



United States  
Department of  
Agriculture

Risk  
Management  
Agency

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

**BULLETIN NO: MGR-09-001**

**TO: All Approved Insurance Providers  
All Risk Management Agency Field Offices  
All Other Interested Parties**

**FROM: Eldon Gould /s/ Eldon Gould 1/5/09  
Administrator**

**SUBJECT: Non-disclosure Statements**

**BACKGROUND:**

The Privacy Act of 1974 (5 U.S.C. § 522a) requires agencies to establish appropriate administrative, technical, and physical safeguards to ensure the security of records and to protect against any anticipated threats or hazards to their security that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual about whom information is maintained.

To establish common administrative safeguards for protected information, the Risk Management Agency (RMA) originally issued Manager Bulletin No. MGR-08-004 on March 18, 2008. MGR-08-004 required the execution of non-disclosure statements (NDS) by all persons having access to any information covered by the Privacy Act, section 502(c) of the Federal Crop Insurance Act (Act) or any other applicable statute (collectively referred to as "Protected Information").

After RMA issued MGR-08-004, it received numerous questions regarding the statements, the scope of persons required to sign the non-disclosure statement, and the timing of obtaining non-disclosure statement signatures and other certifications. Consequently, RMA decided to modify the requirements and guidance provided in MGR-08-004. This bulletin supersedes MGR-08-004.

**ACTION:**

Modifications have been made to both non-disclosure statements provided in MGR-08-004. Guidance is hereby provided to clarify the scope of persons required to sign non-disclosure statements and to revise deadlines for submitting statements and certifications.

1. Approved insurance providers (AIPs) must sign the attached APPROVED INSURANCE PROVIDER NON-DISCLOSURE STATEMENT and return to the Director of Reinsurance Services at the address below within 10 business days from the date of this Bulletin.



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

An Equal Opportunity Employer

2. All persons having access to Protected Information (as defined in the attached non-disclosure statements) who are either employed by or have contracted with the AIP must sign the attached INDIVIDUAL NON-DISCLOSURE STATEMENT and return it to the AIP as soon as possible, but no later than March 2, 2009. If a person employed by or having a contract with the AIP has previously executed an NDS with another AIP, that person must either submit a copy of the original NDS to the AIP or sign and submit a new NDS. The AIP must maintain copies of all such NDS's and have them available for inspection.
3. The AIP must ensure that its affiliates and contractors are fully aware of the need to protect information and the requirement to collect non-disclosure statements from all persons having access to Protected Information. Affiliates and contractors, in turn, must ensure that all persons having access to Protected Information who are either employed by or have contracted with them, must sign the attached INDIVIDUAL NON-DISCLOSURE STATEMENT and return it to the contractor or affiliate as soon as possible, but no later than March 2, 2009. The contractor or affiliate of the AIP must maintain copies of all such NDS's and have them available for inspection.
4. By April 1<sup>st</sup> each year, an AIP must obtain an annual certification from each of its contractors and affiliates that the respective contractor or affiliate has obtained an NDS from each person who has access to any Protected Information and who is employed by or has a contract with the contractor or the affiliate. The purpose of the annual certification by the contractor or affiliate to the AIP is to ensure that the contractor or affiliate annually reviews its files to determine that any new employees or other persons having access to Protected Information have signed an NDS. The written and signed certification must be from an officer of the affiliate or contractor to the AIP and can state: "I hereby certify that [insert the name of the affiliate or contractor] has reviewed its files and, as of [insert date review was completed], all employees or other persons having access to Protected Information have signed a non-disclosure statement." The AIP must maintain copies of all such certifications and have them available for inspection.
5. After March 2, 2009, all persons who are employed by or have a contract with the AIP who have not previously executed an NDS will be required to have executed an NDS prior to obtaining access to Protected Information. Further, AIPs must notify contractors and affiliates regarding the requirement that all persons employed by or having a contract with the contractor or affiliate must sign an NDS prior to obtaining access to Protected Information.
6. The AIP must provide an annual certification to RMA that it has (a) obtained an NDS from all persons who have access to any protected information and who are employed by or have a contract with the AIP; and, (b) in the case of persons employed by or having a contract with a contractor or affiliate, has obtained a certification from the contractor or affiliate that the contractor or affiliate has obtained an NDS from all such persons. The purpose of the annual certification

by the AIP to RMA is to ensure that the AIP annually reviews its files to determine that any new employees or other persons having access to Protected Information have signed an NDS and that all affiliates and contractors have provided an annual certification as to the NDS's signed by their employees. The written and signed certification must be from an officer of the AIP and can state: "I hereby certify that [insert the name of the AIP] has reviewed its files and as of [insert date review was completed], all employees or other persons having access to Protected Information have signed a non-disclosure statement and all affiliates and contractors have certified that their employees and other persons having access to Protected Information have signed non-disclosure statements." For the 2009 and 2010 reinsurance years, the AIP must provide this certification by April 1, 2009 to the Director of Reinsurance Services at the address below. For the 2011 and subsequent reinsurance years, the AIP must provide this certification with the annual Plan of Operations, which is due April 1 prior to the start of the reinsurance year.

7. AIPs and their contractors and affiliates may use electronic versions of the NDS form which incorporate either a digital signature or an authentication system to properly identify the submitter. Electronic records of signed or authenticated NDS's must be retained by the respective AIP, contractor, or affiliate and be available for inspection.
8. AIPs and their contractors and affiliates shall not provide Comprehensive Information Management System (CIMS) information to anyone who has not signed and submitted an individual NDS to the AIP or the respective contractor or affiliate.
9. No individual NDS's or affiliate/contractor certifications should be submitted directly to RMA. All individual NDS's and affiliate/contractor certifications should be submitted to the respective AIP, contractor, or affiliate, as directed in the guidance above.
10. The AIP NDS identified in Action Item 1 and the annual AIP certification identified in Action Item 6 must be sent to:

Director, Reinsurance Services Division  
USDA/Risk Management Agency  
1400 Independence Avenue SW  
Stop 0804  
Washington, DC 20250-0804

**DISPOSAL:**

This bulletin supersedes MGR 08-004. It will remain in effect until incorporated in the Standard Reinsurance Agreement or applicable handbooks. The disposal date is December 31, 2009.

**Attachments:**

Approved Insurance Provider Non-Disclosure Statement  
Individual Non-Disclosure Statement

**APPROVED INSURANCE PROVIDER  
NON-DISCLOSURE STATEMENT**

1. [INSERT NAME OF APPROVED INSURANCE PROVIDER] hereby agrees that it shall keep private and not publish, use or disclose to any individual or entity, either directly or indirectly, any Protected Information, except that it may:
  - (a) Use such information as necessary to perform its duties under the Standard Reinsurance Agreement, and in accordance with applicable procedures issued by the Risk Management Agency or the Federal Crop Insurance Corporation;
  - (b) Disclose, or provide authorization to receive, such Protected Information only to its affiliates, employees or contractors who need such information in the performance of their duties and who have, by March 2, 2009, signed an Individual Non-Disclosure Statement or who are employed by an entity that has certified that its employees have signed Individual Non-Disclosure Statements; and
  - (c) Disclose Protected Information pursuant to a subpoena, court order, statute, law, rule, regulation or other similar requirement (a “Legal Requirement”). Prompt notice of such Legal Requirement shall be provided to the affected policyholders prior to its disclosure so they may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Agreement.
2. [INSERT NAME OF APPROVED INSURANCE PROVIDER] further agrees that it shall keep secure all electronic and hard copy Protected Information.
3. [INSERT NAME OF APPROVED INSURANCE PROVIDER] agrees that the obligation to secure and not disclose any Protected Information shall continue in perpetuity. However, when the period during which records are required to be retained under the Standard Reinsurance Agreement has ended, Protected Information may be properly disposed of and destroyed.
4. [INSERT NAME OF APPROVED INSURANCE PROVIDER] certifies that it shall adhere to all security policies and rules provided by RMA in handling USDA information and systems.
5. [INSERT NAME OF APPROVED INSURANCE PROVIDER] certifies that it shall obtain from its affiliates, employees and contractors who are to receive any Protected Information from any source, including from policyholders, a properly executed Individual Non-Disclosure Statement or a certification from its contractors or affiliates that such contractors and affiliates have obtained an Individual Non-Disclosure Statement from all persons who will have access to any protected information and who are employed by or have a contract with the contractor or the affiliate.

6. [INSERT NAME OF APPROVED INSURANCE PROVIDER] understands that violation of this agreement may result in civil and criminal penalties under the Privacy Act or section 1770c of the Food Security Act of 1985 (7 U.S.C. § 2276c).

7. For the purposes of this document:

**“Protected Information”** means any Personally Identifiable Information about a policyholder, or information about the policyholder’s farming operation or insurance policy, acquired from the policyholder, USDA, the Comprehensive Information Management System, or the policyholder’s previous or current approved insurance provider or agent that is protected from disclosure by the Privacy Act, section 502(c) of the Federal Crop Insurance Act (Act), or any other applicable statute. This includes all hard copy or electronic information.

**“Personally Identifiable Information”** means any information about an individual maintained by an Agency, including but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, biometric records, etc., including any other personal information which is linked or linkable to an individual.

**“RMA”** means the Risk Management Agency, which operates the Federal crop insurance program on behalf of the Federal Crop Insurance Corporation.

**“USDA”** includes the Risk Management Agency, Farm Service Agency, and any other agency within the United States Department of Agriculture.

By having its representative sign below, [INSERT NAME OF APPROVED INSURANCE PROVIDER] acknowledges that it will adhere to all requirements for non-disclosure contained herein.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**INDIVIDUAL  
NON-DISCLOSURE STATEMENT**

1. I hereby agree that I shall keep private and not publish, use or disclose to any other individual or entity, either directly or indirectly, Protected Information, except that I may:
  - (a) Make use of such information to the extent necessary in the performance of my duties, as required under the Standard Reinsurance Agreement, and in accordance with applicable procedures issued by the Risk Management Agency;
  - (b) Disclose Protected Information to only employees or contractors of the approved insurance provider or their affiliates authorized to receive such information, and who have, after March 2, 2009, signed an Individual Non-Disclosure Statement; and
  - (c) Disclose Protected Information pursuant to a subpoena, court order, statute, law, rule, regulation or other similar requirement (a “Legal Requirement”). Prompt notice of such Legal Requirement shall be provided to the affected policyholders prior to its disclosure so they may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Agreement.
2. I hereby agree that I shall keep secure all electronic and hard copy Protected Information and not provide access to any person not expressly authorized by the approved insurance provider or its affiliate to receive such information.
3. I agree that my obligation to secure and not disclose any Protected Information shall continue in perpetuity, which includes the time I am employed or under contract with an approved insurance provider and after I leave such employment or are no longer under contract. I understand that I may fulfill this obligation by properly destroying Protected Information for which retention requirements have ended.
4. I certify that I will adhere to all security policies and rules provided by RMA in handling USDA information and systems.
5. I understand that violation of this agreement may result in civil and criminal penalties under the Privacy Act or section 1770c of the Food Security Act of 1985 (7 U.S.C. § 2276c).

6. For the purposes of this document:

**“Approved insurance provider”** means an insurance company that has entered into a Standard Reinsurance Agreement with the Federal Crop Insurance Corporation for the applicable reinsurance year, or any of its affiliates, with which I am employed, with which I have been employed or with which I have contracted to provide services in the administration, sales or servicing of crop insurance policies reinsured by the FCIC.

**“Protected Information”** means any Personally Identifiable Information about a policyholder, or information about the policyholder’s farming operation or insurance policy, acquired from the policyholder, USDA, the Comprehensive Information Management System, or the policyholder’s previous or current approved insurance provider or agent that is protected from disclosure by the Privacy Act, section 502(c) of the Federal Crop Insurance Act (Act), or any other applicable statute. This includes all hard copy or electronic information.

**“Personally Identifiable Information”** means any information about an individual maintained by an Agency, including but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, biometric records, etc., including any other personal information which is linked or linkable to an individual.

**“RMA”** means the Risk Management Agency, which operates the Federal crop insurance program on behalf of the Federal Crop Insurance Corporation.

**“USDA”** includes the Risk Management Agency, Farm Service Agency, and any other agency within the United States Department of Agriculture.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title or Position: \_\_\_\_\_

Name of affiliate or contractor, if applicable: \_\_\_\_\_