



Crop Insurance Professional Association, LLC

September 4, 2012

Mr. Stan Harkey
Product Analysis & Accounting Division
U.S. Department of Agriculture
Risk Management Agency
Beacon Facility—Mail Stop 0811
P.O. Box 419205
Kansas City, Missouri 64141-6205

RE: Docket ID No. FCIC-12-0007, Notice of Request for Approval of a New Information Collection

Dear Mr. Harkey:

On behalf of the Crop Insurance Professionals Association (CIPA), I write to offer comment on Docket ID No. FCIC-12-0007, Notice of Request for Approval of a new Information Collection. Comments are invited on four specific questions, highlighted in bold below, and CIPA's response to each is provided immediately thereafter.

In brief, we do not believe the collection of information is either necessary or of practical utility. The A&O allowance level was determined only two years ago and implemented in the last reinsurance year. Budget constraints are unlikely to allow for an increase in A&O if that is what the information suggests is appropriate, and Congress has signaled that it is not inclined to make further reductions and is, in fact, uncomfortable with the level of reductions just made. We are not confident that the questions to be posed, the respondents to be questioned, and the venues selected will yield probative answers to the question of what agencies' reasonable costs are in selling and servicing policies.

If, however, the collection of information is to move forward in any case, we urge that the effort be carried out by physically interviewing agency owners (i.e., omitting all surveys, as well as interviews with those who are not agency owners and who are, therefore, not in a position to answer the questions) using questions first published in the *Federal Register* and open to comment in order to ensure the best information practicable is gleaned from the process.

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

The proposed collection of information stems from a report of the General Accountability Office (GAO), entitled "Opportunities Exist to Reduce the Costs of Administering the Program,"

published in April 2009 in response to a request from Representatives Henry Waxman, Edolphus Towns, and Jim Cooper.

In the report, GAO recommended: “To better ensure that the A&O allowances provided to the crop insurance industry are sufficient for program delivery, but not excessive, we recommend that the Secretary of Agriculture direct the Administrator of the Risk Management Agency to develop a new methodology for calculating the A&O allowance so that it is more closely aligned with expenses, in terms of dollars per policy, as was the allowance in place before 2006, when crop prices increased sharply.”

In response to the GAO recommendation, then Acting RMA Administrator William J. Murphy wrote in a letter dated the same month: “RMA has considered the GAO recommendations regarding the alignment of A&O subsidy with actual delivery expenses, and considers the recommendation generally consistent with the direction and guidance provided within the 2008 Farm Bill. As part of the next renegotiation with the private insurance companies, RMA will be evaluating potential A&O calculation methodologies for establishing an appropriate reimbursement for services performed.”

On June 10, 2010, USDA issued a press release announcing the final draft Standard Reinsurance Agreement (SRA) in which the department declared that its six objectives, including to “[a]lign A&O subsidy paid to insurance companies closer to actual delivery costs” had been achieved under the terms of the SRA. The release reported: “The final draft agreement will generally maintain the current Administrative and Operating (A&O) subsidy structure, but remove the possibility of windfall government payments based on high commodity price spikes by limiting the level of A&O payments that the industry can receive. However, an inflation factor and consideration for new business is included so that the maximum payment may reasonably increase over the length of the agreement.” The release estimated that \$6 billion in savings had been created by the change in A&O structure and other steps taken in the SRA.

As RMA notes in the abstract of the *Federal Register* notice, “[t]he amount of the A&O expense reimbursement paid to these companies has been an issue of legislative interest by Congress...” Indeed, the 2008 Farm Bill prescribed a 2.3 percentage point reduction in the A&O allowance rate in effect prior to enactment as part of an estimated \$6 billion in budgetary savings from crop insurance, in addition to generally authorizing a renegotiation of the SRA previously mentioned. During 2008 farm bill deliberations, the House and Senate specifically rejected amendments proposing cuts to A&O beyond those contained in the underlying legislation.

More recently, on June 21 of this year, the Senate passed its version of the 2012 farm bill which, among other things, imposes limitations on the renegotiation of the SRA to ensure budget neutrality and specifically prescribes A&O allowance rates for particular policies so the rates may not be administratively altered. On July 11, the House Committee on Agriculture approved its own version of the farm bill, adopting the same provisions just referenced plus another provision to increase the A&O relative to specialty crop policies to provide “equitable relief” from excessive cuts under the SRA. The previous fall, in order to carry out the requirements of the Budget Control Act of 2011, the House Committee on Agriculture and the Senate Committee on Agriculture Nutrition, and Forestry considered directly altering the A&O cap imposed under

the 2010 SRA or, alternatively, allowing approved insurance providers and agents to challenge the cap as inconsistent with the statute in U.S. district court. However, Congressional Budget Office (CBO) scorekeepers assigned significant cost to these legislative initiatives, making them cost prohibitive. We understand that these constraints deterred similar action on these issues this year. Once filed, the report to accompany the House farm bill may shed further light on the view of Congress concerning A&O.

If we were confident that the kind of information that would be collected under this notice would be probative in establishing agencies' reasonable costs – and we are not in part because there is insufficient information in the notice – then it would still seem to us that the time for collection of this information is well past, by at least two and possibly as many as four years, when such information might have informed the judgment of the Risk Management Agency in the negotiation of the 2010 SRA, the judgment of the Congress in the development and passage of the 2008 farm bill, and the judgment of the GAO in establishing the benchmark for the reduction in the A&O allowance rate that legislative and regulatory efforts have now achieved. Going forward, budget constraints would likely prevent an increase in A&O if the information collected pointed toward the appropriateness of an increase in order to approximate reasonable costs, while provisions contained in the House and Senate versions of the farm bill suggest Congress intends to prevent future cuts and even unwind some cuts that were previously imposed.

All of the foregoing raises doubts as to whether the proposed collection of information is “necessary for the proper performance of the functions of the agency, including whether the information will have practical utility” even without a discussion as to whether the information to be collected would inform anyone on how to better establish an A&O allowance rate. But the kind of information that would be solicited may very well transform these doubts to a conclusive no on the question of whether the information is necessary or practical in furtherance of the stated objective.

Historically, A&O under federal crop insurance has been expressed as a percentage of premium, generally in line with industry practice for property and casualty insurance. In fact, the statute still expresses A&O in this manner. Through negotiations between USDA RMA and approved insurance providers in the 2010 SRA, this long-standing practice was significantly altered, effectively imposing a cap on annual A&O allowance. Agent compensation, in turn, is now influenced by these two policies as well as by market competition based on service given that RMA determines premiums. Further divorcing the establishment of A&O from long-standing industry practice, contract negotiation, and service-based competition in favor of Washington attempting to second-guess reasonable costs of delivery through a set of questions posed in interviews or surveys would further upset a private sector delivery system that is proved effective and cost-efficient, duplicate the overarching goal of the GAO report and the SRA which has already been achieved, and run counter to the intent of Congress.

As such, we do not believe that the proposed collection of information is necessary for the proper performance of the functions of the agency, nor would it likely have practical utility. If, however, the collection of information effort is to proceed, despite our concerns, we would urge that the specific questions to be posed in all interviews be published in the *Federal Register* and be subject to comment, and that the universe of those interviewed be confined to agency owners.

If the effort is worth doing, it is worth doing right. The questions need to be probative and appropriate in determining reasonable costs, and, as such, the questions must be posed only to those persons actually capable of answering them. The results of flawed interviews, either because the questions were not probative or the persons asked are not in the position to know the answer, would or at least should have no practical utility.

The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used.

The estimated time for agent respondents to answer survey questions designed to determine reasonable costs of delivery is greatly underestimated if the proposed collection of information is to yield anything more than guesses. 30 minutes is significantly understating the burden of accurately estimating agency costs, whether the estimate is based upon answering one open-ended question or upon answering a set of specific questions meant to arrive at an answer. The notice is also unclear as to what agents the surveys would be sent even though only an agency owner would be capable of answering the question or questions with reliable accuracy.

The number of interviews proposed with agents is very small considering the total number of agents and that agents are in the best position – the only position – to answer the question at the heart of the matter. Interviews, rather than surveys, are the only reliable means of attempting to accurately calculate both the tangibles and intangibles involved in the sales and servicing of policies. Surveys might capture tangible services that are relatively easy to measure and quantify but not the qualitative or intangible services that farmer customers base their decision on when choosing an agent or other professionals, including estate or financial planners, accountants, or attorneys.

Meanwhile, all approved insurance providers are interviewed, and farmers are interviewed in equal number to that number of agents to be interviewed. We greatly respect our farmer customers but we do not expect them to know our cost of doing business any more than one would expect a client to understand the cost of doing business of his or her lawyer, accountant, financial planner, or other professional employed to perform a service. Using time spent with a producer as a yardstick to measure costs, for example, manages to ignore not only the tangible or measurable activities engaged in by an agent on behalf of the producer customer but the intangible and hard to measure activities as well. These intangibles would also be missed by approved insurance providers that are generally not engaged in direct sales and the servicing of our producer customers. In fact, attempting to measure these intangibles through a small set of brief interviews or surveys even to agents would meet with questionable success by virtue of the fact that they are intangible. This is a part of the reason why insurance agents are generally paid as a percentage of premium.

As such, we would urge that interviews of agency owners be conducted, rather than interviews and surveys of all agents, approved insurance providers, and a sampling of producers. However, if RMA intends to move forward with interviews and surveys, including with approved insurance providers and farmer customers, we would urge that interview and survey questions be published in the *Federal Register* with opportunity to comment to ensure that the questions posed are as probative as possible in determining an agency's reasonable costs. Additionally, if all approved

insurance providers are to be interviewed, all agency owners should be interviewed as well since they hold the key to the question being asked. Alternatively, the percentage of approved insurance providers and agency owners should at least be in equal proportions relative to their total numbers. Fewer farmers should be interviewed and surveyed than agency owners. Again, it stands to reason that one should focus on the persons most likely to possess the answers to the questions that are being asked.

Ways to enhance the quality, utility, and clarity of the information to be collected.

Interviewing and surveying the only people capable of answering the fundamental question is central to collecting information of any value. This focus will at least help arrive at reasonable cost estimates – which are still going to vary widely – for tangible services. But even this is not going to get at the heart of the matter which to no small extent involves quantifying the intangible services an agent provides. For instance, is the value of a lawyer, an accountant, or a financial planner to a client equal to the cost of the equipment, office supplies, technology, etc. that he or she uses?

We urge you to narrow the scope of the interviews to agency owners, publish interview questions in the *Federal Register* and open them up for comment to get the best possible set of questions, and clearly elaborate in the *Federal Register* what benchmarks will be used to at least attempt to estimate the value of intangible services peculiar to the profession.

In preparing a list of questions to be posed, we would recommend that the questions be narrowly tailored to evoke answers that are directly related to the threshold issue of reasonable costs to the agency for sales and servicing.

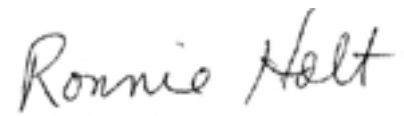
Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

While we appreciate efforts to minimize the burden on respondents, in this case we believe that the less time spent on the questions and the more impersonal the venue in which they are posed, the less likely the information gathered will paint an accurate picture of the true costs of delivery. This is in part but not solely due to the intangibles involved.

In conclusion, we do not believe the collection of information is either necessary or of practical utility. The A&O allowance level was only determined in 2010 and put in place in the last reinsurance year. Budget constraints are unlikely to allow for an increase in A&O if that is what the information suggests is appropriate, and Congress has signaled that it is not inclined toward further reductions or comfortable with reductions already imposed. We are not confident that the questions posed, the respondents questioned, and the venues selected will yield probative answers to the question of reasonable agency costs. If the collection of information is to move forward in any case, we urge that the effort be limited to interviewing agency owners using questions first published in the *Federal Register* and open to comment to ensure the best information practicable.

Thank you for the opportunity to provide comment.

Sincerely,

A handwritten signature in cursive script that reads "Ronnie Holt". The ink is dark and the handwriting is fluid.

Ronnie Holt
Chairman