

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

**FY 2008 National CORP Review for Improper Payments for
Marketing Assistance Loans (MAL's), LDP's, and Milk Income Loss Contracts (MILC)**

Approved by: Acting Deputy Administrator, Farm Programs



1 FY 2008 MAL and LDP Improper Payments

A Background

The Improper Payment Information Act of 2002 (IPIA) requires agencies to annually review programs and activities they administer and identify programs and activities that may be susceptible to significant improper payments.

OMB defines an improper payment as;

“...any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments and underpayments. An improper payment includes any payment that was made to an ineligible recipient or for an ineligible service, duplicate payments, payments for services not received, and payments that are for the incorrect amount. If the agency is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, the payment must also be considered an error.”

FY 2008 IPIA reviews were designed to do the following:

- estimate the annual amount of improper payments
- identify and report FSA's significant weaknesses in established internal management control processes.

| Disposal Date | Distribution |
|----------------------|---|
| March 1, 2009 | State Offices; State Offices relay to County Offices and FAX to CMA's and DMA's |

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1 FY 2008 MAL and LDP Improper Payments (Continued)

A Background (Continued)

During the FY 2008 CORP review, it was determined that MAL's and MILC IPIA error rates decreased significantly. The following table provides the decrease in error rates.

| Program Type | Year | Error Rate |
|--------------|------|--------------|
| MAL's | 2008 | 1.76 Percent |
| | 2007 | 7.52 Percent |
| MILC | 2008 | 0.21 Percent |
| | 2007 | 2.17 Percent |

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

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 2008 CORP findings for 2007 MAL disbursements, LDP's, and MILC payments
- directs followup action within each State to ensure that 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 and related CORP reports 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 2008

A MAL and LDP Eligibility CORP Findings

The following provides MAL and LDP eligibility CORP findings.

| CORP Findings | |
|----------------------|---|
| Finding | CCC-770 Eligibility not completed properly. |
| Policy | 3-PL, paragraph 3 provides CCC-770 Eligibility policy. CCC-770 Eligibility must be completed for every producer who requests a payment or members of entities who are required to meet payment eligibility. |
| Findings | AD-1026 for affiliated person received after payment was made. AD-1026 received after payment was 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. Honey, wool, mohair, and unshorn pelt producers that do not have cropland are exempt from the AD-1026 requirement. |
| Findings | CCC-502 received after payment was made. CCC-502 on file lacks sufficient information to make a proper eligibility determination. |
| 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 requirements f. |
| Findings | Note and security agreement is not signed by payee. Payee signature on note and security agreement by unauthorized person. Note and security agreement signature (other than payee) was missing or by unauthorized person. |
| 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 CCC-678, the producer enters into an agreement with CCC. |
| Findings | Application is not signed by payee. Application signature (other than payee) was missing or by unauthorized person. Application signature (other than payee) on contract by unauthorized person. |
| 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 the application, the producer is certifying to eligibility for the benefit. |

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2 Price Support CORP Findings for FY 2008 (Continued)

A MAL and LDP Eligibility CORP Findings (Continued)

| CORP Findings (Continued) | |
|----------------------------------|---|
| Findings | Acceptable acreage report is not on file at time of review. Producer's signature on acreage report not dated. Acceptable acreage report for all cropland on the farm was received after review began. |
| 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. Also, 2-CP provides that FSA-578 must be completed properly to report all cropland on the farm to be eligible for loans and LDP's. |

B Combination MAL and LDP CORP Findings

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

| CORP Findings | |
|----------------------|---|
| Finding | No second party review conducted. |
| Policy | 8-LP, subparagraph 136 A provides eligibility review policy. A second party review of eligibility requirements for loan and LDP applications shall be performed before disbursement. |
| Finding | Producer did not have beneficial interest. |
| 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 | Late payment interest not paid. |
| Policy | 8-LP, paragraph 16 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 timeframes for issuing prompt payment interest for loans and LDP's. Also, see 61-FI for handling prompt payment interest penalties. |
| Finding | Producer did not have 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 | Commodity was substituted, purchased, bartered, or received as a gift. |
| Policy | 8-LP, paragraph 126 commodity eligibility policy. Producers who acquired commodities through an exchange of an existing harvested commodity, purchases, gift, or any other method other than the producer actually producing and harvesting the applicable commodity is considered to be in control of a substituted commodity. |

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2 Price Support CORP Findings for FY 2008 (Continued)

B Combination MAL and LDP CORP Findings (Continued)

| CORP Findings (Continued) | |
|----------------------------------|--|
| Finding | Incorrect LDP or MAL rate was used. |
| 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 | COC determined quantity reasonable after payment was made. |
| Policy | 8-LP, subparagraph 2 A provides that County Offices shall determine that the quantity offered for MAL or LDP is reasonable. Also, see 8-LP, paragraph 126 for eligible commodity policy and paragraph 536 for maximum eligible quantity policy. |
| Finding | Loan quantity is not supported by acceptable documentation. |
| Policy | 8-LP, paragraph 535 provides production evidence policy. Production evidence is required for loan quantity or LDP selected for spot check. Specifically, subparagraph 535 C provides acceptable types of production evidence and subparagraph 535 D provides production evidence requirements. |

C MAL CORP Findings

The following provides MAL CORP findings.

| CORP Findings | |
|----------------------|--|
| Findings | Lien search was conducted before loan request. |
| | Lien search was not conducted before loan disbursement. |
| Policy | 8-LP, subparagraph 403 B instructs County Offices to perform a lien search after each loan request is filed and before the loan is approved. |
| Findings | Lien waiver was obtained before loan request. |
| | Lien waiver was not obtained before loan disbursement. |
| Policy | 8-LP, paragraph 404 provides lien waiver policy. A lien waiver shall be obtained after each loan request and before disbursing the loan. |
| Finding | CCC-770 MAL not completed properly. |
| Policy | 8-LP, paragraph 25 provides CCC-770 MAL policy. CCC-770 MAL is used as a tool to help minimize the number of improper payments. County Offices must completely follow CCC-770 MAL policy established in paragraph 25. |

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2 Price Support CORP Findings for FY 2008 (Continued)

C MAL CORP Findings (Continued)

| CORP Findings (Continued) | |
|----------------------------------|---|
| Findings | CCC-666 is not on file. CCC-666 on file lacks sufficient information to support MAL. |
| Policy | 8-LP, Part 4 provides policy and procedures for MAL's. Paragraph 426 provides instructions for completing and distributing CCC-666's. CCC-666 must be on file for all certified and measured MAL requests. County Offices shall approve and disburse MAL after all appropriate documents are filed. The original CCC-666 must be filed in the producer's loan folder and copy must be provided to the producer. |
| Finding | Loan exceeded \$150,000 and applicable lobbying forms were not obtained. |
| Policy | 8-LP, paragraph 17 provides lobbying activity provisions. Lobbying disclosure requirements apply to applicants and recipients of loan proceeds exceeding \$150,000. |
| Finding | Loan approved after disbursement. |
| Policy | 8-LP, Part 4 provides policy and procedures for MAL's. Specifically, paragraph 411 provides disbursing loan policy. The person signing for CCC must determine that the producer and the commodity are eligible before the loan is approved and disbursed. |
| Finding | UCC-1 was 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. |

D LDP CORP Findings

The following provides LDP CORP findings.

| CORP Findings | |
|----------------------|---|
| Finding | CCC-770 LDP not completed properly. |
| Policy | 8-LP, paragraph 25 provides CCC-770 LDP/eLDP policy. CCC-770 LDP/eLDP is used as a tool to help minimize the number of improper payments. County Offices must completely follow CCC-770 LDP/eLDP policy established in paragraph 25. |
| Finding | LDP approved after payment was made. |
| Policy | 8-LP, subparagraph 301 E provides LDP approval and payment policy. LDP's may be issued when CCC-633 EZ, page 1 has been filed and pages 2, 3, or 4 have been approved. |
| Finding | LDP exceeded \$100,000 and applicable lobbying forms were not obtained. |
| Policy | 8-LP, paragraph 17 provides lobbying activity provisions. Lobbying disclosure requirements apply to applicants and recipients of LDP's that exceed \$100,000. |
| Finding | LDP application is not on file. |
| Policy | 8-LP, paragraph 301 provides policy for LDP requests. 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. |

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2 Price Support CORP Findings for FY 2008 (Continued)

E MILC CORP Findings

The following provides MILC CORP findings.

| CORP Findings | |
|----------------------|---|
| Finding | CCC-770 MILC not completed properly. |
| Policy | <p>11-LD, paragraph 48 provides policy and instruction for completing CCC-770 MILC. County Offices shall:</p> <ul style="list-style-type: none"> • complete one CCC-770 MILC for each dairy operation with CCC-580 per FY • record each monthly contract payment issued to the dairy operation during the FY on the same CCC-770 MILC • maintain CCC-770 MILC with each CCC-580. <p>Using CCC-770 MILC before payments are issued to producers in a dairy operation is mandatory.</p> |
| Finding | AD-1026 or AD-1026 for affiliated person received after payment was made. |
| 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. 11-LD, subparagraph 11 F provides the definition of an affiliated person. All affiliated persons of the dairy operation must certify to HELC and WC provisions. |
| Finding | Contract was approved after payment was made. |
| Policy | 11-LD, paragraph 40 provides the application and approval process. COC or designee shall be satisfied that all applicable program eligibility requirements have been met before approving CCC-580. |
| Finding | Contract signature or payee signature was missing or by unauthorized person. |
| Policy | 11-LD, subparagraph 40 E provides that all producers who share in the risk of a dairy operation's total production must certify to the information on CCC-580, as applicable, before CCC-580 will be considered complete or approved by CCC. County Offices shall follow 1-CM for producers' signature and authorization provisions and for persons signing the applicable CCC-580 in a representative capacity. |
| Finding | Verifiable production evidence provided after payment was made. |
| Policy | 11-LD, subparagraph 44 B provides that verifiable production evidence must be provided to the County Office before any payment will be issued to a dairy operation. Verifiable production records are evidence that is used to substantiate the amount of production reported that can be verified by CCC through an independent source. |

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2 Price Support CORP Findings for FY 2008 (Continued)

E MILC CORP Findings (Continued)

| CORP Findings (Continued) | |
|----------------------------------|--|
| Finding | Contract is not on file |
| Policy | 11-LD, subparagraph 40 A provides that a separate CCC-580 shall be filed for each dairy operation that produced and commercially marketed milk during the applicable authorized program period. |
| Finding | Payment based on ineligible production. |
| Policy | 11-LD, paragraph 44 provides requirements for acceptable production documentation. 11-LD, subparagraph 44 C provides that verifiable production evidence includes, but is not limited to, the following: <ul style="list-style-type: none"> • milk marketing payment stubs • tank records • milk handler records • daily milk marketings • copies of any payments received as compensation from other sources. |
| Finding | Changes made to contracts were not acceptable. |
| Policy | 11-LD, subparagraph 46 B provides for the following CCC-580 changes: <ul style="list-style-type: none"> • MILC production start month selected by the dairy operation • transfer to another State and county when a dairy operation relocates • modify producer/shareholder information when either: <ul style="list-style-type: none"> • adding a producer • removing a producer • changing a producers share percentage • modify the organization structure, including the tax ID number and name of the dairy operation, when applicable. |
| Finding | Payee 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-580. |
| Finding | Problem related to late payment interest. |
| Policy | 11-LD, subparagraph 20 C provides that prompt payment interest will apply to program payments issued by CCC later than 60 calendar days after all: <ul style="list-style-type: none"> • production evidence and supporting documentation for the month is provided to the County FSA Office • eligibility requirements are met. |