United States Department of Agriculture

FARM SERVICE AGENCY

FACT SHEET

UNITED STATES DEPARTMENT OF AGRICULTURE
FARM SERVICE AGENCY

January 2011

Payment Limitations and Financing Provisions *Frequently Asked Questions*

FarmPrograms FARM SERVICE AGENCY

Q. If two partnerships – whose members are the same – are financed with a single loan or line of credit and they have no equipment or land contributions, will they be actively engaged in farming?
A. No, because the contributions of capital do not come from separate and distinct accounts.

Q. If multiple farming operations operate out of a joint bank account instead of separate accounts, can those operations be considered separate farming operations?
A. No, separate and distinct operations must maintain separate and distinct accounts. Furthermore, if they had established separate accounts in addition to the joint account, but the contributions were made (bills paid, etc.) from the joint account, then the requirement for separate "persons" is not met.

Q. Can an individual partner in a partnership use his/her share of the partnership's assets to secure individual capital?
A. No, the individual must provide security separate and distinct from any other person with an interest in his farming operation, or in whose farming operation that individual has an interest in. However, the partnership itself may obtain the necessary financing using its own assets as security.

Q. Can partners in a partnership co-sign or guarantee the financing for that partnership?
A. Yes, additionally, the FSA County Committee (COC) may consider those partners who do not sign the note as not sharing in the joint operation's financial risk.

Q. Can a farm manager or agent make capital contributions for a farming operation (pay bills, etc.) if the farming operation later reimburses the agent from a separate and distinct account?
A. No, eligible contributions must be direct out-of pocket contributions.

Q. Can a farming operation be financed by the landlord without affecting the tenant's payment limitation determination?
A. No, financing cannot come from any individual, joint operation or entity that has an interest in the farming operation. A landlord or landowner is automatically considered to have an interest in the operation, regardless of the type of lease agreement.

Q. Can a trustee of an irrevocable trust co-sign or guarantee the financing for that trust without affecting the trust's payment limitation determination?
A. Yes, as long as the trustee does not have an interest in the Trust's farming operation such as the Trust leasing land from the Trustee.

Q. If a farm operating plan is approved by FSA, and changes occur to the structure of the financing later in the crop year, is the producer required to inform FSA of these changes?
A. Yes, these changes must be immediately reported to FSA because the changes may affect the initial determination. Failure to report changes may result in ineligibility and require a refund of payments.

Q. Does FSA review financial documents?
A. Yes, FSA may also review bank accounts and accounting ledgers, and request tax records to ensure all requirements have been met and the producer has followed their Farm Operating Plan (CCC-902), as certified.

For Additional information

Additional information may be obtained at local FSA offices or through the Montana FSA Web site at http://www.fsa.usda.gov/mt.