

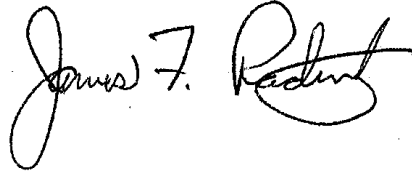
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Guaranteed Loan Making and Servicing
2-FLP (Revision 1)**

Amendment 15

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 18 A has been amended to provide that FSA is no longer accepting applications for guaranteed loans with IA.

Subparagraph 223 C has been added to provide that IA funding is not available for new applications.

Subparagraph 244 A has been amended for consistency in the terminology.

Page Control Chart		
TC	Text	Exhibit
	2-5, 2-6 9-1, 9-2 10-1, 10-2	

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.

***--Note:** On November 22, 2011, an FR Notice was published announcing that, until further notice, FSA is no longer accepting applications for guaranteed loans under the IA Program because of a lack of funding. Guaranteed loan applications without IA will continue to be accepted. The FR Notice does **not** invalidate existing IA agreements. Existing IA agreements will be honored, claims will be paid as agreed, and all eligible servicing options can be pursued.--*

B Additional Information

For additional 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.**

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.**

Part 9 IA Program (7 CFR 762.150)

223 Purpose of IA Program

A Purpose

The IA Program enables lenders to provide credit to operators of family farms who lack financial resources to meet standard repayment terms, as compared to other operators of similar type operations. IA is intended to assist farmers who have low production or suffered the effects of a natural disaster or adverse economic conditions. Beginning farmers are also specifically targeted by FSA for increased assistance because of their inability to access private credit programs. The IA program could provide such applicants with the assistance needed to get them through the difficult early years as they accumulate farm assets and become financially viable.

B Ensuring Applicant's Eligibility

Under this program, FSA enters into an agreement with the lender to reimburse the lender 4 percentage points on the Guaranteed OL, in exchange for the lender reducing the interest rate charged to the borrower by that amount. If a lender is unsure of the applicant's eligibility, the local FSA office should be contacted.

*--C IA Funding

According to FR Notice published on November 22, 2011, IA funding is **not** available for new applications. Therefore, the provisions of this part are applicable to existing IA agreements only. Actions associated with existing IA agreements will be taken as appropriate.--*

224 General Rules (7 CFR 762.150(b))

A Summary of Eligibility Requirements

In addition to the eligibility requirements to receive a Guaranteed OL, outlined in paragraphs 108 and 109, an eligible applicant for IA, must meet the following requirements:

- a feasible plan cannot be achieved without IA, but can be achieved with IA

Note: Additionally, a typical plan must demonstrate that the borrower will have a feasible plan throughout the term of the loan, even after the IA subsidy payment ceases, if applicable.

- must **not** have received IA for 5 or more years

Note: See exceptions for beginning farmers and others outlined in subparagraphs 224 I and J.

- must **not** have received IA on guaranteed loans of \$400,000 or more

224 General Rules (7 CFR 762.150(b)) (Continued)

A Summary of Eligibility Requirements (Continued)

- must **not** have a Debt to Asset ratio of less than 50 percent

Note: This does not apply to beginning farmers.

- must consider any significant non-essential assets.

Interest Assistance is available only on new guaranteed Operating Loans (OL).

FSA-2221 will not be executed on any guaranteed loan that was obligated without IA.

B Feasible Plan

To be eligible for IA, **the lender's cash flow budget for the guaranteed loan applicant must reflect the need for interest assistance and the ability to cash flow with the subsidy.**

The lender must document that the following conditions have been met for the applicant to be eligible for interest assistance:

- **A feasible plan** (as defined in Exhibit 2) **cannot be achieved without interest assistance, but can be achieved with interest assistance.** The lender will conduct a "needs test" and document it in either Application for Guarantee, Part G or in the loan narrative, submitted to FSA.
- **If significant changes in the borrower's cash flow budget are anticipated after the initial 12 months, then the typical cash flow budget must demonstrate that the borrower will still have a feasible plan following the anticipated changes, with or without interest assistance.**
- A borrower may qualify for IA with either an initial or typical cash flow budget where cash inflows are less than outflows. The borrower may receive an IA payment the first year, even if the budget shows it is not needed in the first year of the agreement.
- **The typical cash flow budget must demonstrate that the borrower will have a feasible plan throughout the term of the loan.** If the maturity date of the loan exceeds the maturity date of the IA Agreement, the borrower must demonstrate the ability to make the scheduled payments without the subsidy after the IA agreement matures. The lender must demonstrate that the producer has long term viability, but it is not necessary to complete another cash flow budget. This viability may be documented by the lender in the narrative submitted to FSA.

Investment in capital expenditures may be made to maintain existing operations, improve efficiencies, or expand the business. These expenditures often come in increments and typically require funding from sources other than those generated internally from operations. Lenders will ensure that excess cash has not been used to purchase capital assets in order to reduce the cash flow to qualify for IA. If excess cash was used in the purchase of capital assets, the lender will document why.

Part 10 Processing Approvals and Issuing the Guarantee**244 Loan Approval (7 CFR 762.122)****A Loan Limits**

The agency will not guarantee any loan that would result in the applicant's total indebtedness exceeding the limits established in § 761.8 of this chapter (1-FLP, paragraph 29).

The maximum FO, CL, 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, CL, SW, and OL principal balance cannot exceed \$1,214,000.

The total outstanding direct and guaranteed FO, CL, and SW principal balance cannot exceed \$1,214,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed \$1,214,000.

*--The total combined outstanding direct and guaranteed FO, CL, SW, and OL principal balance cannot exceed \$1,514,000.

The total combined outstanding direct and guaranteed FO, CL, SW, OL, and EM principal--* balance cannot exceed \$2,014,000.

Notes: The maximum loan levels established in this subparagraph are for FY 2012.

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 see 1-FLP for information on loan approval authorities.

244 Loan Approval (7 CFR 762.122) (Continued)**B Submitting FSA-2231 to the * * * Approval Official**

When the loan exceeds the authorized agency official's approval authority, the authorized agency official should send the approval official all information the approval official needs to evaluate the loan request, including the following:

- a completed FSA-2231
- GLS Loan Approval Screens
- Application for Guarantee for SEL and CLP applicants or Preferred Lender Application for PLP applicants
- Conditional Commitment with recommended changes
- the balance sheet and cash flow statement (for SEL applicants)
- the loan narrative
- any other information the approval official requests.

--The authorized agency official should verify the lender has a Lender's Agreement in effect.--

Once the loan approval official executes FSA-2231, 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 and applicant should be informed of the approval decision in writing.

- If the application is approved and funds are available, the authorized agency official shall prepare a letter to the lender (subparagraph D), with a copy to the applicant, and a Conditional Commitment, and proceed to paragraph 245.
- 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 the Conditional Commitment, agree to the conditions, and execute the document.