

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 54

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 46 C has been amended to correct a hyperlink.

Subparagraphs 67 C, 70A, 312 A, and Exhibit 12 have been amended to update the requirements for debt verifications.

Paragraph 83 has been amended to correct a CFR reference.

Page Control Chart		
TC	Text	Exhibit
	4-1, 4-2 5-5, 5-6 5-15 through 5-24 6-1, 6-2 11-55, 11-56 12-27, 12-28	12, pages 1, 2

Note: Pages 11-55 and 11-56 have been included to correct a printing error that occurred when Amendment 53 was published. No changes have been made to these pages.

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.

66 Requirements for Loans up to \$125,000 [7 CFR 762.110] (Continued)

I Additional Requirements for Entity Applicants

--All members of entity applicants must complete the appropriate sections on FSA-2211, and sign the application as individuals. In addition, each member must provide a current personal balance sheet.--

67 Application Requirements for Loans Over \$125,000 (7 CFR 762.110)**A Application Package**

[7 CFR 762.110(d)] A complete application package for a guaranteed loan over \$125,000 will consist of the items in paragraph 66, plus subparagraphs B through G.

B Verification of Income

Nonfarm and “other farm” income should be documented using the same documentation the lender uses for its nonguaranteed loans.

***--C Verification of Debts**

Verification of debts over \$5,000 can be documented using the same documentation the--* lender uses for its nonguaranteed loans.

D Financial History

The financial history should support cash flow projections and include 3 years of income and expenses and 3 years of balance sheets.

E Production History

The application should include **[7 CFR 762.110 (b)(4)] 3 years of production history (SEL only).**

F Proposed Loan Agreements

Any proposed nontypical agreements between the lender and the borrower should be explained in the narrative.

G Development Plans

[7 CFR 762.110 (b)(6)]If construction or development is planned, a copy of the plans, a copy of the specifications, and a development schedule is needed.

68 (Withdrawn—Amend. 37)

Summary of OL and FO Applications

A Application Requirements

The following is a summary of OL and FO application requirements.

Items to submit to FSA:	EZ Guarantee	PLP	CLP	SEL	SEL
Amount:	MLP to \$50,000 SEL, CLP, PLP to \$100,000			Up to \$125K	Over \$125K
Application Form	Y	Y	Y	Y	Y
Narrative	Lenders will collect and maintain these items according to their normal lending practices	Y	Y	Y	Y
Location of farmed land		Y	Y	Y	Y
Balance Sheet		PLP Lenders will maintain these items according to the terms of their CMS	Y	Y	Y
Repayment Capacity (Cash Flow Budget)			Y	Y	Y
Credit Report			In File	Y	Y
Proposed Loan Agreements			CLP lenders will maintain these items in their file for loans over \$125,000		Y
Verification of debts over *--\$5,000--*					Y
Verification of non-farm income					Y
3 year financial history					Y
3 year production history			N/A		Y
Entity Information (personal balance sheet from each member)			Y	Y	Y
Items Needed Infrequently					
Environmental – additional information (see note below)	Y	Y	Y	Y	Y
Construction, development plans	N	Per CMS	In file	N	Y
CL: Conservation plan		Y	Y	Y	Y
CL: Transition plan for organic, sustainable agriculture		Y	Y	Y	Y

Summary of OL and FO Applications (Continued)**A Application Requirements (Continued)**

Note: The EZ Guarantee limits are based on the borrower's total outstanding guaranteed principal balance. The SEL limits are based on the total amount per loan request package. SEL, CLP, and PLP may use the regular application method if they do not wish to submit the application using the EZ Guarantee method.

The application will be considered complete once FSA has received all necessary information to conduct the environmental review. A guaranteed loan application cannot be approved before
--the appropriate environmental review is completed and approved. In the case of a PLP-- lender, if an approval/rejection decision is not made within 14 days of a complete application, FSA will consider feasibility requirements met and will conduct no further financial analysis after that point. However, the application will not be approved, funds will not be obligated,
--and the conditional commitment will not be issued until after the appropriate environmental-- review is completed and approved.

Part 6 Application Processing Timeframes (7 CFR 762.130)***--83 Application Processing Timeframes by Lender Type (7 CFR 762.130)--*****A Processing Timeframes for SEL's**

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

The counting of the 30 calendar days begins when FSA determines that the application is complete.

B Processing Timeframes for CLP and PLP Lenders

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

A guaranteed loan application **cannot** be approved before the appropriate environmental review is completed and approved. In the case of a PLP lender, if an approval/rejection decision is not made within 14 days of a complete application, FSA will consider feasibility requirements met and will conduct no further financial analysis after that point. However, the application will not be approved, funds will not be obligated, and the conditional commitment will not be issued until after the appropriate environmental review is completed and approved.

The counting of the 14 calendar days begins when FSA determines that the application is complete.

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

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

C Processing Timeframes for EZ Guarantee Loans

Complete applications for EZ Guarantee loan requests will be approved or rejected within 14 days.

83 Application Processing Timeframes by Lender Type (7 CFR 762.130) (Continued)**D Summary of Processing Timeframes**

This table summarizes processing timeframes for EZ Guarantee loans, SEL's and CLP and PLP lenders.

Lender Type	Processing Timeframe in Calendar Days From the Date the Application Is Complete
SEL (regular loan)	30 calendar days
EZ Guarantee	14 calendar days
CLP	14 calendar days
PLP	14 calendar days

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

The authorized agency official is responsible for:

- processing applications within the allotted timeframes
- maintaining a tracking system to ensure that all loans are processed within the 14 or 30 day timeframe
- entering a reason code and, if necessary, an explanation in GLS when a decision has not *--been made within 45 calendar days of receiving a complete application according to Part 5.--*

Note: GLS is the official loan application date record.

B DD Responsibilities

DD is responsible for:

- overseeing the approval process
- monitoring unprocessed applications.

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

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

287 Substitution of Lender (7 CFR 762.105)**A Overview**

When a borrower wants to move their guaranteed loan from 1 lender to another, or a lender wants to sell a guaranteed loan to another lender, with or without the borrower's consent, FSA must process a substitution of lender.

B Lender Requirements

A new eligible lender may be substituted for the original lender, if the original lender concurs, under the following conditions.

- **The Agency approves of the substitution in writing by executing a modification of ~~the guarantee~~ (FSA-2245, Modification of Loan Guarantee) to identify the new ~~lender~~, the amount of debt at the time of the substitution and any new loan terms if applicable. The new lender agrees in writing to:**
 - **assume all servicing and other responsibilities of the original lender and to acquire the unguaranteed portion of the loan**
 - **execute a lender's agreement if one is not in effect**
 - **submit a request to the authorized agency official that the new lender be approved as a substitute lender for the loan**
 - **give any holder written notice of the substitution. If the rate and term are changed, written concurrence from the holder or repurchase is required.** The authorized agency official shall review the FSA file and determine if the loan has been sold. If the loan has been sold, the authorized agency official shall remind the lender of special considerations warranted by its sold status.

287 Substitution of Lender (7 CFR 762.105) (Continued)

B Lender Requirements (Continued)

- The authorized agency official shall review the borrower and lender's substitution request as follows:
 - determine whether the requirements of this section are met
 - determine whether the new lender possesses the ability to service agricultural loans and, if necessary, discuss the loan with the lender and ensure that they are aware of their responsibilities
 - *--notify the RD Business Center, Guaranteed Commercial Branch of the substitution by completing and submitting FSA-2243, and changes to the rate of term, if applicable, by completing and submitting FSA-2249.--*
- **The original lender will assign their promissory note, lien instruments, loan agreements, and other documents to the new lender. The guarantee documents will then be assigned to the new lender.** The original lender must:
 - **assign their promissory note, lien instruments, loan agreements, and other documents to the new lender**
 - **if the loan is subject to an existing IA Agreement, submit a request for subsidy for the partial year that they have owned the loan**

Note: FSA-2221 can then be transferred to the new lender. When a substitution is being processed, authorized agency officials should review the file to determine whether the loan has IA. If so, they should remind the:

- original lender of the need for a subsidy request
 - new lender of special servicing requirements of a loan with IA.
- if the original lender does not concur, the substitution cannot take place. If the borrower still wants to move their loan, the new lender may refinance the debt of the original lender.

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 (if over \$5,000)--***
- **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.--***

Lender Documentation and Reporting Requirements

Document Submitted	SEL	CLP	PLP
General Loan Servicing			
FSA-2241	√	√	√
Projected Cash Flow for the coming year (for Lines of Credit).	√		
Borrower's Balance Sheet and Income Expense Statement for the previous year, if applicable.	√		
Annual Farm Inspection	√		
Narrative and Certification that the Borrower Analysis has been performed and borrower progress is satisfactory.		√	
Certification that projected cash flow is feasible (for Lines of Credit).		√	
Secondary Market			
FSA-2242	√	√	√
Distressed Servicing			
FSA-2248 (every 60 days after initial borrower/lender meeting).	√	√	√
FSA-2254	√	√	√
Agency approval of the Liquidation Plan.	√	√	
FSA-2261	√	√	√
Restructuring Loans			
Agency Approval of Restructuring Request.	√		
Written Certification that the requirements of section 1980.145 have been met.		√	
Memo explaining the restructuring and certifying that the loan has become current.		√	√
Narrative describing the proposed restructuring.	√		
A feasible plan.	√		
Current financial statement from all liable parties.	√		
Verification of nonfarm and other farm income.	√		
--Verification of all debts of \$5,000 or more.--	√		
Borrower Credit Report	√		
Financial history for previous 3 years.	√		
Production history for the previous 3 years.	√		
Copies of restructured Promissory Notes.	√	√	√
Copy of FSA-2248 stating the loan is current under restructured conditions.	√	√	√
Request for Capitalization of Interest.	√		
FSA-2245	√	√	√

Lender Documentation and Reporting Requirements (Continued)

Document Submitted	SEL	CLP	PLP
Debt Writedown			
Request Agency concurrence.	√	√	√
Balance Sheet	√	√	
Production History	√	√	
Financial History	√	√	
Cash Flow Statement	√	√	
Narrative explaining why no other restructuring option would work.	√	√	√
A current appraisal of all property securing the loan.	√	√	√
FSA-2252	√	√	√
FSA-2253	√	√	√
FSA-2254	√	√	√