
7 U.S. Code § 1522

Research and development

(a) Definition of policy

In this section, the term “policy” means a policy, plan of insurance, provision of a policy or plan of insurance, and related materials.

(b) Reimbursement of research, development, and maintenance costs

(1) Research and development payment

(A) In general

The Corporation shall provide a payment to an applicant for research and development costs in accordance with this subsection.

(B) Reimbursement

(i) In general

An applicant who submits a policy under section 1508(h) of this title shall be eligible for the reimbursement of reasonable research and development costs if the policy is approved by the Board for sale to producers.

(ii) Reasonable costs

For the purpose of reimbursing research and development and maintenance costs under this section, costs of the applicant shall be considered reasonable costs if the costs are based on—

(I) for any employees or contracted personnel, wage rates equal to not more than 2 times the hourly wage rate plus benefits, as provided by the Bureau of Labor Statistics for the year in which such costs are incurred, calculated using the formula applied to an applicant by the Corporation in reviewing proposed project budgets under this section on October 1, 2016; and

(II) other actual documented costs incurred by the applicant.

(2) Advance payments

(A) In general

Subject to the other provisions of this paragraph, the Board may approve the request of an applicant for advance payment of a portion of reasonable research and development costs prior to submission and approval of the policy by the Board under section 1508(h) of this title.

(B) Procedures

The Board shall establish procedures for approving advance payment of reasonable research and development costs to applicants.

(C) Concept proposal

As a condition of eligibility for advance payments, an applicant shall submit a concept proposal for the policy that the applicant plans to submit to the Board under section 1508(h) of this title, consistent with

procedures established by the Board for submissions under subparagraph (B), including—

- (i) a summary of the qualifications of the applicant, including any prior concept proposals and submissions to the Board under section 1508(h) of this title and, if applicable, any work conducted under this section;
- (ii) a projection of total research and development costs that the applicant expects to incur;
- (iii) a description of the need for the policy, the marketability of and expected demand for the policy among affected producers, and the potential impact of the policy on producers and the crop insurance delivery system;
- (iv) a summary of data sources available to demonstrate that the policy can reasonably be developed and actuarially appropriate rates established; and
- (v) an identification of the risks the proposed policy will cover and an explanation of how the identified risks are insurable under this subchapter.

(D) Review

(i) Experts

If the requirements of subparagraph (B) and (C) are met, the Board may submit a concept proposal described in subparagraph (C) to not less than 2 independent expert reviewers, whose services are appropriate for the type of concept proposal submitted, to assess the likelihood that the proposed policy being developed will result in a viable and marketable policy, as determined by the Board.

(ii) Timing

The time frames described in subparagraphs (C) and (D) of section 1508(h)(4) of this title shall apply to the review of concept proposals under this subparagraph.

(E) Approval

(i) In general

The Board may approve up to 50 percent of the projected total research and development costs to be paid in advance to an applicant, in accordance with the procedures developed by the Board for the making of the payments, if, after consideration of the reviewer reports described in subparagraph (D) and such other information as the Board determines appropriate, the Board determines that—

- (I) the concept, in good faith, will likely result in a viable and marketable policy consistent with section 1508(h) of this title;
- (II) at the sole discretion of the Board, the concept, if developed into a policy and approved by the Board, would provide crop insurance coverage—
 - (aa) in a significantly improved form;
 - (bb) to a crop or region not traditionally served by the Federal crop insurance program; or
 - (cc) in a form that addresses a recognized flaw or problem in the program;
- (III) the applicant agrees to provide such reports as the Corporation determines are necessary to monitor the development effort;
- (IV) the proposed budget and timetable are reasonable, as determined by the Board; and
- (V) the concept proposal meets any other requirements that the Board determines appropriate.

(ii) Waiver

The Board may waive the 50-percent limitation and, upon request of the submitter after the submitter has begun research and development activities, the Board may approve an additional 25 percent advance payment to the submitter for research and development costs, if, at the sole discretion of the Board, the

Board determines that—

(I) the intended policy or plan of insurance developed by the submitter will provide coverage for a region or crop that is underserved by the Federal crop insurance program, including specialty crops; and

(II) the submitter is making satisfactory progress towards developing a viable and marketable policy or plan of insurance consistent with section 1508(h) of this title.

(F) Submission of policy

If the Board approves an advanced payment under subparagraph (E), the Board shall establish a date by which the applicant shall present a submission in compliance with section 1508(h) of this title (including the procedures implemented under that section) to the Board for approval.

(G) Final payment

(i) Approved policies

If a policy is submitted under subparagraph (F) and approved by the Board under section 1508(h) of this title and the procedures established by the Board (including procedures established under subparagraph (B)), the applicant shall be eligible for a payment of reasonable research and development costs in the same manner as policies reimbursed under paragraph (1)(B), less any payments made pursuant to subparagraph (E).

(ii) Policies not approved

If a policy is submitted under subparagraph (F) and is not approved by the Board under section 1508(h) of this title, the Corporation shall—

(I) not seek a refund of any payments made in accordance with this paragraph; and

(II) not make any further research and development cost payments associated with the submission of the policy under this paragraph.

(H) Policy not submitted

If an applicant receives an advance payment and fails to fulfill the obligation of the applicant to the Board by not submitting a completed submission without just cause and in accordance with the procedures established under subparagraph (B)) ^[1], including notice and reasonable opportunity to respond, as determined by the Board, the applicant shall return to the Board the amount of the advance plus interest.

(I) Repeated submissions

The Board may prohibit advance payments to applicants who have submitted—

(i) a concept proposal or submission that did not result in a marketable product; or

(ii) a concept proposal or submission of poor quality.

(J) Continued eligibility

A determination that an applicant is not eligible for advance payments under this paragraph shall not prevent an applicant from reimbursement under paragraph (1)(B).

(K) Waiver for hemp

The Board may waive the viability and marketability requirements under this paragraph in the case of research and development relating to a policy to insure the production of hemp.

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