

**GUARANTEED LOAN  
MAKING AND SERVICING  
2-FLP  
AMENDMENTS**



# AMENDMENT 49 - SUBPARAGRAPH 280 B

- Amended to include an allowance for a security item to be exchanged with a like item.

- Lender Request for Partial Release

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

- 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
  - Notes: The security may be exchanged for a like item of equal or greater value, based on a current appraisal.

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



# AMENDMENT 49 - SUBPARAGRAPH 281 B

Amended to provide the correct reference for release of liability after transfer and assumption.

- Lender Request for a Transfer and Assumption

Lenders must also submit a request to release the transferor, guarantor, or any third party \*--from liability when applicable. The request must include documentation to support the release in accordance with paragraph 361.

**Note: A release of liability as a result of a transfer and assumption is considered a release due to liquidation. The transferor is liquidating by transferring the operation to a different individual or entity but with no loss to the agency.--\***



# AMENDMENT 51 - VARIOUS SUBPARAGRAPHS

- Amended to clarify language regarding environmental reviews.
  - 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.



# AMENDMENT 52 - SUBPARAGRAPH 52 D

- Amended to correct a hyperlink to the sample CMS summary.

- **PLP CMS Guidelines**

The following is an example of a CMS summary. It was developed by USDA, FSA to assist lenders who wish to prepare and submit a request for PLP status for the FSA Guaranteed Farm Loan Program.

Note: The CMS summary is available on FSA's web site at

\*--[https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/Farm-Loan-Programs/docs/Example\\_CMS\\_FINAL\\_September\\_2020.doc](https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/Farm-Loan-Programs/docs/Example_CMS_FINAL_September_2020.doc) .--\*



# AMENDMENT 52 - SUBPARAGRAPH 245 C

- Amended to clarify completing the security section on the Conditional Commitment.
  - After receiving confirmation from GLS that funds have been obligated for the loan, the authorized agency official may execute the Conditional Commitment. Since the Conditional Commitment will be used by FSA in the event of a loss claim to determine the responsibilities of the lender, the authorized agency official should give careful attention to the Conditional Commitment's completion.
  - **\*--Security for the Loan.** The authorized agency official should ensure that all security items and expected lien positions are included on the Conditional Commitment.--\*



# AMENDMENT 53

- Subparagraph 123 B has been amended to clarify the Farm Ownership Loans approved purposes.

When considering Guaranteed FO requests:

\*--in all cases, the entity must be the applicant and operator of the farm--\*



# AMENDMENT 53 - SUBPARAGRAPH 110 A

- Amended to clarify the owner and operator requirements for Farm Ownership Loans.
  - Owner and Operator Requirement
    - The applicant must own the farm to obtain FO. The factors in subparagraph 109 A will be considered when determining whether or not the farm meets the family farm definition. \*--Farmers also may lease farm land in addition to the land they own. Farmers are expected to be the primary operator of the farm(s) they own to meet the owner operator requirements for a FO; however, certain exceptions may be made when it is impractical to operate selected tracts.

In the case of an FO loan for construction, a tenant with a long term lease who meets the requirements of 7 CFR 762.122 and subparagraph 123 B will be considered to meet the owner and operator requirements. State Offices with questions about owner and operator requirements will contact the National Office for guidance as needed.--\*



# AMENDMENT 54

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

- **Verification of Debts**

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



# AMENDMENT 55 - PARAGRAPH 97

- Corrected the spelling of “down payment” in numerous subparagraphs.
- Amended to revise the time periods for a lender to provide the items necessary for a complete application.

## Incomplete Application

- \*--establish a deadline for the lender to submit the materials 15 calendar days from the date of the letter
- Timing given for Notification of Lender with incomplete applications was previously 20 days for first letter and 10 for second letter. This amendment changed the timing to 15 days for both first and second incomplete letters.



# AMENDMENT 55 - SUBPARAGRAPHS 109 B AND 110 B

- Amended to clarify operator requirements for entities.

## Entity Borrower Requirements

- if the entity members holding a majority interest are not related by marriage \*--or blood, the entity members holding at least 50 percent interest must also--\* operate the family farm.



# AMENDMENT 55 - SUBPARAGRAPH 122 B

- Amended to clarify authorized Term OL purposes.

Loan funds disbursed under an OL guarantee may only be used for the following purposes:

- payment of costs associated with reorganizing a farm to improve its profitability
- purchase of livestock, including poultry, and farm equipment or fixtures, quotas and bases, and cooperative stock for credit, production, processing or marketing purposes

**\*--Notes:** Acquiring farm assets by purchasing ownership interest in an entity is considered to be the same as purchasing the assets themselves. The following uses are authorized:

- individual(s) purchasing ownership interest in an existing operating entity to become the new owner(s)
- existing member(s) purchasing the shares of a withdrawing member(s).

When considering these requests:

- in all cases, the entity must be the applicant and operator of the farm
- all entity members must sign the promissory note providing individual liability for the debt (unless waived according to subparagraph 247 A)
- the assets purchased must be an authorized OL purpose
- the loan amount must be consistent with the interests purchased.

State Offices shall contact the National Office for guidance, if needed.--\*



# AMENDMENT 55 - SUBPARAGRAPH 166 A

- Amended to correct instructions for completing FSA-2232 (Conditional Commitment).

## **Amount and Quality of Security**

- Added \*--Note: It is required that all security items be listed in FSA-2232, item 16.--\*



# AMENDMENT 55 - SUBPARAGRAPH 183 B

- Amended to clarify the acceptable age of a real estate appraisal.

For loans greater than \$250,000, the lender must document the \*--value of real estate using a current appraisal (**not more than 18 months old**) completed by a State Certified General Appraiser. Real estate appraisals must be completed in accordance with USPAP. Restricted reports as defined in USPAP are not acceptable. The Agency may allow an appraisal more than 18 months old to be used only if documentation provided by the lender reflects each of the following:

- (i) Market conditions have remained stable or improved based on sales of similar properties,
- (ii) The property in question remains in the same or better condition, and
- (iii) The value of the property has remained the same or increased.

**Note:** Appraisals more than 18 months old may be used for all loans, including loans of \$250,000 or less.

PLP lenders must maintain documentation in their loan file supporting these criteria. The loan narrative will include a discussion supporting use of an appraisal over 18 months.--\*

**Note:** When using an appraisal over 18 months old, all collateral and loan approval--\* considerations will be based on the market value stated on the appraisal. The value will not be adjusted for time or any other reason.



# AMENDMENT 55 - SUBPARAGRAPH 209 A

- Amended to clarify guidance for ensuring compliance with the National Historic Preservation Act.
- The lender will examine the security property to determine if there are any structures or archeological sites which are listed or may be eligible for listing in the National Register of Historic Places. The lender may consult with the Agency for guidance on which situations will need further review in accordance with the National Historical Preservation Act.

FSA is required to take into account the effects of its actions on historic property that is \*--listed or may be eligible for listing on the National Register of Historic Places. FSA may require assistance from the lender, but FSA is responsible for the final decision.--\*



# AMENDMENT 55 - EXHIBIT 2

- Amended to:
  - correct the spelling of “down payment”
  - clarify operator requirements within the definition of a family farm
  - add a definition of Non-monetary Default.
    - Non-monetary default means a situation where a borrower is not in compliance with the covenants or requirements of the loan documents, program requirements, or loan.



# AMENDMENT 56 - SUBPARAGRAPH 66 B

- Amended to correct a reference to FSA-2211, Application for Guarantee.

Application Package

**\*--All lenders will use FSA-2211, Application for Guarantee.--\***

Poll Question



# AMENDMENT 56 - SUBPARAGRAPH 244 A

- Amended to reflect the guaranteed loan limit for FY 2022.
  - **New guarantee loan limit is \$1,825,000**
- Exhibit 5, Electronic Access for FSA Lenders, has been amended to update the eAuth sign-up instructions for lenders.



# AMENDMENT 56 —

Subparagraphs 66 H, 69 A, 70 A, 83 B, 95 D, 96 A, 96 C, 195 B, and 244 C

- Amended to clarify the difference between FSA's environmental compliance review and the lender's environmental due diligence responsibilities.
- The environmental review is FSA's responsibility to conduct. However, \*--the information FSA needs to complete this review is part of a complete application. This environmental review, conducted by FSA (using FSA-850 or an environmental assessment), focuses on the proposed use of loan funds and the environmental compliance of the action being supported by FSA funds. This is unrelated to the lender's own environmental due diligence (FSA-851 or other similar forms) which focuses on the suitability of loan security. See subparagraph 208 C for information about the lender's environmental due diligence requirements.--\*



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RECENT FSA GUARANTEE HANDBOOK  
(2-FLP) THAT HAS BEEN UPDATED WITH  
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Questions?

