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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

Notice of Funds Availability (NOFA) for the Organic Certification Cost Share Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The Farm Service Agency (FSA), on behalf of the Commodity Credit Corporation (CCC), is announcing the availability of \$12.5 million per year for fiscal year (FY) 2017 and 2018 under the Organic Certification Cost Share Program (OCCSP) for eligible certified organic and transitional producers and handlers. FSA is announcing the opportunity for States to apply in FY 2017 to administer the OCCSP program for FY 2017. States that establish an agreement for FY 2017 may be given the opportunity to extend their agreement and receive additional funds to administer the program in FY 2018; FSA has not yet determined whether an additional application period will be announced for FY 2018 for State agencies that do not establish an agreement to administer the program for FY 2017. In this document, FSA is providing the requirements for producers and handlers to apply for OCCSP payments, and for State agencies to establish agreements to receive funds in order to provide cost share assistance to eligible producers and handlers.

DATES: Applications for State Agency Agreements: FSA will accept applications from States for funds for cost-share assistance between the period of January 3, 2017, and February 17, 2017.

Producer or Handler Applications: FSA county offices will accept applications for OCCSP payments from producers and handlers for FY 2017 starting on March 20, 2017, and ending on October 31, 2017, and for FY 2018, starting on October 1, 2017, and ending on October 31, 2018.

Comments: To comment on the information collection request in the Paperwork Reduction Act Requirement section in this document, we will consider comments we receive by **[Insert date 60 days from date of publication in the FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Steve Peterson, (202) 720-7641.

SUPPLEMENTARY INFORMATION:

Background

The purpose of OCCSP is to provide cost share assistance to producers and handlers of agricultural products in obtaining certification under the National Organic Program (NOP) established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501-6524) and the regulations in 7 CFR part 205. The Agricultural Marketing Service (AMS) implemented OCCSP and has been running the program through agreements with State agencies since FY 2008. USDA transferred authority to administer OCCSP from AMS to FSA beginning with FY 2017.

FSA will accept applications from States interested in overseeing reimbursements to their producers, handlers, and processors. All producers and handlers will have access to OCCSP through their local FSA offices. In States where State agencies provide cost share funds, producers and handlers can choose between the State agencies or the local

FSA office. In addition to expanding to FSA local offices for FY 2017, OCCSP will now cover costs related to transitional certification and State organic program fees.

In order for a State agency to receive new fund allocations for FY 2017, they must establish a new agreement to administer OCCSP. FY 2017 agreements will include provisions allowing a State agency to request an extension of that new FY 2017 agreement to provide additional funds and allow the State agency to continue to administer the program for FY 2018. FSA has not yet determined whether an additional application period will be announced for FY 2018 for State agencies that choose not to participate in FY 2017; State agencies that would like to administer the program for FY 2018 are encouraged to establish an agreement for FY 2017 to ensure that they will be able to continue to participate. FSA does not anticipate substantive changes to the agreement process with the participating States. Agreements will continue to allow subgrants to other entities.

Certified operations will be subject to the same eligibility criteria and calculation of cost share payments regardless of whether they apply for OCCSP through an FSA local office or a participating State agency. Certified operations may only receive OCCSP payment for the same scope for the same year from one source: either the State agency or FSA. FSA will coordinate with participating State agencies to ensure there are no duplicate payments. If a duplicate payment is inadvertently made, then FSA will inform the participant and require that funds be returned to CCC.

## Availability of Funds

Funding for OCCSP is provided through two authorizations: National Organic Certification Cost Share Program (NOCCSP) funds and Agricultural Management Assistance (AMA) funds. Section 10004 of the Agricultural Act of 2014 (the 2014 Farm Bill, Pub. L. 113-79) amended section 10606(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523(d)), authorizing \$11.5 million of CCC funds for NOCCSP for each of FYs 2014 through 2018, to remain available until expended. NOCCSP funds will be used for cost share payments to certified operations in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

The USDA organic regulations recognize four separate categories, or “scopes,” that must be individually inspected for organic certification: crops, livestock, wild crops, and handling (that is, processing). A single operation may be certified under multiple scopes. For example, a certified organic vegetable farm that also has certified organic chickens and produces certified organic jams would be required to be certified for three scopes: crops, livestock, and handling. Beginning in FY 2017, transitional certification and state organic program fees will be eligible for cost share reimbursement and for OCCSP purposes, they will be considered two additional separate scopes. Transitional certification is an optional certification offered by some certifiers for producers and handlers who are in the process of transitioning land to organic production. State organic program fees may be required by States that have established a State organic program

according to 7 CFR 205.620-205.622, and are in addition to the costs of organic certification under the four scopes of USDA organic certification.

NOCCSP funds can be used to provide cost share for all four scopes of USDA organic certification (that is, crops, wild crops, livestock, and handling) and the two additional scopes of transitional certification and State organic program fees.

In addition to the NOCCSP funds, Section 1609 of the 2014 Farm Bill made a minor technical correction to the AMA authorizing language codified at 7 U.S.C. 1524, but did not change the amount authorized, which is \$1 million. AMA funds may be used only for cost share payments for organic certification for the three scopes of crops, wild crops, and livestock, and are specifically targeted to the following 16 States:

- Connecticut,
- Delaware,
- Hawaii,
- Maryland,
- Massachusetts,
- Maine,
- Nevada,
- New Hampshire,
- New Jersey,
- New York,

- Pennsylvania,
- Rhode Island,
- Utah,
- Vermont,
- West Virginia, and
- Wyoming.

Sequestration will apply to the total amount of funding available for OCCSP for FYs 2017 and 2018, if required by law.

#### Cost Share Payments

As required by law (7 U.S.C. 6523(b)), the cost share payments cannot exceed 75 percent of eligible costs incurred, up to a maximum of \$750 for each producer or handler. FSA will calculate 75 percent of the allowable costs incurred by an eligible operation, not to exceed a maximum of \$750 per certification scope. Cost share assistance will be provided for allowable costs paid by the eligible operation during the same FY for which the OCCSP payment is being requested. Cost share assistance will be provided on a first come, first served basis, until all available funds are obligated for each FY. Applications received after all funds are obligated will not be paid. Allowable costs include:

- Application fees;
- Inspection fees, including travel costs and per diem for organic inspectors;

- USDA organic certification costs, including fees necessary to access international markets with which AMS has equivalency agreements or arrangements;
- Transitional certification costs;
- State organic program fees;
- User fees or sale assessments; and
- Postage.

Unallowable costs include:

- Inspections due to violations of USDA organic regulations, or State organic program or transitional certification program requirements;
- Costs related to non-USDA organic certifications;
- Costs related to any other labeling program;
- Materials, supplies, & equipment;
- Late fees;
- Membership fees; and
- Consultant fees.

## Eligible Producers and Handlers

To be eligible for OCCSP payments, a producer or handler must both:

- Possess USDA organic certification or transitional certification at the time of application; and
- Have paid fees or expenses related to its initial certification or renewal of its certification from a certifying agent.

Operations with suspended, revoked, or withdrawn certifications at the time of application are ineligible for cost share reimbursement. OCCSP is open to producers and handlers in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

## How to Submit the Application

### State Agencies

State agencies must have an agreement in place to participate in OCCSP. State agencies with funds remaining from an agreement from a previous FY may continue to administer the program with those funds under the terms of their existing agreement. To receive new fund allocations to provide cost share assistance for FY 2017, State agencies must complete an Application for Federal Assistance (Standard Form 424), and enter into a grant agreement with FSA. State agencies must submit the Application for Federal Assistance (Standard Form 424) electronically via Grants.gov, the Federal grants website, at <http://www.grants.gov>. For information on how to use Grants.Gov, please consult <http://www.grants.gov/GetRegistered>. Grant agreements will be sent by FSA to



participating State agencies via express mail. The grant agreement must be signed by an official who has authority to apply for Federal assistance, and must be postmarked no later than February 17, 2017. Upon receipt of complete applications, FSA may begin reviewing the applications and may make awards prior to this deadline. Pending fund availability, applications received after this date may be considered.

Agreements for FY 2017 will include provisions to allow modification of the agreement to also cover a period of performance for FY 2018. At this time, FSA has not determined whether an additional application period will be announced for FY 2018 for State Agencies that do not establish an agreement to administer the program for FY 2017.

#### Producers and Handlers

Certified operations may apply for OCCSP payments through FSA local offices or through a State agency (or authorized subgrantee) if their State has established an agreement to administer OCCSP. For a producer or handler to apply for OCCSP through FSA, each applicant must submit a complete application, either in person or by mail, to any FSA county office. Additional options for producers or handlers to submit their application may be available at <http://www.fsa.usda.gov/programs-and-services/occsp>. A complete application includes the following documentation:

- Form CCC-884 – Organic Certification Cost Share Program, available online at <http://www.fsa.usda.gov/programs-and-services/occsp> or at any FSA county office;
- Proof of USDA organic certification or transitional certification;

- Itemized invoice showing expenses paid to a third-party certifying agency for certification services during the FY in which the application is submitted; and
- AD-2047, if not previously provided.

Producers or handlers may be required to provide additional documentation to FSA if necessary to verify eligibility or issue payment.

FSA's application period begins on March 20, 2017, for FY 2017 and begins on October 1, 2017, for FY 2018, and ends on October 31 of each year or when there is no more available funding, whichever comes first.

Participating State agencies will establish their own application process and deadlines for producers and handlers, as specified in their grant agreements, and eligible operations must submit an application package according to the instructions provided by the State agency. A list of participating States will be available at <http://www.fsa.usda.gov/programs-and-services/occsp>.

#### Definitions

For this NOFA, new or revised definitions include the following:

Certified operation means a producer or handler that has obtained USDA organic certification or transitional certification.

State Agency means the agency, commission, or department of a State government, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, or the Commonwealth of the Northern Marian Islands, authorized by the State to administer OCCSP.

Transitional certification means a determination made by a certifying agent that a production or handling operation is in compliance with the requirements of a transitional certification program.

USDA organic certification means a determination made by a certifying agent that a production or handling operation is in compliance with Organic Foods Production Act of 1990 (7 U.S.C. 6501-6522) and the regulations in 7 CFR part 205, which is documented by a certificate of organic operation.

The following definitions from the regulations of 7 CFR 205.2 also apply to this NOFA: “certifying agent,” “crop,” “handler,” “inspection,” “inspector,” “labeling,” “livestock,” “organic,” “organic production,” “processing,” “producer,” “State certifying agent,” “State organic program,” and “wild crop.”

#### Participating State Agency Reporting Requirements

Twice a year, each participating State agency must provide FSA with a Federal Financial Report (form SF-425) along with a spreadsheet of Operations Reimbursed, which will list the producers and handlers receiving cost share payments within the reporting period. The semi-annual reports are due to FSA on November 30 and May 30 of each year. Once a year, each participating State agency will need to provide FSA with a narrative report to describe program activities and any subrecipients. The annual reports are due to FSA on November 30 of each year.

#### Other Provisions

Persons and legal entities who file an application with FSA have the right to an administrative review of any FSA adverse decision with respect to the application under the appeals procedures at 7 CFR parts 780 and 11. FSA program requirements and determinations that are not in response to, or result from, an individual disputable set of facts in an individual participant's application for assistance are not matters that can be appealed.

A producer or handler may file an application with an FSA county office after the OCCSP application deadline, and in such case the application will be considered a request to waive the deadline. The Deputy Administrator has the discretion and authority to consider the case and waive or modify application deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of OCCSP. Although applicants have a right to a decision on whether they filed applications by the deadline or not, applicants have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator's refusal to exercise discretion to consider the request will not be considered an adverse decision and is, by itself, not appealable.

Persons and legal entities who make applications with State agencies are subject to review rights afforded by the State agency. Participating State agencies that are dissatisfied with any FSA decision relative to a State agency agreement may seek review for programs governed by Federal contracting laws and regulations, appealable under

other rules and to other forums, including to the Department's Board of Contract Appeals under 7 CFR part 24.

Offsets, assignments, and debt settlement regulations specified in 7 CFR 1416.9 apply.

Awards to State agencies will be subject to 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

#### Paperwork Reduction Act Requirements

The information collection request for the OCCSP activity is included in the approval of OMB control number, 0581-0191, and will be moved to FSA. FSA is requesting comments from all interested individuals and organizations on a new information collection request associated with the organic certification cost share program. Producers and handlers will apply for cost share payments, and State Agencies will establish agreements to get funds and to disburse the payments to the qualified producers or handlers.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per responses multiplied by the estimated total annual of responses.

Estimated of Respondent Burden: Public reporting burden for this collection of information is estimated to average 1.25 hour per response. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

Type of Respondents: Individuals and States.

Estimated Number of Respondents: 60,336.

Estimated Number of Responses per Respondent: 1.002.

Estimated Total Annual Number of Responses: 60,504.

Estimated Average Time Per Responses: 0.995 hours.

Estimated Total Annual Burden on Respondents: 60,232 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice, including name and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

## Catalog of Federal Domestic Assistance

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this NOFA applies is 10.171, Organic Certification Cost share Program (OCCSP).

## Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). As previously stated, since FY 2008 USDA implemented OCCSP through AMS via agreements with State Agencies, to make the program more accessible by using FSA county offices as a sign up option for applicants, USDA shifted jurisdiction of the program from AMS to FSA. FSA will now administer and coordinate the program through agreements with interested States and also provide cost share payments directly to eligible producers and handlers for eligible expenses. The general scope of OCCSP, as implemented previously by AMS, is unchanged.

The purpose of OCCSP is to provide cost share assistance to producers and handlers of agricultural products in obtaining USDA organic certification, or transitional certification. FSA's jurisdiction over the program and the minor, discretionary changes to the program (that is, two options for payment receipt and coverage for transitional certifications) are administrative in nature. The discretionary aspects of the program (for example, program eligibility, calculation of cost share payments, etc.) were effectively

designed by AMS and are not proposed to be substantively changed herein. As such, the Categorical Exclusions in 7 CFR part 799.31 apply, specifically 7 CFR 799.31(b)(6)(c) (that is, financial assistance to supplement income). No Extraordinary Circumstances (7 CFR 799.33) exist. As such, FSA has determined that this NOFA does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Val Dolcini,  
Administrator,  
Farm Service Agency, and  
Executive Vice President,  
Commodity Credit Corporation.

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