

# Agricultural Justice Project Policy Manual

Food Justice Certification Program

September, 2012



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## **1.0. Introduction**

The Agricultural Justice Project (AJP) is a multi-organizational initiative formed for the purpose of developing, piloting, and promoting a market-based food label for social justice and economic equity. AJP represents a collaboration of Rural Advancement Foundation International (RAFI - USA), Comité de Apoyo a los Trabajadores Agrícolas/Farmworker Support Committee (CATA), Northeast Organic Farming Association, Florida Organic Growers/Quality Certification Services (FOG/QCS), and Fundación RENACE, a Bolivian organic producers' association.

This document provides the roles, policies, and procedures by which the Agricultural Justice Project operates.

### **1.1. How to Use This Manual**

This policy manual is broken into chapters. The chapters each contain information relevant to a different group of readers. To find the information you are looking for begin by reading the chapter titles.

Farmers, retailers, business owners and other certified entities or those seeking certification, or workers seeking information about the certification process and how it pertains to their operation will most likely find their answers in chapters 2 and 3.

Farmers, retailers, business owners or workers seeking information about AJP's technical assistance options will most likely find their answers in chapter 5.

Certifiers, certification staff, inspectors, or worker organizations seeking information about carrying out certification or their role in the process will most likely find their answers in chapter 4.

For information regarding the AJP governance structure or our committees (Advisory Committee, Management Committee, Conflict Resolution Committee and Standards Committee), see chapter 6.

## 2.0. Rights and Responsibilities of Certified Entities

### 2.1. Protocol for Use of “Food Justice Certified” Certification Marks and Logo

An entity that has been certified by an approved or accredited certifier to meet the AJP Standards may use one of the two “Food Justice Certified” Certification Marks or the Food Justice Certified logo to make a market claim according to the following protocols.

#### **For Products: Two Tiered Labeling and Multi-Ingredient Product Thresholds**

AJP intends to underscore the importance of “full chain” certification of a product by using a two-tiered labeling system, in combination with percentage requirements or thresholds for multi-ingredient products. Upon signing a certification contract and paying licensing fees (Table 3.4.) certified entities that produce or process products (examples: farms, grower groups, handlers, brand holders) may use one of AJP’s two certification marks. AJP’s two marks differentiate between products that are made using certified farm materials, and products that are made from certified farm materials and are also processed by certified brand holders and intermediaries. Please see the chart below for details.

#### **For Certified Businesses Not Producing Product: Use of Logo in Marketing**

Upon receiving certification certificate and payment of licensing fees (Table 3.4.) AJP certified businesses that do not make or process products (for example: retailers, restaurants) may use the AJP logo in their marketing and advertising materials.

#### 2.1.1. Types of Certification and Eligibility for Certification

The following chart provides definitions for the categories of certification. These terms will be used to describe categories of labeling and certification requirements throughout this section.

**Social Justice Stakeholder Qualification:** To be eligible to apply for certification any entity must meet at least one social justice qualification. AJP has defined two possible qualifications:

- a. **Fair employment:** The farm or business employs hired labor or interns, thus the stakeholder group served is employees and/or interns.
- b. **Fair Price and Fair Negotiation:** The farm sells to a Food Justice Certified buyer, or the business buys from Food Justice Certified suppliers or farms, thus the stakeholder groups served are businesses and farmers.

\* Intermediaries seeking registration only do not need to meet a social justice stakeholder qualification to become registered.





**TABLE 1: Types of Certification**

<b>Operation</b>	<b>Definition</b>
<b>Producers</b>	<p>Examples: Farms, Grower Groups, wild collectors</p> <p>Producers grow, raise or collect agricultural products. Producers label product for purposes of direct sale, selling to retailers or other vendors, or sell into longer production chains.</p>
<b>Brand Holders</b>	<p>Examples: Brand holders may be coops, manufacturers, processors, or parent companies</p> <p>Brand holders label the final product with their name and market the product to consumers.</p>
<b>Intermediaries</b>	<p>Examples: Intermediaries may be handlers, distributors, processors, brokers, traders, or other conveyors of products in the chain of production</p> <p>Intermediaries purchase product from producers or other intermediaries, alter or repackage it, and sell the product up the chain of production.</p>
<b>Sub-Contracted Processors</b>	<p>Sub-Contracted processors do not own the product at any point in time, but do change or affect the substance or labeling of the product in some way. The contractor (example, the brand holder or producer) owns the product, and pays the sub-contracted processor only for their services in processing the product.</p>
<b>Vendors</b>	<p>Examples: Retailers</p> <p>Vendors sell fully packaged products to consumers and do not impact the labeling.</p>
<b>Conveyors (Sub-Contracted intermediaries)</b>	<p>Examples: Distributors</p> <p>Sub-Contracted intermediaries who do not own the product at any point in time, and do not change or affect the substance or labeling of the product in any way.</p> <p>These entities are not required to become registered or certified to the AJP standards to participate in supply chains, as AJP does not feel there is yet adequate leverage to compel their participation.</p>


### **Fraud Investigations**

AJP has the responsibility to investigate together with the certifiers any and all cases of reported or suspected fraud related to misuse of any of the Food Justice Certified marks, the AJP standards, or any language implying certification to meet the AJP standards. Certified entities are obligated to comply with all investigations, announced or unannounced, in order to maintain their use of any Food Justice Certified claim.

**TABLE 2: Use of Mark or Claim on Products**

Mark or Claim	Origin of Raw Materials	Processing and Manufacturing
 <p><b>Full use of mark, <u>must</u> be placed on front of packaging, may choose black and white or color, may choose size ratio.</b> Exemptions to required use granted in very limited scenarios that do not compromise the integrity of the label. Contact AJP for information.</p>	<p>Certification required.            * 95% of ingredients and processing aids are from certified origin            * 100% of necessary ingredients that are available as Food Justice Certified products are used            (See “Additional Rules in 2.1.3 for exemptions)            * GMO and nanotech ingredients may not be used</p>	<p><b>Certification required for Brand Holder.</b>            (Certification and/or registration required for intermediaries and sub-contracted processors. See 2.1.2 for requirements.)</p>
 <p><b>Full use of mark, <u>must be</u> placed on front of packaging, may choose black and white or color, may choose size ratio.</b> Exemptions granted in very limited scenarios that do not compromise the integrity of the label. Contact AJP for information.</p>	<p>Certification required.            * 95% of ingredients and processing aids are from certified origin            * 100% of necessary ingredients that are available as Food Justice Certified products are used            (See “Additional Rules in 2.1.3 for exemptions)            * GMO and nanotech ingredients may not be used</p>	<p>Brand holder is not certified, must be registered.            (Certification and/or registration required for intermediaries and sub-contracted processors. See 2.1.2 for requirements.)</p>
 <p><b><u>May</u> place mark on front of packaging along with words “MADE WITH” printed at least as large as the font size for “Food Justice Certified” in the mark.</b>  <b>OR:</b>  <b>May choose not to print mark, but <u>must</u> use claim “Food Justice Certified” along with words “MADE WITH” printed at least as large as the font of phrase “Food Justice Certified.”</b></p>	<p>Certification required for:            * 70% or more of ingredients and processing aids are from certified origin            * 100% of necessary ingredients that are available as Food Justice Certified products are used            (See “Additional Rules in 2.1.3 for exemptions)            * GMO and nanotech ingredients may not be used</p>	<p><b>Certification required for Brand Holder.</b>            (Certification and/or registration required for intermediaries and sub-contracted processors. See 2.1.2 for requirements.)</p>
 <p><b><u>May</u> place mark on front of packaging along with words “MADE WITH” printed at least as large as the font size for “Food Justice Certified” in the mark.</b>  <b>OR:</b>  <b>May choose not to print mark, but <u>must</u> use claim “Food Justice Certified” along with words “MADE WITH” printed at least as large as the font of phrase “Food Justice Certified.”</b></p>	<p>Certification required for:            * 70% or more of ingredients and processing aids are from certified origin            * 100% of necessary ingredients that are available as Food Justice Certified products are used            (See “Additional Rules in 2.1.3 for exemptions)            * GMO and nanotech ingredients may not be used</p>	<p>Brand holder is not certified, must be registered.            (Certification and/or registration required for intermediaries and sub-contracted processors. See 2.1.2 for requirements.)</p>
<p><u>Continued on following page</u></p>		



Mark or Claim	Origin of Raw Materials	Processing and Manufacturing
<p align="center"><b>“Food Justice Certified xxx” or ingredient*</b> <b>* Food Justice Certified</b></p> <p align="center">claim listed only in ingredients list next to the certified ingredient.</p> <p>May add claim “Food Justice Certified Company” to back panel. Claim must not be in a color or size larger than other main text on back panel.</p>	<p>Certification required: * &lt;70% of ingredients and processing aids are from certified origin OR * &lt;100% of necessary ingredients that are available as Food Justice Certified products are used (See “Additional Rules in 2.1.3 for exemptions) * GMO and nanotech ingredients may not be used</p>	<p>Brand holder certification required.</p> <p>Intermediaries and sub-contracted processors may not meet requirements in 2.1.2</p>
<p align="center"><b>“Food Justice Certified xxx” or ingredient*</b> <b>* Food Justice Certified</b></p> <p align="center">claim listed only in ingredients list next to the certified ingredient.</p>	<p>Certification required: * &lt;70% of ingredients and processing aids are from certified origin OR * &lt;100% of necessary ingredients that are available as Food Justice Certified products are used (See “Additional Rules in 2.1.3 for exemptions) * GMO and nanotech ingredients may not be used</p>	<p>Brand holder is not certified, but must be registered.</p> <p>Intermediaries and sub-contracted processors may not meet requirements in 2.1.2</p>
 <p align="center"><b>Full use of mark, <u>may</u> place on front of packaging</b></p>	<p>Pledge verification required for all products carrying this label. May only be applied to products <u>from that farm only</u> sold in a <u>direct sale</u> transaction from producer to consumer (example: farmer’s market or CSA share). Claim may not be reproduced in an indirect sale (example: in a restaurant or retail setting.)</p>	<p>N/A</p>
<p>For a labeling claim using AJP standards as the basis for a social justice marketing claim: The certified product must carry appropriate Food Justice Certified mark or ingredient claim, according to this chart. Processing requirements and ingredient percentages according to this chart must be met to use a label based on the AJP standards. Licensee may choose location of front or back of packaging, may choose between printing in color or b/w, and may choose the size ratio for printing the Food Justice Certified mark.</p>		
<p><b>GMO and Nanotech Ingredients:</b> AJP does not allow the use of GMO or nanotech ingredients in products labeled with “Food Justice Certified” in any capacity. This means GMO and nanotech ingredients may not be used in production of Food Justice Certified products, and non-Food Justice Certified ingredients in multi-ingredient products may not contain GMOs or nanotech ingredients.</p>		

### 2.1.2. Certification Requirements for Intermediaries and Sub-Contracted Processors

AJP intends to develop fully certified production chains, including farms, processors, vendors and other food businesses. Processors and intermediaries are required to undergo certification in order for the product being made to carry the Food Justice Certified label in certain situations.

#### **a. Intermediaries**

Intermediaries may apply for full certification at any time.

If the Food Justice Certified products account for less than 50% of the intermediary operation's annual turnover, the operation must be registered but is not required to be certified to buy and sell products labeled as Food Justice Certified.

If the Food Justice Certified products account for more than 50% of the business' annual turnover, full certification is required for the operation to buy and sell products as Food Justice Certified.

#### **b. Exemption for Required Intermediary Registration or Certification:**

IF the Intermediary is a buyer or distributor that serves only to pass through the product from a certified farm, and the intermediary does not change the product or label the product with their own brand in any way, AND;

IF the products coming from the AJP certified farms are processed and packaged and labeled by the farmers, the labeling reflects the name, logo and marketing claims of the farm only, AND;

IF the products from the AJP farms are kept separate from other products purchased by the buyer, and are not re-packed with product from other farms (certified or uncertified) by the buyer or distributor,

THEN: AJP registration or certification requirements may be waived for this buyer. AJP certified farms may put the "Food Justice Certified: Fair Farm" label on their products that they package and label at the farm, and the "Food Justice Certified: Fair Farm" label may be associated with products from those farms in purchasing, ordering or marketing materials produced by the buyer.

In this exemption, the buyer cannot use any AJP certification mark in association with their own marketing materials or brand name outside of representing the products from the AJP certified farms.

**c. Sub-Contracted Processors**

**TABLE 3: Sub-Contracted Processors Certification Requirements**

Processing Scenario	Certification Requirement
<p>Processing of the certified product represents less than 10% of the processor’s annual turnover (gross sales)</p> <p><b>AND</b></p> <p>Processing of the certified product adds less than 25% added value to the end product (based on price per unit difference between unprocessed/processed product.)</p> <p>Exemptions from percentage limits for specific products determined on case-by-case basis by AJP, evaluated upon request.</p>	<p><b>Certification/Registration not required</b></p>
<p>Processing of the certified product represents less than 50% of the processor’s annual turnover, but more than 10%</p> <p><b>AND</b></p> <p>Processing of the certified product adds less than 25% added value to the end product (based on price per unit difference between unprocessed/processed product.)</p> <p>Exemptions for specific products determined on case-by-case basis by AJP, case evaluated upon request.</p>	<p>Certification not required</p> <p><b>Registration required</b> (see section 2.1.2)</p>
<p>Processing of the certified product represents more than 50% of the processor’s annual turnover</p> <p><b>OR</b></p> <p>Processing of the certified product adds greater than 25% added value to the end product (based on price per unit difference between unprocessed/processed product.)</p> <p>Exemptions for specific products determined on case-by-case basis by AJP, case evaluated upon request.</p>	<p>Certification required</p>

2.1.3. Registration of Intermediaries, Sub-Contracted Processors and Brand Holders

AJP recognizes that in some cases, contractors may not have enough leverage to request certification of intermediary entities, or sub-contracted processors. AJP also recognizes that for some small brand holders with few Food Justice Certified supply chains, the costs of certification may be prohibitive.

Those entities that meet the above criteria in 2.1.2 may choose to register with AJP instead of undergoing full certification.

*2.1.3.1. Registration of Brand Holders*

In certain limited circumstances, as the supply of Food Justice Certified products develops, brand holders may be granted an exemption to apply for registration instead of certification. AJP Management Committee will review requests on a case-by-case basis.

*2.1.3.2. Registration Process:*

- a. Entity fills out a registration form, provides copies of personnel manual and personnel policies. Applicant also provides a list of employees and any relevant contact information for labor representation, such as union (if workplace is unionized) or other employee representatives, workplace committee participants, etc.
- b. Certifier conducts a desk audit of the entities personnel manual and personnel policies, according to AJP standards section 4.0, Food Business Responsibilities to Employees and Interns. This desk audit should be conducted in consultation/ coordination with an AJP trained and approved worker organization, to be selected as most appropriate taking into account the type of operation and the location. The desk audit must include some minimal contact (this can be phone/email as appropriate) with employees and/or their representatives, and/or relevant stakeholders who may be knowledgeable about relevant aspects of the operation (such as a regional worker organization – regardless of whether they are AJP trained and approved).
- c. Certifier conducts a desk audit of entity's compliance with AJP Standards section 1.0, Buyer Responsibilities to Farmers for those relationships entity has established with Food Justice Certified farmers that pertain to the production chain in question. This desk audit should be conducted in consultation/ coordination with an organization representing farmers whenever possible, to be selected as most appropriate taking into account the type of operation and the location. The desk audit must include some minimal contact (this can be phone/email as appropriate) with farmer vendors, and/or relevant stakeholders who may be knowledgeable about relevant aspects of the operation.
- d. Certifier conducts a desk audit of entity's compliance with AJP Standards section 5.0, Food Business Responsibilities to other Food Businesses for those relationships entity has established with Food Justice Certified food businesses that pertain to the production chain in question.
- e. Certifier may determine that a spot-check on-site is necessary to ensure decent working conditions. Certifier should arrange an on-site spot check and determine protocol. The breadth of the spot-check will be determined by the findings of the desk audit. Certifier must inform AJP of any determination to follow up a desk audit with a spot check. When the findings relate to working conditions or other employee-related policies or conditions,

the certifier should develop the spot-check protocol and implement it in coordination with a trained and approved worker organization.

f. The verification process for registration should focus on compliance with all relevant legal obligations as a starting point, and then the following as priority:

As Employers:

- Employer violates worker right to freedom of association
- Retaliates against employee who tries to organize other workers
- Refuses to bargain with employee or the chosen representative of a group of employees
- Employer pays less than the prevailing regional wage without justification of financial hardship
- Employer fires employee without demonstrated cause or appeals process
- Employer lacks meaningful grievance/complaint process
- Employer withholds payments as disciplinary measure
- Employer bars representative of employees or union from providing employees with training in legal rights or safety
- Employer fails to provide workers compensation
- Employer requires overtime on an ongoing basis
- Employer uses involuntary labor
- Employer discriminates against employee
- Employer is abusive or sexually harasses employee
- When using a contractor, employer fails to make sure contractor adheres to AJP standards
- Employer pressures employee spouse to also work
- Employer pays men and women or people from different ethnic groups or races with different levels of pay for the same work
- Employer refuses to rehire seasonal worker without justification
- Employer provides housing that is unsafe or unsanitary
- Employer maintains an unsafe workplace with a high accident rate
- Through neglect, employer causes worker injury
- Employer refuses to allow adequate rest breaks, time to drink water
- Employer refuses to transport sick or injured worker to medical care in timely fashion
- Employer fires worker who was injured on job and can no longer perform previous job
- Employer fails to provide protective gear for workers using toxic materials
- Violations of child labor laws
- Children are exposed to hazardous chemicals or allowed to use heavy machinery or work in otherwise dangerous conditions

As Buyers:

- Buyer defrauds farmer on price
- Buyer refuses to recognize right of farmer to organize with other farmers to negotiate prices
- Buyer refuses to negotiate with farmer on pricing
- Buyer fails to bargain in good faith
- Buyer retaliates against farmer who organizes group of farmers for negotiating with buyer
- Buyer bars representative of farmers from negotiations on pricing
- Buyer changes contract without negotiating with farmer
- Buyer refuses to disclose costs and pricing formula to farmer
- Buyer forbids farmer to share information about contract with other farmers or legal council
- Buyer docks price excessively claiming low quality
- Buyer discriminates against farmer
- Buyer is abusive or sexually harasses farmer
- Buyer terminates contract or agreement with farmer without cause
- Buyer pits farmers against one another to drive prices down
- Buyer refuses to agree to stable minimum pricing in market with extremes of price volatility
- Buyer offers price that is below prevailing regional price without financial justification of buyer financial status

#### 2.1.3.3. *Registration Fees*

It is expected that certifiers will charge appropriate fees to cover time spent conducting desk audits and collecting information.

In addition to certifier assessed fees, AJP will charge an annual registration fee of \$500 to be collected by the certifier.

In many situations the brand holder or another company invested in the certification of the product chain may choose to cover the costs of registration of the intermediaries involved.

#### 2.1.4. Split Operations

AJP does not allow certification for one part of a split business. In other words, an operation may not apply for certification to the AJP standards for a portion of the operation or a portion of their employees. Individuals and companies may own both AJP certified and non-AJP certified farms and businesses, but these must have separate business status. In these cases the following apply:

- The operations must be separate businesses with separate financial statements, separate organizational structures, separate paychecks for employees who work for both

operations and separate names.

- The non-certified farm or business may not sell products under the same name and logo as the AJP certified farm or business.
- Owner may not have willfully violated human and labor rights on the non-AJP certified business. Certifiers should place this requirement in the contract with the client.
- Workers must not be required to work on both businesses as a term of employment.
- Branding and marketing for the separate businesses must be substantially different so as not to mislead consumers.

#### 2.1.5. Equivalency with Other Fair Trade and Social Justice Labels

If a raw material or processing aid already carries a fair trade or social justice label, AJP will review requests for equivalency on a case-by-case basis to determine if a re-certification, or review of the certification materials is necessary.

#### 2.1.6. Use of AJP Certified Product Where Available

In principle, each necessary ingredient available from AJP certified farms/businesses should come entirely from certified AJP farms/businesses. However, AJP may grant temporary exceptions to blend in a small percentage of products that are not from certified AJP operations to allow for necessary processing flexibility until the market of AJP products is sufficiently developed, if the manufacturer can demonstrate adequate efforts to develop/support supply chain certification.

#### 2.1.7. Exemptions to AJP Labeling Requirements

In certain instances AJP may grant a temporary exemption from the percentage requirements for a particular labeling category. Requests for exemptions must be filed with proper documentation of the case with the certifier, and the decision must be first approved by the AJP Management Committee before products can be labeled.

In addition, AJP will consider additional requests for exemptions from any of the above requirements on a case-by-case basis. Any appeal must be well documented.

### **2.2. AJP's Position on Organic Certification**

#### 2.2.1. Organic Certification Required for Farms

Many health and safety components of the AJP standards are met through organic certification. It is AJP's intention to allow certification of non-certified organic farms who meet strict criteria regarding use of toxic materials and stewardship of the land. However, until AJP has completed a pilot project with a non-certified organic farm, this option will not be available. In the meantime Food Justice Certification is only an option for certified organic farms. Businesses do not have to be certified organic to become Food Justice Certified at this time.

In the pilot with a non-certified organic farm, AJP will be testing the practicality of using PANNA's chart of toxic chemicals to determine excluded products. The chemicals that are highly toxic (labeled PP in their appropriate column), cancer causing, likely to disrupt hormones, and highly dispersible by wind will not be allowed on Food Justice Certified pilot farms. See PANNA's chart in Annex 1 of AJP Standards Document.

Subsidiaries, joint ventures or split operations, if maintained as **completely separate business entities (see section 2.1.4)**, do not have to meet this condition for one business to become Food Justice Certified. However the Food Justice Certified mark may only be used on products produced from the fully certified business, and materials must be segregated properly.

For the farm or business operation that is a **split organic operation (both organic and conventional production taking place) without separate business** status:

- The entire operation must be certified to the AJP labor standards and become either certified organic or in transition
- Complete separation of materials must be maintained as per the organic standards during transition period

### **2.3. Data Security**

To ensure our objectivity and protect our clients' information, AJP has adopted the following procedures:

- All AJP Management Committee members have signed a written confidentiality agreement to keep all private information gained in the course of providing technical assistance or in the course of the approval or accreditation process strictly confidential. See section 7.2 for details.
- AJP will publish the certification status of certified entities on our website.
- The following information is always considered public information:
  - The list of AJP certified operations including name and address and certified products/activities
  - The list of AJP applicants, as part of the AJP public consultation process

### **2.4. Anti-Discrimination**

AJP will accept all production and handling or retail requests for technical assistance that fall into the scope of our program, and meet the terms of the contracts signed for that technical assistance. AJP will work with all clients to the extent of our administrative capacity. However, AJP reserves the right to refuse clients in the case that there is evidence that AJP certification may be misused to cover up un-fair practices or egregious past behavior.



## **2.5. Complaints, Conflict Resolution, and Appeals**

### **2.5.1. Definitions**

*Complaints:* Concerns raised by anyone about the integrity of AJP labeled products or entities, the AJP certification process, AJP standards, the behavior or actions of AJP representatives, or AJP policies. An example of a complaint would be a complaint of unprofessional behavior on the part of an AJP representative in their capacity as accreditor, standards maintenance, or technical assistance. A customer could also make a complaint, for example, raising questions about whether an AJP certified product comes from a farm or business that truly adheres to AJP standards.

*Conflict resolution:* We are using this term for internal issues between parties that are directly involved in AJP certified farms and businesses. All grievances reported between parties within the AJP certified supply chain will be treated as internal and subject to conflict resolution. AJP standards require that every certified farm or business must have a conflict resolution procedure outlined for the workplace or farmer/buyer or business-to-business contracts. Examples of an internal conflict resolution would be: a worker's claim of the employer's failure to comply with AJP standards, or a farmer's claim of a buyer's failure to comply with AJP standards.

*Appeals:* If either the subject of a complaint or the person submitting a complaint is unsatisfied with the outcome, an appeal can be made to the AJP Management Committee together with the Advisory Council.

It is the intent of AJP and all those involved in certification to the standards to settle disputes at the most local or immediate level (i.e. attempt to work it out between the two parties who disagree first); however, AJP outlines below the procedures for those involved in the AJP Program and those external to the program wishing to make a complaint about the program or about individuals involved in it.

### **2.5.2. Distribution**

This policy is posted on the AJP website and distributed to all AJP certifiers, certified entities and published in the Worker pamphlet that is posted at AJP certified workplaces.

### **2.5.3. Authority and Revision**

This policy is approved by the AJP Advisory Council (AC). It is the responsibility of the AJP and the AJP Management Committee to review the appropriateness of the policy from time to time and to make changes when the need arises. Revisions must be approved by the AJP Advisory Council.

#### 2.5.4. Submission of Complaints

Complaints should be submitted in writing to AJP:

Agricultural Justice Project

P.O. Box 510

4 South Jersey Drive

Glassboro NJ, 08028

or

Fax: 856-881-2027, ATTN: AJP Complaints

or

Email: [agjusticeproject@gmail.com](mailto:agjusticeproject@gmail.com)

Phone: 856-881-2025

The person writing or submitting the complaint should explain their relationship to the project or the individuals mentioned in the complaint.

Exceptions will be made for those who cannot be reasonably expected to submit a complaint in writing. This could include illiteracy or low levels of literacy, language barriers, or cultural reasons. In those cases AJP will work with its partners to ensure that complaints are documented in a complete manner, translated if necessary, and handled on an equal basis with written complaints.

#### 2.5.5. Validity of Complaints

In order for complaints to be valid, they must relate to issues under the authority of the AJP, including but not restricted to: arbitrary judgments, non-professional behavior, financial mismanagement, unethical behavior, discrimination, untimeliness, violations of conflict of interest and breaches of confidentiality. Where appropriate, complaints should be accompanied by documentation of evidence. Hearsay will not be considered as valid evidence.

#### 2.5.6. Confidentiality and Non-Disclosure

The privacy and identity of the complainant shall be protected to the maximum extent possible, with recognition that the complainant's identity may be obvious or may become evident during the investigation.

AJP reserves the right to launch an investigation for any reason at anytime at our discretion. This includes rumors, allegations of abuse, press conferences, and other information obtained by AJP that may be investigated in the same manner as officially submitted external complaints.

#### 2.5.7. Complaints Scope

The categories of complaints included in this policy are:

- Complaints regarding interpretations of standards;
- Complaints regarding the professional conduct of AJP representatives and /or personnel and members of the AJP Advisory Council (AJP AC) or Accreditation Committee with regard to their conduct in performing their AJP duties;
- General complaints regarding the decisions and/or functioning of the AJP including but not limited to AJP standard setting and accreditation;
- Complaints about the performance of certification bodies (by individuals or entities not participating in certification program through the certifier in question)
- Complaints about certified operators (by individuals or entities not employed by the operator in question and not having a relationship covered by AJP certification)
- Appeals by accredited certification bodies regarding decisions pertaining to their own accreditation are considered appeals and are to be handled following AJP appeals procedure.

2.5.8. Complaints Process

**TABLE 2.2: Complaints Procedure**

For complaints about AJP personnel or representatives, interpretation of the standards, decisions and functioning of AJP Management or other Committees, performance of certification bodies participating in the program, certified operators



On receipt of a complaint, the AJP Management Committee (any member of the MC with a conflict of interest will leave the room) shall appoint a person or a team to investigate the complaint. The selection criteria for this role are: 1) demonstrated competency and knowledge of the issues 2) having no conflict of interest in the matter. Investigator must have confidentiality and declaration of interest forms signed with AJP and must maintain confidentiality of the parties involved in the investigation until a determination is made or the issue has been resolved.

See Section 7.1.5.9 for the AJP policy on establishing an absence of conflict of interest. The investigator(s) will assess whether the complaint is valid under the above criteria. The subject of the complaint may be approached to determine the validity. The receipt of a complaint shall be acknowledged within three weeks, with a preliminary assessment of the complaint's validity, and

an explanation of whether the complaint will be investigated or not.

If a complaint is deemed to be invalid or irrelevant by the AJP, this will be stated to the complainant, accompanied by the reasons. The complainant will be given one month to respond with more information or a clarification as to why the complaint is pertinent.

Where a complaint is considered valid, an investigation shall be carried out. The investigator may request additional information of the complainant, third parties named as sources of information in the complaint and other parties likely to have information relevant to the investigation.

#### *Investigation of complaints regarding AJP representatives and/or personnel*

In cases of complaints against AJP personnel or representatives, if the case is within the scope of relevant issues, the investigator shall inform the subject(s) of the complaint within a week. The AJP representatives or personnel shall respond within three weeks to explain or clarify actions taken relevant to the complaint. The investigator will gather information from other sources as relevant. The investigator will review all information obtained and formulate a recommendation within another three weeks. In most cases, the entire process should take no more than 6 weeks.

The recommendation may contain suggested corrective actions and/or disciplinary measures. Failure to cooperate with the investigation may result in the investigative team recommending suspension of personnel or the official standing of the individual or entity with AJP. The recommendation and all supporting information will be submitted by the designated investigator to the Management Committee at the conclusion of the investigation.

#### *Investigation of complaints regarding AJP performance*

In cases of general complaints against AJP performance not directed against an individual member, the investigator shall carry out a review to determine whether performance was in line with documented policy and procedure. The AJP may treat a complaint against an individual as a complaint against AJP performance where the AJP recognizes that the complaint levied against the subject applies to the conduct of AJP, its representatives and/or personnel generally.

If policy and procedure are not being followed, the investigator shall determine the reasons.

If policy and procedure are being followed the investigator shall determine whether amendments to these would be justified in light of the complaint. In cases where there is a lack of policy or procedure, the investigator shall determine whether there is a need for such. The investigator shall present the findings to the AJP Management Committee together with recommendations for appropriate corrective actions if any. In most cases, six weeks should be adequate for determinations of this kind.

#### *Complaint Resolution*

Upon receiving the final report from the investigator, the AJP Management Committee shall

review the issues and recommendations and specify any required corrective actions and/or disciplinary measures in a timely manner. At this time the Management Committee can recommend or request additional investigation. If the recommendations are endorsed by the Management Committee at this time, the person submitting the complaint and the subject or relevant parties for carrying out the recommendations will be informed of the findings and recommendations. The recommendations for corrective actions shall be implemented in the timeframe included with the corrective actions.

Once an investigation has been completed, the resolution shall be communicated to the complainant and the subject of the investigation by a representative of the AJP Management Committee. If no further issues arise, the AJP shall deem the complaint to be resolved and the file closed. On closure of a complaint, the AJP Management Committee will consider whether the complaint demonstrated actual or potential weaknesses in the AJP quality system and where necessary define corrective or preventive actions. AJP will keep a record of all such actions. If as a result of a complaint, the AJP Management Committee decides to change existing policy or add new ones, the change will be posted on the website and announced to AJP clients.

The subject or complainant shall have the right to appeal the investigator's findings through the AJP appeals process (see 2.5.11).

#### *Summary of Steps in Complaints Process*

1. Investigator assigned to assess validity and scope of complaint (1 week)
2. Investigator gathers preliminary information to determine validity and scope of complaint and communicates finding to complainant and, if AJP representatives or personnel are involved, to them (3 weeks)
3. If investigator declares complaint is not relevant for further investigation, complainant can appeal within 3 weeks.
4. If found to be relevant for further investigation, investigator gathers additional information to formulate recommendations and submits findings and recommendation to Management Committee (3 weeks).
5. Management Committee reviews findings and recommendations and decides by consensus whether to endorse recommendations or request further investigation. Management Committee informs all relevant parties of this decision (2 weeks).
6. Subject or complainant has the right to appeal (3 weeks).
7. AJP files records.
8. AJP assesses if a change in the quality system is needed and if so, change will be made and posted to website and sent out to clients.

#### 2.5.9. Urgency

At the discretion of the AJP Management Committee and in discussion with the AJP AC, the procedural timeframes for dealing with what are considered serious complaints may be reduced so as to resolve an issue within the shortest possible time.

#### 2.5.10. Records of Complaints

Complete files containing all information related to the investigation of complaints shall be maintained for five years.

#### 2.5.11. Appeals to Complaints Submitted to AJP

If the person or entity who has submitted a complaint to AJP or the subject of a complaint submitted to AJP is not satisfied with the outcome of the complaints process (the findings and corrective action), either party has the right to appeal the decision. This appeal must be made in writing within three weeks and must include reasons for requesting the appeal. The appeal will be heard by a joint meeting of the Management Committee and the Advisory Council.

#### 2.5.12. AJP Conflict Resolution

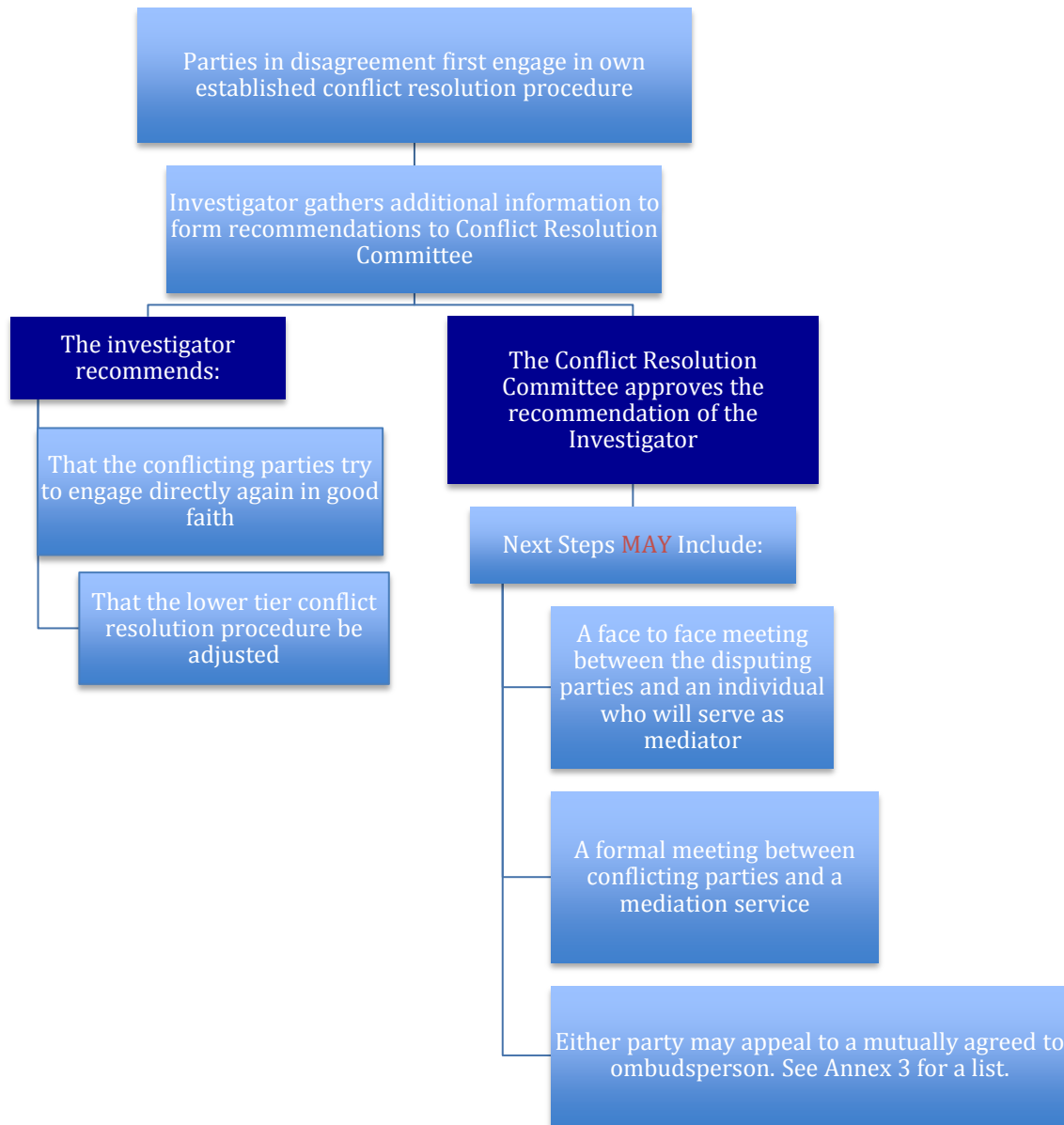
AJP defines conflict resolution as a process through which two or more parties who disagree about an issue can resolve their differences. AJP requires that all certified entities and all AJP accredited certifiers have conflict resolution procedures in place and documented. AJP also has a conflict resolution procedure for any conflicts that arise within the AJP Management Committee, Advisory Council, or between certifiers and or worker or farmer organizations and AJP. In addition, the AJP conflict resolution process can always be used as another tier in conflict resolution for certified entities or accredited certifiers. In these cases it serves as an appeal of the lower tier conflict resolution outcome. Any individuals working for a certified entity, or working for an accredited certifier or approved worker organization may request use of the AJP conflict resolution process. The owner of a certified entity may bring such a request as well.

#### 2.5.13. Scope

The issues raised pertain to the AJP standards.

2.5.14. Conflict Resolution Procedure

**TABLE 2.3: Conflict Resolution and Appeals Procedure**



In the event of an unresolvable conflict internal to or between certified entities engaging directly with each other as part of the AJP program, for conflicts between farmer/farmworker, farmer/buyer, or food business/food business employee this process will be followed. If a certified farm or business has a conflict with their certifier, it will be handled first by the certifier's own appeals process, and only if that process fails to produce acceptable results will the parties turn to the AJP appeals process.



In the event of an internal conflict all parties should comply with AJP standards and first engage in good faith direct dialogue consistent with their established policies to resolve the issue. Only if this direct conflict resolution process is exhausted should this AJP appeals process be initiated. The Conflict Resolution Committee of the AJP Advisory Council will only come in to play when all steps in a complaint or a conflict resolution process of a certified entity have been exhausted but the parties are still not satisfied.

Understanding that all parties benefit from a timely resolution of any conflict, AJP pledges that if an appeal is brought to the AJP Conflict Resolution Committee it will be given the highest priority, with the goal of steps #1, #2, #3, and #4 below taking place and decided in the timeframe of 4 to 6 weeks. This, however, must be understood as a goal and not a strict requirement, as a particularly complicated situation may take more time to clarify and to resolve. Likewise, in urgent cases when deemed necessary a more expedited timeline can be implemented.

An appeal can also be initiated if the internal process is deemed by either party to be either (1) not in fact in compliance with AJP standards, or (2) not being implemented in good faith.

#### 2.5.15. Conflict Resolution Procedure in Steps

##### *Step 1:*

Once a request is received for the use of the AJP Conflict Resolution Procedures, the AJP Advisory Council Conflict Resolution Committee will assign an investigator to gather information on the dispute and propose a plan for resolving the conflict. The investigator will be free from conflict of interest.

##### *Step 2:*

The investigator will submit a summary of the information gathered about the dispute, the relevance of it within AJP's scope, and recommendations for next steps for the disputing parties to the Conflict Resolution Committee. This committee is comprised of Advisory Council members with broad stakeholder representation of farmers, workers, buyers, NGOs, etc., who are free of conflict of interest in the specific matter. The committee will work by consensus and will vote only in the event that consensus cannot be reached (any vote requiring three-fourths to be final).

Steps recommended may include:

- A face to face meeting with disputing parties and their representatives and an individual who will serve as a mediator or
- A formal meeting between the conflicting parties with a mediation service. In many areas of the country (in 30 states), there are Centers for Dispute Settlement which offer conflict resolution and mediation services by trained mediators free of charge to farms or for a moderate fee. A mediation session allows both parties to fully state their understanding of what happened, facilitates good listening to one another, and then helps work out a practical solution to the conflict that is acceptable to both parties.

- In cases when a dispute has not gone through or not satisfactorily gone through the appropriate lower tier conflict resolution procedure of a certified entity or accredited certifier the investigator may recommend
- That the conflicting parties again try direct engagement in good faith
- Changes to the lower tier conflict resolution procedure to make it more effective.

*Step 3:*

The AJP Conflict Resolution committee approves the recommended next steps or requests further information gathering.

*Step 4:*

The AJP conflict resolution committee implements the appropriate recommendations and works with the disputing parties to resolve the conflict/disagreement.

*Step 5:*

The final step can be for either party to appeal to an impartial and respected ombudsperson participating in the Agricultural Justice Project from a list pre-selected by AJP, and mutually agreed to by both parties involved in the dispute. Should the final appeal call for the reinstatement of an employee, the employer has the option of offering a severance package that is mutually acceptable.

2.5.16. Rights and Responsibilities of Individuals Participating in AJP Conflict Resolution Procedure

- Participating in the AJP appeals process in no way prevents either party from exercising their legal rights in seeking remedy if unsatisfied with the outcome (such as if a legal violation is alleged).
- Any certifier or worker organization or other parties involved may at anytime choose to discontinue using the conflict resolution process and seek legal advice. AJP retains the right to inform certifiers of the actions of certified entities or to forward the actions of accredited certifiers and approved worker organizations to the accreditation committee for consideration.
- Any party (i.e. a worker, farmer, etc.) may seek the assistance of a colleague or any other representative he/she chooses to accompany, represent, and/or advise him or her in any of the steps of the conflict resolution procedure.
- In the case of a termination, an employer has the option to offer a severance packet rather than reinstate a worker. (See Standards, 4.1.13.c.ii)
- Steps may be waived by written agreement of both parties, but the parties shall have at least one meeting before a conflict is submitted to the AJP Advisory Committee conflict resolution committee.
- The AJP certified entities or accredited certifier or approved worker organization involved will make relevant parts of any files and records available, in confidentiality, for the purposes of the conflict resolution process

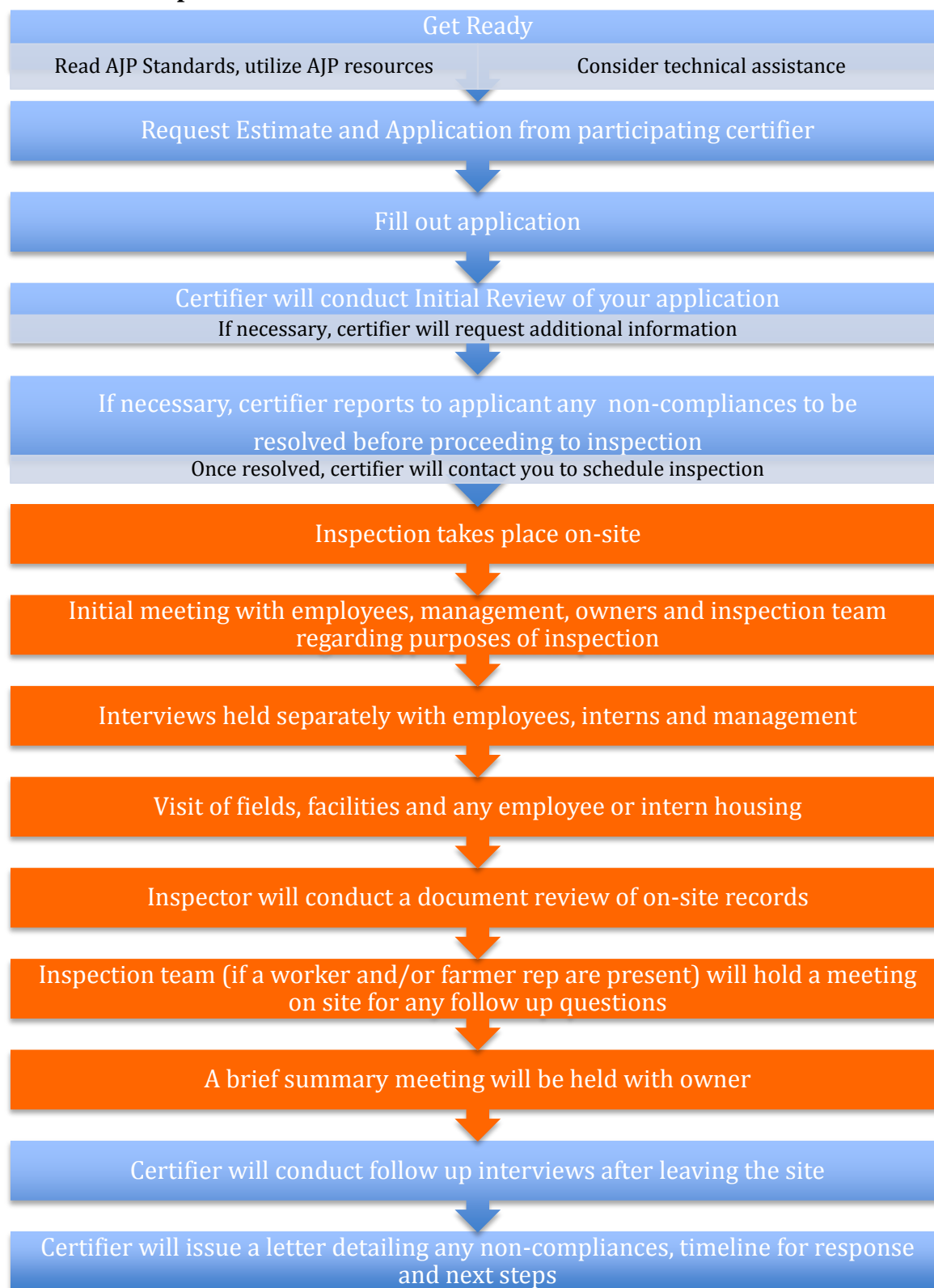
### 3.0. Certification

**TABLE 3.1: Applicability of Standards Sections to the Types of Certification**

Sections of the Standards that Apply	Type of Operation/Applicant									
	Producers				Food Businesses NOT Labeling Products				Food Businesses Labeling Products (Brand Holders)	
	Farms (any and all that apply below)			Grower Groups	Vendors (retailers, restaurants)	Intermediaries and Sub-Contracted Processors		C	R	
	All farms	Sells to certified buyer	Employs hired labor			C	R			
Buyer Responsibilities to Farmers (section 1.0)				X	X	X	X (to FJC clients)	X	X (for FJC product line)	
Farmer Responsibilities to Buyers (section 2.0)		X		X						
Farmer Responsibilities to Employees and Interns (section 3.0)			X	X						
Food Businesses Responsibilities to Employees and Interns (section 4.0)				X	X	X	Personnel Manual review	X	Personnel Manual Review	
Food Business Responsibilities to other Food Businesses (section 5.0)				X	X	X	X (to FJC clients)	X	X	
Grower Group Responsibilities (section 6.0)				X						

\* C = Certified, R = Registered

**TABLE 3.2: Steps to Certification**



### **3.1. Summary of Certification Steps**

*1. Get Ready:* Read the AJP Standards (available at [www.agriculturaljusticeproject.org](http://www.agriculturaljusticeproject.org) or by requesting a hard copy from AJP or one of the AJP approved certifiers.) If you are a farmer, check out the AJP farmer toolkit; it provides templates for AJP compliant policies and contracts, as well as an easy self-assessment checklist to help you get ready for certification. (Food System Business toolkit coming soon.) AJP also offers several technical assistance packages and references to assist farms, grower groups, and food system businesses in improving the fairness and equity of their workplace practices and negotiations (contact AJP for more information and costs). And of course AJP can discuss your interests, explain the project's goals, and answer any questions you may have at anytime. The idea is to get your operation in shape and as compliant as possible prior to certification so that there is less work to do before obtaining your AJP certificate.

If you need additional technical assistance to come into compliance with AJP labor standards, such as translation of policies and conducting bi-lingual health and safety trainings, there may be a worker's organization in your area available to help. See the AJP website for a list of worker organizations.

*2. Apply for Certification:* Contact an AJP-approved certifier of your choosing to request a full certification application packet (check with your organic certifier to see if they offer AJP certification as an add-on to organic).

- a) Request an estimate of the costs for getting certified and the certification process.
- b) Fill out the application according to the certifier's instructions. Feel free to request assistance during the process from AJP as needed. Submit completed application to the certifier.
- c) The certifier will conduct an initial review of your application. You will be contacted if there are any questions about the application or if any issues are identified as needing further information to be provided at or before the on-site audit. If a major non-compliance is identified at the initial review, a denial may be issued at that point.
- d) If it is complete and no non-compliances are identified that would lead to denial, it will be presented to the inspection team. The makeup of the team will depend on the size of your operation. If you have workers, a trained inspector from a workers organization will be part of the team along with the certifier's inspector(s). Farmers may also request that a farmer representative be present. You will be contacted to schedule the inspection.
- e) Inspection time depends on size and complexity of the operation, such as whether or not the operation has workers, an intern program, or worker housing. A full inspection process will include:
  - i. Initial meeting with all workers, management, owners, and inspection team regarding purpose of inspection;
  - ii. Interviews held separately with workers, interns, and management;

- iii. Visit of fields, facilities, and any worker or intern housing;
  - iv. Inspector will conduct a document review of on-site records;
  - v. Inspection team may meet for a brief meeting on-site to compare notes;
  - vi. A brief summary meeting will be held with inspection team and owner of the operation regarding next steps.
- f) The certifier inspector and worker organization inspector will conduct follow up interviews or information gathering as needed after leaving the site, including talking with operations you sell to or buy from if you are applying as a farm or as a business.
  - g) A reviewer completes a final review of the application, supporting document, audit and follow-up interview findings and arrives at a certification decision. If additional information is needed before a certification decision is reached, you will be notified and provided with a timeline for submission.
  - h) If certification is granted, a certificate will be issued. The certification letter may also identify non-compliances and give timelines for correction.
  - i) If you have questions at anytime during the certification process, feel free to contact AJP.

### **3.2. Special Issues in Certification**

AJP has identified certain issues that are particularly complicated and/or sensitive that we feel deserve extra attention in this manual. This section contains guidance documents for certified entities to understand AJP's position on these special issues.

#### **3.2.1. At Will**

In 49 of the 50 states, state law declares that businesses are at-will, that is, an employer can fire an employee without cause. Lawyers recommend that businesses underline and bold face at-will doctrine in employee handbooks, although under current law there are many exceptions and limitations, such as federal anti-discrimination laws and protections for the disabled. The at-will employment doctrine ("at-will doctrine") reflects a legal presumption that an employer enjoys absolute discretion to terminate employment without fear of liability. Termination may take place at any time and for any reason or no reason at all. Likewise, an employee may walk away from a job at any time, for any or no reason. While the at-will doctrine applies equally to both parties, its benefits flow to the party with greater negotiating power, which is usually the employer. The at-will doctrine originated in the law of master and servant in England. However, England's at-will rule possessed a particular property that America's version traditionally did not. England placed statutory limits upon the rule. Over the years, US law has also reduced the absolute character of at will.

Basic to social justice is the requirement that no employer ever fire a worker without just cause. Yet, the finest, most progressive and sustainable food businesses in this country (food coops, certifiers, food justice NGOs, marketing coops) almost to a one have "at-will" in their employee handbooks. Many of their managers have told us that their lawyers insist that at will protects them from frivolous law suits.

Quite a number of legal cases exist on this subject. *That so many cases are out there in the first place demonstrates the risk of litigation despite at will laws.* And the risk is especially high where there are discrepancies between several documents, or where an employee manual contradicts itself. Different states have different rules and tests designed to determine whether a contract was formed, either expressly or impliedly, that supersedes the at-will law. The multiplicity of cases with different conclusions indicate that the status of the at-will rule is in flux. No two courts can seem to make a decision using the same rationale. Although most supreme courts of any state usually decide a case unanimously, when it comes to employment cases, courts tend to more frequently split, with either dissents or concurrences.

Clearly, the at-will rule is not an absolute protection against lawsuits. An employer's best chance against litigation is to develop a workplace with the atmosphere of respect. Where employer and employee both respect one another, the employees are likely to be more loyal. As a result, they are less likely to file a lawsuit. Having a clear employee manual that states that employees can be dismissed for “good cause” or other violations described in the employee manual are proactive and fair steps that ethical employers may take. Ethical employers are also well-advised to have an extended probation period at the beginning of employment to give ample opportunity to evaluate whether a new hire fits well and feels comfortable in the job. During or at the end of this probationary period, either party can end the relationship without violating the ethical requirement for just cause dismissal.

**Lawyers we have consulted agree that the “at-will” doctrine does not prevent employers from waiving or renouncing at-will.** An employer may form an agreement with employees, and that agreement will constitute an effective waiver of the employer’s right to terminate an employee at will. In order to be effective, such an agreement must be clear. Federal courts have held that, where there is ambiguity as to whether an employer has waived the at-will doctrine, that ambiguity will be resolved in favor of the at-will doctrine.

From Keith Talbot, a lawyer with Legal Services of New Jersey and a member of the AJP Advisory Council:

“Labor law protections provided by the National Labor Relations Act (NLRA) provide broad protections for workers acting together to complain about wages and working conditions. Although farmworkers are exempted from the federal law, state laws in states such as New Jersey and California provide similar protection. The NLRA protects workers who engage in concerted activity. This means that workers, including those not in unions, cannot be terminated for discussing with other workers problems in the workplace and attempting to address such issues with improvements. 29 U.S.C. Section 157, Sec. 7. (Employees shall have the right to .... engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection).

“The Migrant and Seasonal Agricultural Worker Protection Act (AWPA), 29 U.S.C. Section 1801, et seq. puts agricultural workers in a position that employment at will is particularly limited. The AWPA requires that farm labor contractors and agricultural employers jointly



disclose in writing to migrant agricultural workers recruited for employment certain information which includes the 1) place of employment; 2) the wage rates to be paid; 3) the crops and kinds of activities on which the worker may be employed; and importantly, 4) the period of employment. (emphasis added). 29 U.S.C. Section 1821.

“The terms and conditions of employment then become part of the working arrangement for the worker. Under AWP, at 29 U.S.C. Section 1822(c), employers and contractors cannot “without justification, violate the terms of any working arrangement made by that contractor, employer or association with any migrant agricultural worker. “ There is a similar working arrangement provision for seasonal agricultural workers at 29 U.S.C. Section 1832 (c), although for seasonal workers written disclosures must be requested. The working arrangement has been explained as follows in case law:

There is no precise definition of “working arrangement” set forth in the statutes. The regulations promulgated by the Department of Labor, however, provide that an employer's failure to comply with the arrangement is justified if due to acts of God or to “conditions beyond the control of the person or to conditions which he could not reasonably foresee.” The regulation also states that “[w]ritten agreements do not relieve any person of any responsibility that the person would otherwise have under the Act or these regulations.” [29 C.F.R. § 500.72\(a\), \(b\)](#). Thus, an employer cannot escape liability through a specific writing contrary to the responsibilities levied upon him by the Act. Nor, however, will he be held responsible for violations which arise under unforeseen circumstances. The working arrangement, then, is the understandings of the parties, given their mutual knowledge and conduct, as to the expected terms and conditions of employment.

“AWPA’s working disclosure and working arrangement sections are intended to make clear the terms and conditions of employment like a contract, which modifies at will employment, even though the concept of the working arrangement is in fact broader than a simple contract:

Its obvious purpose is to protect workers from arbitrary and prejudicial changes in any working arrangement made between the farm labor contractor and the worker, even if not reduced to writing. The burden is on the contractor to provide a written contract, [29 U.S.C. §§ 1821\(a\) & \(g\)](#). They cannot circumvent the requirement to follow the terms of the deal by failing to provide such a writing.

”Villalobos v. Vasquez-Campbell, 1991 WL 311902, 120 Lab.Cas. P 35,566 (W.D.Tex.,1991). As noted previously, growers are jointly responsible for complying with working arrangements to workers with contractors, even if the contractor promised terms of which the grower was unaware. Maldonado v. Lucca, 629 F. Supp. 483 (D.N.J. 1986).

“Finally, the termination of a worker, prior to the end of the period of employment, when justification is not shown, has been held to be a violation of AWP. Colon v. Casco, Inc. 716 F. Supp. 688 (D. Mass 1989). In Colon, the workers were fired over the contravention of an optional weekend work policy. The Court held the firing improper:



Appellant [farmer] does not contest the existence of its “policy” of voluntary or optional weekend work or the general knowledge of this policy among the workers, including plaintiffs. Instead, it contends that this weekend work policy was never explicitly made a part of the “working arrangement.” It may be true that there was no written agreement handed over to the workers including this provision. However, given the undisputed mutual knowledge of and reliance upon this policy, it would not be fair or proper in consideration of the goal of protecting seasonal agricultural workers to exclude this understanding from the “working arrangement.”

With the inclusion of this term in the working arrangement, it was, as the Magistrate found, patently unjustified for appellant to terminate appellees for their failure to report to work on the weekend. Furthermore, according to undisputed evidence, the working season ran from March to November of 1985. The “period of employment” is a required term in every working arrangement. [29 U.S.C. § 1831\(a\)\(1\)\(D\)](#); [29 C.F.R. § 500.76\(b\)\(4\)](#). See [Maldonado v. Lucca, 636 F.Supp. 621, 626-27 \(D.N.J.1986\)](#) (noting the paucity of decisional law concerning AWPA and recognizing that the growing season may set the duration of the period of employment). With even a general understanding of optional or voluntary weekend work between the employer and employees, it was certainly unjustified for appellant to violate the term of the working arrangement regarding the period of employment by firing appellees based on their failure to work on the weekend.... In essence, appellant [farmer] maintains that even if the voluntary weekend work policy was part of the working arrangement, it was subject to immediate unilateral change at appellant's whim. Therefore, concludes appellant, the Friday announcement of mandatory weekend work and subsequent termination of appellees was a result of appellant's change in, not its violation of, the working arrangement. Were this position given sanction under the law, there would be no violation of any working arrangement that could not be written off by unscrupulous employers as a unilateral “change” in the arrangement. See *Labor Board v. Katz*, [369 U.S. 736, 743-48, 82 S.Ct. 1107, 1111-14, 8 L.Ed.2d 230 \(1962\)](#) (a collective bargaining case in which the Court recognized the various ills occasioned by the employer's unilateral actions in changing work policies).

“Colon at 693-694. AWPA and its case law are clear that growers cannot without justification fire workers in violation of the working arrangement’s period of employment.

#### Talbot’s CONCLUSION

‘AWPA requires written disclosures to workers to protect them against abusive and false and misleading recruitment. The written disclosure is in effect a contract, and is incorporated into the broader working arrangement terms. If an employer fires a worker without justification, they are depriving the worker of a promised period of employment in violation of AWPA. Thus, employment at will is limited by AWPA, in addition to other applicable limitations of anti-retaliation, anti-discrimination and labor laws. As noted in the case law, even if a written disclosure is not given, the period of employment may be implied by the length of the season. It is clear that Courts are not inclined to let employers benefit from a violation of law by the failure to do a written disclosure, including the period of employment. Given AWPA’s protection, the employer must prove a justification for termination in violation of the working arrangement.’”

The Agricultural Justice Project's Social Justice Standards, Sections 3.1.14 and 4.1.14 require that farmers and food business employers have a documented disciplinary procedure with a system of warnings before any dismissal and clear language in the employee manual that describes violations and ultimate dismissal procedures. These standards are at variance to the at-will employment doctrine. Employers who wish to comply with this standard must make an unambiguous and effective commitment to respect employee rights by following their own written disciplinary and termination process. Employers must provide new employees with a written statement in the employee handbook or in a separate brochure that explains the appeals, discipline and termination process, and the possibility of appeals to the AJP conflict resolution committee. This policy statement or orientation brochure should explain that:

1. The business is AJP Certified to use the Food Justice label
2. The business recognizes employees' rights to freedom of association
3. The business retains its at-will employer status
4. The business has a conflict resolution process for dealing with employee grievances and a tiered-disciplinary process for infractions and terminations
5. In certifying under the Food Justice label, the business makes the commitment to adhere to its conflict resolution process. In choosing to discipline or terminate an employee without cause, the business risks losing AJP certification.

If an employer fires an employee without following the process for discipline and termination in the business's own policy handbook, this will trigger a special review by the certifier. Any deviation from the employee manual and other employee-related policies will be considered a standards violation. The employer must notify certifier and AJP and provide justification for this action. Justifiable causes for immediate termination include danger to other employees, violence, use of drugs and similar extreme situations, which should be listed in the employee policy handbook. The Certifier and AJP will review the case and if they find that the termination was unjust, the employer will lose AJP certification.

### 3.2.2. Immigration Position

AJP often receives inquiries about how the program addresses the sensitive issue of the immigration status of employees. AJP's standards address this issue in only one place: the standard on non-discrimination includes "immigration status", with a note that this does not preclude the employer from completing all legal obligations, for instance in the U.S. their federal I-9 requirements. Based on the number of requests we receive for clarification, we have developed this guidance for certifiers and others to accurately interpret the standard.

AJP has solicited extensive stakeholder input on this issue from workers and their organizations, farmers and their organizations, legal experts, and others. AJP has made the determination that the consensus position among the stakeholder communities is that immigration status of an employee is not relevant to social justice certification or fair trade and therefore falls outside the scope of the program.

In other words, while it is expected that employers will fulfill their legal obligations related to employee status for their own purposes, AJP will not independently seek to verify this or concern itself with this. (Currently in the U.S. and many other nations it is illegal to *knowingly* employ someone who is undocumented. But the employer is not required to verify the authenticity of any document.)

Some have asked if this contradicts the AJP standard requiring “*All relevant federal, state, and local laws covering working conditions, health and safety, and terms of employment must be complied with*”. It does not, since this standard is carefully constructed to apply only to those laws that fall within the scope of the standards, such as those related to working conditions, terms of employment, condition of housing, etc. In other words, it is not the role of AJP to verify compliance with those laws that fall outside the scope of the standards – another example would be whether or not individuals are filing their income tax, or doing so accurately. This legal requirement simply falls outside the scope of the program and as such would not be evaluated one way or another by the certifier or inspectors.

The purpose and intent of including immigration status in the non-discrimination standard is to ensure that all employees are treated on an equal basis and that real or perceived immigration status, ranging from citizen to resident to undocumented, would not be used in any way by an employer to treat employees differently in terms of pay, benefits, other working conditions, and employee policies, or to create a worksite climate that is in any way intimidating towards workers on the basis of immigration status.

The role of the certifier inspector and worker organization inspector is to verify the above points, and to investigate any evidence to the contrary that comes to light during the certification process. The inspectors would not ask a worker about his/her status, but if an employee were to bring up their own status during an interview, it would be considered confidential. (There is no legal reporting requirement in the US for third parties.) What the auditor does verify however is that all employees' rights are equally respected and that they are working under equal working conditions (granted differing jobs etc of course). So if it were found during an audit that there was a two-tiered system on a farm or in a business, this would be unacceptable for any reason, including real or perceived immigration status.

Some have commented that they are concerned that by not taking a strict approach to the issue AJP is allowing a loophole that would permit unscrupulous employers to exploit vulnerable workers. It is true that undocumented workers are often employed deliberately by unscrupulous employers who know they are more easily exploitable. But we take the position that by excluding undocumented workers with some kind of zero tolerance policy that above all penalizes the migrant worker, programs would be in reality aiding and abetting this two-tiered system, albeit unintentionally. Including rather than excluding undocumented workers in social justice programs that are stringently implemented removes any incentive employers would have to go out of their way to employ undocumented workers for the purpose of exploiting them, since protections requiring equal rights and conditions would be in place. We believe that the protections in place under AJP are stringent enough to prevent this type of exploitation from occurring.

Finally, AJP is not alone in taking this approach to the issue. Indeed, many law enforcement agencies such as local and state police departments, as well as the US Department of Labor, have decided to avoid assessing immigrant status when investigating violations for the same reasons as listed above. There is also precedent for other certifiers to address this issue in a similar way. The excerpt below is from a report prepared by the German based certifier Naturland Association for IFOAM on social auditing:

*Migrant and seasonal workers often have legal problems in securing rights of residence and work. Undocumented workers with an illegal residence status are common in agriculture labour markets. This places the worker in a very weak position, as far as both social security and bargaining power. Migrants, seasonal and temporary workers often tend not to join or have adequate access to trade unions.*

*It is the farmer's responsibility by law to check that workers have identification documents; however, the farmer is not required by law to verify the authenticity of the documents presented. Yet, for a certification body to focus specifically on the issue of documentation status of workers may not lead to an outcome that would be in the best interests of workers. In order to ensure that workers' rights are protected while at the same time not breaching any national laws and regulations, a sensitive approach is needed. Certification programs should look first to improve social and human conditions, rather than focusing on verifying legal status of workers.*

-Excerpted from *Recommendations for Inspection of Social Standards* compiled by: Manfred Fürst, Jorge Casale & Birgit Wilhelm, IFOAM, May 2005

### 3.2.3. Labor Contractors

**TABLE 3.3: Guidance for Farmers Using Labor Contractors**



**EMERGENCY EXEMPTION:** Farmers who suffer temporary unforeseen labor crisis due to severe weather, natural disasters, or other such unexpected calamities or unexpected loss of existing labor force shall have the right to seek emergency labor through any means. Under no circumstance shall this occur other than for documented and fully temporary emergencies. Post emergency, the farmer must submit to the certifier, an explanation of the emergency situation, labor contractor and labor used and timeframe, as well as a plan for how such emergency needs for labor could be more compliant with AJP standards in the future.

### **3.3. Basis of Non-Compliance Decisions**

Certifiers will use the AJP standards and other guidance documents as they are released as a reference for making non-compliance decisions. Certifiers will communicate to the applicant what the non-compliance is, along with a set timeline for resolution of the non-compliance or for providing additional information. Certifiers are given the discretion to evaluate which issues need to be addressed at initial review and which can be cleared up in later phases (post-

inspection). Certain non-compliances will be considered “major” and in these cases a denial or suspension may be issued. Applicants are encouraged to seek technical assistance and utilize the resources on the AJP website before applying to make the certification process more efficient.

### **3.4. Continual Improvement for Renewals**

It has been critical to the Agricultural Justice Project to develop a certification system that recognizes continual progress over time. For year two and beyond, including those who switch certifiers, it is expected that AJP certified entities continue to improve from year to year (i.e., they do not stagnate once they receive certification). Certified entities may select from one of the suggested/encouraged standards outlined by AJP in each standards section (indicated by italics and the terminology “are encouraged” or “may”), or develop a specific practice that aligns with the principles that is not outlined in the standards. The entity must document the area of specific selected improvement and progress towards this annually, beginning in the year after initial certification, as part of their certification application information and inspection.

### **3.5. Certification Fee Structure**

AJP approved and accredited certifier’s set their own fees for certification and audit costs. In addition to this, certifiers collect an AJP licensing fee that is passed directly to AJP. The licensing fee is for participation in the AJP certification program and use of the Food Justice Certified certification mark or logo. This fee goes toward AJP’s operating costs to administer the program. This fee also covers AJP’s work on promoting certified entities and the Food Justice Certified brand. This promotion includes, but may not be limited to:

- Publishing the name of all certified entities on the AJP website,
- Writing and distributing news press releases and articles to increase awareness of the certification label, and
- Linking to certified entities through AJP social network media.

AJP’s fee structure is subject to change more frequently than the Policy Manual. Therefore the fee structure is posted on the AJP website. Please visit the website for more information.

Certifiers will have 90 days to implement AJP’s fee structure following revisions. Certifiers may decide that clients who have already initiated the application process may go forward with the fee calculated when applied even if based on previous AJP fees. The revised fees should be implemented for new clients.

## **4.0. Rights and Responsibilities of Certifiers and Worker Organizations**

### **4.1. Worker Organization Requirements**

#### **4.1.1. Training and Personnel Requirements**

##### *a. Competency Criteria for Inspection Personnel*

Worker organizations are responsible for ensuring the competence of personnel carrying out AJP inspections. It is expected that worker organizations will keep staff who are carrying out AJP inspections up to date on:

- i. Relevant labor laws
  - ii. Occupational Health and Safety Administration standards
  - iii. Hazards associated with the particular farming methods or production processes
  - iv. Socio-cultural and gender issues common in different agricultural/food industry working environments
  - v. An understanding of common sensitive labor issues and red-flags
- i. Relevant up-to-date AJP policies and procedures (including all newly published revisions-see notice of effective date requirements) and
  - ii. Relevant up-to-date AJP standards (see notice of effective date requirements).

##### *b. Annual Evaluations of Inspection Personnel*

Worker organizations are expected to carry out evaluations annually of the staff participating in AJP inspections to review their performance and identify areas for improvement, and issues requiring additional education.

##### *c. Required Training for Participating in AJP Certification*

Worker organizations who wish to have staff members participate as worker representatives during AJP inspections must have at a minimum one staff member trained at an official AJP certification training. If only one staff member is trained, only that staff member is allowed to participate in inspections (another staff member cannot take their place). Worker organizations may offer internal trainings, for their own staff only, to increase capacity to carry out AJP inspections if:

- i. At least two staff members have attended an official AJP certification training
- ii. Worker organizations are required to document all internal trainings with sign-in sheets and copies of materials used. It is recommended that certifiers use the same materials and format for training used in the official AJP training.
- iii. Worker organization staff trained internally must pass the same exam given to staff trained at an official AJP training. Organizations must keep a copy of the passing exam on file.



- iv. Worker organization staff trained internally must undergo an apprenticeship period accompanying at least 3 inspections carried out according to the AJP certification system before carrying out an AJP inspection on their own.
- v. The two staff conducting the AJP training internally for the worker organization must complete an AJP training agreement form, and this form must be approved by AJP before the certifier conducts the internal training.

Worker organizations seeking an exemption from any of the above must contact AJP before conducting any training.

*d. Required Staff Confidentiality Agreements*

Worker organization staff must all sign the AJP confidentiality agreement, and worker organization must keep these signed agreements on file.

*e. Memo of Understanding*

Worker organizations must sign a memorandum of understanding (MOU) with AJP in order to become an approved AJP worker organization to conduct inspections.

**4.2. Certifier Requirements**

**4.2.1. General Personnel Requirements**

- a. The certifier is responsible for employing enough personnel competent to perform certification functions and operate the AJP certification program.
- b. The certifier is responsible for ensuring that personnel have knowledge about the location and type of farm or business for which the certification is being issued.
- c. The certifier is responsible for maintaining up-to-date records on personnel and their specific qualifications and trainings.

**4.2.2. Inspector Qualifications and Training Requirements**

*a. Minimum Competency Criteria*

Certifiers must set minimum criteria for determining competence of personnel/independent inspectors carrying out AJP certification. Certifiers must ensure that personnel/independent inspectors are informed of, and kept up to date on:

- iii. Relevant labor, housing and other laws
- iv. Occupational Health and Safety Administration standards
- v. Hazards associated with the particular farm or businesses applying for certification (such as knowledge of toxicity or work hazards)
- vi. Socio-cultural and gender issues common in particular working environments
- vii. Knowledge of government forms, receipts showing payment of taxes and benefits contributions



- viii. An understanding of common sensitive labor issues and farmer rights issues, and red-flags.
- ix. Common abuses found in predatory contracts for farmers
- x. Basic understanding of how farm businesses operate and familiarity with the struggles of family farms to cover production costs.
- xi. Up-to-date AJP policies and procedures (including all newly published revisions-see notice of effective date requirements) and
- xii. Up-to-date AJP standards (see notice of effective date requirements).

Additional suggestions for staff competence areas and resources for certifiers to train staff in these areas are available upon request. The certifier must make every effort to continually increase staff awareness of these issues by attending external or holding internal trainings for staff.

*b. Annual Evaluations of Certification Personnel*

Certifiers must carry out evaluations of staff participating in certification to review their competence in light of their performance, and identify any additional training needs.

*c. Required Training to Implement Certification Program*

Certifiers who wish to offer certification to the standards of the Agricultural Justice Project must have a minimum of 2 staff, who are trained inspectors and/or certification staff, initially trained through an official AJP certification and inspection training course before beginning implementation of AJP certification and who have passed the AJP final exam.

*d. Requirements for Conducting Internal Training for Additional Staff*

Certifiers may offer an internal training, for their own staff only, to increase capacity to carry out AJP certification if:

- i. At least two staff have attended an official AJP certification training and passed the exam
- ii. At least one senior or management staff has attended an official AJP certification training and passed the exam
- iii. All internal trainings are documented with sign-in sheets and copies of materials used. It is recommended that certifiers use the same materials and format for training used in the official AJP training.
- iv. In addition, internally trained staff must pass the same exam given to staff trained at an official AJP training to conduct reviews or inspections. Certifiers must keep a copy of the passing exam on file.
- v. Certification staff trained internally must undergo an on-site apprenticeship period accompanying at least 3 inspections carried out according to the AJP certification system before carrying out an AJP inspection on their own.
- vi. The two staff conducting the AJP training internally for the certifier must complete an AJP training agreement form, and this form must be approved by AJP before the certifier conducts the internal training.

- vii. Any internal trainings that cover inspection, and are not limited to application review or final review, must involve the participation of a worker organization representative
- viii. Certifier trainers conducting internal trainings must use the current versions of official AJP documents, such as the policy manual and standards. Certifier trainers conducting internal trainings are encouraged to use AJP training materials as well but are not required to do so.

It is required that all certification staff members who will conduct initial and final reviews, on-site inspections, or participate in any committees involved in certification complete either the AJP inspector training or a training by their certifier in this manner.

*e. Memo of Understanding*

Certifiers must sign a memorandum of understanding (MOU) with AJP in order to become an approved AJP certifier.

*f. Required Retraining or Update Training*

Certifiers actively participating in Food Justice Certification programs must send at least 2 staff to an official AJP training every 5 years. (Example: If 2 certifier staff are trained in year 1, two staff members – the same 2 staff members or different – must be retrained at an official AJP training in year 5.) Retraining is required 5 years past the date of the most recent official training certificate.

In the event of significant changes or non-conformity findings during accreditation process, AJP reserves the right to require certification staff to be retrained at an official AJP training before allowing the certifier to continue to offer Food Justice Certification.

*g. Continual Education and Update Trainings*

Certifiers are required to ensure staff trained internally or at an official training for AJP certification are up to date on AJP standards changes or changes in AJP policies for verification. In some cases AJP reserves the right to require staff conducting inspections and reviews to be retrained if significant standards or policy changes have occurred. In most instances an internally conducted training will be sufficient. AJP will specify update training requirements in change to standards notifications.

**4.3. Relationship between Certifiers and Worker Organizations**

**4.3.1. Qualified Worker Representative Member of Inspection Team**

*a.* For farms or businesses with labor that seek AJP certification, certifiers must include a worker organization representative on the inspection team (unless unavailable, in which case policy 4.3.2 should be followed). This worker organization representative must be associated with a qualified worker advocate group recognized by the Agricultural Justice Project (see Annex or our website for the most current list: [www.agriculturaljusticeproject.org](http://www.agriculturaljusticeproject.org)).

The certifier is responsible for ensuring that all worker representatives who participate as a member of the inspection team have completed the AJP inspector training or an approved internal training process, as outlined for worker organizations in 4.1.1.c. In certain limited situations exemptions may apply, contact AJP for more information.

*b.* The certifier must ensure that any worker representative inspector with whom they contract can communicate in a language that the workers on the farm can understand well.

*c.* The certifier must ensure that any worker representative inspector with whom they contract can communicate in a language that the lead inspector, or another certifier member of the inspection team with whom they work closely, can understand and communicate in as well. Certifier is expected to ensure that their inspection staff can communicate with worker organization staff, translation may be an option if necessary.

*d.* Certifiers are responsible for requiring worker organization representatives who will participate in AJP inspections to sign a conflict of interest and confidentiality form prior to sharing client information. This form must be kept on file.

*e.* Certifiers and worker organizations must include in their agreement a conflict resolution procedure. However, if this dialogue fails to resolve a conflict, both the certifier and worker organization must agree to engage in the AJP conflict resolution process (see Section 2.5).

#### 4.3.2. Exemption to Required Use of AJP Approved Worker Organization Representative on the Inspection Team

There may be cases in which an AJP Approved Worker Organization Representative is not available for an inspection. Acceptable examples of such lack of availability include:

- If the workers in an operation speak a language that is not spoken by any of the trained worker organization representatives in the region.
- If the worker organization does not agree to participate in the audit.

AJP envisions that there will be instances in which an accredited certifier and an approved worker organization will develop a rapport and positive working relationship, to the extent that under certain circumstances it may be mutually decided that a certifier inspector can conduct the interviews with workers in the place of the worker representative. This is only acceptable if the inspector is fully trained and competent in this area, able to speak fluently the language of the workers, and can conduct the audit in a thorough manner and reasonable length of time. In every case the worker organization must agree to this and should remain in communication with the certifier about the applicant in question both pre and post-audit. This arrangement is not permitted for a first-time applicant or one who has multiple non-compliances related to labor. One scenario under which this might arise is a repeat applicant with a good record of compliance who is at an unreasonable distance from the worker organization in question but more easily accessible at a more affordable cost to the certifier inspectors. This should be clearly noted by the certifier so that it can be reviewed during the following AJP accreditation audit

4.3.2.1. *Steps Certifiers Must Use When Seeking an Exemption to this Requirement*

- A. Certifiers must first attempt to contract with a worker organization representative and document this attempt. Or, the Certifier must document the worker organizations agreement that the certifiers' inspectors will be able to provide sufficient expertise for conducting the inspection without worker representatives present.
- B. Certifiers must contact AJP to help locate an AJP approved worker representative that could participate in the audit. AJP will work in a timely manner to identify a worker representative and will put them in touch with the certifier. The certifier maintains the authority to negotiate the contract with the worker representative and to make the final decision to sub-contract with them based on the established criteria the certifier has for qualification of a worker representative.
- C. Certifier may submit a request to AJP for use of an individual who is not an employee or associated with an AJP approved worker organization. This request must include the following information:
  - i. Name and location of the individual
  - ii. Verification that the individual has gone through AJP's inspection training or equivalent.
  - iii. Additional qualification of the individual that make the case for approving him or her as a worker representative during the audit (e.g., this is may include but is not limited to language capacity and previous work experience).

AJP will consider the request for exemption and approve or deny it within 10 working days.

**4.4. Relationship between Certifiers and Farmer Organizations**

In cases where farmers are negotiating sales or contracts with powerful commercial entities, such as large corporate distributors or retailers, the farmers may need help and advice. We do not formally involve farmer representatives in our certification program as of now, but if a farmer requests the representation of a farmer organization during the certification process AJP will work with the certifier to ensure that this happens. If a client brings this type of question to a certifier, the certifier should contact the AJP Management Committee.

## **4.5. Oversight for Certifiers**

AJP intends to build a network of trained certifiers to support the growth of Food Justice Certification. Our hope is that organic certifiers can become trained to offer Food Justice Certification, enabling a cost reduction for certified clients in combining the two inspections. However, certifiers do not have to offer organic certification to become approved or accredited to offer Food Justice Certification. Certifiers that are able to meet the criteria in this section and go through the approval and accreditation process will be able to offer Food Justice Certification.

### **4.5.1 Approval Phase for Certifiers**

In AJP's initial years of development and capacity building, currently in effect, certifiers will begin offering Food Justice Certification by becoming approved by AJP. Approval status enables certifiers to carry out official Food Justice Certification inspections, and license the use of the Food Justice Certified seal through contracts with clients. Certifiers can become approved through the following process:

#### ***4.5.1.1 Requirements for Approval***

Certifiers must meet the following requirements to become approved:

- i. Certifier must agree to follow all procedures and policies detailed in AJP Policy Manual
- ii. Certifier must ensure clients are compliant with all AJP standards
- iii. Certifier agrees to ensure that clients have not violated human or labor rights (e.g., by including such a clause in contracts with clients, by following up and investigating complaints or information that indicate labor or human rights violations may have occurred under clients' responsibilities).
- iv. Certifier agrees to collect and transfer licensing fees from approved clients to AJP as outlined in the AJP Policy Manual.
- v. Certifier agrees to pay all fees related to AJP approval as outlined in the Policy Manual including certifier's approval fees, outlined in section 4.5.1.3.
- vi. Certifier agrees to provide updates to AJP as requested on said clients and client status, staffing and record keeping.
- vii. Certifier agrees to maintain adequate staff that has been trained according to the AJP Policy Manual section 4.2 to carry out this certification.
- viii. Certifier agrees to contract with AJP approved worker organizations to conduct certification process according to the AJP Policy Manual for operations with labor or interns.
- ix. Certifier agrees to report major problems, requests for variances, complaints and other violations according to AJP Policy Manual.
- x. Certifier agrees that this Agreement shall be renewed annually with AJP.
- xi. Certifier refrains from making false or misleading statements regarding accreditation status, the AJP Food Justice Certification program or the nature or qualities of products or entities labeled as Food Justice Certified or certified to the standards of the Agricultural Justice Project.

- xii. Records created by the certifying agent regarding applicants for certification and certified operations will be maintained for not less than 10 years beyond their creation.
- xiii. Certifier will monitor and approve certification mark use by clients and will ensure use is compliant with AJP policies.
- xiv. Certifier will comply with, implement, and carry out any other terms and conditions determined by AJP to be necessary, given adequate notice from AJP.

#### 4.5.1.2 *Steps to Approval for Certifiers*

- i. **Step One: Minimum Trained Staff** - Certifiers interested in becoming approved must first meet training requirements in Section 4.2.
- ii. **Step Two: Approval Application** – Certifiers must apply for approval by submitting a request for approval along with the following to AJP. This may be in the form of email, fax, or mailed in hard-copy.
  - a. List of trained staff
  - b. Confirmation of ISO-65 approval or equivalent, see Section 4.5.3.1 for alternatives
  - c. Documentation of total gross income for previous year, documentation of total gross income projected for current year
- iii. **Step Three: Negotiation of Memorandum of Understanding** – AJP will contact certifier to discuss details of approval. A Memorandum of Understanding will be developed and signed by both parties. Certifiers must keep a copy of the signed MOU on file.
- iv. **Step Four: Approval Fees** – Certifiers must pay approval fees of the amount determined in MOU. This fee is based on chart in Section 4.5.1.3. Certifiers must pay approval fees by due date set in MOU agreement.
- v. **Step Five: Transfer of Seal** – Upon receipt of signed MOU and approval fees, AJP will send the certifier digital copies of the AJP certification marks according to the file type preference of the certifier.
- vi. **Step Six: Annual Renewal** – For the duration of the Approval phase, the certifier and AJP will renew the MOU on an annual basis, and approval fees will be charged annually.

**Office Visits and Witness Inspections during Approval:** AJP will not require annual on-site office visits or witness inspections during the approval phase. However AJP retains the right to require an office visit or witness inspection if a complaint or other information triggers this event. In this case AJP will communicate with the certifier the requirements for the office visit or witness inspection, which will be tailored to the specific event. The certifier is responsible for AJP expenses during a triggered office visit or witness inspection.

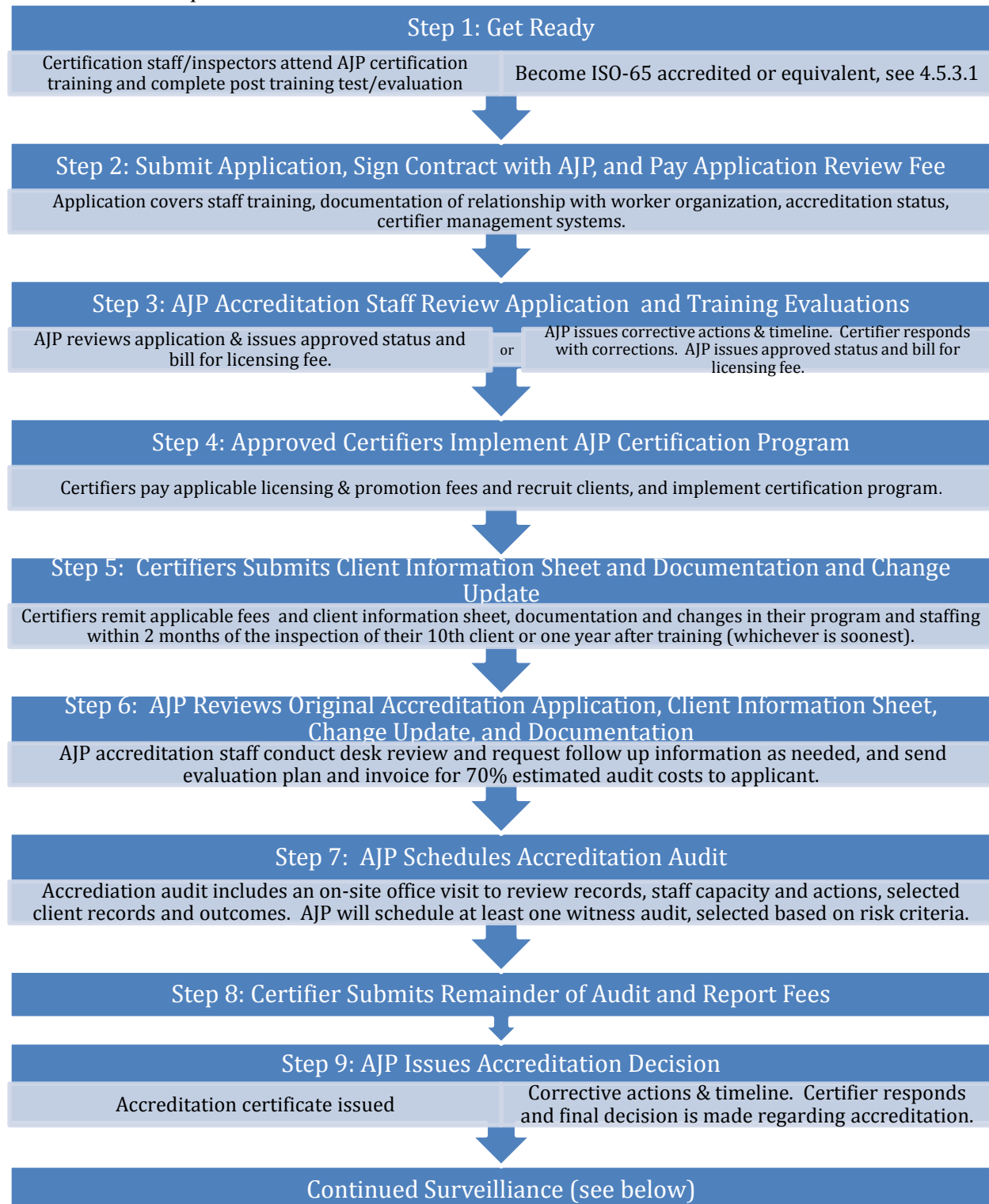
4.5.1.3 Approval Fees for Certifier

What the Fee Is	How Much	When Payment is Due
<b>Approval Fees</b>		
Licensing fee based on GROSS INCOME:	<i>Income reports will be filed annually with applications or reports. Failure to file income reports results in a fee (see below) and ineligibility for review of the application.</i>	
\$0 - \$499,999	\$400	Due upon initial approval (before accepting 1 <sup>st</sup> client), then every subsequent year to be billed with fee for review of annual report.
\$500,000 - \$999,999	\$500	
\$1,000,000 - \$1,999,999	\$600	
\$2,000,000 - \$2,999,999	\$700	
\$3,000,000 - \$3,999,999	\$800	
\$4,000,000 - \$4,999,999	\$900	
\$5,000,000 - \$9,999,999	\$1000	
\$10,000,000 and above	\$1,200	
Disclosure	\$200	Due with licensing fee
Annual Report Review	\$300	Due upon filing of the report
<b>PENALTY FEES</b>		
Late submission or rejection of annual report	Up to \$500	Within one month of notification
Failure to fulfill contractual obligations including resolving noncompliance with timelines	Up to \$500 per incident	Within one month of notification
Failure to implement a previously resolved condition	Up to \$500 per incident	Within one month of notification

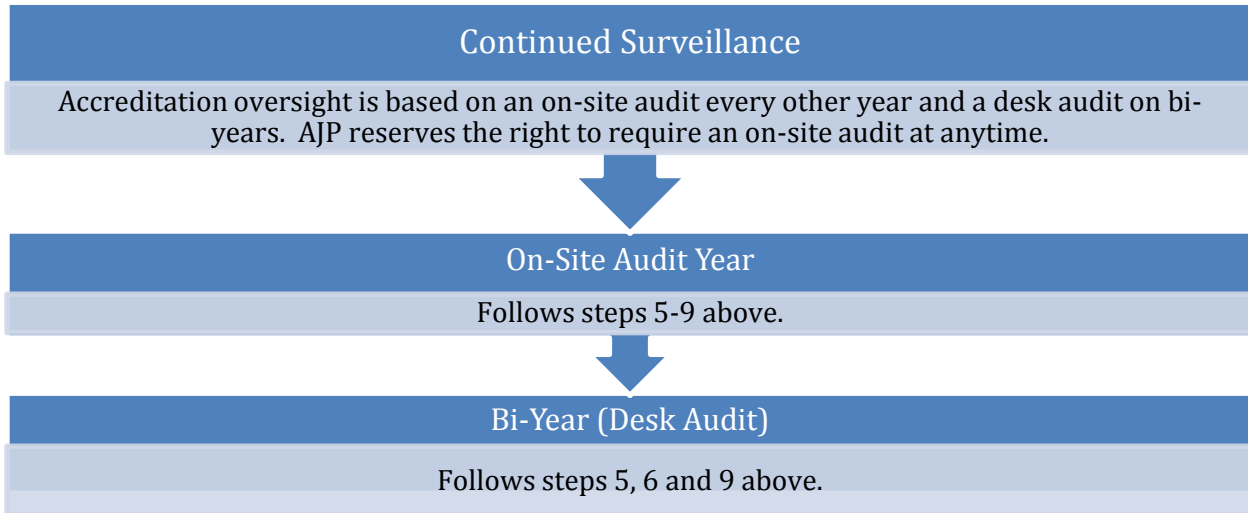
4.5.2 Accreditation for Certifiers

AJP has designed but not yet implemented our full-scale accreditation program. The contents of this section explain the additional requirements, documentation and fees associated with accreditation.

4.5.2.1 Steps to Accreditation







#### 4.5.2.2 Description of Accreditation Audit Steps

##### Application Process

1. The certifier requests an informational packet on AJP accreditation (or certifier may already be approved by AJP, and requests the formal accreditation application).
2. AJP Accreditation Committee will provide an application pack and appropriate information for the accreditation or assessment requested, including a notice of certifier rights and appeals.

The certification body completes an application form, collates necessary documentation and completes a document checklist. It is returned with application fee, (for fee schedule see 4.6). Certifiers must complete the application and return to:

Agricultural Justice Project – Accreditation Committee  
P.O. Box 510  
4 South Jersey Drive  
Glassboro NJ, 08028  
Fax: 856-881-2027  
Phone: 856-881-2025

To be complete, application must include:

- i. Confirmation of ISO 65 approval or equivalent, see 4.5.3.1
- ii. List of all office locations, indicate which offices operate AJP certification
- iii. List of all staff members, indicate which are involved in AJP certification
- iv. List of all independent inspectors involved in AJP certification
- v. List of all worker inspectors from worker organizations that the certifier has contracted with to conduct AJP certification
- vi. Signed declaration of agreement to follow the AJP standards and policy manual

- vii. Training certificates of officially trained staff (certifier must meet criteria in section 4.2)
  - viii. Documentation of last audited accounts and budget for current year
  - ix. Documentation of arrangements to cover liabilities (proof of insurance)
  - x. Signed contract between certifier and AJP
3. The documentation is checked by AJP Accreditation Committee to see if it is sufficiently comprehensive. The certifier is informed if any additional information is needed.
  4. AJP Accreditation Committee reviews the application and documentation and prepares an initial report.
  5. AJP Accreditation Committee informs applicant of the non-compliances found in the initial report. These are noted as nonconformities, deficiencies and more information requests. The certifier is invited to supply evidence of corrective actions to remedy all nonconformities within a timeline to be specified by AJP. A copy of the initial report will be supplied to the certifier. Also at this time the certifier will be provided a detailed timeline and plan for the rest of the evaluation process.

The AJP Accreditation Committee reviews the corrective actions taken by the certifier and if these are satisfactory the visit is organized. If they are not satisfactory the AJP Accreditation Committee may allow an additional period of compliance or may decide that a visit will serve little purpose and consider that the application has failed.

Office Visit (after accreditation program is implemented)

1. Certifier applicant submits update application form and client information documentation form. This is reviewed by AJP Accreditation Committee to ensure consistent compliance with previous application review.
2. The AJP Accreditation Committee sends an evaluation visit plan. The plan includes names(s) of evaluators and a proposed visit schedule. An estimate of the evaluation costs is made and an invoice for 70% of these is sent to the certifier. This must be paid prior to the visit.
3. The evaluator will arrange the visit with the applicant certifier. The visit will be made and a report compiled. The visit will consist of:
  - a. Interviews with certification staff, inspection staff, and with worker organization inspectors with which the certifier contracts

The evaluator will interview a percentage of certification and inspection staff (including independent inspectors) depending on the size and complexity of the program. At a minimum, staff that carry out AJP certification will be interviewed. These staff members should be present at the site visit. AJP will also conduct interviews with worker organization staff contracted as inspectors by the certifier.

b. Review of Records for Management System

The evaluator will request to review records on-site pertaining to AJP certification. The evaluator will request to see any appeals files, non-compliance files and follow-up procedures, and other forms of documentation.

c. Review policies

The evaluator will request to review the certifier's own policies on implementing the AJP program or any other policies regarding AJP certification and AJP clients.

d. Review selected client files

The evaluator will request to review AJP client files. The number of files reviewed will depend on the number of clients the certifier has. The evaluator will also request to see files that the Accreditation Committee has concerns about, that have filed appeals, or that have specific challenges in business structure.

4. Witness Inspection

The evaluator will observe the certifier's inspectors performing inspections to ensure that all AJP policies are followed and the standards are verified correctly. During the witness inspection the evaluator will primarily observe but ask clarifying questions.

Final Review

5. The AJP Accreditation Committee will review the evaluator's report and inform the certifier of any additional nonconformities or deficiencies. The certifier will be required to correct all nonconformities within the specified timeline for accreditation to be possible. A copy of the visit report will be sent to the certifier.
6. The remaining 30% of the visit fee is paid.
7. The AJP Accreditation Committee reviews the corrective actions and if these are satisfactory a contract will be offered. If unsatisfactory an additional period for corrective actions may be allowed or the certifier will be informed of the AJP Accreditation Committee's unwillingness to accredit and the reasons why.
8. The contract is signed and returned to AJP Accreditation Committee.
9. Licensing fees are sent to the Accreditation Committee along with the signed contract.
10. A Certificate of Accreditation will be issued to the accredited organization after full payment is processed. A copy of the signed contract is returned to the certifier.
11. At any point during the process, the certifier may appeal overall decision and may also challenge the justifications for individual nonconformities.

### 4.5.3. Accreditation Requirements

This section contains a summary of requirements to be carried out by certifiers that pertain to the certification process and preliminary qualifications.

#### *4.5.3.1. Prerequisite Accreditation for Certification Bodies*

Certifiers applying for approval to carry out AJP Certification must already have a valid accreditation to perform certification for at least one standard according to ISO/IEC Guide 65: 1996 “General requirements for bodies operating product certification systems.”

OR:

Certifiers must already have a valid, current accreditation from one of the following:

USDA, AMS  
Canadian Food Inspection Program  
International Organic Accreditation Service

#### *4.5.3.2. Legal Structure*

The structure of the certification body will be established and credible to instill confidence in its certification operations. Specifically the certifier will have:

- i. Documents attesting to its status as a legal entity
- ii. Documented rights and responsibilities relevant to its certification activities
- iii. Identified the management (body, group or person) that has overall responsibility for the functioning of the certification body, including its finances

#### *4.5.3.3. Certification Agreement*

The certifier will abide by the certification memo of understanding or contract that is signed when their accreditation certificate is awarded.

#### *4.5.3.4. Responsibility for Certification Decisions*

The certifier will have final responsibility for granting, maintaining, extending, suspending and withdrawing certification of their clients.

#### *4.5.3.5. Acceptance of Prior Certification*

Where products in the production chain have been certified by other AJP accredited certifiers, the certifier must accept certificates issued in accordance with the AJP standards and policy manual.

#### 4.5.3.6. *Publicly Accessible Information*

The certifier must make available upon request:

- i. The AJP Social Justice Standards
- ii. Information about procedures in certification to the AJP standards
- iii. Information about decision criteria used in evaluating farms and businesses to the AJP standards
- iv. Information about sanctions and requirements for resolving non-compliances to the AJP standards
- v. The certifier's fee structure for services, and the pass through licensing fee charged by AJP
- vi. A description of the rights and responsibilities of certified entities, including the certifier's own complaints process, and the certifier's agreement to utilize the AJP complaints and appeals process if necessary
- vii. A list of certified operations, and a list of operations that have applied for certification, including the name of the operation and their city and state

#### 4.5.3.7. *Confidentiality*

The certification body must make adequate arrangements to safeguard the confidentiality of the information obtained in the course of conducting certification to the AJP standards. The certifier must maintain up to date client files in a secure location. The certifier must maintain the right to exchange information with other certifiers regarding the AJP scope of a client's certification status, and with AJP in the case of required further investigation.

#### 4.5.3.8. *Appeals and Complaints*

The certifier must have in place a conflict resolution, complaints and appeals procedure. The certifier must also agree to follow the AJP procedure for any relevant external complaints, or for any irresolvable conflicts.

#### 4.5.3.9. *Particular Requirements to Address High-Risk Situations*

The certifier is expected to identify high-risk situations that may require additional investigation. The certifier is expected to follow up, conduct additional investigations, and adapt their certification procedures in order to protect the integrity of the AJP certification mark. Certifiers are expected to contact AJP when high-risk situations arise for additional guidance as needed.

#### 4.5.3.10. *Exceptions to Certification Requirements*

In very limited situations the certifier may grant an exception to the requirements for certification. Exceptions MUST be first approved by AJP Management Committee, and are intended to be of limited duration. Certifiers must not seek exceptions until the client has first tried to comply with the requirement in question.

4.5.3.11. *Annual Certification Evaluation and Inspection*

- a. It is expected that the certifier will have a clear policy for regularly re-evaluating clients in order to verify their continued compliance. Certifiers must re-evaluate AJP clients every year.
- b. It is expected that the certifier will have a clear policy on conducting inspections. The certifier may decide on an onsite inspection cycle that is less frequent than annual visits for clients with a low risk potential (no hired labor, for example). Such clients must clearly meet certifier's criteria for low risk.

4.5.3.12. *Subcontracting*

If a certifier decides to subcontract work related to certification (example: hiring independent regional inspector) the following criteria must be met:

- a. An agreement outlining the arrangement must be signed by independent contractor and the certifier, indicating that the certifier will take responsibility for the subcontracted work, and will keep final responsibility for the granting, maintaining, renewing, extending, suspending or withdrawing of certification. Delegation of certification decisions is not permitted.
- b. A confidentiality and conflict of interest form must be signed by the independent contractor and kept on file.
- c. The certifier must ensure and document that the independent contractor:
  - i. Has been trained at an official AJP inspectors training, or at a training given by an approved AJP certifier within the past 5 years
  - ii. Meets the certifier's competency criteria as explained in 4.2.2.a

4.5.3.13. *Stakeholder Involvement, Impartiality, Conflict of Interest*

- a. The certifier must be objective, and must not be financially dependent on single clients that apply to the AJP scope in any way that compromises the certifier's objectivity. The certifier must have a documented structure that:
  - i. Includes provisions to ensure the impartiality of the operations of the certifier
  - ii. Provides for the participation of all parties concerned in a way that balances interests and prevents commercial or other interests from unduly influencing decisions
- b. The certifier must identify, analyze and document the possibilities for conflicts of interest based on their existing relationships. The certifier must adapt the AJP conflict of interest form to include any necessary stipulations, rules or procedures necessary to ensure conflicts of interest are clearly noted and acted upon. Certifiers may add to the AJP conflict of interest form but may not remove existing language.
- c. The certifier must require personnel, committee and board members to declare existing or prior association with an operation subject to certification. Where such association threatens

impartiality, that person must be excluded from work, discussion and decisions at all stages of the certification process related to the client.

d. The certifier must not provide any other products or services which could compromise the confidentiality, objectivity or impartiality of the AJP certification process. In cases where the certifier also performs other activities in addition to AJP certification, the certifier must have in place clear measures to ensure that the AJP inspection remains objective and impartial.

*4.5.3.14. Use of AJP Template Documents*

Certifiers are expected to use the AJP supplied applications, forms and other documents as templates. These can be adapted to meet the certifier's needs or to fit into the certifier's existing system. Information may be added, formatting may be changed, but language and information on the forms may not be removed.

*4.5.3.15. Certification Policies*

Certifiers are expected to incorporate AJP accreditation requirements into their organizational structure and internal policies related to AJP certification.

*4.5.3.16. Inspection Protocol – Certification Process from Start to Finish*

Certifiers are required to follow these steps to certification:

1. Initial inquiry of entity, certifier supplies appropriate application packet
2. Application completed and submitted to AJP accredited certifier.
3. Public Consultation Announcement (certifier notifies AJP and AJP posts announcement and solicits comments, comments considered as they come in and factored into certifiers' decision making process) Minimum 30 day requirement, initial review and follow-up may occur simultaneously.
4. Contract with Client
5. Initial Review, Certifier establishes contract with worker organization representative who is fully trained as an AJP inspector if necessary according to Section 4.3
6. Initial review report provided to applicant and worker organization representative inspector (if involved) for follow up
7. Pre-inspection meeting held between certifier inspector and worker organization representative inspector (if involved)
8. Inspection arranged for time when employees are present
9. Inspection conducted by certifier inspector and worker organization representative inspector, according to the following requirements
10. Follow-up, interviews with absent employees, additional information gathered
11. Final Review and sharing findings with AJP approved worker organization
12. Certification granted, labeling use assessed and monitored, agreed upon in certification contract
13. Continual Improvement and Renewal ongoing

*Step 1: Initial Inquiry of Entity*

a. Initial inquiries that come to AJP will be referred to the list of AJP accredited certifiers for the purpose of applying for certification. Entities interested in finding out more information about the standards or the goals of the project and who may want to discuss technical assistance should be directed to AJP by certifiers.

Once a certification client requests an application, certifiers must ask what type of entity is applying (farm, business, etc) and will send the appropriate application packet, including (but not limited to the following). Certifiers may adapt format of these documents to be more user-friendly, or to meet their needs, however content must remain the same.

1. AJP Steps to Certification (certifier may adapt this formatting, but not the steps)
2. AJP-approved application form, specific to type of entity (including the contract)
3. AJP Standards (Certifiers should be sure to use the most up-to-date version)
4. Food Justice Certified brochure
5. Certifier's fee schedule that includes the AJP licensing and disclosure fee
6. Section 2.0 of the AJP Policy Manual

b. Certifiers should ask interested clients if they use a labor contractor before sending the packet. If the interested entity uses a labor contractor, the packet should include:

1. Labor contractor scenario explanation
2. Labor contractor standards checklist / agreement form
3. Labor contractor Food Justice Certified brochure

c. Certifiers are required to keep a record of all initial inquiries, and document that the proper application packet was sent.

*Step 2: Application Completed and Submitted to AJP Accredited Certifier*

a. Certifier will acknowledge receipt and have a documented timeline within which applications are processed that is communicated to applicants.

*Step 3: Public Consultation*

Upon submitting an application for AJP certification to their certifier, the certifier must send AJP (via email to [agjusticeproject@gmail.com](mailto:agjusticeproject@gmail.com), mail to: P.O. Box 510, Glassboro NJ, 08028, Fax: 856-881-2027. With questions call: 856-881-2025) the following information regarding the applicant:

- a. Name of entity
- b. Name of owner (individual and/or entity)
- c. Location of entity (city and state)
- d. Contact information of the certifier for public/stakeholder comments
- e. The name of the worker organization the certifier has also sent this information to (see below)



AJP will publish the list of AJP applicants (including their entity name, type of operation, and location and the certifier contact information) in a call for public and stakeholder comment or objection to social justice certification on the AJP website. At the same time, the certifier must send this same list of information to the AJP approved worker organization located closest to that region. The public will be asked to submit comments directly to the certifier for consideration in their certification review. Certifiers must keep these comments and demonstrate adequate consideration and response to such comments throughout their decision making process. The certifier must send the above information to AJP before a site visit takes place, but the Public Consultation process does not need to be completed to proceed with certification.

*Step 4: Contract with Client*

a. AJP applications will include an agreement/contract developed by the certifier based on, at a minimum, the agreement or memorandum of understanding between certifier and AJP. In addition to the standards, certifiers are responsible for ensuring that clients have not willfully violated human or labor rights.

*Step 5: Initial Review*

A certification staff member who has been trained according to Section 4.2 will conduct the initial review. The initial reviewer can be the auditor/inspector as well, but the inspector may not be the final reviewer.

Our application is set up so that certifiers will have all information they need to allow an applicant to move on to the inspection stage. Additional standards will be verified in the inspection that are not asked about in the application. Those that are referenced in the application will be further verified by interviews and the inspection as well. The application is referenced directly to standards. Certifiers are to use the standards to determine if responses to questions are adequate to pass to inspection, if more information is needed, or if a serious non-compliance is evident that would warrant a denial.

If a non-compliance or inadequate response is found that the certifier feels can be remedied through requesting additional information, the certifier may use the form for additional information request (see Annex).

If a response is sufficient to pass to inspection but warrants further investigation, or if the initial reviewer identifies special issues that need extra attention at inspection, the special instructions to the inspector form (see Annex) may be used. This form is sent to the certifier inspector, and the worker representative at the same time if applicable.

If a non-compliance is found on the application that the certifier feels will not be cleared through requesting additional information, and the certifier does not believe this application should proceed to inspection, the certifier should follow decision-making processes for issuing a denial or suspension according to ISO-65.

AJP accredited certifiers are required to contract with a worker representative associated with an AJP approved worker organization, or with the worker organization itself for the purposes of contracting with one of their staff members, that meets the training requirements in Section 4.1 to conduct the employee interviews of farms with hired labor and/or interns and food businesses applying for certification as a fair employer. See Section 4.3 for specific requirements for certifiers in working with worker organizations. The contract between certifier and worker organizations must include a clause that worker organizations and certifiers agree to use the AJP conflict resolution and appeals process to settle disagreements over the AJP certification system. At this point in the certification process certifier must ensure that the worker organization staff member with whom they are contracting the inspection interview work has adequate training, meets language requirements, and has signed the AJP confidentiality and conflict of interest form. These signed forms should be kept on file by certifiers. Certifiers should document their contract with the worker representatives.

*Step 6: More Information Requested of Applicants, Information Sent to Worker Representatives*

The certifier should send any more information requests to the applicant, with specified timeframes and a clear policy outlining consequences and expectations. When more information requests are complete, for any applicants with hired labor, the certifier must send a copy of the application, attachments, and report, and any special instructions forms completed by the reviewer to the worker organization that will be conducting the worker interviews during the inspection.

*Step 7: Inspection*

Certifiers must coordinate with applicant and worker representative to arrange the audit during a time when workers will be present on the farm or business.

Certifiers offering AJP certification must design an audit protocol based on the following that is appropriate to the size and complexity of the organization and must ensure that any independent auditors they use for AJP certification audits follow this protocol as well.

While the exact order of audit activities will be developed by the auditor during the audit planning stage, based upon coordination with other stakeholders, and can be further modified based upon events that occur during the audit, the activities which comprise the audit should not change. Some activities, such as the initial meeting cannot be conducted out of order. The main activities are detailed below.

For farms with workers or interns (no matter whether part-time or seasonal and even if there is only one worker), include a worker representative who has been trained through an official AJP auditor training, according to Section 4.1.. (Exemption to required presence of worker organization representative detailed in Section 4.3.2).

*i. Communication with Applicant Prior to Inspection*

The certifier is responsible for communicating their expectations for attendance and interviews to the applicant with adequate advanced notice. Certifiers must send applicants an agenda for the inspection that includes specifically:

- How many people does the certifier expect to be present at the initial meeting (see Initial Meeting below)
- How many people does the certifier expect to interview, and a rough estimate of how long this may take (see basic requirements in Interviews below)

*ii. Inspection Team Meeting*

The certifier auditor and the worker representative (if applicable) will meet prior to the start of the audit to outline a plan for the audit so they are on the same page, and discuss any issues that came up as needing particularly attentive exploration during the audit (based on their independent initial reviews), as well as any expectations already communicated to the applicant.

*iii. Initial Meeting*

- a. The initial meeting takes place at the beginning of the audit and must include the following elements. Leave adequate time for language interpretation if necessary.
- b. For a small operation without complex organization, gather all stakeholders (interns, all workers including children if working, farmers, owners, managers, bookkeepers), and/or their duly and democratically designated representatives, and the entire audit team. Certifiers must determine how many employees must be present during inspections and at the initial meeting based on the complexity and size of the operation, and certifiers must communicate these requirements to clients before the inspection takes place.
- c. Inspectors introduce themselves and provide a brief overview of the Agricultural Justice Project and allow a brief time for any questions and answers or clarifications.
- d. Outline the purpose of the inspection and the inspection agenda (what will be happening and when) including documentation review (policies, procedures, workplace records, correspondence, trainings and educational information used, internal audit records and follow up).
- e. Stress that this is private certification, that no government representatives are involved and that none of the information shared will be shared with the government or any outside entities.
- f. Discuss confidentiality issues
- g. Provide contact information for all present to contact auditors independently if they feel more comfortable that way.

*iv. Interviews*

AJP inspectors must make an effort to interview as many workers, interns, and managers as possible during the inspection. Inspectors may use the inspection questions developed by AJP and used in the certification and inspector training course during the inspection interviews. Whether or not inspectors use these lists of inspections questions all the issues/standards outlined on the AJP-approved inspection checklist must be verified during the inspection. Inspection questions can be found in the Annex.

The inspectors must interview the workers individually, out of earshot of other workers, supervisors, and the operation owner. The interview must be conducted in a language understood well by those being interviewed. While the information disclosed in the interview will be shared with the operation owner and certification staff in order to explain non-compliances, the inspector must communicate and ensure that every attempt will be made to maintain the confidentiality of the source of the information. AJP recognizes that this may not always be possible and AJP is available for consultation on how to disclose evidence of non-compliance, while maintaining confidentiality.

For an AJP inspection it is required that the inspectors interview all of the employees and interns who currently work for the operation if the total number of employees and interns is less than or equal to six. Six employees must be interviewed at operations with 7-60 employees. For operations with greater than 60 employees, a minimum of 10% of employees must be interviewed. Certifiers must design an interview plan for each client based on size and risk factors present (see list below.) The number of employees interviewed is expected to increase depending on risk factors. The auditors who conducted the audit should be the same auditors to conduct follow up interviews. The checklist will then need to be updated with new information.

The certifier will prepare a list of employees to interview based on information in the full application. Certifier must develop and implement a risk criteria for determining whom to interview that includes but is not limited to the following risk factors

1. Seniority
2. Age
3. Ethnicity
4. Nationality
5. Language spoken by employees
6. Past grievance filed (certifier must interview all employees who have filed a grievance in the past year)
7. Gender
8. Injuries
9. Position/Job
10. Pay rate
11. Parental status
12. Personal relationship (such as family) to applicant/owner or to supervisors
13. Absence/presence on the day of the audit (at least 1 worker or intern who was not

present the day of the audit must be interviewed)  
If follow up interviews are necessary, the auditors who conducted the original audits should conduct those follow up audits (whether over the phone or in person) as well.

*v. Auditing of Records*

The auditing of records should be scheduled when a person knowledgeable about the record keeping system is present. Ideally this would happen on the same day that the audit team is on-site talking to workers and the farmer. However, if the record-keeper cannot be present, a request for specific records should be given to the appropriate operation staff member or owner and these records can be verified after the on-site audit. The important thing is that the auditor selects the specific records to be examined (whether they are a specific employee's files, the financial documents for a specific exchange, or a specific contract). The records requested should always be different from those provided with the application.

*vi. Observations*

If the applicant provides housing to workers or interns the housing must be visited as part of the audit. The inspector should ask for permission of the owner and the residents to enter the housing, but must be granted free access to any building or location to verify compliance. The inspector should explain the importance of observing the housing in order to verify compliance. The general onsite observations should be unaccompanied and unguided for at least a portion of the time. Also any farm vehicles should be inspected, as well as other areas of the worksite relevant to health and safety.

*vii. Completing the Checklist*

The audit checklist must be completed immediately after the audit within a reasonable timeframe. Ideally this will occur on-site right after the interviews have been completed and before the closing meeting is conducted. It is expected that this process will involve discussion among members of the audit team, which must be done in private out of earshot of the owners, managers, and workers so that the discussion can flow naturally and confidentiality is preserved. While the aim is to have the checklist completed on-site, there may be additional follow-up to do after the auditor leaves the operation (gathering records if record-keeper was not available, conversations with local community groups and AJP certified business contacts, and interviews with employees or interns who were not present the day of the audit).

*viii. Supplemental Audit Information for Other Food Chain Applicants*

In some cases, the operation applying for certification may be part of a chain of other certified operations or operation applying for AJP certification. For example, a farmer may sell to an AJP certified buyer. If this is the case, and if both of these entities are certified by the same certifier, inspectors can go ahead and collect information on the relationship with the other applicant or certified operation during the inspection for their respective certification/verification. In other words, if a farmer certification audit is conducted and the certifier knows ahead of time that it

will be conducting an audit of a buyer the farmer sells produce to in the near future, the auditor may collect information regarding that relationship that will be used to assess compliance of the buyer (e.g., the farmer's copy of the purchase contract with that buyer and the interview questions asked of the farmer regarding his/her relationship with the buyer).

In addition, the inspector must also follow up with a percentage of AJP certified entities with whom the applicant has an established relationship to verify applicant's compliance with the standards. If a buyer applies for certification and they buy from various certified producers and businesses, the inspector should follow-up with phone interviews of a percentage of these AJP certified producers and business. Similarly if a producer sells to an AJP certified buyer, the inspector should follow-up with a phone interview of the certified buyer to confirm that the farmer has complied with standards.

As the AJP certified supply chains develop beyond the inspector's capacity to call each certified entity, certifiers are responsible for determining risk based factors to help inspectors select a percentage of certified entities to follow-up with.

*ix. Closing Meeting*

The lead auditor will conduct a summary closing meeting with the applicant. Different from an organic exit interview: to preserve confidentiality of the information provided to the auditors by employees and interns during the audit and to ensure that any potentially sensitive situations are dealt with in an appropriate manner *it is VERY IMPORTANT that auditors NOT reveal all the information gathered during the audit at this point. The closing meeting is not intended as a sharing of all findings but rather as an opportunity to answer questions about the process and next steps. If there are issues that were raised during the inspection that could be cleared up by discussing them with management without violating confidentiality with specific employees, the inspection team will raise these issues and makes notes on management responses to guide the final reviewer.*

The closing meeting should make it clear that more review needs to be done. The applicant signs two copies of the AJP closing meeting form that explains this. The auditor takes one with him/her and the applicant keeps one for his/her records.

*x. Send Completed Checklist to Certifier, Conduct Follow-Up Interviews*

After audit the follow up interviews (off-site) are conducted as needed and the checklist is complete. The lead auditor ensures the checklist is completed (jointly if applicable) and sends it to the certifier. The auditors, including the worker representative where applicable, may be called upon by the certifier to conduct additional interviews.

In addition inspectors must conduct interviews with a portion of other businesses selling to or buying from applicant.

*Typical Agenda of an AJP inspection:*

1. General meeting with all employees – 30 min
2. Interviews with management and employees (time depends on # of employees interviewed)
3. Conclusion meeting with operation manager – 15 min

*Attendance of Employees at an AJP inspection*

- 100% of the employees who are normally at work that day must be in attendance at the inspection (unless excused by their own request for illness, vacation etc.), with as many as possible/practical who are not otherwise working
- Certifiers must ask employers for a list of who is not present – both regularly scheduled to not be present, and who is absent but regularly scheduled to be present for that day
- Certifiers should ensure that workers in attendance must be considered on the clock.

*Absent Employees*

- AJP approved certifiers must follow up with a portion of regularly scheduled absent employees, based on size and complexity of the organization and identified risk factors as listed above. Absence should be considered a risk factor, all employees who are able to should be encouraged to attend.
- The certifier will bill for time in contacting absent employees

*Step 8: Final Review*

A final review of the application, records, and audit findings is conducted by a different certification staff member than the one who completed the inspection. The final reviewer will request follow up interviews to be conducted by the original auditors as necessary. A final list of minor and major non-compliances will be compiled by the final reviewer. BEFORE the final list of non-compliances is sent to the applicant, the certifier must share this final assessment with the worker representative who participated in the audit. Adequate time must be given to the worker representative to review the final findings and provide comment back to the certifier. A revised final copy of the letter to the applicant must be sent to the worker representative at the same time that it is sent to the applicant. If there is an unresolvable disagreement regarding the final assessment made by the certifier, the worker representative is instructed to follow the AJP appeals process (Section 2.5).

*4.5.3.15. Additional Guidance: Use of Labor Contractors*

The use of labor contractors is a highly sensitive issue and certifiers must consider any applicants using labor contractors high-risk. As certified supply chains develop, we expect that some labor contractors will become certified, making supply chains including contractors feasible. In this early development stage, certifiers should inform AJP if a client applies for a variance to use a labor contractor. Certifiers must follow the standard to the best of their ability and inform AJP of challenges encountered. The labor contractor standard will be updated according to feedback



from certifiers, stakeholders, and certified entities. AJP is considering the development of standards specific to labor contractors, and will pursue this goal once a partnership with a labor contractor with a fair employment philosophy and intent is developed.

*4.5.3.16. Communication between Certifiers and AJP*

Certifiers are required to notify all of their clients of any changes in program structure, fees, and standards and documentation requirements.

The certifier must comply with all updates issued by AJP regarding certification process requirements and accreditation requirements within the specified timeframe.

AJP accredited certifiers are required to notify AJP within 10 days in the following situations:

- a. When a complaint has been issued to the certifier by a worker on a certified farm or business.
- b. When a complaint has been issued to the certifier by a worker organization regarding either a certified operation, the certifier, or AJP.
- c. When a complaint has been issued to the certifier by any outside person or entity regarding any aspect of the AJP program.
- d. When a certified farm is considering the use of a labor contractor or has already done so in an emergency situation.

*4.5.2.17. Traceability Program*

Certifiers are required to implement a traceability program that is rigorous and documents the transactions of certified products between Food Justice Certified clients. This may be in the form of a transaction record, or other approach that the certifier deems sufficient. AJP will review the certifier's traceability program and paperwork during accreditation and make recommendations for improvements if necessary. Certifier's traceability program must provide sufficient guarantee of the following:

- Transaction records verifying quantity of certified product and price at each exchange
- All handling steps involved in the production of the product are known to the certifier and documented
- Complete separation of Food Justice Certified products from non Food Justice Certified products is verified. AJP accepts 5% co-mingling when processing equipment or a given situation does not allow for 100% separation without substantial losses.



**4.6. Accreditation Fees**

**TABLE 4.2: Accreditation Fees**

What the Fee Is	How Much	When Payment is Due
<b>SITE VISIT: ODD YEARS (Beginning with year 1)</b>		
Application (initial or renewal) Review	\$400	Due upon receipt of application, payment required to proceed with review
Site visit and witness audit (Initial visit required at 10 <sup>th</sup> client or 1 year past application date)	\$600 per day plus travel expenses. Number of days agreed upon prior to visit. Travel time billed at ½ hourly rate.	70% of estimated costs due prior to travel. Remainder (@30%) calculated based on actual costs due within 30 days of the audit.
Report on site visit	\$400	Will be added to and billed with site visit fees as described above.
<b>CONTRACT AND LICENSING FEES: Fixed fee to cover use of seal and market claim</b>		
GROSS INCOME:	<i>Income reports will be filed annually with applications or by year reports. Failure to file income reports results in a fee (see below) and ineligibility for review of the application.</i>	
\$0 - \$499,999	\$2,000	Due upon initial approval (before accepting 1 <sup>st</sup> client), then every subsequent year to be billed with either site visit report or by year report. Licensing fees collected from clients will be passed through to AJP along with certifiers' licensing fees.
\$500,000 - \$999,999	\$2,250	
\$1,000,000 - \$1,999,999	\$2,500	
\$2,000,000 - \$2,999,999	\$2,750	
\$3,000,000 - \$3,999,999	\$3,000	
\$4,000,000 - \$4,999,999	\$3,250	
\$5,000,000 - \$9,999,999	\$4,000	
\$10,000,000 and above	\$7,500	
<b>BY YEAR REPORT: EVEN YEARS (beginning with year 2).</b>		
<b>Site visits and witness audits do NOT take place during bye years.</b>		
By Year Report	\$600	Due upon filing of the report
<b>PENALTY FEES</b>		
Late submission or rejection of annual report	Up to \$500	Within one month of notification
Failure to fulfill contractual obligations including resolving noncompliance with timelines	Up to \$500 per incident	Within one month of notification
Failure to implement a previously resolved condition	Up to \$500 per incident	Within one month of notification

## **4.7. Worker Organizations**

### **4.7.1. Role as Inspectors**

The specific process of collaboration between the certifier and the worker organization in the audit process and inspection is explained in Section 4.0. The training requirements for worker organization staff are described in Section 4.1.

Worker organizations that have completed the inspection training and demonstrated competency in the program by passing the final exam will be officially recognized by AJP to participate in the audit and inspection process. The final step of approval will be for the organization to sign the memo of understanding with AJP. If the worker organization wishes to include additional staff in the program, these individuals must also participate in an AJP approved training. AJP's goal is to eventually train worker organizations in all aspects of the food system to match certified operations (i.e. organizations representing restaurant workers, retail workers, packing house, etc.), in addition to farmworkers. However, this will not always be possible. In such cases the worker organization will be permitted to serve as part of the inspection team and to interview workers in another sector of the food supply chain (for example, a farmworker representative interviewing retail workers) but they must demonstrate sufficient expertise in that area or receive training to develop that expertise, such as the differing labor laws that may apply to that sector.

Should a conflict or disagreement arise between a certifier and a worker organization, the organization is encouraged to fully attempt to resolve the conflict directly, and then should follow the AJP conflict resolution process outlined in Section 2.5.

During the accreditation audit of the certifier(s) that contract with the worker organization the accreditation team will make contact with the worker representative(s) both to receive feedback about the certifier(s) being accredited, but also to assess the quality of the work being performed by the worker organization. AJP reserves the right to periodically review a worker organization's status as needed in addition to the review done during the accreditation audit of the certifier(s), and to request or require additional training if the need is determined to exist.

Worker representatives participating in AJP are expected to conduct themselves in a professional manner. It is understood that they work as advocates for workers, but at the same they should recognize that the employer applying for AJP certification is voluntarily agreeing to their participation in interviewing workers and assessing working conditions. For instance, a worker organization that also unionizes or otherwise organizes workers should recognize the different role they are playing between entering a farm in a more typical scenario and acting primarily as organizers, and entering the farm or business as AJP inspectors to assess compliance with the standards. Other business that the worker organization might wish to engage in with those workers should be done independently of the inspection and audit process and with this voluntary good will on the part of the employer taken into account. See Section 4.7.3. for a

discussion of worker representatives encountering more serious situations during an inspection.

#### 4.7.2. Role of Worker Organizations as Resource for Farms and Businesses

AJP certification recognizes positive relationships between workers and employers, and encourages further development of this relationship. Worker organizations can play a key role in supporting workers on AJP farms and businesses in ways that at the same time can benefit the farmers and business owners. For example, AJP standards require that all employees be trained in their legal rights and their rights under AJP. This can present an added burden to an employer who may not have the capacity to conduct such trainings. AJP has developed a train-the-trainer module for worker organizations to learn to conduct these employee-training sessions. Worker organizations can also potentially help identify workers for a farm or business that is struggling to find workers – this can be a win-win scenario in which the employer gets needed help while the workers in question can find work in a setting more respectful and fair than the norm.

AJP encourages relationship building between worker organizations and participating farmers and business owners in less formal ways as well, and has seen in practice how this can result in mutual benefits.

#### 4.7.3. Worker Representatives and AJP Confidentiality Policy

Staff or other representatives of worker organizations who have access to confidential information about AJP applicants or certified entities will be required to sign confidentiality statements. The primary purpose of this confidentiality is to (1) protect individual workers who shared sensitive information during inspection interviews or any time independently of the interview and inspection, and (2) protect proprietary information of the farm / business that might have been disclosed in paperwork or the audit process.

In addition, any staff of the worker organization with access to AJP files must sign the AJP confidentiality form.

As is described in that section, it is understood and must be made explicit in all confidentiality statements that worker representatives are required to sign, that the confidentiality agreement is waived in situations of illegal exploitation, abuse, real physical harm, or serious and high risk of real physical harm. This could include, for example, serious and flagrant violations of labor laws such as wage theft, sexual or other forms of harassment, sexual or physical abuse, living conditions or working conditions that present a real and present danger. In these cases the worker representative is requested to immediately inform the AJP management team of the situation if at all possible as a first step in addressing the situation.

## 5.0. Food Justice Pledge

### 5.1. The AJP Food Justice Pledge and Collective Mark Program

In addition to offering a third party certification-based path to a domestic social justice label, AJP will also be offering a low-cost pledge form for use by small scale, direct sales farms. The AJP pledge will involve verification by a worker organization, church or community group local to the farm or by an intern group. AJP plans to begin this pledge version of domestic social justice labeling as a pilot project. If the pilot is successful, AJP will invite eligible farms in the US to apply to join the Collective Mark Program by taking the Food Justice Pledge and following the procedures outlined below.

#### 5.1.1. Eligibility

The AJP Pledge program is for farms that have no hired labor or limited hired labor (no more than 2 full time year round or 5 seasonal employees) and primarily engage in direct sales to the public:

- Through CSA memberships
- Farm stands
- Farmer's markets
- Internet sales.
- Restaurant sales

#### 5.1.2. Pledge Process

AJP Pledge farms must go through the following process.

Farms will be able to download an application form from our website, and a pledge that must be signed as affidavit and witnessed by a notary public (original goes back to AJP, copy kept by farmer). Pledge farms may have access to standards on AJP website, and access to the farmer Tool-kit if the farm hires labor.

We encourage development of "social control" through community of farmers and customers in each locality.

*To qualify for the AJP Collective Local Food Justice Pledge Mark:*

*Step 1.* Farms pay a small fee (\$100 a year) to join the AJP Local Food Justice Pledge Collective Mark.

*Step 2.* Farm holds a meeting with all farm managers, employees, and interns to discuss participation in AJP Pledge program and solicit input and concerns during the meeting. Farm documents this meeting and issues raised. All farm managers, employees, and interns sign an agreement to participate in AJP

*Step 3.* Farmer fills out application which includes a self-evaluation section where farmer writes plan for continual improvement. Application includes information on farm pricing and farm labor and lists possible verification groups, either worker organization or other. AJP staff reviews application and informs the farm whether it qualifies to continue the process or must make certain changes before approval can be given. AJP must approve verification group. (The underlying purpose of this application is educational, a way to encourage farmers to think about how to improve the pricing they receive, their skills at calculating production costs, and their farm as a socially just workplace.)

*Step 4.* Farmer signs an affidavit swearing that the farm adheres to the AJP standards.

*Step 5.* Verification process: if the farm hires workers or has interns, the farm must arrange to be inspected by in order of preference:

1. A regional farmworkers association or other worker organization
2. A local congregation-based social justice committee (church, synagogue, mosque, etc.), or a local community-based organization with a mission and track record of promoting justice and fairness.
3. If the farm trains interns, a committee of interns from regional CRAFT
4. Inspection can be done by AJP approved worker organizations as well

The farm must arrange for the inspection within 2 production months of applying. The inspecting group goes through training with the AJP to learn how to do the verification.

The inspectors then visit the farm and fill out an evaluation form that is posted on the AJP website in a special section for this purpose. Without the inspection, the farm cannot use the AJP local fair trade logo.

Farms that use the Food Justice Pledge Mark (whether hiring workers, interns or not) agree to hold an annual “meet the farmworkers” day when customers can visit the farm and do some work with farmers and their workers and celebrate

AJP will create a dedicated section of our website where we will list the collective mark farms and post their inspection reports, a check list for the farmers, an affidavit with list of continual improvement points, inspection forms for the verification groups, a training for these inspectors that could be taught through a required webinar, and need not be an in person training. Trainings could also be offered at regional conferences.

### 5.1.3. Food Justice Pledge Language

Please note that this pledge includes aspects of the farming beyond labor and pricing: this is deliberate! To deserve a fair trade label, farms must be providing an ecological workplace where people and livestock live and work free from pollution from toxic materials and GMOs, and the produce of the farm must meet the LAF test

We pledge that in our farming and in our sales to the public we will:

- Adhere to the domestic fair trade standards of the Agricultural Justice Project;
- Base our prices on a careful calculation of our farm’s costs of production, including

living wages for us as farmers and for people employed on our farm, plus a small percentage for future investments in the farm, retirement, and savings;

- If we participate in training new farmers (internships, apprenticeships, on-farm training programs), provide useful and practical training that contributes to their farming and management skills;
- Treat all hired workers with respect, acknowledging their right to freedom of association and collective bargaining, and providing clear written labor policies;
- Pay all the people who work on our farm at a living wage rate;
- If we cannot pay more than the prevailing wage at this time, we make a commitment to share any increases in farm revenues with our farm's workers.
- Treat family members with respect and make the farm a safe place to live and work for family and all farmworkers;
- Build and maintain healthy soils by applying farming practices that include rotating crops annually, using cover crops, green manures, composting, and reduced tillage;
- Serve the health of soil, people and livestock by rejecting the use of synthetic fertilizers, pesticides, herbicides, irradiation, sewage sludge, GMOs and nanotechnology and seeking the least toxic materials for pest and disease control;
- Provide our customers with high quality, safe and nutrient dense food;
- Treat livestock humanely by providing pasture for ruminants, access to the outdoors and fresh air for all livestock, banning cruel alterations, and using no hormones, GMOs or antibiotics in feed;
- Refrain from spreading raw manure unless allowing 120 days before a food crop or 90 days before all crops;
- Reduce the ecological footprint of our farm and home by limiting energy use and converting to renewable sources of energy;
- Reduce food miles by direct local and regional sales of our farm products;
- Use ethical business practices;
- Work in cooperation with other farmers and the neighboring community to create a more sustainable way of life;
- Encourage the distribution of unsold but edible food to people who need it;
- Create beneficial habitat for wildlife and encourage biodiversity;
- Use open-pollinated varieties to the greatest extent possible and defend farmers' rights to genetic resources.
- Sustain the land in healthy condition for future generations.

## **6.0. Technical Assistance, Tools, and Trainings**

### **6.1. Technical Assistance Options**

We have three standard options for technical assistance listed below, however technical assistance packages are completely customizable.

#### **6.1.1. Self-Assessment**

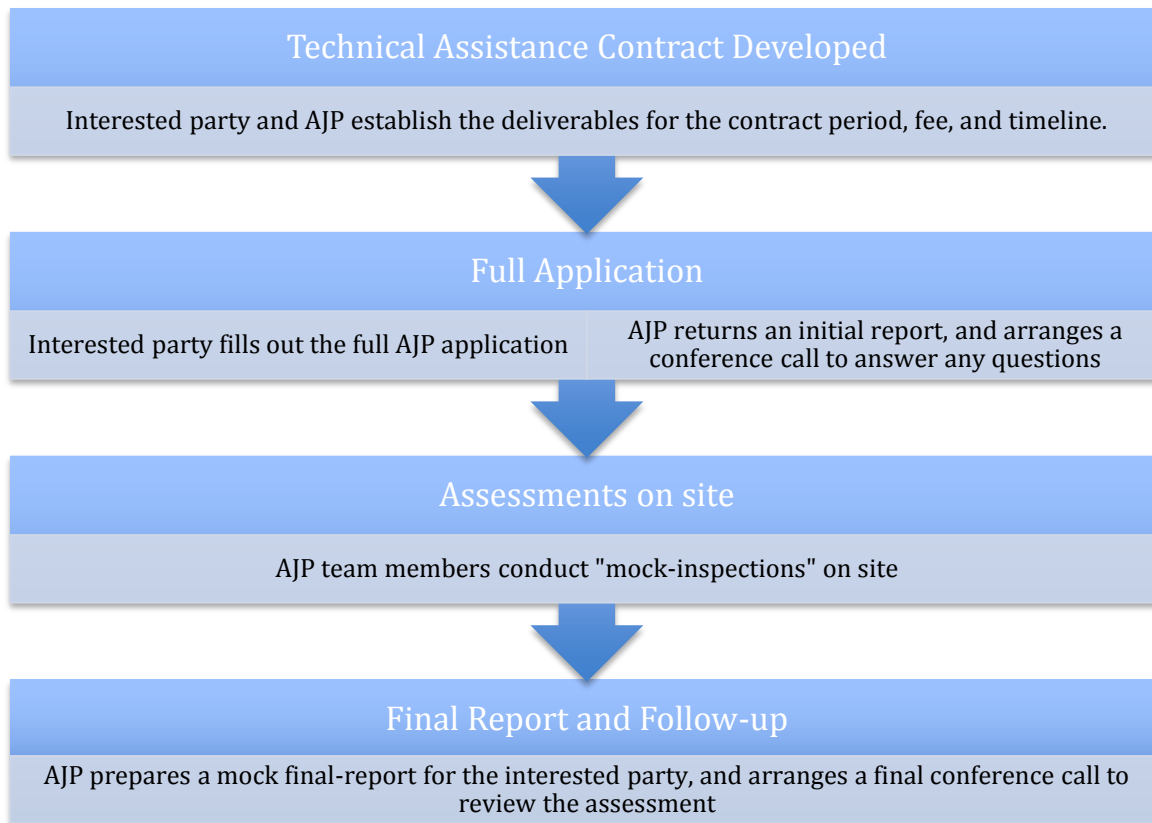
- 1) Interested party contacts AJP to request self-assessment materials, including any available toolkits, best practices resources, checklists for verifying implementation of the AJP standards, and others.
- 2) Interested party arranges to hold conference calls (billable at AJP's hourly rate) to answer questions, or to review the self-assessment.

#### 6.1.2. Desk Assessment

1. Interested party contacts AJP to request a desk assessment
2. AJP sends reference materials, toolkits and other resources, along with a mock application for certification
3. Interested party completes application, includes all available documentation and returns this package to AJP
4. AJP completes a review of the application, identifying any potential non-compliances and answering any questions over conference calls or emails

#### 6.1.3. On-site Assessment

AJP offers formal technical assistance to assess compliance with and develop a plan for implementing the AJP standards. A typical pre-certification assessment consists of:



In cases in which operations have gone through a pre-certification assessment with AJP, AJP

will share documentation of work done by the operation regarding workplace practices related to the AJP standards with the certifiers at the request of the operation seeking AJP certification. This request must be in writing.

## **6.2. Technical Assistance Fees**

AJP's hourly rate for technical assistance is \$75. As all technical assistance packages are customizable and depend on the complexity and size of the operation, please contact AJP directly for an estimate: [agjusticeproject@gmail.com](mailto:agjusticeproject@gmail.com)

## **6.3. Tools and Resources**

### *Toolkits*

“Toolkits” containing sample policies, best practices and other information for applicants are available on our website, [www.agriculturaljusticeproject.org](http://www.agriculturaljusticeproject.org).

We have developed and published to our website the Farmer toolkit. Toolkits for retailers, processors, and other types of entities are under development. For specific assistance or questions regarding best practices and standards implementation, contact AJP directly.

### *Self-Assessment tools*

AJP also offers self- assessment tools, such as a labor standards checklist, to help entities assess compliance before initiating the certification process. Tools are available on our website, [www.agriculturaljusticeproject.org](http://www.agriculturaljusticeproject.org).

## **6.4. List of Available Trainings**

- a. Train the Trainer for Worker Organizations: this is to provide workers' organizations with the tools and capacity to conduct the AJP training described directly below.
- b. Workers' Rights Training: AJP standards require employers to train employees in their legal rights and additional rights and protections under AJP. Certified operations are encouraged to contract with local workers' organizations to conduct these trainings.
- c. Certification Training: for certifiers and worker organizations to implement AJP with clients.

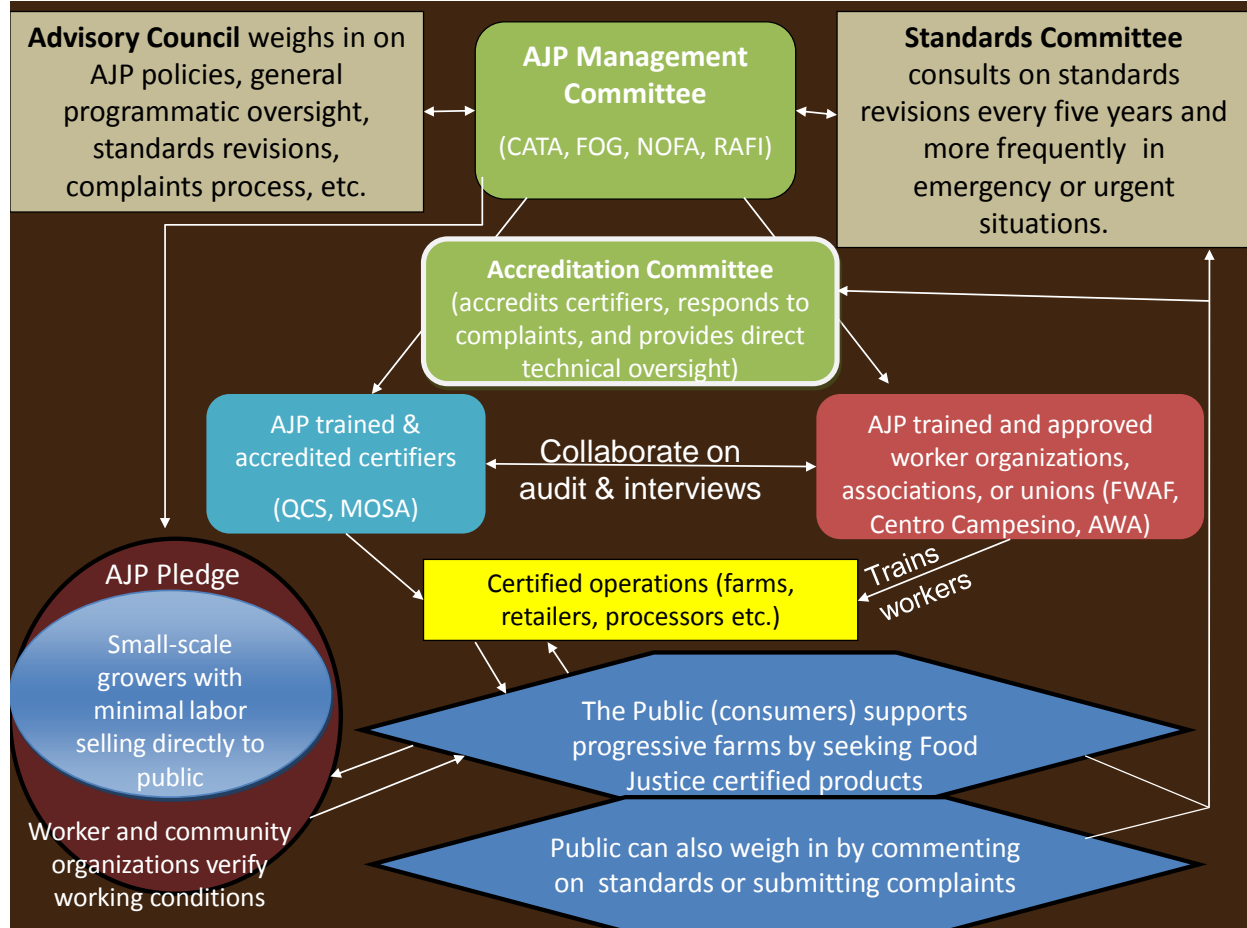
Contact AJP for information on current training openings, or to arrange a custom training at any time.



## 7.0. AJP Governance

### 7.1. AJP Structure

**TABLE 7.1: AJP Governance Flow Chart**



### 7.2. AJP Management Committee Rules and Procedures

#### 7.2.1. Terms of Reference

##### 7.2.1.1. *Purpose*

The Management Committee (MC) provides overall guidance for the AJP program, oversees Accreditation which consists of the rules and regulations for AJP certification, oversees the maintenance and revisions of the AJP Standards.

##### 7.2.1.2. *Duties*

The MC:

- a. Sets policy for AJP standards creation, maintenance and revision
- b. Keeps abreast of developments in organic agriculture, the global food system, fair trade, both domestic and international, and labor policy, and shares significant information

with the other members of the MC

- c. Maintains a sense of humor
- d. Remembers to wear the correct hat in performing the many and various functions involved in this program – creator, technical assistance, accreditation of AJP certifiers
- e. Remains in close contact with the stakeholder group he/she represents
- f. Resolves conflicts submitted by AJP certified entities

#### 7.2.1.3. *Structure and Accountabilities*

At present, AJP is a collaboration of NGOs governed by MOUs among the group during this period of incorporation.

#### 7.2.1.4. *Member Qualifications*

- a. Computer/email access and literacy.
- b. Working knowledge of English is helpful.
- c. High level of personal integrity, including the ability to maintain confidentiality and to work in a collegial manner.
- d. Represents a stakeholder organization or group.

### 7.2.2. General Rules of Procedure

There is no hierarchy among the members of the MC, nor any officers. Decisions are made by consensus. Each steering committee member takes the lead on particular issues that fit within their area of greater competence or experience.

#### 7.2.2.1. *Overall*

The MC, with advice and review from the AC, establishes and operates in accordance with the AJP policies laid out in the Policy Manual. The MC consults with the AC on policy matters and with the SC on standards matters.

#### 7.2.2.2. *Management and Communication*

The MC:

- a. Establishes a schedule of meetings
- b. Develops Rules of Procedure with advice from the AJP Advisory Council.
- c. Two or three times a year, the MC meets face to face. The rest of the time communications are by email, and conference call. Conference calls are frequent and may last up to 3 hours.

#### 7.2.2.3. *Decision Making*

The MC makes decisions by consensus. If there is disagreement, one of the members undertakes to provide additional information and then the group reviews the matter again. There have been no votes. Occasionally, someone steps aside or recuses him or herself from a decision. Relations are respectful, jocular and every effort is made to resolve complex or difficult issues through discussion, compromise and good faith based on firmly held and shared principles.

#### 7.2.2.4. *Conflict Resolution*

If the members of the MC cannot reach agreement, we continue discussing the issue, and appeal to the AC for guidance. Were a disagreement to get out of hand, we would engage in a mediation.

#### 7.2.2.5. *Member Responsibilities*

The MC Members:

- a. Follow the MC Rules of Procedure.
- b. Actively and constructively participate in the MC, including regular attendance of MC meetings and responding actively to MC emails.
- c. Deliberate and advocate impartially within the context of setting social justice standards, performing technical assistance to food system stakeholders, providing accreditation to certifiers, and generally survey the fields of organic agriculture, fair trade and ethical business.

#### 7.2.2.6. *Termination of Membership*

MC membership may be terminated if the member does not fulfill the member's responsibilities. Should a member who represents one of the four NGO participants in AJP resign, the NGO will appoint a replacement who is acceptable to the other AJP partners. The rejection of an appointee must be for good cause.

#### 7.2.2.7. *Amending Terms of Reference and General Rules of Procedure*

The MC may recommend revisions to these Terms of Reference and General Rules of Procedure. The final decision is taken by the Management Committee after consultation with the Advisory Council.

### **7.3. Advisory Council Rules and Procedures**

#### 7.3.1. Terms of Reference

##### 7.3.1.1. *Purpose*

The Advisory Council (AC) provides overall guidance for the AJP Management Committee, guiding the group's policies, discussing and helping make decisions regarding the scope and implementation of AJP's standards, the resolution of grievances that might arise among the participants in the AJP projects, and offering advice about AJP funding, the administration of the Agricultural Justice Fund, and other aspects of the AJP work.

##### 7.3.1.2. *Duties*

AC members:

- a. Help set policy for AJP standards creation, maintenance and revision
- b. Keep abreast of developments in organic agriculture, the global food system, fair trade, both domestic and international, and labor policy, and share significant information with the MC
- c. Maintain a sense of humor
- d. Remain in close contact with the stakeholder group he/she represents

- e. Provide responses to requests for advice or information from the MC or AJP staff
- f. Serve on either the Standards Committee or the Conflict Resolution Committee

#### 7.3.1.3. *Structure and Accountabilities*

Members of the AC represent a stakeholder sector of the food system or provide expertise in a field related to the work of AJP.

#### 7.3.1.4. *Member Qualifications*

- a. Computer/email access and literacy.
- b. Working knowledge of English is helpful.
- c. High level of personal integrity, including the ability to maintain confidentiality and to work in a collegial manner.
- d. Represents a stakeholder organization or group.

### 7.3.2. General Rules of Procedure

There is no hierarchy among the members of the AC, nor any officers. Decisions are made by consensus.

#### 7.3.2.1. *Overall*

The MC, with advice and review from the AC, establishes and operates in accordance with the AJP policies laid out in the Policy Manual. The MC consults with the AC on policy matters and with the SC on standards matters.

#### 7.3.2.2. *Management and Communication*

The AC members:

- a. Participate in 3 or 4 conference calls a year
- b. Advise the MC on Rules of Procedure.
- c. Attend one face to face meeting a year. The rest of the time communications are by email, and conference call.

#### 7.3.2.3. *Decision Making*

The AC makes decisions by consensus. If there is disagreement, one of the members undertakes to provide additional information and then the group reviews the matter again. Votes are only taken as straw poles. Occasionally, someone steps aside or recuses him or herself from a decision. Relations are respectful, jocular and every effort is made to resolve complex or difficult issues through discussion, compromise and good faith based on firmly held and shared principles.

#### 7.3.2.4. *Conflict Resolution*

If the members of the MC cannot reach agreement, the MC continues discussing the issue, and appeals to the AC for guidance. Were a disagreement to get out of hand, the MC would engage in a mediation.

#### 7.3.2.5. *Member Responsibilities*

The AC Members:

- a. Follow the AC Rules of Procedure.
- b. Actively and constructively participate in the AC, including regular attendance of AC conference calls, the annual meeting and responding actively to MC and staff emails.
- c. Deliberate and advocate impartially within the context of setting social justice standards.

#### 7.3.2.6. *Termination of Membership*

AC membership may be terminated if the member does not fulfill the member's responsibilities. Should a member who represents a stakeholder group resign, the MC will appeal to that group for a replacement. The rejection of an appointee must be for good cause.

#### 7.3.2.7. *Amending Terms of Reference and General Rules of Procedure*

The AC may recommend revisions to these Terms of Reference and General Rules of Procedure. The final decision is taken by the Management Committee after consultation with the Advisory Committee.

### **7.4. Standards Committee Rules and Procedures**

#### 7.4.1. Terms of Reference

##### 7.4.1.1. *Purpose*

The Standards Committee (SC) develops and revises the AJP Standards, which are the rules and regulations for AJP certification.

##### 7.4.1.2. *Duties*

The SC:

- a. AJP team develops draft revisions in consultation with the SC.
- b. Develops draft standards in new areas.
- c. Consults with stakeholders in the development of draft revisions and draft standards in new areas.
- d. Keeps abreast of new developments in the area of social justice in agricultural production and processing.
- e. Communicates and represents the draft revisions and draft standards internally and externally.
- f. Recommends interpretation of AJP standards.
- g. Evaluates other standards for equivalence with AJP Standards.
- h. Provides other advice on standards issues as directed by the AJP internal group and the AJP Policy Manual.

##### 7.4.1.3. *Structure and Accountabilities*

The SC:

- a. Is composed of individuals appointed by AJP team with Advisory Council approval.
- b. Is accountable to the Agricultural Justice Project and the AJP Advisory Council.

- c. Members represent diverse geographical areas and stakeholder groups (e.g. farmers, farmworkers, certifiers, etc).
- d. Receives administrative support from the AJP team.
- e. Operates within a budget set by the AJP.
- f. Operates within the timelines approved by the AJP and Advisory Committee.

7.4.1.4. *Member Qualifications*

- a. Computer/email access and literacy.
- b. Working knowledge of English is helpful.
- c. High level of personal integrity, including the ability to maintain confidentiality and to work in a collegial manner.
- d. Represents a stakeholder organization or group.

7.4.2. General Rules of Procedure

7.4.2.1. *Overall*

The SC operates in accordance with AJP policies.

7.4.2.2. *Management and Communication*

The SC:

- a. Establishes a schedule of meetings and communicates this information to the AJP and the AJP Advisory Committee.
- b. Develops Rules of Procedure with AJP and the AJP Advisory Committee.

7.4.2.3. *Decision Making*

The SC makes decisions according to the Decision Making Procedure policy.

7.4.2.4. *Member Responsibilities*

The SC Members:

- a. Follow the SC Rules of Procedure.
- b. Actively and constructively participate in the SC, including regular attendance of SC meetings and responding actively to SC emails.
- c. Deliberate and advocate impartially within the context of setting social justice standards.

7.4.2.5. *Termination of Membership*

SC membership may be terminated if the member does not fulfill the member's responsibilities.

7.4.2.6. *Amending Terms of Reference and General Rules of Procedure*

The SC may recommend revisions to these Terms of Reference and General Rules of Procedure. The final decision is taken by the Advisory Committee upon recommendation by the AJP. The AJP may also revise these Terms of Reference and General Rules of Procedure at its discretion.

## **7.5. Accreditation Committee Rules and Procedures**

### **7.5.1. Accreditation Committee Membership**

#### *7.5.1.1. Purpose*

The Accreditation Committee (SC) develops decision-making criteria for accreditation decisions, reviews materials from accreditation applicants and makes decisions on whether to grant accreditation certificates. The accreditation committee appoints and oversees evaluators who carry out on-site office visits and witness audits for accreditation evaluations.

#### *7.5.1.2 Duties*

The Accreditation Committee:

- a. Develops accreditation decision-making criteria including checklists, evaluation questions and report templates, and application review criteria
- b. Collates and reviews copies of accreditation applications, prepares initial reports for certifier applicants
- c. Follow up with certifiers regarding any non-compliances or more information requests, ensure that timeline for resolution of non-compliances is met
- d. Prepare evaluation plan and cost estimate in coordination with evaluator and communicate this information to certifier applicant
- e. Appoints evaluator to conduct office visit, determines how many witness audits are necessary and assists evaluator in planning witness audits
- f. Reviews evaluator's report and witness audit reports to determine if more information is required, issues non-compliances or more information requests to certifier applicant
- g. Makes accreditation decision, writes accreditation decision letter and issues accreditation certificate if certifier applicant eligible
- h. Monitors certifier client accounts, sends reminders to certifiers of upcoming accreditation visit requirements and payments due
- i. Handles questions and inquiries regarding accreditation process and criteria

#### *7.5.1.3. Member Qualifications*

- a. Computer/email access and literacy.
- b. Working knowledge of English is helpful.
- c. High level of personal integrity, including the ability to maintain confidentiality and to work in a collegial manner.
- d. Represents a stakeholder organization or group.
- e. Clear knowledge of AJP accreditation program and standards

#### *7.5.1.4. Management and Communication*

The Accreditation Committee:

- a. Establishes a schedule of meetings and communicates this information to the Management Committee.
- b. Meets at least quarterly, or according to volume of applications via conference call.

7.5.1.5. *Decision Making*

The Accreditation Committee makes accreditation decisions according to the Decision Making Policy.

7.5.1.6. *Member Responsibilities*

The Accreditation Committee Members:

- a. Follow the Accreditation Committee Rules of Procedure.
- b. Actively and constructively participate in the Accreditation Committee, including regular attendance of meetings and responding actively to emails.
- c. Deliberate and advocate impartially within the context of determining accreditation status.
- d. Honestly report any conflicts of interest that arise and leave the meeting during discussions that involve conflicts of interest.
- e. Prevent breach of confidentiality by protecting confidential information and abiding by the AJP conflict of interest and confidentiality policies.

7.5.1.7. *Termination of Membership*

Accreditation committee membership may be terminated if the member does not fulfill the member's responsibilities.

7.5.1.8. *Amending Terms of Reference and General Rules of Procedure*

The Accreditation Committee may recommend revisions to these Terms of Reference and General Rules of Procedure. The final decision is taken by the Advisory Committee upon recommendation by the AJP. The AJP may also revise these Terms of Reference and General Rules of Procedure at its discretion.

7.5.1.9. *Conflict of Interest and Confidentiality*

Identifying and taking measures to avoid conflict of interest and prevent breaches of confidentiality are critical to the success of the accreditation program, and therefore of the implementation of AJP certification. For this reason the Accreditation Committee will use a more complex conflict of interest system for identifying, declaring and acting on conflicts of interest than the other committees.

AJP considers any employment, full time or part time, consultancy work, board representation or other significant involvement with a certifier in the past five years to be a conflict. Minor involvement with a certifier must be declared, but the conflict level of minor work expires within three years if agreed upon by the Accreditation Committee.

*Conflict of Interest for the Accreditation Committee will be determined according to these criteria:*

- a. Level 1 = A definite conflict. Member excluded from all discussion, decision-making regarding conflict of interest. Example: Employment history, current or previous, or board member status of a certifier applicant.



b. Level 2 = A probable conflict. Member may be present for discussion, excluded from decision-making as precaution. Example: Partial or full ownership of an entity certified by certifier applicant.

c. Level 3 = A possible conflict. Member may participate, but certifier applicant has the right to object to their participation. Example: Previous involvement as worker or farmer representative on certification inspection team of the certifier applicant.

Accreditation Committee Members must fill out the Accreditation Committee Conflict of Interest Form (see Annex) before beginning their term on the committee, and must update this form annually with new declared interests or changes.

### 7.5.2. Accreditation Process

The members of the accreditation committee will carry out accreditation to the AJP standards and certification program according to the process outlined in this section.

## **7.6. Conflict Resolution Committee Rules and Procedures**

### 7.6.1. Terms of Reference

#### *7.6.1.1. Purpose*

The Conflict Resolution Committee (CRC) is a sub-committee of the AJP Advisory Council. The CRC advises the Management Committee in updating and revising the AJP conflict resolution process and is assembled as necessary to resolve both internal conflicts and external complaints that are brought to AJP.

#### *7.6.1.2. Duties*

The CRC:

- a. Consults with the AJP Management Committee which develops draft revisions of the conflict resolution process (both external complaints and conflicts among participants in AJP certification).
- b. Keeps abreast of new developments in the areas of conflict resolution, grievances, restorative process, non-violent communications and human resources.
- c. Recommends improvements in AJP procedures.
- d. Assigns a member of the CRC to investigate cases that are brought to AJP, and when necessary hears these cases and recommends a solution.
- e. Assists the MC in identifying outstanding individuals to serve as Ombudspersons in cases that reach this final level of appeal.

#### *7.6.1.3. Structure and Accountabilities*

The CRC:

- a. Is composed of individuals from the AJP Advisory Council who volunteer for this assignment.
- b. Is accountable to the Agricultural Justice Project and the AJP Advisory Council.
- c. Members represent diverse geographical areas and stakeholder groups (e.g. farmers, farmworkers, certifiers, etc).

- d. Receives administrative support from the AJP MC.
- e. Operates within a budget set by the AJP.
- f. Operates within the timelines approved by the AJP and Advisory Council.

*7.6.1.4. Member Qualifications*

- a. Computer/email access and literacy.
- b. Working knowledge of English is helpful.
- c. High level of personal integrity, including the ability to maintain confidentiality and to work in a collegial manner.
- d. Represents a stakeholder organization or group.

7.6.2. General Rules of Procedure

*7.6.2.1. Overall*

The CRC operates in accordance with AJP policies.

*7.6.2.2. Management and Communication*

The CRC:

- a. In response to appeals and complaints, establishes a schedule of meetings and communicates this information to the AJP and the other members of the AJP Advisory Council.
- b. Develops Rules of Procedure with AJP and the AJP Advisory Council.

*7.6.2.3. Decision Making*

The CRC makes decisions according to the Decision Making Procedure policy.

*7.6.2.4. Member Responsibilities*

The CRC Members:

- a. Follow the CRC Rules of Procedure.
- b. Actively and constructively participate in the CRC, including regular attendance of CRC meetings and responding actively to CRC emails.
- c. Deliberate and advocate impartially within the context of fair democratic process and social justice.

*7.6.2.5. Termination of Membership*

CRC membership may be terminated if the member does not fulfill the member's responsibilities.

*7.6.2.6. Amending Terms of Reference and General Rules of Procedure*

The CRC may recommend revisions to these Terms of Reference and General Rules of Procedure. The final decision is taken by the Advisory Council upon recommendation by the AJP. The AJP may also revise these Terms of Reference and General Rules of Procedure at its discretion.

### **7.7. Conflict of Interest**

All members of AJP committees will identify conflict of interest by signing form in the Annex. Those with an identified conflict of interest will leave the discussion at the appropriate times.

### **7.8. Confidentiality**

- a. All AJP Management Committee members, Advisory Council members, Conflict Resolution Committee members and staff annually sign a written agreement to keep all private information gained in the course of providing technical assistance or in the course of an accreditation audit strictly confidential. Such information may only be passed on to named third parties only with approval of the operator.
- b. AJP does not engage in product development, and its Management Committee members are bound to act strictly unbiased and brand neutral and will not engage in trading activities of any kind. Any personal engagement, that could lead to conflicts of interest have to be declared to AJP.
- c. If in the course of interviews with workers, or others who might be harmed by disclosure, confidential information is revealed, anonymity will be strictly granted in order to protect the informant from possible negative impact or punishment.
- d. All AJP Management Committee members, Advisory Council members, Conflict Resolution Committee members and staff annually sign a Conflict of Interest statement, listing affiliations. Should the entities with which they are affiliated come up for consideration in any way, they recuse themselves from deliberations and decisions.

### **7.9. Maintenance of Standards**

#### **7.9.1. Standards Revisions Procedure**

##### *Purpose*

This policy outlines our guidelines for revising the AJP standards to ensure that the decision making process is based on efforts to achieve consensus in line with the ISEAL Code of Good Practice for Setting Social and Environmental Standards.

##### *Scope*

All changes to the AJP Standards, including:

1. Regular revisions
2. Inclusion of new items in the AJP Standards
3. Urgent revisions
4. Changes resulting from interpretation of standards
5. Changes to the lists of Inputs, Additives and Processing Aids

For every type of revision above this policy describes under:

- a. *Initiation:* The parties eligible and the main steps to be taken for making a proposal for a revision.
- b. *Decision to Commence:* The party eligible to take the decision to commence with the revision.

- c. *Revision Process:* The main components and parties involved in the actual revision process.
- d. *Decision Making:* The main parties involved in the revision and procedures for approving a revision (e.g. membership vote).
- e. *Implementation:* The period within which approved changes have to be implemented by standards users.

### Definitions

*Official Publication:* The date of the publication of the English version of the Standards as defined in the print version.

*Revision Plan:* Document, which outlines the main revision areas and changes and basic timelines for the revision of the AJP Standards.

*New Area:* Categories of production or processing (e.g. indigenous wildcrafting) or concepts (e.g. Climate Change) not currently addressed in the Standards.

### 1. Regular Revisions

- a. *Initiation:* The Management Committee, taking into account input from Advisory Council members, other stakeholders and other relevant bodies and sources, assesses periodically whether a revision is needed and makes a Draft Revisions Plan to present to the Advisory Council. The Advisory Council approves the Revisions Plan.
- b. *Decision to Commence:* The Management Committee, with the approval of the Advisory Council, makes the decisions to commence revision.
- c. *Revision Process:* There will be one, first draft produced by the Management Committee. The Standards Committee will be convened based on criteria and procedure outlined in AJP Policy 3.1.3. The Standards Committee will submit comments on the first draft of standards, producing a Standards Committee Draft. This draft will be circulated for public comment according to the procedure outlined in AJP policy manual. The Management Committee will consider public comments and produce a Public Comment Draft. This draft will be approved by the Standards Committee, and subsequently by the Advisory Council, before being formally published.
- d. *Decision Making:* Decisions on standards revisions will be made by the Management Committee, based on consensus.
- e. *Implementation:* Within two years after Official Publication.

### 2. Inclusion of New Areas

- a. *Initiation:* The AJP Management Committee, or the AJP Advisory Council.
- b. *Decision to commence:* The AJP Management Committee.
- c. *Revision Process:* See 1c above.
- d. *Decision Making:* See 1d above.
- e. *Implementation:* See 1e above.

### 3. Urgent Revisions

- a. *Initiation:* The AJP Management Committee, AJP Advisory Council, or recommendations from other Stakeholders.

- b. *Decision to commence:* The AJP Management Committee.
- c. *Revision Process:* There will be one revision draft produced by the Management Committee, subject to review by the Advisory Council. A Standards Committee will not be convened. A public comment period will follow the Advisory Council Draft.
- d. *Decision Making:* See 1d above.
- e. *Implementation:* Immediately or within the implementation period as stated in 1e.

#### 4. Changes Resulting from Interpretation of Standards

- a. *Initiation:* Results from a needs assessment by the Management Committee
- b. *Revision Process:* Issue added to the next standards revision.
- c. *Decision to commence:* According to 1b above.
- d. *Decision making:* According to 1d above
- e. *Implementation:* According to 1e above.

#### Publication of new Standards and other Changes

The revision plans and all decisions related to Standards revisions shall be announced promptly. Approved Standards shall be published promptly.

#### Complaints

Complaints with regard to this Policy and its related Procedures are handled according to AJP Complaints, Conflict Resolution and Appeals Policy..

#### 7.9.2. Notification of Stakeholders Procedure on Development and Revisions of AJP Standards

##### *Purpose:*

The purpose of this policy is to define key stakeholder groups and record a procedure for their consultation in the process of the further development and revision of the AJP Standards.

##### *Procedure:*

AJP will consult relevant stakeholders in the course of revising and developing the AJP Standards. Stakeholders will be informed when AJP begins work on revisions or on developing a new section of Standards. They will be given an opportunity to comment on at least 2 drafts of the new/revised standards. The comment period will be at least 60 days except for urgent revisions. AJP is responsible for the public posting of comments and responses. The comment period shall commence with the electronic mailing of the standards to the relevant stakeholders or posting on the AJP website, whichever is later. AJP aims to distribute the draft standards electronically wherever possible. In cases where hard copies must be mailed to stakeholders that do not have adequate access to electronic versions, these copies shall be mailed from AJP within 5 business days of the start of the comment period.

AJP may decide to include other stakeholder consultation activities in addition to the comment process, e.g. web-based dialogues, workshops, focus groups, in the course of developing the standards.

This policy covers the consultation process only. The decision process for each standard is

elaborated in the Decision Making Process policy.

<b>Definition of Stakeholders</b>		
Stakeholders for the Standards are categorized as follows:		
1.	Parties that are subject to the standards for the purpose of certification	Participating Farms, Coops, Etc
2.	Parties that use the standards for conducting certification	QCS, MOSA and other certifiers
3.	Party that owns and is responsible for the standards	AJP and relevant AJP bodies: Advisory Council, Standards Committee
4	Parties that set standards and conduct conformity assessment for process and production methods, especially in organic and other environmental and social fields	Examples: IMO, Oregon Tilth,
5.	Intergovernmental agencies that are concerned with organic and labor standards, harmonization of standards and conformity assessment	Examples: FAO
6	Governmental agencies that regulate organic standards, certification and conformity assessment:	Various
7	Other international standardizing and conformity assessment institutions	Examples: ISO, national ISO accreditation organizations, IAF
8	Academic institutions, consultants, and other technical specialists in standards setting and conformity assessment, and/or active in environmental and social issues.	Various
9	Environmental consumer and trade NGO's concerned with environmental and social issues and labeling	Examples: DFTA, Consumers Union
10	Worker organizations, labor unions, labor representatives	Florida Farmworkers Association, Restaurant Opportunities Center
11	Organic farming organizations	OFARM, NODPA, Food farmers, and others

#### Procedure for Notification

Parties in Categories 1 through 5 of the table above receive notice of the commencement of the revision of the standards and an invitation to submit suggestions for revision.

Parties in Categories 1 through 9 above receive notice of the publication of revision drafts of the

standards, and an invitation to comment.

Parties in Categories 1-3 above receive revision drafts in addition to an invitation to comment, and they also receive periodic reminders of the comment period as necessary.

#### Procedure for Response to Comments

The AJP acknowledges receipt of all recommendations and comments received at all stages of the revision process.

The AJP prepares, posts, and distributes to parties in Categories 1 and 2 and parties making submissions, summaries of their responses to the recommendations and comments.

#### Procedure for Other Forms of Consultation

AJP includes consideration of other forms of consultation in the revision plans for the standards. The options include workshops, expert panels, subcommittees, and interactive website tools.

AJP will notify the Standards Committee and groups in the first 3 categories of any plans to use alternative methods of consultation. Comments and recommendations received in this manner must still be reported.

#### 7.9.3. Notification of Certifiers, Worker Organizations, and Certified Entities

AJP will issue a notice of effective date to approved certifiers and worker organizations when standards are officially changed or added and when policies or guidance documents (including, but not limited to this policy manual) are changed or added.

##### *Notice of Effective Date for Standards Revisions*

AJP will provide written notice of changes to standards to approved certifiers and approved worker organizations. Certifiers will have 30 days from the date of the notice to start using the new standards in their Food Justice certification programs for new clients. Existing clients have 1 year from the date of the notice to come into compliance with the new standards. AJP reserves the right to shorten or lengthen this timeline as deemed necessary on a case by case basis. It is the responsibility of certification staff and worker organization staff to become familiar with the new standards. It is the responsibility of certifiers to notify all clients of the standards changes.

##### *Notice of Effective Date for Policies and Guidance*

AJP will provide written notice of policy changes and guidance to approved certifiers and approved worker organizations. Approved certification staff and approved worker organization staff may not work on new Food Justice certification client files until they are familiar with and have adopted any new or revised policies or guidance documents. In general trained staff of approved certifiers and worker organizations are required to become familiar with and

implement new policies and interpretation guidance within 45 days of the publish date, but may do so sooner if they wish to begin new client work sooner. However, AJP reserves the right to shorten or lengthen this timeline as deemed necessary on a case-by-case basis. Any adjustments to this timeline will be issued with the published policies/guidance when applicable. It is the responsibility of certification staff and worker organization staff to become familiar with the revised policies and guidance. It is the responsibility of certifiers to notify all clients of the policy and guidance changes that are relevant to them.