



Foreign Agricultural Service's Export Credit Guarantee Program

Audit Report 07601-0001-41

OIG reviewed FAS' administration and oversight of the Export Credit Guarantee Program.

OBJECTIVE

Our objective was to evaluate FAS' administration and oversight of the Export Credit Guarantee Program. Specifically, our objective was to determine whether FAS had adequate controls in place to ensure that the Export Credit Guarantee Program was administered in compliance with applicable laws, regulations, policies, and procedures.

REVIEWED

We reviewed applicable laws, regulations, policies, and procedures related to the program; interviewed key FAS personnel; and selected and reviewed a sample of payment guarantees from FYs 2015–2017.

RECOMMENDS

We recommend that FAS complete the new compliance review guide and require the Compliance Division to resume its reviews upon the guide's completion.

WHAT OIG FOUND

The U.S. Department of Agriculture's (USDA) Export Credit Guarantee Program, administered by the Foreign Agricultural Service (FAS), provides payment guarantees to U.S. exporters to facilitate financing of commercial exports of U.S. agricultural commodities. FAS administers the Export Credit Guarantee Program on behalf of the Commodity Credit Corporation. The program was designed to increase exports of U.S. agricultural commodities, expand access to trade and finance, and assist developing countries and emerging markets in meeting their food and fiber needs.

We found that, although FAS has adequate controls in place to help ensure that the Export Credit Guarantee Program is administered correctly, the agency has not conducted compliance reviews of the program since fiscal year (FY) 2015. This occurred because FAS made significant changes to the regulations governing the program in FY 2015 and suspended further compliance reviews of the program until it updates the overall process for conducting these reviews and its review guide to account for the regulation changes. We consider these reviews an important component of FAS' controls over the Export Credit Guarantee Program because without these reviews, there is no assurance that exporters participating in the Export Credit Guarantee Program are complying with program requirements or that the program is protected from fraud, waste, and abuse. FAS officials informed us that a new review guide is in development, but no issue date has been established.

FAS agreed with our finding and recommendations and we accepted management decision on both recommendations.



United States Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



DATE: July 13, 2018

AUDIT
NUMBER: 07601-0001-41

TO: Ken Isley
Administrator
Foreign Agricultural Service

ATTN: Kim Cash
Director
Compliance, Security and Emergency Planning Division

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Foreign Agricultural Service's Export Credit Guarantee Program

This report presents the results of the subject audit. Your written response to the official draft, dated June 29, 2018, is included in its entirety at the end of the report. Your response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on your written response, we are accepting management decision for all audit recommendations in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than the Office of the Chief Financial Officer (OCFO), please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This report contains publically available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.

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Background and Objectives

Background

The U.S. Department of Agriculture's (USDA) Export Credit Guarantee Program, administered by the Foreign Agricultural Service (FAS), provides payment guarantees to U.S. exporters to facilitate financing of commercial exports of U.S. agricultural commodities. Eligible U.S. agricultural commodities under the program include, but are not limited to, the major bulk commodities such as soybeans, wheat, corn, rice and cotton; intermediate products including soy and vegetable oils and feed meals; and consumer-ready products including canned or fresh fruit and vegetables and wine and spirits. To be deemed an eligible U.S. agricultural commodity or product under the program, the agricultural commodity or product must be entirely produced in the United States and, if a product, contain at least 50 percent or more agricultural components by weight. In the case of a designated high-value product, 90 percent of the agricultural components must be produced in the United States.¹

Through the issuance of a payment guarantee, the Export Credit Guarantee Program protects exporters of U.S. agricultural commodities (or a U.S. bank if the guarantee is assigned to that bank)² against the risk of nonpayment by a foreign financial institution. By reducing financial risk to U.S. exporters and/or U.S. banks, payment guarantees encourage exports of U.S. agricultural commodities to importers in countries—mainly developing countries—that have sufficient financial strength to make agreed-upon payments. The Export Credit Guarantee Program was designed to increase exports of U.S. agricultural commodities, expand access to trade and finance, and assist developing countries and emerging markets in meeting their food and fiber needs.

FAS administers the Export Credit Guarantee Program on behalf of the Commodity Credit Corporation (CCC).³ A payment guarantee issued under this program is an agreement by CCC to pay the exporter or the U.S. bank who is the holder of the guarantee, a specified amount of principal and interest in the event of default by the foreign bank that issued the letter of credit for the export sale. The letter of credit is a financial instrument used by a buyer's bank to guarantee a buyer's obligation to a seller for purchases of U.S. agricultural commodities by foreign importers. The payment guarantee covers up to 98 percent of the principal and a portion of interest. The program covers credit terms of up to 18 months; however, terms may vary

¹ High-value products are those highly processed products that are ready for the consumer and do not retain the image of being a pure product, such as canned fruit and wine.

² The exporter may assign the payment guarantee to the U.S. bank, who would then be considered the holder of the payment guarantee. Once assigned, the U.S. bank has legal rights to the proceeds from the payment guarantee if there is a default.

³ CCC is a Government-owned and operated entity that was created to stabilize, support, and protect farm income and prices. CCC also helps maintain balanced and adequate supplies of agricultural commodities and aids in their orderly distribution. In addition, CCC assists in the development of new domestic and foreign markets and marketing facilities for agricultural commodities. CCC is managed by a Board of Directors and has no operating personnel. All activities related to the Export Credit Guarantee Program are carried out by FAS' personnel on CCC's behalf.

depending on the country. CCC issued payment guarantees totaling approximately \$5.6 billion in FYs 2015–2017.

Exporters must first enroll in the Export Credit Guarantee Program and be approved to apply for a payment guarantee. Once approved for the program, the exporter would apply for a payment guarantee based on an existing export sales contract. FAS will calculate the fee for the payment guarantee based on the total dollar value of the exported commodities and the risk associated with the guarantee. The guarantee fee rates are currently based on the degree of risk that FAS is undertaking, which includes the economic stability of the foreign country and its currency, the risk of the foreign bank's ability to pay, and the repayment terms and frequency under the guarantee.

An FAS-approved foreign bank issues an irrevocable letter of credit in favor of the exporter.⁴ An FAS-approved U.S. bank agrees to extend terms consistent with the guarantee to the approved foreign bank. Once an export occurs, the exporter presents the required shipping documents to the U.S. bank along with the guarantee. The exporter is paid by the U.S. bank, who is now the holder of the payment guarantee. If the foreign bank fails to make any payment covered by the guarantee, the holder of the payment guarantee (exporter or U.S. bank, if assigned) must submit a notice of default to FAS within five business days after the default of payment occurred. A claim for default also must be filed within 180 calendar days of the payment due date, and CCC will only pay claims found to be in good order.

FAS uses an automated system⁵ to administer the Export Credit Guarantee Program. This system is used to track all activities relating to the Export Credit Guarantee Program, including exporters' applications for the program and payment guarantees, and exporters' shipments once they are approved for a payment guarantee. Exporters have certain access to the system and may enter applications for guarantees and report their shipments made under the payment guarantee directly into the system.

Federal regulations require the exporter to provide an Evidence of Export (EOE) report for each shipment made under the payment guarantee.⁶ The EOE report includes information such as the description of the commodity, date of export, destination country, and exported value. The exporter certifies on the EOE report that the information provided is accurate.⁷ In addition, Federal regulations require the exporter to submit shipping documentation (for example, bills of lading) when filing a default claim on a payment guarantee.⁸

FAS' Compliance, Security and Emergency Planning Division (Compliance Division) is responsible for conducting annual compliance reviews of the Export Credit Guarantee Program. This review is generally the only time that FAS reviews exporters' shipping records prior to a submission of a claim for a defaulted payment.

⁴ The letter of credit is irrevocable because it cannot be modified or revoked unless all parties agree.

⁵ This automated system is referred to as the GSM System.

⁶ 7 CFR 1493.130 (a).

⁷ 7 CFR 1493.140.

⁸ 7 CFR 1493.170 (a)(3)(iii).

Objectives

Our objective was to evaluate FAS' administration and oversight of the Export Credit Guarantee Program. Specifically, our objective was to determine whether FAS has adequate controls in place to ensure that the Export Credit Guarantee Program was administered in compliance with applicable laws, regulations, policies, and procedures.

Finding 1: FAS Needs to Resume its Compliance Reviews of the Export Credit Guarantee Program

Compliance reviews are an important component of FAS' controls over the Export Credit Guarantee Program. Although FAS has adequate controls in place to help ensure that the Export Credit Guarantee Program is administered in compliance with applicable laws, regulations, policies, and procedures, we found that the agency has not conducted any compliance reviews of the program since FY 2015. This occurred because FAS made significant changes to the regulations governing the program in FY 2015 and suspended further compliance reviews of the program until it updated the overall process for conducting these reviews and its review guide to account for the regulation changes. Without these reviews, there is no assurance that exporters participating in the Export Credit Guarantee Program are complying with program requirements or that the program is protected from fraud, waste, and abuse.

Pursuant to a written agreement with the Office of Inspector General (OIG), FAS' Compliance, Security and Emergency Planning Division (Compliance Division) is required to perform compliance reviews of the Export Credit Guarantee Program to ensure exporters comply with program requirements.⁹ According to the agreement, FAS' Compliance Division is responsible for: "(1) protecting FAS resources against fraud, waste, and abuse; and (2) verifying compliance with all laws, regulations and policies controlling FAS programs and administration."

Prior to FY 2015, FAS' Compliance Division conducted annual compliance reviews of the Export Credit Guarantee Program. To perform these reviews, the Compliance Division selected a sample of payment guarantees and compared the information exporters provided to FAS to source documents for verification. The compliance review would examine the exporter's application, sales contract, letter of credit, and all elements of the sale and delivery of commodities covered by the payment guarantee, which included the shipping documents and records. For example, a reviewer would examine the type of commodity shipped, date of export and quantity exported from the bills of lading, shipping documents, and any other record the exporter provided to FAS, then compare that information to the exporter's or assigned U.S. bank records. The compliance review is generally the only time that FAS verifies the exporter's shipping information prior to a default. Checking the shipping documents in advance would not only help detect, but could deter exporters from filing fraudulent claims.¹⁰

FAS made significant changes to the regulations governing the Export Credit Guarantee Program in FY 2015. Some of the changes to the regulations included requiring that the letter of credit from the foreign banks be issued within 30 calendar days of the date of export and that under

⁹ The purpose of the agreement was to set forth an understanding between OIG and FAS regarding investigative and enforcement activities relating to FAS programs. The agreement was effective on July 18, 2008.

¹⁰ As was noted in the Scope and Methodology Section of this report, we reviewed four nonstatistically selected payment guarantees issued during our scope period. We selected two of the payment guarantees because they had defaults. These were the only default claims exporters filed during our scope period. Our review of the two default claims did not disclose any discrepancies or fraudulent activity.

certain circumstances at least one original bill of lading be presented as a required document.¹¹ To account for the changes, FAS' Compliance Division planned to revise its compliance review process and to make the reviews more robust by visiting exporters in person to review their shipping records and to incorporate the new requirements under the current regulations. However, due to these impending revisions, compliance reviews were stalled and have not been conducted since FY 2015.

According to FAS officials, the Compliance Division is in the process of developing a new review guide that will provide better guidance on how to conduct the reviews. Also, the Compliance Division believes on-site reviews of exporters will be more effective in detecting program irregularities for potential fraud and therefore plans to conduct more of these reviews. However, FAS has not established a date to complete the development of the new review guide or to resume its reviews of the Export Credit Guarantee Program.

Without these reviews of the Export Credit Guarantee Program, FAS has limited means for ensuring exporters' compliance with program requirements or for detecting program fraud and abuse, particularly since these reviews are generally the only time FAS reviews exporters' shipping records prior to a default. FAS needs to complete the new compliance review guide and resume its reviews of the Export Credit Guarantee Program once the new review guide is completed.

Recommendation 1

Complete the new compliance review guide.

Agency Response

In its June 29, 2018, response, FAS stated:

The Compliance, Security and Emergency Planning Division (CSEPD) is working to finalize the review process for conducting compliance reviews of FAS's Export Credit Guarantee Program. We are drafting review steps, including the scope and methodology for the reviews, and will be testing this during an on-site review that is scheduled for June 25-29, 2018. The review was originally scheduled for earlier in the fiscal year but was pushed back due to the lapse of government funding. We expect to have a completed process by September 30, 2018.

OIG Position

We accept management decision on this recommendation.

¹¹ An original bill of lading is required if the shipper is not the exporter or declared related party under the payment guarantee. If the shipper is the exporter or a named related party, then a photocopy of an original bill of lading is acceptable.

Recommendation 2

Require the Compliance Division to resume its reviews of the Export Credit Guarantee Program once the new review guide is completed.

Agency Response

In its June 29, 2018, response, FAS stated:

The Management Control Officer and Audit Liaison will work with the Export Credit Guarantee Program each fiscal year to identify a minimum of one review to be conducted each year by CSEPD. If other additional reviews are requested to address immediate issues or increased risk to the government, CSEPD will work to add those to the annual review schedule.

In a subsequent response received on July 2, 2018, FAS stated they would complete this action by June 14, 2019.

OIG Position

We accept management decision on this recommendation.

Scope and Methodology

We conducted an audit survey of FAS' Export Credit Guarantee Program. The scope of our survey work covered FYs 2015–2017. To accomplish our objectives, we performed fieldwork at the FAS national office, located in Washington, D.C. We performed our fieldwork from November 2017 through March 2018.

To assess FAS' controls over the Export Credit Guarantee Program, we reviewed four non-statistically selected payment guarantees issued during our scope period. We selected two of the payment guarantees because they had defaults. These were the only default claims exporters filed during our scope period. We selected the other two guarantees because one was the largest payment guarantee issued during our scope period and the other collected the most guarantee fees.

At the FAS national office, we:

- Reviewed the pertinent laws, regulations, policies, and procedures related to the Export Credit Guarantee Program;
- Interviewed key personnel, including the director of FAS' Credit Program Division, to gain an understanding of their roles and responsibilities relating to the Export Credit Guarantee Program;
- Interviewed key personnel to gain an understanding of the Credit Program Division's processes for approving applications for participation in the Export Credit Guarantee Program and for payment guarantees, and for approving default claims on the payment guarantees;
- Ascertained the nature and scope of FAS Credit Program Division's oversight of the Export Credit Guarantee Program;
- Interviewed key personnel from FAS' Compliance, Security and Emergency Planning Division to determine the nature and scope of its compliance reviews of the Export Credit Guarantee Program; and
- Selected and reviewed a nonstatistical sample of payment guarantees and assessed FAS' controls to ensure only eligible exporters participated in the program and received payment guarantees, and exporters' default claims and payments were fully supported.

During the course of our audit, we used the GSM System to select our sample of payment guarantees to review. We also verified the accuracy of the information exporters entered into the GSM System for the selected payment guarantees. Aside from selecting our sample of payment guarantees to review and verifying the information entered into the GSM System regarding those guarantees, we did not solely rely on or verify information in any other agency information systems. Thus, we make no representation regarding the adequacy of any agency computer

systems, or the information generated from them because evaluating the effectiveness of the information system or information technology controls was not one of the audit's objectives.

We conducted this audit survey 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Abbreviations

CCC.....Commodity Credit Corporation
CFR.....Code of Federal Regulations
EOE.....Evidence of Export
FASForeign Agricultural Service
FYfiscal year
OIGOffice of Inspector General
USDA.....Department of Agriculture

**AGENCY'S
RESPONSE TO AUDIT REPORT**



United States
Department of
Agriculture

Trade and
Foreign
Agricultural
Affairs

Foreign
Agricultural
Service

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TO: Gil Harden
Assistant Inspector General for Audit
Office of Inspector General

FROM: Ken Isley /s/ June 29, 2018 4:47 pm
Administrator

SUBJECT: Response to the OIG Draft Report on *Foreign Agricultural Service's
Export Credit Guarantee Program (07601-0001-41)*

Thank you for providing the Foreign Agricultural Service (FAS) with the Office of Inspector General (OIG) draft report on “Foreign Agricultural Service’s Export Credit Guarantee Program.” We note that, although compliance reviews can be a valuable tool, FAS program operations personnel have and will continue to request additional documentation as questions arise with respect to certain transactions. The two OIG recommendations, and FAS’s responses to them, are provided as follows:

Recommendation 1:

Complete the new compliance review guide.

FAS Response:

The Compliance, Security and Emergency Planning Division (CSEPD) is working to finalize the review process for conducting compliance reviews of FAS’s Export Credit Guarantee Program. We are drafting review steps, including the scope and methodology for the reviews, and will be testing this during an on-site review that is scheduled for June 25-29, 2018. The review was originally scheduled for earlier in the fiscal year but was pushed back due to the lapse of government funding. We expect to have a completed process by September 30, 2018.

Recommendation 2:

Require the Compliance Division to resume its reviews of the Export Credit Guarantee Program once the new review guide is completed.

FAS Response:

The Management Control Officer and Audit Liaison will work with the Export Credit Guarantee Program each fiscal year to identify a minimum of one review to be conducted each year by CSEPD. If others additional reviews are requested to address immediate issues or increased risk to the government, CSEPD will work to add those to the annual review schedule.

If you have any questions or concerns regarding this memorandum, or if you need additional information, please contact James Gartner, FAS's Audit Liaison, on (202) 720-0517.

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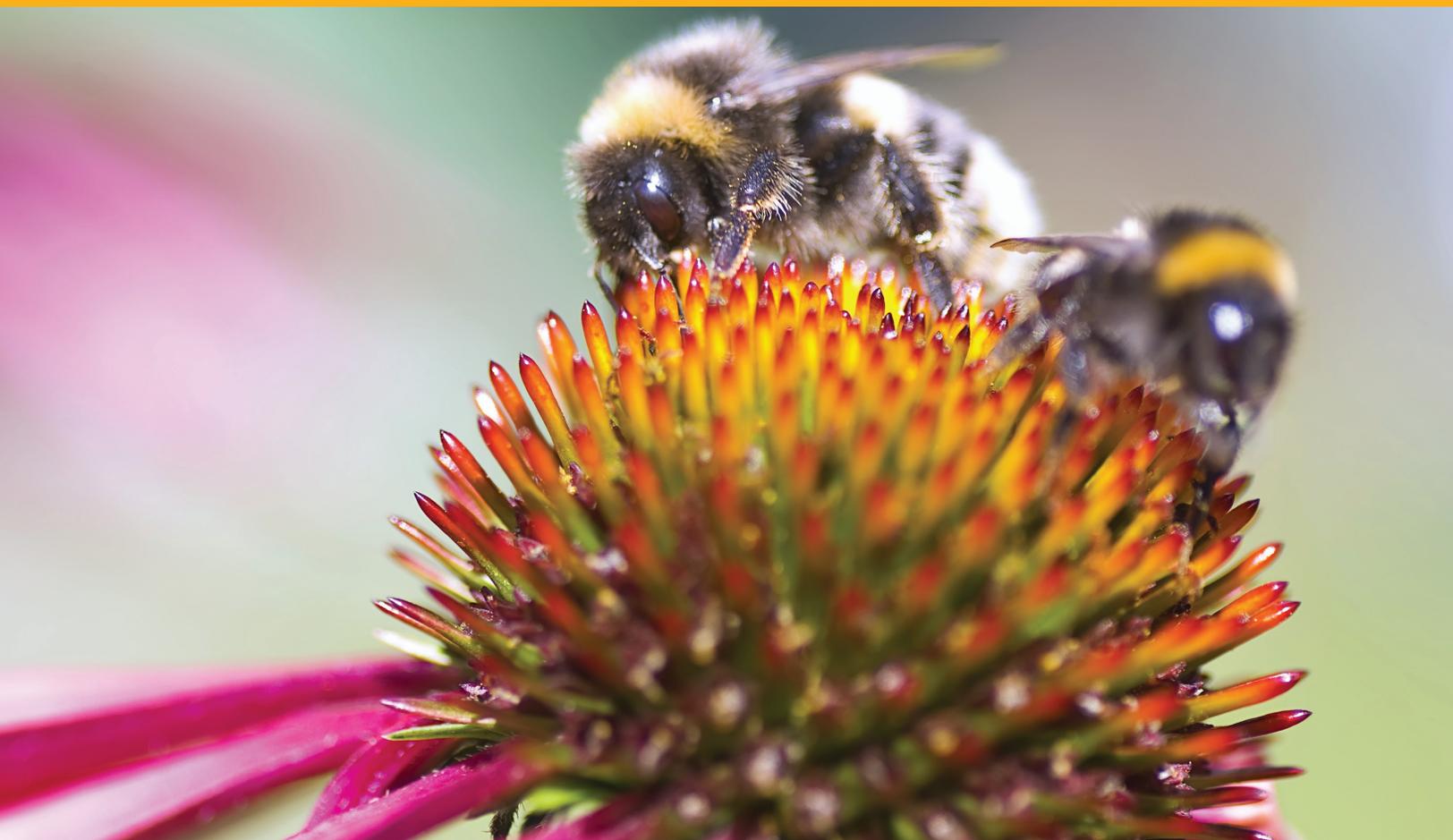
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