

## Part 2 Guaranteed Farm Loan Programs

### 15 Program Purpose and Eligible Lenders

#### A Program Purpose

The FSA Guaranteed Farm Loan Program:

- enables lenders to extend credit to family farm owners or operators who do not qualify for standard commercial loans
- benefits beginning farmers and family farmers experiencing financial distress, as well as lending institutions and the local community as a whole

**Note:** Farmers receive credit at reasonable terms to finance their current operations or to expand their business. Financial institutions receive additional loan business and servicing fees, as well as other benefits from the program.

- serves the local community by protecting family farmers and farm-related businesses.

#### B Requirements

Regulated lenders who have experience in agricultural lending are eligible to participate in the FSA Guaranteed Farm Loan Program. Lenders who have little or no experience with FSA-guaranteed loans are considered SEL's and must originate and service loans under SEL requirements.

Lenders who have a positive track record of participation in the program may participate in one of FSA's status lender programs. CLP and PLP are the 2 status lender programs. Once lenders are approved by FSA as a CLP or PLP lender, they may process loans under the reduced paperwork and supervision requirements afforded to the respective status lender program.

For more information on the different lender types, see Part 4.

#### C FSA-1980-38

The purpose of FSA-1980-38 is to:

- establish the lender as an approved participant in the FSA Guaranteed Farm Loan Program
- outline the terms and conditions for originating and servicing FSA-guaranteed loans.

## 15 Program Purpose and Eligible Lenders (Continued)

### C FSA-1980-38 (Continued)

The lender is responsible for originating and servicing all guaranteed loans in their portfolio according to FSA-1980-38 that is valid at the time.

**Example:** If a lender has an approved SEL FSA-1980-38, they will originate and service loans under SEL requirements spelled out in 7 CFR Part 762 and this handbook.

If the same lender later applies for PLP status and is approved, a new PLP FSA-1980-38 will be executed. As long as the PLP FSA-1980-38 remains in effect, the lender will originate and service all FSA-guaranteed loans in their portfolio, including loans originated while the lender was SEL, under the conditions agreed to in the PLP FSA-1980-38.

For CLP and PLP lenders, FSA-1980-38 is valid for 5 years from the date of execution by SED or DAFLP. For SEL's, FSA-1980-38 is valid indefinitely from the time of execution by \*-the Authorized Agency Official, unless otherwise terminated or replaced by FSA.--\*

## 16 Eligible Borrowers

### A Requirements

For specific information on borrower eligibility, see Part 8, Section 1.

In general, to qualify for an FSA guarantee, a loan applicant must be actively involved in the day-to-day management of a farm operation and must:

- be a citizen of the United States or legal resident alien
- have the legal capacity to incur the obligations of the loan
- be unable to obtain sufficient credit without a guarantee at reasonable rates and terms to finance the farming operation.

In addition to meeting the eligibility criteria, the loan applicant must:

- have a satisfactory credit history
- demonstrate repayment ability
- provide sufficient security for the loan.

## 17 Types of Guaranteed Loans

### A OL's

OL's may be used to finance items needed for a successful farm operation. These items include the following:

- livestock
- farm equipment
- annual operating expenses
- family living expenses
- refinancing debts under certain conditions.

For more information on OL's, see Part 8, Sections 2 through 4 and Part 9.

### B LOC's

LOC's are OL's for annual operating purposes. Loan funds may be advanced and repaid repeatedly (revolve) throughout the year.

For more information on LOC's, see Part 8, Sections 2 through 4 and Part 9.

### C FO's

FO's may be used to:

- purchase farmland
- construct or repair buildings and other fixtures
- develop farmland to promote soil and water conservation
- refinance debt.

For more information on FO's, see Part 8, Sections 2 through 4 and Part 9.

\* \* \*

**18 IA Program**

**A Requirements**

In certain situations, lenders may use the IA Program to assist a borrower in qualifying for an FSA-guaranteed loan. Under the IA Program, FSA will subsidize 4 percent of the interest rate on loans to qualifying borrowers.

For more information on the IA Program, see Part 9.

**19 Full Faith and Credit Applicability and Exceptions (7 CFR 762.103)**

**A Full Faith and Credit Applicability**

**The loan guarantee constitutes an obligation supported by the full faith and credit of the United States.**

**B Exceptions for Fraud and Misrepresentation**

**The Agency may contest the guarantee only in cases of fraud or misrepresentation by a lender or holder, in which the lender or holder:**

- **had actual knowledge of the fraud or misrepresentation at the time it became the lender or holder**
- **participated in or condoned the fraud or misrepresentation.**

**C Exceptions for Lender Violations**

**The loan guarantee cannot be enforced by the lender, regardless of when the Agency discovers the violation, to the extent that the loss is a result of any of the following:**

- **violation of usury laws**
- **negligent servicing**
- **failure to obtain the required security**
- **failure to use loan funds for purposes specifically approved by the Agency.**

19 Full Faith and Credit Applicability and Exceptions (7 CFR 762.103) (Continued)

D Effects of Full Faith and Credit With Holders

The guarantee and right to require purchase will be directly enforceable by the holder even if either of the following occurred:

- the loan guarantee is contestable based on the lender’s fraud or misrepresentation
- the loan note guarantee is unenforceable by the lender based on a lender violation.

20 Responsibilities

A Authorized Agency Official Responsibilities

The Authorized Agency Official is responsible for:

- serving as the primary contact and decision maker for the FSA Guaranteed Farm Loan Program

•\*--approving loans, up to thresholds specified in 1-FLP, paragraph 29--\*

\* \* \*

- providing training for lenders and prospective lenders
- monitoring lender’s servicing actions

\* \* \*

- processing loss claims for SED approval.

\*--Note: Authorities that must be delegated are listed in 1-FLP, Exhibit 7.--\*

B DD’s Responsibilities

DD is responsible for:

- overseeing the Authorized Agency Official
- \*--approving loan requests as outlined in 1-FLP, paragraph 29--\*
- providing management and technical assistance to local servicing offices.

**20 Responsibilities (Continued)****C SED's Responsibilities**

SED is responsible for:

- \*--determining the most effective and efficient method of program delivery for making and servicing guaranteed loans--\*
- overseeing the operations of all FSA offices within the State
- providing technical assistance as needed
- providing annual training for lenders and prospective lenders
- approving loan requests as outlined in 1-FLP, paragraph 29
- approving all loss claims before payment
- ensuring equitable treatment in processing loan applications as outlined in Part 6.

Funding allocations are made by SED, and at his or her discretion, funding allocations may be delegated to lower levels within the organization. SED approves CLP lenders and maintains files on their activity within the State. For PLP lenders, SED's must submit a recommendation to DAFLP regarding approval of PLP status. Once PLP status is approved, SED is responsible for ensuring that lender monitoring visits are conducted.

**D DAFLP's Responsibilities**

DAFLP is responsible for:

- managing FLP's on a national level
- developing policy
- monitoring the financial condition of status lenders
- approving lender requests for PLP status
- determining funding allocations
- ensuring consistent application of regulations and policies.

**21-30 (Reserved)**