

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice LP-2223

For: State and County Offices and CMA's, DMA's, and LSA's

**FY 2016 National CORP Review of Improper Payments for
LDP's, Corrective Actions, and Program Policy Reminders**

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The Improper Payments Information Act (IPIA) of 2002 requires Federal agencies to evaluate programs to determine whether internal controls are sufficient to prevent issuing improper payments.

These IPIA reviews enable FSA to have reliable and statistical data to determine the effectiveness of programs and whether adequate management controls are in place to conform to IPIA requirements. OMB defines an improper payment as any payment that should not have been issued or was issued for an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts include both overpayments and underpayments.

The FY 2016 improper payment rate for LDP's is 3.1 percent. A CORP review was not performed during FY 2015 for LDP's. The most recent CORP review of prior year LDP's was conducted in FY 2010 and yielded a 0.4 percent improper payment rate.

FSA continues to make eliminating improper payments a top priority and has incorporated the priority into strategic planning and performance measures.

Disposal Date	Distribution
June 1, 2017	State Offices; State Offices relay to County Offices
10-20-16	

1 Overview (Continued)

B Purpose

This notice:

- is being issued as part of FSA’s corrective action plan (CAP) as required under IPIA
- informs State and County Offices of CORP findings about LDP
- directs follow-up action within each State to ensure that all offices review the errors and take corrective action
- outlines program policies and procedures for State and County Offices to follow to ensure that payments are made on correctly completed LDP requests
- emphasizes using the CCC-770 LDP checklist for:
 - DD’s to ensure payment eligibility and payment documentation are correctly reviewed and documented
 - County Offices as a management tool to help address deficiencies identified by a review or spot check of whether LDP policies or procedures are being followed before issuing LDP payments.
- reminds State and County Offices of the obligatory interim process step before certifying and signing any LDP payment according to Notice PS-733.

C Contact

If there are any questions about this notice, State Offices shall contact the applicable individual according to the following table.

IF the question is about...	THEN State Offices shall contact...
cotton LDP policy	Kelly Hereth-Dawson by either of the following: <ul style="list-style-type: none"> • email to kelly.hereth@wdc.usda.gov • telephone at 202-720-0448.
peanut LDP policy	Kathy Sayers by either of the following: <ul style="list-style-type: none"> • email to kathy.sayers@wdc.usda.gov • telephone at 979-680-5155.

1 Overview (Continued)

C Contact (Continued)

IF the question is about...	THEN State Offices shall contact...
LDP policy for all other LDP eligible commodities	DeAnn Allen by either of the following: <ul style="list-style-type: none"> email to deann.allen@wdc.usda.gov telephone at 202-720-9889.
CMA, DMA, and LSA LDP policy	Frankie Coln at either of the following: <ul style="list-style-type: none"> email to frankie.coln@wdc.usda.gov telephone at 202-720-9011.
LDP automation	Laura Schlote at either of the following: <ul style="list-style-type: none"> email at laura.schlote@wdc.usda.gov telephone at 202-720-7785.

2 IPIA Findings

A FY 2016 LDP CORP Findings

The following table provides LDP application CORP findings.

Description of Findings	Procedure Reference	Policy
LDP application not on file	8-LP, subparagraph 1000 F and 1001 A 7-CN, subparagraphs 261 F and 268 B, and paragraph 261.5	LDP requests are complete when a County Office receives a completed and signed CCC-633 EZ page 1 and page 2, 3, or 4 as applicable. LDP's shall be maintained for each request received, for each producer, or for each producer by commodity.
LDP application is not signed by the payee before payment was made	8-LP, subparagraph 1001 E 7-CN, subparagraph 261 F and paragraph 261.5	The County Office must ensure that each LDP request, i.e. the CCC-633-EZ page 1 and page 2, 3 or 4, is complete and signed by all the required producers before any payment is issued.

Notice LP-2223

2 IPIA Findings (Continued)

A FY 2016 LDP CORP Findings (Continued)

Description of Findings	Procedure Reference	Policy
Acceptable acreage report for all crop land was not on file at time of review	8-LP, paragraphs 200 and 201 7-CN, paragraph 100 and Exhibit 21 2-CP, paragraphs 16 and 19	To be eligible for LDP benefits on any production from a specific farm, acreage for all cropland under that farm number must be reported according to 2-CP. Acreage on which an LDP is requested must be on file at the time of the LDP request. This is a statutory requirement included in the Agricultural Act of 2014 (2014 Farm Bill) at Sec. 1118(c). See 2-CP, paragraphs 318 and 380.5 for information on a Crop Acreage Reporting System report for identifying "Farms with Unreported Cropland."
Payee was not in compliance with HELC and WC provisions at time of payment	8-LP, paragraphs 200, 201, and subparagraph 1000 B 7-CN, paragraph 100 and Exhibit 21 6-CP, paragraphs 301 and 302	AD-1026 compliance is required for all producers and affiliated persons, according to 6-CP, before LDP's are approved and disbursed.
Payee was not in compliance with AGI requirements before pages 2, 3, and 4 of the application were approved	8-LP, paragraph 34 and subparagraph 1000 B 7-CN, paragraph 100 and Exhibit 21 4-PL, paragraph 11	A person or legal entity shall not be eligible to receive LDP benefits during the 2014 through 2018 crop years if the average AGI exceeds \$900,000.
LDP made to an ineligible producer	8-LP, paragraph 201 7-CN, paragraph 100.5, and subparagraph 101 B, and Exhibit 21	In addition to failing to meet the provisions on acreage reporting, HELC/WC, and AGI, producers who have not complied with applicable program requirements, have controlled substance violation convictions, have delinquent nontax debt to the Federal Government, or violate FDIC provisions are ineligible to request LDP's.

2 IPIA Findings (Continued)

A FY 2016 LDP CORP Findings (Continued)

Description of Findings	Procedure Reference	Policy
LDP quantity was not reasonable or supported by required documentation	8-LP, subparagraphs 230 G and 1005 C 7-CN, subparagraph 119 C	If a producer requests an LDP on a quantity using yields higher than the approved COC yields, the producer must certify the quantity. A reasonableness check using yields established by COC, must be completed to ensure that the commodity was produced by the producer. All certified LDP's are subject to spot check.
Incorrect LDP rate was used	8-LP, paragraph 1004 7-CN, subparagraph 262 A	The LDP rate is rate in effect on the date: (i) of the request (if beneficial interest is maintained on that date), (ii) beneficial interest is lost, of delivery, (iii) if the producer requests the date of delivery option on the CCC-633-EZ before delivering the requested quantity.
LDP was not approved by CCC representative before payment was made	8-LP, paragraph 1000 7-CN, paragraphs 14, 261.5, and 274	LDP requests are complete and ready for payment only when a County Office receives, completes and signs the CCC-633 EZ.

3 Additional Requirements for Crop Year 2016

A Additional Information

Additional steps are being taken to ensure that proper procedure is being followed when processing LDP disbursements. In addition, because of lower commodity prices, LDP activity will likely increase in the upcoming years and County Offices have many new employees who are working with LDP's for the first time.

With the Agricultural Act of 2014 (2014 Farm Bill), new eligibility requirements are applicable to LDP's. To ensure that employees are following proper procedure, training presentations and updated CCC-770 checklists have been developed and are available.

B Required Training

The National Office has developed Power Point training presentations on LDP policy requirements, which are available on the FSA Intranet, and the AgLearn course "Loan Deficiency Payments – Avoiding Common Errors". The National Office will assign the AgLearn course to all employees who should take the training.

3 Additional Requirements for Crop Year 2016 (Continued)

B Required Training (Continued)

All County Office employees working with LDP's are required to access and complete these trainings. The trainings shall be completed **within 6 weeks** after this notice is issued.

Exception: Employees hired within the last 12 months or employees without prior LDP experience shall complete the training **within 4 weeks** after issuance of this notice, and before they process any additional LDP's.

To access the training slides, enter the DAFP Page on the FSA Intranet at **<http://intranet.fsa.usda.gov/DAFP>** and, under the MAL and LDP Information, click

- MAL, LDP, CCE Training Refresher September 2016
- LDP Review Training July 2016.

Note: The training slides may be printed for future reference.

After the training has been completed:

- CED's shall send the names of employees and date completed to their price support State Office specialist within 6 weeks of the issuance of this notice
- State Office specialists shall:
 - within 8 weeks after the issuance of this notice, consolidate the lists and e-mail one list to **Caleb.OKray@wdc.usda.gov**
 - ensure that all employees working with LDP's have reviewed the training slides.

C CCC-770 Checklists

The CCC-770 checklists for LDP's incorporate the eligibility changes beginning with the 2014 crop year. The CCC-770 LDP (Exhibit 1) is attached.

Because of the improper payments, all County Office employees working with LDP's, after receipt of this notice and at the beginning of each crop year, are required to complete CCC-770 LDP for the first 5 LDP's they process.

Notes: SED's may require new employees or employees processing LDP's for the first time, to complete more than the required number of CCC-770's.

The requirement for completing additional CCC-770's will be effective after the receipt of this notice. LDP's already completed do **not** need to be reviewed.

An employee that has already completed 5 CCC-770 LDP's this crop year does not have to complete another 5.

3 Additional Requirements for Crop Year 2016 (Continued)

C CCC-770 Checklists (Continued)

In addition, the applicable CCC-770 checklist is **required** to be completed for any LDP that was disbursed, reversed with a receivable established, and is being re-entered. The applicable CCC-770 **must** be completed before the LDP is re-entered to ensure that all eligibility requirements and signatures have been obtained.

D Interim Process

Issued on August 19, 2016, Notice PS-733 instructs State and County Offices of the requirement to follow the Interim User Guide, available on the FSA Intranet at <http://intranet.fsa.usda.gov/DAFP/user-guide-version-3-1-082216.docx>.

Upon enactment of the 2014 Farm Bill, an interim attribution process was developed to check eligibility and control payment limitation for cotton and peanut LDP's and MAL market loan gains (MLG).

The Agricultural Appropriations Act of 2015 provided for the ability to use commodity certificate exchanges (CCE's) when redeeming MAL's with MLG beginning in crop year 2015. The 2016 interim process has been enhanced to add additional crops, other than cotton and peanuts, and to also correctly read eligibility, attribute LDP's and control payment limitation according to the new provisions.

Until further notice, it is imperative that users continue to complete the interim process referenced in subparagraph 3 D when processing LDP's, and when processing Upland Cotton loan repayments that involve market gains.

E Action

SED's shall ensure that:

- applicable State Office program chiefs and specialists review this notice, and all related CORP reports in detail to develop CAP's as needed, to ensure that County Offices follow applicable program procedures issued through national notices and program handbooks
- additional internal control procedures are developed to avoid findings indicated by any CORP reviews for the specified program according to 8-LP, paragraph 23
- applicable State Office program divisions provide additional training where needed and implement CAP's to reduce improper payments
- DD's review this notice with CED's and PT's within their respective districts.

Example CCC-770 LDP

This is an example of CCC-770 LDP, page 1.

This form is available electronically.

CCC-770 LDP (12-09-14) U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation LOAN DEFICIENCY PAYMENT (LDP) PROCESSING CHECKLIST	1. Producer/Applicant Name		2. Date of Application (MM-DD-YYYY)	
	3. Administrative or Producing State & County Office		4. Disbursing County Office	
	5. Crop Year		6. LDP Number	
	7. Farm Number (Not Required)		8. Commodity/Class/Type	

NOTE: Properly completed forms mean completed according to the applicable procedure. This shall include proper signatures, shares, ID numbers, addresses, date stamp, etc.

9. LDP Request/Application	Handbook or Other Applicable References	YES	NO	N/A	Initials
A. Is there a properly completed and signed CCC-633 EZ Page 1 on file? <i>Explain "NO" answer: (Note: If "NO", LDP shall not be processed.)</i>	8-LP, paragraphs 1002 and 1007; 7-CN, subparagraph 261F, and paragraph 261.5				
B. Was the CCC-633 EZ Page 1 filed prior to loss of beneficial interest? <i>Explain "NO" answer: (Note: If "NO", LDP shall not be processed.)</i>	8-LP, paragraph 1002 7-CN, paragraphs 261.5 and 275.5				
C. Was the CCC-633 EZ, Page 1 approved by an individual delegated or re-delegated to approve CCC-633 EZ's, after all required signatures have been obtained?	8-LP, paragraphs 2 and 1007; 7-CN, paragraph 14				
D. Has CCC-633 EZ, Page 1 been forwarded to other county offices, if applicable?	8-LP, paragraph 1002; 7-CN, subparagraph 261G				
E. Was the completed CCC-633 EZ, Page 1 and applicable LDP benefit request page (page 2, 3 or 4) received in the county office on or before the final loan / LDP availability date?	8-LP, paragraph 226; 7-CN, paragraph 263				
F. Was CCC-633 EZ, Page 1 and applicable LDP benefit request page (page 2, 3 or 4) completed according to instruction, and signed by all applicable and required producers?	8-LP, paragraph 1007; 7-CN, paragraph 261.6				
G. Do individuals signing in a representative capacity have the documentation on file in the county office allowing them to sign for that individual or entity and request an LDP?	8-LP, paragraph 1007; 7-CN, paragraph 45				
H. Are CCC-633 EZ, Page 1 and Page 2, 3, or 4 date-stamped and was the date of receipt verified according to procedure?	8-LP, subparagraph 1001E; 7-CN, paragraph 263				
I. Did the producer answer the question, "Are you or any co-applicant delinquent on any Federal Non-tax debt?"	8-LP, subparagraph 202A; 7-CN, paragraph 100.5				
J. Has a second party reviewer verified and initialed the applicable LDP benefits page (CCC-633 EZ, Page 2, 3 or 4) to ensure the applicable LDP request was properly completed and ready for approval and processing?	8-LP, paragraph 234; 7-CN, subparagraphs 271A and 274J				
K. Is the applicable page 2, 3 or 4 approved by an individual delegated or re-delegated to approve CCC-633 EZ's, after all producers signatures have been obtained AND before processing?	8-LP, paragraphs 2 and 1007; 7-CN, paragraphs 14, 261.5 and 274				

10. Producer/Commodity Eligibility	Handbook or Other Applicable References	YES	NO	N/A	Initials
A. Has the FSA-578 been properly completed and filed showing applicant has a share in the commodity?	8-LP, paragraph 200 and 201; 7-CN, subparagraph 100A; 2-CP, paragraphs 15 and 16				
B. Has all cropland on the farm been reported on FSA-578? If not, does the applicant understand that all cropland on the farm must be reported by the final crop reporting date in the State or all production from that farm is ineligible for LDP?	8-LP, paragraph 200 and 201; 7-CN, subparagraph 100A; 2-CP, paragraph 16				
C. Has AD-1026 been filed by applicant and all affiliated persons according to 6-CP?	8-LP, paragraphs 200 and 201; 7-CN, subparagraph 100A; 6-CP, paragraphs 17, 302 and 601				

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-8136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

Example CCC-770 LDP (Continued)

This is an example of CCC-770 LDP, page 2.

CCC-770 LDP (12-09-14)		Page 2 of 2			
10. Producer/Commodity Eligibility (Continuation)	Handbook or Other Applicable References	YES	NO	N/A	Initials
D. Has CCC-941 been completed and compliance verified for the applicant and all affiliated persons according to 5-PL?	8-LP, paragraphs 200 and 1000; 7-CN, subparagraph 100A; 5-PL, paragraphs 3, 291 and 294				
E. Has CCC-902 and CCC-901, if an entity, been completed, and the applicant determined to be actively engaged in farming?	8-LP, paragraphs 200 and 1000; 7-CN, paragraphs 43 and 100; 5-PL, paragraphs 17, 41 and 44				
F. Does applicant have payment limitation available?	8-LP, subparagraph 34A; 7-CN, subparagraph 43A; 5-PL, subparagraph 3R, and paragraph 17				
G. Does applicant and all affiliated persons, if applicable, meet the eligibility requirements for controlled substance, delinquent debt, fraud and foreign person?	8-LP, paragraphs 201-203 and 1001; 7-CN, paragraphs 40, 100, 100.5 and 101				
H. Is the quantity requested for LDP within the COC established reasonable yield for the commodity and profile established?	8-LP, paragraph 230, 7-CN, subparagraph 119B				
I. If the requested quantity exceeds COC established reasonable yield, did the COC determine the quantity reasonable? Explain "NO" answer:	8-LP, paragraph 230, 7-CN, subparagraph 119C				
J. If LDP is based upon date beneficial interest is lost, was acceptable Production evidence provided and was the LDP rate verified? Explain "NO" answer:	8-LP, paragraphs 227 and 1004; 7-CN, paragraph 262				
K. Is LDP rate correct for request date and county where marketed or stored, if beneficial interest is maintained? (N/A for cotton)	8-LP, paragraph 1004				
L. Is LDP rate correct for "Dates of Delivery", if LDP requested based on date of delivery? (N/A for cotton)	8-LP, paragraph 1004				
11. LDP Processing					
A. For LDP's exceeding \$100,000, has CCC-674 or SF-LLL been obtained before LDP is processed?	8-LP, paragraph 28 7-CN, paragraph 37				
B. Has the FSA Financial Services Web Application (FSAFS) been updated to reflect assignments, if applicable?	63-FI, Parts 3 and 4				
C. Has LDP summary page been printed, filed in LDP folder, and a copy given to producer?	15-PS, Part 2, 7-CN, Subparagraph 285.2i				
12. Cotton – Specific LDP Processing					
A. If request is for a module-lock-in LDP, is the request date after the beginning-of-harvest-date for the County?	7-CN, paragraph 275				
B. If request is for a module-lock-in LDP, does production evidence from the gin indicate that the bales were produced from the modules identified on the original application?	7-CN, subparagraph 275B and 262A				
C. Has CCC-Cotton AA-1 been printed, filed in LDP folder and a copy given to producer?	7-CN, subparagraph 278C				
13. Remarks					
14. Certification:					
<i>I (we) the undersigned certify the above items have been verified or updated accordingly. I also certify that the applicable LDP documents will be filed in accordance with handbook 25-AS and that the producer will receive the applicable LDP documentation according to policies and procedures found in applicable handbooks.</i>					
14A. Signature of Preparer(s)		14B. Date (MM-DD-YYYY)			
15. I concur/do not concur the above items have been verified or updated accordingly.		<input type="checkbox"/> Concur <input type="checkbox"/> Do Not Concur			
15A. CED Signature / STC Designee signature		15B. Date (MM-DD-YYYY)			