

§ 701.36

where the purpose of the project cannot be accomplished because of the applicants' lack of clearances or other problems.

[69 FR 10302, Mar. 4, 2004, as amended at 75 FR 70088, Nov. 17, 2010]

§ 701.36 Schemes and devices and claims avoidances.

(a) If FSA determines that a participant has taken any action designed to defeat, or has the effect of defeating, the purposes of this program, the participant shall be required to refund all or part of any of the program payments otherwise due or paid that participant or related person or legal entity for that particular disaster. These actions include, but are not limited to, failure to properly maintain or deliberately destroying a practice and providing false or misleading information related to practices, costs, or arrangements between entities or individuals that would have an effect on any eligibility determination, including, but not limited to, a payment limit eligibility.

(b) All or any part of cost-share assistance that otherwise would be due any participant may be withheld, or required to be refunded, if the participant has adopted, or participated in, any scheme or device designed to evade the maximum cost-share limitation that applies to the program or to evade any other requirement or provision of the program or this part.

(c) If FSA determines that a participant has employed any scheme or device to deprive any other person or legal entity of cost-share assistance, or engaged in any actions to receive payments under this part that also were designed to avoid claims of the United States or its instrumentalities or agents against that party, related parties, or third parties, the participant shall refund all or part of any of those program payments paid to that participant for the project.

(d) For purposes of this section, a scheme or device can include, but is not limited to, instances of coercion, fraud, or misrepresentation regarding the claim for ECP or EFRP assistance and the facts and circumstances surrounding such claim.

(e) A participant who has knowingly supplied false information or filed a

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false claim shall be ineligible for cost-share assistance related to the disaster for which the false information was filed, or for any period of time FSA deems appropriate. False information or a false claim includes, but is not limited to, a request for payment for a practice not carried out, a false billing, or a billing for practices that do not meet required specifications.

[69 FR 10302, Mar. 4, 2004, and amended at 75 FR 70088, Nov. 17, 2010]

§ 701.37 Loss of control of the property during the practice life span.

In the event of voluntary or involuntary loss of control of the land by the ECP or EFRP cost-share recipient during the practice life-span, if the person or legal entity acquiring control elects not to become a successor to the ECP or EFRP agreement and the practice is not maintained, each participant who received cost-share assistance for the practice may be jointly and severally liable for refunding any ECP or EFRP cost-share assistance related to that practice. The practice life span, for purposes of this section, includes any maintenance period that is essential to its success.

[69 FR 10302, Mar. 4, 2004, as amended at 75 FR 70088, Nov. 17, 2010]

§§ 701.38–701.40 [Reserved]

§ 701.41 Cost-share assistance not subject to claims.

Any cost-share assistance or portion thereof due any participant under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against any crop or property, or proceeds thereof, except liens and other claims of the United States or its instrumentalities. The regulations governing offsets and withholdings at parts 792 and 1403 of this title shall be applicable to this program and the provisions most favorable to a collection of the debt shall control.

§ 701.42 Assignments.

Participants may assign ECP cost-share assistance payments, in whole or in part, according to part 1404 of this title.