

**§ 1421.402**

**7 CFR Ch. XIV (1-1-08 Edition)**

**§ 1421.402 DMA responsibilities.**

(a) DMA's are eligible to process the marketing loans and loan deficiency payments provided for in this part only for peanut producers and only if the DMA and the producers and peanuts meet all eligibility criteria set out in this part, including, but not limited to, the DMA eligibility provisions of this subpart. In carrying out those functions, DMA's must:

- (1) Prepare and execute the appropriate CCC peanut MAL and LDP application documents;
- (2) Determine whether producers and the commodity are eligible for MAL's and LDP's, including whether the otherwise eligible peanuts are free and clear of all liens which DMA's shall determine by performing lien searches at DMA's expense;
- (3) Instruct the holder of EWR's, if applicable, to notify the EWR provider to amend the EWR to show CCC is the holder;
- (4) Receive MAL and LDP documents from a DMA Service County Office;
- (5) Disburse peanut MAL's and LDP proceeds to eligible producers;
- (6) Prepare and execute documents for MAL repayments;
- (7) Collect loan repayments from producers or buyers and transmitting these funds to CCC;
- (8) Transmit documents to render forfeited collateral to CCC; and
- (9) Collect data for reporting to CCC as required by CCC;

(b) As part of performing the responsibilities in paragraph (a) of this section, DMA's shall:

- (1) Become knowledgeable of and follow the procedures in CCC and FSA peanut program regulations, applicable notices published in the FEDERAL REGISTER, applicable FSA peanut program handbooks and amendments thereto, and any applicable notices or instructions issued by FSA and the Agricultural Marketing Service.
- (2) Make and service CCC peanut MAL's and LDP's, only upon the presenting by producers or their agents of the warehouse receipts, unless otherwise directed by CCC.
- (3) Attend, at the DMA's expense, DMA peanut MAL, and LDP program training offered by CCC.

(4) Provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.

**§ 1421.403 DMA eligibility to process loans and loan deficiency payments.**

(a) A DMA is eligible to process any marketing assistance loan or loan deficiency payments only if approved in advance to handle such matters by the Farm Service Agency pursuant to this part; and:

- (1) The DMA meets the financial requirements and other requirements in this subpart and part;
- (2) The DMA is comprised solely of peanut producers or is a subsidiary of an organization of peanut producers;
- (3) The DMA is not controlled directly or indirectly by a person or entity that acquires peanuts for processing or crushing through a business involved in buying and selling peanuts or peanut products;
- (4) The DMA does not take title at any time to any peanuts for which it processes loans or loan deficiency payments, irrespective of whether such title is taken before or after those activities are performed. If such title or interest is taken, the DMA shall be responsible to return to CCC the full amount of the CCC proceeds disbursed with respect to the peanuts; and
- (5) The DMA meets any additional requirements imposed by CCC or FSA.

(b) The DMA's activities under this part shall be conducted only with respect to peanuts and only for producers and peanuts that meet all the eligibility requirements of this part. Such requirements include, but are not limited to, the requirement of §1421.6 that the producer must have the beneficial interest in the peanuts while the peanuts are under loan or when the loan deficiency payment is received and must be the only person that has had such an interest in the peanuts prior to that time except as allowed by §1421.6.

**§ 1421.404 DMA approval.**

(a) Entities wishing to apply to be a DMA enabled to perform loan and loan deficiency functions under this part for peanuts must submit an application for

such approval to FSA in a form approved by CCC. That application shall include the following:

(1) Two originals of a properly executed Designated Marketing Association agreement containing the terms and conditions prescribed by CCC.

(2) A financial statement of not less than 1 year old on the date submitted, including accompanying notes, schedules, or exhibits, certified by a certified public accountant as fairly representing the entity's financial condition.

(3) The entity's tax identification number.

(4) A copy of any applicable incorporating or partnership documents.

(5) The applicant entity's mailing address, electronic mail address, and telephone number and facsimile number.

(6) Any and all information requested by CCC regarding the DMA's materials, and equipment as CCC determines is necessary for the applicant to perform the services for which the approval to perform is sought.

(7) A narrative explaining how the proposed DMA entity or parent entity provides marketing services to peanut producers.

(8) Any additional information or financial security requested by the Agency.

(b) Applicants are responsible for notifying FSA when any changes occur to their operations requiring amendments to their application or supporting documents.

#### § 1421.405 Financial security.

In order to be approved to handle loans and loan deficiency payments, the DMA must:

(a) Have a current net worth ratio of at least 1:1.

(b) Provide security equal to \$100,000 or a greater amount as determined by CCC.

#### § 1421.406 Liability.

(a) DMA's shall indemnify CCC against any claim or loss by CCC in connection with the processing of any MAL's or LDP's or other activity carried out by the DMA. If CCC pays any claim or suffers a loss as a result of the actions of DMA, or if a refund otherwise becomes due to CCC, payment in

the amount of such losses or refund, plus interest, may be set-off by CCC from the financial security provided by DMA as required by this subpart. If the amount of the loss exceeds the amount of the financial security, such amount shall be paid to CCC by DMA with interest. Interest and other charges may be assessed consistent with §1403.9 of this chapter. Remedies provided in this section or part are in addition to other remedies or penalties, whether civil, criminal or otherwise, as may apply.

(b) If a DMA becomes liable to CCC under paragraph (a) of this section or otherwise in connection with this subpart, such DMA shall not be eligible to process a LDP or MAL until the claim amount owed CCC is paid in full, and the full amount of financial security required by this subpart has been restored.

#### § 1421.407 Reporting requirements.

(a) *Report of changes.* A DMA shall furnish information to CCC within thirty calendar days relating to any substantial change in the DMA operations including but not limited to the following:

(1) A change in its articles of incorporation;

(2) A resolution affecting loan or LDP operations.

(3) A change to the DMA's name, address, phone number, or related information on the DMA agreement.

(b) *Other Information.* The DMA shall supply such additional information as CCC may request related to the DMA's continued approval by CCC to process loans and LDP's under the authority provided in this subpart.

(c) *CCC request for information.* CCC may require a DMA to submit updated information, a new application, or a request for recertification whenever CCC becomes aware of any changes or has any reason to be uncertain that the DMA is operating in a manner that is consistent with the information already submitted, or consistent with this part.

(d) *Annual recertification.* Within 4 months after the end of the DMA's fiscal year, a DMA must submit the following information to CCC: