

Coronavirus Food Assistance Program

Practices

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Another program launched in the wake of COVID-19 is the Coronavirus Food Assistance Program. This client alert will provide a brief overview of the program. Note that changes to the program are being considered, as the USDA is currently sorting through the abundant comments it has received during the public comment period. Likely changes will include expansion of what commodities will be considered for eligibility purposes.

What is the Coronavirus Food Assistance Program (CFAP)?

CFAP provides direct payments to producers of eligible commodities suffering a 5% or more price decline, or had losses due to market supply chain disruptions due to COVID-19 and face additional significant market costs.

Who is Eligible?

An eligible producer does not need to be an existing USDA customer, but must own or share in the risk of the commodity, and have a share of the commodity available for marketing. The covered commodities include milk, livestock, wool, specialty and non-specialty crops, among others. A full list of eligible and ineligible commodities can be found on the USDA website. To be eligible for payments, a person or legal entity must have an average adjusted gross income of less than \$900,000 for tax years 2016, 2017, and 2018. However, if 75% of their adjusted gross income comes from farming, ranching, or forestry, the AGI limit of \$900,000 does not apply.

Applicants must also:

1. Comply with the provisions of the “Highly Erodible Land and Wetland Conservation” regulations, often called the conservation compliance provisions;
2. If foreign, provide land, capital, and a substantial amount of active personal labor to the farming operation; and
3. Not have a controlled substance violation.

Note that processing entities are ineligible. Additionally, contract growers who do not own the livestock are eligible only if the contract allows the grower to have price risk in the livestock.

What are the payment limitations?

The payment limitation per person or legal entity is \$250,000, and it applies to the total amount of CFAP payments made with respect to all eligible commodities.

Special payment limitation rules will be applied to participants that are corporations, limited liability companies, and limited partnerships. These corporate entities may receive up to \$750,000 based upon the number of shareholders – not to exceed three shareholders – who contribute at least 400 hours of active person management or personal active labor. Each individual shareholder will receive payment based on the percentage of interest in the entity, subject to the \$250,000 payment limit.

In order to ensure the availability of funding throughout the application period, producers will receive 80% of their maximum total payment upon approval of the application. The remaining portion of the payment will be paid at a later date so long as funds remain available.

Application process: USDA is currently accepting applications through August 28, 2020. Producers should apply through the Farm Service Agency at their local USDA Service Center. Producers will need to self-certify the information they are providing with their application, and should keep all documentation after they've completed the application process. New USDA customers should expect to be asked the following:

- Name and address
- Personal information, including your Tax Identification Number
- Farm operating structure
- Adjusted Gross Income compliance certification to ensure eligibility
- Direct deposit information to enable payment

Applications and payment calculators can be found online.

Interplay between CFAP and PPP or EIDL: Producers can participate in PPP, EIDL or USDA programs (including loans or risk management programs), if eligible, without conflict.

As changes are still being considered, we will follow the CFAP and update our website as necessary.