

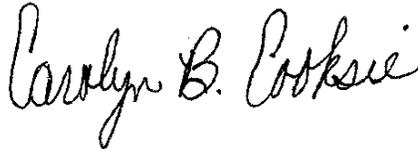
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Guaranteed Loan Making and Servicing
2-FLP**

Amendment 16

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 108 A has been amended to revise the citizenship eligibility requirement.

Subparagraph 108 F has been amended to require that U.S. non-citizen nationals and qualified aliens must provide appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

Subparagraph 108 K has been amended to add certification that the loan applicant is not ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862.

Subparagraph 244 A has been amended to update the statutory loan limits for guaranteed loans.

Exhibits 7 and 8 have been added to provide interim guidance as to the acceptable documentation of immigration status as either of the following:

- C qualified alien
- C U.S. non-citizen national.

Page Control Chart		
TC	Text	Exhibit
7	8-1 through 8-6 10-1, 10-2	1, pages 1-4 2, pages 13-16 page 17 7, pages 1-4 (add) 8, pages 1-4 (add)

Table of Contents (Continued)

Page No.

Part 14 Liquidation

355	Liquidation Process (7 CFR 762.149)	14-1
356	Mediation (7 CFR 762.149(a))	14-5
357	Foreclosure and Acceleration (7 CFR 762.149)	14-6
358	Lender Liquidation Plan (7 CFR 762.149(b))	14-8
359	Lender Submission of Estimated Loss Claim (7 CFR 762.149)	14-11
360	Lender Submission of Final Loss Claim (7 CFR 762.149)	14-13
361	Release of Liability After Liquidation (7 CFR 762.146(c))	14-18
362	Miscellaneous Liquidation Items (7 CFR 762.149)	14-20
363-372	(Reserved)	

Part 15 Secondary Market

373	Overview of the Secondary Market for FSA Guaranteed Loans	15-1
374	Agency Requirements (7 CFR 762.160)	15-3
375	Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144)	15-8
376	Actions After Agency Repurchase (7 CFR 762.144)	15-12

Exhibits

1	Reports, Forms, Abbreviations, and Redelegations of Authority	
2	Definitions of Terms Used in This Handbook	
3	(Reserved)	
4	State Supplements	
5, 6	(Reserved)	
7	Interim Guidance: Documentary Evidence of Status as a Qualified Alien	
8	Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National	
9	(Reserved)	
10	Calculations and Formulas	
11-14	(Reserved)	
15	Lender Documentation and Reporting Requirements	
16	Memorandum of Understanding	

Part 8 Loan Evaluation

Section 1 Eligibility (7 CFR 762.120)

108 General Eligibility Requirements for OL and FO (7 CFR 762.120)

A
Summary of
Eligibility
Requirements

A loan applicant and anyone who will execute the promissory note, including members of an entity applicant, must meet the following eligibility criteria to obtain a guaranteed loan. An eligible loan applicant is an applicant that:

- C has not caused FSA a loss by receiving debt forgiveness on more than 3 occasions
- C is not delinquent on any Federal debt
- C does not have any outstanding recorded judgments obtained by the United States in a Federal court
- C*--is a citizen of the United States, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws--*
- C has the legal capacity to incur the obligations of the loan
- C has an acceptable credit history
- C is not able to obtain sufficient credit elsewhere without a guarantee
- C has not been convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the last 5 crop years.

The Authorized Agency Official will document in the FSA running record that the loan applicant meets all eligibility requirements.

B
Clarification of
Loan Applicant

In this part, the loan applicant includes any person who will execute the promissory note. In the case of an entity, the loan applicant includes all the members of the entity who will execute the promissory note.

Continued on the next page

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)

C**No Agency Loss**

The loan applicant, and anyone who will execute the promissory note, has not caused the Agency a loss by receiving debt forgiveness on more than three occasions prior to April 4, 1996, or on any occasion after April 4, 1996, on all or a portion of any direct or guaranteed loan made under the authority of the CONACT by debt write-down, write-off, compromise under the provisions of Section 331 of the CONACT, adjustment, reduction, charge-off, or discharge in bankruptcy or through any payment of a guaranteed loss *--claim under the same circumstances. Debt forgiveness does not include any writedown provided as part of a resolution of a discrimination complaint.--*

A CONACT loan is any of the following loan types, whether direct or guaranteed, made by FSA or its predecessor agency (FmHA):

- C FO
- C OL
- C SW
- C Emergency (EM)
- C Economic Emergency (EE)
- C Emergency Livestock (EL).

Notwithstanding the preceding sentence, applicants who receive a write-down under Section 353 of the CONACT, or are current on payments under a confirmed bankruptcy reorganization plan, may receive direct and guaranteed OL loans to pay annual farm and ranch operating expenses, which includes family subsistence, if the applicant meets all other requirements for the loan.

Notes: A borrower who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan.

All debt forgiveness actions that are part of 1 transaction and occur on or about the same date are normally considered 1 occasion of debt forgiveness, regardless of the number of loans involved. Since debt forgiveness on direct loans and guaranteed loans are always considered separate transactions, concurrent forgiveness on direct and guaranteed loans are separate occasions. A single loan may have debt forgiveness on more than 1 occasion, when, for example, a borrower received a writedown and the loan was later liquidated at a loss.

A lender should contact the local FSA office if it is unsure of a loan applicant's eligibility.

Continued on the next page

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)

D**Delinquency on Federal Debt**

The loan applicant, and anyone who will execute the promissory note, is not delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986. Any debt under the Internal Revenue code of 1986 may be considered by the lender in determining cash flow and credit worthiness.

The loan applicant may be considered eligible if the delinquency will be remedied by the date of loan closing. Unless otherwise prohibited, loan applicants may use loan funds to cure delinquencies. Federal debt includes, but is not limited to, student loans, CCC loans, FSA direct loans, VA loans, and SBA loans. FSA-guaranteed loans are not Federal debts.

E**Outstanding Recorded Judgments**

The loan applicant, and anyone who will execute the promissory note, has no outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

Loan applicants must provide evidence that all Federal judgments have been released or paid in full to be eligible for guaranteed loans. Loan funds will not be used to pay Federal judgments. Questions by FSA employees regarding outstanding judgments should be directed to OGC.

F**United States Citizenship**

***--The applicant must be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws.**

United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

U.S. non-citizen nationals and qualified aliens must submit appropriate documentation to verify immigration status as provided in Exhibits 7 and 8, as applicable.--*

Continued on the next page

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)

G**Legal Capacity to Incur Loan**

The loan applicant and all borrowers on the loan must possess the legal capacity to incur the obligations of the loan.

The loan applicant must be of legal age, mental capacity, and authority to enter into a legally binding agreement with the lender. An entity applicant and the entity members must be able to enter into such a contract.

H**Past Dealings**

The loan applicant, in past dealings with the Agency, must not have provided the Agency with false or misleading documents or statements.

I**Credit History**

The individual or entity loan applicant and all entity members must have acceptable credit history demonstrated by debt repayment. A history of failures to repay past debts as they came due when the ability to repay was within their control will demonstrate unacceptable credit history. Unacceptable credit history will not include either of the following:

- C isolated instances of late payments which do not represent a pattern and were clearly beyond their control**
 - C lack of credit history.**
-

J**Test for Credit**

The loan applicant is unable to obtain sufficient credit elsewhere without a guarantee to finance actual needs at reasonable rates and terms. The potential for sale of any significant nonessential assets will be considered when evaluating the availability of other credit. Ownership interests in property and income received by an individual or entity loan applicant, or any entity members as individuals also will be considered when evaluating the availability of other credit to the loan applicant.

The loan applicant's inability to obtain credit will be demonstrated when the lender certifies that they would not make the loan without a guarantee. The lender certifies this by signing the application form.

Continued on the next page

108 General Eligibility Requirements for OL and FO (7 CFR 762.120) (Continued)

J**Test for Credit
(Continued)**

If the loan applicant has significant assets that are not essential to the farm operation, and the sale of those assets would remove the need for a guarantee, the loan applicant does not meet the test for credit requirement.

Assets and income of the entity members will also be considered when evaluating the availability of other credit to the entity applicant.

The Authorized Agency Official shall:

- C review the financial information supplied by the lender in conjunction with information compiled under RD Instruction 1951-F
 - C document that the loan requested does not meet the lender's loan requirements without a guarantee.
-

K**Controlled
Substances**

Neither the applicant nor any entity member has been convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance under Federal or state law within the last five crop years. "Controlled substance" is defined at 21 CFR part 1308. Applicants must certify on the Agency application form that it and its members, if an entity, have not been convicted of such a crime within the relevant period. If the lender uses the lender's Agency approved forms, the certification may be an attachment to the form.

--The applicant also certifies that he or she as an individual, or any member of an entity applicant, is not ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862. Applicants must certify the above on the Agency application form or, if the lender uses the lender's Agency-approved forms, the certification may be an attachment to the form.--

Part 10 Processing Approvals and Issuing the Guarantee

244 Loan Approval

A

Loan Limits

The maximum FO or OL levels outlined in this subparagraph include the guaranteed loan being made plus any outstanding direct or guaranteed principal balances, as indicated, owed by anyone who will sign the promissory note.

The total outstanding combined guaranteed FO and OL principal balance cannot *--exceed \$782,000.

The total outstanding direct and guaranteed FO principal balance cannot exceed \$782,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed \$782,000.

The total combined outstanding direct and guaranteed FO and OL balance cannot exceed \$982,000.

The total combined outstanding direct and guaranteed FO, OL, and EM balance cannot exceed \$1,482,000.--*

Note: The dollar limit of guaranteed loans is adjusted annually based on the percentage change in the Prices Paid by Farmers Index, as compiled by USDA.

FSA personnel should refer to 1-FLP for information on loan approval authorities.

Continued on the next page

244 Loan Approval * * * (Continued)

B**Submitting
RD-1940-3 to the
Loan Approval
Official**

When the loan exceeds the Authorized Agency Official's approval authority, the Authorized Agency Official should send the approval official any information the approval official needs to evaluate the loan request, including the following:

- C a completed RD-1940-3
- C the loan approval screens from the appropriate automated system
- C FSA-1980-25 for SEL and CLP loan applicants or FSA-1980-28 for PLP loan applicants
- C FSA-1980-15 with recommended changes
- C the balance sheet and cash flow statement (for SEL applicants)
- C the loan narrative
- C any other information the approval official requests.

Once the loan approval official executes RD-1940-3, the Authorized Agency Official may then proceed to execute all other loan-related documents, unless otherwise specified by the loan approval official.

C**Lender
Notification of
Authorized
Agency Official
Decision**

The lender should be informed of the approval decision in writing.

- C If the application is approved and funds are available, the Authorized Agency Official shall prepare a letter to the lender (subparagraph D) and *--FSA-1980-15 and proceed to paragraph 245.--*
 - C If the application is approved and funds are not available, the Authorized Agency Official shall prepare a letter (subparagraph E) to the lender with a copy to the applicant, informing them the loan is approved, subject to the allocation of funding. This letter should inform the lender that funding is being requested and the loan should not be closed until they receive FSA-1980-15, agree to the conditions, and execute the document.
 - C If the application is rejected, the Authorized Agency Official shall prepare a letter to the lender with a copy to the applicant informing them the loan is rejected, the reasons for rejection, and their right to appeal the decision as outlined in 1-APP.
-

Continued on the next page

Reports, Forms, Abbreviations, and Delegations of Authority

Reports

None

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation and Wetland Conservation Certification		69.5, 208
FEMA-81-93	Standard Flood Hazard Determination Form		138
FmHA-449-34	Loan Note Guarantee		281, 267
FmHA 1940-3 ^{1/}	Request for Obligation of Funds Guaranteed Loans		230
FSA-431-2	Farm and Home Plan		72
FSA-440-32	Request for Statement of Debts and Collateral		69.6, 152
FSA-1940-3	Request for Obligation of Funds Guaranteed Loans		230
FSA-1940-10	Cancellation of U.S. Treasury Check and/or Obligation		249
FSA-1980-01	Lender's Processing Checklist		69, 95
FSA-1980-02	Guaranteed Loan Processing Checklist		69
FSA-1980-03	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-1980-04	Annual File Review Checklist for PLP Lenders		267
FSA-1980-05	Debt Writedown Review Checklist		329
FSA-1980-06	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-1980-07	Guaranteed Loan Final Loss Review Checklist		360
FSA-1980-15	Conditional Commitment		Text
FSA-1980-22	Lender Certification		247
FSA-1980-24	Request for Interest Assistance Payment		228, 326
FSA-1980-25	Application for Guarantee		Text

^{1/} This form is obsolete.

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-1980-26	Report on Collection Activities on Liquidated Accounts		266, 362
FSA-1980-27	Loan Guarantee		247, 248, 250, 267, 281, 373, 374, 376
FSA-1980-28	Preferred Lender Application for Guarantee		Text
FSA-1980-36	Assignment of Guarantee		373-375
FSA-1980-37	FSA Purchase of a Guaranteed Loan Portion		375
FSA-1980-38	Lender's Agreement		Text
FSA-1980-41	Guaranteed Farm Loan Status Report as of _____		266, 355, 376
FSA-1980-42	Notice of Substitution of Lender (Transaction 4034)		287
FSA-1980-44	Guaranteed Farm Loan Default Status Report		266, 300, 313, 314, 326, 329, 355, 357-359
FSA-1980-48	Request for Restructuring Guaranteed Loans		313
FSA-1980-49	Guaranteed Loan Status Update Adjustment (Transaction 4048)		288
FSA-1980-64	Interest Assistance Agreement		224, 225, 227, 228, 230, 231, 287
FSA-1980-84	Modification of Loan Guarantee		281, 313, 326
FSA-1980-86	Notification of Transfer and Assumption of a Guaranteed Loan Transaction Code 4037		281
FSA-1980-88	Farm Loan Programs Guaranteed Writedown Worksheet		328
FSA-1980-89	Shared Appreciation Agreement for Guaranteed Loans		181, 288, 328, 341
RD-449-30	Loan Note Guarantee Report of Loss		136, 288, 328, 342, 344, 355, 360, 362, 376

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
RD-1910-5	Request for Verification of Employment		69.6, 152
RD-1940-3 ^{1/}	Request for Obligation of Funds Guaranteed Loans		226, 230, 244, 245, 326
RD-1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD-1980-7	Notification of Transfer and Assumption of a Guaranteed Loan		281
RD-1980-19	Guaranteed Loan Closing Report		227, 247, 249, 286
RD-1980-43	Lender's Guaranteed Loan Payment to USDA		376
RD-1980-45	Notice of Liquidation Responsibility		362
RD-1980-47	Guaranteed Loan Borrower Adjustments		281, 284, 288
W-2	Wage and Tax Statement		152

^{1/} This form is obsolete.

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ADPB	average daily principal balance	228
ALP	Approved Lender Program	34
BCIS	Bureau of Citizenship and Immigration Services	Ex. 7, 8
CLP	Certified Lender Program	Text
CMS	Credit Management System	52-54, 151, 262, 287
CONACT	Consolidated Farm and Rural Development Act	108
ECOA	Equal Credit Opportunity Act	31, 210
EFT	Electronic Funds Transfer	360

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
EIS	Executive Information System	84
EM	emergency loans	108, 138, 244
FmHA	Farmer’s Home Administration (formerly by FSA)	108
FMI	Forms Manual Inserts	226, 328, 359, 362
FO	farm ownership loan	Text
GLS	Guaranteed Loan System	Text
IA	interest assistance	Text
INA	Immigration and Nationality Act	Ex. 7
INS	Immigration and Naturalization Service	108
LOC	line of credit	Text
MOU	Memorandum of Understanding	Ex. 16
OL	operating loan	Text, Ex. 2
PLP	Preferred Lender Program	Text
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 7
SAA	Shared Appreciation Agreement	286, 288
SEL	Standard Eligible Lender	Text
SW	soil and water loan	49, 50, 52, 108, 244, 281, 326
USPAP	Uniformed Standards of Professional Appraisal Practice	181, 183, 267

Redelegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20

Definitions of Terms Used in This Handbook (Continued)

Net Recovery Value Net recovery value is the market value of the security property assuming that it will be acquired by the lender, and sold for its highest and best use, less the lender's costs of property acquisition, retention, maintenance, and liquidation.

Nonessential Assets Nonessential assets are assets in which the borrower has an ownership interest that do not contribute an income to pay essential family living expenses or maintain a sound farming operation, and are not exempt from judgment creditors.

Normal Income Security Normal income security is all security not considered basic security.

Partial Release Partial release is the release of a portion of the security used as collateral for a loan, usually accomplished by the sale of the property.

Participation Participation is a loan arrangement where a primary or lead lender is typically the lender of record but the loan funds may be provided by one or more other lenders due to loan size or other factors. Typically, participating lenders share in the interest income or profit on the loan based on the relative amount of the loan funds provided after deducting the servicing fees of the primary or lead lender.

Partnership Partnership is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the entity will operate and be authorized to own both real estate and personal property and to incur debts in its own name.

Present Value Present value is the present worth of a future stream of payments discounted to the current date.

Primary Security Primary security is the minimum amount of collateral needed to fully secure a proposed loan.

Principals of Borrowers Principals of borrowers includes owners, officers, directors, entities and others directly involved in the operation and management of a business.

Definitions of Terms Used in This Handbook (Continued)

Protective Advances

Protective advances are advances made by a lender to protect or preserve the collateral itself from loss or deterioration. Protective advances include but are not limited to:

- C payment of delinquent taxes
 - C annual assessments
 - C ground rents
 - C hazard insurance premiums against or affecting the collateral
 - C harvesting costs
 - C other expenses needed for emergency measures to protect the collateral.
-

Purchase Money Interest

Purchase money interest is a component of UCC dealing with security and lien position. A lender providing for a crop or a particular piece of equipment can frequently have first position on that item despite other financing statements in place.

*--Qualified Alien

Qualified alien, as defined under PRWORA (8 U.S.C. 1641), is:

- C an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act
 - C an alien who is granted asylum under section 208 of PRWORA
 - C a refugee who is admitted to the United States under section 207 of PRWORA
 - C an alien who is paroled into the United States under section 212(d)(5) of PRWORA for a period of at least 1 year
 - C an alien whose deportation is being withheld under section 243(h) of PRWORA
 - C an alien who is granted conditional entry according to section 203(a)(7) of PRWORA as in effect before April 1, 1980
 - C an alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980
 - C an alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act.--*
-

Reamortization

Reamortization is to rewrite the rates or terms of a loan made for real estate purposes.

Definitions of Terms Used in This Handbook (Continued)

Recapture Recapture is the amount that a guaranteed lender is entitled to recover from a guaranteed loan borrower in consideration for writing down a portion of their guaranteed loan debt when that loan was secured by real estate and that real estate increases in value. Also, the act of collecting shared appreciation.

Related by Blood or Marriage Related by blood or marriage means individuals who are connected to one another as husband, wife, parent, child, brother, or sister.

Relative A relative is an individual or spouse and anyone having the following relationship to either:

- | | |
|----------------|-----------------------------|
| ☐ parents | ☐ half sister |
| ☐ son | ☐ uncle |
| ☐ daughter | ☐ aunt |
| ☐ sibling | ☐ nephew |
| ☐ stepparent | ☐ niece |
| ☐ stepson | ☐ grandparent |
| ☐ stepdaughter | ☐ granddaughter |
| ☐ stepbrother | ☐ grandson |
| ☐ stepsister | ☐ spouses of the foregoing. |
| ☐ half brother | |
-

Rescheduling Rescheduling is to rewrite the rates or terms of a single note or line of credit agreement.

Restructuring Restructuring is the changing terms of a debt through either a rescheduling, deferral, or writedown or a combination thereof.

Security Security is property of any kind subject to a real or personal property lien. Any reference to “collateral” or “security property” shall be considered a reference to the term “security.”

Shared Appreciation Agreement A shared appreciation agreement is an agreement between a guaranteed lender and borrower that requires a borrower that has received a write down on a guaranteed loan secured by real estate to repay the lender all or some of the writedown received, based on a percentage of any increase in the value of that real estate at some future date, if certain conditions exist.

Definitions of Terms Used in This Handbook (Continued)

Socially Disadvantaged Applicant	A <u>socially disadvantaged applicant</u> is a loan applicant who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as a member of a group, without regard to their individual qualities. For entity applicants, the majority interest has to be held by socially disadvantaged individuals. FSA has identified socially disadvantaged groups to consist only of Women, Blacks, American Indians, Alaskans Natives, Hispanics, Asians, and Pacific Islanders.
State or United States	<u>State or United States</u> is the major political subdivision of the United States and the organization of program delivery for the Agency. The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
State Beginning Farmer Program	A <u>State beginning farmer program</u> is any program that is carried out by, or under contract to, a State and designed to assist persons in obtaining the financial assistance necessary to establish a new or maintain a recently established farming or ranching operation.
Subordination	<u>Subordination</u> is a document executed by a lender to relinquish the priority of their lien, in favor of another lender that provides that lender with a superior lien position to secure a debt with the same collateral.
Subsequent Loans	<u>Subsequent loans</u> are any loans processed by the FSA Finance Office after an initial loan has been made to the same borrower.
Transfer and Assumption	<u>Transfer and assumption</u> is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding.
Typical Plan	<u>Typical plan</u> is a projected income and expense statement listing all anticipated cash flows for a typical 12-month production cycle; including all farm and nonfarm income and all expenses (including debt service) to be incurred by the borrower during such period.

Continued on the next page

Definitions of Terms Used in This Handbook (Continued)

Typical Cash Flow Budget	A <u>typical cash flow budget</u> is a cash flow budget that reflects the cash inflows and outflows the operation will likely incur during a normal production cycle.
Unaccounted for Security	Unaccounted for security is items, as indicated on the lender's loan application, request for guarantee, or any interim agreements provided to the Agency, that are security for the guaranteed loan that were misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from their sale have not been applied to the loan.
--U.S. Non-Citizen National	A <u>U.S. non-citizen national</u> is a person born in America Samoa or Swains Island on or after the date the U.S. acquired America Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport with a document bearing a photograph of the person.--
Undertaking	<p><u>Undertaking</u> means any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those:</p> <ul style="list-style-type: none"> C carried out by or for the Agency C carried out with Federal financial assistance C requiring a Federal permit, license, or approval C subject to State or local regulation administered pursuant to a delegation or approval of a Federal agency.
Veteran	A <u>veteran</u> is any person who served in the military, naval, or air service during any war as defined in 38 U.S.C. 101(12).

Interim Guidance: Documentary Evidence of Status as a Qualified Alien

Qualified Alien: *As defined under PRWORA (8 U.S.C. 1641):*

1. *An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;*
2. *An alien who is granted asylum under section 208 of such Act;*
3. *A refugee who is admitted to the United States under section 207 of such Act;*
4. *An alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year;*
5. *An alien whose deportation is being withheld under section 243(h) of such Act;*
6. *An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;*
7. *An alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980;*
8. *An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act. 8 U.S.C. 1641 contains more on aliens battered or subjected to extreme cruelty.*

The documents listed below will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of “qualified alien” for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Under the Immigration and Nationality Act (the “INA”), all aliens over the age of 14 who remain in the United States for longer than 30 days are required to register with the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS) and obtain an alien registration document. All aliens over the age of 18 who receive a registration document are required to carry it with them at all times. With certain exceptions (e.g., Canadian visitors), aliens entering the U.S. are normally issued a registration document (e.g., a BCIS Form I-94) at the time of entry. The documents listed below that are registration documents are indicated with an asterisk (“*”). Each of the documents listed below will demonstrate lawful status, and you should not require presentation of a registration document if the applicant presents one of the other legally acceptable documents that reasonably appears on its face to be genuine and to relate to the person presenting it. However, if the document presented is not a registration document and does not on its face reasonably appear to be genuine or to relate to the person presenting it, it is appropriate to ask the applicant to produce his or her registration document as additional evidence of immigration status, so long as the request is not made for a discriminatory reason. Presentation of a registration document listed below that reasonably appears on its face to be genuine and to relate to the person presenting it (or to satisfy a higher applicable standard) will often obviate the need to verify the applicant’s immigration status with BCIS; if the applicant presents a registration document that does not meet this standard, sending BCIS a copy of the document will assist it in verifying the applicant’s status quickly and accurately.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

A. Alien Lawfully Admitted for Permanent Residence

*BCIS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”); or Unexpired Temporary I-551 stamp in foreign passport or on *BCIS Form I-94.

B. Asylee

*BCIS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA;
*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A5”;
Grant letter from the Asylum Office of BCIS; or
Order of an immigration judge, granting asylum.

C. Refugee

*BCIS Form I-94 annotated with stamp showing admission under Sec. 207 of the INA;
*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A3”; or
BCIS Form I-571 (Refugee Travel Document).

D. Alien Paroled Into the U.S. for a Least One-Year

*BCIS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

E. Alien Whose Deportation or Removal Was Withheld

*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A10”; or
Order from an immigration judge showing deportation withheld under Sec. 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Sec. 241(b)(3) of the INA.

F. Alien Granted Conditional Entry

*BCIS Form I-94 with stamp showing admission under Sec. 203(a)(7) of the INA;
*BCIS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”;
*BCIS Form I-766 (Employment Authorization Document) annotated “A3”.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

G. Cuban/Haitian Entrant

- *BCIS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6
Unexpired temporary I-551 stamp in foreign passport or on
- *BCIS Form I-94 with the code CU6 or CU7; or
BCIS Form I-94 with stamp showing parole as “Cuba/Haitian Entrant” under Section 212(d)(5) of the INA.

H. Alien Who Has Been Battered or Subjected to Extreme Cruelty

Guidance as to the requirements that must be met for an alien to fall within this category of qualified alien is set forth in DOJ’s Notice of Interim Guidance. Note that Title IV, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, contains provisions requiring that, upon the effective date of the new affidavit of support (required under section 213A of the Act), when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person’s spouse. Certain exceptions are made for indigent qualified aliens and for qualified aliens who (or whose children) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent’s family and for qualified alien children whose parents have been subjected to such abuse.

I. Expired or Absent Documentation

If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local BCIS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file BCIS Form G-845 and Supplement, along with the alien registration number and a copy of any expired BCIS document presented, with the local BCIS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from BCIS pertains to the applicant whose identity you have verified.

J. Receipt for Replacement Document

If an applicant presents a receipt indicating that he or she has applied to BCIS for a replacement document for one of the documents identified above, file BCIS Form G-845 and Supplement along with a copy of the receipt with the local BCIS office to verify status. Upon return receipt of information from BCIS, confirm that it pertains to the applicant whose identity you have verified. You should ask to see the replacement document at a later date.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

K. Applicants With Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (e.g. mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability.

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National

U.S. Non-Citizen National: *A person born in America Samoa or Swains Island on or after the date the U.S. acquired America Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport with a document bearing a photograph of the person.*

Copies of the following documents will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), demonstrate that a person is a U.S. citizen or non-citizen national for purposes of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. (To the extent citizenship or nationality of a child is relevant to a benefit eligibility determination, the documents should demonstrate the child's status rather than that of the parent.) The lists set forth in Paragraphs A and B below are drawn from existing guidance published by the Social Security Administration ("SSA") and regulations issued by the U.S. Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS), regarding determination of U.S. citizenship and nationality; the lists in Paragraphs C through F are drawn solely from the SSA guidance. These lists are not exhaustive; you should refer to guidance issued by the agency or department overseeing your program to determine if it accepts documents or other evidence of citizenship not listed below.

A. Primary Evidence:

- (1) A birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in the U.S. Note: If the document shows that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen--see Paragraph C below.
- (2) United States passport (except limited passports, which are issued for periods of less than five years);
- (3) Report of birth abroad of a U.S. citizen (FS-240) (issued by the Department of State to U.S. citizens);
- (4) Certificate of birth (FS-545) (issued by a foreign service post) or Certification of Report of Birth (DS-1350) (issued by the Department of State), copies of which are available from the Department of State;
- (5) Certificate of Naturalization (N-550 or N-570) (issued by BCIS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N-570 is a replacement certificate issued when the N- 550 has been lost or mutilated or the individual's name has been changed);
- (6) Certificate of Citizenship (N-560 or N-561) (issued by BCIS to individuals who derive U.S. citizenship through a parent; the N- 561 is a replacement certificate issued when the N-560 has been lost or mutilated or the individual's name has been changed);

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National (Continued)

- (7) United States Citizen Identification Card (I-197) (issued by BCIS until April 7, 1983 to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I-179, last issued in February 1974);
- (8) Northern Mariana Identification Card (issued by BCIS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);
- (9) Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350);
- (10) American Indian Card with a classification code “KIC” and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

B. Secondary Evidence: If the applicant cannot present one of the documents listed in A above, the following may be relied upon to establish U.S. citizenship or nationality:

- (1) Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain’s Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual’s age at the time the record was made;
- (2) Evidence of civil service employment by the U.S. government before June 1, 1976;
- (3) Early school records (preferably from the first school) showing the date of admission to the school, the child’s date and place of birth, and the name(s) and place(s) of birth of the parent(s);
- (4) Census record showing name, U.S. citizenship or a U.S. place of birth, and date of birth or age of applicant;
- (5) Adoption Finalization Papers showing the child’s name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain’s Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child’s name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or
- (6) Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship (e.g. a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain’s Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction)).

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National (Continued)

C. Collective Naturalization: If the applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

- (1) **Puerto Rico:** Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain;
- (2) **U.S. Virgin Islands:** Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927; The applicant's statement indicating resident in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., U.S. possession or territory or the Canal Zone on June 28, 1932.
- (3) **Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):** Evidence of birth in NMI, TTPI citizenship and residence in NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); Evidence of TTPI citizenship, continuous residence in NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or Evidence of continuous domicile in NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time). Note: If a person entered NMI as a nonimmigrant and lived in NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

D. Derivative Citizenship: If the applicant cannot present one of the documents listed in A or B above, you should make a determination of derivative U.S. citizenship in the following situations:

- (1) **Applicant born abroad to two U.S. citizen parents:** Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.
- (2) **Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent:** Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of the relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National (Continued)

- (3) Applicant born out of wedlock abroad to a U.S. citizen mother:** Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.
- (4) Applicant born in the Canal Zone or the Republic of Panama:** A birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

E. All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

- (1)** If the applicant is in the U.S., refer him or her to the local BCIS office for determination of U.S. citizenship;
- (2)** If the applicant is outside the U.S., refer him or her to the State Department for a U.S. citizenship determination.
- (3) Adoption of Foreign-Born Child by U.S. Citizen:** If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S. citizenship; Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the applicant to the local BCIS district office for a determination of U.S. citizenship if the applicant provides no evidence of U.S. citizenship.
- (4) U.S. Citizenship By Marriage:** A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922. Ask for: Evidence of U.S. citizenship of the husband, and evidence showing the marriage occurred before September 22, 1922. Note: If the husband was an alien at the time of the marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.
- (5) Applicants With Disabilities and Nondiscrimination:** If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or nationality (e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.