

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 44

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 A has been amended to update the handbook reference from 3-FI to 64-FI.

Subparagraph 46 C has been amended to update website address.

Subparagraph 47 A has been amended for a paragraph correction.

Subparagraph 48 B has been amended to provide guidance on filing Lender's Agreements.

Subparagraph 69 A has been amended to correct a CFR reference.

Subparagraph 108 C has been amended to clarify applicant eligibility requirements.

Subparagraph 135 C has been amended to update website address.

Subparagraph 196 A has been amended to incorporate additional language for beginning farmers and socially disadvantaged farmers.

Subparagraph 244 A has been amended to update guaranteed loan limits for FY 2019.

Subparagraph 265 C has been amended to clarify when a collateral inspection is required.

Subparagraph 265 E has been amended to clarify the submission summary for a CLP's annual analysis.

Subparagraph 266 B has been amended to clarify credit bureau reporting.

Subparagraph 279 A has been amended to clarify subordinations on chattel security.

Subparagraph 285 A has been amended to clarify requirements for releasing individually liable entity members.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 312 A has been amended to provide guidance for what is to be provided to FSA if a new co-signer or co-borrower is required at the time of restructure and to clarify the eligibility requirements of a co-borrower.

Subparagraph 312 A has been amended to:

- change the bullet point about a final loss claim to a note
- clarify reference to subparagraph 326 D
- clarify items lenders are required to submit to FSA after a restructure has closed.

Subparagraph 312 B has been removed and the information has been relocated to subparagraph 312 A.

Subparagraph 313 A has been amended to clarify items submitted to FSA by a standard eligible lender after a loan has been restructured.

Subparagraph 313 B has been amended to clarify items submitted to FSA by a Certified Lender after a loan has been restructured.

Subparagraph 313 C has been amended to clarify items submitted to FSA by a preferred lender after a loan has been restructured and to clarify actions to complete once submitted.

Subparagraph 314 C has been amended to clarify FSA review of CLP and PLP restructuring actions.

Subparagraph 357 D has been amended to include a note to address including prior liens when determining bid amounts.

Subparagraph 362 A has been amended to update the handbook reference from 3-FI to 64-FI.

Subparagraph 363 A has been amended to address reporting Federal debts to commercial credit bureaus.

Subparagraph 363 I has been amended to update the handbook reference from 3-FI to 64-FI.

Subparagraph 373 C has been amended to provide additional guidance on when Lenders pledge a Guaranteed loan as security.

Exhibit 2 has been amended to provide guidance on when the beginning farmer 10 years of experience requirement starts.

Exhibit 10 has been amended to include a note to address prior liens when determining bid amounts as well as the calculation.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Exhibit 15.4 has been added to provide information pertaining to Lender and FSA Reporting to Credit Reporting Bureaus.

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Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

This handbook is designed to assist FSA and lenders in understanding:

- regulations governing the Guaranteed Farm Loan Program
- roles and responsibilities in processing and servicing FSA-guaranteed loans.

B Sources of Authority

The sources of authority for this handbook include:

- 7 CFR Part 762 and other regulations that may be referenced throughout this handbook
- various laws and statutes passed by Congress, including “ACT”.

C Regulation References

Text in this handbook that is published in CFR is printed in **bold** text. CFR citation is printed in brackets in front of the text. The references and text:

- are intended to highlight the requirement spelled out in CFR
- may be used to support FSA adverse decisions.

2 Related References

A Other Related FSA Handbooks

The following FSA handbooks concern FLP guaranteed loan programs.

IF the area of concern is about...	THEN see...
appraisal reviews and FLP authorities	1-FLP.
confidentiality	2-INFO.
disaster designation process	1-DIS.
employee conflict of interest	3-PM.
environmental requirements	1-EQ.
environmental risk management	2-EQ.
highly erodible land and wetland conservation compliance	6-CP.
forms that cannot be accepted by FAX	1-CM.
maintenance of general and administrative files	32-AS.
Privacy Act	3-INFO.
processing collections	*--64-FI.--*
reports	20-AS.
reviews and appeals	1-APP.

Note: See 7-FLP for information on administrative offset and debt settlements.

B Helpful Links

The Helpful Links web site at

<https://amistad.sc.egov.usda.gov/flp/InformationalLinks?Action=Links&caller=index>
provides links to useful web sites.

Part 4 Lender Eligibility**46 Eligibility Requirements for SEL (7 CFR 762.105(b))****A Overview**

The basic level of participation in the FSA Guaranteed Farm Loan Program is SEL. SEL must meet the eligibility criteria in this section to submit an application for a guarantee. If the lender does not meet the eligibility criteria to the satisfaction of FSA, the application will be denied.

B Capacity

A lender must have experience in making and servicing agricultural loans and have the capability to make and service the loan for which a guarantee is requested.

In reviewing the SEL request, the authorized agency official shall consider FSA's prior experience with the lender in assessing whether or not they have the capability to make and service the loan. An important factor in reviewing the lender's capacity is their experience in agricultural lending. Experience in agricultural lending must be demonstrated for either the lender or the lender's personnel.

The lenders must not have losses or deficiencies in processing and servicing guaranteed loans above a level which would indicate an inability to properly process and service a guaranteed agricultural loan.

Previous problems with a lender, as evidenced in monitoring reports, excessive loss claims, or denial of loss claims, should be considered in this determination.

C Examination and Supervision

A lender must be subject to credit examination and supervision by an acceptable State or Federal regulatory agency.

Only lenders that are subject to both examination and supervision by an acceptable State or Federal regulatory agency may participate in the FSA Guaranteed Program. Examination will normally include a review of the lender's asset quality, management practices, financial condition, and compliance with applicable laws and regulations. Supervision gives the regulator the authority to require that the lender make changes to ensure safety and soundness.

46 Eligibility Requirements for SEL (7 CFR 762.105(b)) (Continued)

C Examination and Supervision (Continued)

Traditional and nontraditional lenders, that are audited and subject to oversight by a State agency, may or may not be examined and subject to supervision. Any questions about whether a lender meets this requirement should be addressed to DAFLP, Guaranteed Loan Making Branch.

Acceptable agencies and their web sites that in some cases identify enforcement actions as well as other activities associated with a lender, include, but are not limited to, the following:

- *--FDIC at https://orders.fdic.gov/s/--*
- Office of the Comptroller of the Currency at <http://apps.occ.gov/EASearch/>
- Federal Reserve Board at <https://www.federalreserve.gov/apps/enforcementactions/> --*
- FCA at <http://apps.fca.gov/FCSPublicDirectory/PubSearchInstitution.aspx>
- National Credit Union Administration at <http://www.ncua.gov/Legal/Regs/Pages/AdminOrders.aspx>
- U.S. Department of the Treasury's Community Development Financial Institutions Fund at <https://www.cdfifund.gov/programs-training/certification/cdfi/pages/default.aspx> for nontraditional lenders
- State banking commissions.

For traditional lenders, SED's shall check the appropriate regulatory agency web sites to determine whether the lender is subject to any enforcement action before engaging in a new lending relationship.

For nontraditional lenders, DAFLP shall check the appropriate regulatory agency to determine whether the lender is subject to any enforcement action before engaging in a new lending relationship. In addition, DAFLP may periodically complete a review of the financial capacity for nontraditional lenders whose financial statements are not readily available. SED's will be informed of any deficiencies noted.

46 Eligibility Requirements for SEL (7 CFR 762.105(b)) (Continued)

F Other Eligibility Requirements for Corporations

Federal law restricts FSA from entering into loan guarantees with corporations that have been convicted of criminal violation under Federal law or have outstanding Federal tax delinquencies. Therefore, lenders that are corporations must complete and return AD-3030 before FSA issues FSA-2235. See Pub. L. 113-235, Sections 744 and 745.

For the purposes of completing AD-3030, a corporation includes, but is not limited to, any entity that has filed articles of incorporation in 1 of the 50 States, the District of Columbia, or the various territories of the United States, including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, or the U.S. Virgin Islands. Corporations include both profit and nonprofit entities.

47 Approval Process for SEL

A FSA Application for Guarantee Review

The authorized agency official shall review the Application for Guarantee in conjunction with the eligibility criteria in paragraph 46 to determine whether the lender is eligible to process the requested guarantee. This review will be done with the review of the proposed guaranteed loan.

For nontraditional lenders, whose financial statements are not available online or from any other source, the following may be obtained from the lender.

- Copy of the year-end reviewed or audited financial statements for the last 2 years.

Note: Financial statements must be prepared according to Generally Accepted Accounting Principles.

- Schedule of current sources of funding and funds available for agricultural lending.
- Agricultural loan performance history for the last 2 years; including current delinquency, default, and loss rates.
- Current loan loss reserve and methodology for allowance for loan losses.

Note: For certain nontraditional lenders, DAFLP may be able to determine the lender's financial capacity from other sources, such as financial strength rating from an accredited private or State rating agency. In these cases, some or all of the information to be obtained from the lender may not be required.

47 Approval Process for SEL (Continued)

A FSA Application for Guarantee Review (Continued)

For nontraditional lenders, DAFLP will be the SEL status approval official and issue the Lenders Agreement.

To develop expertise in guaranteed lending, SEL's are encouraged to designate 1 or more staff members to:

- process and service FSA guaranteed loans
- attend FSA-sponsored training.

B Approval

SEL approval is granted for the purpose of originating and servicing a guaranteed loan. SEL eligibility is evaluated with each guarantee application. If the lender continues to meet the requirements of paragraph 46, guarantee requests may continue to be processed. A new Lenders Agreement is not required unless the most recent version of Lenders Agreement has not been executed.

Traditional lenders are subject to a comprehensive financial examination and their financial statements are readily available online. Nontraditional lenders may not be subject to the level of financial examination of traditional lenders and their financial statements may not be easily obtained.

48 Monitoring SEL

A Review of Lender Eligibility Performance

Annually, SED or designee shall:

- review each SEL lender's compliance with subparagraphs 46 C and 46 E and document this review in the lender's operational file
- conduct a review of the lender's loan files by ensuring that 40 percent of the lender's guaranteed loan files are reviewed over the course of each year.

Note: Subparagraph 267 B lists the loans that will be given priority in the review and the items that should be inspected during the review process.

To the extent that deficiencies are discovered during the FSA monitoring review, the authorized agency official shall inform the lender in writing and, if necessary, propose a timeframe for a reinspection of the deficiencies. Copies of any reviews and monitoring correspondence must be sent to DD and SED for major deficiencies.

48 Monitoring SEL (Continued)**B Operational File**

Each Service Center specified on the Lenders Agreement shall do either of the following:

- develop and maintain an operational file for the lender
- have access to the lender's electronic operational file located on the State SharePoint or Intranet web site.

This operational file shall contain the following:

- information on the loans originated and serviced by the lender
- copies of the monitoring reviews conducted by FSA
- resolution of findings
- any correspondence between the lender and FSA
- copy of a current Lenders Agreement
- copy of lender's risk based pricing practice, if applicable.

Note: For all lender operational files developed and maintained on the respective State SharePoint or Intranet web site, a hard copy of the operational file is not required.

*--Loan official should continue to check the Lender's Agreement and CMS (if applicable) when a new guaranteed application is submitted to ensure it is valid. Lender's Agreement forms shall **not** be maintained in borrower files.--*

C Imposing Sanctions

In situations where the authorized agency official is unable to resolve deficiencies with the lender, enforcement actions may be taken. Before the implementation of any enforcement action by FSA, the lender must be:

- notified in writing of the deficiencies
- given a specific timeframe in which to resolve the deficiencies
- warned of the sanctions that may be taken by FSA if the deficiencies are not resolved.

48 Monitoring SEL (Continued)

C Imposing Sanctions (Continued)

Examples of unresolved deficiencies may include the following:

- failure on the part of the lender to obtain an adequate appraisal
- failure to perfect a lien
- failure to adequately monitor the borrower or the collateral
- *--failure to comply with interest rate policies.--*

While any of these deficiencies may result in the denial or reduction of a loss claim to the lender, it is important to FSA that these issues be resolved as early as possible.

The sanction imposed on the lender should be the most effective in resolving the deficiency. Examples of sanctions include the following:

- adjustment of loss claims
- increased monitoring visits
- increased reporting on corrective actions taken
- increased documentation for guarantee processing
- determination that the lender does not meet SEL standards and, therefore, is not eligible for future guaranteed loans.

In extreme cases, recommendations should be made to the National Office for suspension or debarment.

49 Eligibility Requirements for CLP (7 CFR 762.106)

A Overview

CLP is a program that permits lenders with a proven track record in making and servicing guaranteed loans to operate under a streamlined origination and servicing process. While the CLP lender is still bound by FSA regulations and must use and maintain on file FSA-approved forms, information submitted to FSA for approval is minimized. SED is responsible for approving all CLP's in the State, based on information from the local offices and prior performance of the lender.

B Threshold Eligibility

The lender must **qualify as a Standard Eligible Lender under 7 CFR 762.105.**

To be eligible to apply for certified lender status, the lender must meet the eligibility requirements of SEL as detailed in paragraph 46.

69 Application Requirements for PLP Lenders [7 CFR 762.110]

A Application Requirements

--[7 CFR 762.110 (e)] A complete application for PLP lenders will consist of:--

- **an application form FSA-2212**

Note: Applications submitted electronically will be processed according to paragraph 3.

- **a loan narrative**
- **any other items agreed to during the approval of the PLP lender's status and contained in the PLP lender agreement.**

PLP lenders must certify that the required items, not submitted, are in their files. On a case-by-case basis, **the Agency may request additional information from any lender or review the lender's files as needed to make eligibility and approval decisions.** These requests shall be made only in situations when, because of the unique characteristics of the loan request, an eligibility or approval decision cannot be made without additional information.

FSA can conduct its environmental review in most cases without additional information from the lender. However, occasionally additional information is needed, and until this information is received, the application is not complete, and the 14-calendar-day timeframe does not start. Situations needing additional information often involve wetland determinations, potential historical or archaeological sites, or construction of major confinement livestock facilities. The review is FSA's responsibility to conduct. However, the information to complete this review is part of a complete application.

B Loan Narrative

FSA expects PLP lenders to include, in the narrative, a discussion of the 5 "C's" of credit; that is, character, capacity, capital, conditions, and collateral.

For many PLP lenders, the narrative will often contain the same information submitted to the lender's loan committee. Since the authorized agency official will rely on the narrative and application form for making the loan approval decision, it is important that the narrative covers any issues or questions that may arise during the loan evaluation process. The lender shall state the proposed method to establish the real estate market value, evaluation, or appraisal.

B Loan Narrative (Continued)

If the application is for CL, a discussion of the conservation plan or Forest Stewardship Management Plan and need for the qualifying conservation practices including a discussion of the transition plan, if applicable, must be provided in the loan narrative.

C Submitting Applications Outside Normal Trade Area

PLP status will be approved for the lender's normal trade area as defined in CMS. If a lender wants to make a guaranteed loan outside of this area, the lender should contact the State Office responsible for that area for guidance on where to submit the request for guarantee.

On a case-by-case basis, SED may authorize the approval of guarantees outside the lender's normal trade area if SED determines that the lender can adequately make and service the loan. If the lender wants to permanently expand its approved normal trade area, it will request an expansion through SED to DAFLP.--*

Part 8 Loan Evaluation

Section 1 Applicant Eligibility (7 CFR 762.120)

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

A Summary of Eligibility Requirements

An applicant, including members of an entity applicant, must meet the following eligibility criteria to obtain a guaranteed loan. An eligible applicant is an applicant that:

- meets all requirements about prior debt forgiveness
- is not delinquent on any Federal debt

Note: The authorized agency official shall check CAIVRS to verify that the applicant is not delinquent on any Federal debt.

- does not have any outstanding recorded judgments obtained by the United States in a Federal court
- is a citizen of the United States, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws
- has the legal capacity to incur the obligations of the loan
- has an acceptable credit history
- is unable to obtain sufficient credit elsewhere without a guarantee

Note: This does **not** apply to CL.

- has not been convicted of planting, cultivating, growing, producing, harvesting, storing, trafficking, or possessing a controlled substance within the last 5 crop years.

***--Note:** If an applicant is convicted of one of the offenses above, they may be ineligible during the crop year of the conviction and the next 4 succeeding crop years. Therefore, at the time of the application, if the applicant's conviction was within the past 5 years, they could be considered ineligible.--*

The authorized agency official will document in the FSA running record that the applicant meets all eligibility requirements.

B Clarification of Applicant

In the case of an entity, the applicant includes all the members of the entity who will execute the promissory note.

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)**C No Agency Loss**

The applicant, and anyone who will execute the promissory note, has not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the “ACT” by debt write-down or write-off; compromise, adjustment, reduction, or charge-off under the provisions of section 331 of the “ACT”; discharge in bankruptcy; or through payment of a guaranteed loss claim on: more than three occasions on or prior to April 4, 1996; or any occasion after April 4, 1996, except as noted below.

The applicant may receive a guaranteed OL to pay annual farm operating and family living expenses, provided the applicant meets all other requirements for the loan, if the applicant and anyone who will execute the promissory note:

- received a write-down under section 353 of the “ACT”
- is current on payments under a confirmed reorganization plan under Chapter 11, *--12, or 13 of Title 11 of the United States Code; or--*
- received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for a county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FSA loans prior to the beginning date of the incidence period for a Presidentially-designated emergency and received debt forgiveness on that debt within three years after the designation of such emergency meet this exception.

Notes: An “ACT” loan is any of the following, whether direct or guaranteed, made by FSA or its predecessor agency, FmHA:

- CL
- EE
- EL
- EM
- EO
- FO
- OL
- RHF
- RL
- SW.

Debt forgiveness does **not** include any writedown provided as part of a resolution of a discrimination complaint.

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

C Maximum Interest Rates for Lenders Not Using Risk-Based Pricing Practices

[7 CFR 762.124 (a)] At the time of loan closing or loan restructuring, the interest rate on both the guaranteed portion and the nonguaranteed portion of a fixed or variable rate CL, OL or FO loan may not exceed the following, as applicable:

- **For lenders not using risk-based pricing practices, for variable rate loans or fixed rate loans with rates fixed for less than five years, 650 basis points (6.5 percentage points) above the 3-month LIBOR.**
- **For lenders not using risk-based pricing practices, for loans with rates fixed for five or more years, 550 basis points (5.5 percentage points) above the 5-year Treasury note rate.**

The lender is not required to tie its guaranteed loan interest rates to 3-month LIBOR or 5-year Treasury, nor is it required that the rate remain below the maximums throughout the term of the loan. This requirement only sets the maximum rate that may be charged to the customer at the time of loan closing or restructuring.

Note: The maximum rate is not based on loan terms, purpose, or type. It is based on how long the interest rate is fixed. For variable rate loans and loans with an interest rate fixed for less than 5 years, regardless of program type (CL, OL or FO), the maximum rate is based on the 3-month LIBOR index.

Loans with interest rate fixed for 5 or more years, the maximum rate is based on the 5-year Treasury index.

At lender loan file review, the authorized agency official will verify the interest rate charged the guarantee customer at closing did not exceed the maximum rate, and document on applicable file review checklist.

To obtain rates for each index, the authorized agency official can access the GLS Add Loan Closing Screen and click the 3-month LIBOR or 5-year Treasury note rate. The links will open the following Web pages:

- **--3-month LIBOR at http://www.wsj.com/mdc/public/page/2_3020-libor-20190408.html?mod=mdc_pastcalendar, click on “Find Historical Data” to select--***
the appropriate date if necessary
- **5-year Treasury at <https://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=yield>, scroll down to the chart and lookup the appropriate date under the “5Yr” column. Historical data is available using the “Select Time Period” drop down list.**

135 Interest Rate Requirements (7 CFR 762.124(a)) (Continued)

***--C Maximum Interest Rates for Lenders Not Using Risk-Based Pricing Practices (Continued)**

To access the training:

- go to FSA Intranet at <http://fsaintranet.sc.egov.usda.gov/fsa/>
- under “Resources”, CLICK “**FSA Applications**”
- under “Farm Loan Programs”, CLICK “**Farm Loan Programs Systems**”
- under “Informational Links”, CLICK “**Presentations**”
- under “Training Materials”, CLICK “**GL Interest Rate Training Presentation**”.

Note: The 5-yr Treasury note rate may also be listed as Treasury Constant Maturities as published on the Federal Reserve web site.

The following examples are provided to illustrate how to determine the maximum interest rate.

Example 1: Lender closes a 4-year GOL. The rate is fixed at 7.5% on the date loan closes. The 3-month LIBOR rate on date loan closes is 2.5% and the 5-year Treasury rate is 2.0%.

The maximum rate would be 9.0% (3-month LIBOR rate 2.5% plus maximum spread 6.5% = 9%).

In this example, the lender’s rate does not exceed the maximum rate and; therefore, meets the limitation.

Example 2: Lender closes a 7-year GOL. The rate is fixed for the first 3 years at 8% on the date loan closes and variable for the remaining term. The 3-month LIBOR rate on date loan closes is 2.0% and the 5-year Treasury rate is 1.75%.

The maximum rate would be 8.5% (3-month LIBOR rate 2.0% plus maximum spread 6.5% = 8.5%).

In this example, the lender’s rate does not exceed the maximum rate and; therefore, meets the limitation.

Example 3: Lender closes a 20-year GFO. The rate is fixed for the first 5 years at 7.0% on the date loan closes and variable for the remaining term. The 3-month LIBOR rate on date loan closes is 2.0% and the 5-year Treasury rate is 1.0%.

The maximum rate would be 6.5% (5-year Treasury rate 1.0% plus maximum spread 5.5% = 6.5%).

In this example, the lender’s rate exceeds the maximum rate and; therefore, does not meet the limitation.--*

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:

- *--any borrower meeting the definition of a beginning farmer or socially disadvantaged farmer

Note: This will be incorporated by a Farm Bill CFR change but is effective, as provided here, immediately.--*

- the sole purpose of a guaranteed FO or OL loan is to refinance an Agency direct farm loan; or
- *--when only a portion of the loan is used to refinance a direct Agency loan, a weighted percentage of a guarantee will be provided.

Note: 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. There only 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)

Part 10 Processing Approvals and Issuing the Guarantee

244 Loan Approval (7 CFR 762.122)

A Loan Limits

[7 CFR 762.122 (a)] 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 \$1,750,000.

The total outstanding direct and guaranteed FO, CL, and SW principal balance cannot exceed \$1,750,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed \$1,750,000.

The total combined outstanding direct and guaranteed FO, CL, SW, and OL principal balance cannot exceed \$2,350,000.

The total combined outstanding direct and guaranteed FO, CL, SW, OL, and EM principal balance cannot exceed \$2,850,000.--*

Notes: The maximum loan levels established in this subparagraph are for FY 2019.

*--The dollar limit of guaranteed loans is adjusted annually based on inflation.

This will be incorporated by a Farm Bill CFR change but is effective, as provided here, immediately.--*

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

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

244 Loan Approval (7 CFR 762.122) (Continued)

B Submitting FSA-2231 to the Approval Official (Continued)

- 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.

Notes: Under certain circumstances a lender may find it necessary to close a loan that has been approved but funds are not available. These closings shall not be construed as an indicator that the guarantee is not needed. Any lender who decides to close an approved loan before funds are available should contact FSA before closing to determine whether there will be any additional closing conditions that would have been on the Conditional Commitment. Lenders should be aware that:

- the closing is at their own risk and there are circumstances that could result in FSA not issuing the guarantee once funding becomes available, such as any material change in the borrower's condition, financial or otherwise, since submission of the application
- all interest accrued on the lender's loan before guaranteed loan closing (execution of the allonge), will not be covered by the guarantee.

--Accrued interest is any interest documented on the allonge.--

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)***--C Documents Submitted to FSA by SEL and MLP in Support of Annual Analysis**

[7 CFR 762.141(d)] SEL and MLP shall provide the following to FSA:--*

- **borrower's balance sheet and income and expense statement for the previous year, if applicable**
- **for lines of credit, the cash flow for the borrower's operation that projects a feasible plan or better for the upcoming operating cycle**

Note: The standard eligible lender must receive approval from the Agency before advancing future years' funds.

- **an annual farm visit report or collateral inspection**

***--Note:** An annual farm visit report may not necessarily include a collateral inspection. A collateral inspection should be completed as often as deemed necessary according to subparagraph 264 A.--*

- **narrative summary of borrower's financial progress, if applicable.**

Submission Summary	
Real Estate	Balance sheet, farm visit report, income and expense statement, and narrative summary of borrower's financial progress from previous year only if loan is also secured by chattels.
Term Chattels	Balance sheet, farm visit report, income and expense statement, and narrative summary of the borrower's financial progress.
Lines of Credit	Balance sheet, farm visit report, income and expense statement, projected cash flow, and narrative summary of the borrower's financial progress.

These documents should be submitted to the authorized agency official within 30 calendar days of the completion of the annual financial analysis.

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)

D Annual Analysis of Borrower by CLP Lender

CLP lenders will determine the need for the annual analysis based on the financial strength of the borrower and document the file accordingly.

For loans secured by chattels, all lenders will review the borrower's progress regarding business goals, trends and changes in financial performance, and compare actual to planned income and expenses for the past year.

***--Note:** For a borrower with Streamlined CL only, the financial analysis will **not** include the comparison of actual to planned income and expenses for the past year.--*

CLP lenders shall maintain **an account of the whereabouts or disposition of all collateral.** The accounting will occur in the form of a documented annual farm visit report or collateral inspection report for all chattel loans.

CLP lenders shall document **a discussion of any observations about the farm business with the borrower.**

If the lender determines that an analysis should be performed, the analysis may be based on a comparison of current and past balance sheets. If a balance sheet analysis is not performed by the lender, information that confirms the borrower is strong financially and reasons why the lender is confident of the borrower's progress must be provided by the lender. Examples of information that would indicate the financial strength of the borrower would include deposit or investment accounts with the lender.

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)

E Documents Submitted to FSA by CLP in Support of Annual Analysis

[7 CFR 762.141(c)] CLP lenders shall submit the following to FSA in support of their annual analysis:

- a written summary of the lender's annual analysis of the borrower's operation

Note: This summary should describe the borrower's progress and prospects for the upcoming operating cycle. This annual analysis may be waived or postponed if the borrower is financially strong. The summary will include a description of the reasons an analysis was not necessary.

- for lines of credit, an annual certification stating that a cash flow projecting at least a feasible plan has been developed, that the borrower is in compliance with the provisions of the line of credit agreement, and that the previous year income and loan funds and security proceeds have been accounted for.

Submission Summary	
Real Estate	Either a summary of lender's analysis or summary as to why financial strength makes analysis unnecessary.
Term Chattels	Either a summary of lender's analysis or summary as to why financial strength makes analysis unnecessary.
Lines of Credit	<p>*--Certification of the following:</p> <ul style="list-style-type: none"> • cash flow was obtained • borrower is in compliance with Lender's Agreement • previous year's income, loan funds, and security proceeds are accounted for.--*

These documents must be submitted to the authorized agency official within 30 calendar days of the completion of the annual financial analysis.

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)**F FSA Review of Annual Financial Analyses**

Upon receiving the annual borrower financial analysis supporting documentation from *--SEL and MLP, the authorized agency official should review the documentation for the--* following:

- indications of borrower financial distress or major changes in the borrower's financial status from the previous year
- changes in the appearance of the operation or collateral. If the authorized agency official notices any problems, he or she should call the lender to discuss these concerns.

For borrowers with LOC, FSA must determine at this time whether or not LOC should be renewed for the next year.

Upon receiving the annual borrower financial analysis supporting documentation from a CLP lender, the authorized agency official should review the documentation of the borrower's progress on loan payback. The narrative should summarize factors of financial strength which support the lender's determination that further analysis is unnecessary, if applicable.

--After reviewing the annual financial analyses submitted by the SEL, MLP, and CLP-- lender, the authorized agency official must document their review of the annual financial analysis by making an entry in the borrower's County Office guaranteed loan file. To the extent the authorized agency official has concerns about a specific borrower or lender's management and supervision of FSA-guaranteed loans in general, the authorized agency official should communicate these concerns to the lender in writing.

--Copies of correspondence, including authorization to advance LOC funds in SEL and MLP cases, will be placed in the borrower's FSA guaranteed loan file. A copy of any-- correspondence sent to a lender about their management of a loan will be placed in the lender's file and, if the deficiency is major, a copy forwarded to SED. The borrower's file will be marked for necessary followup actions.

266 Lender Reporting Requirements (7 CFR 762.141)

A Overview

This section covers the general reporting requirements for all lenders. These reporting requirements are not tied to any specific servicing action. Many servicing actions require additional reports and updates from lenders, which this paragraph does not cover. See Exhibit 12 for a checklist of all lender reporting requirements.

B General Reporting Requirements

Lenders are responsible for providing the local Agency credit officer with all of the following information on the loan and the borrower:

- **When the guaranteed loan becomes 30 days past due, and following the lender's meeting or attempts to meet with the borrower, all lenders will submit the appropriate Agency form showing guaranteed loan borrower default status. The form will be resubmitted every 60 days until the default is cured either through restructuring or liquidation.**
- **All lenders will submit the appropriate guaranteed loan status reports as of March 31 and September 30 of each year.**
- **PLP lenders will submit additional reports as required in their Lender's Agreement.**
- **A lender receiving a final loss payment must complete and return an annual report on its collection activities for each unsatisfied account for 3 years following payment of the final loss claim.**

Lenders shall submit FSA-2248 to comply with the requirement to report borrower defaults. This report is used first to notify FSA that a loan is in default, second, as a progress report on the lender's attempt to make the loan current again, and third, once a loan is brought current, as a means to notify FSA of the new loan terms and conditions. See Part 12 for more details on this reporting requirement.

Lenders should submit FSA-2241 to comply with the requirement to submit a semi-annual loan status report. This report provides an update on the borrower's progress on loan payback and the loan's terms and conditions.

--Loan information reported on both the FSA-2248 and FSA-2241 is transmitted monthly to the commercial credit bureaus. See Exhibit 15.4 for more details.--

Note: Lenders who are authorized to participate in electronic reporting shall update loan information for FSA-2248 and FSA-2241 in LINC. Lenders shall see Exhibit 5, for additional information about registering and accessing FSA's electronic online systems.

Lenders should submit FSA-2261 to satisfy the requirement for an annual report on collection activities. See Part 14 for more details on this reporting requirement.

266 Lender Reporting Requirements (7 CFR 762.141) (Continued)**C FSA Monitoring of Lender Reports**

If not received through LINC, the authorized agency official will enter information from FSA-2241 into GLS when FSA-2241 is received from the lender. Lenders will be required to update loan information on loans that have a status report record created in GLS or displayed on FSA-2241 mailed to the lenders. Status reports will not be required to be updated until the next reporting period for loans that do not have a status report record created or that are not displayed on the mailed FSA-2241. If the lender is not sending these reports in a timely manner, the authorized agency official should document attempts to obtain the reports and communicate problems to SED.

The authorized agency official should review the information to determine whether it indicates that the loan is in good standing. If the principal balance has not been reduced in over a year, the accrued interest balance appears inordinately large, the interest rate does not comply with the promissory note, or other concerns, the issue should be discussed with the lender. If necessary, the discussion should be followed by a letter requesting that the account be corrected and a new FSA-2241 submitted.

An indication on FSA-2241 that the loan is past due will not place the account in default in FSA's records. If the lender has indicated that an account is past due, and FSA-2248 has not been submitted, the authorized agency official shall contact the lender and request that *--FSA-2248 be submitted if the account will not be brought current within a few days. Upon receiving FSA-2248, the authorized agency official will review the information to determine whether follow-up action is necessary. The findings of the review along with any planned follow-up action will be entered into the Comments Section of the Default Status Report Screen in GLS. The initials of the reviewer and the date of the review will also be entered into the Comments Section to document the review. Any comments entered by a lender will not be altered or removed, but supplemented with the FSA review information.--*

Entering information from FSA-2248, which shows a loan has been brought to a current status, will remove that loan from a delinquency status; however, it will not change the amount the loan payments are shown as Ahead/Behind. The authorized agency official will prepare an updated FSA-2241, using the information from FSA-2248, and process into GLS. If the information on FSA-2241 shows the loan as current, and the amount Ahead/Behind is shown as zero, the management reports will reflect the correct status of the loan.

See:

- Part 12 for other FSA-2248 actions
- Part 14 for FSA-2261 actions.

279 Subordination of Direct Loan Security (7 CFR 762.142(c))

A Direct Loan Subordination When Guaranteed Loan Is Being Made

The Agency may subordinate its security interest on a direct loan when a guaranteed loan is being made if, as appropriate, the requirements of the regulations governing Agency direct loan subordinations are met and only in the following circumstances:

- **to permit a guaranteed lender to advance funds and perfect a security interest in crops, feeder livestock, livestock offspring, or livestock products, such as milk, eggs, wool, etc.**
- **when the lender requesting the guarantee needs the subordination of the Agency's lien position to maintain its lien position when servicing or restructuring**
- **when the lender requesting the guarantee is refinancing the debt of another lender and the Agency's position on real estate security will not be adversely affected**

***--Note:** Chattel security may not be subordinated when the lender requesting the guarantee is refinancing the debt of another lender.--*

- **to permit a Line of Credit to be advanced for annual operating expenses.**

See 4-FLP for additional guidance.

B Direct Loan Subordination to Secure LOC

The Agency may subordinate its basic security in a direct loan to permit guaranteed line of credit only when both of the following additional conditions are met.

- **The total unpaid balance of the direct loans is less than or equal to 75 percent of the value of all of the security for the direct loans, excluding the value of growing crops or planned production, at the time of the subordination. The direct loan security value will be determined by an appraisal. The lender requesting the subordination and guarantee is responsible for providing the appraisal and may charge the applicant a reasonable appraisal fee.**
- **The applicant cannot obtain sufficient credit through a conventional guaranteed loan without a subordination.** Before approving a combination guaranteed loan and subordination, the local loan approval official will document that the applicant requested a Contract of Guarantee - LOC through at least 1 participating lender. If the local loan approval official has information available that supports a conclusion that credit is not available without a subordination, documentation in the case file will be sufficient to verify that other credit is not available.

280 Partial Releases (7 CFR 762.142(b))**A Overview**

A partial release is the release of a portion of security used as collateral for a loan.

B Lender Request for Partial Release

A lender may release guaranteed loan security without FSA concurrence as follows:

- **when the security item is being sold for market value and the proceeds will be applied to the loan in accordance with lien priorities**

Note: In the case of term loans, proceeds will be applied as extra payments and not as a regular installment on the loan. Security will not be released for the purposes of providing collateral for another loan.

- **the security item will be used as a trade-in or source of down payment funds for a like item that will be taken as security**

Note: FSA input may be requested when there is a question of whether a reasonable value is being obtained for the security.

- **the security item has no present or prospective value.**

Note: Older security items that are now junk or obsolete may be left off of FSA-2028 when it is updated. Regardless, proceeds from the sale of such items as scrap or salvage should be applied to the loan as an extra payment.

A partial release of security may be approved in writing by the Agency upon the lender's request when:

- **proceeds will be used to make improvements to real estate that increase the value of the security by an amount equal to or greater than the value of the security being released**

Example: A borrower may sell a parcel of real estate to provide funds for construction of a dwelling.

283 Emergency Advances (7 CFR 762.146(a)) (Continued)**C FSA Response to Request for Emergency Advance**

The authorized agency official:

- shall review a SEL's and CLP lender's request for an emergency advance and notify the lender of FSA's decision in a timely manner
- should make every effort to respond to a request for an emergency advance within several days of receiving the lender's request.

284 Interest Rate Changes (7 CFR 762.146(d))**A Overview**

The lender may change the interest rate on a performing (nondelinquent) loan only with the borrower's consent.

B Changing Interest Rates

A lender must follow the following procedures to change the interest rate.

- **If the loan has been sold on the secondary market, the lender must repurchase the loan according to subparagraph 375 B or obtain the holder's written consent.**
- **To change a fixed rate of interest to a variable rate of interest or vice versa, the lender and the borrower must execute a legally effective amendment or allonge to the existing note.**
- **If a new note is taken, it will be attached to and refer to the original note.**
- **The lender will inform FSA of the rate change.**

--The new interest rate may not exceed the maximums established in paragraph 135.--

The authorized agency official shall update the rate change in GLS on the Loan Maintenance Screen.

Note: Lenders do **not** need to seek FSA concurrence to change an interest rate.

285 Release of Liability Upon Withdrawal (7 CFR 762.146(b))

A General Requirements

[7 CFR 762.146(b)] An individual who is obligated on a guaranteed loan may be released from liability by a lender with the written consent of the Agency provided the following conditions have been met.

- **The individual to be released has withdrawn from the farming operation.** The lender must submit a narrative outlining who is to be released and why.
- **A divorce decree and final property settlement does not hold the withdrawing party responsible for the loan payments.** A copy of the divorce decree must be submitted with the lender's request. The lender must document that release of divorced borrowers is a common practice carried out in their nonguaranteed loan portfolio.
- **The withdrawing party's interest in the security is conveyed to the individual or entity with whom the loan will be continued.**
- **The ratio of the amount of debt to the value of the remaining security is less than or equal to .75, or the withdrawing party has no income or assets from which collection can be made.**
- **Withdrawal of the individual does not result in legal dissolution of the entity to which the loans are made. Individually liable members of a general or limited partnership may not be released from liability.** * * * When the guaranteed loan is *--made to individuals farming as a general or limited partnership, and each partner is fully liable, release of one partner would terminate the partnership and the existence of the entity to which the loans were made. In these cases, a release can only be approved if a replacement member is not being obtained, and the entity is dissolved, and the remaining member(s) choose to form a new entity, the agency would consider a transfer and assumption of the newly formed entity.

Typically, corporations and limited liability corporations (LLC) are not legally dissolved when an individual member exits. However, in every case before the agency makes a final decision on a request for release of any entity member, the authorized loan official will discuss with OGC and the lender the legal effects of the release. All discussions should be well documented.--*

The lender must document that release of withdrawing members is common in their unguaranteed portfolio and all other conditions in this paragraph are met.

- **The remaining liable party projects a feasible plan (see § 761.2(b) of this chapter).** The lender must submit a cash flow projection for the remaining liable party with the request for release. A release will not be approved when a loss is probable.

Section 2 Restructuring Requirements for Guaranteed Loans

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)

A General Requirements

For any restructuring action, the following conditions apply.

- **The borrower meets the eligibility criteria of § 762.120, except the provisions regarding prior debt forgiveness and delinquency on a Federal debt do not apply.**

Notes: When a lender submits a request for FSA concurrence with a restructuring action, the authorized agency official will review the borrower's eligibility for the loan. However, the eligibility provisions of subparagraphs 108 C and D do not apply to the restructuring of existing loans.

--If a co-borrower or co-signer is required to execute a note in conjunction with a restructuring the lender must provide the name, Social Security number, and current address of the co-borrower or co-signer to FSA. The co-borrower must also meet the eligibility criteria of § 762.120.--

- **The borrower's ability to make the amended payment is documented by the following:** (SEL and CLP lender only; PLP lender shall see the Lender's Agreement)

- **a feasible plan**

Note: If interest assistance is required to achieve a feasible plan, the items required by Sec. 762.150(d) must be submitted with a restructuring request.

- **current financial statements from all liable parties**
- **verification of nonfarm income**
- **verification of all debts of \$1,000 or more**
- **applicable credit reports**
- **financial history (and production history for standard eligible lenders) for the past 3 years to support the cash flow projections.**

--Note: A final loss claim may be reduced, adjusted, or rejected as a result of-- negligent servicing after the concurrence with a restructuring action under this section.

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145) (Continued)

A General Requirements (Continued)

- **Loans secured by real estate and/or equipment can be restructured using a balloon payment, equal installments, or unequal installments. Under no circumstances may livestock or crops alone be used as security for a loan to be rescheduled using a balloon payment. If a balloon payment is used, the projected value of the real estate and/or equipment security must indicate that the loan will be fully secured when the balloon payment becomes due. The projected value will be derived from a current appraisal adjusted for depreciation of depreciable property, such as buildings and other improvements, that occurs until the balloon payment is due. For equipment security, a current appraisal is required. The lender is required to project the security value of the equipment at the time the balloon payment is due based on the remaining life of the equipment, or the depreciation schedule on the borrower's Federal income tax return. Loans restructured with a balloon payment that are secured by real estate will have a minimum term of 5 years, and other loans will have a minimum of 3 years before the scheduled balloon payment. If statutory limits on terms of loans prevent the minimum terms, balloon payments may not be used. If the loan is restructured with unequal installments, a feasible plan, as defined in §761.2(b) of this chapter, must be projected for when installments are scheduled to increase.**

Example of unequal installment: A payment that increases as the cash flow and debt repayment ability of the farming operation increases because of development or expansion. Unequal installments may be used when development is being financed, such as the planting of orchards or other perennial crops, the construction of livestock or other processing facilities, or the purchase of foundation livestock. Since typical production income may not be realized for quite a number of years in some cases, higher installments could be scheduled later in the life of the loan. For instance, an orchard development may be financed resulting in the planting of immature trees. In years 1 through 3, there may be no realized production and income. In years 4 through 6, initial production may be anticipated; however, full production may not be expected until years 8 through 10. Unequal payments may be adjusted accordingly.

- **If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted prior to the payment coming due.**
- ***--The lender may capitalize the outstanding interest, according to the requirements of subparagraph 326 D.--***

**312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)
(Continued)****A General Requirements (Continued)**

- **The lender's security position will not be adversely affected because of the restructuring. New security instruments may be taken if needed, but a loan does not have to be fully secured in order to be restructured, unless it is restructured with a balloon payment. When a loan is restructured using a balloon payment, the lender must take a lien on all assets and project the loan to be fully secured at the time the balloon payment becomes due, in accordance with 7 CFR 762.145 (b)(4).**

Note: If the lender takes additional security as part of the loan restructuring, a list of the new security items and their estimated values should be forwarded to the authorized agency official along with all other restructuring materials according to paragraph 313.

- **Any holder agrees to any changes in the original loan terms.**

All lenders will submit copies of any restructured notes or lines of credit to the Agency.

--If a new note is not taken, the existing note or line of credit agreement must be modified by attaching an allonge or other legally effective amendment.--

For CL, the lender must ensure that the borrower is maintaining the practice for which CL was made.

*** * ***

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145)**A SEL Request for Restructuring**

Standard eligible lenders must obtain prior written approval of the Agency for all
***--restructuring actions.** The request must include items listed in subparagraph 312 A.

After FSA has approved the restructure and SEL has restructured the loan, the lender must--*
submit:

- FSA-2248 indicating that the loan is current
- *--copies of restructured notes, line of credit agreements, or allonges.--*

After SEL has submitted all of these documents, FSA shall:

- review the documents for compliance
- input FSA-2248 into GLS
- execute FSA-2245 and provide a copy to the lender, if applicable
- complete and forward FSA-2249 to NFAOC, Farm and Community Services Branch.

* * *

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145) (Continued)

B CLP Restructuring Requirements

CLP lenders must obtain prior written approval of the Agency only for debt write down under this section.

For restructuring other than write down, CLP lenders will provide FSA with a certification that each requirement of this section (Part) has been met, a narrative outlining the circumstances surrounding the need for restructuring, and copies of any applicable calculations.

In addition, the CLP lender will provide:

- FSA-2248 to show the loan is current
- copies of any restructured notes, lines of credit agreements, or allonges.--*

After the CLP lender has submitted all of these documents, FSA shall complete the same actions as for SEL's.

C PLP Restructuring Requirements

PLP lenders will restructure loans in accordance with their lender's agreement.

A PLP lender may request guidance on or concurrence with a restructuring proposal. The authorized agency official shall review the lender's request for compliance with the terms *--indicated in the credit management system of their PLP Lender's Agreement.

All PLP lenders will submit copies of any restructured notes, line of credit agreements, or allonges to FSA. With the copies of any restructured notes, line of credit agreements, or allonges, PLP's must attach a cover memo explaining the restructuring and, if the loan was delinquent, submit FSA-2248 to confirm that the loan is once again current.

After the PLP lender has submitted all of these documents, FSA shall complete the same actions as for SEL lenders.--*

314 FSA Response to Restructuring Requests**A Authorized Agency Official Responsibilities**

Authorized agency officials have several responsibilities in the event a loan defaults and a lender submits a restructuring plan, including:

- provide loan restructuring assistance and guidance as requested
- review FSA-2248 for compliance with FSA guarantee documents, the lender's loan agreement, promissory notes, and FSA regulations
- inform the lender if the borrower is eligible for IA if requested
- process all FSA-2248's in GLS.

The authorized agency official should contact the lender to discuss any problems with the proposal, request corrections, or suggest revisions. If the requested corrections are significant, this contact should be followed up with a letter outlining the additional information needed and a timeframe for it to be provided. If the proposal is approved, the authorized agency official will inform the lender that they may proceed to restructure the loan.

If the lender fails to provide updates on recent or planned collection actions, estimated timeframes for corrective actions proposed by the borrower, or other information reviewed that indicates that the lender is not acting timely or prudently to protect their interest, the authorized agency official will inform the lender in writing of the problems noted and request modifications.

If an SEL lender has made the decision to liquidate a loan, the authorized agency officials should ensure that SEL has investigated the feasibility of every restructuring option before a decision to liquidate was reached. It is solely the lender's prerogative to accept or reject a borrower's plan for resolution of a default or offer an option for restructuring the debt. Still, the authorized agency official should review the situation and advise the lender of any unexplored servicing options that exist that may benefit the borrower, lender, and FSA.

314 FSA Response to Restructuring Requests (Continued)

B FSA Response to Requests for Restructuring

[7 CFR 762.145(a)] If the standard eligible lender's proposal for servicing is not agreed to by the Agency, the Agency approval official will notify the lender in writing within 14 days of the lender's request.

Authorized agency officials must review and respond to a restructuring request from SEL in a timely manner. Any request for concurrence on a restructuring plan must be accompanied *--by all necessary supporting documents according to paragraphs 312 and 326 through 328.--*

- **FSA Response to Rescheduling Request:** The authorized agency official must review SEL's proposed rescheduling to determine that it is feasible and that the repayment period does not exceed the maximum allowable term. If SEL proposes a restructuring of a loan with capitalized interest the authorized agency official must concur on the capitalization request along with the rescheduling request.
- **FSA Response to Deferral Request:** After reviewing the restructuring proposal, the authorized agency official must ensure that the deferral plan is feasible and that the deferral does not extend beyond the final due date of the loan note. If the deferral period extends beyond 1 year, interest in its totality cannot be deferred. A portion of interest must be paid for each year the loan is in abeyance.

If the lender's proposal for servicing is not agreed to by FSA, the agency approval official shall notify the applicant in writing, with a copy to the lender, within 14 calendar days of the lender's request. This letter will inform the lender and borrower of their informal review, mediation, and appeal rights according to 1-APP.

314 FSA Response to Restructuring Requests (Continued)

--C FSA Review of CLP and PLP Restructuring Actions--

* * *

--The authorized agency official shall review the loan restructuring documents and FSA-2248 according to paragraphs 313 and 326 through 328, and confirm that the-- restructuring actions did not violate any FSA regulations. If the authorized agency official has any concerns about the restructuring of the loan, the authorized agency official shall contact the lender to discuss the concerns.

315-325 (Reserved)

357 Foreclosure and Acceleration (7 CFR 762.149) (Continued)**C Acceleration**

If the borrower is not in bankruptcy, the lender shall send the borrower notice that the loan is in default and the entire debt has been determined due and payable immediately after other servicing options have been exhausted. Foreclosure proceedings commence once a loan is accelerated.

The loan cannot be accelerated until after the borrower has been considered for Interest Assistance and the conclusion of mandatory mediation in accordance with § 762.149(a) (paragraph 356).

The lender will submit a copy of the acceleration notice or other document to the Agency.

The lender accelerates a loan note by giving the borrower written notice by certified mail that the loan is in default and the entire debt is due and payable. The lender must make a copy of the acceleration notice and attach it to the first FSA-2248 that is submitted following note acceleration. Once a note is accelerated, the borrower will typically have 30 calendar days from the date of acceleration to make payment in full by cash, transfer, sale of property, or voluntary conveyance. If the borrower fails to satisfy the account in the period specified in the notice, the foreclosure process will continue until the loan security is liquidated.

Once the note is accelerated all other servicing procedures other than liquidation and its associated actions, such as making protective advances, cease.

357 Foreclosure and Acceleration (7 CFR 762.149) (Continued)**D Foreclosure**

The lender is responsible for determining who the necessary parties are to any foreclosure action or who should be named on a deed of conveyance taken in lieu of foreclosure.

When the property is liquidated, the lender will apply the net proceeds to the guaranteed loan debt.

When it is necessary to enter a bid at a foreclosure sale, the lender may bid the amount that it determines is reasonable to protect its and the Agency's interest. At a minimum, the lender will bid the lesser of the net recovery value or the unpaid guaranteed loan balance.

***--Note:** When there is a lien ahead of the guaranteed debt, the prior lien amount will be added to the net recovery value and the unpaid guaranteed loan balance when determining the bid amount. Exhibit 10 may be used to calculate the net recovery value and the bid amount.--*

Foreclosure refers to the comprehensive process of preparing for and selling the collateral that secures a loan that is being liquidated. Therefore, the foreclosure process begins once the lender decides to accelerate the loan in preparation for liquidation and ends once the loan's security is liquidated.

361 Release of Liability After Liquidation (7 CFR 762.146(c)) (Continued)**C Loans Made Using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application With the July 20, 2001, or Later Revision Date**

For loans made using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application with the July 20, 2001, or later revision date, a lender's request to release the borrower of liability after liquidation of the collateral but before the payment of a final loss claim can only be approved by DAFLP. The payment of a final loss claim on these loans establishes a Federal debt that is subject to offset. (Collection of the Federal debt will be pursued according to 7 CFR 762.149(m). See paragraph 363.)

SED's shall thoroughly evaluate all requests and forward them to DAFLP with their recommendation. All requests will include an analysis along with supporting documentation that includes a monetary analysis as to why such an exception is in the Government's best interest. DAFLP will evaluate each request on a case-by-case basis. DAFLP's decision is final and is not appealable.

362 Miscellaneous Liquidation Items (7 CFR 762.149)

A Future Recovery

The application of the loss claim payment to the account does not automatically release the borrower of liability for any portion of the borrower's debt to the lender. The lender will continue to be responsible for collecting the full amount of the debt and sharing future recoveries with the Agency in accordance with paragraph (j) of this section.

The lender will remit any recoveries made on the account after the Agency's payment of a final loss claim to the Agency in proportion to the percentage of guarantee in accordance with the lender's agreement until the account is paid in full or otherwise satisfied.

A lender receiving a loss payment must complete and return in a timely manner a report on its collection activities, FSA-2261, for each unsatisfied account for three years following payment of loss claims.

In late October of each year, the authorized agency official will forward FSA-2261 with instructions to lenders that have received a loss claim because of liquidation in the past 3 years. FSA-2261 must be completed and returned by November 30.

Note: FSA-2261 will not be completed for Chapter 7 liquidation bankruptcy cases that have received a discharge.

SED's shall compile State reports and submit the results to the National Office upon request.

When FSA's share of an amount is received, the funds will be deposited according to *--64-FI. The following items will be completed on FSA-2254:--*

- enter code 4 in item 5, "Report Type Code"
- enter the date funds were received in item 15, "Date of Settlement"
- enter the amount received in item 51, "Amount Due FSA by Lender".

FSA-2254 will be FAXed or sent to NFAOC, Farm and Community Services Branch, according to 1-FLP, paragraph 5.

362 Miscellaneous Liquidation Items (7 CFR 762.149) (Continued)**A Future Recovery (Continued)**

For loans made using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application with a July 20, 2001, or later revision date, lenders may only issue IRS-1099-C on the unguaranteed portion of the debt once the lender has met its future recovery obligations.

Once FSA has concluded its collection efforts, then FSA will cancel any remaining debt and report to IRS accordingly.

B FSA Option to Liquidate

At its option, the Agency may liquidate the guaranteed loan as follows.

- **Upon Agency request, the lender will transfer to the Agency all rights and interests necessary to allow the Agency to liquidate the loan. The Agency will not pay the lender for any loss until after the collateral is liquidated and the final loss is determined.**
- **If the Agency conducts the liquidation, interest accrual will cease on the date the Agency notifies the lender in writing that it assumes responsibility for the liquidation.**

Upon the recommendation of SED, DAFLP may approve liquidation of a guaranteed loan by FSA.

The lender will transfer to FSA all rights and interests necessary to allow the authorized agency official to liquidate the loan.

SED shall consult with OGC to answer questions relating to the assignment and transfer of the lender's loan documents to FSA. After the loan is transferred, the authorized agency official shall summarize the history of case, list all of the loan security and its estimated value, and address any other issues that SED or OGC have about the liquidation. SED shall refer the case to OGC to process the request for liquidation by the Government. SED shall *--send FSA-2262 to NFAOC, Farm and Community Services Branch, and the authorized--* agency official shall oversee the liquidation. If requested by the lender, FSA shall provide an update on the liquidation proceedings. Interest accrual will stop when FSA notifies the lender in writing that FSA is assuming responsibility of the liquidation process. The final loss payment to the lender will not include interest beyond the date FSA took responsibility to liquidate. In this event, the lender is not paid for any loss until the collateral is liquidated and the final loss is determined.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m))**

A Establishment of a Federal Debt

[7 CFR 762.149(m)] Any amounts paid by the Agency on account of liabilities of the guaranteed loan borrower will constitute a Federal debt owing to the Agency by the guaranteed loan borrower. In such case, the Agency may use all remedies available to it, including offset under the Debt Collection Improvement Act of 1996 (DCIA), to collect the debt from the borrower. Interest charges will be established at the note rate of the guaranteed loan on the date that the final loss claim is paid.

Federal debt is established on the effective date of the final loss claim payment. All individuals liable for the debt will be subject to offset. FSA will use non-centralized administrative offset, including IAO of payments made by USDA, and centralized offset from the U.S. Department of Treasury's TOP, and by any other applicable debt collection methods to collect the debt owed to FSA.

FSA shall obtain copies of the promissory note, the original application, the loan guarantee, the final loss claim, and current interest rate as of the final loss payment date, if a variable rate loan, as documentation of the establishment of a Federal debt.

The authorized agency official shall ensure that all co-borrowers and co-signers are entered in GLS.

--Federal debts established as a result of a liability paid by the Agency will be reported to commercial credit bureaus on a monthly basis. See Exhibit 15.4.--

363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors (7 CFR 762.149(m)) (Continued)

I Collections and Refunds

Amounts collected through administrative offset will be applied to the debtor's account
--according to 64-FI using the Guaranteed Collection Codes in this table.--

Code	Description
70	Administrative Offset – Other
71	Administrative Offset – DCP
72	Administrative Offset – LCP
73	Administrative Offset – CRP
74	Administrative Offset – EQIP
75	Administrative Offset – Tobacco
76	Administrative Offset – Peanuts
77	Administrative Offset – Rice
78	Administrative Offset – LDP/Markt Asst Loan
79	Administrative Offset – DCP in Stay
80	Voluntary Collection
81	DOJ Collection
82	Debt Settlement Collection
83	Other Collection

Notes: Collections will be applied to the oldest delinquent Federal debt first.

According to 58-FI, paragraph 164, delinquent debts due to FSA will be collected before an assignment is honored.

Lender recoveries, voluntary, and other collections, except IAO, DOJ, and Debt Settlements, for loans subject to offset with a debt offset receivable established, must have FSA-2254 completed manually and FAXed to NFAOC, Farm and Community Services Branch for processing. The collection will be processed as an offset collection.

Refunds of amounts offset will be made within 45 calendar days if FSA determines that an amount should not have been offset or that the debtor has prevailed in an appeal. SED shall approve and submit refund requests to NFAOC, Farm and Community Services Branch.

J Notifying Lender of FSA Collections

County Offices shall notify the lender of any collections received through IAO or TOP by November 30 of each year. The annual notification shall include the following:

- amount collected by loan number
- current balance of the Federal debt.

Note: County Offices can obtain account information from the GLS loan offset view screen.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

K Debt Settlement

Once a final loss claim is paid, FSA will be able to consider settlement offers received directly from the debtor. Compromise and adjustment offers should be compared against other collection options available, such as IAO and TOP. The option that offers the greatest recovery to the Government should be pursued.

FSA shall process a compromise or adjustment offer according to 7-FLP, Part 12.

The debt settlement will only cover the Federal debt owed by the debtor. FSA shall notify the lender of the approval of a debt settlement.

After all payments under the compromise or adjustment offer have been received, the remaining balance of the debt will be written off. SED shall FAX or mail a copy of FSA-2732 along with a memorandum requesting that the debt be written off to NFAOC, Farm and Community Services Branch.

Where it has been a minimum of 6 years since the last collection, FSA will cancel the debt without application according to 7-FLP, subparagraph 402 B, as appropriate. For guaranteed loans the lender is the cross servicer. After 6 years with no collections, FSA's documentation that the lender anticipates no future collection satisfies the return from *--cross servicing requirement of subparagraph 403 B. SED shall FAX or mail a copy of--* FSA-2731 and FSA-2731A, if appropriate, along with a memorandum requesting that the debt be written off to NFAOC, Farm and Community Services Branch.

L Bankruptcy Effect

FSA, subject to advice provided by the Regional OGC, will immediately file a proof of claim upon notification of a bankruptcy filing for any debtor subject to offset. At a minimum, the following shall be filed with the proof of claim as evidence of the debt:

- FSA-2211, FSA-2212, Application for Guarantee, or Preferred Lender Application
- FSA-2235 or Loan Guarantee
- copy of promissory note
- documentation of FSA's final loss claim payment to the lender.

Bankruptcy filing will halt any FSA offsetting actions. The debtor shall be removed from referral of IAO and TOP through the GLS maintenance screens.

Debts discharged in bankruptcy will be written off upon receipt of the discharge order. SED shall FAX or mail a copy of FSA-2731 and the discharge order along with a memorandum requesting that the debt be written off to NFAOC, Farm and Community Services Branch. GLS will have been updated earlier upon FSA notification of the bankruptcy action.

373 Overview of the Secondary Market for FSA Guaranteed Loans (Continued)**C Pledging of Guaranteed Loans (7 CFR 762.159)**

Lenders may also obtain liquidity by borrowing from funding sources.

A lender may pledge all or part of the guaranteed or unguaranteed portion of the loan as security to a Federal Home Loan Bank, a Federal Reserve Bank, a Farm Credit System Bank, or any other funding source determined acceptable by the Agency.

*--Pledging all or part of the guaranteed or unguaranteed portion of the loan as security, is not the same as when a loan is sold on the secondary market, and FSA-2242, Assignment of Guarantee will not be issued to the lender or funding source to which the guarantee is pledged. Lenders are responsible for any agreement made with the funding source.

FSA approval is not required by lenders when pledging the guaranteed portion of the loan as security.

Lenders are required to continue servicing the loan in accordance with the lender's agreement and the provisions of loan guarantee the same as if the loan were not pledged as security.-*

374 Agency Requirements (7 CFR 762.160)**A Secondary Market Loan Requirements**

Subject to Agency concurrence, the lender may assign all or part of the guaranteed portion of the loan to one or more holders at or after loan closing, if the loan is not in default. However, a line of credit can not be assigned. The lender must always retain the unguaranteed portion in their portfolio, regardless of how the loan is funded.

The Agency may refuse to execute the Assignment of Guarantee and prohibit the assignment in the case of the following:

- **The Agency purchased and is holder of a loan that was assigned by the lender that is requesting the assignment.**
- **The lender has not complied with the reimbursement requirements of § 762.144 (c)(7) (paragraph 376), except when the 180 day reimbursement or liquidation requirement has been waived by the Agency.**

The guaranteed portion of the loan may not be sold or assigned by the lender until the loan has been fully disbursed to the borrower.

The lender is not permitted to assign any amount of the guaranteed or unguaranteed portion of loan to the applicant or borrower, or members of their immediate families, their officers, directors, stockholders, other owners, or any parent, subsidiary, or affiliate.

Upon the lender's assignment of the guaranteed portion of the loan, the lender will remain bound to all obligations indicated in the Guarantee, Lender's Agreement, the Agency program regulations, and to future program regulations not inconsistent with the provisions of the Lenders Agreement. The lender retains all rights under the security instruments for the protection of the lender and the United States.

The lender may assign all or part of the guaranteed portion of the loan to 1 or more holders at or after loan closing if the loan is not in default and proceeds have been fully disbursed.

Only the guaranteed portion of a loan may be assigned on the secondary market. In a secondary market assignment, the guaranteed portion of the loan is transferred to a holder while the lender keeps servicing responsibilities for the loan.

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2291	Lender's Processing Checklist		65, 95
FSA-2292	Guaranteed Loan Processing Checklist		65
FSA-2293	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-2294	Debt Writedown Review Checklist		329
FSA-2295	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-2296	Guaranteed Loan Final Loss Review Checklist		360
FSA-2701	Notice of Intent to Collect by Administrative Offset		376
FSA-2731	Cancellation of Debt Without Application (RD-1956-1)		363
FSA-2731A	Cancellation of Debt Without Application (Continuation)		363
FSA-2732	Debt Settlement Application (RD-1956-1 Application For Settlement of Indebtedness)		363
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
NRCS CPA-1155	Conservation Plan or Schedule of Operations		66
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

Note: Agency officials may use digital signatures on all Guaranteed Loan Program forms. Lenders and loan applicants may use digital or other electronic signatures on all Guaranteed Loan Program forms.

Some secondary market holders may not accept digital signatures on FSA-2235 and FSA-2242. Lenders should verify with their secondary market holders and notify FSA if digital signatures will **not** be accepted.

Authorized agency officials shall reference the User Guide for Digital Signatures on FLP's Presentation intranet web site for instructions to create a digital signature with their employee LINCPASS.

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AASM	Application Authorization Security Management	73, Ex. 5
ACT	Consolidated Farm and Rural Development Act	1, 108, 286
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	181, 358, Ex. 15
CL	conservation loan	Text, Ex. 2
CMS	Credit Management System	Text
EL	emergency livestock loan	108
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
FTP	file transfer protocol	Ex. 15.4
GFO	guaranteed farm ownership loan	135
GLOC	guaranteed line of credit	108
GLS	guaranteed loan system	Ex. 15.4
GOL	guaranteed operation loan	135
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
LIBOR	London Interbank Offered Rate	135
LINC	Lender Interactive Network Connection	73, 266, Ex. 5
LOC	line of credit	Text
MLP	Micro Lender Program	Text
NFAOC	National Finance and Accounting Operations Center	Text, Ex. 10, 21
NPO	nonprofit organization	111
PLP	Preferred Lender Program	Text, Ex. 12
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 7
SAA	Shared Appreciation Agreement	286, 288, Ex. 2
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Delegations of Authority

This table lists the delegations of authority in this handbook.

Delegation	Reference
Administering handbook provisions	20

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;**

***--Note:** Experience obtained through agriculture education programs when the applicant was not the primary owner or operator of the farm or ranch is not included when calculating the 10-year period.--*

- (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."

Calculations and Formulas (Continued)

Present Value Calculation (continued)

Balance Available is Projected to CHANGE During Loan Repayment Schedule

Subsequent Balance Available (balance Available After Balance Change)

1. Balance Available for Term Debt Repayment (BATDR) (After balance change) \$ _____
2. All Other Debt Payments \$ _____
3. **Subsequent Balance Available = BATDR (Line 1) minus All Other Debt Payments (Line 2) =** \$ _____

Subsequent Present Value

4. Repayment Schedule (total term of the restructured loan in years or months) _____ %
5. Interest Rate _____ %
6. Loan Amortization Factor _____
7. **Subsequent Present Value = Subsequent Balance Available (Line 3) divided by Loan Amortization Factor (Line 6)** \$ _____

Initial Balance Available (balance Available Before Balance Change)

8. Balance Available for Term Debt Repayment (BATDR) (Before balance change) \$ _____
9. All Other Debt Payments \$ _____
10. **Initial Balance Available = BATDR (Line 8) minus All Other Debt Payments (Line 9) =** \$ _____

Initial Present Value

11. Period Initial Balance is Available (years or months) _____ %
12. Interest Rate _____ %
13. Loan Amortization Factor _____
14. **Initial Present Value = Initial Balance Available (Line 10) divided by Loan Amortization Factor (Line 13)** \$ _____

15. **Subsequent Present Value (Line 7) + Initial Present Value (Line 14)** \$ _____

16. **Subsequent Balance Available Divided by Initial Loan Amortization Factor = Subsequent Balance Available (Line 3) ÷ Initial Balance Available Loan Amortization Factor (Line 13)** \$ _____

Present Value Of Uneven Payments

17. **Present Value of Uneven Payments = (Line 15)–(Line 16)** \$ _____

Loan Amortization Factor is a function of Repayment Schedule and Interest Rate. See the **Loan Amortization Reference Book** to determine the Loan Amortization Factor.

Calculations and Formulas (Continued)

Net Recovery Value = (A+B) - C

Net Recovery Value is
 -the estimated market value of security
 -plus any expected revenue or rent generated by the security
 -minus any reasonable lender incurred liquidation expenses

In order to execute a debt writedown, the net recovery value must be equal to or less than the present value of the loan being written down.

The net recovery value is used when the Authorized Agency Official fills out Form FSA 1980-88 (see paragraph 328)

A. Market Value of Property
 (based on appraisal conducted according to § 762.127)
 (Part 8, Section 4, Subsection 3)

B. Expected Income or Revenue

1. Annual Rent x Holding Period (HP)¹ _____

2. Annual Royalties x HP _____

3. Other Annual Income x HP _____

4. Annual % Property Appreciation x HP + _____

Total _____

C. Expenses

1. Prior Lienholder Indebtedness (P&I) _____

2. Annual Taxes and Assessments x HP _____

3. Annual Property Depreciation x HP _____

4. Annual Management Costs x HP _____

5. Essential Repairs to Secure and Resell _____

6. Other Costs: _____

Taxes _____

Closing Costs _____

Surveys _____

Administrative Costs Not Considered "In-House" _____

7. Resell Expenses-Commission, Advertising _____

8. Total Interest Cost During Holding Period (Note Rate) _____

9. Hazardous Waste Cleanup + _____

Total _____

¹HP=Holding Period in years or percentages thereof. Typically 90 days unless longer period is agreed to by FSA.

D. Net Recovery Value

Market Value of Property + Expected Income or Revenue - Expenses = Net Recovery Value

_____ + _____ - _____ = \$ _____

***--Note:** When there is a lien ahead of the guaranteed debt, the prior lien amount will be added to the net recovery value and the unpaid guaranteed loan balance when determining the bid amount.

The bid will be the LESSER OF the Net Recovery Value plus prior lien:

$$\frac{\text{Net Recovery Value}}{\text{Net Recovery Value}} + \frac{\text{Prior Lien Amount}}{\text{Prior Lien Amount}} = \frac{\text{Maximum Bid}}{\text{Maximum Bid}}$$

OR; the unpaid guaranteed loan balance plus prior lien:

$$\frac{\text{Unpaid Guaranteed Loan Balance--*}}{\text{Unpaid Guaranteed Loan Balance--*}} + \frac{\text{Prior Lien Amount}}{\text{Prior Lien Amount}} = \frac{\text{Maximum Bid}}{\text{Maximum Bid}}$$

***--Lender and FSA Reporting to Credit Reporting Bureaus**

A Background

The Debt Collection Improvement Act of 1996 and OMB Circular A-129, "Policies for Federal Credit Programs and Non-Tax Receivables," require information on guaranteed loans to be reported to commercial Credit Reporting Bureaus. In June 2005, FLP began referring guaranteed loan information received from lenders.

B Reporting Information

Guaranteed loan information is transmitted from the Guaranteed Loan System (GLS) for all liable parties (GLS Credit Bureau View Screen) and is reported on the first of each month as follows.

- On active loans, the unpaid principal plus accrued interest is reported as of the effective date of the last monetary update on the loan. For the majority, that would be the unpaid balances, as reported by the lender, on the most recent FSA-2241 as of March 31 and September 30. For active loans that have a bankruptcy reorganization loss and/or annual loss payment because of an interest rate reduction ordered by the bankruptcy court, the total loss amount is reported for three years from the most recent loss payment date, in addition to the unpaid principal and accrued interest on the loan.
- Loans in default could report different balances every 60 days, assuming the lender is submitting FSA-2248, as required.
- Loans which have been paid in full and terminated are reported with a zero balance on the report for the month following the termination. **Paid in full loans are reported only once.**

Exception: If a paid in full loan had a bankruptcy reorganization loss and/or annual loss payment because of an interest rate reduction ordered by the bankruptcy court, the total loss amount will be reported for three years from the most recent loss payment date even though the loan has been paid in full.

- Loans with final loss claims not subject to offset, according to subparagraph 363 B, are reported for three years from the effective date of the loss. The amount of the final loss claim (less any recoveries) is reported.
- Loans with final loss claims that are subject to offset are reported as long as the offset exists. The amount reported is the outstanding offset balance plus interest accrued through the date of the credit bureau report. If the debtor becomes ineligible for offset, loans with a terminated debt offset are reported three years from the date of the write off.--*

***--Lender and FSA Reporting to Credit Reporting Bureaus (Continued)**

C Commercial Credit Reporting Bureaus

Two credit bureaus; Experian and Dun and Bradstreet, receive the GLS data. An internal FTP of FSA data from the mainframe to Rural Development's webfarm is completed. The webfarm encrypts the data using PGP encryption software and uses secure FTP to transmit to the credit bureaus. The process is fully automated and is in full compliance with current USDA Cyber Security policies and regulations issued by OCIO Cyber Security.

NFAOC receives an e-mail confirming that FSA data was successfully transmitted.

D State and County Office Responsibility

State Offices shall:

- monitor the accurate and timely submission and input of the FSA-2241 and FSA-2248 data into GLS
- monitor eligibility for Administrative and TOP offset and update as necessary.

County Offices shall:

- review and update lender's name, address, and telephone information on the "Lender Maintenance" page in GLS to ensure that the lender information is accurate
- ensure that GLS is updated with borrower and co-borrower liability, including entity members.--*