

General Government Division

B-254049



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August 5, 1993

The Honorable Kenneth D. Brody
Chairman
U.S. Export-Import Bank

Dear Mr. Brody:

At the request of Senator David Pryor, Chairman of the Subcommittee on Federal Services, Post Office and Civil Service, Senate Committee on Governmental Affairs, we reviewed selected aspects of the management and operation of the U.S. Export-Import Bank's (Eximbank) Claims and Recovery Division (CRD). Specifically, we assessed (1) whether CRD has a strategy and management guidelines for its claims and recovery efforts, (2) whether CRD has internal control problems, and (3) what steps CRD is taking to improve its operations. As discussed with the Subcommittee, we are sending this letter to you to assist in your assessment of CRD's management and internal controls.

BACKGROUND

CRD's goal is to pay claims quickly and accurately and, in the most cost-effective manner, to recover monies from defaulted obligations. By virtue of its recovery efforts, CRD contributes to Eximbank's financial viability. Further, to aid its recovery efforts, CRD refers cases to the Justice Department for legal action when necessary. The Justice Department attempts through legal processes (e.g., default judgments) to assist CRD in collecting monies owed Eximbank. According to its 1992 Annual Report, CRD closed 358 cases out of a universe of 3,007 cases and recovered \$150 million on defaulted obligations during fiscal year 1992. In our July 20, 1982, report,¹ we said that it was difficult to determine if CRD was paying or denying claims in a consistent manner and effectively minimizing financial

¹Review of Selected Aspects of Claims Division Operations and Certain Allegations Concerning Claims Payments and First-Class Travel (GAO/ID-82-49, July 20, 1982).

loss through its recovery efforts because it lacked formalized operating policies and guidelines. It took CRD until 1986 to develop such a manual. However, even after it was completed it was never used as a management tool, according to CRD staff.

SCOPE AND METHODOLOGY

To obtain an overview of CRD's management and operations, we interviewed Eximbank and CRD managers and staff, and we reviewed and analyzed CRD files and documents. To obtain information on CRD's internal controls, we interviewed a member of Eximbank's Board of Directors; the Senior Vice President of the Insurance, Claims and Recovery Division; the Chief Financial Officer; the Vice President of Policy, Planning, and Program Development; and all 22 CRD staff. We also reviewed a random sample of CRD's Mexican claim files, projectable to the universe of the 1,036 Mexican claim files. Mexican claim files were chosen because they represent the largest single block of CRD claims.

We also reviewed and analyzed (1) 20 GAO Office of Special Investigations interviews from a previous related assignment that addressed potential fraud and mismanagement by the Vice President for CRD; (2) a 1982 GAO report that cites CRD management problems; and (3) Price Waterhouse audit reports. Also, we conducted interviews regarding CRD recovery efforts with the Chief of the Department of Justice's Civil Division and his staff.

We conducted our work from December 1992 to July 1993 in accordance with generally accepted government auditing standards.

CRD LACKS STRATEGY AND GUIDELINES FOR ITS RECOVERY EFFORTS

A clear strategy and guidelines for pursuing claims recoveries are important for the efficient operation of CRD. Guidelines should cover matters such as how to prioritize recovery efforts, how much of an effort to make on individual claims, and how to develop the expertise of CRD staff and use them most effectively. CRD currently has no analytic method or strategy for determining which claims to pursue and how much of an effort to make. CRD does not use a formal system for

determining which claims cases would provide Eximbank with the greatest return for CRD's recovery efforts. In addition, according to CRD staff, CRD has used an ad hoc approach to assigning recovery claims to claims officers. According to CRD staff, one consequence of this is that claims officers did not develop expertise with respect to individual countries or types of claims. Furthermore, we found examples in which claims recoveries could have been more successful if good recovery practices had been consistently followed.

CRD's 1986 Strategic Issues for Claims and Recoveries for Eximbank discusses the concept of a matrix for prioritizing claims and recovery efforts. However, senior CRD management has chosen not to implement this approach because the Vice President for CRD did not consider it a priority. In our opinion, developing and applying such a formal approach to prioritizing CRD work would rationalize the operations of CRD.

Additionally, guidance on good claims recovery practices can be found in the Code of Federal Regulations. The problem of how to recover claims owed the federal government is one faced by many agencies in addition to Eximbank. Other agencies follow the guidance on how to collect claims that is codified in the Federal Claims Collection Standards--found in title 4 of the Code of Federal Regulations (4 C.F.R.), parts 101-105.² We note that these standards could be used by Eximbank as guidelines in developing management direction for CRD. The standards require an aggressive collection effort and

²Under 31 U.S.C. 3711 (1988), the head of an agency is required to attempt collection of claims of the U.S. government under the Federal Claims Collection Standards, which the Attorney General and the Comptroller General prescribe jointly. We recognize that Eximbank questions the applicability of the Federal Claims Collections standards to at least some elements of its debt collection portfolio. While it is clear that these standards apply to debts owed by domestic entities, it has not yet been determined whether the standards apply to the collection of debts owed by entities that are not citizens of the United States. Irrespective of the legal requirements, we believe that the Federal Claims Collections standards provide a good model or guideline for all debt collection efforts of Eximbank.

provide instructions on a number of important procedures. They provide, by way of example

- a standard procedure for sending debtors demand letters for payment of monies owed,
- guidance for contracting collection services such as collection agencies or attorneys,
- a method for assessing interest owed on defaulted obligations, and
- specific procedures for referring delinquent claims to the Department of Justice for litigation.

CRD HAS INTERNAL CONTROL WEAKNESSES

During our work, we identified three CRD internal control issues: (1) the existence of errors and weaknesses in CRD recordkeeping; (2) the need for an improved mechanism for CRD staff to air concerns about fraud, waste, and abuse, or suggest ways to improve operations; and (3) the prevalence of untranslated Spanish documents in CRD's Mexican claim files that hinder the claims recovery process.

Errors in CRD's Databases

Adequate safeguards and internal controls are essential to guard against errors and inaccuracies in CRD's databases and reporting systems. Specifically, two current and two former CRD claims officers; a member of Eximbank's Board of Directors; and the Vice President of Policy, Planning, and Program Development have expressed concerns about errors in CRD's databases and recordkeeping. They believe these errors provide an inaccurate picture of its operations, achievements and workload. We note the following three examples of poor data management we found in CRD's reports and databases.

First, the CRD February 28, 1990, interim report cites claims made against the Eximbank's financial guarantee program as having an unresolved balance of \$50.6 million, while its fiscal year 1990 Year End Report shows an unresolved balance of \$758.2 million. When we identified this large difference, we asked CRD staff and the Vice President to explain it. As of June 15, 1993, they were unable to explain the \$700-million dollar increase in the unresolved account balance. Our concerns are that CRD's

own management and internal controls did not identify this large discrepancy, and CRD was unable to reconcile it.

Second, the CRD third quarter fiscal year 1990 report shows monies recovered from closed Mexican claim cases to be \$67.4 million. Later, in its fiscal year 1990 Year End Report, this figure was changed to \$54.8 million. This decrease was troubling to us because it does not seem possible for the amount of money recovered from claims to decrease as the year progresses. Again, when asked why the discrepancy occurred, CRD staff and the Vice President of CRD were unable to explain the \$12.6-million recovery decrease, other than stating it might be a mistake. We are concerned that CRD's internal controls did not identify this discrepancy, and CRD staff were unable to reconcile it.

Third, in 1989 Eximbank's Office of Policy, Planning, and Program Development undertook an analysis of the history of a series of loan cases, from approval to completion, including some cases in which claims were paid out and monies recovered. However, the office was forced to cancel its analysis because CRD records could not provide sufficient information on the amount of monies recovered in cases involving rescheduled loans.

Responding to Allegations of Fraud, Waste, and Abuse

Responding to allegations regarding fraud, waste, and abuse is usually the responsibility of an audit team. From 1980 to the present, CRD staff have expressed in writing (1) their thoughts about ways to improve CRD's management and operations; and (2) their concerns about fraud, waste, and abuse. However, Eximbank does not appear to have responded effectively to these concerns, based on our review of staff complaints over a 12-year period.

Eximbank has an Office of Internal Audit, but it is narrowly focused, does not have independent status, and is relatively unknown. In fact, only 7 of CRD's total 22 staff knew of its existence. Only one of the seven employees had ever had any direct involvement with it.

In an effort to strengthen the audit function, Eximbank established in March 1992 an Audit Committee to more effectively address the Eximbank's Board of Director's

oversight of ongoing audits. The committee has met twice, once in September 1992, and once in January 1993. It is too soon to assess its effectiveness.

Because of allegations of fraud, waste, abuse, and mismanagement in CRD dating back to GAO's 1982 report, Eximbank needs a better way to air staff concerns and to more effectively respond to them. There are several possibilities, among which are to (1) strengthen the Office of Internal Audit and make it more visible; (2) expand the ability of the Audit Committee to address allegations of fraud or mismanagement by having the Office of Internal Audit report to the committee; or (3) possibly establish a small, independent, active Office of Inspector General that would report directly to the Chairman of Eximbank.

Untranslated Foreign Language Documents
Are an Internal Control Concern

Another internal control issue concerns documentation and correspondence in Spanish contained in many of the Mexican claim and recovery files. Current and former CRD claims officers said they view these untranslated documents as an internal control problem because claims officers are required to approve case settlement decisions without knowing the importance or relevance of these documents to the overall case. And, while two CRD claims officers do understand and correspond in Spanish, most claims officers do not. CRD has no foreign language requirement for its employees. We reviewed the Mexican claim files to determine how widespread documentation in Spanish was. However, we could not determine the significance of these documents because we did not translate them.

Our sample of 53 out of the 1,036 Mexican files showed that 51 files had at least one document in Spanish. We estimate that 997 of 1,036 files contained material in Spanish without translations.³

³The 95-percent confidence interval for this estimate is 905 to 1,030 files.

We agree with CRD staff that this problem is an internal control issue. Some possible solutions to this problem are to (1) hire more bilingual claims officers, (2) contract translators as needed, or (3) require foreign lawyers to correspond in English when writing to Eximbank. When translation is not feasible, these attorneys could enclose a cover memorandum in English that briefly lists the attached foreign language documents. If these actions were taken, all claims officers would know the relevance of all documentation and correspondence.

EFFORTS TO IMPROVE CRD OPERATIONS

New, mid-level CRD management is attempting to address systemic, long-term problems in CRD's operations. And, while it is too early to assess the effectiveness of these changes, we believe they are a step in the right direction.

- CRD has recently developed a portfolio approach for claims case assignment and management. In this approach, claims officers are assigned claims and recovery work for specific countries; thereby it is hoped they will develop greater expertise and accountability (i.e., one officer being the focal point and having primary responsibility for all cases from a given country).
- CRD is starting to revise its General Procedures and Policy Handbook for Claims Officers, with completion due by September 1993. In 1982, we cited the lack of an updated and utilized policy and procedures manual as a problem. This is the first update since the handbook was written in 1986. However, just having the manual is insufficient if its use is not encouraged by CRD management, which, according to CRD staff has not been the case. Without management encouragement to use the manual, CRD staff for all intents and purposes do not have any criteria by which to conduct their work.
- CRD started in October of 1992 to close out old claims and recovery cases for which it was perceived there was little likelihood of collection. As of April 1993, CRD has closed out 500 claims cases out of a universe of 2,649 cases. Previously, these old claims cases were shown as open on CRD's database.

CRD management believes the effort to close out old cases will provide a more accurate assessment of its workload and will help identify which remaining cases warrant collection efforts.

- CRD plans to develop a formal training program for its employees. According to the Deputy Vice President of CRD, this organized training program is needed to bring new employees up to speed and to continually develop the skills of seasoned employees. Historically, CRD staff have not had an organized training program.
- CRD plans to develop cost data on its recovery efforts (costs such as CRD staff salaries, office rental costs, and the cost of hiring foreign attorneys). In the past, according to a member of Eximbank's Board of Directors, CRD's lack of clear data on what it costs CRD to recover assets has made it difficult to accurately assess its recovery efforts.

As we have noted, these changes appear to be a step in the right direction. However, they do not address or correct the concerns we discuss earlier--namely the need for a strategy and guidelines for CRD's recovery efforts, and weaknesses in CRD's internal controls.

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As agreed with the Senate Committee on Governmental Affairs, we plan no distribution of this letter until 15 days after its issue date. At that time, we will send copies to the Chairman of the Subcommittee on Federal Services, Post Office and Civil Service, Senate Committee on Governmental Affairs. We will also make copies available to other interested parties upon request.

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Please contact me at (202) 512-4812 if you or your staff have any questions concerning this letter. The information in this letter was developed by Virginia C. Hughes, Assistant Director; Kurt W. Kershow, Evaluator-in-Charge; Kevin C. Malone, Evaluator; and Herbert I. Dunn, Senior Attorney.

Sincerely yours,

A handwritten signature in cursive script that reads "Allan I. Mendelowitz".

Allan I. Mendelowitz, Director
International Trade, Finance, and
Competitiveness

(280050)

GAO/GGD-93-56R Eximbank Claims and Recovery Efforts