

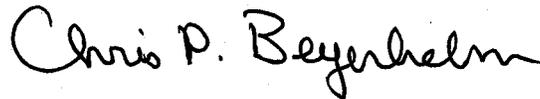
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 30

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

The following subparagraphs have been amended to remove notes referencing changes made by the Agriculture Act of 2014 and to update CFR references:

- 83 A and B
- 108 L
- 123.5 B
- 124 B
- 195 A, B, and C
- 196 A.

Subparagraph 195 D has been removed.

Subparagraph 196 B has been added to provide guidance on exceptions for CL's and update the percent of guarantee for targeted underserved (SDA) and beginning farmers has been moved.

Exhibit 2 has been amended to update the definition of:

- beginning farmer and remove the note
- debt forgiveness
- farmer and clarify that the term "farmer" also includes the term "rancher".

Page Control Chart		
TC	Text	Exhibit
	6-1, 6-2 8-7, 8-8 8-37 through 8-58 8-165 through 8-188	2, pages 3, 4 pages 7, 8 pages 11, 12

Part 6 Application Processing Timeframes (7 CFR 762.130)

83 Application Processing Timeframes by Lender Type (7 CFR 762.130)

A Processing Timeframes for SEL’s

***--[7 CFR 762.130(a)(1)] Complete applications from Standard Eligible Lenders will be--* approved or rejected, and the lender notified in writing, no later than 30 calendar days after receipt.**

The counting of the 30 calendar days begins when FSA determines that the application is complete, as defined in paragraphs 65, 66, 67, and 68.

B Processing Timeframes for CLP and PLP Lenders

***--[7 CFR 762.130(a)(2)] Complete applications from CLP or PLP lenders will be--* approved or rejected not later than 14 calendar days after receipt. For PLP lenders, if this time frame is not met, the application will automatically be approved, subject to funding, and receive an 80 or 95 percent guarantee for FO or OL loans, and 80 or 90 percent * * * guarantee for CL, as appropriate.**

* * *

The counting of the 14 calendar days begins when FSA determines that the application is complete, as provided in paragraphs 65, 66, 67, 68, and 70.

If PLP lenders are not notified of FSA’s decision within 14 calendar days of submitting a ***--complete application, the submitted application will be approved at 80, 90, or 95 percent--*** guarantee, as applicable.

If a PLP application is automatically approved, the lender must not close the loan or disburse funds until funds are obligated by FSA and Conditional Commitment is issued.

C Summary of Processing Timeframes

This table summarizes processing timeframes for SEL’s and CLP and PLP lenders.

Lender Type	Processing Timeframe in Calendar Days From the Date the Application Is Complete
SEL	30 calendar days
CLP	14 calendar days
PLP	14 calendar days

84 Monitoring FSA Approvals (7 CFR 762.130)**A Authorized Agency Official Responsibilities**

The authorized agency official is responsible for:

- processing applications within the allotted timeframes
- maintaining a tracking system to ensure that:
 - CLP and PLP lender applications are processed within 14 calendar days
 - SEL applications are processed within 30 calendar days
- entering a reason code and, if necessary, an explanation in GLS when a decision has not been made within 45 calendar days of receiving a complete application.

***--Note:** GLS is the official loan application date record.--*

B DD Responsibilities

DD is responsible for:

- overseeing the approval process
- monitoring unprocessed applications.

DD shall take all steps necessary to ensure that applications are processed as quickly as possible. Some steps DD can take include the following:

- prioritizing workloads
- providing additional training
- providing clerical help
- temporarily shifting staff assignments.

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

K Controlled Substances

[7 CFR 762.120] The applicant and anyone who will sign the promissory note must not be ineligible for loans as a result of a conviction for controlled substances according to 7 CFR 718 of this chapter.

Notwithstanding any other provision of law, any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payment made under any Act, with respect to any commodity produced during the crop year of conviction and the 4 succeeding crop years, by such person.

At the discretion of the court, applicants convicted of any Federal or State offense for distribution (trafficking) or possession of a controlled substance shall be ineligible for any or all program benefits.

Note: Consult with the Regional OGC Attorney before initiating any actions on cases involving controlled substance violations.

Application for Guarantee or Preferred Lender Application both require applicants to certify that they are not ineligible for Federal benefits based on a conviction of any Federal or State controlled substance offense. Self-certifications on Application for Guarantee and Preferred Lender Application will be the only documentation required involving convictions of controlled substances.

* * *

123.5 CL Purposes (7 CFR 762.121(c)) (Continued)

B CL Purposes (Continued)

***--[7 CFR 762.122(b)] When FO or CL funds are used for improvements to leased land,--* the terms of the lease must provide either of the following:**

- **reasonable assurance that the applicant will have use of the improvement over its useful life**
- **compensation for any unexhausted value of the improvement if the lease is terminated.**

124 Loan Limitations (7 CFR 762.122 and 761.8)

A General Guaranteed Loan Limitations

Applicants are limited in the total amount of money they can borrow through FSA programs and in how they can use the funds they receive. The authorized agency official must review loan applications to ensure that they comply with FSA limitation requirements.

B Specific OL, FO, and CL Limitations

[7 CFR 761.8(c)] The total dollar amount of line of credit advances and income releases cannot exceed the total estimated expenses, less interest expense, as indicated on the borrower's cash flow budget, unless the cash flow budget is revised and continues to reflect a feasible plan.

The amount of loan proceeds that the lender advances plus the amount of income that the lender releases to the borrower normally cannot exceed the borrower's total planned expenses, excluding interest expense. However, additional amounts may be advanced or released if a revised feasible plan, as defined in Exhibit 2, is developed.

***--[7 CFR 762.122(c)] The Agency will not guarantee any loan made with the proceeds--* of any obligation the interest on which is excluded from income under Section 103 of the Internal Revenue Code of 1986, as amended. Funds generated through the issuance of tax-exempt obligations may not be used to purchase the guaranteed portion of any Agency guaranteed loan. An Agency guaranteed loan may not serve as collateral for a tax-exempt bond issue.**

Many States have financing programs for, typically, beginning farmers using Tax Exempt Industrial Revenue Agricultural Bonds ("Aggie Bonds"). Because of their tax-exempt status, FSA cannot guarantee loans funded with Aggie Bonds.

--124 Loan Limitations (7 CFR 762.122 and 761.8) (Continued)--

B Specific OL, FO, and CL Limitations (Continued)

The Agency will not guarantee any loan to purchase, build, or expand buildings located in a special 100 year floodplain as defined by FEMA flood hazard maps unless flood insurance is available and purchased.

If FEMA floodplain maps have not been completed, this restriction will not apply. However, if the floodplain maps have been completed for the area, but the community has chosen to not make flood insurance available, a guarantee cannot be approved for a loan to construct buildings on the floodplain or purchase farm property if buildings are located on the floodplain. A loan for refinancing or construction of buildings outside the floodplain would not be prohibited.

Loans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity. A decision by the Agency to reject an application for this reason may be appealable. An appeal questioning the presence of a wetland, converted wetland, or highly erodible land on a particular property must be filed directly with the USDA agency making the determination in accordance with the agency's appeal procedures.

Loans may not be used to satisfy judgments obtained in the United States District courts. However, Internal Revenue Service judgment liens may be paid with loan funds.

See Part 10 for maximum loan amount limitations.

[7 CFR 762.125(a)(9)] Except for CL, guaranteed loan funds will not be used to establish or support a noneligible enterprise as defined in Exhibit 2, even if the noneligible enterprise contributes to the farm.

The purpose of the CL Program is to provide funding that results in a net benefit to the environment regardless of the type of enterprise, including noneligible enterprises as defined in Exhibit 2.

Note: A portion of the applicant's income may be derived from a noneligible enterprise source and the conservation measure may benefit the noneligible enterprise. However, the applicant must be engaged in production agriculture (an enterprise that would normally be eligible for FSA's FO or OL programs and does not meet FSA's definition of noneligible enterprise).

125-134 (Reserved)

Subsection 4 Maximum Loss for Percent of Loan Guarantee

195 Percent of Guarantee (7 CFR 762.129 and 762.130)

A Standard Guarantee

***--[7 CFR 762.129(a)] The percent of guarantee will not exceed 90 percent based on the credit risk to the lender and the Agency both before and after the transaction. The Agency will determine the percentage of guarantee.**

[7 CFR 762.129(c)] All guarantees issued to CLP and PLP lenders will not be less than 80 percent.

[7 CFR 762.129(b)(2)] For CLs, the guarantee will be issued at 80 percent regardless of the lender's status or timeframes.

Exceptions to the standard guarantee limits are described in paragraph 196.--*

* * *

B PLP Lenders

Most loans will be guaranteed at 90 percent of the loan amount and cannot exceed 90 percent except as described in paragraph 196. The proposed percent of guarantee will be included on the Conditional Commitment.

***--[7 CFR 762.130(a)(2)] Complete applications from PLP lenders will be approved or rejected not later than 14 calendar days after receipt. If the 14 day timeframe is not--* met, the application will automatically be approved, subject to funding, and receive an 80 or 95 percent guarantee for FO or OL and 80 or 90 percent * * * guarantee for CL, as appropriate.**

* * *

After the automatic approval, a PLP lender that had requested a higher percent of guarantee may request that FSA continue to process the request. This would be noted by the lender when returning the Conditional Commitment or by letter.

195 Percent of Guarantee (7 CFR 762.129 and 762.130) (Continued)

***--C Maximum Loss**

[7 CFR 762.129(d)] The maximum amount the Agency will pay the lender under the--* loan guarantee will be any loss sustained by such lender on the guaranteed portion including:

- **the pro rata share of principal and interest indebtedness as evidenced by the note or by assumption agreement**
- **any loan subsidy due and owing**
- **the pro rata share of principal and interest indebtedness on secured protective and emergency advances**
- **principal and interest indebtedness on recapture debt pursuant to a shared appreciation agreement. Provided that the lender has paid the Agency its pro rata share of the recapture amount due.**

*** * ***

196 Exception to Standard Guarantee Limits (7 CFR 762.129)

*--A Exceptions for FO and OL

[7 CFR 762.129(b)(1)] For OL's and FO's, the guarantee will be issued at 95 if:

- the sole purpose of a guaranteed FO or OL loan is to refinance an Agency direct farm loan; or--*

Notes: When only a portion of the loan is used to refinance a direct Agency loan, a weighted percentage of a guarantee will be provided.

The guarantee will be issued at 95 percent, regardless of lender type. When only a portion of a guaranteed OL or FO will be used to refinance an FSA direct farm loan, the guarantee percent will be calculated based upon a weighted percentage of the refinanced loan to total loan, rounded up to the next whole percent. The following example demonstrates how the weighted percentage is calculated.

- A farmer has a direct loan with an outstanding balance of \$90,000.
- The lender is applying for a \$300,000 FO.
- The percent of guarantee on the new guaranteed loan without the refinancing is 90 percent.

The weighted average guarantee is calculated as follows.

$$\frac{\text{Outstanding direct loan}}{\text{Guaranteed loan amount.}} \times 95\% + \frac{\text{Portion of guaranteed loan not refinancing direct loan}}{\text{Guaranteed loan amount.}} \times \text{Percent of guarantee.} =$$

$$\frac{90,000}{300,000} \times 95\% + \frac{300,000 - 90,000}{300,000} \times 90\% = 91.5 \text{ percent}$$

The weighted average guarantee must be rounded up to the next whole percent, so the guarantee in this example would be 92 percent.

196 Exception to Standard Guarantee Limits (7 CFR 762.129) (Continued)

***--A Exceptions for FO and OL (Continued)**

- **when the purpose of an FO loan guarantee is to participate in the down payment loan program; or**

Note: The down payment loan program is a loan made under 3-FLP, Part 7, Section 2 provisions.

- **when a guaranteed OL is made to a farmer who is participating in the Agency's down payment loan program; or--***

Notes: The guaranteed OL must be made during the period that a borrower has the down payment loan outstanding.

Applicants are not required to be a beginning or socially disadvantaged farmer to qualify for a 95 percent guarantee, only that there is that there must be an outstanding balance on a down payment loan at the time the guaranteed OL is closed, or there is a direct down payment loan approved but funding is not available at the time the guaranteed OL is closed.

- loans made under a State beginning farmer program where a memorandum of ***--understanding between the State and USDA has been approved by DAFLP; or--***
- **when a guaranteed OL is made to a farmer who farms land subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction on an Indian tribe.**

***--B Exceptions for CL**

[7 CFR 762.129(b)(2)] For CL's, the guarantee will be issued at 90 percent if:

- **the applicant is a qualified SDA farmer; or**
- **the applicant is a qualified beginning farmer.--***

197-207 (Reserved)

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

* * *

Basic Security

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency. With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are typically treated as normal income security unless the borrower does not have replacements that will keep the numbers and production up to planned levels. However, if the borrower plans to make a significant reduction in the foundation livestock herd or flock, the animals that are sold in making this reduction will be considered basic security.

Beginning Farmer

Beginning farmer is an individual or entity who:

- (1) Meets the loan eligibility requirements for a direct or guaranteed OL, FO, or CL loan, as applicable;**
- (2) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;**
- (3) Will materially and substantially participate in the operation of the farm:**
 - (i) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located.**
 - (ii) In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;**
- (4) Agrees to participate in any loan assessment and borrower training required by Agency regulations;**

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Beginning Farmer (Continued)

(5) Except for an OL applicant, does not own real farm property or who, directly or through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the average acreage of the farms in the county where the property is located. If the farm is located in more than one county, the average farm acreage of the county where the applicant's residence is located will be used in the calculation. If the applicant's residence is not located on the farm or if the applicant is an entity, the average farm acreage of the county where the major portion of the farm is located will be used. The average county farm acreage will be determined from the most recent Census of Agriculture;

* * *

(6) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and

(7) In the case of an entity:

- (i) All the members are related by blood or marriage; and
- (ii) All the members are beginning farmers.

Borrower (or Debtor)

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term "borrower" includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Cancellation

Cancellation is the final discharge of, and release of liability for, a financial obligation to the Agency on which no settlement amount has been paid.

Cash Flow Budget

Cash flow budget is a projection listing of all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred during the period of the budget. Advances and principal repayments of lines of credit may be excluded from a cash flow budget. Cash flow budgets for guaranteed loans under \$125,000 do not require income and expenses itemized by categories. A cash flow budget may be completed either for a 12-month period, a typical production cycle, or the life of the loan, as appropriate. It may also be prepared with a breakdown of cash inflows and outflows for each month of the review period and include the expected outstanding operating credit balance for the end of each month. The latter type is referred to as a "monthly cash flow budget."

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Cooperative

Cooperative is an entity that has farming as its purpose, whose members have agreed to share the profits of the farming enterprise, and is recognized as a farm cooperative by the laws of the state in which the entity will operate a farm.

Corporation

Corporation is a private domestic corporation created and organized under the laws of the state in which it will operate a farm.

Cosigner

Cosigner is a party, other than the applicant, who joins in the execution of a promissory note to assure its repayment. The cosigner becomes jointly and severally liable to comply with the repayment terms of the note, but is not authorized to severally receive loan servicing available under 7 CFR parts 765 and 766. In the case of an entity applicant, the cosigner cannot be a member of the entity.

County

County is a local administrative subdivision of a State or similar political subdivision of the United States.

County Average Yield

County average yield is the historical average yield for an agricultural commodity in a particular political subdivision, as determined or published by a government entity or other recognized source.

Criminal Action

Criminal action is the prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violation of criminal statutes.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Debt Forgiveness

***--Debt forgiveness is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency.**

Debt forgiveness may be through:

- (i) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;**
- (ii) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or**
- (iii) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.**

Debt forgiveness does not include:

- (i) Debt reduction through a conservation contract;**
- (ii) Any write down provided as part of the resolution of a discrimination complaint against the Agency;**
- (iii) Prior debt forgiveness that has been repaid in its entirety; and**
- (iv) Consolidation, rescheduling, reamortization, or deferral of a loan**
- (v) Forgiveness of YL debt, due to circumstances beyond the borrower's control. The Agency will use the criteria in 7 CFR 766.104(a)(1) to determine if the circumstances were beyond the borrower's control.--***

Debt Settlement

Debt settlement is a compromise, adjustment, or cancellation of an Agency debt.

Debt Writedown

Debt writedown is the reduction of the borrower's debt to that amount the Agency determines to be collectible based on an analysis of the security value and the borrower's ability to pay.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Family Farm

--Family farm is a business operation that:--

- (1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;**
- (2) Has both physical labor and management provided as follows:**
 - (i) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:**
 - (A) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or**
 - (B) The members responsible for operating the farm, in the case of an entity.**
 - (ii) A substantial amount of labor to operate the farm is provided by:**
 - (A) The borrower and persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or**
 - (B) The members responsible for operating the farm, in the case of an entity.**
- (3) May use full-time hired labor in amounts only to supplement family labor.**
- (4) May use reasonable amounts of temporary labor for seasonal peak workload periods or intermittently for labor intensive activities.**

Family Living Expenses

Family living expenses are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

Family Members

Family members are the immediate members of the family residing in the same household with the borrower.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Farm

Farm is a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term “farm” also includes the term “ranch.” It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

Farmer

Farmer is an individual, corporation, partnership, joint operation, cooperative, trust, or *-limited liability company that is the operator of a farm. The term “farmer” also includes the term “rancher”.--*

Farm Income

Farm income is the proceeds from the sale of agricultural commodities that are normally sold annually during the regular course of business, such as crops, feeder livestock, and other farm products.

Farm Loan Programs

Farm Loan Programs are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

Farm Ownership Loan

Farm Ownership loan is a loan made to eligible applicants to purchase, enlarge, or make capital improvements to family farms, or to promote soil and water conservation and protection. It also includes the direct downpayment loan.

Farm Program Payments

Farm Program payments are benefits received from FSA for any commodity, disaster, or cost share program.