

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Coronavirus Food Assistance Program
1-CFAP**

Amendment 9

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 16 D has been amended to provide an example for attributing payments to a legal entity that is wholly owned by another legal entity.

Subparagraph 3 has been amended to clarify that the CED is authorized to issue the decision mentioned in Exhibit 6.

Page Control Chart		
TC	Text	Exhibit
	1-7 through 1-10 2-6.5, 2-6.6	

3 Responsibilities (Continued)

C DD Responsibilities

Within the authorities and limitations in this handbook and 7 CFR Part 9, DD's will:

- ensure that COC's and County Offices follow CFAP provisions
- *--ensure the CED's review of the first 5 CFAP applications from each county are sufficiently thorough to confirm:
 - signatures are included
 - values on the AD-3114 are correct in the software based on producer's certification
 - eligibility requirements are understood
 - payments are proper
- on the basis of the review documentation received, provide CED authority to enter COC (or delegated) actions in the software upon completion of the first 5 CFAP applications for any commodity (reviewed by the CED) from each county. If the initial documentation received contains evidence of misunderstood policy, provide clarification of that policy to the county employees until authorization to make payments is warranted.--*
- conduct reviews as determined by SED according to subparagraph 5 A.

Note: SED may establish additional reviews to ensure CFAP is administered according to these provisions.
- ensure all County Offices publicize CFAP provisions
- *--immediately notify the National Office CFAP Program Manager through their State FSA Office specialist responsible for CFAP of software problems, incomplete or incorrect--* procedures, specific problems, or findings
- take any oversight actions necessary to ensure that IPIA provisions are met to prevent County Offices from issuing any improper payments.

3 Responsibilities (Continued)

D COC Responsibilities

Within the authorities and limitations in this handbook and 7 CFR Part 9, COC's will:

- fully comply with all CFAP provisions
- ensure that CED directs the County Office to follow all CFAP provisions
- review, approve, and disapprove CFAP applications, and document in the COC minutes

Note: COC may redelegate authority to the CED to review and approve routine CFAP applications. Redlegation of authority must be documented in the COC minutes.

--All adverse actions must go to the COC for review, except for sending spot check letter (Exhibit 6) to producers failing to comply with requirements of spot check process. The CED is authorized to make that decision.--

- submit CFAP applications and documentation for specialty crops to AMS for review when COC questions the reasonableness of the application
- handle appeals according to 1-APP
- thoroughly document all actions taken in the COC minutes
- ensure that the County Office publicizes CFAP provisions
- take any oversight actions necessary to ensure that IPIA provisions are met to prevent the County Office from issuing any improper payments.
- ensure that FSA assists persons by providing program information as it becomes available, using a variety of different methods

Notes: Because of the limits of FSA resources, publication of program information may or may not be by direct mail or on an individual basis. FSA meets its publication responsibilities by making broad program announcements in press releases, print and electronic media, Federal Register documents, radio and television announcements, and through posting program information in USDA Service Centers.

The reality of limited resources has increased the participant's responsibility for being aware of program provisions. FSA cannot be responsible for reaching out to every potential program participant with all program information. Participants must seek information on program details and not wait for FSA to individually contact them about program provisions. As resources permit, COC will ensure that program provisions are publicized and maintain a record of any and all publicity efforts, including postings in Service Centers.

The CFAP Fact Sheet:

- may be used to provide general program information
- is available at <https://www.fsa.usda.gov/news-room/fact-sheets/index>.

3 Responsibilities (Continued)

E CED Responsibilities

Within the authorities and limitations in this handbook and 7 CFR Part 9, CED's will:

- fully comply with all CFAP provisions
- ensure that all County Office employees fully comply with all CFAP provisions
- review the first 5 CFAP applications and eligibility documentation for completeness and accuracy and send to DD to obtain authority to enter COC action in the software

Note: COC action must be entered in the software immediately upon receipt of authority from the DD.

- if so delegated, promptly review, approve routine CFAP applications, and document in the COC minutes

***--Notes:** All adverse actions **must** go to the COC for review, except for sending spot check letter (Exhibit 6) to producers failing to comply with requirements of spot check process. The CED is authorized to make that decision.--*

CED **may not** redelegate authority to review and approve routine CFAP applications to any other County Office employees.

- issue any adverse determination letter according to 1-APP
- ensure that all program eligibility requirements have been met by producers before issuing any payment to ensure that IPIA provisions are met
- handle appeals according to 1-APP
- thoroughly document all actions taken in the COC minutes
- immediately notify SED, through DD, of software problems, incomplete or incorrect procedures, specific problems, or findings
- take any oversight actions necessary to ensure that IPIA provisions are met to prevent County Offices from issuing any improper payments
- ensure that FSA assists persons by providing program information as it becomes available, in a variety of different methods.

3 Responsibilities (Continued)

F PT Responsibilities

Within the authorities and limitations in this handbook and 7 CFR Part 9, PT's will:

- fully comply with all CFAP provisions
- immediately notify the CED of software problems, incomplete or incorrect procedures, or specific problems
- ensure that all program eligibility requirements have been met by producers before issuing any payment to ensure that IPIA provisions are met.

16 Payment Limitation and Payment Eligibility Requirements (Continued)

D Attribution of Payments [7 CFR Part 9 Subpart A §9.7(e)(3)]

CFAP payments to persons and legal entities that do not qualify for the increased payment limitation will be limited according to the rules for attribution in 7 CFR 1400.105.

CFAP payments made directly or indirectly to a person or legal entity will be combined and limited to the per person or legal entity.

CFAP payments to corporations, LLC's, LP's, trusts and estates qualified for the increase payment limitation will be limited to the lesser of the increased limitation or the sum of the amount that each member, stockholder, heir, or beneficiary of the legal entity may receive, regardless of ownership share.

Example 1: ABC Corporation pay limit is increased to \$500,000 based on 2 members contributing labor or management. Member 1 (90 percent ownership share) maximum payment limitation is \$250,000. Member 2 (10 percent ownership share) maximum payment limitation is \$250,000. In this example, each eligible member may receive (directly or indirectly) is \$250,000. The sum of the payments the eligible members may receive is \$500,000 (\$250,000 + \$250,000), regardless of ownership share. Total payment to ABC Corporation would be \$500,000.

* * *

*--CFAP 2 payments to a legal entity wholly owned by an embedded legal entity will be limited to the lesser of the increased limitation or the sum of the amount that each eligible member, stockholder, partner, heir or beneficiary of the *first level embedded legal entity* may receive, regardless of ownership share.

Example 2: Corporation A pay limit is increased to \$500,000 based on 2 individual persons contributing labor or management. The first-level shareholder of Corporation A is wholly owned by YZ LLC. Shareholders of YZ LLC are Joe (90% ownership share) and Jon (10% ownership share). Joe and Jon are each pay limited at \$250,000. The pay limit is increased for Corporation A and YZ LLC to the sum of payments that both Joe and Jon may receive, which is \$500,000 (\$250,000 + \$250,000), regardless of ownership share.--*

CFAP payments to a legal entity will be tracked through 4 levels of ownership and will be reduced for members, partners or stockholders holding an ownership interest below the 4th level.

Rules for “common attribution” (such as minor children) do not apply to CFAP payments.

16 Payment Limitation and Payment Eligibility Requirements (Continued)**E Changes in Farming Operations to Add Spouses**

Applicants seeking to add spouses to a farming operation for CFAP, resulting in an increase in the number of persons to which payment limitation applies, must be legitimate, documented, and effective for the year for which the commodity was produced for which CFAP benefits are being sought. For example, if the farming operation is requesting CFAP benefits for 2019 crop corn, the addition of a spouse must be effective for the 2019 program year and all contracts, applications, and eligibility forms must be corrected to reflect the change.

For legal entities, including general partnerships, the farming operation must provide the organizational documents to COC, and the documents must show evidence the spouse was legally added as a member, partner, or stockholder to the legal entity.

For informal joint ventures, the spouse must provide acceptable documentation to COC's satisfaction and prove the spouse made "at-risk" contributions, commensurate with their claimed share of the farming operation. Documentation may include, but is not limited to, signed loan notes and security agreements, and proof of payment for capital, land, or equipment contributions.

For farming operations seeking to qualify for the optional increase in payment limitation, COC must consider whether the spouse contributed at least 400 hours of active personal labor or active personal management.

Example 1: An applicant is seeking CFAP benefits for 2019 corn, requesting consideration to add a spouse (stockholder) to the corporate business structure and requesting the optional increase in payment limitation applicable to corporations. The addition of the stockholder must be documented to have occurred before June 1, 2019 (following FSA's rules for attribution in 7 CFR Part 1400). Additionally, COC must consider whether the added stockholder contributed at least 400 hours of labor or management for the increased payment limitation. In this situation, the farming operation must also correct its representations on all 2019 contracts, applications, acreage reports, and eligibility document to reflect the change in the farming operation within applicable program or activity policy.

Example 2: An applicant is seeking CFAP benefits for 2020 dairy and requesting consideration to recognize the farming operation as a husband and wife joint venture. COC must consider the couple's marital status for the time period CFAP benefits are requested and whether the spouse made at-risk contributions to the farming operation commensurate with the claimed share of the farming operation for the year for which CFAP benefits are being sought. If the farming operation participated in DMC and received program benefits, the DMC contract must also be revised to recognize the addition of the spouse to the farming operation within applicable program or activity policy.

The addition of a spouse to a farming operation must be documented on CCC-902, with COC determination documented on CCC-903, and will apply to all programs in which the farming operation participates.