

For: State and County Offices

**FY 2007 National CORP Review for Improper Payments for
Marketing Assistance Loans (MAL's), LDP's, and Milk Income Loss Contracts (MILC)**

Approved by: Deputy Administrator, Farm Programs



1 FY 2007 MAL and LDP Improper Payments

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 reviews enable FSA to have reliable and statistical data to discern the overall effectiveness of programs and determine 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 but was issued in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts include both overpayments and underpayments.

The number of errors found for administrating MAL's has significantly decreased in comparison to the CORP reviews conducted for payments issued during FY 2005.

FSA is making significant progress towards eliminating improper payments and has incorporated the priority of correcting improper payments into the strategic planning documents.

Disposal Date	Distribution
March 1, 2008	State Offices; State Offices relay to County Offices

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1 FY 2007 MAL and LDP Improper Payments (Continued)

B Purpose

This notice:

- is being issued according to FSA's corrective action plan (CAP) as required under IPIA
- informs State and County Offices of FY 2007 CORP findings related to 2006 MAL disbursements and LDP and MILC payments
- directs follow-up action within each State to ensure all offices review the listed discovered errors and take any needed corrective action.

C Action

SED's shall ensure that:

- applicable State Office division chiefs and specialists review this notice in detail to develop CAP's as needed, and 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 CORP reviews
- applicable State Office program divisions provide additional program training where needed and implement CAP to reduce improper payments
- DD's hold a meeting within their respective districts to review this notice with CED's and program technicians.

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2 Price Support CORP Findings for FY 2007

A MAL and LDP Eligibility CORP Findings

The following provides MAL and LDP eligibility CORP findings.

Finding	Acceptable acreage report for all cropland on the farm is not on file. *
Policy	8-LP, subparagraph 101 A provides that producers who have not reported acreage on FSA-578 according to 2-CP for the current crop year are ineligible for a loan.
Finding	AD-1026 on file for payee does not have sufficient information to allow a proper determination to be made. *
Policy	8-LP, subparagraph 100 A provides that a producer must have filed an AD-1026 according to 6-CP in the applicable County Office before the producer can be considered eligible for a MAL or LDP.
Finding	Producer had no risk in producing the commodity. *
Policy	8-LP, subparagraph 100 A provides that an eligible producer is a person or entity that shares in the risk of producing the applicable commodity.
Finding	Producer had no beneficial interest in commodity. *
Policy	8-LP, paragraph 129 provides beneficial interest policy. A producer is considered ineligible for MAL or LDP if the producer does not have beneficial interest in the commodity at the time of MAL or LDP request.
Finding	CCC-502 is not on file for the payee with sufficient information to allow proper “person” and “actively engaged” determinations to be made. *
Policy	8-LP, paragraph 100 provides MAL and LDP producer eligibility requirements. A producer is considered ineligible for a MAL or LDP if CCC-502 is not properly filed according to 1-PL. 1-PL provides requirements for completing CCC-502’s.
Finding	Commodity was not in existence or in a storable condition.
Policy	8-LP, subparagraph 126 A provides that to be eligible for a loan or LDP, the commodity must be in existence and in a storable condition.

Note: * Also a FY 2006 CORP finding.

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2 Price Support CORP Findings for FY 2007 (Continued)

B Combination MAL and LDP CORP Findings

The following is a combination of MAL and LDP CORP findings.

Finding	Loan or LDP quantity and rate were incorrect. *
Policy	8-LP, Part 3 provides policy and procedures for LDP's and Part 4 provides policy and procedures for MAL's. County Offices must ensure the MAL and/or LDP rate and quantity is accurate before disbursing or issuing the benefit.
Finding	Loan or LDP quantity is not supported by producer certification, measurement service, or warehouse receipt.
Policy	8-LP, paragraph 132 provides policy for eligible loan quantity. All of the applicable commodities produced on eligible acreage, by an eligible producer, and mechanically harvested, are considered eligible for loan and LDP.
Finding	Late payment interest was not paid.
Policy	8-LP, subparagraph 16 D provides prompt payment interest policy. County Offices are instructed to pay late payment interest when loans or LDP benefits are not disbursed within the specified timeframes. See 8-LP, subparagraph 16 B for the specified timeframe for issuing loans and LDP's.

Note: * Also a FY 2006 CORP finding.

C MAL CORP Findings

The following provides MAL CORP findings.

Finding	A lien search for Federal or State liens was not conducted. *
Policy	8-LP, subparagraph 403 B instructs County Offices to perform a Federal or State lien search after a loan request is filed and before the loan is approved. Note: This policy requirement has been discontinued.
Finding	Note signed on behalf of payee without signature authority on file. *
Policy	8-LP, subparagraph 3 A provides policy for signatures, authorizations, and approvals. Also, see 1-CM for producer's signature and authorization provisions. By completing and signing CCC-677 or 678, the producer enters into an agreement with CCC.
Finding	Required UCC-1 is not filed.
Policy	8-LP, paragraph 423 provides filing UCC policy. County Offices are instructed to file applicable UCC-1's required by State law to protect CCC's security interest.

Note: * Also a FY 2006 CORP finding.

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2 Price Support CORP Findings for FY 2007 (Continued)

D LDP CORP Findings

The following provides LDP CORP findings.

Finding	LDP application is not on file. *
Policy	8-LP paragraph 301 provides policy for requests for LDP's. 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.
Finding	LDP was not approved by CCC representative. *
Policy	8-LP, subparagraph 3 B provides redelegation of authority by COC or CED to approve all loan and LDP forms and documents. Cross training in all applicable program areas shall be completed before redelegation of signing authority is made.

Note: * Also a FY 2006 CORP finding.

E MILC CORP Findings

The following provides MILC CORP findings.

Finding	Payment is based on incorrect production.
Policy	<p>11-LD, subparagraph 13 E provides production certification policy. All milk production produced and commercially marketed by the dairy operation for each applicable month must be specified and certified on the applicable CCC-580 or CCC-580X during the contract period, except for months:</p> <ul style="list-style-type: none"> • when the payment rate is zero • that follow after the maximum eligible production cap is reached • when producers in the dairy operation will not be paid. <p>County Offices may not apportion monthly milk production to circumvent the maximum eligible production quantity for the dairy operation.</p> <p>In addition, 11-LD, subparagraph 44 D provides reviewing documentation policy. County Offices are required to review supporting documentation to ensure that the eligible pounds of milk marketings during the applicable months correspond to the months of production. County Offices must attach all supporting documentation to the applicable CCC-580 or CCC-580X.</p>
Finding	Information on contract does not support payment eligibility.
Policy	11-LD, paragraph 44 provides supporting documentation policy. The production evidence must be provided to the County Office with any supporting documentation available to assist in verifying the operation's eligible production and commercial milk marketings beginning with the starting month designated on CCC-580 or CCC-580X and the subsequent months of production thereafter. In addition, 11-LD, subparagraph 40 I provides that a second party review of eligibility requirements and production evidence shall be performed before issuing a monthly contract payment.

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2 Price Support CORP Findings for FY 2007 (Continued)

E MILC CORP Findings (Continued)

Finding	Payee's share is incorrect.
Policy	11-LD, subparagraph 51 A provides policy for modifying producer/shareholder information. Producers must complete and submit CCC-580M, Part D, when modifying producer/shareholder information on CCC-580X.
Finding	AD-1026 is not on file for affiliated person.
Policy	11-LD, subparagraph 10 B provides that for a dairy operation to be considered eligible to receive payments, the dairy operation must certify compliance with the HELC and WC provisions on AD-1026. Also, subparagraph 40 G provides that AD-1026 is required for program benefits. HELC and WC rules apply. See 6-CP for guidance on HELC/WC provisions. See 11-LD, subparagraph 11 F for the definition of an affiliated person. All affiliated persons of the dairy operation must certify to HELC and WC provisions.
Finding	A dairy operation does not meet eligibility requirements.
Policy	11-LD, subparagraph 10 A provides that an eligible dairy operation for MILC and MILCX program purposes is any person or group of persons who as a single unit as determined by CCC, produce and market milk commercially produced from cows and whose production facilities are located in the U.S. A dairy operation that does not meet the MILC definition is ineligible for a MILC payment.