GAO

Report to Congressional Committees

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RESOLUTION TRUST CORPORATION

[illegible] Report on the Management Reforms in the RTC Completion Act

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GAO

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Chairman
The Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing, and
Urban Affairs
United States Senate

The Honorable Henry B. Gonzalez
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The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance and
Urban Affairs
House of Representatives

This is the first of two required reports on the Resolution Trust Corporation's (RTC) efforts to implement 21 management reforms mandated by the RTC Completion Act.[1] This interim report provides information on the manner in which RTC is implementing the mandated reforms and the progress that it has made toward achieving full compliance during the 6 months since the act became law in December 1993. Our final report is to be issued in December 1994.

Results in Brief

The manner in which RTC proceeded to implement each of the 21 management reforms varied from reform to reform. Actions have been initiated to implement all the reforms. Although some actions have been completed, more work remains to be done on most of the reforms.

Specifically, RTC has completed actions on two reforms, both of which were initiated before the RTC Completion Act became law. These reforms involved appointing individuals to the positions of Chief Financial Officer (CFO) and the Vice President for Minority and Women's Programs. Also, the Department of Minority and Women's Programs was designated a division and the Vice President heading the division was appointed to the RTC Executive Committee.

[1]The Resolution Trust Corporation Completion Act, Pub. L. No. 103-204, 107 Stat. 2369 (1993), required GAO to conduct a study of the manner in which the reforms required by the act are being implemented by RTC and the progress being made by RTC toward achieving full compliance with the requirements. GAO is required to prepare an interim report not later than 6 months after the date of enactment of this act and a final report not later than 1 year after the enactment.

On three reforms, actions have been taken, but the nature of each reform requires RTC to monitor its implementation to ensure full compliance. These reforms include maintaining the comprehensive business plan, assessing the effectiveness of RTC's internal controls, and ensuring that vacancies in specific senior positions are filled promptly.

Finally, work is in progress to implement the remaining 16 reforms, including the establishment of an audit committee by the Thrift Depositor Protection Oversight Board. Progress on these reforms, however, varies considerably. Actions in progress include drafting an interim final rule on asset disposition methods and a final rule on minority- and women-owned business (MWOB) contracting procedures; revising and issuing procedures, policies, manuals, and directives for contracting and asset disposition activities; and increasing efforts to implement audit recommendations and correct internal control weaknesses.

Background

In his March 1993 testimony before the Senate Committee on Banking, Housing, and Urban Affairs, Secretary of the Treasury Lloyd Bentsen, speaking in his capacity as Chairman of the Thrift Depositor Protection Oversight Board (hereafter referred to as the Oversight Board), outlined a 9-point plan to help RTC improve its management practices. Later, a tenth item—the establishment of an interagency transition task force made up of RTC and Federal Deposit Insurance Corporation (FDIC) personnel—was added to plan for the transfer of RTC's personnel and systems to FDIC when RTC ceases operations in December 1995. Secretary Bentsen said that such a task force was needed to help ensure an orderly transition to FDIC without impairing RTC's operations.

The RTC Completion Act included 21 management reforms—those in Secretary Bentsen's 9-point plan along with 12 others.[2] The establishment of the RTC/FDIC transition task force was not among the 21 reforms but was required by a separate section in the act.[3] For reporting purposes, we organized the 21 reforms into the 4 categories which reflected the organizational components of RTC that would be responsible for taking the implementation actions. These categories are: (1) general management functions; (2) resolution and disposition activities; (3) contracting, including related MWOB activities; and (4) the Oversight Board reform.

[2]Section 3(a) of the RTC Completion Act amended section 21A of the Federal Home Loan Bank Act by adding a new subsection (w), which contains the 21 mandated management reforms.

[3]The requirement to establish an RTC/FDIC transition task force is in section 6 of the RTC Completion Act. GAO is reviewing the transition efforts of RTC and FDIC in a separate assignment.

In the first category—general management functions—we included the 10 reforms that are the responsibility of RTC's corporate top management.[4] These reforms require RTC to:

- develop and maintain a comprehensive business plan;
- maintain a division of minorities and women programs;
- appoint a CFO;
- correct problems identified by auditors, including GAO and the RTC Inspector General (IG);
- appoint an assistant general counsel (AGC) for professional liability;
- maintain an effective management information system;
- maintain effective internal controls;
- fill any vacancies that occur in specific senior RTC positions;
- itemize its expenditures for the year, and disclose salaries and other compensation paid during the year to directors and senior executive officers at thrifts under RTC's control as part of RTC's annual report; and
- ensure that every field office has a client responsiveness unit.

In the second category—resolution and disposition activities—we included the three reforms that are the responsibility of the Vice Presidents of Asset Management and Sales, and Resolutions. These reforms require RTC to:

- revise marketing procedures for disposing of real property,
- justify asset disposition methods used to sell real property and nonperforming real estate loans, and
- give preference to minority acquirers of thrifts in predominantly minority neighborhoods (PMN).

In the third category—contracting and related MWOB activities—we included the seven reforms that are the responsibility of the Vice Presidents for Contracts, Oversight and Evaluation, and Minority and Women's Programs, and Legal Services. These reforms require RTC to:

- revise contracting procedures for basic ordering agreements to ensure that small businesses and MWOBs are not inadvertently excluded;
- maintain procedures and uniform standards for contracting with private contractors and overseeing contractors' and subcontractors' performance;

[4]These included the Chief Executive Officer (CEO); Chief Financial Officer; General Counsel; Vice President for Planning, Research, and Statistics; and Vice President for Administration.

- establish guidelines for achieving the goal of a reasonably even distribution of contracts awarded to various MWOB and minority- and women-owned law firm (MWOLF) subgroups;
- prescribe regulations specifying sanctions, including contract penalties and suspensions, for subcontracting and joint venture violations;
- set procedures and goals for MWOB and MWOLF subcontracting;
- ensure that, in awarding competitively bid contracts, procedures used are no less stringent than those in effect when the RTC Completion Act became law; and
- improve the management of legal services.

The fourth category contains a single reform that requires the Oversight Board to establish an audit committee to monitor and advise RTC on its efforts to improve internal controls and implement audit recommendations. The Oversight Board is responsible for implementing this reform.

Objectives, Scope, and Methodology

Our objectives for this interim report, as set forth in the RTC Completion Act, were to determine (1) the manner in which RTC was implementing the 21 management reforms and (2) the progress made by RTC toward achieving full compliance.

We accomplished these objectives through (1) interviews with responsible RTC headquarters and field officials and (2) reviews of applicable statutes and RTC documents, including status reports identifying actions taken to implement the reforms' requirements, specific policies and procedures designed to implement the reforms, and recent IG reports that addressed areas related to the management reforms. Also, we used other ongoing GAO work at RTC to verify that planned actions to implement the reforms had been completed or were in process. Since some action had been initiated to implement all 21 reforms, we classified each reform into one of three status categories: (1) work in progress, (2) action taken but the reform requires monitoring, or (3) action completed.

This report discusses the implementation status of all 21 management reforms included in the RTC Completion Act. In our final report, due in December 1994, we plan to include those reforms in this report classified as (1) work in progress and (2) action taken but the reform requires monitoring.

We did our work from December 1993 to June 1994 in accordance with generally accepted government auditing standards. Appendix I provides more detailed information on our objectives, scope, and methodology.

Reforms Involving RTC General Management Functions

Table 1 shows the implementation status we determined for each of the 10 reforms in this category.

Table 1: Implementation Status of Reforms in the General Management Functions Category

		Implementation status			
Reform number[a]	Management reform	Work in progress	Action taken/ monitoring required[b]	Action completed	See page:
1	Comprehensive business plan[c]		X		19
4	Division of minorities and women programs[c]			X	20
5	Appoint CFO[c]			X	20
9	Corrective responses to audit problems[c]	X			21
10	AGC for Professional Liability	X			24
11	Management information system[c]	X			25
12	Internal controls[c]		X		28
13	Fill certain vacant positions		X		30
14	Annual reporting	X			31
21	Client responsiveness units	X			31

[a]This is the reform number from the RTC Completion Act (see app. II).

[b]RTC has taken actions that will enable it to fulfill the requirements of the reform, but monitoring is required to ensure that appropriate future actions are taken when necessary.

[c]This reform was also included in Secretary Bentsen's March 1993 9-point plan.

Source: RTC Completion Act and GAO assessment of implementation status.

For the two completed reforms shown in table 1, RTC (1) in April 1993, created the Division of Minority and Women's Programs and appointed a Vice President to head this division who also serves on RTC's Executive Committee and (2) in June 1993, appointed a CFO who reports directly to RTC's Chief Executive Officer (CEO). These actions were completed before the act became law in December 1993.

For the three reforms we show as action taken but the reforms require monitoring, RTC (1) issued a comprehensive business plan on December 15, 1993, to complete the thrift cleanup and began measuring its performance against the goals in the plan; (2) established a program to assess the adequacy of its internal controls, and issued its annual assessment report on March 31, 1994, identifying internal control weaknesses that needed to be corrected; and (3) ensured that senior RTC positions were filled.

The nature of these reforms requires RTC to monitor them to ensure that appropriate future actions it must take are initiated when necessary. To maintain the business plan, RTC plans to continue to measure its performance against the goals in the plan and make adjustments in the goals as necessary to reflect changing conditions. To maintain effective internal controls, RTC plans to continue to assess the adequacy of its internal controls and take actions to correct any weaknesses it, GAO, and the IG identify. The third reform that needs to be monitored requires RTC to take prompt action to fill any vacancy that may occur in the six positions identified.

For the five reforms in the work in progress category, RTC has taken some actions to implement the reforms, but all planned actions have not yet been completed. Highlights of some of the actions taken to date are listed below:

- RTC has established a management decision and audit follow-up process that encompasses all efforts to address findings, implement accepted recommendations, and verify completion of corrective actions.
- RTC plans to unify the management structure of the professional liability program and incorporate the investigations unit into the Legal Services Division.
- RTC has implemented a corporatewide data quality policy requiring program managers to develop data quality action plans. Also, a new directive requires a cost benefit analysis to be prepared and approved before a system enhancement is initiated.

- RTC has assigned responsibility to the CFO and Vice President for Asset Management and Sales for compiling data on RTC expenditures, and salaries and other compensation paid to directors and senior executive officers at RTC controlled thrifts. This information is to be included in RTC's annual report.
- RTC has drafted a directive to reaffirm the authority and purpose of the client responsiveness program. This directive is scheduled to be issued in August 1994.

Additional details on the manner in which RTC proceeded to implement these reforms, as well as their status, are included in appendix II.

Reforms Involving Resolution and Disposition Activities

The three reforms in this category affect the manner in which RTC markets and attempts to dispose of failed thrifts and specific assets under its control. They are intended to ensure that individual acquirers and MWOB firms are given sufficient opportunity to participate in RTC's thrift resolution and asset disposition activities. Table 2 shows the implementation status we determined for each of the three reforms in this category.

Table 2: Implementation Status of Reforms in the Resolution and Disposition Activities Category

		Implementation status			
Reform number[a]	Management reform	Work in progress	Action taken/ monitoring required	Action completed	See page:
2	Marketing real property on an individual basis	X			33
3	Disposition of real estate related assets	X			34
17	Minority preference - thrifts in PMNs	X			35

[a]This is the reform number from the RTC Completion Act. (See app. III.)

Source: RTC Completion Act and GAO assessment of implementation status.

Highlights of some of the actions taken to date are listed below:

- RTC has issued a memorandum to establish a 120-day period to market real property assets on an individual basis before they may be included in any multiasset sales initiative. The memorandum also requires written justifications for including these assets in multiasset sales initiatives if they did not sell during the 120-day period. An interim final rule has been drafted and should be published in July 1994. RTC expects to finalize the rule by October 1994.

- RTC has issued a memorandum informing staff of the requirements to prepare written justifications for selling certain nonperforming real estate loans and other real property. These requirements are being included in the interim final rule mentioned above.
- RTC has published the interim rule defining "predominantly minority neighborhoods" as any U.S. postal ZIP code area in which 50 percent or more of the residents are minorities according to the most recent Census data. However, RTC has the discretion to use other data that may indicate more accurate neighborhood boundaries. Also, a directive summarizing RTC's minority preference resolution programs was issued in February 1994.

RTC officials told us that, for these reforms, implementing the planned actions generally has required substantial time and effort mainly because of the rulemaking requirements for establishing federal regulations. Also, the minority preference reform has been subject to extensive review and debate because its implementation could have a significant effect on the extent to which minority individuals or institutions can acquire failed thrifts in PMNs.

Additional details on the manner in which RTC proceeded to implement these reforms, as well as their status, are included in appendix III.

Reforms Involving RTC Contracting and Related MWOB Activities

In this category, we included seven reforms that affect RTC's contracting activities, including several intended to improve RTC's contracting system, strengthen its contractor oversight, and ensure that MWOB firms receive sufficient opportunities to obtain RTC contracts. Table 3 shows the implementation status we determined for each of the seven reforms in this category.

Table 3: Implementation Status of Reforms in the Contracting and Related MWOB Activities Category

		Implementation status			
Reform number[a]	**Management reform**	**Work in progress**	**Action taken/ monitoring required**	**Action completed**	**See page:**
6	Basic ordering agreements	X			37
7	Improve contracting systems and contractor oversight[b]	X			37
15	MWOB contract parity guidelines	X			39
16	Subcontracting and joint ventures contract sanctions	X			40
18	Subcontracts with MWOBs	X			40
19	Contracting procedures	X			41
20	Management of legal services[b]	X			42

[a]This is the reform number from the RTC Completion Act. (See app. IV.)

[b]This reform was also included in Secretary Bentsen's 9-point plan.

Source: RTC Completion Act and GAO assessment of implementation status.

Highlights of some of the actions taken to date are listed below:

- In May 1994, RTC issued a policy memorandum that included guidance on basic ordering agreements which is designed to ensure a thorough review of source lists for prospective RTC contract solicitations. RTC is drafting a directive that outlines procedures for reviewing these lists.
- RTC has revised the Contracting Policies and Procedures Manual (CPPM) to provide uniform contracting procedures and strengthen contractor oversight and provided additional RTC staff for contracting related activities. These actions were completed before the act was signed and responded to recommendations we previously made to improve RTC contracting.
- RTC is developing guidance to achieve the goal of a reasonable distribution of contract awards and fees to each minority subgroup of contractors. This effort should be completed by the end of July 1994.
- RTC has developed specific sanctions, such as contract suspensions, for violations of MWOB subcontracting and joint venture requirements. RTC

plans to issue a final rule, including these sanctions, by the end of July 1994.

- RTC has drafted a final rule identifying MWOB subcontracting goals for contracts with fees of $500,000 or more, and expects to issue it by the end of July 1994.
- RTC has revised the CPPM to incorporate the requirement that RTC's competitive bidding procedures will be no less stringent than those in effect on the date the act was signed.
- RTC has drafted revised procedures for retaining outside legal counsel. These procedures are expected to be adopted in final form by July 31, 1994.

Additional details on the manner in which RTC proceeded to implement these reforms, as well as their status, are included in appendix IV.

Reform to Be Implemented by the Oversight Board

The establishment of an audit committee was included in Secretary Bentsen's 9-point plan. The implementation status of this reform is work in progress. As of June 15, 1994, the audit committee was not formed. Thus far, two individuals have been identified as candidates to serve on the three-person audit committee, and it has yet to hold its first meeting.

Additional details on the manner in which the Oversight Board proceeded to implement this reform, as well as its status, are included in appendix V.

Conclusion

Since December 1993, RTC and the Oversight Board have moved forward in varying degrees to implement the 21 reforms. Continued attention by RTC's top management and the Oversight Board will be needed to ensure that the reforms' intended benefits can be achieved to the fullest extent possible before RTC ceases its operations in December 1995.

Comments on the Report

During the period June 13, 1994 through June 23, 1994, we discussed the detailed information on each of the 20 RTC reforms with the RTC senior officials[5] responsible for implementing these reforms or their designated representatives. In addition, we discussed the contents of the report with CFO representatives, and with officials from the Office of Planning, Research and Statistics, which is responsible for tracking RTC's progress in implementing the reforms.

[5]These officials included the CFO and the General Counsel. Also included were the Vice Presidents of Asset Management and Sales; Administration; Contracts, Oversight, and Evaluation; Resolutions; and Minority and Women's Programs; and the Director of Information Resources Management.

Generally, these RTC officials agreed that the information in the report provided a fair and accurate summary of the manner in which RTC was implementing the reforms and the progress it has achieved during the 6 months since the act became law. In addition, RTC officials agreed with our assessment of the implementation status for all 20 reforms. During our discussions, RTC officials provided us with information that updated and clarified their actions in implementing various reforms. We included this information in the report where appropriate.

For the Oversight Board reform, on June 15, 1994, we discussed detailed information with the individual on the Oversight Board staff who is responsible for monitoring the implementation of the reform. The individual agreed that the information we included in our report about the establishment of an audit committee provided an accurate summary of the Oversight Board's efforts to implement this reform. Also, the individual agreed that work in progress was the appropriate implementation status for this reform.

We are sending copies of this report to the Chairman and Ranking Minority Member of the Subcommittee on General Oversight, Investigations, and the Resolution of Failed Financial Institutions, House Committee on Banking, Finance and Urban Affairs, and to the Chairman and Ranking Minority Member of the Subcommittee on Commerce, Consumer, and Monetary Affairs, House Committee on Government Operations. In March 1993, both Subcommittees requested that we review RTC's implementation of Secretary Bentsen's 9-point plan. The requesters agreed that the work we were doing in response to the RTC Completion Act would satisfy their requests. Also, we are sending copies to RTC's Acting President and Chief Executive Officer, the Chairman of the Thrift Depositor Protection Oversight Board, and other interested congressional committees and subcommittees. Copies will be made available to others upon request.

The major contributors to this report are listed in appendix VI. If you have any questions, please contact me on (202) 736-0479.

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Abbreviations

AGC	Assistant General Counsel
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CLD	Central Loan Database
CPPM	Contracting Policies and Procedures Manual
DIRM	Department of Information Resources Management
FDIC	Federal Deposit Insurance Corporation
IG	Inspector General
MWOB	minority- and women-owned business
MWOLF	minority- and women-owned law firm
OCOS	Office of Contractor Oversight and Surveillance
PMN	predominantly minority neighborhood
REOMS	Real Estate Owned Management System
RTC	Resolution Trust Corporation
SAMDA	Standard Asset Management and Disposition Agreement

Objectives, Scope, and Methodology

Our objectives, as set forth in the RTC Completion Act, were to determine (1) the manner in which RTC was implementing the 21 management reforms mandated by the act and (2) the progress being made by RTC toward full implementation. The results of our work are included in this interim report, which was issued 6 months after the RTC Completion Act became law in December 1993.

To accomplish these two objectives, we reviewed RTC's management reform status reports to identify actions taken to implement the reforms' requirements. After identifying the actions, we interviewed responsible RTC officials to obtain information on the status and progress being made in completing them. The officials we interviewed were in the following RTC headquarters divisions: Legal Services; Administration; Asset Management and Sales; Contracts, Oversight and Evaluation; Resolutions; Chief Financial Officer; and Minority and Women's Programs. We also interviewed officials in RTC's Department of Information Resources Management; Office of Planning, Research and Statistics; and Office of the Inspector General. Also, we interviewed field office officials in Atlanta, Dallas, Denver, Kansas City, and Newport Beach, CA, to verify the status and progress of the actions being implemented at field locations.

We reviewed supporting documents for evidence that planned actions had been completed, as well as recently issued reports by RTC's IG covering the management reform areas. We also monitored the monthly Oversight Board meetings at which RTC reported its progress in implementing the reforms. Further, we used other ongoing GAO work at RTC to verify that reported actions had been completed or were in process.

On the basis of information obtained from RTC, each reform was classified into one of the following three status categories: (1) work in progress (i.e., some planned actions have been implemented and others are underway); (2) action taken/monitoring required (i.e., actions have been taken that will enable RTC to fulfill the requirements of the reform, but the nature of the reform requires RTC to monitor its implementation to ensure full compliance); and (3) action completed (i.e., all planned actions have been implemented).

Additional Details on Actions Taken by RTC to Implement Reforms Involving Its General Management Functions

Reform 1: Comprehensive Business Plan [Sec. 21A(w)(1)][6]

Requirements of the Reform: This reform requires that RTC establish and maintain a comprehensive business plan covering RTC's operations, including the disposition of assets, for the remainder of its existence.

Status

Action taken/monitoring required.

Description of RTC Actions

RTC developed a comprehensive business plan that set forth the major corporate goals to be achieved during the remainder of its existence. The plan was submitted to Congress on December 15, 1993. It established the following six goals for RTC to strive for in completing the thrift clean up.

- Minimize losses on resolutions of failed thrifts.
- Maximize recoveries from asset disposition while minimizing the impact on local markets and preserving the availability of affordable housing.
- Maximize opportunities for minorities and women in all RTC activities.
- Strengthen safeguards against waste, fraud, and mismanagement.
- Pursue professional liability cases on a cost effective basis and refer criminal cases to the Department of Justice.
- Terminate RTC operations and transfer personnel, assets, and systems to FDIC by December 31, 1995.

We believe that the plan's underlying economic assumptions and annual asset sales goals generally appear to be reasonable. However, as discussed in our report entitled Resolution Trust Corporation: Data Limitations Impaired Analysis of Sales Methods (GAO/GGD-93-139, Sept. 27, 1993), without consistent and comprehensive asset sales and financial data, RTC cannot accurately measure the results of its sales strategies.

RTC will continue monitoring the plan's implementation and, depending on the accomplishments, revise the plan where needed. RTC's Office of Planning, Research and Statistics is responsible for maintaining the business plan and updating it as circumstances warrant. RTC officials told us that they have a system in place to measure RTC's performance against the plan's goals. In June 1994, RTC's CFO provided to the Oversight Board a new report that included this information. Also, RTC plans to periodically

[6]Refers to section 21A of the Federal Home Loan Bank Act, which was amended by section 3 of the RTC Completion Act. The reforms in appendixes II through V are numbered as they are in the RTC Completion Act.

review the plan's goals and make appropriate revisions. RTC is currently reviewing the plan to ensure that it is consistent with the provisions of the RTC Completion Act. We plan to monitor RTC's performance under the business plan during the remainder of RTC's existence.

Reform 4: Division of Minorities and Women Programs [Sec. 21A(w)(4)]

Requirements of the Reform: This reform requires that RTC maintain a division of minorities and women programs. Also, RTC is required to establish the head of this division as a vice president and member of RTC's Executive Committee.

Status

Action completed.

Description of RTC Actions

This reform was fully implemented before the RTC Completion Act became law. In April 1993, RTC elevated the Assistant Vice President of the Department of Minority and Women's Programs to Vice President and moved the program up in the organizational level to the Division of Minority and Women's Programs. As a Vice President, the head of the division serves on RTC's Executive Committee.

Reform 5: Chief Financial Officer [Sec. 21A(w)(5)]

Requirements of the Reform: This reform requires RTC's CEO to appoint a CFO. The CFO is to have no operating responsibilities other than as CFO and is to report directly to RTC's CEO. In addition, the CFO will have similar authority and duties pursuant to the Chief Financial Officers Act of 1990[7] that the Oversight Board determines to be appropriate for RTC.

Status

Action completed.

Description of RTC Actions

This reform was implemented before the RTC Completion Act became law. On June 1, 1993, RTC appointed a CFO who reports directly to RTC's CEO and is responsible for all RTC accounting and financial management activities. Along with this appointment, RTC consolidated various accounting and financial management functions into a division headed by the CFO and placed specific units under the CFO's direction. These units included the headquarters Offices of Budget and Planning and Management Control and the Departments of Field Accounting and Asset Operations and

[7]31 U.S.C. 901 (Supp. IV 1993).

Accounting Services. Also, the financial service centers at the four main RTC field offices in Atlanta, Dallas, Denver, and Kansas City report directly to the CFO.

Reform 9: Corrective Responses to Audit Problems [Sec. 21A(w)(9)]

Requirements of the Reform: This reform requires RTC to respond to problems identified by auditors of its financial and asset disposition operations, including problems identified in IG, GAO, and the Oversight Board's audit committee reports; or to certify to the Oversight Board that no action is necessary or appropriate.

Status

Work in progress.

Description of RTC Actions

Under Secretary Bentsen's 9-point plan, RTC was directed to implement a system—such as is required under Office of Management and Budget guidelines for executive agencies—to provide prompt, systematic, and effective follow-up on the findings and recommendations contained in the reports issued by GAO and the IG. On July 20, 1993, RTC issued Circular 1250.2 Management Decision Process and Audit Followup that established a new audit follow-up system for all internal and external reviews and other evaluations of RTC organizations, programs, operations, and contractors. The management decision and audit follow-up process encompasses all efforts taken by RTC to address findings, implement accepted recommendations, and verify completion of corrective actions. RTC's process incorporates, as appropriate, the concepts of Office of Management and Budget Circular A-50 on audit follow-up, although, as a mixed-ownership government corporation, RTC is not required to follow this circular.

RTC's policy is to make a final management decision on addressing an audit recommendation as soon as possible, but not later than 180 days after the date of the final audit report. Corrective actions are to begin as soon as practical once the management decision is made. The audit follow-up system RTC has installed requires it to

- maintain records on the status of audit reports and associated recommendations,
- track management decisions and final actions,
- establish accounting controls over amounts due RTC from contractors as a result of costs disallowed by management, and

- provide periodic reports to RTC senior management and the Oversight Board.

To implement these requirements, RTC turned to the existing Management Reporting System. This system was originally developed to document internal control weaknesses and to produce RTC's annual internal control report. RTC decided to expand the scope of this system and used it to track audit recommendations, related management decisions, and corrective actions. However, it has experienced problems because the system was not originally designed as a tracking/monitoring system or to handle the volume of data required to accomplish its expanded role. RTC is currently in the process of redesigning the system to make it more efficient and more responsive to management's needs.

The audit follow-up directive states that RTC managers at all levels will ensure completion of corrective actions and submission of required supporting documentation in a timely manner. Those managers responsible for taking corrective actions are required to complete and sign an "Audit Follow-up Action Certification Statement" certifying that all necessary corrective actions have been taken and all necessary documentation has been obtained. Because this is a self-certification process, we plan to audit some of the certification statements during the next 6 months to determine whether it is functioning properly.

In March 1993, when the 9-point plan was announced, RTC did not know the total number of audit recommendations that were still open, from all sources, that had to be addressed. Since then, RTC has placed a high priority on identifying and tracking GAO and IG audit recommendations. More recently it has expanded its focus to include Office of Contractor Oversight and Surveillance (OCOS) recommendations resulting from OCOS' audits of RTC contracts. Table II.1 shows the summary information produced by the Management Reporting System for RTC top management on the current status of corrective actions on GAO and IG reports, as of June 15, 1994.[8]

[8]The standard Summary of Findings and Corrective Actions report had not been revised to show this information for OCOS reports at the time we obtained the data in table II.1.

Table II.1: Summary of Corrective Actions, January 1, 1990, Through June 15, 1994

	Source		
	GAO	IG	Total
Number of corrective actions management agreed to take	327	1,459	1,786
Corrective actions completed	295	992	1,287
Corrective actions expected to be completed	32	467	499
by June 30, 1994	8	110	118
by September 30, 1994	1	88	89
by December 31, 1994	23	264	287
after December 31, 1994	0	5	5

Source: RTC Management Reporting System.

The data in table II.1 do not include audit recommendations for which a management decision has not been made. RTC refers to these recommendations as "unresolved management decisions." These are situations where RTC management has not yet committed to implementing a specific audit recommendation or agreed upon the specific actions to be taken. Table II.2 shows the number and age of unresolved management decisions on GAO, IG, and OCOS recommendations as of June 15, 1994.

Table II.2: Summary of Unresolved Management Decisions by Audit/Review Source, as of June 15, 1994

	Number of days unresolved[a]				
Audit/review report source	0-60	61-134	135-179	180+	Total
GAO	0	1	5	8	14
IG	13	32	0	7	52
OCOS	22	330	8	211	571
Total	35	363	13	226	637

[a]Reflects number of days a management decision has remained unresolved past the final report issue date.

Source: RTC Management Reporting System.

Although there are a number of instances for which RTC management and the auditors have not agreed upon specific actions to be taken to implement audit recommendations, RTC has been working to reduce the number of unresolved management decisions. For example, as of May 27, 1994, there were 25 unresolved management decisions for GAO reports and 91 for IG reports.

Reform 10: Assistant General Counsel for Professional Liability [Sec. 21a(w)(10)]

Requirements of the Reform: The reform requires RTC to appoint, within the Division of Legal Services, an AGC for Professional Liability. The AGC is to (1) direct the investigation, evaluation, and prosecution of all professional liability claims involving RTC, and (2) supervise all legal, investigative, and other personnel and contractors involved in the litigation of such claims. Also, the AGC is required to semiannually submit to Congress a comprehensive litigation report on all civil actions in which RTC is a party that were initiated or pending during the period covered by the report and on other activities of the AGC. These reports are due on April 30 and October 31 of each year.

Status

Work in progress.

Description of RTC Actions

By the time the RTC Completion Act became law, the position for an AGC for Professional Liability had already been established. Subsequently, the AGC was given the responsibilities of the statutory position. RTC officials have taken some actions to implement the mandated organizational changes and are striving to implement those changes effectively. In addition, RTC has submitted its initial report and is required to continue reporting semiannually to Congress on its professional liability program.

At the time that the act became law, RTC's investigators and its attorneys were in two different organizational units. RTC's AGC for Professional Liability believes that this provision's intent is to ensure that RTC professional liability personnel, including investigators and attorneys, operate as a fully unified legal and investigative team, able to make decisions and recommendations on professional liability issues in a coordinated manner.

RTC took its first step toward implementing these organizational changes when RTC's General Counsel issued a memorandum dated March 25, 1994. The memorandum informed affected RTC staff that the reform required a unified management structure for the professional liability program and the incorporation of the Investigations Unit into the Legal Services Division. The memorandum also stated that planning was under way to implement the organizational changes but further study would be needed.

As part of this planning, in May 1994, RTC's Acting CEO and its General Counsel each signed an organization chart that showed the Office of Investigations to be a unit within the Division of Legal Services. During April, May, and June, a series of delegations of authority were issued to further implement the organizational changes. While these actions should provide the framework for implementing the required changes, it is too early to determine if additional actions may be needed for creating the fully unified legal and investigative team, which the AGC believes to be the intent of the provision.

The first semiannual report, for the period that ended March 31, 1994, was submitted to Congress on May 6, 1994. In addition to information on initiated and pending civil actions, this report described program achievements and impediments to RTC's ability to assert claims.

Reform 11: Management Information System [Sec. 21a(w)(11)]

Requirements of the Reform: This reform requires RTC to maintain an effective management information system capable of providing complete and current information to the extent that the provision of such information is appropriate and cost-effective.

Status

Work in progress.

Description of RTC Actions

Secretary Bentsen's March 1993 9-point plan included a reform that required RTC to improve its management information systems. At that time, RTC established three objectives to implement this reform: (1) improve the quality of data in its systems, (2) enhance information systems to support business needs, and (3) improve information provided to senior executives for decisionmaking.

When the RTC Completion Act became law in December 1993, it included a similar reform that required RTC to maintain a management information system capable of providing complete and current information. To implement the act's reform, RTC decided to address only the first two objectives that it initially established to address the reform under Secretary Bentsen's plan. According to officials in the Department of Information Resources Management (DIRM), the third objective was dropped because RTC's senior executives had not identified any information needs that would require systems' modifications.

RTC is making progress on the data quality and system enhancements objectives. As part of the effort to improve data quality, as of June 8, 1994, initial data quality action plans had been completed for all of RTC's 17 critical information systems. However, RTC officials told us that, for most of these systems, RTC had not yet completed the development of corporate benchmarks and appropriate computer edit functions needed to measure the status of data cleanup efforts. In addition, system enhancements were not always clearly justified because RTC's cost benefit policy was not enforced. In May 1994, RTC issued a cost benefit directive to reiterate the importance of performing cost benefit analyses for all enhancements.

RTC is aware that the quality of the data in its information systems continues to be a problem that adversely affects its ability to manage and dispose of the remaining failed thrift assets. It has taken steps to address the problem, but more work is needed. RTC has developed computer edits to measure changes in the quality of REOMS data. As of April 1994, RTC internal reports showed that about 92 percent of unsold property records in REOMS did not have computer detectable errors, such as missing data. RTC also tracks potential errors in REOMS, called warnings. For example, a large discrepancy between the book value and appraised value of an asset is called a warning. Warnings require follow-up to determine whether the questionable data is correct. As of April 1994, RTC reports indicated that about 27 percent of the unsold property records in REOMS had warnings.

RTC has not yet developed computer edit checks to measure the extent of data quality clean-up required for its Central Loan Database (CLD), which includes information on loans that is used to help develop loan sales initiatives. Our analysis of CLD, as of December 1993, showed that about 57 percent of the loan records—with a total book value of about $20.6 billion—contained one or more errors. RTC researched the deficient loan records and succeeded in reducing the number of loan records containing one or more errors to about 31 percent, as of March 1994. In addition, RTC has hired a contractor to develop a set of computer edit checks that build on those we designed, to quantify the extent of CLD's data quality problems and enable RTC to measure corrective actions and establish cleanup deadlines. RTC officials informed us that similar action is under way for the Subsidiary Information Management Network and the Asset Manager System.

RTC is enhancing its information systems that support asset management and disposition activities but has not always prepared necessary analyses of the costs and benefits of these enhancements. In calendar year 1993, RTC spent $14.3 million on system enhancements and plans to spend $9.2 million in 1994. These enhancements generally involve adding new system functions. RTC requires that a cost benefit analysis be prepared and approved before an enhancement is initiated. Our analysis showed that in 1993, RTC started or completed 69 enhancements—costing about $6.0 million—for the Asset Manager System and REOMS. RTC did not prepare cost benefit analyses for over 50 percent of the 69 enhancements valued at approximately $0.9 million, or 15 percent of the $6.0 million spent on these two systems. DIRM officials told us that cost benefit evaluations were not prepared in these cases because (1) the enhancements were made in response to corporate-wide policy changes and (2) DIRM was not vigilant in enforcing the requirement for all enhancements.

In May 1994, RTC developed and issued a cost benefit directive to (1) document its standard for preparing cost benefit analyses for all enhancements and (2) reiterate the importance of preparing such analyses. In addition, we reviewed the 10 enhancements that RTC plans to implement or has implemented in 1994 for the Asset Manager System and REOMS. As of June 13, 1994, nine of these enhancements were supported by cost benefit evaluations, and RTC was in the process of preparing such an evaluation for the remaining one.

Although RTC has dropped the third objective—to improve information to senior executives for decisionmaking—RTC officials told us that the needs of senior executives are being considered as they implement the second objective of enhancing systems to support business needs. Furthermore, senior managers are revising the reports they receive to help them make business decisions. For example, the CFO's office has developed a new report to help RTC's senior executives monitor their performance against the goals of RTC's business plan. RTC officials told us that the development of this new report did not require any changes to RTC's information systems.

We believe this third objective is still relevant. In September 1993, we reported that RTC needs accurate and complete asset sales and financial information, so that it would be able to better manage its inventory and better assess its asset disposition programs.[9] RTC's ongoing need for up-to-date, accurate, and complete corporate information is intensified by its need for information to support appropriate short-term business decisions, given that RTC's responsibilities will soon transfer to FDIC. Therefore, it is important for both RTC's senior executives and DIRM officials to pursue this objective.

[9]Resolution Trust Corporation: Data Limitations Impaired Analysis of Sales Methods (GAO/GGD-93-193, Sept. 27, 1993).

In addition, the Secretary of the Treasury, in his capacity as Chairman of the Oversight Board, will need similar information to carry out his responsibility for overseeing the transfer of RTC personnel and systems to FDIC, as required under section 7 of the RTC Completion Act. This section requires that in the transfer of RTC systems to FDIC, any RTC management, resolution, or asset disposition system that the Secretary of the Treasury determines, after considering the recommendations of the interagency RTC/FDIC transition task force, has benefitted RTC shall be transferred to and used by FDIC. Also, section 7 requires that RTC personnel involved with these systems who are eligible for transfer to FDIC shall be transferred for continued employment. In addition, section 7 established the date of RTC termination at December 31, 1995.

Reform 12: Internal Controls Against Fraud, Waste, and Abuse [Sec. 21A(w)(12)]

Requirements of the Reform: This reform requires RTC to maintain effective internal controls designed to prevent fraud, waste, and abuse; identify any such activity should it occur; and promptly correct any such activity.

Status

Action taken/monitoring required.

Description of RTC Actions

On March 27, 1992, RTC issued Circular 1250.1, Internal Control Systems, that established its internal control program and requires managers to (1) identify activities or functions (assessable units) subject to risk; (2) conduct an assessment and rate the susceptibility of the function or activity to risk (vulnerability assessment); (3) schedule high-risk functions for annual examination (management control plan); (4) conduct detailed examination (internal control review) of function to determine if internal controls and procedures are current, adequate, and cost effective; and (5) develop and implement corrective actions to resolve deficiencies and strengthen controls.

The RTC is 1 of 17 high-risk areas that GAO has identified as particularly vulnerable to fraud, waste, abuse, and mismanagement. We have stated that RTC's contracting system—the means through which RTC pursues much of its mission—is troubled by poor planning and oversight, especially that related to asset disposition. RTC is vulnerable because it has not adequately defined what services are needed, the scope of work required, and the types of contracts that would best accomplish these ends. Moreover, it has had difficulty overseeing the tens of thousands of contractors who manage and dispose of billions of dollars in assets on its behalf.[10] In addition, RTC's information systems, which are critical to its efforts to manage and sell failed thrift assets, have been plagued by unclear and changing requirements, inaccurate and incomplete data, poor system response times, and difficulty of use.

Due to the high cost of resolutions and the volume of its assets, RTC needs a strong internal control structure to protect against loss and provide accurate reporting. To address this need, RTC has implemented procedures to assess the effectiveness of its internal controls, to report the results of that assessment, and to track the status of weaknesses identified by the internal process, as well as those identified by GAO and RTC's IG. RTC also trained more than 1,000 managers and senior personnel in the concepts of RTC's internal control system and the new audit follow-up procedures.

On March 31, 1994, RTC issued its third annual report on its system of internal controls as of December 31, 1993. RTC reported that during 1993 it had stepped up its efforts to correct internal control deficiencies in all of its high-risk areas. Specifically, it reported that additional staff and contractor support resources were acquired and dedicated to correcting previously identified material weaknesses and nonconformances, increasing contractor oversight, and completing development and implementation of needed information systems and information system modifications. The report identified five high-risk areas in its operations. These areas were: (1) contracting systems/systems oversight; (2) accounting, financial management and reporting, and operations; (3) asset management and disposition; (4) information systems management; and (5) legal services.

RTC stated in the report that during 1993 it had completed 191 of the 223 actions planned to correct material weaknesses and material nonconformances that had been identified in 1993 and prior years, as shown in table II.3. RTC expects to complete planned actions on the remaining 32 material weaknesses and material noncomformances during 1994.

[10]Government Management: Status of Progress in Correcting Selected High-Risk Areas (GAO/T-AFMD-93-1, Feb. 3, 1993).

Table II.3: Status of Planned Actions to Correct Material Weaknesses and Material Nonconformances Identified in 1993 and Prior Years

High-risk area	Actions planned in 1993	Actions completed in 1993	Actions in process as of 12/31/93
Contracting systems/systems oversight	40	29	11
Accounting, financial management and reporting, and operations	58	51	7
Asset management and disposition	84	80	4
Information systems management	28	22	6
Legal services	13	9	4
Totals	**223**	**191**	**32**

Source: RTC 1993 Internal Control Report, March 31, 1994.

We have not yet tested these results to determine whether the actions indicated as complete have actually been accomplished. Nevertheless, we are aware, through our ongoing oversight of RTC activities, that planned actions included in the above table were being taken throughout 1993 to correct internal control weaknesses. For example, 65 internal control and program compliance reviews were completed covering all major programs; the Field Accounting Manual was updated; a standard format was provided to ensure the uniform preparation of daily reconciliations of cash received; and procedures were updated and training was provided to guide personnel in contractor selection and engagement. During the next 6 months, we plan to verify that planned corrective actions reported as complete have been implemented.

Reform 13: Failure to Appoint Certain Officers of the Corporation [Sec. 21A(w)(13)]

Requirements of the Reform: Under this reform, the failure to fill any positions established by section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) or any vacancy in any such positions,[11] is to be treated as a failure to comply with the requirements of the management reforms. RTC is required to ensure that any vacancies in these senior level positions are filled. If additional RTC funding in excess of $10 billion is needed, the Secretary of the Treasury must certify that RTC has taken action necessary to comply with the requirements of the management reforms or is making adequate progress towards full compliance.

Status

Action taken/monitoring required.

[11]These include the RTC's Deputy CEO; General Counsel; CFO; Vice President for Minorities and Women Programs; Assistant General Counsel for Professional Liability; and an executive-level position for pursuing cases, civil claims, and administrative actions against institution affiliated parties of thrifts under RTC's jurisdiction.

Description of RTC Actions

By appointing individuals to the positions identified in section 21A of the Federal Home Loan Bank Act, RTC has fulfilled the initial requirements of this reform. However, RTC officials recognize—and we agree—that oversight must be maintained so that if a vacancy occurs in any of these positions appropriate steps can be taken to quickly appoint replacements.

Reform 14: Reports (Disclosure of Expenditures and Public Disclosure of Salaries) [Sec. 21A(w)(14)]

Requirements of the Reform: This reform requires RTC to include in its annual report an itemization of its expenditures during the year covered by the report. Also, the annual report is to disclose salaries and other compensation paid during the year to directors and senior executive officers at any thrift for which RTC was appointed conservator or receiver.

Status

Work in progress.

Description of RTC Actions

In its June 1, 1994 status report, RTC stated that this information will be included in its 1993 annual report. When the report is issued, we plan to follow up to ensure that it includes the information to satisfy the requirements of the reform.

Reform 21: Client Responsiveness Units [Sec. 21A(w)(21)]

Requirements of the Reform: This reform requires RTC to ensure that every RTC regional office has a client responsiveness unit responsible to the RTC's ombudsman.

Status

Work in progress.

Description of RTC Actions

By establishing client responsiveness departments in its field offices, RTC has fulfilled the basic requirements of this reform. However, RTC considers this reform to be in process because it is currently updating the policy directive on the client responsiveness program, which should be finalized by the beginning of August 1994.

According to the RTC ombudsman, the client responsiveness program was established in July 1992. RTC set up client responsiveness departments in all its field offices. The purpose of the program was to (1) ensure that RTC employees responded to inquiries, complaints, and requests for general assistance from the public—whom RTC generally refers to as clients—in a timely and accurate manner and (2) provide resolutions to such inquiries, complaints, and requests that would be equitable to both the client and RTC.

To track its workload under the client responsiveness program, RTC set up three categories of contacts it receives: (1) general assistance which includes requests that can be resolved quickly and do not require research or consultation with other RTC personnel to answer, such as directions to an RTC office; (2) inquiries which include questions or requests for assistance from clients that take a longer period of time to resolve than general assistance requests and require some research or consultation with other RTC personnel to resolve, such as questions about the disposition of a specific asset; and (3) complaints which involve clients that are dissatisfied or have expressed grievances in dealing with RTC. According to RTC, during the period May 1993 through May 1994, RTC received a total of about 35,500 general assistance requests, inquiries, and complaints.

The RTC ombudsman provides policy guidance and direction to the managers of the client responsiveness departments in the six field offices and ensures that the program is administered consistently. Recently, the ombudsman revised the September 1992 client responsiveness program directive and is in the process of obtaining comments on the draft revision. Among other things, the new directive is intended to reaffirm to RTC field personnel the authority and purpose of the client responsiveness program.

Additional Details on Actions Taken by RTC to Implement Reforms Involving Its Resolution and Disposition Activities

Reform 2: Marketing Real Property on an Individual Basis [Sec. 21A(w)(2)]

Requirements of the Reform: This reform establishes requirements concerning how RTC is to market and justify the disposition of real property. Specifically, RTC is required to market any undivided or controlling interest in real property assets on an individual basis (excluding assets transferred in purchase and assumption transactions and assets transferred to a new thrift organized by RTC under section 11(d)(2)(F) of the Federal Deposit Insurance Act) for at least 120 days before making these assets available for sale or other disposition on a portfolio basis or otherwise included in a multiasset sales initiative.

Also, RTC is required to publish regulations that (1) implement these marketing requirements and (2) justify in writing the inclusion of real property assets in a portfolio or other multiasset sales initiative after the 120-day marketing period.

Status

Work in progress.

Description of RTC Actions

On April 15, 1993, RTC's Vice President for Asset Management and Sales issued a memorandum to RTC senior managers and Standard Asset Management and Disposition Agreement (SAMDA) contractors stating that all real property assets must be marketed for at least 120 days before being offered in multiasset sales initiatives, such as portfolio sales. Auctions of single real property assets were exempt from this requirement. The memorandum further stated that real property assets remaining unsold after 120 days of active marketing may be included in multiasset sales initiatives only after meeting certain requirements. Specifically, RTC asset specialists were required to substantiate that including these real property assets in multiasset sales would result in a greater return to the RTC than if the assets were sold individually. These justifications would be included in the specialist's case memorandum requesting approval to dispose of assets on a portfolio basis.

In July 1994, RTC plans to publish an interim final rule in the Federal Register that includes these marketing requirements and expects to finalize this rule in October 1994. We are not certain how RTC will monitor the implementation of the marketing period restriction. Also, we have not yet verified that the required justifications for including individual real property assets in multiasset sales initiatives have been prepared. We plan to audit a sample of the case memoranda for such initiatives to determine whether the required justifications have been made and whether supporting analyses are available.

Reform 3: Disposition of Real Estate Related Assets [Sec. 21A(w)(3)]

Requirements of the Reform: This reform establishes various requirements for the disposition of real property and nonperforming real estate loan assets. Specifically, before selling such assets, RTC must assign the responsibility for the management and disposition of such assets to a qualified person or entity. This responsibility includes (1) analyzing each asset and considering alternative disposition strategies, (2) developing a written management and disposition plan for the asset, and (3) implementing this plan for a reasonable period of time. However, the asset may be included in a bulk transaction if RTC determines in writing that this method of asset disposition would maximize net recovery to RTC while providing opportunity for broad participation by qualified bidders, including MWOBS.

Also, the reform exempted the following assets from these requirements: (1) assets transferred in purchase and assumption transactions; (2) assets transferred to a new institution organized by RTC under section 11(d)(2)(F) of the Federal Deposit Insurance Act; (3) nonperforming real estate loan assets with a book value of not more than $1 million; and (4) real property assets with a book value of not more than $400,000. In addition, nonperforming real estate loan assets and real property assets above these dollar values could be exempted from the reform's requirements if RTC determines in writing that other disposition methods would bring RTC a greater return.

Status

Work in progress.

Description of RTC Actions

In February 1994, RTC issued a memorandum that informed staff of the requirements to prepare the appropriate written documents to justify the sales of certain nonperforming real estate loans and other real property. RTC plans to issue an interim rule in July 1994 that includes these requirements. RTC estimates that the rule should be finalized by October 1994.

Reform 17: Minority Preference in Acquisition of Thrifts in Predominantly Minority Neighborhoods [Sec. 21A(w)(17)]

Requirements of the Reform: The requirements of this reform are as follows: (1) subject to the least-cost test in section 13(c)(4) of the Federal Deposit Insurance Act, RTC is to give preference to offers from minority bidders for acquiring thrifts located in predominantly minority neighborhoods (PMN); (2) any minority bidder is to be eligible for capital assistance under the minority interim capital assistance program, provided that granting the assistance is consistent with the least-cost test; (3) in connection with the acquisition of a thrift in a PMN by a minority acquirer, RTC is permitted to transfer performing assets from other failed thrifts in addition to the performing assets of the thrift being acquired; and (4) in connection with the acquisition of a thrift in a PMN by a minority acquirer, the acquirer is to have first priority in RTC's disposition of the performing assets.

Status

Work in progress.

Description of RTC Actions

RTC has issued several policies and procedures to implement this reform. On February 24, 1994, RTC published an interim rule in the Federal Register that defines "predominantly minority neighborhood" as any U.S. Postal ZIP code area in which 50 percent or more of the residents are minorities according to the most recent Census data. However, RTC has the discretion to use other data that may indicate more accurate neighborhood boundaries.

Also, on February 28, 1994, RTC issued a directive that summarized its minority preference resolution programs in three parts. First, RTC will offer a failed minority thrift to investors of the same ethnic group as the failed minority thrift before offering it to others. Second, bidding preferences will be given to offers from minority financial institutions to acquire any failed thrift whose home office is located in a PMN or has 50 percent or more of its offices in PMNs provided this preference results in the least cost to RTC. Moreover, if a minority bidder is within 10 percent of the highest bid made by the nonminority bidder, then a "best and final" round of bidding will take place between the best minority and nonminority bids. RTC also may provide to a winning minority bidder (1) interim capital assistance up to two-thirds of the required regulatory capital, (2) performing loans (1-4 family mortgages), and (3) branch facilities located in a PMN owned by RTC on a rent free basis for 5 years. Third, RTC will reoffer a failed thrift or its branches to minority financial institutions and make interim capital assistance available if no other acceptable bid not dependent on interim capital assistance is received.

Most recently, RTC made significant changes to its minority resolutions program. On April 21, 1994, RTC announced that expanded opportunities and incentives would be available for minorities to purchase failed financial institutions. RTC is informing nonminority acquirers of offices located in PMNs of minority interest in acquiring these offices and encouraging them to sell such branches to minority acquirers, particularly in cases where the nonminority acquirer plans to close the office. Under this approach, RTC assistance will also be made available to minority acquirers as if the minority acquirer had originally purchased the office.

Furthermore, on May 25, 1994, RTC announced a pilot initiative for the sale of RTC's 10 remaining financial institutions with PMN implications. Under the pilot initiative, RTC plans to permit the highest minority bidder to match the highest nonminority bid, provided that the minority bid is within 10 percent of the highest premium.

As of June 15, 1994, RTC has held bid conferences on each of the 21 thrifts that have PMN implications. Eleven of these thrifts with 25 offices in PMNs have been resolved, of which seven offices were acquired by minority buyers. One of the 11 resolutions resulted in minority buyers acquiring four of the five PMN offices of an entire thrift located in a PMN. Originally, members of minority groups were the successful bidders on two of the five PMN offices. However, the minority acquirers were able to purchase two more offices when the nonminority acquirer of the bulk of the thrift agreed to allow the minority groups to purchase two additional PMN offices. RTC is continuing to receive bids on the remaining 10 thrifts with PMN implications.

Finally, RTC also resolved three previously minority-owned thrifts and preserved the minority ownership in each case. As part of these resolutions, options to receive interim capital assistance, purchase loans, and use RTC-owned offices rent free for 5 years were extended to the winning bidders. Interim capital assistance was provided in one case and use of office space was accepted in two other cases.

Additional Details on Actions Taken by RTC to Implement Reforms Involving Its Contracting and Related MWOB Activities

Reform 6: Basic Ordering Agreements [Sec. 21A(w)(6)]

Requirements of the Reform: This reform includes the following requirements: (1) RTC is required to revise the procedure for reviewing and qualifying applicants for eligibility for future basic ordering agreements to ensure that small businesses, minorities, and women are not inadvertently excluded from eligibility for such agreements and (2) to ensure maximum participation by MWOBS, RTC shall review all lists of eligible contractors and prescribe regulations and procedures.

Status

Work in progress.

Description of RTC Actions

In May 1994, RTC issued a policy memorandum to all Minority and Women's Program Directors that is designed to ensure a full and thorough review of source lists for prospective RTC contract solicitations. RTC is drafting a directive that outlines procedures for reviewing these lists. RTC has also included the requirements in the CPPM revision 7, dated May 16, 1994. Although these are important steps, the results of RTC's efforts will need to be known before assessing whether it has satisfied the reform's requirements.

Reform 7: Improvement of Contracting Systems and Contractor Oversight [Sec. 21A(w)(7)]

Requirements of the Reform: This reform requires RTC to (1) maintain procedures and uniform standards for entering into contracts with private contractors, and for overseeing contractors' and subcontractors' performance and their compliance with the terms of the contracts and applicable regulations, orders, policies, and guidelines, so that RTC's operations are carried out in as efficient and economical a manner as practicable; (2) commit sufficient resources, including personnel, to contract oversight and the enforcement of all laws, regulations, orders, policies, and standards applicable to RTC contracts; and (3) maintain uniform procurement guidelines for basic goods and administrative services to prevent the acquisition of such goods and services at widely different prices.

Status

Work in progress.

Description of RTC Actions

RTC has taken preliminary actions to implement the requirements of this reform. However, full implementation will not occur until RTC (1) establishes uniform procedures and standards for legal services contracts, (2) ensures oversight of subcontractor performance, and

(3) sets guidelines for basic goods and administrative services to prevent the acquisition of these services at widely different prices.

At the time the RTC Completion Act became law, RTC had already issued the CPPM to provide uniform standards and procedures that RTC staff must follow in awarding all RTC contracts for other than legal services. However, as of June 1994, it had not issued RTC-wide legal services contracting procedures that implement the reform's requirements. Under the reform on the management of legal services (Reform 20), RTC plans to address issues related to contracting for outside counsel.

Concerning uniform standards for the oversight of RTC contractors and subcontractors, chapter 10 of the CPPM provides detailed requirements for RTC contractor oversight. At the time the contract is awarded, RTC staff are required to complete a contract administration plan to ensure that they have a common understanding of both RTC's and the contractor's obligations under the contract. Also, a June 1993 reorganization of RTC's contracting program placed additional emphasis on contract oversight issues. For subcontractor oversight, RTC has always required that its contractors, not RTC employees, monitor the work of subcontractors. According to RTC contracting officials, if subcontracting is a significant portion of a contract, plans for monitoring the subcontractors should be included in the contract administration plan. RTC officials told us that they believed the act did not require a revision to its subcontractor oversight policy.

However, our previous work identified problems with RTC's subcontractor oversight. In November 1993, we reported that RTC's SAMDA contractors were not taking adequate steps to monitor the work of their property management subcontractors.[12] In comments on our report, RTC officials agreed that additional steps were needed to better ensure adequate oversight of property management subcontractors. In April 1994, RTC issued procedures to implement our recommendation that SAMDA contractors be required to regularly report on steps taken to oversee their subcontractors. Because RTC's property management subcontractors are vulnerable to potential fraud, waste, and mismanagement, RTC needs to assure that these procedures are fully implemented.

Before the RTC Completion Act became law, RTC had committed additional resources to contract oversight. In May 1993, the RTC Executive Committee

[12]Resolution Trust Corporation: Oversight of SAMDA Property Management Contractors Needs Improvement (GAO/GGD-94-5, Nov. 30, 1993).

approved 214 additional positions for contracting issues. These positions were added to provide greater emphasis on contracting, contractor oversight, internal controls, and other related functions to implement Secretary Bentsen's 9-point plan for the RTC. In April 1994, the RTC officials responsible for contracts and contract oversight told us that the additional 214 staff were sufficient for completing RTC's contracting related mission.

To prevent the acquisition of basic goods and administrative services at widely different prices, RTC has modified its CPPM to incorporate this provision. However, the CPPM provides no guidance on what constitutes "a widely different price" and what actions its contracting staff should take if they determine that prices are widely different.

The RTC Director of Contracting Policy and Major Dispute Resolution stated that, at recent training sessions on the RTC Completion Act, he told RTC contracting staff that they should contact other RTC offices and request information on the prices paid for similar goods and administrative services before completing a purchase. He also suggested that RTC contracting staff document these comparisons.

Reform 15: Minority- and Women-Owned Businesses Contract Parity Guidelines [Sec. 21a(w)(15)]

Requirements of the Reform: This reform requires RTC to establish guidelines for achieving the goal of a reasonably even distribution of contracts awarded to various MWOB and minority-and women-owned law firm (MWOLF) subgroups whose total number of certified contractors comprise not less than 5 percent of all MWOB and MWOLF certified contractors. These guidelines may reflect the regional and local geographic distributions of minority subgroups. The distribution of contracts should not be accomplished at the expense of any eligible MWOB or MWOLF in any subgroup that falls below the 5-percent threshold in any region or locality.

Status

Work in progress.

Description of RTC Actions

RTC plans to issue guidelines by July 31, 1994, that outline procedures RTC is to follow to ensure that a reasonably even distribution of contracts and commensurate fees are awarded to each minority subgroup. In developing the guidelines, an analysis of the level of contracting activity to MWOBs by subgroups for each field office was completed in February 1994. This analysis included the identification and assessment of the ethnic and gender representation among the MWOB contractors and the actual level of contract awards to each group on a region-by-region basis. Headquarters is to provide ongoing technical assistance to the field offices in their efforts to increase participation levels in any subgroup where the distribution of contracts falls below the 5-percent threshold within any region.

Reform 16: Contract Sanctions for Failure to Comply With Subcontract and Joint Venture Requirements [Sec. 21a(w)(16)]

Requirements of the Reform: This reform requires RTC to prescribe regulations that provide sanctions, including contract penalties and suspensions, for violations by contractors of requirements relating to subcontractors and joint ventures.

Status

Work in progress.

Description of RTC Actions

RTC has developed specific sanctions for violations of MWOB subcontracting and joint venture requirements that have been incorporated in the Final Rule on Minority and Women Outreach and Contracting Programs scheduled to be issued by July 31, 1994. RTC has informed us that some of these sanctions may include contract suspension, exclusion, or termination. RTC will also incorporate these sanctions in the CPPM and modify all standard contract agreements accordingly.

Reform 18: Subcontracts With MWOBs [Sec. 21A(w)(18)]

Requirements of the Reform: This reform includes the following requirements: (1) RTC is to establish reasonable goals for contractors to subcontract with MWOBs and MWOLFs, and (2) with certain exceptions, RTC may not contract for services, including legal services, under which the contractor would receive fees or other compensation equal to or greater than $500,000, unless RTC requires the contractor to subcontract with MWOBs and MWOLFs and pay fees or other compensation to the subcontractor in an amount commensurate with the amount of services it provided.

This reform allows RTC to exclude a contract from these requirements if the CEO determines in writing that the subcontracting requirement would substantially increase the cost of contract performance or undermine the contractor's ability to perform its obligations. The reform also permitted

RTC to grant waivers of these requirements to contractors who certify that no eligible MWOBS are available to enter into subcontracts and provide an explanation for the basis of such a determination. Also, any granting of such a waiver shall be made in writing by RTC's CEO. Finally, the reform required RTC to report to Congress a description of such exceptions and waivers granted during each quarter.

Status

Work in progress.

Description of RTC Actions

RTC has established MWOB subcontracting goals that were included in the CPPM, revision 7, issued on May 16, 1994. Specifically, RTC requires that for all contracts with fees of $500,000 or more, MWOB subcontracting be 10 percent for non-MWOB contractors and joint ventures with less than 50-percent MWOB participation, and 5 percent for MWOB firms or joint ventures with more than 50-percent MWOB participation. The final rule covering these requirements is expected to be published by the end of July 1994.

Reform 19: Contracting Procedures [Sec. 21A(w)(19)]

Requirements of the Reform: This reform requires that: (1) in awarding any contract subject to the competitive bidding process, RTC is to apply competitive bidding procedures that are no less stringent than those in effect on the date of the enactment of the RTC Completion Act and (2) nothing in this act, or any other provision of law, shall supersede RTC's primary duty of minimizing costs to the taxpayer and maximizing the total return to the government.

Status

Work in progress.

Description of RTC Actions

RTC has taken preliminary action to implement one of the two sections of this reform. After the act became law, RTC revised the CPPM to incorporate the reform's competitive bidding procedures requirement as a policy. RTC officials said that revision 7 of RTC's CPPM was carefully reviewed to ensure compliance with this reform. They also said that as contracting policies are updated, headquarters staff will ensure that RTC is in compliance with the requirement.

However, as of April 1994, RTC had not included the section of the reform in the CPPM requiring that no provision of the RTC Completion Act or any other provision of law would supersede RTC's primary duty of minimizing costs to the taxpayer and maximizing the total return to the government. RTC's Director of Contracting Policy and Major Dispute Resolution stated that he emphasized compliance with this requirement during recent training sessions for RTC contracting staff. However, if RTC is to uniformly and effectively implement this part of the reform, it will need to provide written instructions to its staff.

Reform 20: Management of Legal Services [Sec. 21A(w)(20)]

Requirements of the Reform: Under this reform, to improve the management of legal services, RTC is required to utilize staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost. Also, RTC may only employ outside counsel (1) if the use of outside counsel would provide the most practicable, efficient, and cost effective resolution to the action and (2) under a negotiated fee, contingent fee, or competitively bid fee agreement.

Status

Work in progress.

Description of RTC Actions

Currently, the guidance available to RTC Legal Services Division personnel for engaging outside counsel is the same guidance that was used before the RTC Completion Act became law. The guidance consists of a three-page April 1993 memorandum with a three-page attachment titled "Procedures For Selection And Engagement Of Outside Counsel." That guidance, according to the memorandum, was meant to be used temporarily until a full set of procedures could be developed and distributed. The April 1993 guidance provides a large degree of flexibility for making contracting decisions to Legal Services Committees established in each RTC field office and in RTC Headquarters. The guidance specifies that "The Legal Services Committee shall determine the need for outside legal services," but it provides no criteria on which to base such a decision. The guidance does not mention any need to consider the level of quality in legal services to be obtained, nor does it mention practicability, efficiency, or cost-effectiveness as factors to consider.

RTC officials said they have begun some actions to fulfill the requirements of this reform. Officials in the Division of Legal Services have recognized that the reform requires existing RTC procedures for retaining outside counsel to be modified, and they said that they are currently revising those procedures to comply with the reform's requirements. Draft procedures have been circulated within all the offices of the Division of Legal Services and, according to RTC officials, are expected to be adopted in final form by July 31, 1994. RTC officials have not provided us with a draft of the revised procedures. Consequently, we are unable to evaluate whether the procedures will fulfill the reform's requirements.

In the interim, although they have not yet provided definitive guidance on implementation, RTC officials have notified all the Legal Services Committees of the requirements in the reform. In addition, according to RTC's General Counsel, the Legal Services Committees have begun using a checklist for documenting decisions on the use of outside counsel. "Cost savings" is one of several reasons that may be checked on the list when making the contracting decision.

Additional Details on Actions Taken by the Thrift Depositor Protection Oversight Board to Implement Its Reform

Reform 8: Audit Committee [Sec. 21A(w)(8)]

Requirements of the Reform: This reform requires the Oversight Board to establish and maintain an audit committee whose duties included (1) monitoring RTC's internal controls; (2) monitoring the audit findings and recommendations of RTC's IG, the Comptroller General of the United States, and RTC's response to the findings and recommendations; (3) maintaining a close working relationship with RTC's IG and the Comptroller General; (4) regularly reporting any of its findings and recommendations to RTC and the Oversight Board; and (5) monitoring RTC's financial operations and reporting any incipient problem identified to RTC and the Oversight Board.

Status

Work in progress.

Description of Oversight Board Actions

This reform also was included in Secretary Bentsen's March 1993 9-point plan. However, as of June 15, 1994, the audit committee was not formed nor was it operating, due to problems with the selection of committee members.

The Oversight Board has begun formulating how the audit committee should operate and its staff identified three individuals for the Board to consider appointing to the committee. However, a number of questions were raised about the extent to which committee members would be indemnified against possible lawsuits. As the Oversight Board staff worked to address these questions, in April 1994, one of the individuals whom the staff had identified for the Board's consideration as the committee chairperson withdrew his name.

The Oversight Board staff is currently in the process of searching for a third person to propose to the Board to serve on the audit committee. After the third person is identified, the audit committee membership is to be submitted to the Oversight Board for consideration and approval. The Oversight Board staff was unable to estimate when the selection process would be completed or when the audit committee would be fully operational.

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