

ADVANCE PAYMENTS PROGRAM

APPLICATION PROCESS

NOTE: No preprinted application form is available. Please present the following information in a letter format. Failure to provide information on all the areas outlined below may delay the evaluation of your application. A copy of **Appendix A-3: Administrator's Liability must also be submitted along with your application.**

When applying to the APP, administrators must be capable of properly administering the program as outlined in the Administration Guidelines and the Act. For complete details of the responsibilities of an administrator, please consult Section 6 (Obligation of Administrators) of these Administration Guidelines.

The following areas must be detailed in your application :

ORGANIZATION INFORMATION

Part of the assessment of your application will be an evaluation of the organization's ability to administer the program. Therefore, please include details on:

- name, address, phone and facsimile numbers of the organization;
- name of the person in your organization that will be administering the APP (and a contact person, if different from the Administrator) and this person's position;
- Description of the management structure, including name and title of organization's Officers identifying those Officers with signing authority for the APP;
- list of staff members with a description of their duties relative to the program and their reporting relationships;
- explanation of the organization's proposed process of decision making or application approval for this program;
- description of proposed method to perform assessment of producer's credit worthiness prior to the issuance of advances;
- description of steps that will be taken to ensure that the crop is of marketable quality and adequately stored;
- determination of repayment requirements and procedures for repayment of advances that your organization proposes to use (direct from buyer, producer, combination of both, buyer agreements);
- identification of crop storage (organization's facility, producer's farm, other);
- narrative of any other steps considered necessary for the proper administration of the APP.

BACKGROUND INFORMATION

Information must be provided concerning the organization such as:

- when was the organization formed;
- the year the organization first participated in the Advance Payments for Crops Act, if applicable; or the AMPA-APP ;
- identify the geographical territory covered by the organization (county, region, province, etc.);
- describe the structure of your organization (cooperative, marketing board, etc.);
- describe its goals and objectives (preprinted documents are acceptable);
- describe how the administrator operates relative to the production and marketing of crops for which the application pertains (for instance, negotiating or setting of selling prices);
- the organization's audited financial statements for the last 3 years. If past statements have been provided with previous applications, only the latest statement need be provided.

EXPECTED PROGRAM BENEFITS

- the number of producers who are members of the organization, the number of members expected to participate in the APP this crop year and the estimated total number of producers (members or non members) in the area represented by the organization;
- the estimated amount of production the members are expected to produce in proportion to the total expected production of each crop for the entire region;
- describe how participation in the APP will improve the marketing options for producers over what would occur without the APP.

FINANCIAL INFORMATION

Please provide the following information:

- the name, address, phone and facsimile numbers and contact person of the lender from which financing is to be obtained;
- expected interest rate with the loan guarantee (prime, less than prime or money market rate);
- the interest rate the administrator wishes to charge on default accounts;
- if the organization wants to establish an ineligibility period for producers who have gone into default, and if so, the time period; and
- if the administrator does not want the default payments to go directly to its bank, an explanation as to why.

ADVANCE REQUEST

The administrator must estimate an average farm gate selling price for the entire crop year. It should illustrate that this selling price is reasonable considering the producers' markets. The advance rate must not exceed the maximum allowable amount per unit, defined in the Act as 50% of the average farm gate selling price. Please outline the following:

- name of crop, the varieties and grades, if applicable;
- the beginning date and the end date of the crop year for which this application pertains (not to exceed 12 months);
- anticipated volume of production and sales;
- the requested advance rate for each crop;
- the expected price to be received by producers for each crop;
- any substantiation of prices by providing documentation (ie. industry journals, commodity or market reports, contacts) would be helpful;
- historical (past 3 years) average prices paid to producers, if available;
- total guarantee requested, to make advance payments, in dollars;
- the organization should provide the rationale for any plan to limit advances per crop and per producer to less than the maximum of \$250,000 under the program;
- explain how the organization will cover its portion of the liability for any default amount.

DECLARATION

Please add statements as follows, to a letter prepared on behalf of the organization, signed by the President or Secretary-Manager (or equivalent), confirming that:

- I) the organization can sue and be sued in its own name;
- ii) the organization is in compliance with federal, provincial and municipal environmental requirements;
- iii) there are no conflict of interest situations either with producers or within the organization relative to the Advance Payments Program;
- iv) it is understood an audit of the organization may be undertaken at any reasonable time for current or past crop years by, or on behalf of, Agriculture & Agri-Food Canada;
- v) the information provided is true and accurate based on knowledge at the time of the application.

Related Producers

This section describes who are considered to be related producers for the purpose of determining the eligibility for an advance and for the interest free portion of the program. The attribution of an advance is defined in Section 3(1) and (2) of AMPA.

Producers are related for the purposes of AMPA, if they do not deal with each other at arms length.

In the absence of proof to the contrary, producers are presumed not to deal with each other at arms length if they are related as follows:

- a) individuals who are cohabiting or are connected by
 - i) blood relationship, in the sense that one is the child or other descendant of the other or one is the brother or sister of the other,
 - ii) marriage, in the sense that one is married to the other or to a person who is connected with the other by blood relationship, or
 - iii) adoption, in the sense that one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is connected with the other by blood relationship, otherwise than as a brother or sister;
- b) a corporation and a person who
 - i) holds shares in the corporation,
 - ii) is a member of a group of persons that holds shares in the corporation, or
 - iii) is related, as described elsewhere in this section, to a person who hold shares in the corporation or to the member of the group;
- c) any two corporations if
 - i) one person or group of persons holds shares in both corporations,
 - ii) a person who holds shares in one of the corporations is related, as described elsewhere in this subsection, to a person who holds shares in the other corporation,
 - iii) a person who holds shares in one of the corporations is related, as described elsewhere in this subsection, to a member of a group of persons that hold shares in the other corporation, or
 - iv) they are both related, as described in paragraph (b) or subparagraph (i), (ii) or (iii), to a third corporation;
- d) members of the same groups of persons; or
- e) persons related, as described in paragraphs (a) to ©), to members of the same groups of persons.

"Groups of persons" means a producer that is a partnership, cooperative, or other association of persons.

Interpretation of Sub-Sections 9 (2) & 20 (2) of AMPA

The intent of the attribution rules in AMPA is to limit the benefit, direct or indirect, of the interest-free portion of advances to \$50,000 per producer and to limit the overall maximum amount of advances to \$250,000 per producer whether obtained as an individual or indirectly through participation in a partnership, corporation, cooperative, or other association of persons. This intent, when combined with the provision in section 3 that producers are related only if they do not deal with each other at arms length, is met if the \$50,000 and \$250,000 limits are satisfied for each individual producer.

Accordingly, attribution will apply in accordance with the rules set out in subsection 9(2) from partnerships, corporations, cooperatives, and other groups of persons to the partners, shareholders or members as the case may be. In order to ensure that the \$50,000 and \$250,000 limits are not exceeded, adjustments may have to be made to the interest-free portion of advances already given and the portion of an advance over \$250,000 will have to be repaid immediately.

Therefore, the process, which is independent of the order of application, would be as follows:

- C in calculating an individual producer's entitlement to an advance (maximum \$250K), any amounts advanced to related producers must be considered (attributed) in determining how much additional advance the individual producer can get and still remain within the limits of the program.
- C in calculating the entitlement to an advance for a partnership, corporation, or cooperative (maximum \$250K), the amount of remaining eligibility of each of the partners, shareholders, or members must be considered. The amount of the advance would then be the amount that, when attributed to the individuals, would not put any one of the partners, shareholders, or members over the \$250K limit.
- C in order to ensure equitable sharing of program benefits, it is recommended that, in calculating the interest-free benefit, the partnership, corporation, or cooperative be calculated first giving the maximum interest-free benefit warranted (unless all partners, shareholders, or members agreed to have this calculated in the reverse order). The amounts of the interest-free benefits that are attributable to each partner, shareholder, or member would determine how much additional interest-free advance each individual could receive within the \$50K limit. The administrator may, however, calculate this benefit in any other order that satisfies the requirements of the Act.

Amounts attributed from a related producer to the individual must be according to the share of the profits, number of shares held, etc. The amount cannot arbitrarily be set to other values.

Where individuals apply for an advance prior to the related producer, some situations may arise where part of the advance that an individual producer has already received will become interest bearing due to the advance that the related producer has received. Producers should be made aware of this and advised to ensure that the related producer applies first to avoid such situations.

In this approach it is important to focus on keeping the advance amounts within the \$250,000 limit and not focus on the interest-free portion until the calculation is made for the amount of interest benefit the Minister must pay on behalf of each producer.

The following are some examples of how this would work. The ordering of the advances are in the order listed.

Example 1

Producer A - \$50,000 advance

Producer B - \$50,000 advance

Partnership AB - requests \$50,000 advance

Total advance = \$150,000

Since A & B are eligible for another \$200,000 of an advance, AB can get the \$50,000 advance requested.

Interest-free

- The partnership is calculated first and is eligible for \$50,000 interest-free.
- \$25,000 is attributed to each of A & B.
- A & B can get interest-free benefits on \$25,000 of their \$50,000 advances.
- The other \$25,000 will become interest bearing from the date AB is issued the advance.

Total Interest-free - \$100,000 (equivalent to \$50,000 each)

Example 2

Producer A - \$125,000 advance

Producer B - \$125,000 advance

Partnership AB - eligible for \$250,000 as A & B have remaining \$ 125,000 each from above

Total advance = \$500,000

Amount must not exceed the individuals' interest-free limit

- (calculation partnership first) - Partnership eligible for \$50,000 - \$25,000 being attributed each of A & B.
- As they are being attributed \$25,000 from AB interest-free.
- A & B are each entitled to \$25,000 interest-free, the rest being interest bearing from the date AB received the advance.

Total Interest-free = \$100,000 (equivalent to \$50,000 each)

Example 3

Producer A - \$40,000 advance

Producer B - \$30,000 advance

Producer C - \$20,000 advance

(All equal shareholders of corporation ABC)

Corporation ABC - applies for \$50,000

Remaining eligibility:

Producer A - \$210,000

Producer B - \$220,000

Producer C - \$230,000

Therefore, Corporation ABC - can get the \$50,000

Total Advance - \$140,000

- Interest-free - A, B & C can initially get their advance interest-free.
- ABC, the \$50,000 advance is attributed 1/3 each (\$16,666) to A,B & C.

When the interest-free calculation is done

- ABC - \$50,000

- A - \$40,000 + \$16,666 = \$56,666

- B - \$30,000 + \$16,666 = \$46,666

- C - \$20,000 + \$16,666 = \$36,666

for A \$6,666 of the original advance becomes interest bearing

Total Interest-free = \$133,333.

Example 4

- Corporation ABC advanced \$50,000
- Shareholder A, B & C are attributed 1/3 each = \$16,666
- A, B & C can each get an advance up to \$233,333 individual operations - being the remaining amount left within the \$250,000 limit
- For ABC the \$50,000 will be interest-free
- A, B & C will be eligible for \$33,333 interest-free for their individual operation as the remaining entitlement to stay within the \$50,000 limit
- Total Interest-free = \$150,000 (equivalent to \$50,000 each)

Example 5

Producer A - \$200,000

Producer B - \$50,000

Producer AB = applies for \$250,000, however, AB is only entitled to an advance of \$100,000 since this would result in \$50,000 being attributed back to each of A & B and would put A at the \$250,000 maximum

Total Advance = \$350,000

Interest-free

- Interest-free - AB would be entitled to \$50,000, \$25,000 being attributed to each of A & B
- Individually both A & B would be eligible for an additional \$25,000 Interest-free each

Administrator's Liability

The administrator's liability is calculated as follows:

- (a) The administrator's liability percentage will be the average default rate for the previous two crop years, as determined by a date specified in the Advance Guarantee Agreement which does not exceed nine months following the end of the crop year, minus credit for default repayment agreements, divided by the total dollar value of all advances issued in the same crop years.
- (b) For the purpose of calculating the administrator's liability, a percentage of the outstanding repayment agreements that are still compliant will be credited. The calculation is as follows:

$$\frac{(\text{amount repaid under repayment agreements} + \text{balance of compliant agreements})}{(\text{total value of repayment agreements entered into})} \times 100$$

The Minister's liability percentage will be determined by subtracting the administrator's liability from 100.

Example:

For the 2003-2004 crop year, the defaults and repayment agreements from the 2000-2001 and 2001-2002 crop years are taken into consideration.

The crop year of the administrator is from August 1 to July 31. The date stated in the 2000-2001 and the 2001-2002 crop year agreements for establishing the defaults and repayments was April 30, or nine months after the end of the crop year in question.

Total amount advanced by the administrator:

- \$400,000 (A) in 2000-2001
- \$500,000 (A) in 2001-2002

From the 2000-2001 crop year, on April 30, 2002 the administrator had:

- \$20,000 (B) of outstanding principal,

From the 2000-2001 crop year, on April 30, 2003, the administrator has \$5,000 (C) entered into repayment agreements. The \$5,000 repayment agreements are divided as follows:

- Current amount repaid under these repayment agreements is \$1,000 (D)
- \$2,000 (E) is the current balance that is still compliant under repayment agreements
- \$2,000 is the current outstanding balance of non-compliant repayment agreements

From the 2001-2002 crop year, on April 30, 2003 the administrator has:

- \$12,000 (B) of outstanding principal,

From the 2001-2002 crop year, on April 30, 2003, the administrator has \$10,000 (C) entered into repayment agreements. The \$10,000 repayment agreements are divided as follows:

- Current amount repaid under these repayment agreements is \$2,000 (D)
- \$5,000 (E) is the current balance that is still compliant under repayment agreements
- \$3,000 is the current outstanding balance of non-compliant repayment agreements

Credit calculation:

Before making the liability calculation, the credit calculation must be completed as follow:

Credit formula:

Part 1:

$$\frac{(\text{amount repaid under repayment agreements(D)} + \text{balance of compliant agreements(E)})}{(\text{total amount from repayment agreements entered into C})} \times 100$$

$$\frac{(\$1,000 + \$2,000 (D)) + (\$2,000 + \$5,000 (E))}{(\$5,000 + \$10,000 C)} \times 100 =$$

66.66% (F) = Percentage of compliant agreements credited

Part 2:

Percentage obtained in Part 1 (F) X Balance of compliant agreements =

$$66.66\% \times \$7,000 =$$

\$4,666.00 (G) = Amount deducted from outstanding default

Liability calculation:

Administrator's Liability =

$$\frac{(2000-2001 + 2001-2002 \text{ default balances (B)}) - (\text{amount from Credit calculation (G)})}{(2000-2001 + 2001-2002 \text{ total advances (A)})} =$$

$$\frac{(\$12,000 + \$20,000 \text{ (B)}) - (\$4,666.00 \text{ (G)})}{(\$400,000 + \$500,000 \text{ (A)})} =$$

0.030 to 3.0% = Administrators liability for the 2003-2004 crop year.