurricane rather than drought as a producer's cause of loss.⁵ When they make such changes, the AIPs must follow RMA's corrected claims procedures, which require them to acquire and maintain supporting documents, such as statements from a loss adjuster and producer that confirm the change is accurate.⁶

In August 2006, FSA discovered that the AIPs were changing producers' causes of loss and dates of damage in RMA's database in order to retroactively qualify producers for HIP payments. In September, worried that the program's integrity had been compromised—i.e., that HIP payments were going to ineligible producers—FSA officials alerted RMA. The agencies had no specific resolution procedures, but the Deputy Administrator of RMA's Compliance Office (DAC) agreed to determine if the changes were justified. In January 2007, the DAC sent a list of 206 policies for crop year 2005 with changes to the cause of loss to the AIPs responsible and required them to certify to the changes' legitimacy and provide supporting documents.

By April 2007, the AIPs had replied but the DAC did not review their responses. Concerned that the matter was not being resolved timely, FSA met with the DAC in April. The DAC agreed to analyze the AIPs' responses, but neither the DAC nor FSA set a timeframe. Afterwards, according to the DAC, a lack of resources along with competing priorities prevented RMA from conducting the analysis. In June 2008, the DAC sent another letter to the AIPs that required them to justify changes that the AIPs had not yet reviewed (i.e., cause of loss and date of damage changes for crop years 2005 and 2006 that qualified producers for HIP). In August 2008, the AIPs replied again, but it was not until August 2009 that RMA provided to FSA the final corrected download of all producers eligible for HIP⁷.

We reviewed the AIPs' responses to RMA's initial letter, dated January 31, 2007, and found that many changes they certified as legitimate were not supported by the file documentation. Two AIPs reversed a total of 127 of their 148 policies with changes to the cause of loss. Three others certified that all their 58 questioned policies were justified. To determine if the changes were in fact supported, we examined the AIPs' original files for 66 loss claims, and found that 50 loss claims were not supported (see Scope and Methodology for sample details). Nothing came to our attention to indicate that the producers' crops did or did not suffer losses due to the hurricanes; our review was based on whether or not AIPs had adequately supported their changes.

To explain its blanket certification, one AIP cited an email from RMA that instructed the AIPs to change the cause of loss/date of damage to correct loss claim errors. Another contended that it was "common sense" that the hurricanes caused widespread damage and therefore, if a producer had a crop in the field during a hurricane, part of the loss must have been caused by it. In either case, the AIPs were still required to follow RMA's corrected claim procedures and support the

⁴ 2005 LAM, Part 4, Section 3, "Corrected Claims."

⁵ RMA's database does not allow AIPs to enter changes outside of the insurance coverage period or from an authorized cause of loss to an unauthorized cause of loss. RMA staff must review these changes and enter them manually.

⁶ 2005 LAM, Part 4, Section 3, "Corrected Claims."

⁷ RMA provided a download in May 2009 but it was incorrect for some producers and crops. In August 2009, RMA provided a corrected download to FSA.

changes. Instead, the AIPs disregarded RMA's procedures and changed loss claim information in the agency's database at the insurance agents' requests in order to retroactively qualify their producer clients for HIP payments.

The AIPs' continuing decisions to ignore RMA's corrected claims procedures coupled with their failure to acknowledge and in some cases remedy their wrongdoings constitutes a pattern or practice of noncompliance. In such cases, RMA can require the AIPs to pay damages for all crop insurance contracts affected by their failure to comply, based on the materiality and severity of the failure.⁸ Given that their actions directly resulted in FSA making HIP overpayments totaling at least \$1 million,⁹ we recommend that RMA require the AIPs to pay damages based on coordination with the Office of the General Counsel and RMA's final determination of the total number of unsupported changes that qualified producers for HIP.

We discussed the unsubstantiated data with RMA officials who stated that the AIPs were responsible for providing the agency with accurate data and that the agency's role was simply to transmit that information to FSA. We agree that the AIPs bear responsibility for following procedures, but disagree that interagency data-sharing did not require RMA to strengthen its controls over the integrity of information sent to FSA. In general, agencies are responsible for monitoring the effectiveness of their internal controls, but controls that are sufficient for one agency alone may not be acceptable for two agencies working together. Although RMA's reliance on the AIPs may have been adequate for its own programs, this was not effective for FSA's administration of HIP, as demonstrated by the overpayments and continuing uncertainty about participant payments and the program's closure.

FSA has used RMA's information to administer crop disaster programs since 1998 and will continue to do so under the Supplemental Revenue Assistance Payments (SURE) program, the 2008 Farm Bill's successor to the prior "ad hoc" crop disaster programs.¹⁰ In such cases, the agencies must recognize not only the need to share information, but also their shared responsibility to ensure the integrity of that information. The Office of Inspector General (OIG) identified such interagency coordination as a major management challenge because one agency's action (or inaction) can adversely affect another agency's program.¹¹ As agencies increasingly integrate their information systems, the Department and OIG have stressed that they must work together to create a correspondingly integrated system of program administration.¹²

To strengthen controls in future data-sharing efforts, both agencies should take proactive steps to protect the integrity of data sent and received, to include implementing controls, such as data-mining and periodic reconciliation. Agencies should also establish specific resolution procedures to timely address concerns. RMA should also complete its review of the AIPs' support for changes that retroactively qualified producers for HIP and forward the results to

⁸ Standard Reinsurance Agreement, IV. General Provisions, H., Compliance and Corrective Action, Part 8.

⁹ This amount includes the total unsupported changes agreed to by two AIPs, but which had not yet been reported to FSA for collection, plus the additional amount that we identified.

¹⁰ Unlike the prior crop disaster programs, SURE is legislated through 2011.

¹¹ 2007 U.S. Department of Agriculture (USDA) Performance and Accountability Report, Section 1, "Management Discussion & Analysis, Management Challenges."

¹² 2007 USDA Performance and Accountability Report, Section 1, "Management Discussion & Analysis, Management Challenges."

FSA. Once received, FSA should collect any overpayments from producers who no longer qualify for HIP in addition to the \$1 million from corrections the AIPs have already made.

Our audit was conducted in conjunction with the Council of the Inspectors General on Integrity and Efficiency as part of its examination of the Federal Government's relief efforts in the aftermath of Hurricanes Katrina and Rita. As such, a copy of the report has been forwarded to the Council of the Inspectors General on Integrity and Efficiency, Homeland Security Working Group, which is coordinating the Inspectors General reviews of this important subject.

Recommendation Summary

FSA's Administrator should:

- Recover \$815,612 in HIP overpayments that have been identified, and recover any other overpayments resulting from RMA's review of the AIPs' changes to cause of loss and date of damage.

RMA's Administrator should:

- Implement policies that require RMA to assess its controls over the integrity of information provided to other agencies when entering into data-sharing agreements, and to strengthen controls as necessary to prevent adverse impact on other agencies' programs.
- Review all supporting documents provided by the AIPs in response to the agency's requests for justification for loss claim changes and determine the validity of the changes.
- Provide FSA with a list of producers who have been determined to be eligible for HIP based on the AIPs' and RMA's review of companies' changes to loss claim data. Determine whether the unsupported changes in the 18 policies that OIG identified and that resulted in \$246,346 in HIP payments should be reversed by the AIPs and, if appropriate, provide FSA with a list of these corrections.
- Seek an opinion from OGC as to whether RMA can enforce administrative penalties or sanctions on all policies with changes that were unsupported, and if available, assess the AIPs that inappropriately changed claim data.

RMA's and FSA's Administrators should:

- Implement policies that require interagency data-sharing agreements, such as memorandums of understanding, to include specific procedures and timeframes to resolve concerns, and to elevate to the appropriate official when timely resolution does not occur.

Agency Response

In FSA's December 24, 2009, response to the draft report, the agency agreed with Recommendation 5 and is in the process of collecting the associated overpayments. In its February 4, 2010, written response to the draft report, RMA agreed with Recommendations 1, 3, 6, and 7. RMA stated that Recommendation 2 was no longer applicable since the AIPs had corrected the unsupported claim information. Additionally, in response to Recommendation 4, RMA did not plan to take further action concerning the AIPs actions in making unsupported changes. RMA plans to issue a bulletin to the AIPs highlighting the program requirements for the issues cited in the audit. Both FSA's and RMA's responses to the draft report are attached to the audit report.

OIG Position

Based on FSA's and RMA's responses, we accepted management decision on Recommendation 1. In order to reach management decision on Recommendations 2, 3, 4, 5, 6, and 7, FSA and RMA need to provide the additional information as outlined in the OIG Position sections presented in the Findings and Recommendations sections of the report.

Background & Objectives

Background

Administered by the Farm Service Agency (FSA), the Hurricane Indemnity Program (HIP) offered assistance to producers in several States who had suffered losses due to a series of 2005 hurricanes.¹³ To be eligible for HIP assistance, producers must have received either: (1) a 2005 or 2006 U.S. Department of Agriculture (USDA) Risk Management Agency (RMA) indemnity payment for insured crops or (2) a 2005 or 2006 Noninsured Crop Disaster Assistance Program (NAP) crop loss payment. The payment must have been for an eligible hurricane in an eligible county during an applicable disaster period, and the cause of loss must have been hurricane-related. If qualified, HIP added 30 percent to producers' NAP payment or to their crop insurance indemnity, but the HIP payment was capped at \$80,000. In total, as of February 2008, FSA had made over \$40 million in HIP payments.

Signup for HIP began May 17, 2006, with producers applying in the FSA county office where their loss occurred. For producers who had received a 2005 or 2006 crop indemnity payment, FSA used weekly downloads of loss claim information from RMA's database to determine HIP eligibility and to calculate payments.

Objectives

Our overall objectives were to evaluate the effectiveness of FSA's delivery of HIP, and to determine if FSA's management controls for the program were effective to minimize/preclude improper payments and fraud. We also evaluated the adequacy of RMA's control over changes to data submitted by approved insurance providers (AIP) and provided to FSA in relation to HIP (specifically, changes in the causes of loss or the dates of damage).

¹³ Producers were eligible for HIP in eligible counties located in Alabama, Florida, Louisiana, Mississippi, North Carolina, and Texas if they had suffered crop losses due to Hurricanes Dennis, Katrina, Ophelia, Rita, or Wilma.

Section 1: Interagency Coordination

Finding 1: Ineffective Coordination between RMA and FSA Adversely Affected HIP

Section 32 of the Agriculture Adjustment Act of August 24, 1935, as amended, authorizes the Secretary of Agriculture to provide assistance to farmers to restore their purchasing power. The Secretary of Agriculture authorized HIP as an ad hoc disaster program to help producers who suffered losses from a series of hurricanes in 2005.¹⁴ For insured producers, regulations required FSA to administer HIP using loss claim information maintained by RMA, but ineffective coordination between the two agencies adversely affected the program. Although a memorandum of understanding laid out the agencies' responsibilities beforehand, the agreement lacked both controls to ensure the accuracy of data sent from RMA and controls to resolve questions about the information received by FSA. As a result, RMA did not detect any changes the AIPs made to loss claims in its database, which qualified producers for HIP payments totaling at least \$1 million. These claims were filed under 145 policies held by 132 producers.¹⁵ FSA is currently reconciling HIP applications to match final RMA download data, which was provided to FSA by RMA in August 2009. The full extent of HIP overpayments cannot be determined until FSA completes the reconciliation. Given that 76 percent of the changes we sampled proved unsupported (50 of 66), the final overpayment amount is likely to climb significantly.

In general, each USDA agency is separately responsible for establishing internal controls adequate to ensure the integrity of its programs.¹⁶ However, the Office of Inspector General (OIG) has identified interagency coordination as a major management challenge because one agency's action (or inaction) can adversely affect another agency's program.¹⁷ As agencies increasingly integrate their information systems, the Department and OIG have stressed that they must work together to create a correspondingly integrated system of program administration.¹⁸

HIP required such an integrated approach because FSA's program payments were predicated on RMA's participant information. Federal regulations mandated that FSA determine which insured producers were entitled to HIP payments based on insurance loss claim information maintained by RMA.¹⁹ Through a memorandum of understanding, RMA agreed to search its database and send weekly downloads with relevant information about qualified producers to FSA.

¹⁴ HIP provided payments to eligible agricultural producers who suffered crop losses from Hurricanes Dennis, Katrina, Ophelia, Rita, or Wilma, and received a crop insurance payment or a NAP payment. This audit did not review HIP payments for noninsured producers.

¹⁵ As discussed below, the number of unsupported changes represents both our sampled policies and those corrected by the AIPs after being questioned by RMA. Two AIPs identified 127 unsupported changes that were corrected; however, the corrections had not been forwarded to FSA at the time of our fieldwork. We identified 18 other policies with unsupported changes that need to be corrected.

¹⁶ *Office of Management and Budget (OMB) Circular A-123*, issued December 21, 2004.

¹⁷ 2007 USDA Performance and Accountability Report, section 1, "Management Discussion & Analysis, Management Challenges."

¹⁸ 2007 USDA Performance and Accountability Report, section 1, "Management Discussion & Analysis, Management Challenges."

¹⁹ Title 7, *Code of Federal Regulations* (C.F.R.), part 760, subpart C, May 10, 2006.

By regulation, FSA was required to use RMA's downloaded data—unchanged—to determine program eligibility and payments.²⁰

While FSA was not allowed to alter RMA's data, AIPs were. The *2005 Loss Adjustment Manual Standards Handbook* (LAM) permits the AIPs to change certain claim information after the fact, but they must justify the changes with supporting documents, such as certified statements by the loss adjuster and producer.²¹ For example, with appropriate support, an AIP may change a producer's claim to reflect a different insurable cause of loss. RMA is not required to review these changes or verify their support when the change is made from one insurable cause of loss to another insurable cause of loss, and the agency does not typically do so.

We discussed this lack of control over information in its database with regard to HIP with RMA officials. They contended that relying on the AIPs to ensure the underlying accuracy of loss claim corrections was adequate because the changes did not affect RMA's indemnity payments. The changes were from one insurable cause of loss to another or from one insured date of damage to another—inconsequential changes for crop insurance indemnity purposes. We agree that the AIPs' actions did not affect RMA's programs, but note that they ultimately did adversely impact FSA's HIP payments.

For example, 283 days after a producer's crop insurance claim was filed in 2006, one AIP changed the approved cause of loss from drought, which was not eligible for HIP, to hurricane, which was. In its weekly download, RMA sent information about the newly qualified producer to FSA, which accordingly issued a HIP payment of \$49,548. In reviewing the AIP's documents, however, we found nothing in the loss claim file to support the changed cause of loss and, therefore, concluded that the HIP payment was unsupported.

Our review of 66 sampled policies found unsupported changes in 50 policies (76 percent), and the AIPs determined in their reviews that 127 of 206 policies (62 percent) had unsupported changes.²² Overall, FSA has issued at least \$1 million in HIP payments based on unsupported changes in 145 policies to 132 producers. The full extent of HIP overpayments has yet to be determined as we discuss below. Given the high percentage of unsupported changes determined by both OIG's and the AIPs' reviews, the total amount of HIP overpayments is likely much higher.

In September 2006, FSA first became aware of a potential problem when a loss adjuster in Mississippi told the agency's field office staff that a producer had insisted the adjuster change the cause of loss for a loss claim from drought to hurricane in order to qualify the producer for HIP. The adjuster refused and notified the AIP. Rather than establish controls to ensure its clients did not obtain ineligible HIP payments, the AIP responded by adding hurricane loss to claims filed from the date of the hurricane forward. Later when following up with FSA, the adjuster found that the producer appeared on FSA's weekly download of HIP-eligible producers from RMA. Worried that the program's integrity had been compromised—i.e., that HIP payments were going to ineligible producers—FSA's field office staff informed their national office of the potential problem.

²⁰ 7, C.F.R., part 760, subpart C, May 10, 2006.

²¹ 2005 LAM, Part 4, Section 3, "Corrected Claims."

²² The 66 policies we reviewed included 53 of the 206 policies the two AIPs reviewed.

In September 2006, FSA officials alerted RMA about their concerns. In the memorandum of understanding, the two agencies had agreed to coordinate if there were any questions about the data, but had not established any specific resolution procedures or timeframes. The Deputy Administrator of RMA's Compliance Office (DAC) suggested that RMA perform data-mining to determine the extent of the problem. FSA agreed and the DAC contracted with the Center for Agribusiness Excellence to identify 2005 crop year policies with changes to the cause of loss that qualified them for HIP.

In November 2006, the DAC received the data-mining report, which listed 206 policies from 5 AIPs that had changed producers' cause of loss from one that did not qualify for HIP to one that did. In January 2007, the DAC wrote to the AIPs, requiring them to review the changes, certify to their legitimacy, and provide supporting documents to RMA. Based on their responses, the letter noted, RMA would determine if the changes were legitimate or a scheme to obtain improper benefits (i.e., HIP payments) for producers.

By April 2007, the five AIPs had replied but the DAC did not review their responses. Concerned that the matter was not being resolved timely, FSA initiated a meeting with the DAC in April 2007. The DAC agreed to analyze the AIPs' responses so FSA could determine which HIP payments were improper, but again, the agencies did not set a timeframe. Afterwards, according to the DAC, a lack of resources along with competing priorities prevented RMA from conducting the analysis. Although RMA took no action, FSA did not elevate this issue to the USDA Under Secretary who oversees both agencies (Farm and Foreign Agricultural Services).

In April 2008, we met with RMA compliance officials, including the DAC, to discuss our analysis of 66 sampled policies with after-the-fact changes in their claims qualifying them for HIP. We informed them that we found 50 which were unsupported. Subsequently, in May 2008, the DAC submitted an expanded data-mining request, which asked for a list of 2005 and 2006 policies that had changes to the cause of loss or date of damage after HIP was announced (January 2006). In June 2008, the DAC received the results and sent another letter to the AIPs which required them to review the cause of loss changes and date of damage changes, certify if they were legitimate, and provide supporting documents. RMA received responses in August 2008, but did not provide to FSA the corrected data for HIP until August 2009.

In general, the negative impact of unsupported changes on HIP payments would have been minimized if the two agencies had worked together to create an integrated system of controls to match the integrated use of information to administer the program. Although the AIPs' changes did not affect RMA's indemnity payments, the agency must take a broader, Departmental perspective and establish both preventative and curative controls to help protect the integrity of agencies that rely on RMA's information. Specifically, since the interagency coordination needed for each program is unique, RMA should assess the integrity of information provided to other agencies and determine how to strengthen its controls when necessary. Further, RMA and FSA must include specific resolution procedures and timeframes in their future data-sharing agreements to timely resolve problems when they do occur.

FSA has used RMA's information to administer crop disaster programs since 1998 and will continue to use RMA's information under the SURE program through at least 2011. In such cases, where one agency relies upon another agency's information to administer a program, the

agencies must recognize not only the need to share information, but also their shared responsibility to ensure the integrity of that information.

Recommendation 1

RMA and FSA should implement policies that require interagency data-sharing agreements, such as memorandums of understanding, to include specific procedures and timeframes to resolve concerns, and to elevate to the appropriate official when timely resolution does not occur.

Agency Response

In RMA's February 4, 2010, written response, it stated that a memorandum of understanding between RMA and FSA will be issued for future data sharing to include notification to responsible parties that action should be taken to elevate issues/concerns to appropriate levels. Both agencies expect implementation of this recommendation by August 2010.

OIG Position

We accept RMA's and FSA's management decision.

Section 2: Data Integrity

Finding 2: AIPs Retroactively Qualified Producers for HIP by Disregarding Controls Over the Accuracy of Data Provided to RMA

In 50 of the 66 loss claims we reviewed, 4 AIPs made unsupported changes to RMA claim information, which retroactively qualified their producers for HIP. In addition, 2 of these 4 AIPs admitted that 127 of 148 policies with loss claim changes were unsupported, and had to reclassify their loss claims, therefore, making them ineligible for HIP payments. This occurred because AIPs disregarded the agency's corrected claims procedures, which were intended to ensure that changes to loss claims were supported. Based on all unsupported changes we reviewed, FSA issued improper payments totaling \$1,061,958.

FSA's HIP payments to insured producers were predicated on loss claim information maintained by RMA from data entered by AIPs that serviced the policies. When AIPs make changes to loss claims previously submitted, they also make corresponding changes in RMA's database. The 2005 LAM allows the AIPs to make these changes if the claims contain incorrect information, such as the wrong cause of loss (e.g., drought instead of hurricane damage).²³ In these cases, the AIPs must follow the manual's corrected claims procedures, which require both the loss adjuster to prepare a report explaining the correction(s) and the adjuster and producer to sign supporting documents. RMA's compliance office stated that the support must include, at minimum, statements from the loss adjuster and producer confirming the change.

Signup for HIP payments began in May 2006. Insured producers could apply for payments only if they were included in RMA's weekly downloads of qualified producers to FSA. In accordance with the HIP handbook, FSA's county office staff instructed producers who did not appear on the download to consult their insurance agent since the staff had to rely on what they received from RMA.²⁴ Shortly after sign-up, agents began contacting the AIPs to determine why their producer clients were not included in RMA's downloads. They were informed that either the producers' cause of loss or date of damage did not qualify.

In response to their agents' inquiries, the AIPs began changing their producer clients' loss claims' causes of loss or dates of damage, often accessing their clients' loss claims in RMA's database without statements or other documents from the producers and loss adjusters to confirm that there was in fact hurricane-related damage. Several producers told us that they did not ask their insurance agent to change their cause of loss and that they did not know that their AIPs had made the changes. Additionally, although loss adjusters initially confirmed a cause of loss that was not eligible for HIP, AIPs nevertheless changed the cause of loss to one that was eligible an average of over 200 days after the original claim was filed.

²³ The 2005 LAM also allows the AIPs to change claims for four other reasons that did not impact our audit (Part 4, Section 3, "Corrected Claims"). Specifically, the AIPs can correct claims when (1) the indemnity is affected, (2) an arbitration or review determines correction is appropriate, (3) the claim is settled on based on an estimate of crop production but is later harvested for a different yield, and (4) misreported information exceeds RMA's tolerance for liability (10 percent). The 2006 manual adds an additional reason: an acreage discrepancy between AIPs' measurements and a measurement service.

²⁴ Notice DAP-241, "2005 Section 32 Hurricane Provisions for the Hurricane Indemnity Program (HIP) and Tree Indemnity Program (TIP)," April 14, 2006.

The AIPs' claims managers did not document most changes and told us that it was "common sense" that the hurricanes caused widespread damage and, therefore, if an insured producer had a crop in the field (i.e., unharvested) during the hurricane, part of any loss must have been hurricane-related. However, despite asserting the widespread effect, the AIPs did not change all policies in the disaster areas but only those requested by agents or producers. To support the changes, the AIPs also cited an email from RMA that instructed them to change the cause of loss/date of damage to correct loss claim errors. However, the email specified that AIPs were still responsible for taking the necessary steps to correct the information, which included following RMA's corrected claims procedures, as agency officials confirmed.

In August 2006, FSA became concerned that the AIPs were making unsupported loss claim changes that did not actually reflect hurricane damage in order to retroactively qualify producers for HIP payments (see Finding 1). In September 2006, FSA notified RMA of its concern, and RMA subsequently identified 5 AIPs that had a total 206 policies for crop year 2005 with cause of loss changes. In January 2007, RMA sent letters to the AIPs requesting that they review the policies, certify if the changes were justified, and provide supporting documents to RMA.

By April 2007, the 5 AIPs had responded to RMA's request, and, determined that 127 of 206 policies with changes to the loss claims' cause of loss were unsupported; therefore, ineligible for HIP payments.²⁵ Two of the AIPs determined that the majority of the changes they made to cause of loss were unsupported. Accordingly, Company A corrected 119 of 134 policies in RMA's database, and Company D corrected 8 of 14. Two other AIPs certified that all their 57 cause of loss changes were supported: 17 for Company C and 40 for Company B. The remaining AIP, Company E, changed the claim's cause of loss for only one policy, which it demonstrated had the correct code on the original loss claim (92 for hurricane damage) that it incorrectly entered into RMA's database (93 for wildlife). RMA accepted all the AIPs' responses without analyzing the accompanying documents to ensure they supported those 78 policies with changes certified as correct.

OIG did examine the responses and determined that 57 of 78 (73 percent) did not include sufficient documentation to conclude whether or not they had followed RMA's corrected claims procedures.²⁶ None of the 57 had confirming statements from the loss adjuster and producer. Instead, the AIPs included various documents. For example, some had inked in a cause of loss that made the claim eligible for HIP (see exhibit C for an example) and one AIP simply added a letter from its claims manager stating that the changes were justified. Given these deficiencies, we decided to conduct an expanded, in-depth review to ascertain if the AIPs' changes were in fact properly supported. Our review selected a sample of crop year 2005 and 2006 cause of loss and date of damage changes, which included over a fourth of the cause of loss changes reviewed by the AIPs. Based on original claim files, we concluded that 50 of 66 (76 percent) sampled policies with changes were not adequately supported.²⁷

We detail these issues below.

²⁵ The 127 policies with unsupported changes to the loss claims resulted in \$815,612 in HIP payments.

²⁶ Company E changed the cause of loss for its claim and properly demonstrated that a hurricane related cause of loss was reported on the original claim and incorrectly entered into RMA's system. Therefore, the change for Company E was adequately supported by file documentation.

²⁷ Nothing came to our attention to indicate that the producers' crops did or did not suffer losses due to hurricane damage; our review was based on whether or not the insurance AIPs had adequately supported their changes.

Two AIPs Did Not Acknowledge Unsupported Changes

While Company A and Company D reversed changes due to inadequate support, Companies B and C certified to RMA that all 57 questioned policies were justified even though our review found that their claim files were similarly deficient. Company B contended that it was “common sense” that the hurricanes caused widespread damage and, therefore, if a producer had a crop in the field during the hurricane, part of the loss must have been caused by it. Company C cited an email from RMA that instructed it to change the cause of loss/date of damage to correct loss claim errors.

We reviewed 10 of the 40 policies with changes that Company B had certified were justified and found that none were supported by documents in its original claim files. They all showed causes of loss unrelated to hurricane damage. The justification included for one policy was a memorandum prepared by Company B stating that the crop was in the field during a hurricane and, therefore, “may” have been partially damaged. Three policies contained an agent’s email that asked Company B to change producers’ causes of loss, which it included as support. Six had no supporting documents.

For Company C, we reviewed 11 policies, including 4 that it certified as supported and 7 that it was not asked to review.²⁸ We disagreed with all four the AIP had certified as supported because they only included handwritten notes by the AIP but no statements from the producer and adjuster. When we asked Company C officials for further support, they cited the email from RMA instructing them to change the cause of loss/date of damage to correct loss claim errors. However, the email did not excuse them from following the agency’s corrected claims procedures. As discussed above, the email specified that they were still responsible for taking the necessary steps to correct the information.

Based on our review, Companies B and C made unsupported changes to 14 policies with loss claims, which resulted in producers, who would not otherwise have qualified, receiving HIP payments from FSA totaling \$183,909.

The unsupported changes on 145 policies made by the 4 AIPs resulted in improper HIP payments totaling \$1,061,958.²⁹

In general, AIPs continuously disregarded RMA’s corrected claims procedures throughout the HIP signup period (May – September 2006). As the AIPs received requests from agents, they made changes to loss claims—instead of relying on producers’ reports and loss adjusters’ inspections—in order to qualify their producers for HIP payments even though they lacked proof that the changes were accurate. We concluded that the AIPs’ continuing decisions to disregard RMA’s correction procedures and their failure to acknowledge and remedy their actions constitute a pattern or practice of noncompliance.

²⁸ The seven policies with loss claim changes represented data input errors where the original claim had a hurricane related loss code or date of damage. RMA’s request for justification did not include these seven policies.

²⁹ Including both our and the AIPs’ review, Companies A and D made 131 unsupported changes and Companies B and C made 14. Two AIPs identified 127 of these unsupported changes; based on our review, we identified 18 other policies with unsupported changes.

When there is such a pattern or practice of noncompliance, the Standard Reinsurance Agreement (SRA) requires the AIPs to pay liquidated damages of up to 5 percent of the net book premium on all crop insurance contracts affected by their failure to comply, based on the materiality and severity of the failure.³⁰ Given that their actions directly resulted in FSA making unsupported HIP payments totaling at least \$1 million, we recommend that RMA seek the Office of the General Counsel's (OGC) advice whether it can enforce administrative penalties or sanctions on AIPs to pay damages based on the agency's final determination of the total number of unsupported changes that qualified producers for HIP.

Recommendation 2

RMA should review all supporting documents provided by the AIPs in response to the agency's requests for justification for loss claim changes and determine the legitimacy of the changes.

Agency Response

In its February 4, 2010, response, RMA stated that because the AIPs have corrected the unsupported claim information in RMA's database, this recommendation is no longer applicable

OIG Position

We cannot reach management decision on this recommendation. While AIPs reported that they corrected the unsupported claim information, our review determined that not all of the unsupported changes were corrected. Therefore in order to achieve management decision, RMA needs to verify in its system and provide a written assurance that all earlier changes have been reversed making the producers ineligible for HIP as reported by the AIPs.

Recommendation 3

RMA should provide FSA with an accurate list of producers who have been determined to be eligible for HIP based on AIPs' and RMA's review of AIPs' changes to loss claim data.

Agency Response

In its February 4, 2010, response, RMA stated that it has completed this action. The HIP program was set up for transmissions to include all eligible producers in each transmission. Previously, there was a problem with producers not being removed from the listing if a change was made that made them ineligible. After correcting this problem, a new file was sent to FSA in March 2009. Additional changes were made by a company to correct problems with the way they were transmitting their data. As a result, an additional file was created and sent to FSA in July 2009.

OIG Position

³⁰ SRA Section IV. General Provisions, H., Compliance and Corrective Action, Part 8.a.

Although RMA stated that it has completed the recommendation action, we need additional information before we can reach management decision. Following RMA's verification and assurance that all changes were made by the AIPs (see OIG Position section to Recommendation 2), RMA may need to provide FSA an updated list of producers eligible for HIP.

Recommendation 4

RMA should seek an opinion from OGC as to whether RMA can enforce administrative penalties or sanctions on AIPs responsible for making changes to claim information in RMA's database that were unsupported and, if applicable, assess the AIPs that inappropriately changed claim data. Regardless, RMA should provide additional training to AIPs stressing the procedural requirements for making changes to loss claims and emphasizing the necessary documentation to verify and support changes.

Agency Response

In its February 4, 2010, response, RMA stated that it has requested and received a legal opinion from OGC. After reviewing OGC's opinion, the actions of all the AIPs to correct the claim information in RMA's database that were unsupported, and the fact there was no direct financial gain by the AIPs actions, it will be very difficult for RMA to prove willful behavior on the part of the AIPs. For this reason, RMA will be taking no further action concerning this portion of the recommendation.

Concerning the second part of this recommendation, RMA does not provide training to the AIPs, but specifies program requirements they must meet. As an alternative, RMA will issue a bulletin within the next 6 months to the AIPs highlighting the program requirement(s) for the issues cited in the audit.

OIG Position

We cannot accept management decision for this recommendation. The OGC opinion states that RMA can collect up to 5 percent of the net book premium from the AIPs for failure to comply with provisions of the SRA and procedures. In those cases where the AIPs corrected the violations after RMA asked them to review the policies and to justify the changes, we believe that RMA should seek this administrative redress. In addition, OGC's opinion details that in those cases where the AIPs failed to follow the approved procedures after being asked to review their policies, such conduct may arise to willful behavior. If RMA can establish that the conduct was willful, it can deny reinsurance for the applicable policies. Therefore, in order to reach management decision on this recommendation, we believe that RMA needs to pursue administrative actions against the AIPs under the two scenarios described by OGC (to include referring to OGC whether the evidence is sufficient to deny reinsurance) or provide to OIG its justification for not further pursuing administrative actions against the AIPs.

Recommendation 5

FSA should recover the \$815,612 in HIP overpayments that have been identified, and recover any other overpayments resulting from RMA's review of the AIPs' changes to cause of loss and date of damage.

Agency Response

In its December 24, 2009, response, FSA stated that it is in the process of collecting the \$815,612 identified by OIG and resolving any further overpayments as a result of a corrected RMA download. On August 14, 2009, Notice DAP-316 notified county offices that a corrected RMA download would be transmitted on or around August 18, 2009. County offices were instructed to reconcile HIP applications to match the final RMA download data. Upon reconciling the files, county offices will be required to determine if the producers affected by the corrected download are due a payment or if they have been overpaid. Instructions provided indicated if producers are determined overpaid then county offices are to establish a receivable for the overpayment. On November 30, 2009, Notice DAP-319 provided further instructions to State and county offices to submit documentation to the national office in support of responding to this recommendation. All documentation to support the collection of money or establishment of receivables is to be provided to the national office by January 20, 2010.

OIG Position

We concur with FSA's corrective action. However in order to reach management decision, FSA needs to provide to OIG copies of the bills for collections and support that the amounts have been entered as receivables on the agency's accounting records, or its justification for those overpayments not established as receivables.

Recommendation 6

RMA should determine whether the 18 policies that OIG identified with unsupported changes and that resulted in \$246,346 in HIP payments need to be corrected. Direct the AIPs to reverse the changes, and provide FSA a list of these corrections.

Agency Response

In its February 4, 2010, response, RMA stated that within the next year RMA will review and assess the 18 identified policies to determine whether the changes are supported, and if not, RMA will instruct the responsible AIP to reverse the changes, and provide to FSA a list of corrections.

OIG Position

We believe that RMA's proposed corrective action may no longer be relevant given its response to Recommendation 2 that the AIPs have corrected the unsupported claim information in RMA's database. Therefore, in order to reach management decision for this recommendation, RMA needs to verify whether all changes were made and, accordingly, provide FSA any further corrections, if appropriate.

Finding 3: RMA Did Not Establish Controls Adequate To Ensure the Integrity of Data Provided to FSA

The AIPs made changes to RMA's data that qualified producers for HIP. RMA transmitted the data to FSA without ensuring the changes were supported, and FSA used the data to determine which producers were qualified for HIP payments. Subsequently, the AIPs corrected some of the unsupported changes in RMA's database, which disqualified producers for HIP. RMA assumed that these corrections would be picked up in its weekly download to FSA, but they were not. Consequently, FSA was neither able to identify producers who no longer qualified for HIP based on the AIPs' corrections, nor collect overpayments made to the disqualified producers. As previously noted FSA used RMA's data – unchanged – to determine program eligibility and payments. As a result, FSA has made at least \$1 million in unsupported payments and has no assurance about the propriety of the remaining HIP payments that were based on the AIPs' changes, totaling \$1.6 million.

RMA's control over the AIPs' changes to loss claims in its database was the requirement that they follow the LAM's corrected claims procedures. The LAM required AIPs to substantiate changes with supporting documents (e.g., statements from the loss adjuster and producer). As discussed in Finding 2, this control was inadequate to ensure that FSA received accurate information about which producers qualified for HIP. Although *OMB Circular A-123* requires agencies to monitor the effectiveness of their internal controls, RMA relied on AIPs to comply and did not monitor their actions to ensure that they were. In addition, *OMB Circular A-123* requires regular data reconciliation, but RMA did not compare the two sets of data to ensure that the AIPs' corrections in its database were reflected in the information it sent to FSA.

We discuss these issues in more detail below.

RMA Did Not Monitor the AIPs' Changes to Its Database

In May 2006, when HIP signup began, the AIPs began making changes to previously submitted loss claims in RMA's database, which made producers eligible for HIP payments who would not have qualified otherwise. On average, the changes were made over 200 days after the claims were filed. For example, 324 days after a loss claim was filed by a producer and confirmed by a loss adjuster, one AIP changed the cause of loss from drought to excessive precipitation. By the end of the signup period, 311 policies with loss claims became eligible for HIP payments totaling \$2.7 million based on the AIPs' changes.

Together, the number (311), timing (after HIP signup), and effect (HIP eligibility) of the changes suggest questionable actions by the AIPs. As evidenced by our analysis (Finding 2), the AIPs were in fact making unsubstantiated changes solely to qualify their producers for HIP payments. However, RMA did not detect the problematic pattern until well after consequent overpayments because although the agency does monitor patterns and

questionable changes in data affecting its indemnities, RMA did not institute similar monitoring controls for changes that affected FSA's HIP payments.³¹

RMA Did Not Ensure FSA Received Correct Information

By March 2007, prompted by RMA's inquiry, two AIPs had corrected most of their unsupported changes—a total of 127 which resulted in FSA overpayments of \$815,612. RMA assumed that these corrections would be picked up in its weekly download to FSA but they were not.

RMA designed a program to search through its database for HIP-eligible producers and store relevant data about them in a separate file, which it sent to FSA weekly. Each week, the search added any newly qualified producers to the file. Since RMA did not anticipate producers becoming ineligible, the agency did not develop complementary software to search through its HIP-eligible file and remove producers who no longer qualified based on changed data (e.g., drought instead of hurricane damage as the cause of loss) before sending the file to FSA.

RMA assumed that the AIPs' corrections were reflected in its download to FSA. However, when we reconciled RMA's data to that used by FSA, we noted that policies where the cause of loss had been corrected and no longer qualified for HIP continued to appear in FSA's list of eligible producers. We notified RMA of the continuing problem and the agency has since modified its software to subtract newly ineligible producers from its weekly download.

Controls over the integrity of information that are sufficient for one agency alone may not be acceptable for two agencies working together. Although RMA's reliance on the AIPs to follow corrected claims procedures may have been adequate for its programs, this control was not effective for FSA's administration of HIP. To strengthen controls in future data-sharing, the agencies should take proactive steps to protect the integrity of data sent to and received from other agencies, such as incorporating data-mining to monitor for problematic patterns and periodically reconciling shared information.

Recommendation 7

RMA should implement monitoring controls, such as data-mining and periodic reconciliation, to ensure the accuracy of transmitted information when other agencies rely on RMA-provided data to implement their programs.

Agency Response

In its February 4, 2010, response, RMA stated that its new Information Technology Modernization (ITM) system will contain the history of changes to policies reported by the AIPs. This will allow RMA to perform monitoring controls such as periodic analysis of data

³¹ RMA's account executives for each AIP look for questionable patterns affecting coverage, premium, or liability; monitor manual change requests from an AIP; review complaints or other special concerns; and address concerns with the Reinsurance Services Director.

contained in the ITM system and data submitted from that system to FSA to mitigate future data discrepancies. The ITM system will be operational for data reporting for the 2011 reinsurance year data and will be in production beginning in July 2010.

OIG Position

We concur with RMA's corrective action; however, we need additional information in order to reach management decision. The ITM system will contain the history of changes to policies allowing RMA to perform monitoring controls. But RMA needs to establish a policy indicating that routine monitoring controls should be implemented when other agencies (in addition to FSA) rely on the data to implement their programs. Additionally, because the ITM system will not be available until the 2011 reinsurance year, RMA needs to provide details of interim monitoring controls to ensure the accuracy of transmitted data used by other agencies to administer their programs during this period, especially since FSA's Supplemental Revenue Assistance Payments Program is relying on RMA's data.

Scope and Methodology

Originally, our review of HIP covered fiscal year 2005, section 32, Disaster Payments under both HIP and Tree Indemnity Program (TIP). However, after we began fieldwork, we expanded our scope to review the integrity of data provided by RMA to FSA for HIP. To facilitate reporting and corrective action, we reported to FSA on TIP in a separate audit (Audit 03601-13-At), and included HIP results from that fieldwork along with the additional coverage of HIP and RMA in this report.

Our review of HIP included FSA's and RMA's national offices in Washington, D.C., two FSA State offices, eight FSA county offices, and four AIPs. In Florida, we visited the Jackson, Dade, St. Lucie, and Indian River County FSA offices, and we visited the Baldwin, Escambia, Houston, and Mobile County FSA offices in Alabama.

We conducted our fieldwork from August 2006 through August 2009. As of February 2008, FSA had made over \$40 million in HIP payments. During our earlier fieldwork, we selected FSA's HIP applications/files to review in the county offices as follows: (1) We selected files from the list of required file reviews of FSA State and county office committee members and any FSA employees; in total, we reviewed five cases. (2) We judgmentally selected a total of 39 HIP applications from the 7 county offices in our sample using the following criteria:

- applications at or near the \$80,000 payment limitation,
- multi-county producers,
- producers spot-checked by the county office, and
- producers who received both a HIP and TIP payment.

(3) Last, using a random number generator, we selected a total of 36 applications/files.

In total, we reviewed 80 HIP applications, paid and unpaid files, and interviewed 37 applicants (see exhibit B) in our earlier fieldwork.

Because of the concerns arising from the data provided by RMA to FSA for HIP payments, we expanded our review to verify the changes in the cause of loss or date of damage in the AIPs' loss claim files. As part of the expanded coverage of RMA data, the Center for Agribusiness Excellence identified 311 policies with changes to the cause of loss or date of damage which allowed producers to become eligible for HIP payments totaling \$2.7 million. Using these results, we judgmentally selected a sample of four AIPs which reported changes to the cause of loss. The selected AIPs represented 97 percent of the cause of loss changes. Three of the AIPs reported changes to the dates of damage which represented 41 percent of the dates of damage changes: Companies A, C, and D.

We judgmentally selected at least 25 percent of the identified Federal crop insurance policies from AIPs with changes to the cause of loss for file review. We also judgmentally selected 25 percent of the identified policies with changes to the dates of damage for review. This judgmental selection was based on a variety of factors including the agents and adjusters for the policies, the original cause of loss and the changed cause of loss, the associated HIP payment,

and the time period that elapsed from the original reported cause of loss to the change to the cause of loss. In total we reviewed 66 Federal crop insurance policies with changes to the cause of loss and/or date of damage that resulted in FSA's HIP payments totaling \$766,142.³²

Of the 311 policies with changes that were identified by the Center for Agribusiness Excellence, RMA sent in January 2007 a list of 206 policies for crop year 2005 with changes to the cause of loss only to AIPs responsible and required them to certify to the changes' legitimacy and provide supporting documents. For these 206 policies, we reviewed the documentation provided by AIPs to RMA to determine whether the changes were adequately supported.

We also conducted site visits at the two AIPs with the largest volume of changes, Company A and Company B. We visited a regional sales and servicing office and the headquarters for Company A. We conducted fieldwork at a regional office of Company B. We also interviewed national and regional claims officials, loss adjusters, and insurance agents to determine how changes to RMA data were initiated, approved, and processed. We conducted follow up fieldwork at two FSA county offices (Houston County, Alabama, and Jackson County, Florida).

We used the data entered by the AIPs into RMA's database (that is the Data Acceptance System) to complete this audit. We did not verify all data fields; instead, we compared the cause of loss and date of damage fields with what was documented in the actual claims files to ensure these fields were accurately reported.

To accomplish the audit objectives, we performed the following audit procedures:

- We reviewed applicable laws, regulations, and FSA guidance concerning HIP.
- We reviewed RMA policies and procedures for changes made to producers' loss claims.
- We interviewed FSA national office officials in the Production, Emergency, and Compliance Division, as well as Operations Review and Analysis Staff, to determine their role in administering, monitoring, and reviewing HIP.
- We interviewed officials in the RMA national and Kansas City offices in Reinsurance Services, Risk Management Services, Producer Analysis & Accounting, and Compliance to determine if they were aware of changes to loss claims and procedures for making changes.
- We reviewed FSA and RMA correspondence related to HIP and changes to loss claims.
- We obtained FSA data regarding the number of applicants and funding allocations to States administering HIP.

³² The 66 policies selected here were separate from the sample of 80 HIP files that we had selected to review for processing and approval of the HIP applications.

- We obtained data from the Center for Agribusiness Excellence that identified producers whose cause of loss or date of damage was changed to qualify them for HIP.
- We interviewed FSA's Florida and Alabama State office officials to determine their role in funding and monitoring the county offices' administration of HIP.
- We interviewed FSA's staff at the county level to understand how they administered HIP and to determine whether they followed established procedures.
- We reviewed HIP applications to ensure that producers met eligibility requirements and that supporting documents were adequate.
- We reviewed each county office's pending payment, nonpayment, and overpayment registers to ensure their accuracy.
- We reviewed original claim files maintained by AIPs to ensure documents supported changes, and interviewed company officials to determine their procedures for making changes.
- We interviewed producers, adjusters, and agents to verify loss information, evaluate program delivery, and determine their role and knowledge of changes to loss claims.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Exhibit A: Summary of Monetary Result

Finding Number	Recommendations	Description	Amount	Monetary Category
2	5 and 6	FSA HIP Overpayments Made as a Result of AIPs' Changes to the Cause of Loss or Date of Damage	\$1,061,958	Unsupported Costs, Recovery Recommended

The above table (exhibit A) presents a summary of monetary results for our audit report. There are five columns in this exhibit. The first column lists the finding number, the second column shows the recommendation number, the third column shows a description of the monetary exception, the fourth column shows the dollar amount of exception, and the fifth column shows the monetary category of the exception.

Exhibit B: HIP Universe and Sample Data for Counties Visited³³

ALABAMA³⁴

BALDWIN COUNTY	NO.	PAYMENTS
Applications	39	\$158,130
File Reviews	10	\$52,825
Interviews	6	\$45,167
ESCAMBIA COUNTY	NO.	PAYMENTS
Applications	33	\$171,408
File Reviews	10	\$32,050
Interviews	5	\$12,632
HOUSTON COUNTY	NO.	PAYMENTS
Applications	79	\$367,226
File Reviews	10	\$143,506
Interviews	5	\$132,372
MOBILE COUNTY	NO.	PAYMENTS
Applications	32	\$390,174
File Reviews	10	\$116,933
Interviews	5	\$100,427

FLORIDA³⁵

DADE COUNTY	NO.	PAYMENTS
Applications	241	\$10,425,270
File Reviews ³⁶	20	\$1,210,013
Interviews	5	\$232,539
INDIAN RIVER COUNTY	NO.	PAYMENTS
Applications	61	\$937,302
File Reviews	10	\$456,940
Interviews	5	\$319,541
ST. LUCIE COUNTY	NO.	PAYMENTS
Applications	97	\$1,452,088
File Reviews	10	\$489,296
Interviews	6	\$412,540

TOTAL

REVIEW TOTALS	NO.	PAYMENTS
Applications	582	\$13,901,598
File Reviews	80	\$2,501,563
Interviews	37	\$1,255,218

The above tables (exhibit B) presents the universe and sample data for counties visited in our audit. There are three columns in this exhibit. The first column shows by site the applications, file reviews, and interviews. The second column shows the number of occurrences in our universe and sample, and the third column shows the dollar amount of each occurrence. The amounts are totaled at the bottom of the exhibit.

³³ The file reviews represent the number of producer's files sampled and reviewed; the interviews represent the number of sampled producers interviewed.

³⁴ Application data are as of August 21, 2006.

³⁵ Application data are as of October 3, 2006. The Jackson County FSA Office was visited as a followup review which consisted of producer interviews and not included in our original sample.

³⁶ Both paid and unpaid files were reviewed in the county office as noted in the Scope and Methodology.

Exhibit C: Loss Claim Cause of Loss Change Sample

The document below shows a loss claim processed in January 2006 indicating the causes of a crop loss were drought in August 2005 and frost in December 2005 (A). After the original claim was filed, a claims manager made an unsupported change to the claim in September 2006 to replace the "frost" cause of loss in December 2005 with a July 2005 hurricane related "wind" cause of loss (B), which allowed the producer to become eligible for a FSA HIP payment.

Koral Community Insurance Services **Production Worksheet - (Tobacco, Peanuts, Cotton, Peaches)**

1. CROP: Cotton 2. COUNTY: MS 3. FICHT: 11 4. CLIENT #

5. CROP YEAR: 2005 6. CROP #

7. DATE OF LOSS: 12-15-05 8. CONTINGENCY

9. ASSIGNMENT OF INDEMNITY: YES NO 10. TRANSFER OF RIGHT TO ANY INDEMNITY: YES NO

11. ADJUSTER NAME: SEP 17 2006 12. LOSS TYPE: RCIS W/S 13. LOSS TYPE BETWEEN DATES

14. DATE OF DAMAGE: 8/15/05 15. DATE OF DAMAGE: 12/15/05 16. DATE OF DAMAGE: 12/15/05

17. BSA # 18. BSA # 19. BSA # 20. BSA #

21. BSA # 22. BSA # 23. BSA # 24. BSA #

25. BSA # 26. BSA # 27. BSA # 28. BSA #

29. BSA # 30. BSA # 31. BSA # 32. BSA #

33. BSA # 34. BSA # 35. BSA # 36. BSA #

37. TOTAL: 23.0

38. NARRATIVE: (If more space is needed, attach a final check) Accrual determined by Mgr + STX. Visual of field appears to be within 5% of Appraised Accrual. Open to all Appraisal taken to determine harvested potential. crop on 5/8/05 Share with

39. VARIETY: MS 4A 40. PRELIM. ACRES: 25.0 41. INTEREST OR SHARE: 1.500 42. TRACTOR: NI 43. EST. YIELD: NI 44. LEAF QUALITY: G F P

45. BSA # 46. BSA # 47. BSA # 48. BSA # 49. BSA # 50. BSA #

51. HARVESTED PRODUCTION: RCIS 52. QUANTITY FACTOR: 40.0 53. ADJUSTED POTENTIAL: RCIS 54. UNRECOVERED CAUSE: JAN 18 2006 55. VALUE PER POUND: 36.2 56. STAGE GUARANTEE PER ACRE: LOGGED W-8-06

57. GROSS PRODUCTION AND ADJUSTMENTS TO HARVESTED PRODUCTION

58. GROSS PRODUCTION: KEY 59. GROSS PRODUCTION (ON SALE): KEY 60. GROSS PRODUCTION (ON SALE): KEY 61. GROSS PRODUCTION (ON SALE): KEY 62. GROSS PRODUCTION (ON SALE): KEY 63. GROSS PRODUCTION (ON SALE): KEY 64. GROSS PRODUCTION (ON SALE): KEY 65. GROSS PRODUCTION (ON SALE): KEY 66. GROSS PRODUCTION (ON SALE): KEY 67. GROSS PRODUCTION (ON SALE): KEY 68. GROSS PRODUCTION (ON SALE): KEY 69. GROSS PRODUCTION (ON SALE): KEY 70. GROSS PRODUCTION (ON SALE): KEY 71. GROSS PRODUCTION (ON SALE): KEY 72. GROSS PRODUCTION (ON SALE): KEY 73. GROSS PRODUCTION (ON SALE): KEY 74. GROSS PRODUCTION (ON SALE): KEY 75. GROSS PRODUCTION (ON SALE): KEY 76. GROSS PRODUCTION (ON SALE): KEY 77. GROSS PRODUCTION (ON SALE): KEY 78. GROSS PRODUCTION (ON SALE): KEY 79. GROSS PRODUCTION (ON SALE): KEY 80. GROSS PRODUCTION (ON SALE): KEY 81. GROSS PRODUCTION (ON SALE): KEY 82. GROSS PRODUCTION (ON SALE): KEY 83. GROSS PRODUCTION (ON SALE): KEY 84. GROSS PRODUCTION (ON SALE): KEY 85. GROSS PRODUCTION (ON SALE): KEY 86. GROSS PRODUCTION (ON SALE): KEY 87. GROSS PRODUCTION (ON SALE): KEY 88. GROSS PRODUCTION (ON SALE): KEY 89. GROSS PRODUCTION (ON SALE): KEY 90. GROSS PRODUCTION (ON SALE): KEY 91. GROSS PRODUCTION (ON SALE): KEY 92. GROSS PRODUCTION (ON SALE): KEY 93. GROSS PRODUCTION (ON SALE): KEY 94. GROSS PRODUCTION (ON SALE): KEY 95. GROSS PRODUCTION (ON SALE): KEY 96. GROSS PRODUCTION (ON SALE): KEY 97. GROSS PRODUCTION (ON SALE): KEY 98. GROSS PRODUCTION (ON SALE): KEY 99. GROSS PRODUCTION (ON SALE): KEY 100. GROSS PRODUCTION (ON SALE): KEY

91. HARVESTED PRODUCTION: 1000

92. INSURER'S SIGNATURE: 12-31-05 93. ADJUSTER'S SIGNATURE: 12-31-05 94. DATE: 12-31-05 95. DATE: 12-31-05

96. 1ST INSPECTION: 12-31-05 97. 2ND INSPECTION: 12-31-05 98. FINAL INSPECTION: 12-31-05

99. MAP-6001 (01-02) 100. White - Sales and Service Office Yellow - Agent Pink - Insured

101. PAGE: 1 OF 1

Abbreviations

AIP	Approved Insurance Provider
CFR	Code of Federal Regulations
DAC	Deputy Administrator of Compliance
HIP	Hurricane Indemnity Program
FSA	Farm Service Agency
ITM	Information Technology Modernization
LAM.....	Loss Adjustment Manual Standards Handbook
NAP.....	Noninsured Crop Disaster Assistance Program
OGC	Office of the General Counsel
OIG	Office of Inspector General
OMB	Office of Management and Budget
RMA	Risk Management Agency
SRA.....	Standard Reinsurance Agreement
SURE	Supplemental Revenue Assistance Payments
TIP.....	Tree Indemnity Program
USDA.....	U.S. Department of Agriculture

USDA'S

RISK MANAGEMENT AGENCY

AND

FARM SERVICE AGENCY

RESPONSES TO AUDIT REPORT



United States
Department of
Agriculture

Risk
Management
Agency

1400 Independence
Avenue, SW
Stop 0801
Washington, DC
20250-0801

TO: Robert W. Young
Assistant Inspector General for Audit
Office of Inspector General

FROM: Michael Hand /s/ Dan Sheppard
Audit Liaison Official

SUBJECT: Office of Inspector General Audit 50601-15-At, Official Draft Report,
Hurricane Indemnity Program – Integrity of Data Provided by the Risk
Management Agency

February 4, 2010

Outlined below is the Risk Management Agency's (RMA) response to the subject report.

RECOMMENDATION NO. 1:

RMA and FSA should implement policies that require interagency data sharing agreements, such as memorandums of understanding, to include specific procedures and timeframes to resolve concerns, and to elevate to the appropriate official when timely resolution does not occur.

RMA and FSA Response:

A memorandum of understanding between RMA and FSA will be issued for future data sharing to include notification to responsible parties that action should be taken to elevate issues/concerns to appropriate levels. Both agencies expect implementation of this recommendation by August of 2010.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 2:

RMA should review all supporting documents provided by AIPs in response to the agency's requests for justification for loss claim changes and determine the legitimacy of the changes.

RMA Response:

Because the AIPs have corrected the unsupported claim information in RMA's database, this recommendation is no longer applicable.

RMA requests management decision for this recommendation.



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

An Equal Opportunity Employer

RECOMMENDATION NO. 3:

RMA should provide FSA with an accurate list of producers who have been determined to be eligible for HIP based on AIPs' and RMA's review of AIPs' changes to loss claim data.

RMA Response:

RMA has completed this action. The HIP program was set up for transmissions to include all eligible producers in each transmission. Previously, there was a problem with producers not being removed from the listing if a change was made that made them ineligible. After correcting this problem, a new file was sent to FSA in March 2009. Additional changes were made by a company to correct problems with the way they were transmitting their data. As a result, an additional file was created and sent to FSA in July 2009.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 4:

RMA should seek an opinion from the Office of the General Counsel as to whether RMA can enforce administrative penalties or sanctions on AIPs responsible for making changes to claim information in RMA's database that were unsupported and, if applicable, assess the AIPs that inappropriately changed claim data.

Regardless, RMA should provide additional training to AIPs stressing the procedural requirements for making changes to loss claims and emphasizing the necessary documentation to verify and support changes.

RMA Response:

RMA has requested and received the above referenced legal opinion from the Office of the General Counsel (OGC) (attached). After reviewing OGC's opinion, the actions of all the AIPs to correct the claim information in RMA's database that were unsupported, and the fact there was no direct financial gain by the AIPs actions, it will be very difficult for RMA to prove willful behavior on the part of the AIPs. For this reason, RMA will be taking no further action concerning this portion of the recommendation.

Concerning the second part of this recommendation, RMA does not provide training to the AIPs, but specifies program requirements they must meet. As an alternative, RMA will issue a bulletin within the next six months to the AIPs highlighting the program requirement(s) for the issues cited in the audit.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 6:

RMA should determine whether the 18 policies that OIG identified with unsupported changes and that resulted in \$246,346 in HIP payments need to be corrected. Direct the AIPs to reverse the changes and provide FSA a list of these corrections.

RMA Response:

Within the next year RMA will review and assess the 18 identified policies to determine whether the changes are supported, and if not, RMA will instruct the responsible AIP to reverse the changes, and provide to FSA a list of corrections.

RMA requests management decision for this recommendation.

RECOMMENDATION NO. 7:

RMA should implement monitoring controls, such as data-mining and periodic reconciliation, to ensure the accuracy of transmitted information when other agencies rely on RMA-provided data to implement their programs.

RMA Response:

RMA's new Information Technology Modernization (ITM) system will contain the history of changes to policies reported by the Approved Insurance Providers (AIPs). This will allow RMA to perform monitoring controls such as periodic analysis of data contained in the ITM system, and data submitted from that system to FSA to mitigate future data discrepancies. The ITM system will be operational for data reporting for the 2011 reinsurance year data, and will be in production beginning in July 2010.

RMA requests management decision for this recommendation.

Should you have any questions or require additional information, please contact Alan Sneeringer at (202) 720-8813.

Attachment (OGC Opinion)



DEC 15 2009

MEMORANDUM FOR MICHAEL HAND
DEPUTY ADMINISTRATOR FOR COMPLIANCE
RISK MANAGEMENT AGENCY

FROM: Kimberley E. Arrigo
Senior Counsel
Community Development Division

SUBJECT: Office of Inspector General Official Draft Audit Report 50601-15-At

You have asked this office for a legal opinion with respect to recommendation number 4 in the above named audit. The audit involves the Hurricane Indemnity Program (HIP) and the integrity of the data the Risk Management Agency (RMA) sent to the Farm Service Agency (FSA), who based the eligibility and amount of payment on the data transmitted. The Office of Inspector General (OIG) claims that it has discovered instances where the approved insurance providers (AIPs) have changed the cause of loss in the RMA system to retroactively make producers eligible for HIP.

OIG notified RMA and RMA sent out notices to the AIPs for 206 policies to determine whether the changes were justified and to provide supporting documentation. A second request was also sent out by FCIC to those AIPs that had not yet conducted their reviews. OIG claims that two AIPs reversed the findings on 127 of 148 policies but three AIPs certified that the changes for all of their 58 policies were justified. OIG investigated the original files for 66 claims and stated that 50 of those claims were not supported on the grounds that the AIP failed to follow approved procedures with respect to corrected claims. OIG contends that the AIPs decision to ignore approved corrected claims procedures, and subsequent failure to acknowledge this failure and make corrections, constitutes a pattern or practice that would permit denial of reinsurance for such policies and requested that RMA obtain a legal opinion on the issue.

The policies at issue were insured under the 2005 and 2006 Standard Reinsurance Agreements (SRA). It appears that the indemnities paid under the policy are not in dispute so section IV.H.7 of the SRA is not applicable. With respect to the delivery of the program, section IV.H.8 of the SRA states in relevant part:

In the event there is a pattern or practice of failing to comply with the Agreement or procedures and FCIC has determined the Company or its service providers, agents, and loss adjusters has failed to provide services or to comply with a provision of this Agreement or procedures and such failure has occurred:

- a. During the claims process (such as loss adjustment, quality control reviews, verification of applicable information, etc.), the Company agrees to pay FCIC

an amount up to 5 percent of the net book premium on all crop insurance contracts affected by the failure based on the materiality or severity of the failure;

Therefore, under the pattern and practice provisions, RMA could not collect more than 5 percent of the net book premium for the applicable policies.

However, given the fact that the AIPs were specifically asked at least once by RMA to review the policies, justify the change in the cause of loss and provide supporting documentation, any failure to follow the procedures may be considered willful. Section IV.H.6 of the SRA states:

In addition to any other remedies in this Agreement, if FCIC determines that the Company or its affiliate willfully violated the Agreement or the procedures, FCIC reserves the right to deny reinsurance for any insurance contract that is sold or serviced in violation of the terms of this Agreement or procedures.

Without seeing any of the evidence, this office cannot conclude that section IV.H.6 of the SRA applies. However, with respect to those AIPs that corrected the files when first asked to review them, I think it will be very difficult to establish any willful behavior unless it can be established at the agent level. With respect to those AIPs that failed to follow the approved procedures after being asked to review the policies by, such conduct may rise to the level of willful. If RMA can establish that the conduct was willful, there are grounds to deny reinsurance for the applicable policies.

If you have any questions, please contact me at 690-2391.



United States
Department of
Agriculture

December 24, 2009

Farm and Foreign
Agricultural
Services

TO: Director, Farm and Foreign Agricultural Division

Farm Service
Agency

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

Operations Review
and Analysis Staff

1400 Independence
Ave, SW
Stop 0540
Washington, DC
20250-0501

SUBJECT: Hurricane Indemnity Program – Integrity of Data Provided by the Risk
Management Agency, Audit 50601-15-AT

Recommendation 5

The Farm Service Agency is in the process of collecting the \$815,612 identified by OIG and resolve any further overpayments a a result of a corrected RMA download. On August 14, 2009, Notice DAP-316 notified county offices that a corrected RMA download would be transmitted on or around August 18, 2009. County offices were instructed to reconcile HIP application to match the final RMA download data. Upon reconciling the files county offices will be required to determine if the producers affected by the corrected download are due a payment or if they have been overpaid. Instructions provided indicated if producers are determined overpaid then county offices are to establish a receivable for the overpayment. On November 30, 2009, Notice DAP-319 provided further instructions to State and County offices to submit documentation to the National Office in support of responding this Recommendation. All documentation to support the collection of money or establishment of receivables is to be provided to the National office by January 20, 2010.

Attachment