FSA
HANDBOOK

Guaranteed Loanmaking and Servicing

For State and County Offices

SHORT REFERENCE

2-FLP
(Revision 1)

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

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Farm Service Agency
Washington, DC 20250

Guaranteed Loan Making and Servicing 2-FLP (Revision 1)	Amendment 71

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Added and updated various CFR references throughout handbook.

Subparagraphs 50 A and C have been amended to remove the branch offices for agency approval related to CLP status.

Subparagraphs 51 C, 52 H, 55 E, and 267 J have been amended to add a reference for major and minor deficiencies.

Subparagraph 52 D has been amended to update loan narrative requirements and appraisal thresholds in the sample CMS.

Subparagraph 52 H has been amended to define major and minor deficiencies in administrative guidance and remove existing administrative guidance.

Subparagraph 54 C has been amended to add details regarding deficiencies and delinquency rates.

Paragraph 56 has been added to include the new PLP Delegated Authorities

Subparagraph 65 A has been updated to reference the submission of applications through electronic means.

Subparagraph 69 A has been amended to give further directions on requests for more information on PLP applications.

Subparagraph 69 B has been amended to change the expectations for PLP lender narratives based on the addition of delegated authorities.

Subparagraphs 83 D and 84 A have been amended to reflect updated processing time expectations for applications from PLP lenders.

Subparagraphs 108 I and J have been amended to include language on delegated authority for PLP lenders

A Reasons for Amendment (Continued)

Subparagraph 138 B has been amended to correct CFR language and policy regarding crop insurance requirements.

Subparagraph 154 B has been amended to include language on delegated authority for PLP lenders and provide updated guidance on financial feasibility documentation in the lender's narrative.

Subparagraphs 166 D, 181 A, 247 A and paragraph 182 have been amended to change references from chattel to personal property.

Subparagraph 168 B has been amended to include additional guidance on how to secure loans with amortizations greater than 7 years.

Subparagraph 169 B has been added to include language on delegated authority for PLP lenders and provide updated guidance on security documentation in the lender's narrative.

Subparagraphs 183 A and B have been amended to update the real estate evaluation threshold.

Subparagraphs 208 A and B, and 209 A have been amended to replace references to 7 CFR Part 799 with 7 CFR Part 1b.

Subparagraph 208 D has been amended to include a reference to compliance with 7 CFR Part 12.

Subparagraph 244 A has been amended to update the FY 2027 guaranteed loan limits.

Subparagraph 244 C has been amended to reference notifications and documentation by the agency being delivered electronically.

Subparagraph 262 A has been amended to reference notifications and documentation being delivered electronically by lenders and the agency.

Subparagraph 265 A has been amended to provide new guidance to lenders on conducting annual analysis of borrower's financial condition.

Subparagraph 265 B has been amended to provide new guidance to non-PLP lenders on conducting financial analysis of borrowers.

Subparagraph 265 C has been amended to provide updated guidance on documents submitted by SEL and MLP lenders in support of annual analysis.

Subparagraph 265 D has been removed because the content has been incorporated into subparagraphs 265 A and B.

Subparagraph 265 D (formerly E) has been amended to provide updated guidance on documents submitted by CLP lenders in support of annual analysis.

Subparagraph 267 B has been amended to update the frequency of PLP lender file reviews.

Subparagraph 267 C has been amended to designate that State Offices are responsible for coordinating PLP lender file reviews not conducted by the National Office.

A Reasons for Amendment (Continued)

Subparagraph 282 A has been amended to allow additional flexibility for SEL and CLP lenders to make additional unguaranteed loans under certain circumstances.

Subparagraph 359 D has been amended to update policy regarding the impact of additional loans and include a reference to the requirements of 762.146 (subparagraph 282 A).

Subparagraph 360 F has been amended to include language on the negligent origination of delegated authority accounts and updated references from chattel to personal property.

Subparagraph 363 D has been amended to change a reference to Exhibit 17 with FSA-2263, add guidance on how to handle situations where certified mail is returned, and change a reference to Exhibit 19 with FSA-2264.

Exhibit 2 has been amended to:

- add definitions for:
    - adequate security
    - appraisal
    - personal property security definition
    - real estate evaluation
    - valuation
- update the definitions for:
    - administrative appraisal review
    - lien
    - market value
    - potential liquidation value
    - security value
- remove the definition for chattel security.

Exhibit 4.5 has been amended to update the Lender's Loan Narrative to reference Non-PLP Lender's

Exhibit 4.6 has been added to provide guidance on PLP Lender's Loan Narrative.

Exhibit 16 has been amended to provide additional guidance on loss claim reductions and supporting references.

Exhibit 17 has been withdrawn because it has been replaced by FSA-2263.

Exhibit 19 has been withdrawn because it has been replaced by FSA-2264.

Exhibit 23 has been added to provide guidance on identifying major and minor deficiencies during lender reviews.

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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.

2 Related References (Continued)

C State Supplements

Exhibit 4 lists State supplements required by this handbook.

SED's shall:

- issue required supplements, and any additional supplements, according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

*--3 Electronic Forms and Signatures

A USDA's Online Services

Lenders may submit forms electronically through USDA's Service Center Agencies Online Services web site and conduct other business electronically through the USDA LINC web site.

Lenders interested in submitting forms and other information electronically must first register. An explanation of the registration process can be found:

- in Exhibit 5
- at **http://www.sc.egov.usda.gov,** CLICK "Register"
- by contacting any USDA Service Center.

Currently, registration is limited to individuals; lenders **cannot** be registered as organizations. However, persons representing lenders may register as an individual, and then may electronically sign and submit certain forms on behalf of the lender.

After a lender's representative has registered and received a user ID and password, the representative may submit forms and other information electronically.

Access the electronic forms web site at **http://www.sc.egov.usda.gov,** CLICK "**eForms**", sign in, and follow the instructions to find, complete, and submit forms. Other electronic documents needed for a complete application may be attached to the application form and submitted to FSA.

For **USDA LINC**, access the web site at **https://usdalinc.sc.egov.usda.gov web site**. Information submitted through this site meets the submission requirements. Lenders are not required to submit hard copies of information, such as loan closing reports or status reports.**--***

3 Electronic Forms and Signatures (Continued)

B Accepting Forms Electronically

--FAXed and scanned signatures shall be accepted according to 1-CM, paragraph 676.--

Unless otherwise restricted, all Guaranteed Loan Program forms will be accepted electronically when received by:

- e-mail with an attached file
- FAX
- through USDA's Online Services.

Lenders are responsible for following their own internal guidance to protect customers' personal information when submitting forms electronically. The lender is not required to follow up with or retain an original, paper document when forms are submitted in this manner; however, normal business practices are expected to be followed when obtaining signatures of loan applicants and maintaining electronic records.

C Accepting Electronic and Digital Signatures

The agency official will review to determine if a form has been properly electronically or digitally signed by the appropriate individuals. Lenders are expected to use their normal business practices when obtaining signatures on documents to be submitted to FSA. Unless otherwise restricted, acceptable electronic or digital signatures include:

- scanned/FAXed images of documents containing handwritten signatures
- digital signatures that:
    - have been e-mailed by a lender known to the agency, from a recognized e-mail address
    - identify the individual signing the document
    - identify the software vendor used to execute the digital signature
    - provide a method to confirm the authenticity of the signature.

        Note: This can be accomplished by the lender providing an electronic file containing a validation indicator (such as a pop-up box), or through an additional document with verification information such as authentication details, signer information, document tracking references, IP addresses, etc.

***--3 Electronic Forms and Signatures (Continued)**

C Accepting Electronic and Digital Signatures (Continued)

If the local agency official cannot authenticate the individual signing and the integrity of the document, they should contact the State Office.

Unacceptable electronic signatures include:

- digital images of an individual's signature (jpg or similar) pasted in the signature block, without any digital signature validation
- typed names or initials on the signature line.

If a lender or applicant proposes to submit a document electronically signed in another manner, the agency official shall contact the National Office through the State Office for guidance.

D Agency Use of Digital Signature

Unless otherwise restricted, FLP employees may use digital signatures, not other electronic signatures, on documents. FLP employees will create a valid digital signature using their LincPass. Information on LincPass credentials may be found at USDA's HSPD-12 web site at **https://lincpass.usda.gov**.

Employees should see the "User Guide for Digital Signature", which is available on the FLP Home Page under Software User Guides, for guidance on setting up and signing documents digitally.

Note: Digital signatures are **not** authorized for Application Withdrawal Letters (according to subparagraph 97 F) and all adverse decision letters.**--***

***--3 Electronic Forms and Signatures (Continued)**

E FLP Electronic Record Retention

FLP officials shall:

- electronically retain all digitally signed documents
- electronically retain all incoming emails transmitting the electronically signed documents
- electronically maintain documents on the County office network drive
- develop electronic folders similar to the paper folders according to 32-AS.

Note: Retaining a printed copy of the electronic document is not necessary. The FSA official shall retain an electronic copy of digitally signed documents emailed to lender or external customers.

Each borrower will have a subfolder within the County Office network drive. Within each borrower's subfolder will be subfolders representing each position in a paper file. Within each position subfolder will be the appropriate forms and documents as instructed in 32-AS.

The following is an example of a borrower's electronic file.

Office S drive
Guaranteed Borrowers
Farmer, John D.
Position 2–PN, repayments, financial records
FSA-2242 – 2015.05.28
Position 3–application, budget, analysis, RCR, checklists

Additional subfolders, such as FY or loan type, may be established on an as-needed basis at the State Office's discretion.

Note: A complete list of file positions and content can be found in 32-AS, subparagraph 85 B. Running case records for direct borrowers will be maintained in FBP.**--***

***--3 Electronic Forms and Signatures (Continued)**

E FLP Electronic Record Retention (Continued)

All lender-specific forms and documents will be stored in the lender's subfolder using the following format.

FLP 2-3 Individual Guaranteed Lender Files
Lender Name
FSA-2201 – 2015.05.28

Note: A list of all FLP files can be found in 32-AS.

It is suggested that offices establish electronic files in the same fashion as the office's paper files to maintain continuity between the 2 mediums. See 32-AS, and the FSA File Maintenance and Disposition Manual for more details about setting up files. Electronic storage may be limited in some States; therefore, only digitally signed forms and documents must be stored in the electronic folders. Subfolders should only be established on an as-needed basis. All other information may be stored at the State Office's discretion.**--***

4-14 (Reserved)

Part 2 Guaranteed FLP

15 Program Purpose and Eligible Lenders

A Program Purpose

FSA's Guaranteed FLP:

- enables lenders to extend credit to family farm owners or operators who do not qualify for standard commercial loans
- benefits beginning farmers and family farmers experiencing financial distress, as well as lending institutions and the local community as a whole

  Note: Farmers receive credit at reasonable terms to finance their current operations or to expand their business. Financial institutions receive additional loan business and servicing fees, as well as other benefits from the program.

- serves the local community by protecting family farmers and farm-related businesses
- enables lenders to extend conservation credit to some farmers who are **not** eligible for guaranteed FO's or OL's.

B Requirements

Lenders who are subject to credit examination and supervision by an acceptable State or Federal regulatory agency, and have experience in agricultural lending are eligible to *--participate in all FSA Guaranteed Farm Loan Program. Lenders not subject to traditional credit examination and supervision, or who have little or no experience with agricultural loans may qualify as MLP lenders and make loans under the EZ Guarantee Program.--*

Lenders who have a positive track record of participation in the program may participate in one of FSA's status lender programs. CLP and PLP are the 2 status lender programs. Once lenders are approved by FSA as a CLP or PLP lender, they may process loans under the reduced paperwork and supervision requirements afforded to the respective status lender program.

For more information on the different lender types, see Part 4.

15 Program Purpose and Eligible Lenders (Continued)

C Lenders Agreement

The purpose of the Lender's Agreement is to:

- establish the lender as an approved participant in the FSA Guaranteed Farm Loan Program

- outline the terms and conditions for originating and servicing FSA-guaranteed loans.

The lender is responsible for originating and servicing all guaranteed loans in their portfolio according to Lenders Agreement that is valid at the time.

Example: If a lender has an approved SEL Lenders Agreement, they will originate and service loans under SEL requirements spelled out in 7 CFR Part 762 and this handbook.

If the same lender later applies for PLP status and is approved, a new PLP Lenders Agreement will be executed. As long as the PLP Lenders Agreement remains in effect, the lender will originate and service all FSA-guaranteed loans in their portfolio, including loans originated while the lender was SEL, under the conditions agreed to in the PLP Lenders Agreement.

For MLP, CLP, and PLP lenders, the Lender Agreement is valid for 5 years from the date of execution by the authorized agency official, SED, or DAFLP. For SELs, the Lenders Agreement is valid indefinitely from the time of execution by authorized agency official, unless otherwise terminated or replaced by FSA**.**

For each State covered by the approved Lenders Agreement, the State Office is responsible for entering the details of the approved Lenders Agreement in GLS. State Offices may ***--**seek assistance from the RD Business Center, Guaranteed Commercial Branch for**--*** particularly complex situations.

16 Eligible Borrowers

A Specific Information

For specific information on borrower eligibility, see Part 8, Section 1.

B General Requirements

In general, to qualify for an FSA guarantee, an applicant must be actively involved in the day-to-day management of a farm operation and must:

- be a citizen of the United States, a non-citizen national, or qualified alien under applicable Federal immigration laws
- have the legal capacity to incur the obligations of the loan
- be unable to obtain sufficient credit without a guarantee at reasonable rates and terms to finance the farming operation.

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

In addition to meeting the eligibility criteria, the applicant must:

- have a satisfactory credit history
- demonstrate repayment ability

--Note:** This requirement does **not** apply to Streamlined CL.**--

- provide sufficient security for the loan.

17 Types of Guaranteed Loans

A OL's

OL's may be used to finance items needed for a successful farm operation. These items include the following:

- livestock
- farm equipment
- annual operating expenses
- family living expenses
- refinancing debts under certain conditions.

For more information on OL's, see Part 8, Sections 2 through 4 and Part 9.

17 Types of Guaranteed Loans (Continued)

B LOC's

LOC's are OL's for annual operating purposes. Loan funds may be advanced and repaid repeatedly (revolve) throughout the year.

For more information on LOC's, see Part 8, Sections 2 through 4 and Part 9.

C FO's

FO's may be used to:

- purchase farmland
- construct or repair buildings and other fixtures
- develop farmland to promote soil and water conservation
- refinance debt.

For more information on FO's, see Part 8, Sections 2 through 4.

*--D CL's

CL's may be used to:

- install structures to address soil, water, and related resources conservation
- establish forest cover for sustainable yield timber management, erosion control, or shelter belt purposes
- install water conservation measures
- install waste management systems
- adapt any other emerging or existing conservation practices, techniques, or technologies
- refinance debt incurred for any authorized CL purpose when financing will result in additional conservation benefits.

For more information on CL's, see Part 8, Sections 2 through 4.--*

18 IA Program

A Requirements

In certain situations, lenders may use the IA Program to assist a borrower in qualifying for an FSA-guaranteed loan. Under the IA Program, FSA will subsidize 4 percent of the interest rate on loans to qualifying borrowers.

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

B Additional Information

For additional information on the IA Program, see Part 9.

19 Full Faith and Credit Applicability and Exceptions (7 CFR 762.103)

A Full Faith and Credit Applicability

***--[7 CFR 762.103(a)] The loan guarantee constitutes an obligation supported by the--* full faith and credit of the United States**.

B Exceptions for Fraud and Misrepresentation

***--[7 CFR 762.103(a)] The Agency may contest the guarantee only in cases of fraud or--* misrepresentation by a lender or holder, in which the lender or holder:**

- **had actual knowledge of the fraud or misrepresentation at the time it became the lender or holder**
- **participated in or condoned the fraud or misrepresentation.**

C Exceptions for Lender Violations

***--[7 CFR 762.103(b)] The loan guarantee cannot be enforced by the lender, regardless--* of when the Agency discovers the violation, to the extent that the loss is a result of** any of the following:

- **violation of usury laws**
- **negligent servicing**
- **failure to obtain the required security**
- **failure to use loan funds for purposes specifically approved by the Agency.**

D Effects of Full Faith and Credit With Holders

***--[7 CFR 762.103(c)] The guarantee and right to require purchase will be directly--* enforceable by the holder even if** either of the following occurred:

- **the loan guarantee is contestable based on the lender's fraud or misrepresentation**
- **the loan note guarantee is unenforceable by the lender based on a lender violation.**

20 Responsibilities

A Authorized Agency Official Responsibilities

The authorized agency official is responsible for:

- serving as the primary contact and decision maker for the FSA Guaranteed Farm Loan Program
- approving loans, up to thresholds specified in 1-FLP, paragraph 29
- providing training for lenders and prospective lenders
- *--collaborating with SBA, RD, and other Federal Agencies--*
- monitoring lender's servicing actions
- processing loss claims for SED approval.

Note: Authorities that must be delegated are listed in 1-FLP, paragraph 25.

B DD's Responsibilities

DD is responsible for:

- overseeing the authorized agency official
- approving loan requests as outlined in 1-FLP, paragraph 29
- *--collaborating with SBA, RD, and other Federal Agencies--*
- providing management and technical assistance to local servicing offices.

C SED's Responsibilities

SED is responsible for:

- determining the most effective and efficient method of program delivery for making and servicing guaranteed loans
- overseeing the operations of all FSA offices within the State
- funding allocations, and at their discretion, funding allocations may be delegated to lower levels within the organization

20 Responsibilities (Continued)

C SED's Responsibilities (Continued)

- providing technical assistance as needed
- providing annual training for lenders and prospective lenders
- collaborating with SBA, RD, and other Federal Agencies

* * *

- approving loan requests as outlined in 1-FLP, paragraph 29
- approving all loss claims before payment
- ensuring equitable treatment in processing loan applications as outlined in Part 6
- submitting recommendations to DAFLP about approval of SEL status for nontraditional lenders
- approving requests for CLP status
- maintaining files on CLP Lender activity within the State
- submitting recommendations to DAFLP about approval of PLP status
- ensuring that lender monitoring visits are conducted.

D DAFLP's Responsibilities

DAFLP is responsible for:

- managing FLP's on a national level
- developing policy
- monitoring the financial condition of status lenders
- approving lender requests for PLP status
- approving nontraditional lender requests for SEL status
- issuing SEL Lenders Agreement for nontraditional lenders
- determining funding allocations
- ensuring consistent application of regulations and policies.

21 Collaboration With SBA, RD, and Other Federal Agencies

* * *

A Collaboration Activities

State and County Agency officials shall collaborate with local SBA, RD, and other applicable Federal Agencies to ensure that the financing needs of agricultural producers are met. To the maximum extent possible, Agency officials shall:

- develop and maintain effective working relationships with SBA, RD, and other Federal Agency partners
- attend and participate in SBA, RD, and other applicable Federal Agency lender training sessions
- invite SBA, RD and other applicable Federal Agencies to participate in FSA-sponsored training for lenders and prospective lenders
- participate in joint Agency outreach and marketing efforts.

* * *

22-30 (Reserved)

Part 3 General Program Requirements

31 ECOA (12 CFR 202.9(b)(1))

A Purpose

FLP must comply with the provisions of ECOA and the implementing regulations of the Federal Reserve System published in 12 CFR Part 202.

[12 CFR 202.9(b)(1) The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

ECOA prohibits discrimination against recipients of Federal financial assistance in the delivery of services to the public. FSA is required to comply with nondiscriminatory and *--equal opportunity practices in guaranteed loan making and servicing actions.--*

B Further Explanations

See 1-FLP, paragraph 41 for explanations of ECOA, USDA Nondiscrimination Policy, and USDA Nondiscrimination Statements.

*--32 Conflict of Interest (7 CFR 762.110(i))

A Definition and Reporting

[7 CFR 762.110(i)(1)] When a lender submits the application for a guaranteed loan,--* the lender will inform the Agency in writing of any relationship which may cause an actual or potential conflict of interest.

--[7 CFR 762.110(i)(2)] Relationships include:--

- **the lender or its officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners having a financial interest (other than lending relationships in the normal course of business) in the applicant or borrower**

- **the applicant or borrower, a relative of the applicant or borrower, anyone residing in the household of the applicant or borrower, any officer, director, stockholder or other owner of the applicant or borrower holds any stock or other evidence of ownership in the lender** (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan)

- **the applicant or borrower, a relative of the applicant or borrower, or anyone residing in the household of the applicant or borrower is an Agency employee**

- **the officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners of the lender have substantial business dealings (other than in the normal course of business) with the applicant or borrower**

- **the lender or its officers, directors, principal stockholders, or other principal owners have substantial business dealings with an Agency employee**.

The lender must furnish additional information to the Agency upon request.

The Agency will not approve the application until the lender develops acceptable safeguards to control any actual or potential conflicts of interest.

--32 Conflict of Interest (7 CFR 762.110(i)) (Continued)--

B FSA Employees

An FSA employee will not participate, directly or indirectly, in deliberations on, or determination of, any matter affecting the application or servicing of a guaranteed (or direct) loan to any relative of the employee, any person residing in the employee's household, anyone with continuing business dealings with the employee, or any entity controlled by the employee.

An FSA employee will also not participate, directly or indirectly, in deliberations on, or determination of, any matter affecting the application or servicing of a guaranteed loan submitted by a lender who employs (in a lending capacity) any relative of the employee, any person residing in the employee's household, or anyone with continuing business dealings with the employee.

Note: This provision applies when the lender's employee in question is involved in the lending process of FSA guaranteed loans or is a member of the lender's management team overseeing their FSA guaranteed loan portfolio. It is not considered to be a conflict of interest if the lender's employee works in a nonmanagement, administrative capacity or has no involvement in the FSA guaranteed lending process.

FSA employees should notify their immediate supervisor of any potential conflict of interest with an applicant or an employee of a guaranteed lender.

Any processing or servicing activity conducted according to this subparagraph is subject to 3-PM provisions. When an FSA employee has a conflict of interest with an employee of a lender as outlined in this subparagraph, the same guidance from 3-PM should be followed as if the FSA employee had a conflict of interest with an applicant.

33 Review and Appeals (7 CFR 762.104)

A Appeal Rights

7 CFR Part 11 (the National Appeals Division regulation) stipulates that an adverse guaranteed loan approval or loan servicing decision directly affects the applicant/borrower and grants appeal rights to the applicant/borrower. The lender is defined as an "interested party", without appeal rights.

Because an adverse decision of a liquidation plan, interest assistance claim, or loss claim directly affects the lender, the lender will be provided with appeal rights when making an adverse decision in these situations.

***--[7 CFR 762.104(a)] A decision made by the lender adverse to the borrower is not a--* decision by the Agency, whether or not concurred in by the Agency, and may not be appealed.**

33 Review and Appeals (7 CFR 762.104) (Continued)

B Handling Appeals

***--[7 CFR 762.104(c)]** FSA appeals will be handled **in accordance with parts 11 and 780--* of this title** (1-APP).

1-APP, subparagraph 75 C states if, for any reason, an interested party (such as a guaranteed lender) is **not** given notice of an appeal to NAD, FSA's representative should bring the omission to NAD's attention without delay, providing names and addresses of interested parties, if known to FSA. Therefore, when FSA is notified of an appeal filed by a guaranteed loan applicant or borrower, an authorized agency official will ensure that the appropriate lender has been notified by NAD.

C Actions When a Denial Is Overturned in NAD Final Determination

1-APP, subparagraph 135 A requires that FSA implement a final determination not later than 30 calendar days after the effective date of the notice of final determination. An appeal determination is administratively final when the provisions of 1-APP, subparagraph 135 B have been met.

The borrower and lender, as appropriate, will be advised of the next steps to be taken within 5 workdays of the date the appeal decision becomes administratively final, or the date FSA determines that it will not pursue a further review of the hearing officer's decision, whichever comes first. The contact will be by telephone or in person, with a written follow-up.

1-APP, subparagraph 135 D provides that, according to FSA regulations, changes in the borrower's condition in implementing NAD's final determination may be considered. If there have been significant changes to the borrower's financial or farming situation since the date of the original FSA decision, only the information that has changed needs to be submitted or revised.

Note: A significant change is a change that would materially affect the feasibility of, or eligibility for, the proposed loan servicing action.

***--[7 CFR 762.104(b)] The lender or Agency may request updated information from--* the borrower to implement an appeal decision.**

The lender or FSA may request updated financial or production information as the borrower's circumstances may have changed during the pendency of the appeal, which may adversely affect the borrower's farming operation.

Note: Adversely affect means that a change unrelated to the issue resolved through the appeal will result in the borrower no longer being eligible for the assistance requested.

The State appeals coordinator will monitor receipt and implementation of final NAD determinations to ensure that they are properly and timely implemented.

34 Lender List and Classification (7 CFR 762.101(b))

A Lender List

***--[7 CFR 762.101(b)] The Agency maintains a current list of lenders who express a--* desire to participate in the guaranteed loan program. This list is made available to farmers upon request.**

When discussing the guaranteed loan program with potential applicants, FSA employees should inform the producer about the lenders in the area who participate in the guaranteed loan program. However, employees **should not** show favoritism toward any lender or attempt to influence the customer to work with a certain lender over any others.

B Classification

***--[7 CFR 762.101(c)] Lenders who participate in the Agency guaranteed loan program--* will be classified into one of the following categories:**

- **Standard Eligible Lender** (paragraph 46)
- **Certified Lender** (paragraph 50)
- **Preferred Lender** (paragraph 52)
- **Micro Lender** (paragraph 55)**.**

35-45 (Reserved)

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

***--[7 CFR 762.105(b)(1)] 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.

***--[7 CFR 762.105(b)(2)] 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

***--[7 CFR 762.105(b)(3)] 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)

C Examination and Supervision (Continued)

*--Not all regulator's actions will make a lender ineligible.

- If no derogatory search results are found, then the lender meets this eligibility requirement.

- If derogatory search results are found, the approval official shall document as much as possible about the search result, then consider the extent to which the regulator's action could affect the lender's ability to properly service the loan. Old memorandums or actions unrelated to the lender's financial condition or lending activities are not a concern. For further guidance, contact the State Office. State Offices may contact the National Office for guidance as needed.--*

D Local Lender

***--[7 CFR 762.105 (b)(4)] The lender must maintain an office near enough to the--* collateral's location so it can properly and efficiently discharge its loan making and loan servicing responsibilities or use Agency approved agents, correspondents, branches, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. The lender must be a local lender unless it** does either of the following:

- **normally makes loans in the region or geographic location in which the applicant's operation being financed is located**

- **demonstrates specific expertise in making and servicing loans for the proposed operation.**

It is expected that the lender's business office will be located near the loans that it services. If the lender is lending out of its normal service area, FSA shall determine whether or not the loan can be appropriately serviced by the lender. Depending on the type of loan and the type of farming operation, it is important the lender have:

- local knowledge
- the ability to conduct inspections of collateral
- regular contact with the borrower.

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

E Debarment and Suspension

[7 CFR 762.105 (b)(5)] The lender, its officers, or agents must not be debarred or suspended from participation in Government contracts or programs and the lender must not be delinquent on a Government debt.

See 1-FLP, paragraph 43 for additional guidance about debarment and suspension.

If there are no search results, then the individual or entity is not debarred from participating in the Federal Government programs, and thus meet this lender eligibility requirement.

If search records indicate that the individual or entity is excluded or debarred from participating in Federal Government programs, the individual or entity will **not** be eligible to participate in the Guaranteed Loan Program.

--Note:** System for Award Management, which is searched via DNP, also includes**-- other entity records besides exclusion records. If a search result is received, then verify that it is an exclusion record. For further guidance, contact the State Office. State Offices may contact the National Office for guidance as needed.

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 read and certify to the statements on Part C of FSA-2236 before FSA issues FSA-2235. See Pub. L. 113-235, Sections 744 and 745.

--For the purposes of completing FSA-2236, 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

- ***--**ensure that monitoring reviews are conducted on each SEL lender. This review shall be conducted according to Part 11. The designated reviewer shall review the lender's files according to the priorities of subparagraph 267 B.**--***

  * * *

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.

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.

48 Monitoring SEL (Continued)

C Imposing Sanctions (Continued)

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

***--[7 CFR 762.106(b)(1)]** 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.

49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)

C Loan Production and Performance

***--[7 CFR 762.106(b)(2)]** The lender must **have a lender loss rate not in excess of the--* maximum CLP Loss Rate established by the Agency and published periodically in a Federal Register Notice.**

This rate is set at 7.00 percent.

To be eligible for CLP, the lender must have a loss rate that does not exceed 7 percent.

***--[7 CFR 762.106(b)(2)] The Agency may waive the loss rate criteria for those lenders--* whose loss rate was substantially affected by a disaster as defined in** 7 CFR **761.2(b) and Part 759 of this chapter.** See Exhibit 2.

--**SED is granted the authority to waive this criteria on a lender-by-lender basis. The**-- performance of other lenders under similar conditions should be considered before granting such a waiver.

[7 CFR 761.2(b)] Loss rate is the net amount of loan loss claims paid on FSA guaranteed loans made in the previous 7 years divided by the total loan amount of all such loans guaranteed during the same period. See Exhibit 10.

***--[7 CFR 762.106(d)(1)] If a lender applying for CLP status is or has recently been--* involved in a merger or acquisition, all loans and losses attributed to both lenders will be considered in the eligibility calculations.**

The lender must continue to meet this requirement to hold CLP status. As part of the annual CLP review, the authorized agency official shall ensure that the lender's losses remain below the maximum loss rate.

49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)

D Experience

***--[7 CFR 762.106(b)(3)]** The lender must **have proven an ability to process and--* service Agency guaranteed loans by showing that the lender:**

- **submitted substantially complete and correct guaranteed loan applications**
- **serviced all guaranteed loans according to Agency regulations.**

In evaluating whether or not a lender meets these requirements, the State Office shall review historical monitoring reports on the lender. Recurring and/or unresolved issues about origination or servicing should be considered in the approval of CLP status for the lender. If CLP status is denied because of failure to meet this requirement, SED should recommend changes that the lender would need to implement to qualify for CLP status at a later date.

E Minimum Guaranteed Loans

***--[7 CFR 762.106(b)(4)]** The lender must **have made the minimum number of--* guaranteed OL, FO, CL, or SW loans established by the Agency and published periodically in a Federal Register Notice.**

This is set at a minimum of 10 Agency guaranteed loans closed in the past 5 years.

The lender must continue to meet this requirement to hold CLP status. As part of the CLP review, the authorized agency official shall ensure that the lender has closed the required number of loans to retain CLP status.

Notes: The volume requirements are published in a separate FR document.

Multiple loans for 1 borrower will be counted separately. However, advances on LOC's do not count as separate loans.

49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)

F Acceptable Level of Soundness

***--[7 CFR 762.106(b)(5)]** The lender must **not be under any regulatory enforcement--* action such as a cease and desist order, written agreement, or an appointment of conservator or receiver, based on financial condition.**

When a lender requests CLP status, SED shall check the appropriate regulatory agency web sites in subparagraph 46 C to determine if the lender is subject to any enforcement action before engaging in a new lending relationship.

G Qualified Person

***--[7 CFR 762.106(b)(6)]** The lender must **designate a qualified person or persons to--* process and service Agency guaranteed loans for each of the lender offices which will process CLP loans. To be qualified, the person must meet the following conditions:**

- **have attended Agency sponsored training in the past 12 months or will attend training in the next 12 months**
- **agree to attend Agency sponsored training each year.**

The CLP application should include the resume or resumes of the person or persons qualified to process and service FSA-guaranteed loans. For a CLP lender, it is expected that this person will have experience in agricultural lending and experience in originating and servicing FSA-guaranteed loans.

H Acceptable Forms

***--[7 CFR 762.106(b)(7)** The lender must **use forms acceptable to the Agency for--* processing, analyzing, securing, and servicing Agency guaranteed loans and lines of credit.**

50 Approval of Certified Lenders (7 CFR 762.106)

A Request for CLP Status

***--[7 CFR 762.106(a)(1)] Lenders who desire CLP status must prepare a written request addressing:**

- **the States in which they desire to receive CLP status * * ***
- **each item of the eligibility criteria for CLP approval in this section** (paragraph 49)**, as appropriate.**

See subparagraph B for eligibility criteria to be addressed in the request.

***--[7 CFR 762.106(a)(2)] The lender may include any additional supporting evidence--* or other information the lender believes would be helpful to the Agency in making its determination.**

***--[7 CFR 762.106(a)(3)] The lender must send its request to the Agency State Office--* for the State in which the lender's headquarters is located.**

***--[7 CFR 762.106(a)(4)] The lender must provide any additional information--* requested by the Agency to process a CLP request, if the lender continues with the approval process.**

50 Approval of Certified Lenders (7 CFR 762.106) (Continued)

B Eligibility Criteria

Before a lender is approved for CLP status, the lender must demonstrate compliance with the following eligibility criteria:

- provide evidence of being an eligible lender
- provide information to show that loan losses (net of recovery) do not exceed 7 percent
- have the capacity to process and service FSA-guaranteed loans
- certify that the person designated to process and service FSA-guaranteed loans has attended FSA loan processing and servicing training within the previous 12 months or will attend training within the next 12 months
- agree to send for annual training the designated person from each of the lender's offices responsible for processing and servicing guaranteed loans
- agree to use forms acceptable to FSA for processing, analyzing, securing, and servicing *--FSA-guaranteed loans or LOC's--*
- if not previously submitted, copies of financial statements, cash flow plans, loan agreements, analysis sheets, security agreements, and promissory notes should be submitted with the request for CLP status
- *--have closed a minimum of 10 FSA-guaranteed FO, SW, CL, and OL loans or LOC's within the past 5 years.--*

C FSA Approval

The CLP-eligible lender will have a track record in FSA programs. SED may request that authorized agency officials that the lender has worked with provide a recommendation for CLP status and any issues or concerns that should be considered by SED before granting *--CLP status. SED will make a decision on CLP status within 30 calendar days of receipt--* of the lender's complete application.

50 Approval of Certified Lenders (7 CFR 762.106) (Continued)

C FSA Approval (Continued)

CLP status is granted on a statewide basis by SED. A separate Lenders Agreement is *--required for each State. All branch offices will be included on the Lenders Agreement.--*

***--[7 CFR 762.106(d)(3)] Lenders who meet the criteria will be granted CLP status--* for a period not to exceed 5 years.** Once a Lenders Agreement is executed by the CLP lender and SED, the executed agreement will be kept in the State Office and copies will be sent to the lender and County Offices where the lender is expected to submit applications. In addition, the FSA-approved lender forms and the names of the lender's designated representatives will be sent to the affected County Offices.

D Renewal

[7 CFR 762.106(f)(1)] CLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

[7 CFR 762.106(f)(2)] Renewal of CLP status is not automatic. A lender must submit a written request for renewal of a lender's agreement with CLP status which includes information:

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

A request for renewal of CLP status must be submitted to FSA before the expiration of the current lenders agreement. FSA will work with the lender to ensure that CLP status remains in effect until a new CLP lenders agreement is executed.

[7 CFR 762.106(f)(3)] CLP status will be renewed if the applicable eligibility criteria under this section are met, and no cause exists for denying renewal under paragraph (g) of this section (subparagraph 51 C).

51 Monitoring CLP (7 CFR 762.106)

A Reviewing Lender Eligibility and Performance

[7 CFR 762.106 (e)] CLP lenders will provide information and access to records upon Agency request to permit the Agency to audit the lender for compliance with these regulations.

The authorized agency official shall conduct a monitoring review on each CLP lender. This
--review shall be conducted according to Part 11. The authorized agency official shall review the lender's files according to the priorities of subparagraph 267 B.--

At least annually, SED or designee shall collect and review information about the performance and eligibility of each CLP lender, including monitoring reviews from all County Offices that monitor the lender. SED or designee shall review the lender's compliance with subparagraphs 46 C, 46 E, 49 C, 49 E, and 49 F. These reviews shall be used to determine whether CLP status should continue.

B Operational File

The authorized agency official shall develop and maintain an operational file on each CLP lender, according to subparagraph 48 B. For CLP, SED shall also maintain a file for their SED internal annual review.

C Revoking CLP Status

In addition to the sanctions that may be imposed in subparagraph 48 C,
[7 CFR 762.106 (g)] the Agency may revoke the lender's CLP status at any time during the 5 year term for cause.

SED is granted this authority.

51 Monitoring CLP (7 CFR 762.106) (Continued)

C Revoking CLP Status (Continued)

Any of the following instances constitute cause:

- **violation of the terms of the lender's agreement**
- **failure to maintain CLP eligibility criteria**
- **knowingly submitting false or misleading information to the Agency**
- **basing a request on information known to be false**
- **deficiencies that indicate an inability to process or service Agency guaranteed farm loans**

--Note:** A list of major and minor deficiencies and related guidance can be found in Exhibit 23.**--

- **failure to correct cited deficiencies in loan documents upon notification by the Agency**
- **failure to submit status reports in a timely manner**
- **failure to use forms accepted by the Agency**
- **failure to comply with the reimbursement requirements of §762.144(c)(7) and (c)(8)** (subparagraph 376 A)**.**

D Reinstatement of CLP Status

***--[7 CFR 762.106(g)(3)] A lender which has lost CLP status must be reconsidered—* for eligibility to continue as a Standard Eligible Lender in submitting loan guarantee requests. They may reapply for CLP status when the problem causing them to lose their status has been resolved.**

If the reason for revoking CLP status was because of the deliberate submission of false information, the National Office must approve the request for reinstatement.

52 Eligibility Requirements for PLP (7 CFR 762.106)

A Overview

PLP is the top status that a lender can hold in the FSA Guaranteed Farm Loan Program. PLP was developed to recognize experienced lenders, who have demonstrated expertise in and understanding of agricultural lending and the FSA Guaranteed Farm Loan Program, by:

- streamlining submission requirements
- decreasing turnaround time on FSA actions
- allowing lenders to originate and service guaranteed loans as they would other loans in their portfolio.

To apply for PLP, lenders must outline the manner in which they intend to process and service FSA loan guarantees, based on their own underwriting and servicing policies. This CMS becomes the basis for approval decisions on guarantee applications. To request a *--guarantee, lenders need only to submit an Application for Guarantee and a loan narrative--* discussing the 5 "C's" of credit; that is, character, capacity, capital, conditions, and collateral. The streamlined requirements of PLP result in a program that is nearly invisible to the lender.

--PLP is beneficial to both lenders and FSA. The streamlined loan making and servicing-- processes allow lenders to reduce administrative costs and provide a quick turnaround time and a higher level of service to their customers. For FSA, the streamlined process allows DAFLP to devote more time to other critical areas of the loan programs.

PLP status is granted by DAFLP in the FSA National Office.

B Meeting CLP Eligibility Criteria

The lender **must meet the CLP eligibility criteria.**

The PLP lender must be a lender who has a track record with FSA-guaranteed loans. While the lender does not have to hold or have held CLP status, they must qualify for CLP status.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

C CMS

***--[7 CFR 762.106(c)(2)]** The lender must **have a credit management system,--* satisfactory to the Agency, based on the following:**

- **the lender's written credit policies and underwriting standards**
- **loan documentation requirements**
- **exceptions to policies**
- **analysis of new loan requests**
- **credit file management**
- **loan funds and collateral management system**
- **portfolio management**
- **loan reviews**
- **internal credit review process**
- **loan monitoring system**
- **the board of director's responsibilities.**

Unlike SEL's and CLP lenders who originate and service guaranteed loans under FSA standards and guidance, PLP lenders will use their own CMS for originating and servicing FLP-guaranteed loans. The items that will be considered when reviewing CMS are in subparagraph D.

DAFLP shall determine what changes must be made to CMS to ensure that statutory and regulatory program requirements are met.

Once CMS is approved by FSA, it becomes the operational plan and a part of Lenders Agreement between the lender and FSA for originating and servicing guaranteed loans. FSA shall monitor the lender by determining whether or not they are in compliance with the terms and conditions agreed to in CMS.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D 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. The application for PLP status is to be prepared according to 7 CFR 762.106 and this subparagraph.

This document is based on a review of numerous lender policies and is intended solely as an example CMS summary. This example may serve as a starting point for a lender developing a CMS summary. Each section of this example must be amended based on the institution's commercial lending policy, organizational structure, and loan management practices.

--Lenders must outline the manner in which they intend to process and service FSA Loan Guarantees based on their own underwriting and servicing policies. A PLP lender's CMS as approved by FSA becomes the basis for approval decisions on Applications for Guarantee.--

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.doc**.*--

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

PREFERRED LENDER PROGRAM
CREDIT MANAGEMENT SYSTEM SUMMARY
ATTACHMENT TO FORM FSA-2201, "LENDER'S AGREEMENT"

Bank Name
Anywhere, USA

This document contains the credit management system (CMS) requirements agreed to by SAMPLE BANK, City, State, USA, and the Farm Service Agency (FSA) for the Lender's participation in the FSA Guaranteed Loan Program. Requirements for loan administration, servicing, and reporting activities not specifically addressed in this attachment or in conflict with 7 CFR 762 are governed by 7 CFR 762, 2-FLP "Guaranteed Loan Making and Servicing", and the attached Form FSA-2201, "Lender's Agreement."

I. GENERAL OPERATIONS

A. Normal Trade Area

Describe the specific geographic area (states and/or regions within states) in which you make loans. If you are requesting PLP status for only a portion of your trade area, please indicate this. Please attach a list of branches intended to be covered by the Lender's Agreement.

The normal trade area for the Lender is Eastern Colorado and portions of Western Nebraska and Kansas. PLP status covers the states of Colorado, Nebraska, and Kansas.

Loans would be considered outside the normal trade area if loan servicing were limited. For example, integrated broiler or pork contractors where the production check is sent to the Lender could be considered. Livestock and personal property loans that are not cross-pledged with real estate are not desirable outside the trade area due to extensive servicing demands. The Lender will contact the appropriate FSA State Office for guidance when submitting requests for guarantee outside of the normal trade area, or if the lender desires to permanently expand its approved normal trade area.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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B. Internal Credit Review System

Describe your credit review system. Include who performs the reviews, the frequency and scope of the reviews, and address if there is a minimum number of guaranteed loans to be reviewed annually. Describe the required method to follow up and the time frame to resolve deficiencies.

The Lender's Quality Control Group operates its internal review program. This group provides an independent, objective, and active means for monitoring adherence to Lender policies and procedures. The group also evaluates the accuracy of the credit and performance classifications and identifies credit administration weaknesses. The Quality Control Group reviews a significant number of loan and servicing actions each year. Reviews are based upon a sampling of those areas that present the greatest risk to the Lender and include a monthly review of credit administration on all loans greater than $300,000. A minimum of 50 percent of outstanding guaranteed loans are reviewed annually.

The Quality Control Group provides the Lender's Board of Directors and senior management a monthly report, which addresses important review results including deficiencies in credit quality and credit administration and adherence to policies and procedures. The group also discusses the results of each loan review with the responsible loan officers to resolve any deficiencies in their portfolio. Loan officers report monthly to the Loan Officer's Committee on the status of corrective actions to address identified deficiencies.

C. Use of Agents, Consultants, and Packagers

Provide information on whether outside packagers are utilized, and if so, under what circumstances? Additionally, outline the type of services these packagers generally perform, and how their work is monitored.

The Lender has not previously used agents or packagers and does not plan to use this type of assistance in the future. Loan requests are originated and packaged by the Lender. Unsolicited loan proposals presented by private consultants may be considered; however, the application will be prepared, analyzed, and presented by a loan officer. The lender's loan officers are responsible for ensuring that all FSA requirements are met.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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D. Credit Department Personnel

To determine who will make and service FSA Guaranteed Loans, list the job titles/positions and describe the qualifications needed to ensure that all FSA requirements are met.

The Senior Vice President of Agriculture Lending, who has 20 years of experience in agriculture lending and 12 years of experience in loan processing, is responsible for overseeing the guaranteed loan program.

The Agriculture Lending Department has two loan officers with primary responsibility for originating and servicing FSA guaranteed loans. These loan officers are responsible for ensuring that all FSA requirements are met. The Quality Control Group monitors compliance with FSA requirements and notifies the loan officers and senior management of any deficiencies.

E. Processing Loans

Describe what tasks you perform when making an agricultural loan. Address any differences between existing and new borrowers requesting lines of credit, real estate loans, and/or personal property (livestock and machinery) loan requests.

Upon receipt of a loan request, the Lender typically performs a site inspection to assess the suitability of the farm and complete environmental due diligence, as appropriate. A site inspection is performed on all new borrowers and on any real estate being acquired by existing borrowers. Existing borrowers' applications may be processed without an additional inspection if an inspection has been completed within the past year and the lender has no concerns with the operation or property. A brief summary of the farm inspection and the lender's assessment of the viability of the operation should be addressed in the loan narrative.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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When requesting a guarantee, the Lender will submit the following information to FSA:

1.A complete "Application for Guarantee" (FSA 2211).

2.A complete loan narrative supporting the request for Guarantee which includes:

- appropriate certifications regarding credit worthiness, financial feasibility (capital and capacity), and collateral as well as a discussion of any conditions or other credit factors including overall strengths and weaknesses

- a certification regarding the test for credit and discussion explaining how the loan applicant meets the remaining FSA eligibility, loan purpose, and other relevant program requirements

- a description of the location of all farmed land.

3.Our internal credit presentation, including the scoring and rating determination of the borrower which evaluates credit risk factors and establishes a score in the following range: *(Please discuss your internal scoring and rating system used to form a determination of the borrower's credit risk. Also, address what the typical score is for loans submitted for a guarantee).*

Description	Score
Prime	1
Good	2
Average	3
Below Average	4
Poor	5
Not Acceptable	6

Loans submitted for a guarantee will typically score 3 or 4. Loans scoring 5 will only be considered in very unusual circumstances. Any score below 5 will not be considered, with or without an FSA guarantee.

4. If FSA's Interest Assistance becomes available, the lender may use this program according to the provisions in 2-FLP and will work with FSA's State Office to determine the necessary information to be provided.

5.When the applicant is an entity, member information will be provided on Form FSA-2211. Entity legal and operating structure will be discussed in the lender narrative.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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F. Information Obtained from Loan Applicants

Describe what information you obtain to evaluate an agricultural loan. Address any differences between existing borrowers, new borrowers, size of loan, purpose of loan, etc. Also state whether the information is mandatory or at the discretion of the loan officer.

The following financial information will be maintained in all loan files.

Loans under $100,000	Current Balance Sheet Tax Return or Income/Expense Statement (1 Year) Projected cash flow budget
Loans $100,000 and over	Current Balance Sheet Tax Returns or Income/Expense Statements (3 Years) Production data (3 Years) Projected cash flow budget Verification of Significant Debts

Current Balance Sheet. For new customers, current is no more than 30 days old. For existing customers, current is no more than 90 days old.

Verification of Significant Debts. Significant debts are those that could potentially affect repayment capacity of the operation if understated. These are verified through credit reports, creditor statements, mail, or telephone contacts.

Projected cash flow budget. Projected cash flow budget may be based only on income/expense history when the operation's history is reliable, the operation is stable, and other credit factors are sufficiently strong.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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II. LOAN ANALYSIS/UNDERWRITING

The Lender uses the XYZ computer loan analysis system. This system is required for all borrowers with more than $100,000 credit with the Lender and for any credit not meeting all credit standards. In other situations, an informal analysis addressing all credit factors will be completed by the loan officer.

The credit underwriting standards presented in this document are those established for non-guaranteed loans. Loans that do not meet these standards will be considered for a guarantee. Exceptions to standards described herein may be approved by the Loan Committee if there are offsetting strengths in other credit factors. However, the Lender will not approve a loan if there is a weakness in both repayment capacity and collateral. If a guarantee is requested, the loan narrative submitted to FSA will include a description of the exceptions and offsetting strengths as well as a justification for the decision.

A. Management Ability/Credit History Analysis

Describe how management ability and credit history are analyzed. With regard to credit history, clarify the acceptable age of a credit report and whether that policy varies for new borrowers versus existing customers. Include the minimum credit score requirement, if applicable. Also, describe your procedure for addressing delinquent debts that do not appear on a credit report. Include what credit references you obtain and what factors would determine whether credit is granted or not granted.

Required credit references. An updated credit report from Experian or another credit reporting bureau is maintained in the credit file for all applications. Credit reports are to be no older than 6 months old from the time of loan application. Businesses that a new customer works with, such as veterinarians and feed and fertilizer dealers, will be contacted for references concerning the manner in which the applicant farms and handles his financial business. Loans to young and beginning farmers must meet the same underwriting standards as other applicants and will be considered for an FSA guarantee. Entity credit reports are obtained if the lender determines that the information would be helpful in analyzing the applicant's credit worthiness; otherwise, only individual credit reports for entity members are obtained.

Credit reports are analyzed through a credit scoring model. Individuals are rated Excellent, Good, Fair, or Poor. Fair or Poor credit ratings are required to have offsetting strengths in other credit factors.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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B. Capacity Analysis

Describe how repayment capacity is evaluated. Include what measures are used and what the lender considers to be an acceptable threshold. Indicate whether repayment capacity is measured using historical income and expenses, projected cashflow, or both. Also include a description of any policies or practices such as estimating projected production or marketing prices, expenses, or nonfarm income and expenses. Describe the criteria that loan requests must meet in order to use the scorecard underwriting method, if the lender utilizes it for certain loans. Include the threshold for an acceptable score, and the types of loan guarantee request that may be submitted using this method.

An applicant's capacity for repayment is demonstrated using the applicant's actual financial history, a cash flow projection reflecting a typical operating cycle, or both. When an operation's actual financial history is reliable, the operation is stable, and other credit factors are sufficiently strong, the cash flow projection may be based on income/expense history only. As the credit risk increases due to loan amount or other factors, a more detailed cash flow projection is developed supported by production records, written leases, and other contracts.

Commodity prices for collateral and cash flow projections are established by Agricultural Credit Administrator and published semi-annually. Prices other than these must be justified when essential to repayment. Non-farm income is confirmed using pay stubs, W2 forms, tax return history, or contracts. Appropriate adjustments and assumptions to production and expenses are documented to reflect the applicant's expected repayment ability.

The applicant's actual financial history or cash flow projection is used to calculate the loan applicant's Term Debt/Capital Lease Coverage Ratio as the primary basis to determine the strength of repayment capacity. The following outlines the repayment capacity measures and standards.

Repayment Capacity: Term Debt/Capital Lease Coverage Ratio (TDCLCR) below 1.25:1.00 is considered weak and must have offsetting strengths in other credit factors. In no case will a loan be approved with TDCLCR less than 1.00:1.00.

Sensitivity Analysis. Cash flow should reflect break even after a 10 percent reduction in revenue, 10 percent increase in expenses, or 5 percent increase in variable interest rates. Sensitivity analysis is required on all loans over $100,000. Credits not meeting the sensitivity criteria should have documented offsetting strengths.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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Scorecard Underwriting

For loan request up to $350,000 (limited to $800,000 total debt outstanding with our institution) that meet specific standards and characteristics, an internal scorecard may be used for loan analysis. The lender intends to include Guaranteed loan requests in this process. This scorecard utilizes borrower information to generate a loan decision. The scorecard process entails limited documentation and analysis based on key financial criteria. The lender will obtain a current balance sheet and the most recent tax return or income and expense statement from applicants. The factors considered in calculating credit scores are representative of basic credit factors supporting a decision process that reasonably assures lending practices resulting in sound loans. The lender may adjust the cutoff score after validation based on the organization's portfolio experience and objectives.

Loans may be approved by the scorecard based upon the following limits:

- Transactions up to $350,000 with a standard of 75% maximum loan to appraised value.
- Total debt outstanding at closing with our institution no greater than $800,000.
- Calculated score of 190 or higher.
- Only loans that have a PD 9 or better and are classified as acceptable and are eligible for this program.

A scored loan narrative will be similar to the sample provided and will include a thorough description of the borrower and operation that sufficiently address FSA's eligibility criteria. The capacity and capital discussions will be more limited and focus on the results of the scorecard results.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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C. Capital Analysis

Describe how capital requirements are evaluated and what standards are used. What ratios are calculated? Are entities' financial statements consolidated? What are the preferred standards and what are absolute minimum standards?

The customer's balance sheet is reviewed for solvency and liquidity strength, and is addressed in all loan requests. The loan officer or credit analyst reviews each for consistency, asset valuation, and liability confirmation. When appropriate, adjustments are made to accurately represent the customers' true financial position and analysis is based on these adjusted measures. Strengths and weaknesses relating to the measures and standards below are discussed.

Entity consolidation. When the applicant is an entity, the balance sheet of each individual owner and the entity itself will be obtained. In addition, financial information may be consolidated when a formal entity applies for a loan, and it is helpful for the analysis (such as when income is derived from several sources). When financial information is consolidated for an entity, all assets, debts, and income are combined.

Furthermore, the financial information of the entity and each member will be analyzed to document how the applicant meets FSA's test for credit and why the loan can't be made without a guarantee.

Financial Performance Measures.

- Solvency: Debt/Worth of 1:00:1:00. Higher ratios must have offsetting strengths, which will be discussed in the financial analysis portion of the presentation.
- Liquidity:
  - Current Ratio of 1.00:1.00. Lower ratios may be acceptable if there are offsetting strengths, which will be discussed in the financial analysis portion of the presentation.
  - Working Capital should be at least 15% of projected operating expenses for crop enterprises.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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D. Collateral Analysis.

Describe how the adequacy of collateral is evaluated and what standards are used. What are the preferred and minimum loan to value ratios or rates used? What is the process for determining the collateral to be required?

The following table identifies the Lender's standard Loan to Value rates. Loans exceeding these rates will be offset by strengths in other credit factors.

Collateral	Loan to Value Rates
Crops	70% estimated crop value before harvest
	75% estimated crop value after harvest
	80% of forward contracted crops
	When available, the Lender will also secure crop loans with machinery and equipment, or other farm assets, in addition to the crops.
Beef Cattle	70-80%
Dairy	75% for milking herd, replacement heifers, and feed
Sheep	70 - 80%
Swine	60 - 70%
Agricultural Real Estate	
Range Land (unimproved)	50%
Improved Dry Pasture	60%
Cropland	75%
Farmsteads (including home)	80% - where home accounts for at least 50% of the total value of the parcel w/improvements
Farmsteads (without home)	75%
Machinery	
Used Equipment	75%
New Equipment	75%

The lender is responsible for ensuring that proper and adequate security for the guaranteed loan is obtained and maintained to fully secure the loan, protect the interest of the lender and the Agency, and assure repayment of the loan or line of credit. A 100% loan to value ratio is not adequate when additional security is available. The lender, with concurrence from FSA, will assess the need for, and availability of, additional security on a case-by-case basis based on factors including but not limited to the quality of the proposed security, proposed loan-to-value, repayment capacity, production capacity, management ability, etc.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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Loans over $500,000 secured by real estate will have a USPAP compliant appraisal completed by a state certified general appraiser to determine the value of the proposed security. An internal evaluation meeting the guidelines in 2 FLP, subparagraph 183A may be acceptable for requests of $500,000 or less per the Bank's internal appraisal guidelines. The lender has internal appraisal guidelines which state the transaction size and its complexity establish the basis for the type of value method necessary. Complex facilities and real property such as a specialized livestock building may require a full appraisal although the request may not exceed the $500,000 threshold. Appraisals will typically be within 18 months old. Appraisals over 18 months old may be used if the criteria in 7 CFR 762.127(c)(2) are met and documented.

Loans secured by personal property will have a personal property appraisal completed either by the lender's staff with experience and expertise in determining values of personal property, or by a qualified third party. Personal property appraisals will be based on available data from public sales of the same or similar property in the market area. In the absence of such public sales, reputable publications reflecting market values may be used. Appraisals for personal property must be within 12 months old.

Appraisals or evaluations are not required on property to be taken as additional security that is clearly in excess of what is needed to fully secure the loan. The lender shall provide an estimate of value on the Application for Guarantee, as applicable.

All appraisals and evaluations will be completed in compliance with FSA Handbook 2-FLP requirements.

E. Conditions

Provide some insight into your typical practices for placing additional conditions on loans or agreements with borrowers beyond the promissory note and security documents particularly in cases where there are obstacles beyond the usual covenant or security documentation.

Loan conditions address loan purpose, loan amount, loan structure, pricing, scope of financing or requirements unique to the loan. Conditions are added as loan risk increases, and are based on the credit factor analysis used to identify applicant creditworthiness and risk. Examples include additional monitoring, collateral, insurance, etc., to reduce the risk exposure of any particular loan. A loan agreement will be completed, if necessary, on a case-by-case basis.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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Disbursement of loan proceeds. Each loan with multiple draws requires a line of credit agreement or other agreement addressing disbursement of proceeds perfected as part of the loan. The agreement specifies terms for draws from the loan and that no funds are dispersed without compliance. The lender will document the date, amount, and use of proceeds for each draw.

F. Interest Rates, Terms, and Fees

Comment on your policies for establishing interest rates, setting loan repayment terms, and charging fees.

Interest rates on FSA Guaranteed transactions will be in accordance with the maximum interest rate limits outlined at 7 CFR 762.124(a) as detailed in FSA Handbook 2-FLP paragraph 135. The lender will charge its guaranteed loan customers rates that reflect the reduced risk to the lender provided by the FSA guarantee.

Repayment terms are based on the cash flow stream. Payments are structured to be collected either annually, semi-annually, or monthly. Loan terms will be dependent upon collateral type, loan purpose, and the expected economic life of the collateral securing the loan. Lines of credit can be approved for up to 5 years and with repayment projected as farm production is received.

New equipment and breeding livestock term loan's maturity date will not exceed 7 years. Real estate loans are typically scheduled for repayment over a period not to exceed 40 years from the date of the note or a shorter period, as may be necessary to assure that the loan will be adequately secured after taking into account the probable depreciation of the security.

Fees charged to guarantee customers will be the same as those charged to the lender's non-guaranteed customers for similar transactions. A fee can be charged for appraisals and credit reports, and any fee paid to a government guarantee agency will be passed on to the borrower.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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III. LOAN SERVICING/ADMINISTRATION SYSTEM

A. General Servicing

Describe the routine activities that you perform to ensure repayment, monitor collateral, and ensure borrower compliance with loan covenants. Examples include inspections, reporting requirements, or approvals required. ***Items may be added or removed as necessary.***

Borrower monitoring and supervision. Borrowers will be monitored for financial performance to determine the level of risk to the Lender. The condition of agricultural loans will be reviewed on an annual basis.

Annual borrower review documentation will include the following:

- Updated appraisals of livestock and equipment.

  Note: Semiannual inspections are conducted for stocker or feeder livestock operations financed by a revolving line.

- Farm visit report or collateral inspection report.

- Current balance sheet for borrower, entity members, and any personal guarantors.

- Analysis of current assets, crop condition, livestock conditions, prices, and the likelihood of payment of operating credit and term debt obligations due in the current cycle.

- Income and expense statement, such as IRS Form 1040, Schedule C or F, Farm Equity Manager Report, customer's computerized records, or similar format.

- Comparison of projected to actual financial results and trends.

- Cash flow projection.

- Review of capital purchase and consumer credit needs projected for next year.

- Annual county records search.

- Assignment of a credit score based on risk analysis.

- Annual report on the account score for all borrowers with aggregate debt over $500,000 will be presented to the Board of Directors by the responsible loan officer.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

Exceptions:

- Borrowers with term loans secured by real estate, which have performed as agreed for more than five consecutive years, are required to submit only a balance sheet each year. An inspection will be performed when the balance sheet indicates financial deterioration.

- Borrowers who do not borrow money for operating needs and maintain sufficient cash deposit accounts with the Lender to pay 12 months of installments on their term debts are only required to submit a financial statement every three years.

- Line of credit only borrowers are not scored.

Monitoring security. Acquisition and lien priority of planned capital purchase or ownership of basic security will be verified. Methods for verification include physical inspection visit by loan officer, bill of sale, vehicle title, deed, lien search or another method as appropriate. Cattle will be marked for identification.

Proceeds from the sale of security will be applied to the debt according to lien *--priority. Where multiple loans are secured by a blanket lien on personal property--* security, crop and livestock income will be applied to the annual operating debt incurred to produce that item before being used to pay term debt installments.

The source of proceeds, including bushels, weights, and size will be verified with receipts in those cases where the borrower's records are not accurate. Income from sales in one cycle that is not received until the following cycle (e.g., overlap income, retains, dividends) will be applied to any outstanding debt associated with the production of that commodity.

Term debt collateral sale proceeds will not be used to make scheduled term debt installments.

Advances on lines of credit. Advance requests by the borrower may be made by telephone, electronic mail or other method. The request and its use will be acknowledged in writing on an Advance Record by the borrower during his/her next physical office visit, or by copy of a check written on the account where disbursements are deposited. Each year, the ability to meet all financial obligations will be documented with an annual cash flow projection before the operation is financed for another year.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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Loan ledgers are updated daily for advances and payments. Ledgers do not track the use of funds or source of proceeds; therefore, advances will be entered into an automated spreadsheet and itemized based on projected expense categories weekly. This spreadsheet is checked monthly by loan officers for deviations from projected expense category and total needs. Livestock operation lines of credit are also tracked using livestock inventory control records and inspection reports.

Emergency advances. A moderate advance in excess of the line of credit amount may be made when an aberration causes expenses to exceed the original budgeted amount, and the advance is necessary to avoid significant damage to or loss of the loan security. The reason for the advance and the financial benefit to be derived from it will be documented in the loan file.

Additional loans. The lender will make consumer, residential and commercial loans to guaranteed loan customers as part of ongoing relationships. If nonguaranteed loans are made, security will not be intermingled with a guaranteed loan. When a lender receives a payment from the sale of encumbered property, loan installments will be paid in the order of lien priority. When a payment is received from the sale of unencumbered property or other sources of income, loan installments will be paid in the order of their due date.

Partial releases. Security may be released without FSA concurrence (1) when the security item is being sold for market value and the proceeds will be applied to the loan in accordance with lien priorities; (2) when 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; or (3) when the security item has no present or prospective value. All other releases require FSA written approval.

Cull and replacement policy. Breeding livestock sales proceeds will be treated as normal income when herd size and value is maintained at a level at or above that which existed at loan inception as verified by periodic inspection.

All other releases without compensation will meet FSA regulatory requirements and require loan committee approval. Details of the transaction will be documented in the credit file.

Releases of borrowers. Obligated parties, including entity members, personal guarantors, cosigners, or joint operators, are not released from liability except when the debt has been paid or refinanced, or on a case-by-case basis, with executive loan committee concurrence and FSA written approval.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

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B. Delinquencies

Describe the actions taken to notify borrowers of and correct delinquencies. Include deadlines for actions or decisions and options to correct the delinquency such as rescheduling or deferring payments.

Distressed loans. If the annual analysis or any information provided by the borrower indicates that the borrower will have difficulty meeting their obligations, servicing options to improve the customer's situation will be explored before actual default occurs.

Reminder notices. For annual payment borrowers, reminder notices are mailed 30 days prior to the installment due date. Reminder notices are not mailed for monthly or quarterly payment borrowers. Automated payment reminders that are sent are not kept in the borrower's case file. Automated delinquency notices will be kept in the borrower's case file.

Default notices.

Ten days past due.

- Delinquency notices are mailed, and responsible loan officers are notified by the loan administration staff.

Thirty days past due.

- Written borrower default notification and request for payment is mailed.
- Loan officer contacts the borrower by telephone and meeting is scheduled within 15 days. The borrower is requested to provide a balance sheet and a summary of their liquidity position. A short-term extension in the meeting date may be grated to allow the borrower time to assemble the required information.
- A summary of attempts to schedule a meeting, reasons delays are granted, agreements reached, and actions taken will be documented in the customer file.
- The loan officer presents a report on the prospective servicing plan to the executive loan committee.
- The loan officer notifies the secondary market holder, if applicable, of the Lender's intentions to repurchase or requests that the holder agree to a rescheduling.

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D PLP CMS Guidelines (Continued)

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Forty-five days past due.

- The Default Status report (Form FSA-2248) is submitted to FSA 45 days after the default and every 60 days thereafter until the loan is brought current or a Final Loss Claim is paid. The Default Status report will outline results of meetings or attempts to schedule a meeting and planned collection activities.

Sixty days past due.

- If no meeting has been held, or if meeting results are inconclusive, a second default notification is mailed. The Lender, where required by state law, must participate in mediation prior to foreclosure.

Ninety days past due.

- A plan for cure of the default will be in place unless an extension is granted. The reason for the extension (including pending mediation) will be documented in the customer file and initialed by the loan officer's first line supervisor.

On hundred twenty days past due.

- Restructuring agreements will be consummated or extension justification will be documented.

Every 30 days:

- Loan officer reports to the executive loan committee
- Borrower is contacted if plan has not been completed.
- Notation is made in file as to status of default.

Restructuring delinquent loans. If a defaulted borrower is unable to pay the account as agreed, he/she may request and present a plan for restructuring based on probable financial performance. Debt restructuring will be approved in lieu of liquidation when financially prudent and feasible. Options that the Lender will consider include:

- 90-day extension agreement
- Deferral
- Uneven payments
- Rescheduling
- Capitalization of accrued interest.

Debt Writedown. Writedowns of guaranteed loans will require written approval of FSA.

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D PLP CMS Guidelines (Continued)

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C. Other Servicing Actions

Non-monetary default. Upon occurrence of an event that triggers non-monetary default according to the promissory note, notice of default is mailed and the borrower is provided 30 days to take corrective action.

D. Terminations, Liquidations, and Final Loss Claims.

Describe steps and milestones to resolve a loan delinquency through liquidation of collateral.

Loss Claims. Supporting documentation will be developed, meeting FSA regulatory requirements for any loss claim. This will include a plan of liquidation, including costs of liquidation and expected time frames. The liquidation plan will be kept in the borrower's case file, and revised as necessary. Estimated loss claims will be conservatively developed in order to avoid overpayment.

Voluntary Liquidation. The borrower will be provided 30 days from acceleration to liquidate or agree in writing to a plan for voluntary liquidation of all loan collateral. Voluntary plans will include contingencies for failure to meet plan milestones. A release of the borrower from continued liability may be agreed to as pat of a voluntary plan if written agreement is obtained from the FSA State Office.

Protective advances. Multiple protective advances may be made to protect the collateral. FSA approval is required when the total of all advances exceed $10,000 and each $10,000 thereafter.

Acquisition of real estate security. The responsible loan officer or workout officer will review the collateral for possible environmental liability. If environmental problems are found, the executive loan committee will make a decision with FSA concurrence on the acceptance of a deed in lieu of foreclosure or assessment of protective bids to be made at foreclosure. For FSA guaranteed loans, FSA will be consulted regarding the method of sale or establishing foreclosure bids on any properties whose value has been substantially reduced by the presence of hazardous waste.

Bankruptcy. In the event of bankruptcy, the lender will protect the guaranteed loan debt and all collateral securing the loan.

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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

E FSA Experience

***--[7 CFR 762.106(c)(3)]** The lender must **have made the minimum number of--* guaranteed OL, FO, CL, or SW loans established by the Agency and published periodically in a Federal Register Notice.**

This is set at a minimum of 20 Agency guaranteed farm loans closed in the past 5 years for lenders initially seeking to obtain PLP status. In the case of existing PLP lenders seeking to renew their PLP status, this is set at a minimum of 10 Agency guaranteed farm loans closed in the past 5 years.

Former PLP lenders whose status was not renewed since 2/23/2019 solely because of a lack of loan volume may reapply for PLP status under the revised renewal threshold of 10 Agency guaranteed farm loans closed in the past 5 years. Those lenders must reapply by no later than 8/21/2024 to be evaluated under the requirement of 10 Agency guaranteed farm loans closed in the past 5 years.

Former PLP lenders whose status was not renewed before 2/23/2019 and former PLP lenders whose status was not renewed at any time for a reason other than lack of loan volume must meet the threshold of 20 Agency guaranteed farm loans closed in the past 5 years if they seek to regain PLP status.

Note: The volume requirement is published in a separate FR document.

F Loss Rate

***--[7 CFR 762.106(c)(4)] The lender must have a lender loss rate not in excess of the--* rate of the maximum PLP loss rate established by the Agency and published periodically in a Federal Register Notice.**

This rate is set at 3 percent.

[7 CFR 761.2(b)] Loss rate is the net amount of loan loss claims paid on FSA guaranteed loans made in the previous 7 years divided by the total loan amount of all such loans guaranteed during the same period. See Exhibit 10.

***--[7 CFR 762.106 (d)(1)] If a lender applying for PLP status is, or has recently been,--* involved in a merger or acquisition, all loans and losses attributed to both lenders will be considered in the eligibility calculations.**

***--[7 CFR 762.106(c)(4)] The Agency may waive the loss rate criteria for those lenders whose loss rate was substantially affected by a disaster as defined in** 7 CFR **761.2(b)--* and Part 759 of this chapter**. See Exhibit 2.

This waiver may be granted only by DAFLP.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

G Sound Loan Proposals

*--**[7 CFR 762.106(c)(5)]** The lender must **show a consistent practice of submitting--*** **applications for guaranteed loans containing accurate information supporting a sound loan proposal.**

PLP lenders are expected to be experienced agricultural lenders who can demonstrate a history of consistently developing complete and accurate applications with minimal FSA involvement.

H Recurring Deficiencies

***--[7 CFR 762.106(c)(6)]** The lender must **show a consistent practice of processing Agency guaranteed loans without recurring major or minor deficiencies**.--*

In reviewing this requirement, DAFLP shall check previous monitoring reviews for major and minor recurring deficiencies**. [7 CFR 761.2] A major deficiency is one that directly** ***--affects the soundness of the loan.** Examples of major deficiencies and guidance regarding impacts to PLP status can be found in Exhibit 23.**--*

*** * ***

[7 CFR 761.2] A minor deficiency violates Agency procedure, but does not affect the ***--soundness of the loan.** Examples of minor deficiencies and guidance regarding impacts to PLP status can be found in Exhibit 23.**--*

*** * ***

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

I Ability to Service Guaranteed Loans

***--[7 CFR 762.106(c)(7)]** The lender must **demonstrate a consistent, above average--* ability to service guaranteed loans based on the following:**

- **borrower supervision and assistance**
- **timely and effective servicing**
- **communication with the Agency.**

This criterion should be reviewed in the light of the lender's relationship to FSA and its borrowers. Three specific criteria are addressed.

- **Borrower Supervision and Assistance.** For PLP lenders, FSA expects that lenders will routinely work with borrowers to set goals and resolve deficiencies. For troubled borrowers, FSA would look for lender actions to:

  - communicate with the borrower about their complete credit and debt situation
  - resolve financial difficulties with a view of the big picture.

- **Timely and Effective Servicing.** In assessing the PLP request, FSA shall look at how the lender has serviced its existing portfolio. Have problem loans been monitored closely and action taken promptly? Have loans been adequately protected in bankruptcy, litigation, or liquidation? Has the lender used good judgment in servicing actions, maintained control, and minimized losses to FSA?

- **Communication With FSA.** Because of the nature of PLP, good communication with FSA is critical. DAFLP shall look to SED and the authorized agency official for information about FSA's past and current relationship with the lender. Is FSA informed of issues and potential losses at the early warning stage? Does the lender submit required reports on time? Are issues discovered in monitoring reviews quickly resolved and communicated to FSA?

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

J Qualified Person

***--[7 CFR 762.106(c)(8)]** The lender must **designate a person or persons, either by--* name, title, or position within the organization, to process and service PLP loans for the Agency.**

The lender should detail the minimum educational and experience requirements of loan officials or include the resume or resumes of the person or persons who are qualified to process and service FSA-guaranteed loans. For a PLP lender, it is expected that this person will have significant experience in agricultural lending and significant experience in originating and servicing FSA-guaranteed loans. To satisfy this requirement, the lender's application should address the experience the designated person has about the items in subparagraphs G and I.

Once PLP status is approved, the lender is responsible for maintaining staff that are adequately trained in originating and servicing guaranteed loans.

53 Approval Requirements (7 CFR 762.106)

A Request for Approval

Both the lender and SED should develop the lender's request for approval. The lender should contact the State Office and inform SED of its intent to submit a PLP request. SED may provide additional guidance to the lender in developing its application. The request should be in the following 3 parts.

- Part I. The Lender's Application Letter demonstrating the lender meets the PLP criteria, excluding CMS.

- Part II. SED Comments and Recommendation. This part of the package will be developed from information gathered from the following sources:

  - County Offices where the lender proposes to do business and has done business in the past

  - in a multi-State request, the other FSA State Offices located in the lender's region

53 Approval Requirements (7 CFR 762.106) (Continued)

A Request for Approval (Continued)

- *--State and County Office operational files, containing information on the lender's--* past performance

- the lender's PLP application package

  Note: SED shall review the lender's proposed CMS to make a recommendation to DAFLP. However, SED will **not** set minimal underwriting, servicing, or liquidation standards, processes, or procedures for the lender. This is the lender's proposal and it need not, and probably will not, comply with requirements set for SEL and CLP lenders. Any areas considered inadequate by SED will be identified in the recommendation to DAFLP, but will not be communicated to the lender.

- reports indicating volume, loss, delinquencies, timeliness of lender reporting, etc.

- National Office for information on the lender's financial strength.

- Part III. A copy of the lender's proposed CMS. See subparagraph 52 D for CMS requirements.

Parts I and III of the application should be submitted to SED, who shall:

- check the application for completeness
- review its contents
- make an approval recommendation
- forward the application to DAFLP for approval.

B DAFLP Review

DAFLP shall review the PLP request, contacting the lender if necessary, and make the approval decision.

53 Approval Requirements (7 CFR 762.106) (Continued)

C Conditions of Approval

***--[7 CFR 762.106(d)(2)] Lenders who meet the criteria will be granted PLP status--* for a period not to exceed 5 years.**

***--[7 CFR 762.106(d)(4)] PLP status will be conditioned on the lender carrying out--* its credit management system as proposed in its PLP status and any additional loan making or servicing requirements agreed to and documented in the PLP lender's agreement.**

***--[7 CFR 762.106(d)(4)] If the PLP lender's agreement does not specify any--* agreed upon process for a particular action, the PLP lender will act according to regulations governing CLP lenders.**

Example: If the PLP lender does not state in its CMS what historical financial information will be collected when developing applicant cash flow budgets, CLP requirements in paragraph 153 will be followed.

D Renewal

***--[7 CFR 762.106(f)(1)] PLP status will expire within a period not to exceed 5 years--* from the date the lender's agreement is executed, unless a new lender's agreement is executed.**

***--[7 CFR 762.106(f)(2)] Renewal of PLP status is not automatic. A lender must--* submit a written request for renewal of a lender's agreement with PLP status which includes information:**

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

***--[7 CFR 762.106(f)(3)] PLP status will be renewed if the applicable eligibility--* criteria under this section are met, and no due cause exists for denying renewal under subparagraph** 54 C.

E Transfer of PLP Information to the Local Office

SED must provide a copy of PLP Lenders Agreement, including all attachments, to the authorized agency official in each local office that will process loans for the specific PLP lender.

54 Monitoring the PLP Lender (7 CFR 762.106)

A Review of Lender Eligibility and Performance

[7 CFR 762.106 (e)] PLP lenders will provide information and access to records upon Agency request to permit the Agency to audit the lender for compliance with these regulations.

SED is responsible for ensuring that monitoring reviews are conducted on each PLP lender. This review shall be conducted according to Part 11 and shall examine the lender's approved CMS. The designated reviewer shall review the lender's files according to the priorities in subparagraph 267 B.

At least annually, SED or designee shall collect and review information about the performance and eligibility of each PLP lender, including monitoring reviews from all County Offices that monitor the lender. SED or designee shall review the lender's compliance with subparagraphs 46 C, 46 E, 49 C, 49 E, and 49 F. These reviews shall be used to determine whether PLP status should continue.

B Operational File

The authorized agency official shall develop and maintain an operational file on each PLP lender, according to subparagraph 48 B. SED shall also maintain a file developed as part of their internal review.

The SED operational file shall also contain a copy of the executed Lender's Agreement and the lender's corresponding CMS.

C Revoking PLP Status

***--[7 CFR 762.106(g)(1)]** In addition to the sanctions that may be imposed in subparagraph 48 C, a PLP lender may, at the discretion of DAFLP, have their status revoked **at any time during the 5 year term for cause. [7 CFR 762.106(g)(2)] Any of the following--* instances constitute cause for revoking or not renewing PLP status:**

- **violation of the terms of the lender's agreement**
- **failure to maintain PLP eligibility criteria**
- **knowingly submitting false or misleading information to the Agency**

54 Monitoring the PLP Lender (7 CFR 762.106) (Continued)

C Revoking PLP Status (Continued)

- **basing a request on information known to be false**
- **deficiencies that indicate an inability to process or service Agency guaranteed farm loans**

***--**A list of major and minor deficiencies and related guidance can be found in Exhibit 23.

To maintain PLP status, the dollar delinquency rate for the lender must not exceed 3 percent of the national average dollar delinquency rate for PLP lenders. The agency will review this rate for all PLP lenders at least annually. The agency may allow a lender with a delinquency rate above this threshold to retain their PLP status for a 1-year period, if the:

- lender documents in writing why the excessive loss rate is beyond their control
- lender provides a written plan that will reduce the delinquency rate to the maximum rate within 1 year from the date of the plan
- agency will revoke delegated authority and PLP status if the delinquency rate is not met at the end of the 1-year period.**--***

- failure to comply with interest rate policies according to paragraph 135
- **failure to correct cited deficiencies in loan documents upon notification by the Agency**
- **failure to submit status reports in a timely manner**
- **failure to use forms, or follow credit management systems accepted by the Agency**
- **failure to comply with the reimbursement requirements of §762.144(c)(7) and (c)(8)** (subparagraph 376 A)**.**

***--[7 CFR 762.106(g)(2)(ii)] The Agency may allow a PLP lender with a loss rate--* which exceeds the maximum PLP loss rate to retain its PLP status for a two-year period, if the:**

- **lender documents in writing why the excessive loss rate is beyond their control**
- **lender provides a written plan that will reduce the loss rate to the PLP maximum rate within two years from the date of the plan**

54 Monitoring the PLP Lender (7 CFR 762.106) (Continued)

C Revoking PLP Status (Continued)

- **Agency determines that exceeding the maximum PLP loss rate standard was beyond the control of the lender. Examples include but are not limited to** the following**:**

  - **a freeze with only local impact**
  - **economic downturn in a local area**
  - **drop in local land values**
  - **industries moving into or out of an area**
  - **loss of access to a market**
  - **biological or chemical damage.**

***--[7 CFR 762.106(g)(2)(ii)(D)] The Agency will revoke PLP status if the maximum--* PLP loss rate is not met at the end of the two-year period, unless a second two year extension is granted under this subsection.**

PLP lenders who exceed the maximum loss ratio and want to retain their status will contact their FSA State Office and explain why they believe their excessive losses are beyond their control. They will be required to develop a plan to reduce their losses below the 3 percent loss ratio, the current maximum allowed by regulations to retain PLP status.

IF the State Office determines there is...	**THEN the State Office will...**
adequate justification for allowing the lender to retain PLP status	make their recommendation and send an exception request to DAFLP, who will make the final decision on granting the exception. **Notes:** If granted, the exception may be renewed at the end of the 2-year period for another 2-year period if the lender is making satisfactory progress toward reducing their loss ratio below the standard, currently set at three percent. No further renewals or extensions would be granted. A waiver may be granted only by DAFLP.
inadequate justification for allowing the lender to retain PLP status	decline to send a request for an exception.

D Reinstatement of PLP Status

***--[7 CFR 762.106(g)(3)] A lender which has lost PLP status must be reconsidered for--* eligibility to continue as a Standard Eligible Lender or as a CLP lender in submitting loan guarantee requests. They may reapply for PLP status when the problem causing them to lose their status has been resolved.**

55 Micro Lender Program (7 CFR 762.107)

A Overview

MLP allows nontraditional lenders and commercial lenders not eligible for other lender statuses to participate in the EZ Guarantee program. MLP status allows FSA to increase collaboration with nontraditional lenders and assist smaller farmers * * *. Establishing a stronger working relationship with nontraditional lenders is beneficial since they share a common goal with FSA to assist producers * * * in credit deserts.

[7 CFR 762.107(a)(3)] MLP lender authorities are limited to originating and servicing EZ Guarantee loans.

B Application

[7 CFR 762.107(a)] Lenders who desire MLP status **must submit an application form "FSA-2205, "Guaranteed Micro Lender Application" to any local FSA office. The lender must provide any additional information requested by the Agency to process an MLP request if the lender continues with the approval process.**

C Eligibility Criteria

[7 CFR 762.107(b)] An MLP lender must:

- **have experience in making and servicing business loans**
- **have the staff and resources to properly and efficiently discharge its loan making and loan servicing responsibilities that may include use of Agency approved agents**
- **be subject to oversight as established and announced by the Agency.**

Acceptable oversight for MLP lenders must be one of the following:

- a lender meeting the examination and supervision requirement in §762.105(b) (see subparagraph 46 C)
- Community Development Financial Institution (CDFI). CDFI's that have been awarded funds and are under the supervision of the Community Development Financial Institutions Program described in 12 CFR §1805
- Rural Rehabilitation Corporation (RRC). RRC's that have entered into an agreement establishing an ongoing reporting and credit supervision relationship with the FSA

55 Micro Lender Program (7 CFR 762.107) (Continued)

C Eligibility Criteria (Continued)

- **have a loss rate not in excess of the maximum MLP loss rate established and announced by the Agency**

  Note: Losses on all business loans (which includes agricultural loans) of $50,000 or less made over the past 7 years do not exceed 3 percent.

- **have made the minimum number of loans as established and announced by the Agency**

  Note: The lender has originated 20 or more business loans of $50,000 or less

- **not be debarred or suspended from participation in Government contracts or programs or be delinquent on a Government debt. This includes the lender's officers and agents.**

See subparagraph 46 E for guidance on confirming this requirement.

D Approval

MLP status may be approved on a statewide basis by SED.

The Agency and MLP lender will execute a Lenders Agreement for a term not to exceed 5 years. The Lenders Agreement will be maintained and distributed according to State Office policy.

E Monitoring and Revoking MLP Status

[7 CFR 762.107(d)] The Agency may revoke the lender's MLP status at any time during the 5 year term for cause. [7 CFR 762.107(d)(1)] Any of the following instances constitute cause for revoking or not renewing MLP status:

- **violation of the terms of the Lender's Agreement**

- **failure to maintain MLP eligibility criteria**

- **knowingly submitting false or misleading information to the Agency**

- **deficiencies that indicate an inability to process or service Agency guaranteed farm loan programs loans in accordance with this subpart**

  --Note:** A list of major and minor deficiencies and related guidance can be found in Exhibit 23.**--

- **failure to correct cited deficiencies in loan documents upon notification by the Agency**

55 Micro Lender Program (7 CFR 762.107) (Continued)

E Monitoring and Revoking MLP Status (Continued)

- **failure to submit status reports in a timely manner; or,**
- **failure to comply with the reimbursement requirements of § 762.144(c) (7) and (c)(8).**

[7 CFR 762.107(d)(2)] A lender that has lost MLP status may reapply for MLP status once the problem that caused the MLP status to be revoked has been resolved.

F Renewal of MLP Status

[7 CFR 762.107(c)] MLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

[7CFR 762.107(c)(1)] Renewal of MLP status is not automatic. A lender must submit a new application for renewal.

Note: State Offices shall monitor expiration of MLP status and contact the lender with sufficient lead time prior to the expiration of MLP status to discuss renewal procedures.

[7 CFR 762.107(c)(2)] MLP status will be renewed if the applicable eligibility criteria under this section are met, and no cause exists for denying renewal under paragraph (d)(1) of this section (subparagraph 55E).

***--56 PLP Delegated Authority (7 CFR 762.108)**

A Purpose

[7 CFR 762.108(a)] FSA may delegate authority for certain portions of the guaranteed loan process to qualified guaranteed lenders. This allows the lender to certify compliance with those pre-determined aspects of the guaranteed loan process without the need for a more detailed review by the Agency.

B Scope

[7 CFR 762.108(b)] Delegated authority is only applicable for those portions of the guaranteed loan process specifically identified within this Part.--*

***--56 PLP Delegated Authority (7 CFR 762.108) (Continued)**

C Eligibility

[7 CFR 762.108(c)(1)] All lenders that hold PLP status will receive and exercise delegated authority as outlined in this section.

[7 CFR 762.108(c)(2)] Delegated authority will be granted to PLP lenders for a period not to exceed the expiration date of their PLP lender's agreement.

[7 CFR 762.108(c)(3)] Delegated authority will be conditioned upon the lender carrying out its authority in accordance with their agreement with the Agency and credit management system.

D Renewal of Delegated Authority.

[7 CFR 762.108(d)(1)] Delegated authority will expire on the expiration date of the lender's PLP lender's agreement unless delegated authority is otherwise revoked according to paragraph (e) of this section.

[7 CFR 762.108(d)(2)] Renewal of delegated authority is not automatic and is conditioned upon the renewal of the lender's PLP status.

E Revocation of Delegated Authority

[7 CFR 762.108(e)] FSA may revoke a lender's delegated authority at any time for any of the following reasons:

- **[7 CFR 762.108(e)(1)] Approving loans that do not meet the Agency's requirements for eligibility, financial feasibility, and loan security;**

  Note: A list of major and minor deficiencies and related guidance can be found in Exhibit 23.

- **[7 CFR 762.108(e)(2)] Failure to maintain any of the eligibility requirements in this section;**

- **[7 CFR 762.108(e)(3)] Knowingly submitting false or misleading information to the Agency;**

- **[7 CFR 762.108(e)(4)] Basing a request on information known to be false;**

- **[7 CFR 762.108(e)(5)] Failure to maintain PLP lender eligibility requirements in § 762.106(c) of this Part; or--***

***--56 PLP Delegated Authority (7 CFR 762.108) (Continued)**

E Revocation of delegated Authority

- **[7 CFR 762.108(e)(6)] Unacceptable portfolio performance as evidenced by delinquency, losses, material deficiencies, or any other performance metric established by the Agency; or**

  A list of major and minor deficiencies and related guidance can be found in Exhibit 23.

  To maintain delegated authority , the dollar delinquency rate for the lender must not exceed 3 percent of the national average dollar delinquency rate for PLP lenders. The agency will review this rate for all PLP lenders at least annually. The agency may allow a lender with a delinquency rate above this threshold to retain their delegated authority for a 1-year period, if the:

  - lender documents in writing why the excessive loss rate is beyond their control
  - lender provides a written plan that will reduce the delinquency rate to the maximum rate within 1 year from the date of the plan
  - agency will revoke delegated authority and PLP status if the delinquency rate is not met at the end of the 1-year period.

- **[7 CFR 762.108(e)(7)] Revocation of PLP status under § 762.106(g).**

F Processing Timeframes

[7 CFR 762.108(f)] Complete applications from lenders exercising delegated authority will be approved or rejected no later than 5 calendar days after receipt if requisite environmental requirements have been met.

G Oversight

[7 CFR 762.108(g)] The Agency will monitor lender performance through the regular use of loan level data and lender oversight/monitoring reviews. The frequency of such reviews will be announced by the Agency in the Agency's administrative handbooks.

H Administration of Delegated Authority

[7 CFR 762.108(h)] The Agency may adjust, modify, or cancel the use of delegated authority programmatically based on overall considerations such as budget, portfolio performance, and program integrity.--*

57-64 (Reserved)

Part 5 Loan Application Requirements (7 CFR 762.110)

Section 1 Application Requirements

65 General Application Requirements

A Application Requirements

[7 CFR 762.110(a)(1)] Lenders must perform at least the same level of evaluation and documentation for guaranteed loans that the lender typically performs for nonguaranteed loans of a similar type and amount.

Good communication with lenders will minimize problems and help ensure a rapid review of applications. The authorized agency official should communicate with lenders throughout the application preparation and submission process. Lenders should be encouraged to:

- contact authorized agency officials for assistance with the application
- address any issues or deficiencies before they become problems.

When FSA receives a guaranteed loan application in conjunction with a direct loan application, the authorized agency official will share application documentation with the guaranteed lender, if necessary, to facilitate application completeness and consistency.

SEL's and CLP lenders may use FSA-2291 as an application processing checklist. FSA may use FSA-2292 to review an application for completeness.

[7 CFR 762.110(a)(2)] The application thresholds in this section apply to any single loan, or package of loans submitted for consideration at any one time. A lender must not split a loan into two or more parts to fall below the threshold in order to avoid additional documentation.

To qualify for an EZ Guarantee Loan, an applicant's outstanding guaranteed loan principal balance may not exceed $100,000 ($50,000 for MLP lenders) for FO and OL combined at the time of loan closing.

[7 CFR 762.110(a)(3)] The Agency may require lenders with a lender loss rate in excess of the rate for CLP lenders to assemble additional documentation from (paragraph 68).

On an individual loan basis, FSA may request additional information to make eligibility and approval decisions.

--[7 CFR 762.110(a)(4)] Lenders may submit applications through any electronic means designated by the Agency and the Agency may provide all notifications and requests for information related to the application to the lender electronically.--

65 General Application Requirements (Continued)

B Maintaining Complete Loan File

[7 CFR 762.110(g)] All lenders must compile and maintain in their files a complete application for each guaranteed loan. CLP lenders must certify that the required items, not submitted, are in their files.

The lender's file must contain the applicable items in paragraphs 66 through 68 and all correspondence with the borrower about servicing actions and other loan-related documentation generated after loan approval.

***--[7 CFR 762.110(g)(5)] The Agency may request additional information from any--* lender or review the lender's loan file as needed to make eligibility and approval decisions.**

65.5 Application Requirements for EZ Guarantee Loans

A EZ Guarantee Loan Qualification

[7 CFR 762.110(b)] MLP lenders may submit an EZ Guarantee application for loans up to $50,000. All other lenders may submit EZ Guarantee application for loans up to $100,000.

To qualify for an EZ Guarantee Loan, an applicant's outstanding guaranteed loan principal balance may not exceed $100,000 ($50,000 for MLP lenders) for FO and OL combined at the time of loan closing.

B Application Package

[7 CFR 762.110(b)] Lenders must submit:

- Application for Guarantee, FSA-2211
- **if the loan fails to pass the underwriting criteria for EZ Guarantee approval in 762.125(d), or the responses in the application are insufficient for the agency to make a loan decision, the lender must provide additional information as requested by the Agency.**

  Note: The intent of the EZ Guarantee Loan program is to reduce application requirements, provide lenders with more flexible underwriting rules, and therefore provide for faster FSA approval.

Additional information may only be required on a case-by-case basis when necessary to make eligibility, environmental, or other determinations which are outside of the lenders' purview or to resolve inconsistencies in the application package.

66 Application Requirements for Loans up to $125,000 (7 CFR 762.110))

A Application Package

[7 CFR 762.110(c)] Lenders must submit the following items for loans up to $125,000 (other than EZ Guarantees):

The $125,000 threshold applies separately to OL, FO, or CL loans. For example, a lender may request a $125,000 OL loan and a $125,000 FO loan in the same package and submit the items in this subparagraph.

- **the application form** (Application for Guarantee) (subparagraph B)
- **loan narrative (**Exhibit 4.5**), including a plan for servicing the loan** (subparagraph C)
- **balance sheet** (subparagraph D)
- **cash flow budget** (subparagraph E)
- description of farmed land (subparagraph F)
- **credit report** (subparagraph G)
- environmental information (if needed, see subparagraph H)
- information related to entity applicants (if needed, see subparagraph I).

B Application Form

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

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

C Loan Narrative

The application package must include a narrative description of the farming operation and the lender's underwriting of the loan. The narrative should address the following:

- a description of the farming operation
- any items relevant to determining applicant eligibility
- the loan proposal including amount, purpose, rates and terms
- collateral analysis
- capacity analysis
- capital analysis
- loan conditions and servicing plan.

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

C Loan Narrative (Continued)

See Exhibit 4.5 for a complete description and instruction for completing a loan narrative.

D Balance Sheet

The application package must contain a balance sheet for the applicant that was prepared within 90 calendar days of the application submission.

E Cash Flow Budget

The lender should submit a cash flow budget as described in Exhibit 2. If significant changes are expected in the operation during the life of the loan, more than one cash flow budget may need to be developed.

F Location of Farmed Land

A description of the location of each tract of land to be farmed by the applicant should be provided. This may be by FSA farm number, legal description, plat map, or other identifying method. This may be included as part of the loan narrative.

G Credit Report

A credit report on the applicant's credit history must be provided. In addition, lenders should consider any other pertinent information concerning the applicant's credit history. CLP lenders are not required to submit the credit report to FSA.

H Environmental Information

Borrowers are required to have a current AD-1026 on file with FSA. Lenders should remind borrowers that AD-1026 must be executed with FSA, if AD-1026 is not already on file.

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 loan processing 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 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.**--***

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, if available.

E Production History

*--The application should include **[7 CFR 762.110(d)(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(d)(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)

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-2211

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.**

--[7 CFR 762.110(g)(4)] PLP lenders must certify that the required items, not submitted, are in their files.** On a case-by-case basis, **[7 CFR 762.110(g)(5)] 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 will only be made in situations where an eligibility or approval decision apart from test for credit, credit history, financial feasibility, or collateral cannot be made without additional information. FSA will not request additional documentation related to the test for credit, credit history, financial feasibility, or collateral from a PLP lender. Similarly, any documentation related to the test for credit, credit history, financial feasibility, or collateral submitted voluntarily by a PLP lender will not be utilized by FSA for decision making purposes.**--

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 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.

69 Application Requirements for PLP Lenders [7 CFR 762.110] (Continued)

B Loan Narrative

--FSA expects PLP lenders to include, in the narrative, a discussion of the description of the operation, eligibility, loan purpose, goals, conditions and certifications for capital, capacity, collateral, test for credit and credit history. Agency officials will not ask for additional details regarding the certifications provided in the narrative.--

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.

--Agency officials will not utilize for decision making purposes any additional information submitted voluntarily by PLP lenders regarding financial feasibility, collateral, test for credit and credit history.--

The lender will state the proposed method to establish the real estate market value, evaluation, or appraisal.

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.

--See Exhibit 4.6 for information on Delegated Authority (PLP) Lender's 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, for applications submitted in their State, 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.

70 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: **Amount:**	**EZ Guarantee** **MLP to $50,000 SEL, CLP, PLP to $100,000**	**PLP**	**CLP**	**SEL** **Up to $125K**	**SEL** **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

70 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 calendar 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.

--**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.**--

Section 2 Other Guaranteed Application Options

--70.5 Application Requirements for CL's (7 CFR 762.110(f))--

A CL Program

The objective of the CL Program is to facilitate implementing conservation practices rather than be a safety net for family farmers. Because of the emphasis on the environment, the CL Program can provide funds to individuals and entities that normally would **not** qualify for FSA assistance. CL's:

- are **not** limited to family farmers and CL applicants can operate noneligible enterprises as defined in Exhibit 2

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

- will **not** need to pass the test for credit, and the graduation requirements of OL and FO loans do **not** apply.

*--B CL Application Package

[7 CFR 762.110(f)] In addition to the other requirements in this section, the following items apply when a lender is requesting a CL guarantee.

[7 CFR 762.110(f)(1)] CL applicants **must submit a copy of their current conservation plan or Forest Stewardship Management Plan.** The plan must address conservation practices that will be financed by the CL request.

Note: NRCS CPA-1155 or Tool Kit is considered sufficient documentation for the conservation plan. A copy of the owner's objectives, schedule of activities, and property map is considered sufficient documentation for the Forest Stewardship Management Plan.

[7 CFR 762.110(f)(2)] Lenders must submit plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition and the lender is requesting consideration for priority funding. This plan can be:

- part of the conservation plan, as described in subparagraph J, or an organic plan that has been approved by a certified agent and the State Organic Certification Program

- a grant that was awarded by the Sustainable Agriculture research and Education Program of the National Institute of Food and Agriculture, USDA.

All CL applications will consist of the applicable items as outlined in paragraphs 67, 68, and 69.--*

70.5 Application Requirements for CL's (7 CFR 762.110(f)) (Continued)--*

C Streamlined CL's

Applicants who qualify for Streamlined CL's have already developed a higher level of management skills and financial security. For applicants with exceptionally strong financial positions, the lender will **not** be required to perform as intensive a cash flow analysis as is necessary for other applicants. The lender will only be required to follow their internal process that they would use for nonguaranteed applicants for cash flow analysis.

***--[7 CFR 762.110(f)(3)] When CL guarantee applicants meet all the following criteria,--* the cash flow budget requirement in this section will be waived:**

- **be current on all payments to all creditors including the Agency (if currently an Agency borrower)**
- **debt to asset ratio is 40 percent or less**
- **balance sheet indicates a net worth of 3 times the requested loan amount or greater**
- **FICO credit score is at least 700. For entity applicants, the FICO credit score of the majority of the individual members must be at least 700.**

71 (Withdrawn---Amend. 37)

72 Market Placement Program (7 CFR 762.110(j))

A Purpose

The Market Placement Program:

- is designed to assist qualified existing direct loan borrowers and new direct loan applicants in obtaining a guaranteed farm loan from a commercial lender
- reduces the number of direct loans FSA makes, which reduces FSA costs while still meeting the credit needs of the farmer
- helps new lenders become familiar with FSA lending standards and; therefore, serves a marketing function for the Guaranteed Farm Loan Program.

Note: The Market Placement Program does **not** apply to CL's because there is no test for credit requirement.

B Lender Participation

Each County Office shall identify lenders who are interested in participating in the Market Placement Program. To identify lenders, the County Office shall contact lenders:

- currently participating in the Guaranteed Farm Loan Program
- who are **not** participating in the Guaranteed Farm Loan Program.

Lenders should advise FSA of their interest.

***--72 Market Placement Program (7 CFR 762.110(j)) (Continued)**

C FSA Preparation of Loan Application

[7 CFR 762.110(j)] When the Agency determines that a direct loan applicant or--* borrower may qualify for guaranteed credit, the Agency may submit the applicant or borrower's financial information to one or more guaranteed lenders. If a lender indicates interest in providing financing to the applicant or borrower through the guaranteed loan program, the Agency will assist in completing the application for guarantee.

FSA shall complete and provide the following to lenders:

- Application for Guarantee
- farm operating plan
- a narrative
- a suggested plan for servicing
- an appraisal.

To complete the guaranteed loan application, the authorized agency official shall use estimated interest rates and terms. If more than 1 lender is interested in the guaranteed loan, the applicant shall select 1 of the lenders. The lender must prepare the loan or LOC agreement. SEL's must submit the loan or LOC agreement to FSA before FSA issues the Conditional Commitment. The Conditional Commitment shall be issued upon the lender's acceptance of the loan application and confirmation that funds are available.

73 Filing Applications Electronically

A Registering to Submit Applications

Lenders may submit applications electronically through USDA's Online Services website. Lenders interested in filing electronically must first register. An explanation of the registration process, along with the necessary form, can be found by either of the following:

- at **http://www.sc.egov.usda.gov**, CLICK "Register"
- contacting any USDA Service Center.

Currently, registration is limited to individuals; lenders cannot be registered as organizations. However, persons representing lenders may register as an individual, and then may electronically sign and submit applications on behalf of the lender.

73 Filing Applications Electronically (Continued)

B Submitting Applications

After a lender's representative has registered and received a user ID and password, the representative may submit applications electronically. Go to **http://www.sc.egov.usda.gov**, CLICK "**eForms**", sign in, and follow the instructions to find, complete, and submit forms. Other electronic documents needed for a complete *--application may be attached to the application form and submitted to FSA. Lenders will see Exhibit 5 for additional information about registering and accessing FSA's electronic online systems.

If an application is received without a lender's signature or all necessary loan applicant signatures, the lender must be notified of the items missing, including any signatures needed. The application will continue to be processed, but will be considered incomplete until the necessary signatures are obtained.

However, when it is not possible to obtain an individual entity member's or co-borrower's signature before submitting the application, such as when the application is submitted through USDA's Service Center Agencies eForms website at **https://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home**, the application will be approved subject to a completed Application for Guarantee with appropriate applicant signatures being provided to FSA before FSA issues a guarantee, assuming that all other applicable requirements are met.

In no case may a Loan Guarantee be issued before obtaining all lender and borrower signatures, including co-borrowers and entity members.

Lenders may also submit the application electronically by FAX or email. FAXed and scanned signatures will be accepted according to 1-CM, paragraph 676.**--***

C Lender Requirements for Electronic Reporting

Information supplied by lenders through the USDA LINC web site meets the submission requirements. Lenders are not required to submit hard copies of information, such as loan closing reports or status reports.

Lenders must complete the following requirements to participate in electronic reporting through the USDA LINC website.

- Each lender employee who participates in electronic reporting must create a Level 2 eAuthentication ID and password at **https://www.eauth.usda.gov/home/**.

- Level 2 security provides users with the ability to conduct official electronic business transactions with USDA agencies through the Internet. If a lender's employee presently has a Level 2 eAuthentication ID/account with any USDA agency, then a second account is not needed.

73 Filing Applications Electronically (Continued)

C Lender Requirements for Electronic Reporting (Continued)

- Lenders are responsible for ensuring that all employees who will have access to electronic reporting adhere to the requirements in FSA-2201.

- Each lender must designate an employee as their Security Administrator who will have the authority and responsibility of granting access to other employees designated by the lender to use FSA's electronic reporting applications. The Security Administrator can have authority over all of the lender's portfolio as a Lender Administrator or can be limited to a single branch as a Branch Administrator. The Security Administrator will be the point of contact for FSA for maintaining the lender employees' eAuthentication ID's in AASM. A lender can choose to designate additional Security Administrators to act as a backup for the primary Security Administrator.

After the Security Administrators are designated and the requirements have been fulfilled, *--the lender will have the Security Administrator contact FSA with his or her--* eAuthentication ID and lender information to be validated and entered into AASM.

After Security Administrators are validated in the system, they will receive an email confirmation validating their authorization and authority to add additional lender employees to AASM. Additional lender employees may be added by logging into the USDA LINC *--website at **https://usdalinc.sc.egov.usda.gov**. Lenders will refer to Exhibit 5 for--* additional information about registering and accessing FSA's electronic online systems.

Note: The email confirmation is sent to the e-mail address the Security Administrator entered when creating the eAuthentication account.

The following types of roles can be assigned to lender employees in AASM by the Security Administrator.

- "Representative" is an employee that the lender designates and authorizes to input electronic data through the USDA LINC website. The Security Administrator can authorize access for the entire portfolio as a Lender Representative or limit access to a specific branch as a Branch Representative.

- "Viewer" is an employee that the lender authorizes to view loan data and has view only capabilities of all transactions in the USDA LINC website. The Security Administrator can authorize access for the entire portfolio as a Lender Viewer or limit access to a specific branch as a Branch Viewer.

Note: FSA does **not** add or maintain any roles for lenders' employees.

74-82 (Reserved)

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 calendar 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.

--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.--

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 calendar 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	5 calendar days (automatic approval after 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 *--appropriate 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.

84 Monitoring FSA Approvals (7 CFR 762.130) (Continued)

* * *

C FLC Responsibilities

FLC's will:

- monitor loan application processing timeframes, GLS data entry, and performance goal
--** accomplishments using Tableau dashboards. The "Guaranteed Loan Making" dashboard will be used to monitor these items. The dashboard is available at **https://cxodashboard.dl.usda.gov/#/site/FPAC/views/FSALandingPage/LandingPage_1?:iid=1&:redirect=auth--

  * * *

- provide technical advice and direction for corrective actions on incorrect rejection of applications.

84 Monitoring FSA Approvals (7 CFR 762.130) (Continued)

D SED Responsibilities

SED's will:

* * *

- emphasize the importance of timely loan application processing for all applicants
- ensure that loan application processing data is monitored through the Executive Information System, FOCUS, or other systems so that applications are being processed timely and equitably in the State
- manage staff resources appropriately to minimize loan application processing delays
- when necessary, initiate or monitor appropriate personnel actions resulting from incorrect rejection of applications to see if a pattern or practice is shown
- review the reports on loan application processing problems submitted by the designated review officials and Farm Loan Chief
- review reports on * * * average loan application processing timeframes

* * *

85-94 (Reserved)

Part 7 Loan Application Completeness Review (7 CFR 762.110)

95 Initial Review

A Adding Applications to GLS

New applications will be entered into GLS as they are received.

B Application Completeness Review

Each application shall be reviewed within 5 calendar days of receipt to determine whether the application is complete. Use Part 5 or FSA-2291 to determine whether an application is complete.

Use the following letter to notify the lender, with a copy to the applicant, when an application is complete.

Date: _____

Dear _____:

This letter is to certify that your application on behalf of (insert name of borrower/applicant) for Farm Service Agency loan guarantee assistance was received complete on (insert date all information necessary to complete application was received). Your request will be processed as quickly as possible.

If changes occur in you applicant's operation or financial situation before final action is taken, or if we need clarification of items on the application, we may ask you to provide additional information.

If you have any questions about the application, please contact this office.

Sincerely,

_____
(Title)

95 Initial Review (Continued)

C Obvious Eligibility Issues

Each application shall be reviewed to determine whether there are any obvious reasons the loan cannot be guaranteed, such as an ineligible applicant or loan purpose. If it is clear that the loan cannot be guaranteed, the request should be rejected at that time.

D Requesting Environmental Information From Other Organizations

Some applications will require additional information from other USDA agencies or organizations to fulfill environmental or other special law requirements. To determine whether information is required from other organizations or Federal or State agencies, the authorized agency official should review applications for the type of loan, loan purposes, and the type of security.

Typically, loan applications that involve HEL, wetlands, historical, or archaeological issues or major construction require information from other organizations. In these cases, the authorized agency official must notify the lender about the additional information required and request the needed information from the organization or agency. A copy of the request should be maintained in the loan file.

The need for this information will indicate an incomplete application and will stop the loan processing timeframes, including PLP automatic approval. See subparagraph 97 A for more information about complete application timeframes when additional environmental information is needed.

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 calendar 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.

--**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.**--

96 Complete Application (7 CFR 762.130)

A When Application Is Complete

[7 CFR 762.130(a)(3)] For purposes of determining application processing timeframes, an application will not be considered complete until all information required to make an approval decision, including the information for an environmental review, is received by the Agency.

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 timeframes do 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.

--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.--

B Documenting Completeness

The date the application is complete:

- will be documented on the Application for Guarantee and entered into GLS
- sets the start date for the 14- or 30-calendar-day period within which applications must be approved or rejected by FSA. The automatic approval for PLP applications is initiated 14 calendar days after an application is complete.

96 Complete Application (7 CFR 762.130) (Continued)

C Lender Notification

[7 CFR 762.130(a)(4)] The Agency will confirm the date an application is received with a written notification to the lender.

The authorized agency official should evaluate the complete application according to subparagraph D. If an approval or rejection decision cannot be made within 5 calendar days, the authorized agency official must notify the lender, in writing with a copy to the applicant, that the application is complete and the date on which that occurred. This requirement applies to all 3 types of lenders.

Note: If a PLP lender is not notified in writing, upon receipt of the application, of any additional information needed, the 14-calendar-day timeframe for automatic approval will begin on the day the application is received.

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 or rejection decision is not made within 14 calendar 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.

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.

96 Complete Application (7 CFR 762.130) (Continued)

D Application Evaluation

Complete applications should be evaluated according to Parts 8 and 9. These parts describe in detail the steps to take when evaluating an application. The loan evaluation process does not have to be completed sequentially. Authorized agency officials will complete FSA-2231 to document all application evaluations regardless of final disposition.

When FSA receives a GFO application to be made in conjunction with a direct down *--payment program loan (3-FLP, Part 7, Section 2), direct joint financing arrangement loan (3-FLP paragraph 134), or a direct loan servicing request that requires a full financial analysis, the credit presentation completed in the FBP documenting analysis of the direct loan portion of the request will be adequate for the guaranteed credit evaluation under--* this paragraph. The authorized agency official will not be required to complete items 16 through 18, 20, and 21 on FSA-2231.

--Agency officials will identify in item 11A that the guaranteed loan was made in conjunction with a direct down payment program loan, a direct joint financing arrangement loan, or a loan servicing action and to see FBP for the credit evaluation.--

For applicants that do not meet loan requirements, such as cash flow, the authorized agency official should work with the lender and suggest ways to assist the applicant to become eligible. To ensure good service, the authorized agency official will make a good faith effort to discuss with the lender, in person or by telephone, the application's shortcomings and possible alternatives. These discussions will be documented in the application file.

The decision to accept or reject an application will be made when the application has been completely reviewed and all reasonable options for making the applicant eligible for a guaranteed loan have been considered.

97 Incomplete Application (7 CFR 762.110(h))

A Initial Notification of Lender

If the application is incomplete, the authorized agency official must notify the lender in writing, with a copy to the applicant, within 5 calendar days after receipt of the application. The letter (subparagraph B) must:

- identify the additional information required from the lender
- state that the application cannot be processed until the additional information is received
- *--establish a deadline for the lender to submit the materials 15 calendar days from the date of the letter
- provide the lender the opportunity to establish a new deadline if the missing items are environmental in nature (for more complicated environmental reviews) and cannot be provided within 15 calendar days.--*

  Note: In these cases, the agency official should work with the lender to determine an appropriate deadline to establish the deadline in writing with the lender.

Additional information should not be requested if it is clear that the application will be rejected for obvious eligibility issues.

B Example of First Notification Letter

The following is an example of a first notification letter.
*--

Dear _____:

Your application on behalf of (insert name of borrower/applicant) for Farm Service Agency loan guarantee assistance was received on (insert date Application for Guarantee was received). However, certain details are missing from the application. We must receive the following information before we can continue processing the request:

(Insert list of items necessary to complete application.)

Please provide these items **(or request an extension)** by (insert date 15 calendar days after date of letter). If you have any questions about the application, please contact this office.

Sincerely,

_____

(Title)

Note: The phrase in bold in the last paragraph is optional and should only be used if environmental items are needed that will take longer than 15 days to obtain. If--* no additional environmental information is needed, the language in bold should be removed before sending the letter.

97 Incomplete Application (7 CFR 762.110(h)) (Continued)

C Second Notification

If the lender does not respond or does not supply all of the information requested within the *--15-calendar-day period specified in the initial notification, or other timeframe specified in writing, the authorized agency official shall immediately send another letter (subparagraph D), with a copy to the applicant. The second notification shall address the same items specified in the initial letter, except that the deadline for submitting additional information will be 15 calendar days from the date of the letter.

The second notification letter must also state that if the lender does not contact the authorized agency official or submit the additional materials within the 15-calendar-day--* period, the application will be considered withdrawn. If necessary, the lender may receive an extension to submit the additional materials. If an extension is granted, a new deadline will be established and communicated to the lender in writing. The extension letter should restate that the application will be considered withdrawn if the lender does not contact the authorized agency official or submit the additional materials by the extension deadline.

97 Incomplete Application (7 CFR 762.110(h)) (Continued)

D Example of Second Notification Letter

The following is an example of a second notification letter.

Date: _____

Dear _____:

Your application on behalf of (insert name of borrower/applicant) for Farm Service Agency loan guarantee assistance is still incomplete. We must receive the following information before we can finish processing this request:

(Insert list of items necessary to complete application.)

If you do not submit this information or contact this office by (insert date 15 calendar days from date of letter), your application will be withdrawn without further notice.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, * * * disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720- 2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

Sincerely,

_____
(Title)

97 Incomplete Application (7 CFR 762.110(h)) (Continued)

E Automatic Withdrawal of Application

***--[7 CFR 762.110(h)] If the lender does not provide the information needed to--* complete its application by the deadline established in an Agency request for the information, the application will be considered withdrawn by the lender.**

The authorized agency official must provide the lender with written notification that the application is withdrawn.

97 Incomplete Application (7 CFR 762.110(h)) (Continued)

F Example of Application Withdrawn Letter

The following is an example of an application withdrawn letter.

Date: _____

Dear _____:

Your application on behalf of (*insert name of borrower/applicant*) for Farm Service Agency loan guarantee assistance was withdrawn effective (*insert date application was withdrawn)*. You failed to provide the additional information we requested in our second notification letter dated (*insert date of second notification letter)*.

If you have any questions, please contact (*insert office name)* at (*insert office address)* or telephone (*insert office telephone number)*.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, * * * disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.*

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720- 2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at ***http://www.ascr.usda.gov/complaint_filing_cust.html*** *and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email:* ***program.intake@usda.gov.*** *USDA is an equal opportunity provider, employer, and lender.*

Sincerely,

_____

(*Title*)

--*

98-107 (Reserved)

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 will check DNP to verify that the applicant is not delinquent on any Federal debt. See 1-FLP, paragraph 53 and Exhibit 15.6 for more information on DNP.

- 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.

- is not ineligible because of disqualification resulting from a Federal Crop Insurance violation
- is not debarred or suspended from participating in government contracts or programs.

The authorized agency official will document that the applicant meets all eligibility *--requirements using FSA-2231. If the GFO request is in conjunction with a DFO request, see subparagraph 96 D for evaluation requirements.--*

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

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.

C No Agency Loss

***--[7 CFR 762.120(a)(1)] 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.

***--[7 CFR 762.120(a)(2)] 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.**

***--[7 CFR 762.120(a)(3)] If the debt forgiveness is resolved by repayment of the--* Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's creditworthiness.**

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

C No Agency Loss (Continued)

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 write-down provided as part of a resolution of a discrimination complaint or any direct or guaranteed loan assistance received under the Inflation Reduction Act.

A borrower who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan.

All debt forgiveness actions that are part of 1 transaction and occur on or about the same date are normally considered 1 occasion of debt forgiveness, regardless of the number of loans involved. Since debt forgiveness on direct loans and guaranteed loans are always considered separate transactions, concurrent forgiveness on direct and guaranteed loans are separate occasions. A single loan may have debt forgiveness on more than 1 occasion, when, for example, a borrower received a write-down and the loan was later liquidated at a loss.

--Note:** Guaranteed losses include any loss claim paid by a type 01, 02, 05, 06, 07, or 08 loss claim.**--

The authorized agency official will verify previous loss to the Government, or debt forgiveness, for each applicant and all individuals who will sign the promissory note. Both DLS, for direct loans, and GLS, for guaranteed loans, will be used to verify prior debt forgiveness.

Note: The applicant may be considered eligible if the loss to the Agency is paid in ***--**full before loan closing.**--***

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

D Delinquency on Federal Debt

***--[7 CFR 762.120(b)] The applicant, and anyone who will execute the promissory--* note, is not delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986. Any debt under the Internal Revenue Code of 1986 may be considered by the lender in determining cash flow and credit worthiness.**

Federal debt not paid within 90 calendar days of the due date is considered delinquent.

The applicant may be considered eligible if the delinquency will be remedied by the date of loan closing. Unless otherwise prohibited, applicants may use loan funds to cure delinquencies. Federal debt includes, but is not limited to, student loans, CCC loans, FSA direct loans, VA loans, and SBA loans. FSA-guaranteed loans are not Federal debts.

Loans that are made, using the following, become a delinquent Federal debt upon the payment of a final loss claim:

- FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date
- Application for Guarantee or Preferred Lender Application.

The authorized agency official shall verify, through DNP, that the applicant and all individuals who will sign the promissory note are not delinquent on Federal debt. DNP screen prints will be placed in the case file to document the basis for eligibility. See 1-FLP, paragraph 53, and 1-FLP, Exhibit 15.6, for more information related to the use of DNP.

E Outstanding Recorded Judgments

***--[7 CFR 762.120(c)] The applicant, and anyone who will execute the promissory--* note, has no outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.**

Applicants must provide evidence that all Federal judgments have been released or paid in full to be eligible for guaranteed loans. Loan funds will not be used to pay Federal judgments. Questions by FSA employees about outstanding judgments should be directed to OGC.

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

F United States Citizenship

***--[7 CFR 762.120(d)(1)] The applicant must be a citizen of the United States, a--* United States non-citizen national, or a qualified alien under applicable Federal immigration laws. For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws.**

***--[7 CFR 762.120(d)(2)] United States non-citizen nationals and qualified aliens must--* provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.**

See Exhibit 7 and 8 for:

- a definition of U.S. non-citizen national and qualified alien
- guidance on documentary evidence of U.S. non-citizen national citizenship and qualified alien status.

G Legal Capacity to Incur Loan

***--[7 CFR 762.120(e)] The applicant and all borrowers on the loan must possess the--* legal capacity to incur the obligations of the loan.**

The applicant must be of legal age, mental capacity, and authority to enter into a legally binding agreement with the lender. An entity applicant and the entity members must be able to enter into such a contract.

H Past Dealings

***--[7 CFR 762.120(f)] The applicant, in past dealings with the Agency, must not have--* provided the Agency with false or misleading documents or statements.**

I Credit History

***--[7 CFR 762.120(g)] The individual or entity applicant and all entity members must--* have acceptable credit history demonstrated by debt repayment. A history of failures to repay past debts as they came due when the ability to repay was within their control will demonstrate unacceptable credit history. Unacceptable credit history will not include either of the following:**

- **isolated instances of late payments which do not represent a pattern and were clearly beyond their control**
- **lack of credit history.**

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

I Credit History (Continued)

***--[7 CFR 762.120(g)(4)] *Delegated Authority*. Lenders who have received delegated authority under § 762.108 of this Part** (paragraph 56) **must certify that all requirements of paragraphs (g)(1), (g)(2) through (3) of this section and the related requirements in the lender's credit management system have been met for each loan application.**

PLP Lenders are required to certify in their lender narrative that applicants have an acceptable credit history without further review or documentation by the agency.**--***

J Test for Credit

***--[7 CFR 762.120(h)] Except for CL guarantees, the applicant is unable to obtain--* sufficient credit elsewhere without a guarantee to finance actual needs at reasonable rates and terms. The potential for sale of any significant nonessential assets will be considered when evaluating the availability of other credit. Ownership interests in property and income received by an individual or entity applicant, or any entity members as individuals also will be considered when evaluating the availability of other credit to the applicant.**

--[7 CFR 762.120(h)(4)] *Delegated Authority.* Lenders who have received delegated authority under § 762.108 of this Part** (paragraph 56) **must certify that all requirements of paragraphs (h) and (h)(1) through (3) of this section and the related requirements in the lender's credit management system have been met for each loan application.--

The applicant's inability to obtain credit will be demonstrated when the lender certifies that they would not make the loan without a guarantee. The lender certifies this by signing the application form.

If the applicant has significant assets that are not essential to the farm operation, and the sale of those assets would remove the need for a guarantee, the applicant does **not** meet the test for credit requirement.

Assets and income of the entity members will also be considered when evaluating the availability of other credit to the entity applicant.

The authorized agency official will:

- review the financial information supplied by the lender along with graduation
- document that the loan requested does **not** meet the lender's loan requirements without a guarantee.

--**PLP lenders are required to certify that the applicants meet the test for credit requirements without further review or documentation by the agency.**--

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

K Controlled Substances

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

Notwithstanding any other provision of law, any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payment made under any Act, with respect to any commodity produced during the crop year of conviction and the 4 succeeding crop years, by such person. Therefore, at the time of the application, if the applicant's conviction was with the past 5 years, they could be considered ineligible.

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

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

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

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

L Federal Crop Insurance Violations

[7 CFR 762.120(o)] The applicant, and all entity members in the case of an entity, must not be ineligible due to disqualification resulting from a Federal Crop Insurance violation, according to 7 CFR part 718.

Federal Crop Insurance Act, Section 515(h), provides that a person who willfully and intentionally provides any false or inaccurate information to FCIC or to an approved insurance provider with respect to a policy or plan of FCIC insurance after notice and an opportunity for a hearing on the record, will be subject to 1 or more sanctions that may change the applicant's eligibility for all Federal assistance.

Applicant's will certify on the Application for Guarantee that they are not ineligible due to disqualification resulting from a Federal Crop Insurance violation. Additionally, RMA will notify the National Office of individuals and entities that have been disqualified as a result of crop insurance violations. The National Office will notify the State Office. State Offices will notify the appropriate County Office. Unless offices are notified of a violation, there will be no other documentation required involving Federal Crop Insurance violations.

*--M Debarment and Suspension

The applicant, and anyone who will execute the promissory note, must not be debarred or suspended from participation in government contracts or programs. In the case of an entity applicant, this requirement applies to both the entity itself and all members of the entity. This requirement also applies to any cosigners. See 2 CFR 180.115 and 417.10 for further regulatory guidance.

See 1-FLP:

- paragraph 43 for additional guidance about debarment and suspension
- Exhibits 15.5 and 15.6 for additional guidance about using the DNP system.

If DNP provides no SAM Exclusion Record for the searched parties, then the individuals or entities are not debarred or suspended from participating in Federal Government programs, and, therefore, meets this eligibility requirement.

If search records indicate that the individuals or entities are excluded or debarred from participating in Federal Government programs, the applicant will not be eligible to participate in the Guaranteed Loan Program.

Note: SAM, which is searched using DNP, also includes other entity records besides exclusion records. If a search result is received, the agency official should verify that it is an exclusion record. For further guidance, contact the State Office. State Offices may contact the National Office for guidance as needed.

A copy of the returned search record will be filed in the applicant's case file.--*

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

N Operator Requirement

A loan application should be submitted in the name of the actual operator of the farm. This should be consistent with any representations previously made by the applicant for farm program benefits.

If inconsistencies in the structure of the farming operation are identified, the application will be considered incomplete and the lender will be informed according to paragraph 97. The inconsistencies must be resolved before the application being considered complete.

109 Specific Requirements for OL's (7 CFR 762.120(i))

A Operator Requirement

***--[7 CFR 762.120(i)(1)] For Operating Loans, the individual or entity applicant must--* be an operator of not larger than a family farm after the loan is closed.**

When determining whether or not the farm meets the family farm definition, the authorized agency official shall:

- analyze all the factors that make up the regulatory definition of family farm and the items discussed in the following table
- look at all aspects and the circumstances of the farm operations.

Note: Consider and analyze these factors and how they relate to each another.

Application of judgment, combined with documentation of all the factors for the decision, should provide reasonable determinations of an applicant's qualifications as a family farm.

Item	Factor	Consideration
1	Recognized in the community as a farm	Consider how the applicant's farm operation compares to similar farm operations in the community. In most areas of the country and in most farming enterprises, the family will provide most of the day-to-day labor on a family farm. An exception may be made for enterprises that produce high-value, labor-intensive crops, such as fruit or vegetables.
2	Management and control of the farm business	All of the day-to-day management and operational decisions should be made by members of the farm family. The use of consultants, advisors, and similar experts is certainly acceptable provided someone in the farm family is the decision maker.
3	Amount of labor	A substantial amount of the full-time labor required must be contributed by family or entity members to the operation. The use of seasonally hired labor should not be precluded. The borrower may not necessarily perform a majority of the labor, but the amount of labor provided by the borrower is significant. One distinguishing characteristic of a family farm is that the family members provide both physical labor and management for the farm. Consider the labor requirements that are necessary for the production of specific high-value, labor-intensive crops.

109 Specific Requirements for OL's (7 CFR 762.120(i)) (Continued)

A Operator Requirement (Continued)

Item	Factor	Consideration
4	Credit Needs	Congress established FSA's loan limits to assist family sized operations. The loan limits generally ensure that loans are made to family farm operations. It is also important that every effort be made to ensure that loans are made only when it is certain that other credit is not available. Loan participation arrangements are acceptable when FSA farm loans cannot meet the total needs; but, if maximum FSA farm loans are a small portion of the total credit requirements, this may be another indicator of a larger than family-size farm when considered with other factors, or that credit is available from another source.

B Entity Borrower Requirements

--[7 CFR 762.120(i)(2)] In the case of an entity borrower:--

- **the entity must be authorized to operate, and own if the entity is also an owner, a farm in the state or states in which the farm is located**

- either of the following:

  - **if the entity members holding a majority interest are related by marriage or blood, at least one member of the entity also must operate the family farm**

  - **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.**

Note: The entity can be the operator for organizational or tax purposes in either case.

110 Specific Requirements for FO's (7 CFR 762.120(j))

A Owner and Operator Requirement

[7 CFR 762.120(j)(1)] The individual must be the operator of not larger than a family farm and the owner of a farm after the loan is closed. Ownership of the family farm operation or the farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity.

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.

B Entity Requirements

[7 CFR 762.120(j)(2)] In the case of an entity borrower:

An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located; and

- either of the following:
  - **if the entity members holding a majority interest are related by marriage or blood, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm**
  - **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 operate the family farm and the entity members holding at least 50 percent interest--* or the entity must own the farm.**

[7 CFR 762.120(j)(3)] If the entity is an operator-only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).

[7 CFR 762.120(j)(4)] All ownership may be held either directly in the individual's name or indirectly through interest in a legal entity.

110 Specific Requirements for FO's (7 CFR 762.120(j)) (Continued)

B Entity Requirements (Continued)

To determine if an operator-only entity meets the 50 percent rule, the following steps can be used.

Step	Action
1	Identify all individuals with an ownership interest in any farm real estate operated by the family farm.
2	Identify the individuals with an ownership interest in the family farm operating entity and their percent interest.
3	Select the individual family farm owners who are also owners of the real estate.
4	The total interests from step 3 must be at least 50 percent.

Example: Jones Farm Inc. applied for FO. The corporation is owned by Bob and Jeff Jones. Jones Farm Inc. operation includes a farm that is owned by Jones Farms, LLC, with Bob and Betty Jones, each having a 50 percent ownership interest in LLC.

Individuals owning farmland	Jones Farm Inc.
Bob Jones	Bob Jones (50 percent)
Betty Jones	Jeff Jones (50 percent).

Jones Farm Inc. would meet the ownership rule because farmland owner (Bob Jones) owns 50 percent of the family farm (Jones Farm Inc.).

C Life Estates

FO's may be guaranteed under some circumstances when life estates are involved.

A guaranteed FO can be made to:

- both the life estate holder and the remainderman, if:
  - both have a legal right to occupy and operate the farm
  - both are eligible for the loan independently
  - both parties sign the note and lien instrument
- just the remainderman, if:
  - the remainderman has a legal right to occupy and operate the farm
  - the lien instrument is signed by the remainderman, life estate holder, and any other party having any interest in the security
- just the life estate holder, if:
  - there is no restriction placed on a life estate holder who occupies and operates a farm
  - the lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

111 Eligibility Requirements for OL and FO Entity Applicants (7 CFR 762.120(k))

A Individual Ownership Interest Requirement

***--[7 CFR 762.120(k)] Each entity member's ownership interest may not exceed the--* family farm definition limits.**

B Entity Ownership of Large Farms

***--[7 CFR 762.120(k)(2)] The collective ownership interest of all entity members may--* exceed the family farm definition limits only if the following conditions are met:**

- **all of the entity members are related by blood or marriage**
- **all of the members are or will be operators of the entity**
- **the majority interest holders of the entity must meet the requirements of paragraphs** 108 F, H, I, and 109 and 110 **of this section.**

The majority interest holders of the entity must meet the following requirements:

- the entity member is a citizen of the United States, United States non-citizen national, or qualified alien
- the entity member, in past dealings with FSA, must not have provided FSA with false or misleading documents or statements
- the entity member has an acceptable credit history
- the entity members meet the requirements of paragraph 109 or 110.

C Domestic Farmer

***--[7 CFR 762.120(k)(3)] The entity must be controlled by farmers engaged primarily--* and directly in farming in the United States after the loan is made.**

111 Eligibility Requirements for OL and FO Entity Applicants (7 CFR 762.120(k))

*--D Embedded Entities

[7 CFR 762.120(k)(4)] If the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.

Each embedded entity must separately meet the 75 percent test. When determining whether the individual owner is actively involved in managing or operating the family farm, consider whether the individual has a daily or weekly role in the farming operation rather than simply acting as an absentee investor. Also consider the total time the individual participates in the operation, either labor or management, and their time in comparison to others. To be considered actively involved, the entity member must provide some amount of the management, or labor and management such that if the individual did not provide these inputs, operation of the farm would be seriously impaired.

To determine if an embedded entity meets the 75 percent rule, the following steps can be used.

Step	Action
1	Identify the embedded entities.
2	Identify the individual ownership interests of each embedded entity.
3	For each individual with ownership interest in the embedded entity, determine whether they are actively involved in managing or operating the family farm.
4	For each embedded entity, individuals representing 75 percent of ownership of each embedded entity must meet the test in step 3.

See Exhibit 9 for examples of embedded entity scenarios.**--***

E NPO's

NPO's are typically not eligible to receive FSA guaranteed loan assistance. Eligible entities must be comprised of members who have an individual ownership interest in the entity and will assume personal liability on the promissory note, as required by subparagraph 247 A.

112 Specific Requirements for CL's (7 CFR 762.120)

A Applicant Requirements

CL applicants do **not** have to meet the following:

- "family farm" definition
- test for credit requirement.

Note: Because of this, some CL applicants will be very strong financially, with high debt service capacities and significantly more than adequate equity to secure the loan request. See paragraph 70.5.

B Eligibility Criteria

[7 CFR 762.120(l)] Entity applicants for CL guarantees must meet the following eligibility criteria:

- **the majority interest holders of the entity must meet the requirements of** subparagraphs 108 F, H, and I **of this section**

- **the entity must be controlled by farmers engaged primarily and directly in farming in the United States after the loan is made**

- ***--if the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm--***

- **the entity must be authorized to operate a farm in the State or States in which the farm is located.**

[7 CFR 762.120(m)] Individual applicants for CL guarantees must be farmers in the United States.

113-121 (Reserved)

Section 2 Loan Purposes and Limitations

122 OL Purposes (7 CFR 762.121(a))

A General OL Purposes

The authorized agency official shall review loan applications to ensure that OL funds are used for authorized purposes.

B Term OL Purposes

***--[7 CFR 762.121(a)(1)] 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.

- **payment of annual farm operating expenses, examples of which include feed, seed, fertilizer, pesticides, farm supplies, repairs and improvements which are to be expensed, cash rent and family subsistence**

- **payment of scheduled principal and interest payments on term debt provided the debt is for authorized FO or OL purposes**

- **other farm needs**

122 OL Purposes (7 CFR 762.121(a)) (Continued)

B Term OL Purposes (Continued)

- **payment of costs associated with land and water development for conservation or use purposes**

- **refinancing indebtedness incurred for any authorized OL purpose, when the lender and applicant can demonstrate the need to refinance**

- **payment of loan closing costs**

- **payment of costs associated with complying with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. § 655 and 667); this purpose is limited to applicants who demonstrate that compliance *--or non-compliance with the standards will cause them substantial economic--* injury**

- **payment of training costs required or recommended by the Agency.**

C Real Estate Improvements

Term OL funds may be used for limited real estate improvements, so long as the loan can be repaid within 7 years. These improvements can take the form of fixtures to existing farm buildings or new building construction. Improvements financed over periods longer than 7 years are assumed to be for real estate rather than operating purposes and will not be financed with OL funds.

D Processing or Marketing Purposes

Allowable marketing costs include the purchase of quotas and expenses related to the sale of farm products produced by the applicant. FSA funds cannot be used to finance the resale of agricultural commodities produced by other farm entities.

OL funds can also be used to finance the initial processing of agricultural commodities produced by the applicant's farm.

Examples: Examples of allowable processing activities include canning tomatoes and packaging maple syrup.

Generally, for the financing of a marketing activity to be eligible, the activity must be a natural extension of the farming operation. In determining allowable enterprises, authorized agency officials should:

- compare the relative size of revenues and expenses for the farm and nonfarm operations

- consider the portion of goods marketed or processed that the farm raises versus the portion obtained from other entities. If the applicant produces more than 50 percent of the commodity being processed, the enterprise may be allowable.

122 OL Purposes (7 CFR 762.121(a)) (Continued)

E Refinancing

OL notes may be used to refinance existing debts when the refinancing activity will benefit the farming entity and the original loans were for approved OL purposes.

When the guaranteed loan is to be used to refinance an unguaranteed debt that the lender has with the applicant, the authorized agency official must evaluate whether the terms of the proposed loan will improve the applicant's cash flow and likelihood of success.

*--When a portion of a guaranteed loan is to be used to refinance a guaranteed debt that the lender has with the applicant, the lender shall ensure that rescheduling the note and alternative repayment schedules have been considered before requesting the new guarantee. Refinancing debt that is already covered by a guarantee uses limited funding resources and causes the borrower to pay a new guarantee fee.

When a guarantee that includes refinancing guaranteed debt is requested, the authorized agency official must evaluate whether restructuring options described in 7 CFR 762.145 (2-FLP, Part 12, Sections 2 and 3) will improve the borrower's cash flow and likelihood of success without refinancing the guaranteed debt. If restructuring results in essentially the same likelihood of success, refinancing of the guaranteed debt will not be considered.

Refinancing guaranteed debt shall not be requested just to consolidate the existing guaranteed debt with a new request.--*

122 OL Purposes (7 CFR 762.121(a)) (Continued)

F LOC Purposes

***--[7 CFR 762.121(a)(2)] Loan funds under a line of credit may be advanced only for--* the following purposes:**

- **payment of annual operating expenses, family subsistence, and purchase of feeder animals**

  Note: Annual operating expenses include those expenses related to operations with normal production cycles exceeding 12 months, such as some aquaculture and tree crops.

- **payment of current annual operating debts advanced for the current operating cycle; under no circumstances can carry-over operating debts from a previous operating cycle be refinanced**

- **purchase of routine capital assets, such as replacement of livestock, that will be repaid within the operating cycle**

  Note: Only routine, annually recurring capital purchases may be included under LOC. These purchases must be scheduled for repayment within the operating cycle.

  Example: Operations that normally replace a certain portion of their breeding livestock each year may include these purchases under LOC.

- **payment of scheduled, non-delinquent term debt payments provided the debt is for authorized FO or OL purposes**

- **purchase of cooperative stock for credit, production, processing, or marketing purposes**

- **payment of loan closing costs.**

123 FO Purposes (7 CFR 762.121(b))

A General FO Purposes

The authorized agency official shall review loan applications to ensure that FO funds are used for approved purposes.

B FO Purposes

[7 CFR 762.121(b)] Guaranteed FO's are authorized only to:

- **acquire or enlarge a farm**

  Examples: Examples include, but are not limited to:

  - **providing down payments**
  - **purchasing easements for the applicant's portion of land being subdivided**
  - ***--participating in the Down Payment Loan program under--* 7 CFR Part 764 of this chapter** (3-FLP)**.**

Notes: Land acquired with FO funds must be intended for production of agricultural commodities, used as the headquarters of the farming operation, used as the primary residence of the farm owner or manager, or used to store, repair, or process farm equipment, commodities, or livestock.

FO funds must only finance purchases by FSA loan applicants; therefore, when FO funds are advanced to acquire or enlarge a farm, all individuals that will own the farm (real estate) being purchased must also be owners of the family farm (operating entity) or their spouses.

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).

123 FO Purposes (7 CFR 762.121(b)) (Continued)

B FO Purposes (Continued)

--When considering requests to purchase ownership and shares in an entity:--

- 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 as allowed for subparagraph 247 A)
- the assets purchased must be an authorized FO loan purpose
- the loan amount must be consistent with the interests purchased.

*--State Offices will contact the National Office for guidance about purchasing shares, if needed.

Purchases of undivided interests are also authorized in limited circumstances.

When considering requests to purchase an undivided interest:

- all owners, including non-applicants, must pledge their property ownership interest as security
- all owners who are not FSA applicants must be either of the following:
  - existing owners who held interest in the property before the transaction, with the exception of a spouse
  - new owner gaining their respective ownership share in the property through their own funding source, such as cash, FSA financing, or other creditor financing
- FSA applicants must operate at least a share comparable to their investment in the overall property
- to ensure that the FSA applicant is a separate operator with their own farm operation and not only part of a joint operation, the applicant must satisfy all of the following for their individual operation:
  - obtain financing for their operation separate from other undivided interest owners
  - have separate bank accounts--*

123 FO Purposes (7 CFR 762.121(b)) (Continued)

B FO Purposes (Continued)

- ***--**maintain separate financial and production records
- file tax returns for their individual operation
- make independent management decisions.

In addition to these requirements, the agency official should consider other factors that may demonstrate separate operations versus a joint operation. The following list of questions represent examples of factors to consider as part of the analysis.

- Will applicants own their own cattle individually and have an individual brand, tags, etc. to separately identify livestock, such as the applicant owns 25 identifiable cows rather than half of 50 cows?
- Will applicants own their own livestock and decide when and where they sell?
- Will applicants own their own equipment?
- Will applicants obtain separate RMA crop or Livestock Risk Protection livestock insurance policies for their own operations?
- Will applicants market and sell grain, livestock, and other products separately, or is everything sold together with revenues split equally?
- Will input suppliers maintain separate accounts for each individual instead of a single, joint account?
- Do lien search results show separate filings for each individual?

The lender will document if the applicant meets these requirements in the loan narrative.

Notes: Applications for certain guaranteed loans do not require lenders to submit items, such as tax returns, debt verifications, lien searches, and other similar items, to FSA. Therefore, for these applications, the lender should document items, such as those outlined in this subparagraph, in their loan narrative.

State Offices will contact the National Office for guidance, if needed, when evaluating loan requests involving undivided interests.**--***

123 FO Purposes (7 CFR 762.121(b)) (Continued)

B FO Purposes (Continued)

- **make capital improvements**

  Examples: Examples include, but are not limited to, the construction, purchase, and improvement of farm dwellings, service buildings and facilities that can be made fixtures to the real estate. Capital improvements to leased land may be financed subject to the limitations in § 762.122.

  Notes: FO funds can be used to purchase, improve, or build any type of structure related to the farming enterprise, including dwellings recognized in the community as moderate in size, cost, and design. When planning capital improvements, the lender shall ensure that:

  - all project facilities are designed using accepted architectural and engineering practices and conform to applicable Federal, State, and local codes and requirements

  - the project will be completed with available funds and, once completed, will be used for its intended purpose and produce products in the quality and quantity proposed in the application.

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

  - **reasonable assurance that the applicant will have use of the improvement over its useful life**

  - **compensation for any unexhausted value of the improvement if the lease is terminated.**

- **promote soil and water conservation and protection**

  Examples: Examples include the correction of hazardous environmental conditions, and the construction or installation of tiles, terraces and waterways.

- **pay closing costs, including but not limited to, purchasing stock in a cooperative, appraisal and survey fees**

- **refinance indebtedness incurred for authorized FO or OL purposes, provided the lender and applicant demonstrate the need to refinance the debt.**

123 FO Purposes(7 CFR 762.121(b) (Continued)

B FO Purposes (Continued)

When the guaranteed loan is to be used to refinance an unguaranteed debt that the requesting lender has with the applicant, the authorized agency official must evaluate whether the terms of the proposed loan will improve the applicant's cash flow and likelihood of success.

When a portion of a guaranteed loan is to be used to refinance a guaranteed debt that the lender has with the applicant, the lender shall ensure that rescheduling the note and alternative repayment schedules have been considered before requesting the new guarantee. Refinancing debt that is already covered by a guarantee uses limited funding resources and *--causes the borrower to pay a new guarantee fee.--*

When a guarantee that includes refinancing guaranteed debt is requested, the authorized agency official must evaluate whether restructuring options described in 7 CFR 762.145 *--(2-FLP, Part 12, Sections 2 and 3) will improve the borrower's cash flow and likelihood of success without refinancing the guaranteed debt. If restructuring results in essentially the same likelihood of success, refinancing of the guaranteed debt will not be considered.--*

Refinancing guaranteed debt shall not be requested just to consolidate the existing guarantee debt with a new request.

123.5 CL Purposes (7 CFR 762.121(c))

A General CL Purposes

The authorized agency official shall review loan applications to ensure that CL funds are used for authorized purposes.

B CL Purposes

[7 CFR 762.121(c)] Loan funds disbursed under a CL guarantee may be used for any conservation activities included in a conservation plan or Forest Stewardship Management Plan including, but not limited to:

- **the installation of conservation structures to address soil, water and related resources**
- **the establishment of forest cover for sustained yield timber management, erosion control or shelter belt purposes**
- **the installation of water conservation measures**
- **the establishment or improvement of permanent pasture**
- **other purposes including the adoption of any other emerging or existing conservation practices, techniques or technologies**
- **refinancing indebtedness incurred for any authorized CL purpose.**

Note: The lender shall ensure that the project can be completed with available funds.

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

B CL Purposes (Continued)

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

- **reasonable assurance that the applicant will have use of the improvement over its useful life**

- **compensation for any unexhausted value of the improvement if the lease is terminated.**

124 Loan Limitations (7 CFR 762.122 and 761.8)

A General Guaranteed Loan Limitations

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

B Specific OL, FO, and CL Limitations

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

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

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

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

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

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

***--[7 CFR 762.122(d)] The Agency will not guarantee any loan to purchase, build,--* or expand buildings located in a special 100 year floodplain as defined by FEMA flood hazard maps unless flood insurance is available and purchased.**

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

***--[7 CFR 762.121(d)] Loans may not be made for any purpose which contributes to--* excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity. A decision by the Agency to reject an application for this reason may be appealable. An appeal questioning the presence of a wetland, converted wetland, or highly erodible land on a particular property must be filed directly with the USDA agency making the determination in accordance with the agency's appeal procedures.**

***--[7 CFR 762.121(e)]Loans may not be used to satisfy judgments obtained in the--* United States District courts. However, Internal Revenue Service judgment liens may be paid with loan funds.**

See Part 10 for maximum loan amount limitations.

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

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

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

125-134 (Reserved)

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

A Fixed and Variable Rates

***--[7 CFR 762.124(a)(1)] The interest rate on a guaranteed loan or line of credit may--* be fixed or variable as agreed upon between the borrower and the lender. The lender may charge different rates on the guaranteed and the non-guaranteed portions of the note. The guaranteed portion may be fixed while the unguaranteed portion may be variable, or vice versa. If both portions are variable, different bases may be used.**

***--[7 CFR 762.124(a)(2)] If a variable rate is used, it must be tied to an index or rate--* specifically agreed to between the lender and borrower in the loan instruments and the rate adjustments must be in accordance with normal practices of the lender for nonguaranteed loans. Upon request, the lender must provide the Agency with copies of its written rate adjustment practices.**

FSA may request copies of lender's written rate adjustment practices if the loan approval official has reason to believe the interest rates are not in line with local lending practices. Rate adjustment practices will be maintained in lender's operational file. See subparagraphs 48 B, 51 B, and 54 B.

B Maximum Interest Rates

***--[7 CFR 762.124(a)(3)] 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 rates established and announced by the Agency on the FSA website (www.fsa.usda.gov)** and as outlined below.

- For variable rate loans or fixed rate loans with rates fixed for less than five years, 675 basis points (6.75 percentage points) above the prior business day's SOFR.

- For loans with rates fixed for five or more years, 550 basis points (5.5 percentage points) above the prior business day's 5-year Treasury note rate.

The lender is not required to tie its guaranteed loan interest rates to SOFR 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 SOFR.

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

B Maximum Interest Rates (Continued)

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

At loan closing and the lender loan file review, the authorized agency official will verify the interest rate charged to the guaranteed 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 links for the following Web pages:

- **https://www.newyorkfed.org/markets/reference-rates/sofr**, scroll down to the table and select the rate for the appropriate date

  Note: If an earlier date is needed, scroll down further to enter a new date range under ***--**"Reference Rates Historical Data Search" and select "Overnight Rates", "Secured Rates", and "SOFR". CLICK "SEARCH".

- 5-year Treasury at **https://home.treasury.gov/resource-center/data-chart-center/interest-rates/TextView?type=daily_treasury_yield_curve&field_tdr_date_value=2022,--*** scroll down to the chart and look up the appropriate date under the "5 Yr" column. Historical data is available using the "Select Time Period" drop-down list.

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

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 prior business day's SOFR rate on date loan closes is 2.5% and the prior business day's 5-year Treasury rate is 2.0%.

The maximum rate would be 9.25% (SOFR rate 2.5% plus maximum spread 6.75% = 9.25%).

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

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

***--B Maximum Interest Rates (Continued)**

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 prior business day's SOFR rate on date loan closes is 2.0% and the prior business day's 5-year Treasury rate is 1.75%.

The maximum rate would be 8.75% (prior business day's SOFR rate 2.0% plus maximum spread 6.75% = 8.75%).**--***

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 prior business day's SOFR rate on date loan closes is 2.0% and the prior business day's 5-year Treasury rate is 1.0%.

The maximum rate would be 6.5% (prior business day's 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.

***--C Maximum Interest Rate When SOFR Falls Below 1.75 Percent**

In the event the SOFR rate is below 1.75 percent, the maximum interest rate shall not exceed the following.

- For variable rate loans or fixed rate loans with rates fixed for less than 5 years, 775 basis points (7.75 percentage points) above the prior business day's SOFR.

- For loans with rates fixed for 5 or more years, 650 basis points (6.5 percentage points) above the prior business day's 5-year Treasury note rate.**--***

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

C Maximum Interest Rate When SOFR Falls Below 1.75 Percent (Continued)

Note: The 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 interest rate fixed for less than 5 years, regardless of program type (CL, OL or FO), the maximum rate is based on the SOFR. For loans with interest rates fixed for 5 or more years, the maximum rate is based on the 5-year Treasury index.

The following examples are based on the SOFR below 1.75%.

Example 1: Lender closes a 15-year GFO. The rate is fixed for the first 3 years at 8.75% on the date loan closes and variable for the remaining term. The prior business day's SOFR rate is 1.0% and the prior business day's 5-year Treasury rate is 0.75%.

The maximum rate would be 8.75% (SOFR 1.0% plus maximum spread 7.75% = 8.75%).

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

Example 2: 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 prior business day's SOFR rate on the date the loan closes is 1.5% and the prior business day's 5-year Treasury rate on the date loan closes is 1.0%.

The maximum rate would be 7.5% (5-year Treasury rate 1.0% plus maximum spread 6.5% = 7.5%).

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

D Interest Charges

***--[7 CFR 762.124(a)(4)] Interest must be charged only on the actual amount of funds--* advanced and for the actual time the funds are outstanding. Interest on protective advances made by the lender to protect the security will be charged at the note rate** limited to subparagraph B or C.

Interest on protective and emergency advances, made by the lender to protect the security, must not exceed the rate specified in the loan instruments. The charge of interest on legal fees, broker's fees, and other expenses paid in conjunction with bankruptcy, liquidation, or other servicing is not covered by the guarantee.

--136 Charges and Fees (7 CFR 762.124(f))--

A Loan Fees

***--[7 CFR 762.124(f)(1)] The lender may charge the applicant and borrower fees for--* the loan provided they are no greater than those charged to nonguaranteed customers for similar transactions. Similar transactions are those involving the same type of loan requested (for example, operating loans or farm real estate loans).**

***--[7 CFR 762.124(f)(3)] Lenders may not charge a loan origination and servicing--* fee greater than one percent of the loan amount for the life of the loan when a guaranteed loan is made in conjunction with a down payment FO under 7 CFR Part 764 of this chapter** (3-FLP, Part 7, Section 2)**.**

FSA may request that the lender provide evidence supporting the amount of their loan fees.

B Late Payment Charges

***--[7 CFR 762.124(f)(2)] Late payment charges (including default interest charges)--* are not covered by the guarantee. These charges may not be added to the principal and interest due under any guaranteed note or line of credit. However, late payment charges may be made outside of the guarantee if they are routinely made by the lender in similar types of loan transactions.**

Late payment fees and prepayment penalties may be charged on guaranteed loans, if they are routinely charged by the lender on similar loans. Late payment charges, including interest on late payments, may be charged and collected from borrowers in cases of default when the borrower pays the account current or the loan is paid in full. However, late payment charges and prepayment penalties are not covered by the guarantee and will not be paid by the government in the case of a loss. Ledgers that are provided to support the principal and interest included on FSA-2254 should not include default interest or late charges.

C Guarantee Fee

A guarantee fee will be charged on all loans according to subparagraph 247 A.

137 Loan Term and Payment Schedules (7 CFR 762.124(b), (c), (d), and (e))

A OL's Repayment Schedule

***--[7 CFR 762.124(b)(1)] Loan funds or advances on a line of credit used to pay--* annual operating expenses will be repaid when the income from the year's operation is received, except when the borrower is establishing a new enterprise, developing a farm, purchasing feed while feed crops are being established, or recovering from disaster or economic reverses.**

When repayment is scheduled over a longer period, the borrower's expected income is not sufficient security. The lender must secure the loan with additional personal property or real estate security for the period of repayment.

***--[7 CFR 762.124(b)(2)] Advances for purposes other than for annual operating--* expenses will be scheduled for repayment over the minimum period necessary considering the applicant's ability to repay and the useful life of the security, but not in excess of 7 years.**

B OL/LOC Final Maturity Date

***--[7 CFR 762.124(b)(2)] The final maturity date for each loan cannot exceed 7 years--* from the date of the promissory note or line of credit agreement.**

137 Loan Term and Payment Schedules (7 CFR 762.124(b), (c), (d), and (e)) (Continued)

C LOC Advances

***--[7 CFR 762.124(b)(3)] All advances on a line of credit must be made within 5 years--* from the date of the loan Guarantee.**

D FO Final Maturity Date

***--[7 CFR 762.124(c)] Each loan must be scheduled for repayment over a period not--* to exceed 40 years from the date of the note or a shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.**

E CL Terms

***--[7 CFR 762.124(d)] Each loan must be scheduled for repayment over a period not--* to exceed 30 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.**

F Loan Note Guarantee Balloon Payments

***--[7 CFR 762.124(e)] Balloon payment terms are permitted on FO, OL or CL subject--* to the following.**

- **Extended repayment schedules may include equal, unequal, or balloon installments if needed by a borrower on a guaranteed loan to establish a new enterprise, develop a farm, recover from a disaster or an economic reversal, or reasonably increase cash flow margin to increase working capital reserves and savings, including reasonable savings for retirement and education.**

- **Loans with balloon installments must have adequate collateral at the time the balloon installment comes due. Crops, livestock other than breeding livestock, or livestock products produced are not sufficient collateral for securing such a loan.**

- **The borrower must be projected to be able to refinance the remaining debt at the time the balloon payment comes due based on the expected financial condition of the operation, the depreciated value of the collateral, and the principal balance on the loan.**

When conditions warrant, FO, OL, or CL may have repayment schedules that may include equal, unequal, or balloon payments. The period of time between loan origination and a balloon installment must be no shorter than that provided to nonguaranteed customers for similar type transactions.

137 Loan Term and Payment Schedules (7 CFR 762.124(b), (c), (d), and (e)) (Continued)

G Loan Term to Qualified Alien

The loan term to a qualified alien may not exceed the number of years of residency that they have been formally granted by the documents described in Exhibit 7. This is to ensure that the operation's viability and guaranteed loan security are not adversely affected during the term of the loan.

Note: An applicant may lawfully be admitted to the U.S. for permanent residence per Bureau of Citizenship and Immigration Service Form I-551, commonly known as the Green Card or Alien Registration Card. The Bureau of Citizenship and Immigration Service Form I-551 may have an expiration date. The expiration date is for the card only. Their U.S. permanent resident status is not affected. Unless the applicant acts in an unlawful way that demands the removal of the status or voluntarily give up the status, their permanent resident status remains. Therefore, in these cases, the applicant's residency will be considered permanent.

H Multiple Notes

When a lender uses multiple notes for a loan, such as a guaranteed and unguaranteed portion, the loan term for both portions **must** be the same. For example, it is not permitted to have a 5-year term for the unguaranteed portion and a 7-year term for the guaranteed portion.

138 Insurance Requirements (7 CFR 762.123(a))

A Lender Responsibilities

***--[7 CFR 762.123(a)(1)] Lenders must require borrowers to maintain adequate--* property, public liability, and crop insurance to protect the lender and Government's interests.**

General hazard insurance obtained by the applicant, at a minimum, should be the standard type of insurance policy for the locality in which the property is located. Additional coverage should be considered on a case-by-case basis for operations with specialized, high value buildings that constitute a significant portion of the operation's income generating capacity and collateral value. Lenders must require borrowers to maintain insurance coverage throughout the term of the loan unless it subsequently becomes unavailable for a reason such as those indicated in this subparagraph.

Insurance is not required in every situation. When insurance is warranted, lenders should obtain an assignment, including crop insurance.

138 Insurance Requirements (7 CFR 762.123(a)) (Continued)

A Lender Responsibilities (Continued)

In certain cases, a lender may opt to not require insurance for reasons such as the following:

- insurance is not sold or available by agents or companies in the area of the applicant's operation
- cost of the insurance premiums exceed the benefit of the policy and/or the value of the property
- value of buildings on the property is minimal.

Justification must be provided in the loan narrative if a lender will not require a certain type of insurance. Specific reasons such as those identified in this subparagraph should be explained in detail. Lenders must also document what other measures they require the applicant to take to protect the security and offset the risk presented by the lack of insurance coverage. If insurance coverage was available at reasonable rates and the lender suffers a loss which could have been mitigated by insurance coverage, the resulting loss claim could be negatively impacted.

B Crop Insurance

* * *

***--[7 CFR 762.123(a)(2) By loan closing, applicants must obtain at least the--* catastrophic risk protection level of crop insurance coverage, if available, for each crop of economic significance, as defined by 7 CFR 400.651.**

***--**Applicants are not required to obtain insurance coverage if the only insurance product available is based on farm revenue only (for example, Whole-Farm Revenue Protection used by some specialty crop producers).

[7 CFR 762.123(a)(4)] Insurance, including crop insurance, also must be obtained as required by the lender or the Agency based on the strengths and weaknesses of the loan.--*

* * *

138 Insurance Requirements (7 CFR 762.123(a)) (Continued)

C Flood Insurance

***--[7 CFR 762.123(a)(3)] Applicants must purchase flood insurance if buildings are--* or will be located in a special flood hazard area as defined by FEMA maps and if flood insurance is available.**

Regulatory agencies require that lenders determine whether a building or structure offered as security for a loan will be located in a special flood hazard area. The lender shall follow their regulator's guidance on documenting and escrowing for flood insurance.

FSA shall not approve a loan guarantee in which security offered for the loan contains a structure located in a special flood hazard area unless flood insurance is obtained under the National Flood Insurance Program. If a structure is located in a special flood hazard area and the community is not participating in the National Flood Insurance Program, the loan cannot be guaranteed. If there are no structures located in a special flood hazard area, the guarantee may be approved.

139 Inspection Requirements (7 CFR 762.123(b))

A Inspection Requirements

***--[7 CFR 762.123(b)] Before submitting an application the lender must make an--* inspection of the farm to assess the suitability of the farm and to determine any development that is needed to make it a suitable farm.**

During the inspection, the lender should determine whether the applicant has adequate property, buildings, and equipment to operate a viable farm.

B Inspection and Assessment Documentation

A summary of the farm inspection and the lender's assessment of the viability of the operation should be mentioned in the application narrative.

140-150 (Reserved)

Section 4 Credit Decision

Subsection 1 Financial Feasibility of Proposed Loan (7 CFR 762.125)

151 Determining Financial Feasibility of Loans (7 CFR 762.125)

A Purpose

This paragraph:

- describes how SEL and CLP lenders must demonstrate that an applicant has sufficient financial resources to repay a guaranteed loan.
- Instructs PLP lenders to use methods outlined in their CMS to determine the financial feasibility of a loan.
- details how to address missing or incomplete financial feasibility application information submitted by each lender according to the lender's status.

B Feasible Plan

***--[7 CFR 762.125(a)] The applicant's proposed operation must project a feasible plan.--* The cash flow budget analyzed to determine feasible plan must represent the predicted cash flow of the operating cycle.**

Note: See Exhibit 2 for the definition of feasible plan.

If the GFO request is in conjunction with a DFO request, see subparagraph 96 D for evaluation requirements.

A lender must determine whether an applicant has sufficient financial resources to repay a guaranteed loan. To make this determination, lenders work with the applicant to prepare a cash flow budget for the farm operation. As used in this part, the term "operation" includes all farm activities and income as well as all nonfarm income pledged by the applicant.

The lender will provide a cash flow budget that:

- reflects, as closely as possible, the projected cash flow of the operating cycle
- is documented in sufficient detail to adequately reflect the overall condition of the operation.

The authorized agency official will document the following information on FSA-2231:

- cash flow budget that includes all cash inflows and outflows, such as farm income sources, lease information, expenses, marketing strategies, non-farm income sources, and cash flow ratio information
- reasonable capital reserves or savings for education and retirement if needed to support operation stability and growth.

Notes: Inclusion is not required, but it may be done at the lender's discretion according to internal policies.

151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)

B Feasible Plan (Continued)

*--If a lender does not specifically budget for reasonable working capital reserves or savings, they still must address how the applicant is able to make progress toward long-term financial goals within the loan narrative.

If the submitted cash flow budget **does not** meet these requirements, the authorized agency official will recalculate the debt coverage.

If the recalculation shows adequate cash flow, the authorized agency official will document the findings and proceed with processing the request.

If, after re-evaluation, the cash flow budget is no longer feasible, the lender will be notified and given up to 10 calendar days to revise the plan. The lender will justify any changes made to the cash flow budget.--*

Note: For streamlined CL requests, a cash flow budget is **not** required. The lender should follow their internal procedures to determine financial feasibility.

Poultry or hog production contracts are the basis of grower income and facility value. The dependability of production contracts has a profound impact on the prospects for loan repayment. "Flock-to-flock" or "turn-by-turn" type arrangements alone may not be a dependable source of income or a reasonable projection of income for poultry or hog applicants who **do not** have a current financial performance history with FSA.

Note: For contract income to be considered dependable, the contract must:

- be for a minimum period of 3 years
- provide for termination based on objective "for cause" criteria only
- require that the grower be notified of specific reasons for cancellation
- provide assurance of the grower's opportunity to generate enough income to ensure repayment of the loan, by incorporating requirements such as a minimum number of flocks or turns a year, minimum number of bird or hog placements per year, or similar quantifiable requirements.

Applicants requesting loans to expand their poultry or hog operation by adding more houses/barns or purchasing additional land to increase the size of the poultry or hog operation, and who **are** presently indebted to FSA, will be required to have a contract with a minimum 3-year term. The contract must at least cover the facilities financed with the guaranteed funds.

151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)

B Feasible Plan (Continued)

When contract income **cannot** be determined to be dependable and likely to continue, it **cannot** be used to reasonably project future income, the authorized agency officials will:

- inform the guaranteed lender of the contract provisions that result in the determination
- provide an opportunity for submitting a revised contract before a final decision on the request.

Note: Whenever possible, guarantee requests should be approved subject to modification of unacceptable contract provisions.

The impact of industry trends must be assessed in guaranteed loan requests from poultry or hog growers and can be based on standard production budgets developed by contractors, consultants, or extension specialists. While these budgets are acceptable starting points, the budget must reflect realistic performance assumptions for the individual situation, including, but not limited to, the following:

- increased input costs
- changes in unit numbers and weights
- increased idle time between flocks of poultry or turns of hogs
- other relevant factors that affect net income.

The impact of age, condition, and potential obsolescence of the facilities must be assessed for loans to purchase or refinance existing facilities. Budgets must factor in any reduced efficiency and the potential costs for required modernization of existing facilities to comply with production contract requirements.

Note: Unless PLP lender's CMS specifically addresses how production contracts are evaluated and analyzed for financial feasibility, PLP lenders will comply with the requirements of this subparagraph.

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125)

A Purpose

SEL's must follow FSA methodology for calculating projected income and expenses. This paragraph explains the methodology SEL's must use.

B Projected Income and Expenses

***--[7 CFR 762.125(a)(3)] For standard eligible lenders, the projected income and--* expenses of the borrower and operation used to determine a feasible plan must be based on the applicant's proven record of production and financial management.**

The lender will provide a cash flow budget where projected income and expenses meet the following requirements. The cash flow budget must:

- project reasonable crop or livestock prices
- use the operation's actual production records, when available
- use expenses based on prior experience and that is consistent with projected prices for similar goods and services
- project income from FSA farm programs prepared with assistance from DAFP employees, when necessary.

The authorized agency official will document the following on FSA-2231:

- projected yields and financial performance are within the range of previous performance

  Note: What type of 3-year history was provided or used to develop the plan?

- justification if the lender did project outside the range
- how the lender is supporting the projected change if additional income or expenses were projected
- any assumptions used in the cash flow, including any reasonable capital reserves or savings for education and retirement, if needed to support stability and growth.

  Notes: Inclusion is not required in the cash flow, but may be done at the lender's discretion according to their internal lending practices.

  If a lender does not specifically budget for reasonable working capital reserves or savings, they still must address how the applicant is able to make progress toward long-term financial goals within the loan narrative.

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)

B Projected Income and Expenses (Continued)

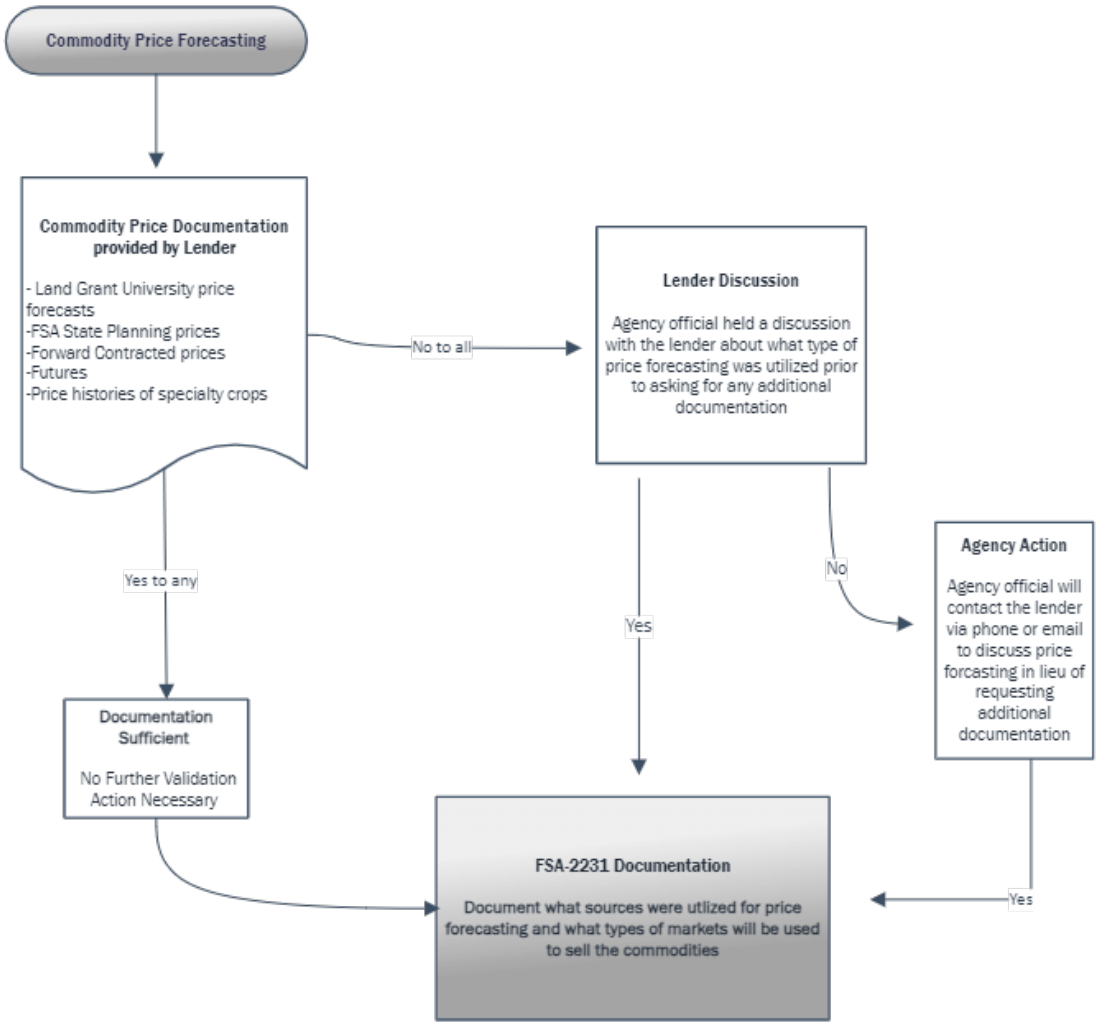
When the projected income and expenses do not meet these requirements, the agency approval official will contact the lender to discuss any clarification needed and summarize on FSA-2231.

Note: For streamlined CL requests, SEL's will follow their internal procedures for determining financial feasibility.

C Commodity Price Forecasts

***--[7 CFR 762.125(a)(7)] Lenders must use price forecasts that are reasonable and--* defensible. Sources must be documented by the lender and acceptable to the Agency.**

The lender may use price forecasts from land grant universities, other published prices, forward contracted prices, futures, or price histories of specialty crops on other commodities. The lender should use price forecasts that provide an accurate projection of commodity prices that the borrower will receive.



152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)

D Estimating Production

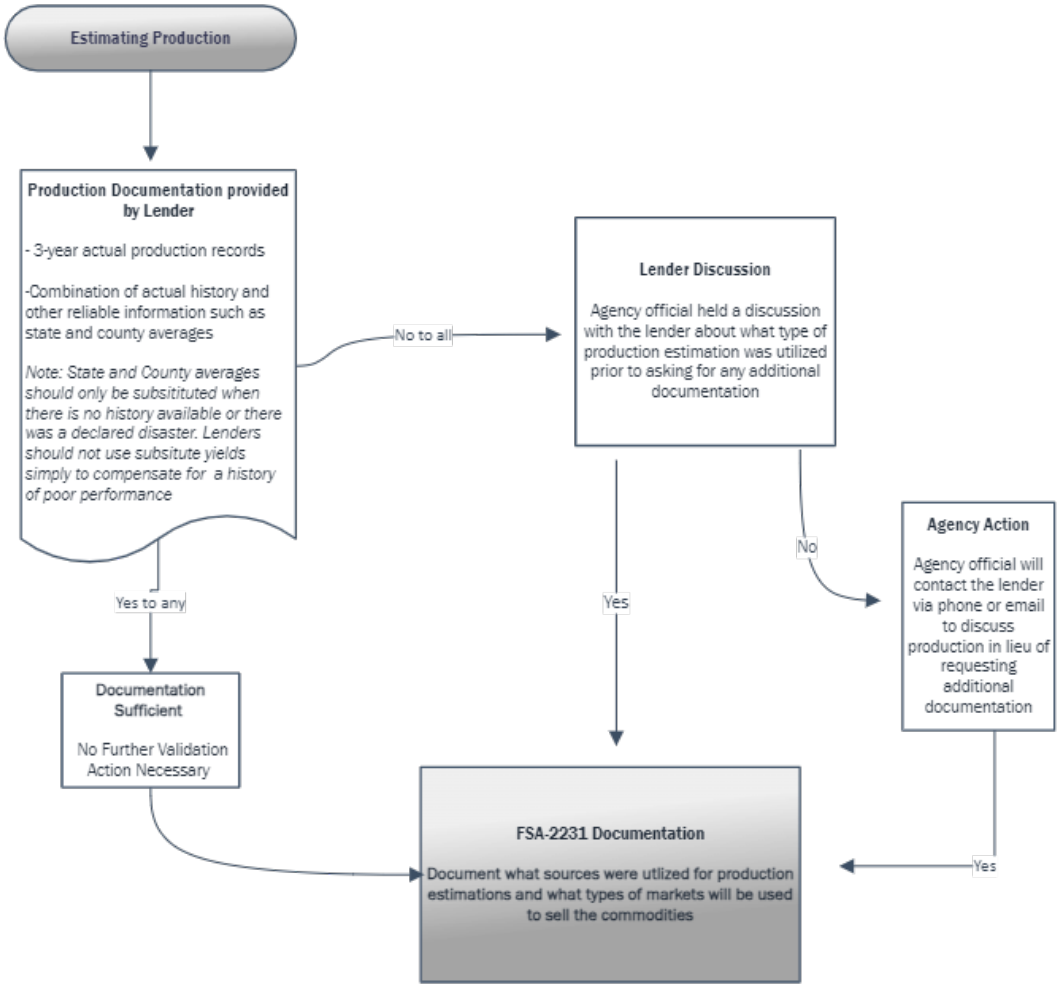
***--[7 CFR 762.125(b)(1)] Standard eligible lenders must use the best sources of--* information available for estimating production in accordance with this subsection when developing operating cash flow budgets.**

***--[7 CFR 762.125(b)(2)] Deviations from historical performance may be acceptable,--* if specific to changes in operation and adequately justified and acceptable to the Agency.**

***--[7 CFR 762.125(b)(3)] For existing farmers, actual production for the past 3 years--* will be utilized.**

***--[7 CFR 762.125(b)(4)] For those farmers without a proven history, a combination--* of any actual history and any other reliable source of information that are agreeable with the lender, the applicant, and the Agency will be used.**

***--[7 CFR 762.125(b)(5)] When the production of a growing commodity can be--* estimated, it must be considered when projecting yields.**



152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)

E Declared Disaster

***--[7 CFR 762.125(b)(6)] When the applicant's production history has been so--* severely affected by a declared disaster that an accurate projection cannot be made, the following applies.**

- **County average yields are used for the disaster year if the applicant's disaster year yields are less than the county average yields. If county average yields are not available, State average yields are used. Adjustments can be made provided there is factual evidence to demonstrate that the yield used in the farm plan is the most probable to be realized.**

- **To calculate a historical yield, the crop year with the lowest actual or county average yield may be excluded, provided the applicant's yields were affected by disasters at least 2 of the previous 5 consecutive years.**

County or State average yields should be substituted only when the other information is not available to make an accurate projection. The objective is to arrive at a projection of the most reliable estimate of the production level the operator is expected to achieve.

F Lender's Documentation

Lenders must maintain supporting documentation for their determination of cash flow budgets in their files. The following table summarizes the loan documentation that can be used to support the cash flow budget.

Cash Flow Element	Documentation to Support Elements
Income and Expense Projections	• Historical performance data. • FSA records. • Extension or county data. • Thorough loan narrative.
Nonfarm Income	• Lender verification of income form. • W-2, pay stub, telephone record, or historical performance data.
Loan Balances and Payment Schedules	• Lender verification of debt form. • Loan statement, credit report, or telephone record.

G Consistency of Farm Operating Plans

***--[7 CFR 762.125(a)(10)] When the applicant has or will have a cash flow budget--* developed in conjunction with a proposed or existing Agency direct loan, the two cash flow budgets must be consistent.**

To be consistent, the 2 plans must be of the same operation, with similar major assumptions, but they do not have to be identical.

Example: The lender and FSA may use slightly different projected prices and yields or different allocations for reasonable working capital reserves or savings for education and retirement.

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)

H Refinancing Existing Debt

***--[7 CFR 762.125(c)] Loan guarantee requests for refinancing must ensure that a--* reasonable chance for success still exists. The lender must demonstrate that problems with the applicant's operation have been identified, can be corrected, and the operation returned to a sound financial basis.**

An allowed use of guaranteed loan funds is to refinance existing debt, including direct loans and other farm loans. In many cases, refinancing existing debt is required because the borrower is experiencing financial difficulties. In these cases, requests for use of guaranteed loan funds for refinancing debt must ensure that a reasonable chance for operational success exists.

The lender must indicate in the loan narrative what the applicant will do differently to ensure the success of the farming operation. The lender must explore different financial options that would allow the applicant to achieve a feasible plan. The lender should consider adjusting the loan terms or negotiating with other creditors to adjust their loan terms or rates as needed to make the loan feasible. See Section 2 for additional information on limitations to refinancing.

The lender will document in the loan narrative any refinancing of existing debt, including:

- an explanation of proposed changes to operations or circumstances that will help to ensure the success of the farming operation
- a description of the different financial options that were considered to achieve a feasible plan
- any consideration for adjusting loan terms or negotiations with other creditors for adjustments to rates and terms.

The authorized agency official will document on FSA-2231:

- the lender justification for the changes made to the operation for a reasonable prospect of success

  Note: Address the problems identified, address how they were corrected or plan to be corrected, and validate that the operation has a plan to return to a sound financial basis.

- other considerations made for the operation to achieve a feasible plan.

If justification is not provided, the authorized agency official will discuss with the lender to obtain clarification on changes being made to the operation for future success.

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)

I Alternate Income

***--[7 CFR 762.125(a)(8)] When a feasible plan depends on income from other sources in addition to income from owned land, the income must be dependable and likely to continue. [7 CFR 762.125(a)(9)] The lender will analyze business ventures other--* than the farm operation to determine their soundness and contribution to the operation.**

Income from custom work and seasonal or temporary positions should not be included in the cash flow budget, unless there is a history of income from similar sources or other strong evidence of likelihood.

The lender will document in the loan narrative any proposed alternative income sources, including:

- details of the alternative or additional income included in the plan, and how it was verified
- explanation of how likely the income is to continue, and whether or not it is supported by history.

Note: Any custom work and seasonal or temporary positions should be discussed and included only if it is likely to continue.

The authorized agency official will document on FSA-2231 the lender justification for the inclusion of additional or alternate income.

- How was it verified?
- Is it dependable and likely to continue?

If justification is not provided, the authorized agency official will discuss with the lender to obtain clarification on changes being made to help ensure the future success of the operation.

153 Calculating Projected Income and Expenses by CLP Lenders (7 CFR 762.125)

A Purpose

CLP lenders are provided greater flexibility in estimating the projected income and expenses of an operation. They are not required to estimate production yields or price forecasts for crops, livestock, and livestock products.

The remainder of this paragraph explains the FSA guidelines for determining an applicant's income and expenses by CLP lenders.

153 Calculating Projected Income and Expenses by CLP Lenders (7 CFR 762.125) (Continued)

B Using Financial History

***--[7 CFR 762.125(a)(4)] For CLP lenders, the projected income and expenses of--* the borrower and operation must be based on the applicant's financial history and proven record of financial management.**

CLP lenders must use their judgment and evaluation of the individual circumstances to determine the best method for estimating the projected income and expenses of the applicant, including any reasonable working capital reserves or savings for education and retirement if needed to support operational stability and growth. CLP lenders have the option of using the operation's production yields, as described in paragraph 152 for SEL. CLP lenders will use the applicant's income and other financial records. As with the use of production yields, the lender should not merely average 3 years of income figures. An average is only appropriate when there have not been major changes in the operation. If there have been major changes in yields, prices, or production, this should be considered when estimating the projected income and expenses. The inclusion of reasonable working capital reserves or savings for education and retirement in the budget is not required, but may be done at the lender's discretion according to their internal lending policies. If a lender does not specifically budget for reasonable working capital reserves or savings, they still should address how the applicant is able to make progress toward long-term goals in the loan narrative.

The lender will include in their loan narrative a discussion on the applicant's financial history and management that will:

- consider the range and trends as indicators of the capability and limitations of the operator, land, and equipment

  Note: Projections should reflect what the current or proposed operation can reasonably and justifiably accomplish.

- document:

  - the method used to project income and expenses
  - an explanation of any deviations from historical production
  - any major changes in yields or prices.

The authorized agency official will document on FSA-2231:

- lender's method of projected income and expenses
- deviations from historical production
- major changes in yields or prices.**--***

153 Calculating Projected Income and Expenses by CLP Lenders (7 CFR 762.125) (Continued)

B Using Financial History (Continued)

If justification is not provided, the authorized agency official will discuss with the lender to obtain clarification on documentation.

- Source documentation can be provided when it is more convenient for the lender to provide the information.

- The authorized agency official may require an update to certain sections of the narrative, and should not require an entirely new narrative. Email updates are considered acceptable.

Note: For streamlined CL requests, CLP lenders will follow their internal procedures for determining financial feasibility.

154 Determining Financial Feasibility of Loans by PLP Lenders (7 CFR 762.125)

A Purpose

PLP lenders are not required to use the financial feasibility methods in paragraph 151. These lenders will use the methods that FSA approved at the time of PLP certification.

This paragraph explains the guidelines FSA will use in evaluating PLP determination of the financial feasibility of loans.

B Using Internal Procedures

***--[7 CFR 762.125(a)(1)] Notwithstanding any other provision of this section, PLP--* lenders will follow their internal procedures on financial feasibility as agreed to by the Agency during PLP certification.**

***--[7 CFR 762.125(e)] Delegated Authority. Lenders who have received delegated authority under § 762.108 of this Part** (paragraph 56) **must certify that all requirements of this section and the related requirements in the lender's credit management system have been met for each loan application.**

To determine financial feasibility, PLP lenders must follow the procedures agreed to by FSA and the lender as described in CMS. The loan narrative must contain a certification of the financial feasibility of the operation including the debt service coverage ratio, current ratio, debt to asset ratio and net worth (or other similar ratios and measures as outlined in the CMS) without any further review or documentation by the agency. The lender should also consider whether reasonable capital reserves or savings for education and retirement are needed to support operational stability and growth. The inclusion of reasonable working capital reserves or savings for education and retirement in the feasibility analysis is not required, but may be done at the lender's discretion according to their internal lending policies. No specific discussion regarding working capital reserves or savings is required in the capacity section of the narrative, but it should be considered by the lender when conducting their feasibility analysis internally.**--***

154 Determining Financial Feasibility of Loans by PLP Lenders (7 CFR 762.125) (Continued)

B Using Internal Procedures (Continued)

--The authorized agency official will not request additional documentation related to financial feasibility.--

* * *

155 Determining Financial Feasibility of EZ Guarantee Loans (7 CFR 762.125)

A Purpose

Lenders submitting EZ Guarantee applications are not required to use the financial feasibility methods in paragraph 151. Lenders will demonstrate financial feasibility using the procedures in this paragraph.

B Using Internal Procedures

[7 CFR 762.125(d)] Notwithstanding any other provision of this section, FSA **will evaluate EZ Guarantee application financial feasibility using criteria below. EZ Guarantee applications that satisfy the criteria will be determined to meet the financial feasibility standards in this section.**

The lender's standards need to meet the following requirements:

- The lender must perform the same evaluation and apply their same underwriting standards for an EZ Guarantee loan as they would for a nonguaranteed loan of the same size and type, including any reasonable working capital reserves or savings for education and retirement if needed to support operational stability and growth. The inclusion of reasonable working capital reserves or savings for education and retirement in the budget is not required, but may be done at the lender's discretion according to their internal lending policies. If a lender does not specifically budget for reasonable working capital reserves or savings, they still should address how the applicant is able to make progress toward long-term goals.

- The lender must determine that the EZ Guarantee applicant demonstrates reasonable prospects to repay the requested loan. This determination must be arrived at using the lender's typical underwriting criteria and methods such as a cash flow projection, a scorecard underwriting model, historical income and expenses, or other repayment capacity indicator.

- The lender will describe the methods and criteria used to determine the applicant's prospects for repayment on the EZ Guarantee application form. The description should address how the EZ Guarantee application compares to their own approval standards.

The following are examples of commonly used methods to evaluate capacity for repayment, other methods may be used:

- projected cash flow
- historical cash flow
- scorecard underwriting system.

[7 CFR 762.125(d)(3)] EZ Guarantee applications that do not satisfy the criteria will require further documentation.

156-165 (Reserved)

Subsection 2 Security of the Loan

166 Amount and Quality of Security (7 CFR 762.126)

A Purpose

The lender is responsible for ensuring that proper and adequate security for the guaranteed loan is obtained and maintained. Lenders must obtain the lien position stated in FSA-2232 for each security item and perfect each lien. This paragraph explains the guidelines FSA will use in evaluating whether the lender has proposed adequate security for the guaranteed loan.

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

B Adequate Security

[7 CFR 762.126(a)(1)] The lender is responsible for ensuring that proper and adequate security is obtained and maintained to fully secure the loan, protect the interest of the lender and the Agency, and assure repayment of the loan or line of credit.

Adequate security is defined as property which is required to provide a security value at least equal to the loan amount.

An additional amount of security will be obtained at the lender's discretion according to *--their internal lending practices. A lender must ensure that enough additional collateral is obtained, if available, to meet their loan to value threshold for a similarly situated unguaranteed loan. A lender may not waive its standard collateral requirements simply because the loan will be guaranteed.

Example 1: A loan request has a 90 percent LTV with no other collateral available and lender's internal policy states that their target LTV threshold is 80 percent without a guarantee. This would be considered to be adequately secured based on the lender's internal policy despite not meeting the 80 percent LTV standard since no additional security was available.

Example 2: A loan request has a 90 percent LTV with other collateral available that would allow the lender to meet their internal threshold of 80 percent. The lender would like to make an exception to their internal policy since they would be obtaining a guarantee. Since the lender provided no justification beyond the fact that the loan will be guaranteed, FSA will require the lender to take the additional collateral necessary to meet their internal policy for adequate security.--*

SEL and CLP lenders will provide documentation on how the loan request meets their internal lending practices in the loan narrative. PLP lenders will follow their collateral standards based on their approved CMS. If the authorized agency official determines that the proposed security does not meet the lender's internal lending practices, the lender must take additional security (if available) or provide documentation as to why additional *--security is not necessary. That documentation must provide case-specific justification beyond the fact that the loan will be guaranteed.--*

166 Amount and Quality of Security (7 CFR 762.126) (Continued)

B Adequate Security (Continued)

***--**To determine LTV for FSA guaranteed loan requests use the following calculation.

$$LTV = \frac{\text{(Guaranteed loan amount + prior liens)}}{\text{Market value}}$$

Guaranteed Loan: $516,800

Security item	Lien Position	Value	Prior Liens	Collateral Value
40 Acres	1st	$474,000	$0	$474,000
5 Acres & buildings	2nd	$365,000	$129,443	$235,557
		$839,000		$709,557

$$LTV = \frac{(\$516,800 + \$129,443)}{\$839,000} = 77\%$$

--**For LOC's, the loan ceiling must be used when calculating the LTV. The value of the annual production assigned to secure a LOC will be projected to be equal to the loan amount. **--

[7 CFR 762.126(b)(1)] All security must secure the entire loan or line of credit. The lender may not take separate security to secure only that portion of the loan or line of credit not covered by the guarantee.

[7 CFR 762.126(b)(2)] The lender may not require compensating balances or certificates of deposit as means of eliminating the lender's exposure on the unguaranteed portion of the loan or line of credit. However, compensating balances or certificates of deposit as otherwise used in the ordinary course of business are allowed for both the guaranteed and unguaranteed portions.--*

C Security Requirements for SEL's and CLP and PLP Lenders

The lender's status has no bearing on the requirements regarding junior liens, identifiable collateral, the type of security required by the type of loan, or any other regulatory requirements regarding loan security.

166 Amount and Quality of Security (7 CFR 762.126) (Continued)

D Lien Position

[7 CFR 762.126(e)] All guaranteed loans will be secured by the best lien obtainable. Provided that:

- ***--Any personal property-secured guaranteed loan must have a higher lien priority (including purchase money interest) than an unguaranteed loan secured by the same personal property and held by the same lender.--***

  Notes: Any lender, who holds an unguaranteed loan with a first lien on the same collateral proposed as primary security for a guaranteed loan, must subordinate its lien position to the guaranteed loan.

  A lender may secure a guaranteed and unguaranteed loan with individual personal property items provided they can be identified separately. For example, a lender with a first lien on all equipment may subordinate two tractors and a planter to the FSA guaranteed loan, providing adequate collateral to secure the loan.

- **Junior lien positions are acceptable only if the total amount of debt with liens on the security, including the debt in junior lien position, is less than or equal to 85 percent of the value of the security.**

  Notes: The security used to determine the 85 percent threshold must be valued using an evaluation or appraisal as described in paragraphs 181 through 183.

  Personal property secured guaranteed loans may be secured by a junior lien position which meets this requirement when a different lender is involved.

  Junior lien positions are acceptable for real estate security when the same or a different lender is involved.

  Liens junior to the guaranteed position will not be considered in this limitation.

  If a proposed loan is to be secured with 1 or more items in a junior lien position that are necessary to meet adequate security requirements, the 85 percent limitation applies. In those cases, agency officials should utilize the calculation in subparagraph 166 B to determine whether the 85 percent threshold has been met. If junior liens are taken as additional security only, the 85 percent limitation does not apply.

166 Amount and Quality of Security (7 CFR 762.126) (Continued)

D Lien Position (Continued)

A subsequent guaranteed loan is not considered junior provided that it is made by the same lender with the same real estate or personal property security and also provided that it is not junior to a nonguaranteed loan. In these cases, the subsequent guaranteed loan will be treated as having an equal lien position as the existing guaranteed loan.

A subsequent unguaranteed loan made by the same or a different lender will be considered junior to the guaranteed loan.

A guaranteed loan and an unguaranteed loan secured by the same real estate security and made by the same lender may be considered to have a shared lien.

Note: This applies to a guaranteed and an unguaranteed loan closed at the same time or a guaranteed loan made subsequent to an unguaranteed loan. It does not apply to an unguaranteed loan made subsequent to a guaranteed loan.

*--The following table provides the lien position scenarios in this subparagraph.

WHEN the loan request is a…	**THEN the lien position is…**
subsequent guaranteed loan • with: • same lender • same collateral • not junior to unguaranteed loan	equal lien to original guaranteed loan.
subsequent guaranteed loan and is junior to an unguaranteed loan	junior lien position.
subsequent non-guaranteed loan and has the same or different lender	junior lien position to the guaranteed loan.
guaranteed loan and non-guaranteed loan • with: • same lender • same collateral • that close at the same time or the guarantee comes after	shared lien position or junior lien position (if the 85 percent threshold is met) depending on agreement with the lender. **Note:** Lender makes the shared lien determination. The agency cannot require a shared lien if the junior lien provisions of this subparagraph (including the 85 percent threshold) are met.

--*

166 Amount and Quality of Security (7 CFR 762.126) (Continued)

D Lien Position (Continued)

If a lender chooses to consider the loans to have a shared lien position, FSA will include a description on the FSA-2232, outlining how proceeds will be distributed if security is liquidated. Language similar to the following should be used:

--**"This guaranteed FO loan in the amount of $_____ is to be closed simultaneously with an unguaranteed loan in the amount of $_____. These loans will equally share first lien position on approximately _____ acres of real estate along with leases and improvements. In the event the security is liquidated, the proceeds will be divided pro rata based on the above loan amounts totaling $_____. If liquidation occurs ___% of the proceeds would be applied onto the guaranteed loan and ___% of the proceeds would be applied onto the unguaranteed loan."**--

- **Junior liens on crops or livestock products will not be relied upon for security unless the lender is involved in multiple guaranteed loans to the same borrower and also has the first lien on the collateral.**

  Note: Junior liens on income security may be taken as security but will be considered to have no collateral value unless the prior lien is securing an FSA-guaranteed loan to the same lender.

- **when taking a junior lien, prior lien instruments will not contain future advance clauses (except for taxes, insurance, or other reasonable costs to protect security), or cancellation, summary forfeiture, or other clauses that jeopardize the Government's or the lender's interest or the borrower's ability to pay the guaranteed loan, unless any such undesirable provisions are limited, modified, waived or subordinated by the lienholder for the benefit of the Agency and the lender.**

  Note: Provisions on prior lien instruments, such as prepayment penalties, will be considered when evaluating the collateral value of the lender's security on the guaranteed loan.

166 Amount and Quality of Security (7 CFR 762.126) (Continued)

E Additional Security

[7 CFR 762.126(a)(2)] The lender will obtain a lien on additional security when necessary to protect the Agency's interest.

[7 CFR 762.126(f)] For real estate, **additional security or any loan of $10,000 or less may be secured by the best lien obtainable on real estate without title clearance or legal services normally required, provided the lender believes from a search of the county records that the applicant can give a mortgage on the farm and provided that the lender would, in the normal course of business, waive the title search.**

Note: This exception to title clearance will not apply when land is to be purchased.

Title clearance work can be expensive and cost-prohibitive in some cases. Title clearance is not required for loans of $10,000 or less if the lender feels such a search is not necessary. In addition, FSA does not want to discourage taking additional security. Therefore, any amount of real estate to be taken as additional security that is clearly in excess of what is needed to fully secure the loan does not need title clearance. Both of these exceptions require that the lender conduct an informal check, be reasonably certain that a lien can be perfected, and otherwise follow internal lending policy on title clearance.

When taking additional security:

- the lien position restrictions in subparagraph D do not apply
- FSA must ensure the FSA-2232 includes any required additional security and the expected lien position in addition to all other required security
- for personal property security, the lender will be expected to file and perfect the position(s)
- an appraisal is not required to be completed on additional security, but the lender must provide a statement of estimated value.

167 Identifiable Collateral (7 CFR 762.126(c))

A Purpose

All of the collateral must be identifiable. This paragraph describes the guidelines for evaluating whether the security obtained for a guaranteed loan is identifiable.

B Identifiable Security

***--[7 CFR 762.126(c))] The guaranteed loan must be secured by identifiable--* collateral. To be identifiable, the lender must be able to distinguish the collateral item and adequately describe it in the security instrument.**

Guaranteed loans must be secured by collateral that can be distinguished from other collateral items and can be adequately described in security instruments.

Example: A tractor described by its make, model, year, and serial number is identifiable collateral, while a truck that is only described as "flat-bed truck" is not identifiable collateral.

C Equipment

Equipment should be identified by manufacturer, model, year, and serial number, where available. If this information is not available, the lender should provide a sufficient written description of the equipment so that it is easily identifiable.

D Livestock

Livestock taken as security will be fully described, including breed, age group, and type, and will indicate the numbers in each group. This provision allows the farmer to perform routine culling and replace livestock without obtaining a release of security. The lender is responsible for ensuring that the borrower maintains the livestock numbers by periodically monitoring the livestock on the farm and ensuring that liens have not been provided to other creditors.

Particularly high value livestock can be appraised as such if the animals are clearly identified, monitored, and accounted for.

E Real Estate

Real estate can be identified using tax lot and block numbers, full metes and bounds, or rectangular survey description or similar system. A survey is not required if the property is adequately described and determined unnecessary by the lender's internal lending policy.

168 Type of Security Required by Type of Loan (7 CFR 762.126(d))

A Purpose

The type of security obtained for a loan must be appropriate to the type of loan, and the loan terms must be consistent with the useful life of the security. This paragraph describes the guidelines for evaluating whether the type of security is appropriate for the proposed loan.

B Security Requirements

***--[7 CFR 762.126(d)(1)] Guaranteed loans may be secured by any property if the--* term of the loan and expected life of the property will not cause the loan to be undersecured.**

Typically, annual operating loans will be secured by crops and livestock, loans to be repaid within 2 to 7 years by breeding livestock and equipment, and loans repaid over greater than 7 years by real estate.

***--[7 CFR 762.126(d)(2)] For loans with terms greater than 7 years, a lien must be--* taken on real estate.**

The guidelines for short-, intermediate-, and long-term loans are as follows.

Loans	Guidelines
Short-term	Annual OL's should be secured at least by crops and livestock that will generally be sold during the term of the loan.
Intermediate-term	OL's should be secured by collateral that has useful life at least as long as the loan. Loans to be repaid over a 2- to 7-year period should be secured by breeding livestock and equipment. The lender should evaluate the equipment proposed to be used for security to ensure that it will not depreciate faster than the loan is repaid.
Long-term	Loans scheduled to be repaid over more than 7 years must be secured by real estate. Anticipated depreciation of the improvements must be considered when establishing terms.

*--OL's with an amortization over 7 years and up to 15 years must use breeding livestock, equipment, or real estate to fully secure the loan. Real estate security is not required for OL's with amortizations of 15 years or less if adequate breeding livestock or equipment is available to secure the loan. OL's with amortizations longer than 15 years must use real estate to fully secure the loan.**--***

168 Type of Security Required by Type of Loan (7 CFR 762.126(d)) (Continued)

C Leasehold Properties

***--[7 CFR 762.126(d)(3)] Loans can be secured by a mortgage on leasehold properties--* if the lease has a negotiable value and is subject to being mortgaged.**

If the authorized agency official does not have experience in making loans secured by leaseholds, they should contact the State Office for assistance.

D Additional Personal or Corporate Guarantees

***--[7 CFR 762.126(d)(4)] The lender or Agency may require additional personal--* or corporate guarantees to adequately secure the loan. These guarantees are separate from, and in addition to, the personal obligations arising from members of an entity signing the note as individuals.**

If the farm operation does not have adequate security for the proposed loan, additional security, such as personal or corporate guarantees, may be used to secure the loan. Therefore, entity members may be required to pledge their personal property or other non-farm assets. For individual applicants, an additional guarantee may be provided by a co-signer.

For entities, the instruments are executed by the member who is authorized to sign for the entity, and by all members of the entity as individuals. Individual liability can be waived by FSA for members holding less than 10 percent ownership in the entity if collectability of the loan will not be impaired.

***--169 Multiple Security Owners, Delegated Authority, and Exceptions to Security--* Requirements (7 CFR 762.126)**

A Multiple Security Owners

***--[7 CFR 762.126(g)] If security has multiple owners, all owners must execute the--* security documents for the loan.**

***--B Delegated Authority**

[7 CFR 762.126(h)] Lenders who have received delegated authority under § 762.108 of this Part (paragraph 56) **must certify that all requirements of this section and the related requirements in the lender's credit management system have been met for each loan application.**

PLP Lenders are required to certify that the applicants have met the lenders internal collateral standards and provide a LTV without further review or documentation by the agency.--*

C Exceptions to Security Requirements

***--[7 CFR 762.126(i))] The Deputy Administrator for Farm Loan Programs has--* the authority to grant an exception to any of the requirements involving security, if the proposed change is in the best interest of the Government and the collectability of the loan will not be impaired.**

DAFLP has the authority to make exceptions to the rules about security. Exceptions will only be made on a case-by-case basis where the proposed exception is in the best interest of FSA, the lender, and the applicant. The exception must not reduce either of the following:

- applicant's ability to make regular loan payments
- lender's ability to collect on the debt obligation through the sale of collateral.

DAFLP's decision on granting exceptions is final and not appealable. SED's should evaluate all requests for exceptions, and forward them to DAFLP with a formal memo and supporting documentation addressing the following items:

- analysis of the benefits or problems
- documentation of exception criteria requirements
- analysis of why the exception is in the best interest of the government, the lender, and the applicant
- recommendation for their approval or rejection.

No exception will be granted without an analysis and documentation of why such an exception is in the Government's best interest.

170-180 (Reserved)

Subsection 3 Appraisals

181 General Requirements (7 CFR 762.127(a))

A Purpose

[7 CFR 762.127(a)(1)] The lender is responsible for ensuring that the value of *--personal property and real estate pledged as collateral is sufficient to fully secure--* the guaranteed loan.

Collateral valuation is an integral part of the loan evaluation process. This paragraph will discuss general collateral valuation requirements and when appraisals or evaluations are and are not required. See subparagraph 267 I for SED responsibilities about appraisals.

B General Requirements

The requirements in this paragraph apply to all 3 types of lenders.

Appraisals or evaluations of collateral are not part of a complete application and guarantees may be approved by FSA, subject to the lender obtaining an acceptable appraisal or evaluation. The lender is responsible for properly documenting the market value of collateral before loan closing and FSA issuing the loan guarantee.

MLP's and SEL's must provide FSA with a copy of an evaluation before FSA issuing FSA-2235, if the request was approved subject to obtaining an evaluation. CLP's and PLP's certify that evaluations have been completed, which support the security values as stated in the Conditional Commitment. CLP's and PLP's are **not** required to submit the evaluation to FSA but are required to maintain it in the lender's loan file.

All lenders certify that, when required, appraisals have been completed, which support the security values as stated in the Conditional Commitment and are **not** required to submit the appraisal to FSA. The lender will maintain the appraisal in the lender's loan file.

Lenders are encouraged to provide their appraisers with the appraisal guidelines in 1-FLP and this handbook. Using the appraisal guidelines will help ensure obtaining quality appraisals.

Authorized agency officials shall review evaluation and appraisal requirements and appraisal guidelines during lender training sessions.

Each lender is responsible for ensuring that applicable ECOA requirements are met including providing applicants with copies of the appraisals or evaluations. It is not FSA's responsibility to make a determination whether a lender violated ECOA; rather, lenders should be advised to research those requirements with their appropriate regulatory authority or attorneys as needed. See subparagraph 210 A for additional information related to ECOA complaints against lenders.

181 General Requirements (7 CFR 762.127(a)) (Continued)

B General Requirements (Continued)

Each lender is responsible for ensuring that the person completing the appraisal or evaluation has the necessary qualifications. Real estate appraisals must be completed according to USPAP.

Notes: FSA will no longer conduct administrative and technical reviews on appraisals for guaranteed loan making or loan servicing actions except for those submitted for liquidation or writedown purposes. FSA will conduct evaluation and appraisal ***--**reviews according to 1-FLP, subparagraphs 143 C, E, F, and G, as applicable. FSA retains the right to conduct Lender reviews which may include reviews of evaluations and appraisals.**--***

A current copy of USPAP may be obtained from **http://www.appraisalfoundation.org**.

See:

- Exhibits 14, 14.1, 14.2, and 14.3 for guidance to lenders when ordering appraisals
- Exhibit 15 for additional guidance about appraisals for the liquidation of poultry and other CAFO's.

C Loan Servicing

All lenders, regardless of their status, are required to obtain acceptable evaluations or appraisals when loans are secured by real estate for the following actions:

- transfer of security and assumption of debt (according to subparagraph 281 D)
- debt writedown
- servicing FSA-2253's
- liquidation
- partial releases of security if determined necessary by FSA
- subordinations of basic and/or additional security
- restructuring payments when the new payment schedule will include a balloon installment.

181 General Requirements (7 CFR 762.127(a)) (Continued)

C Loan Servicing (Continued)

MLP's and SEL's must submit evaluations or appraisals to FSA with requests for transfer and assumptions, debt writedowns, liquidations, and partial releases.

CLP's must submit evaluations or appraisals to FSA with requests for debt writedowns, liquidations, and partial releases.

PLP's must submit evaluations or appraisals to FSA with requests for debt writedowns and final loss claims.

An evaluation or appraisal obtained for servicing actions must be maintained in the lender's loan file.

D Situations Where Appraisals or Evaluations Are Not Required

[7 CFR 762.127(a)(2)] The lender is not required to complete an appraisal or evaluation of collateral that will serve as additional security, but the lender must provide an estimated value.

Appraisals or evaluations are not required on property to be taken as additional security that is clearly in excess of what is needed to fully secure the loan. The lender shall provide an estimate of value on the Application for Guarantee *** * ***, as applicable.

E Appraisal Costs

[7 CFR 762.127(a)(3)] Except for authorized liquidation expenses, the lender is responsible for all appraisal costs, which may be passed on to the borrower or transferee in the case of a transfer and assumption.

Appraisal costs may be deducted from security proceeds when part of authorized liquidation expenses.

*--182 Personal Property Appraisals (7 CFR 762.127(b))

A When Are Personal Property Appraisals Required--*

[7 CFR 762.127(b)(1)] A current appraisal (not more than 12 months old) of primary *--personal property security is required on all loans except loans or lines of credit for--* annual production purposes secured by crops, which require an appraisal only when the guarantee is requested late in the current production year and actual yields can be reasonably estimated. An appraisal is not required for loans of $50,000 or less if a strong equity position exists.

B Techniques

***--[7 CFR 762.127(b)(2)] The appraised value of personal property will be based on--* public sales of the same or similar property in the market area. In the absence of such public sales, reputable publications reflecting market values may be used.**

Appraisals on machinery, farm equipment, and livestock will be based on recent auction sales in the local area, where possible. However, if the number and frequency of sales is limited, it may be necessary to consult published prices.

--182 Personal Property Appraisals (7 CFR 762.127(b)) (Continued)--

C Reports

[7 CFR 762.127(b)(3)] Appraisal reports may be on the Agency's appraisal of *--personal property form or on any other appraisal form containing at least the same--* information.

D Appraiser Qualifications

***--[7 CFR 762.127(b)(4)] Personal property appraisals will be performed by--* appraisers who possess sufficient experience or training to establish market (not retail) values as determined by the Agency.**

The important qualification for personal property appraisers is the ability to establish the value of equipment as reflected at auction sales. An appraiser's qualifications can be demonstrated through their years of experience, number of appraisals performed, and any relevant education or training.

183 Real Estate Security (7 CFR 762.127(c))

***--A Loans of $500,000 or Less**

[7 CFR 762.127(c)(1)] For **loans of less than or equal to $500,000 or the current OMB threshold, whichever is higher, the lender must document--***
the value of the real estate by applying the same policies and procedures as their non-guaranteed loans.

Note: The current OMB threshold is $500,000.**--***

Federal regulators published Interagency Appraisal and Evaluation Guidelines detailing both when a lender may use an evaluation of collateral rather than obtain an appraisal, and the standards that an evaluation must meet. An evaluation is an alternative method to establish collateral value. When requested, lenders must be able to support they have met the requirements contained in the Interagency Appraisal and Evaluation Guidelines.

Interagency Appraisal and Evaluation Guidelines direct lenders to establish policies outlining when to obtain an appraisal. These policies should consider the borrower's risk characteristics, the collateral's expected loan-to-value ratio, the type of property involved, and other factors. FSA expects the lender to:

- apply these same policies to guaranteed loans
- request an appraisal when they would do so for nonguaranteed loans, such as when the expected loan-to-value is above their established standards.

Authorized agency officials have the discretion to require an appraisal, but will do so **only** for loans with unusually high risk factors. Justification for this requirement will be clearly documented.

183 Real Estate Security (7 CFR 762.127(c)) (Continued)

--A Loans of $500,000 or Less (Continued)--

An acceptable evaluation must:

- identify the location of the property
- provide a description of the property, including any improvements and its current and projected use
- provide confirmation that the property was physically inspected and the date of the inspection
- describe the analysis performed and supporting information used to determine the property's market value
- provide information supporting the preparer's experience and other qualifications to complete the evaluation and independence from the loan transaction

  Note: Qualifications may be demonstrated through years of experience, number of appraisals or evaluations performed, and any other relevant education or experience.

- include an effective date of the evaluation and a signature of the preparer.

When requested, the lender must demonstrate that the method or tools used to determine value is consistent with safe and sound lending practices. This includes supporting the qualifications of the person completing the evaluation or the validity of any automated tool used.

***--B Loans Greater Than $500,000**

[7 CFR 762.127(c)(2)] For **loans greater than $500,000, or the current OMB threshold, whichever is higher, 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.

***--Notes:** The current OMB threshold is $500,000.

Appraisals more than 18 months old may be used for all loans, including loans of $500,000 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.

183 Real Estate Security (7 CFR 762.127(c)) (Continued)

--B Loans Greater Than $500,000 (Continued)--

[7 CFR 762.127(c)(3)] Agency determinations under paragraph (c)(2) of this section (this subparagraph) **to permit appraisals more than 18 months old are not appealable.**

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.

Generally, the 3 approaches to value are required when all are necessary to produce credible assignment results. Appraisal development may, however, be limited in nature as established in the scope of work. An appraisal that has been limited in scope might result in an exclusion of 1 or more of the approaches to value, if deemed unnecessary or not representative. An example of this might be the exclusion of the cost approach to value when appraising cropland where there are no improvements or when the improvements are functionally obsolete and have no remaining contributory value.

The appraisal report must be a USPAP compliant appraisal report. Restricted reports, as defined in USPAP, are normally only for internal use, may be simply a letter of value, have limited information, and are not acceptable for guarantee requests.

184-194 (Reserved)

Subsection 4 Maximum Loss for Percent of Loan Guarantee

195 Percent of Guarantee (7 CFR 762.129 and 762.130)

A Standard Guarantee

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

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

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

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

B PLP Lenders

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

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

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 calendar 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.

--**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.**--

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

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

***--C Maximum Loss**

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

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

*** * ***

196 Exception to Standard Guarantee Limits (7 CFR 762.129)

A Exceptions for FO and OL

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

- **a loan is made to a qualified beginning farmer * * *; or**

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

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)

- **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.

- **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 beginning, socially disadvantaged, or veteran 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

- **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 beginning farmer.--

197-207 (Reserved)

Section 5 Environmental and Special Laws

208 Environmental Requirements (7 CFR 762.128)

A Overview

Lenders must consider environmental issues when making and servicing guaranteed loans. *--Authorized agency officials should consult 7 CFR Parts 12 and 1b, for guidance on what--* FSA must do to comply with the various environmental statues and Executive Orders on issues such as HEL, wetlands, floodplains, and hazardous waste.

All lenders will assist in the environmental review process by providing information requested by the authorized agency official. In all cases, the lender must keep documentation of their investigation in the applicant's case file. Lenders must certify that documentation is in their files and that all applicable laws have been considered before FSA will issue a guarantee or concur with a loan servicing action.

B Environmental Requirements

***--[7 CFR 762.128(a)] The requirements found in part 1b of this title, must be met for--* guaranteed OL, FO, and CL. CLP, PLP, and MLP lenders may certify that they have documentation in their file to demonstrate compliance with this section. Standard eligible lenders must submit evidence supporting compliance with this section.**

***--[7 CFR 762.128(b)] The Agency determination of whether an environmental--* problem exists will be based on:**

- **the information supplied with the application**
- **the Agency official's personal knowledge of the operation**
- **environmental resources available to the Agency including, but not limited to, documents, third parties, and governmental agencies**

208 Environmental Requirements (7 CFR 762.128) (Continued)

B Environmental Requirements (Continued)

- **a visit to the farm operation when the available information is insufficient to make a determination**

- **other information supplied by the lender or applicant upon Agency request. If necessary, information not supplied with the application will be requested by the Agency.**

***--[7 CFR 762.128(c)] Lenders will assist in the environmental review process by--* providing environmental information. In all cases, the lender must retain documentation of their investigation in the applicant's case file.**

It is the responsibility of the authorized agency official to complete the proper level of environmental review for each loan application as required in 7 CFR Part 799 and 1-EQ. The certification by the lender on Application for Guarantee does not certify that the loan request is in full compliance with the environmental requirements. The certification only demonstrates that reasonable investigations have been completed for certain items.

C Hazardous Substances

***--[7 CFR 762.128(c)(5)] All lenders are required to ensure that due diligence is--* performed in conjunction with a request for guarantee of a loan involving real estate. The Agency will accept as evidence of due diligence the most current version of the American Society of Testing Materials (ASTM) transaction screen questionnaire available from 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, or similar documentation, supplemented as necessary by the ASTM Phase I environmental site assessments form.**

208 Environmental Requirements (7 CFR 762.128) (Continued)

C Hazardous Substances (Continued)

The presence of hazardous substances that have been released can reduce a property's value, because of the regulatory and cleanup costs associated with contaminated soils and groundwater. The lender is responsible for conducting a due diligence investigation on the subject property. Of concern is the presence of contamination from hazardous substances or petroleum products and their impact on the market value of the property.

The lender is expected to conduct a site visit with the applicant. If real estate will be taken as primary security, the lender must:

- complete the American Society of Testing and Materials' Standards e-1528, Transaction Screen Questionnaire, FSA Environmental Risk Survey Form, or similar questionnaires or screening tools meeting the requirements outlined by their respective regulator (FDIC, OCC, FCA, etc.).

  Notes: The lender is responsible for ensuring that an adequate level of due diligence review is conducted. Failure of a lender to do so **could** potentially result in a reduction or denial of a loss claim.

  If similar questionnaires or screening tools used by a lender require that the applicant provide information for the review, the lender must also review the form and provide acknowledgement that they have reviewed the form and certified its accuracy.

  If a lender's regulator does not outline environmental due diligence requirements, the lender should use the American Society of Testing and Materials' Standards e-1528, Transaction Screen Questionnaire, FSA Environmental Risk Survey Form, or should use those forms as a guide for their own questionnaire.

- indicate on the Application for Guarantee *** * *** and explain if the questionnaire indicates a problem may exist

  Note: Lenders can attach a copy of the questionnaire if it indicates that a problem may exist. However, submission of the questionnaire is not required if it appears that there are no potential problems.

- indicate on the Application for Guarantee *** * *** if the questionnaire indicates no problem was discovered

- keep the questionnaire in the borrower's case file.

If the lender's review indicates a potential problem, the lender should submit enough information in the due diligence process so that the authorized agency official, in most cases, can review the information without having to visit the farm. However, if the lender's review does NOT indicate any potential problems, submission of the due diligence information to the Agency is not required, but it must be maintained in the lender's loan file.

208 Environmental Requirements (7 CFR 762.128) (Continued)

D Wetlands and HEL

***--[7 CFR 762.128(c)(4)] The applicant must certify that they will not violate the--* provisions of Section 363 of the "ACT", the Food Security Act of 1985, and Executive Order 11990 relating to Highly Erodible Land and Wetlands.**

The authorized agency official must:

- ***--**ensure that the applicant has certified they are in compliance with the requirements of 7 CFR Part 12 and therefore:**--***
  - will not violate HEL and WC provisions
  - are not currently out of compliance with HEL or WC provisions
- determine that loan funds will not be used for a purpose that will contribute to a violation of HEL and WC provisions.

See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.

According to 6-CP, applicants must certify that they will not violate HEL and WC provisions by completing and executing AD-1026 for each tract of land in which they have a farming interest.

If question 6, 7A, 7B, or 7C is answered "yes" by the applicant, then AD-1026 will be referred to NRCS for a HEL or wetland determination as appropriate.

A conservation plan may be required if the property contains HEL. If a conservation plan is required, NRCS should be contacted to:

- determine what the conservation plan will contain
- evaluate if the applicant has the resources to carry out the plan.

The authorized agency official should consider the proposed use of loan funds, the contents of the conservation plan, if a conservation plan exists, and changes in land use when determining whether an applicant is likely to violate HEL and WC provisions.

208 Environmental Requirements (7 CFR 762.128) (Continued)

E Floodplains

***--[7 CFR 762.128(c)(1)] A determination must be made as to whether there will be--* any potential impacts to a 100 year floodplain as defined by Federal Emergency Management Agency floodplain maps, Natural Resources Conservation Service data, or other appropriate documentation.**

FSA must:

- avoid impacting floodplains, where practicable, by seeking and reviewing alternatives as part of the environmental assessment process
- mitigate potential adverse impacts to the floodplain when avoidance is not possible
- obtain all required floodplain development permits when it is necessary to perform construction within a floodplain.

Note: The lender shall keep a copy of the appropriate floodplain map in their files.

F Water Quality Standards

***--[7 CFR 762.128(c)(2)] The lender will assist the borrower in securing any--* applicable permits or waste management plans. The lender may consult with the Agency for guidance on activities which require consultation with State regulatory agencies, special permitting or waste management plans.**

The authorized agency official and lender must ensure that applicants are in compliance with Federal and State Water Quality Standards, including Storm Water Discharge Permit requirements for certain construction activities. Although the permit requirements may vary from State to State, there are some types of operations that usually require special permits.

Example: Large confinement livestock operations frequently require special permits or waste management plans under State water quality laws.

208 Environmental Requirements (7 CFR 762.128) (Continued)

F Water Quality Standards (Continued)

Lenders are expected to:

- consult with FSA for guidance on those activities that require State agency consultation, special permitting, or waste management plans
- conduct a site visit to the applicant's farm
- indicate on the Application for Guarantee *** * *** the need for special permits or plans or if potential problems exist

  Note: If special permits or plans exist, the lender should describe them and indicate the status of the permits and plans in the application.

- indicate if no problem is evident and that the farmer is in compliance with permits and plans
- record the farm visit in the applicant's case file and keep copies of waste management plans and permits as appropriate.

209 National Historic Preservation Act (7 CFR 762.128(c)(3))

A Requirements

--[7 CFR 762.128(c)(3)] 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 and Part 1b of this title.--

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.

Exception: FSA may not delegate the responsibility of consulting with the Tribal Historic Preservation Officer and any other interested Tribe.

FSA expects the lender to:

- consult with the authorized agency official for guidance on what situations will need historic property review and consultation

IF the proposed loan is for an activity that is…	THEN…
not an undertaking of National Historic Preservation Act, Section 106, or it is an undertaking but has no potential to impact historic properties if these properties may be present	no further Section 106 review is required; FSA personnel may see the EQ series for further information and guidance on undertakings.
for an activity that is an undertaking of the National Historic Preservation Act, Section 106 and has the potential to impact historic properties if these properties may be present	further Section 106 review is required.

Examples: Historic properties include structures over 50 years old, sites of any age with significant historic or archaeological value, and burial grounds.

209 National Historic Preservation Act (7 CFR 762.128(c)(3)) (Continued)

A Requirements (Continued)

- examine the farm property and question the owner, if available

* * *

- check other sources of information, such as local historical societies or universities
- indicate on the Application for Guarantee and describe, include a picture if available, if property has structures or archaeological sites that may be eligible for listing in the National Register of Historic Places
- indicate on the Application for Guarantee if the property has no structures or archaeological sites that may be eligible
- document in the applicant's case file the site visit and consultation about the presence or absence of historic property
- provide information, as necessary, to the authorized agency official for use in completing the environmental review.

210 Equal Opportunity and Nondiscrimination (7 CFR 762.128(d))

A Equal Opportunity and Nondiscrimination

***--[7 CFR 762.128(d)(1)] With respect to any aspect of a credit transaction, the--* lender will not discriminate against any applicant on the basis of race, color, religion, national origin, sex, marital status, or age, provided the applicant can execute a legal contract. Nor will the lender discriminate on the basis of whether all or a part of the applicant's income derives from any public assistance program, or whether the applicant in good faith, exercises any rights under the Consumer Protection Act.**

Determinations of whether a guaranteed lender or contractor has discriminated against an applicant or borrower, or otherwise violated ECOA, will not be made by FSA. If the authorized agency official receives a complaint of discrimination from a guaranteed loan borrower or applicant, they will note the complaint and request that the borrower contact the lender directly to obtain information on how to file a complaint with the proper regulatory or enforcement authority. If requested by the borrower or applicant, the authorized agency official will contact the lender for this information and provide it to the borrower.

If the guaranteed loan borrower or applicant wants to file a discrimination complaint against FSA or an FSA employee in connection with a guaranteed loan or application, the authorized agency official should inform the applicant of the procedures for filing a complaint. The lender should continue with loan making and servicing actions without regard for resolution of the complaint.

B Construction Contracts

***--[7 CFR 762.128(d)(2)] Where the guaranteed loan involves construction, the--* contractor or subcontractor must file all compliance reports, equal opportunity and nondiscrimination forms, and otherwise comply with all regulations prescribed by the Secretary of Labor pursuant to Executive Orders 11246 and 11375.**

211 Other Federal, State, and Local Requirements (7 CFR 762.128(e))

A Other Requirements

***--[7 CFR 762.128(e)] Lenders are required to coordinate with all appropriate--* Federal, State, and local agencies and comply with special laws and regulations applicable to the loan proposal.**

212-222 (Reserved)

Part 9 IA Program (7 CFR 762.150)

223 Purpose of IA Program

A Purpose

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

B Ensuring Applicant's Eligibility

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

*--C IA Funding

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

224 General Rules (7 CFR 762.150(b))

A Summary of Eligibility Requirements

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

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

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

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

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

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

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

A Summary of Eligibility Requirements (Continued)

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

  Note: This does not apply to beginning farmers.

- must consider any significant non-essential assets.

Interest Assistance is available only on new guaranteed Operating Loans (OL). FSA-2221 will not be executed on any guaranteed loan that was obligated without IA.

B Feasible Plan

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

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

- **A feasible plan** (as defined in Exhibit 2) **cannot be achieved without interest assistance, but can be achieved with interest assistance.** The lender will conduct a "needs test" and document it in either Application for Guarantee, Part G or in the loan narrative, submitted to FSA.

- **If significant changes in the borrower's cash flow budget are anticipated after the initial 12 months, then the typical cash flow budget must demonstrate that the borrower will still have a feasible plan following the anticipated changes, with or without interest assistance.**

- A borrower may qualify for IA with either an initial or typical cash flow budget where cash inflows are less than outflows. The borrower may receive an IA payment the first year, even if the budget shows it is not needed in the first year of the agreement.

- **The typical cash flow budget must demonstrate that the borrower will have a feasible plan throughout the term of the loan.** If the maturity date of the loan exceeds the maturity date of the IA Agreement, the borrower must demonstrate the ability to make the scheduled payments without the subsidy after the IA agreement matures. The lender must demonstrate that the producer has long term viability, but it is not necessary to complete another cash flow budget. This viability may be documented by the lender in the narrative submitted to FSA.

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

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

C Nonessential Assets

The lender must determine that **the borrower, including members of an entity, does not own any significant assets that do not contribute directly to essential family living or farm operations. The lender must determine the market value of any such non-essential assets and prepare a cash flow budget and interest assistance calculations based on the assumption that these assets will be sold and the market value proceeds used for debt reduction. If a feasible plan can then be achieved, the borrower is not eligible for interest assistance.**

Significant nonessential assets, as defined in Exhibit 2, such as vacation homes, hunting lodges, certificates of deposit, stocks, bonds, etc., which do not contribute directly to essential family living or farm operations, are considered to be nonessential assets, and must be considered in preparing the cash flow budget. The lender must prepare a cash flow budget based on the assumption that the value of these assets will be used for debt reduction. If a feasible plan can then be achieved, the borrower is not eligible for IA.

Lenders should obtain a balance sheet on all entity members and consider the assets of all members.

Reasonable, qualified IRS retirement accounts are not considered to be nonessential and therefore, will not be considered in this limitation.

D Debt to Asset Ratio

A borrower may only receive interest assistance if their total debts (including personal debts) prior to the new loan exceed 50 percent of their total assets (including personal assets). An entity's debt to asset ratio will be based upon a financial statement that consolidates business and personal debts and assets of the entity and its members. Beginning farmers, as defined in Exhibit 2, **are excluded from this requirement.**

Applicants who have a debt to asset ratio of less than 50 percent before the new loan being made are not eligible for IA. Lenders will ensure that assets are valued in a consistent manner over time, ensuring that they are not misstated in quantity, quality, or value, to qualify for IA. The Lender will use reasonable, supportable values for all assets. Liabilities will be verified according to their lender status.

Lenders should include discussion of IA eligibility issues, including debt to asset ratios in their loan narrative. On a case-by-case basis, FSA may request additional information from any lender or review the lender's files as needed to make eligibility and approval decisions.

Note: Intentional misrepresentation of asset values will not be permitted. Such abuse, of which the lender is aware or condones, may be considered fraud or misrepresentation and may be grounds for FSA not to honor the guarantee as outlined in Lenders Agreement, Part B.

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

E Terms

The typical term of scheduled loan repayment will not be reduced solely for the purpose of maximizing eligibility for interest assistance. A loan must be scheduled over the maximum term typically used by lenders for similar type loans within the limits in paragraph 137. Guaranteed OL's will be scheduled for repayment according to the terms listed below:

- **An OL for the purpose of providing annual operating and family living expenses will be scheduled for repayment when the income is scheduled to be received from the sale of crops, livestock, and/or livestock products which will serve as security for the loan.**

- **An OL for purposes other than annual operating and family living expenses (i.e. purchase of equipment or livestock, or refinancing existing debt) will be scheduled over 7 years from the effective date of the proposed interest assistance agreement, or the life of the security, whichever is less.**

- An OL should not be requested if an FO would be more appropriate, based on loan purposes and collateral.

Balloon installments are permitted if longer terms are needed.

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

F Maximum Amount of Assistance

The maximum total guaranteed OL debt on which a borrower can receive interest assistance is $400,000, regardless of the number of guaranteed loans outstanding. This is a lifetime limit.

In the case of a borrower with multiple guaranteed loans with one lender, interest assistance can be applied to each loan, only to one loan or any distribution the lender selects, as necessary to achieve a feasible plan, subject to subparagraph 224 C.

As of June 8, 2007, applicants, including entity members, are limited to a total of $400,000 in loans receiving IA over their lifetime. However, IA loans governed by FmHA-1980-64's, FSA-1980-64's, or RD-1980-64's that are executed before June 8, 2007, are not included in this limitation.

Once an FSA-2221 is executed on a loan, the loan amount is subtracted from the $400,000 lifetime limit. Repayment of an IA loan in part or in full will not permit that amount to be obligated again. Subsequent advances on lines of credit are not counted as additional obligations.

Requests are subject to the overall guaranteed loan limits as published in subparagraph 244 A. Lenders may request a combination of subsidized and non-subsidized funds if the borrower's credit needs exceed $400,000. If this occurs, FSA will split the request into 2 obligations and issue two Conditional Commitments. The lender will close the loans using 2 promissory notes and FSA will issue a Loan Guarantee for each note.

The terms of both loans should be consistent and in compliance with the limitations outlined in subparagraph E. The lender may choose to apply payments pro-rata between the 2 loans or according to the lender's normal banking practices.

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

G Rate of Interest

***--The lenders rate of interest will be set according to 7 CFR 762.124(a).**

As outlined in paragraph 135, if a variable rate is used, it must be tied to a rate specifically agreed to between the lender and borrower in the loan instruments. Variable rates may change according to the normal practices for the lender, but the frequency of change must be specified in the loan or LOC instrument. The rate cannot exceed the maximum rate allowed on date of closing.**--***

The lender will reduce the interest rate charged the borrower's account by at least the amount of IA.

H Maximum Time for Which IA is Available for Non-Beginning Farmers

A borrower may only receive interest assistance for one 5-year period. The term of the interest assistance agreement executed under this section shall not exceed 5 consecutive years from the date of the initial agreement signed by the applicant, including any entity members, or the outstanding term of the loan, whichever is less. This is a lifetime limit.

As of June 8, 2007, all new FSA-2221's (including those for beginning farmers) will expire no more than 5 years from the date of the first IA agreement signed by the applicant. Agreements on subsequent IA loans, executed within that 5-year period will also expire no more than 5 years from the date of the first FSA-2221 signed by the applicant. FmHA-1980-64's, FSA-1980-64's, or RD-1980-64's in effect before June 8, 2007, are not impacted by this 5-year limitation.

FSA will document the effective date of the first FSA-2221 in GLS Loan View Screen for each party that will sign the notes. The 5-year period starts on the date of the first FSA-2221, executed by the applicant (including entity members) and does not stop, even if the loan is paid in full. A review of the borrower's agency history will be used to determine which entity members, if applicable, have previously received IA.

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

I Maximum Time Available for Beginning Farmers

Beginning farmers, as defined in Exhibit 2, **may be considered for two 5-year periods. The applicant must meet the definition of a beginning farmer and meet the other eligibility requirements outlined in** subparagraphs 224 B and C **at the onset of each 5-year period. A needs test will be completed in the 5th year of IA eligibility for beginning farmers, to determine the continued eligibility for a second 5-year period.**

To be eligible for the second 5-year period, the applicant must meet the definition of a beginning farmer, meet the feasible plan and non-essential assets requirements, and not have received $400,000 in IA loans, at the beginning of the second 5-year period.

When determining whether or not the borrower continues to meet the definition of a beginning farmer, all the factors that make up the regulatory definition of a beginning farmer will be considered. The year the applicant, or any member of an entity applicant, first reported farm income to IRS, whether as an individual or entity member, should be used to determine the number of years farming.

For existing IA loans, a needs test, as outlined in subparagraph B, will be completed and documented by the lender for beginning farmers in the fifth year after the effective date of the first FSA-2221 to determine eligibility for an additional 5 year period. This is discussed further in subparagraph 228 B.

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

J Transition Rule

Notwithstanding the limitation of subparagraph H**, a new interest assistance agreement may be approved for eligible borrowers to provide interest assistance through June 8, 2009, provided the total period does not exceed 10 years from the effective date of the original interest assistance agreement.**

The objective of this transition rule is to provide a borrower with at least 2 years notice of this regulation change which reduces the years of eligibility from 10 years to 5 years, to give them time to prepare for the reduced period of eligibility.

- New FSA-2221's, for applicants with an effective date on their first IA agreement after June 8, 2004, will mature 5 years after the effective date of their first IA agreement or the maturity date of the loan, whichever is earlier.

- New FSA-2221's, for applicants with an effective date on their first IA agreement between June 8, 1999, and June 8, 2004, will mature on June 8, 2009, or the maturity date of the loan, whichever is earlier.

- New FSA-2221's, for borrowers with an effective date on their first IA agreement between June 8, 1997, and June 8, 1999, will mature 10 years from the effective date of their first IA agreement.

- Borrowers with an effective date on their first IA agreement before June 8, 1997, are not eligible for IA.

225 Application Requirements (7 CFR 762.150(a))

A Applying for IA

In addition to the loan application items required by Part 5, to apply for IA, requests from all lender types must include:

- a current balance sheet (including entity members), with supporting schedules
- a completed cash flow budget, according to subparagraph 224 B
- an IA "needs test" according to subparagraph 224 B (included in Application for Guarantee, Part G or the loan narrative).

Notes: See subparagraph 224 B for more details of the feasible plan requirements. All applications for IA where FSA-1980-64's were not effective (loan closed and FSA-1980-64's executed by the lender) before June 8, 2007, will need to meet the requirements as set forth in this handbook. Applications not meeting the new criteria will be denied according to paragraph 229.

IA can be applied to each loan, only to 1 loan, or any distribution the lender selects; however, IA is only available on as many loans as necessary to achieve a feasible plan.

B Lender Procedures

Lenders will follow their own internal procedures concerning the completion of monthly cash flow budgets for lines of credit.

226 Evaluating and Approving or Denying IA Requests

A Evaluating IA requests

--Applications for IA will be evaluated according to Part 8. Additionally, FSA shall-- determine whether or not all applicable requirements of this Part have been met. The approval official shall check that:

- all mathematical computations are accurate
- the loan and applicant are eligible (paragraph 224).

B Approving IA Requests

--IA may be approved only on new guaranteed OL's. FSA-2221 will not be executed on-- any guaranteed loan that was not originally obligated with IA.

If the approval official determines that IA can be approved, the approval official shall do the following.

Step	Action
1	Prepare FSA-2231. FSA-2231 is used to obligate FSA funds including IA: • for new loans • when the term of IA is to be extended.
2	Execute FSA-2231.
3	Verify that the obligation of funds has been completed on GLS. Place a printout of the GLS screen in the case file. * * *
4	For requests to extend the term of IA on existing guaranteed loans, the approval official will notify the lender in writing, using the following guide letter, that the request has been approved.

226 Evaluating and Approving or Denying IA Requests (Continued)

B Approving IA Requests (Continued)

Date: _____

Dear _____:

This letter extends the Interest Assistance Agreement for (insert name of borrower), on loan number (insert loan number from FSA-2221, Part A, item 7) in the original principal amount of (insert principal amount from FSA-2221, Part A, item 6). The Interest Assistance Agreement, scheduled to expire on (insert date from FSA-2221, Part B, item 1b), is hereby extended until (insert expiration date). This extension is made in accordance with Part B, item 1, of that Interest Assistance Agreement, and all conditions contained in the Interest Assistance Agreement remain in effect.

If you have any questions, please contact this office.

Sincerely,

_____
(Title)

C Denying IA Requests

If the applicant is found ineligible or the request cannot be approved for other reasons, the approval official shall notify the applicant, with a copy to the lender, according to paragraph 229.

227 IA Closing (7 CFR 762.150(h), (i))

A Closing Requirements

Guaranteed loans will be closed according to paragraph 247.

Note: If the lender indicates 360/365 accrual method on the promissory note on FSA-2236, item 28, ENTER "365".

- **The lender and borrower must execute an interest assistance agreement as prescribed by the Agency.**

The lender may select at the time of loan closing the date they * * * wish to receive an interest assistance payment. That date will be included in the interest assistance agreement.

B Executing FSA-2221

FSA, lender, and borrower shall execute FSA-2221 and provide the original to the lender.

--Note:** In no case will FSA-2221 be executed by FSA before verification of the obligation of OL funds with IA.**--

228 Request for IA Payment or Continuation (7 CFR 762.150(i)) (Continued)

A Rules for IA Claims and Agreements

Borrowers with IA Agreements signed before June 8, 2007, will continue to receive IA under the terms and conditions of those agreements, not to exceed 10 years from the date they entered into their first IA agreement.

The initial and final claims submitted under an agreement may be for a period less than 12 months. All other claims will be submitted for a 12 month period, unless there is a lender substitution during the 12 month period in accordance with this section.

Claim period coverage will be as follows:

- the initial claim will cover the entire period between the effective date of the agreement and the end of the claim period

- subsequent requests must cover 12-month periods of IA, and must be prepared by the lender.

A claim should be filed within 60 days of its due date. Claims not filed within 1 year from the due date will not be paid, and the amount due the lender will be permanently forfeited. FSA-2222 should be submitted even if the claim amount is 0.

For FmHA-1980-64's, FSA-1980-64's, or RD-1980-64's signed before June 8, 2007, if a claim is submitted without an analysis of the operation and documentation of the need for continuation of IA, the claim will not be processed until it is submitted by the lender. Claims based on FSA-2221's, signed after June 8, 2007, do not require documentation of need for the continuation of IA.

228 Request for IA Payment or Continuation (7 CFR 762.150(i)) (Continued)

B Rules for Continuation of IA Agreements

Requests for continuation of interest assistance for agreements dated prior to June 8, 2007 will be supported by the lender's analysis of the applicant's farming operation and need for continued interest assistance as set out in their Interest Assistance Agreements. The following information will be submitted to the Agency:

- **A summary of the operation's actual financial performance in the previous year, including a detailed income and expense statement.**

- **A narrative description of the causes of any major differences between the previous year's projections and actual performance, including a detailed income and expense statement.**

- **A current balance sheet.**

- **A cash flow budget for the period being planned.** To continue IA, the cash flow budget must project that a feasible plan is not possible without subsidy, but at least a feasible plan can be achieved with 4 percent subsidy

- **A copy of the interest assistance needs analysis portion of the application form which has been completed based on the planned period's cash flow budget.**

Note: A monthly cash flow budget is required for all lines of credit and operating loans made for annual operating purposes. All other loans may include either an annual or monthly cash flow budget.

Interest Assistance Agreements dated June 8, 2007, or later do not require a request for continuation of interest assistance. The lender will only be required to submit an Agency IA payment form and the average daily principal balance for the claim period with supporting documentation.

228 Request for IA Payment or Continuation (7 CFR 762.150(i))

C Request for IA Payment

To receive an interest assistance payment, the lender must prepare and submit a claim on the appropriate Agency form. Lenders may not charge or cause a borrower with an interest assistance agreement to be charged a fee for preparation and submission of the items required for an annual interest assistance claim. Within 60 calendar days of the annual review date, all lenders should submit the following to FSA:

- FSA-2222

  Notes: FSA-2222 shall be used to request payment for the previous year. A separate FSA-2222 is required for each IA loan.

  The lender shall provide FSA with an EFT account number so IA payment may be transmitted to them electronically.

- a detailed statement of activity, including all disbursements and payments applied to the loan or LOC account

- detailed calculations of ADPB's for the claim period; see Exhibit 10.

Note: All claims will be supported by detailed calculations of average daily principal balance during the claim period. (For all payment claims borrowers must have met the general eligibility requirements of paragraph 108 and the applicable requirements of paragraphs 109 and 110) at the beginning of the payment period. If the borrower ceased to be eligible during the payment period, IA will only be available to the date the borrower was determined ineligible.

228 Request for IA Payment or Continuation (7 CFR 762.150(i)) (Continued)

D Interest Assistance Loans with Interest Rates Below 4 Percent

Interest assistance payments will be four (4) percent of the average daily principal loan balance prorated over the number of days the loan has been outstanding during the payment period. For loans with a note rate less than four (4) percent, interest assistance payments will be the weighted average interest rate multiplied by the average daily principal balance.

The "ADD Interest Asst Claim" transaction in GLS programmatically calculates the IA payable by multiplying ADPB entered times 4 percent. However, FSA cannot pay an IA claim in excess of the interest that has accrued at the full note rate during the claim period.

To process an IA payment when the interest rate has averaged below 4 percent, authorized agency officials must determine ADPB by completing the following:

- total the interest that accrued at the note rate
- divide the total accrued interest by 4 percent to calculate an adjusted ADPB.

The authorized agency official shall then enter FSA-adjusted ADPB in the "Avg. Prin Balance" field to process the IA claim.

E Final Request for Payment

Upon full payment of the note or LOC, the lender will immediately prepare the request for IA payment and submit FSA-2222 to FSA.

The final claim period may be less than 12 months.

F Final IA Request from Liquidated Accounts

In the event of liquidation, the final interest assistance claim will be submitted with the estimated loss claim or the final loss claim if an estimated loss claim was not submitted. Interest will not be paid beyond the interest accrual cutoff dates established in the loss claims according to 762.149(d)(2) and paragraphs 359 through 360.

228 Request for IA Payment or Continuation (7 CFR 762.150(i)) (Continued)

G Continuation of Beginning Farmer Agreements Beyond Original 5-Year Period

See subparagraph:

- 224 I for continuing eligibility requirements for beginning farmers
- 230 D for specific actions necessary to obligate additional funds when additional years of IA is authorized.

If a beginning farmer receives multiple IA loans in subsequent years the lender will submit the needs test for all loans in the fifth year of the first loan closed.

To request continuation of an additional 5 years of IA for beginning farmers, lenders will submit the applicable portion of Application for Guarantee. Borrowers must meet the requirements of subparagraph 224 A and lenders will meet the requirements of subparagraph 225 A.

Note: Only the portion of the Application for Guarantee applicable to IA will need to be completed. All requests should be provided to FSA within 60 calendar days before expiration of the FSA-2221. Failure to request continuation will result in termination of the FSA-2221 upon its expiration.

IA requests for continuation will be evaluated to determine if the eligibility and application requirements of subparagraphs 224 A and 225 A have been met.

If the request for continuation of IA is denied, applicants and lenders will be notified according to subparagraph 229 A.

228 Request for IA Payment or Continuation (7 CFR 762.150(i)) (Continued)

H FSA Review of Request for IA Payment

Review IA payment requests according to the following.

Step	Action
1	FSA will review the claim and the supporting documentation within 3 workdays of receipt. If the information and the supporting documentation is not complete and correct, the reviewing official will notify the lender in writing of the actions needed to correct the request.
2	For IA agreements dated before June 8, 2007, the reviewing official shall document a comparison of actual and projected income and expenses. Any major differences from previous projections to actual performance as well as major changes from the previous year's balance sheet should be noted and discussed with the lender before a determination is made whether IA can be approved for the upcoming year. For IA agreements signed on or after June 8, 2007, proceed to step 3.
3	The authorized agency official shall complete the appropriate portion of FSA-2222 to reflect the amount of IA approved for the coming year.
4	A copy of FSA-2222 will be returned to the lender for attachment to the original FSA-2221 or FmHA-1980-64, FSA-1980-64, or RD-1980-64 for loans made before June 8, 2007.

229 Notification of Adverse Action

A Notification of FSA Action

The applicant will be notified in writing, with a copy to the lender, of all FSA decisions in *--which a request for IA or a request for continuation of IA is denied. The lender will be notified in writing, with a copy to the applicant, when a lender's claim for an IA payment is denied. The notification letter will provide specific reasons for the decision and appeals--* will be handled according to 1-APP.

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p))

A Consolidation of Loans

Loans covered by interest assistance agreements cannot be consolidated.

B Transfer and Assumption

For loans covered by an IA agreement, **such loans can be transferred only when the transferee was liable for the debt on the effective date of the interest assistance agreement. Loans covered by interest assistance can be transferred to an entity if the entity is eligible in accordance with § 762.120** (paragraph 108 and applicable paragraphs 109 and 110) **and § 762.150(b)** (paragraph 224) **and at least one entity member was liable for the debt on the effective date of the interest assistance agreement.**

*--C Debt Write-Down

When consideration is given to using a debt write-down to service a delinquent account, the subsidy level will be recalculated before any write-down. If IA is available on the loan and a feasible plan can be obtained using IA, IA will be used instead of a write-down. **Interest assistance will be discontinued as of the date of any write-down on a loan covered--* by an interest assistance agreement.** No further IA will be available on any loan that has been written down.

D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding

When a borrower defaults on a loan with interest assistance or the loan otherwise requires rescheduling or deferral, the interest assistance agreement will remain in effect for that loan at its existing terms. The lender may reschedule the loan in accordance with § 762.145 (see also paragraphs 312-327)**. For Interest Assistance Agreements dated June 8, 2007, or later increases in the restructured loan amount above the amount originally obligated do not require additional funding; however, interest assistance is not available on that portion of the loan as interest assistance is limited to the original loan amount.**

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding (Continued)

If additional funding is required because of additional years of IA either for loans being rescheduled or for beginning farmers receiving additional years of IA, the authorized agency official must modify loan documents according to the following table.

Loan Document	Action
Original FSA-1940-3 or FSA-2231	In item 5, enter "This loan has been restructured. The term of the IA is being modified from __ years to __ years." *--In FSA-2231, item 21, enter "This loan has been restructured. The term of the IA is being modified from __ years to __ years".--* Modify the Guarantee Obligation Request Screen to indicate the correct IA term. In GLS the Beg Farmer/Rancher dropdown menu must be checked to have the additional funding obligated, if IA is being extended beyond 5 years for a beginning farmer.
FSA's copy of FSA-1980-64 or FSA-2221	Strike through the original expiration date and enter the new expiration date as applicable. The lender, borrower, and FSA will initial the changes.

Note: The effective ending date must be equal to or before the new loan maturity date but cannot be greater than 10 years from the effective date of the borrower's first FmHA-1980-64, FSA-1980-64, or RD-1980-64 for loans made before June 8, 2007. For loans made after June 8, 2007, the ending date of the FSA-2221 must not exceed 5 years from the date of the first FSA-2221, unless the borrower was a beginning farmer at the time of rescheduling, reamortization, or deferral.

Copies of the modified loan documents will be FAXed or sent to the RD Business Center, Guaranteed Commercial Branch, according to 1-FLP, paragraph 5.

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

E Capitalization of Interest on Loans With IA

For loans closed before June 8, 2007, if the loan amount after capitalization of interest exceeds the original IA loan amount and the term of the original IA is not being extended, the authorized agency official will complete the following.

Loan Document	Action
New FSA-2231	Enter the following: •*--in item 20, enter the amount that exceeds the original IA loan amount • in item 21, enter "This loan has been restructured and interest has--* been capitalized. The amount in item 4 exceeds the original IA loan amount. The requested term of IA is __ years." **Note:** The number of years will correspond with the effective beginning and ending dates shown on the new FSA-2221, Part B, items 1(a) and 1(b).
FSA-2221	Enter the following: • in Part A, item 5, date the loan was restructured • in Part A, item 6, amount that exceeds the original IA loan amount • in Part B, items 1(a) and 1(b), new effective beginning and ending dates.

Note: The effective:

- beginning date must be equal to or subsequent to the date the loan was restructured

- ending date must be equal to or before the ending date of the original IA term.

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

E Capitalization of Interest on Loans With IA (Continued)

For loans closed before June 8, 2007, if the loan amount after capitalization of interest exceeds the original IA loan amount and the term of the original IA agreement is being extended, the authorized agency official will complete the following.

Loan Document	Action
New FSA-2231	Enter the following: •*--in item 20, enter the amount that exceeds the original IA loan amount • in item 21, enter "This loan has been restructured and interest--* has been capitalized. The amount in item 4 exceeds the original IA loan amount. The requested term of IA is __ years." **Note:** The number of years will correspond with the effective beginning and ending dates shown in the new FSA-2221, Part B, items 1(a) and 1(b).
Original FSA-1940-3	In item 4, enter "This loan has been restructured. The term of the IA is being modified from __ years to __ years." Modify the Guarantee Obligation Request Screen to indicate the correct IA term.
FSA-2221	Enter the following: • in Part A, item 5, date the loan was restructured • in Part A, item 6, amount that exceeds the original IA loan amount • in Part B, items 1(a) and 1(b), new effective beginning and ending dates.
FSA's copy of original FmHA-1980-64's, FSA-1980-64's, or RD-1980-64's	Strike through the original ending date and enter the new effective date as applicable. **Note:** The lender, borrower, and FSA will initial the changes.

Note: The effective beginning date on the original FSA-1980-64 will not be changed. The effective ending date must reflect the "corrected" ending date as indicated on the new FSA-2221. The effective ending date must be equal to or before the restructured loan maturity date and cannot be greater than 10 years from the effective date of the borrower's first FmHA-1980-64, FSA-1980-64, or RD-1980-64 unless exception authority has been granted according to subparagraph 232 A.

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

E Capitalization of Interest on Loans With IA (Continued)

Loans made after June 8, 2007, cannot receive IA on any capitalized amount above the original loan amount. For these loans whether or not capitalization of interest exceeds the original loan amount and the IA term is not being extended, restructuring will be accomplished according to paragraph 326. For these loans whether or not capitalization of interest exceeds the original loan amount and the IA term is being extended, the authorized agency official will complete the following:

Loan Document	Action
FSA-1940-3 or FSA-2231	In item 5, enter "This loan has been restructured. The term of the IA is being modified from __ years to __ years." ***--**In FSA-2231, item 21, enter "This loan has been restructured. The term of the IA is being modified from __ years to __ years".**--*** Modify the Guarantee Obligation Request Screen to indicate the correct IA term.
FSA's copy of FSA-2221	Strike through the original expiration date and enter the new expiration date as applicable. **Note:** The lender, borrower, and FSA will initial the changes.

Copies of the original and new FSA-1940-3, FSA-2231, and FmHA-1980-64, FSA-1980-64, or RD-1980-64 and FSA-2221, as applicable, will be FAXed or sent to the RD Business Center, Guaranteed Commercial Branch, according to 1-FLP, paragraph 5.

The lender may submit either:

- one FSA-2222 at the annual review date if sufficient documentation is provided by the lender for the authorized agency official to verify the loan balances

- FSA-2222 for the period from the previous FSA-2222 to the date of the restructuring and submit a second FSA-2222 from the date of the restructuring to the annual review date.

Note: Both FSA-2222's will be submitted for payment at the annual review date.

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

F Other Requirements

The rescheduling of a loan with IA must meet all the conditions described in this paragraph and Part 12.

G Bankruptcy

In cases where the interest on a loan covered by an interest assistance agreement is reduced by court order in a reorganization plan under the bankruptcy code, interest assistance will be terminated effective on the date of the court order. The lender will file a claim due through the effective date of the court order. **Guaranteed loans which have had their interest reduced by bankruptcy court order are not eligible for interest assistance.**

H Adjustment of Assistance Between Review Dates

After the initial or renewal request for IA is processed, no adjustments can be made until the next review or adjustment date, except to service loans made before June 8, 2007, with a rescheduling or deferral.

I Excessive IA

Upon written notice to the lender, borrower, and any holder, the Agency may amend or cancel the interest assistance agreement and collect from the lender any amount of interest assistance granted which resulted from incomplete or inaccurate information, an error in computation, or any other reason which resulted in payment that the lender was not entitled to receive.

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

J Substitution of Lenders

If there is a substitution of lender, the original lender will prepare and submit to the Agency a claim for its final interest assistance payment calculated through the effective date of the substitution. This final claim will be submitted for processing at the time of the substitution.

- **Interest assistance will continue automatically with the new lender**

- **The new lender must follow paragraph (i) of this section** (§ 762.150(i) found in paragraph 228) **to receive their initial and subsequent interest assistance payments.**

K Liquidation

When liquidation occurs on a loan with IA, and there are other loans not receiving IA, FSA expects the lender to give the guaranteed loan with IA equitable treatment. If the loans have different lien positions, payments from liquidation will be made according to lien priority. If the loans are sharing a lien position, payment should be made on a pro rata basis, based on the remaining principal balances of the loans.

231 Cancellation of FSA-2221 (7 CFR 762.150(m), (o))

A Termination of IA Payments

Interest assistance payments will cease upon termination of the loan guarantee, upon reaching the expiration date contained in the agreement, or upon cancellation by the Agency under the terms of the interest assistance agreement. In addition, for loan guarantees sold into the secondary market, Agency purchase of the guaranteed portion of a loan will terminate the interest assistance.

B Condition for Cancellation

The Interest Assistance Agreement is incontestable except for fraud or misrepresentation, of which the lender or borrower have actual knowledge at the time that the interest assistance agreement is executed, or which the lender or borrower participates in or condones.

If FSA determines that the lender or borrower fraudulently completed FSA-2221 or misrepresented information on FSA-2221 or supporting documentation, FSA shall cancel FSA-2221 and collect any subsidy that has been paid up to the point this fraud was discovered.

232 Exception Authority (762.150(q))

A Exceptions

The Deputy Administrator for Farm Loan Programs has the authority to grant an exception to any requirement involving interest assistance if it is in the best interest of the Government, and is not inconsistent with other applicable law.

DAFLP has the authority to make exceptions to the rules about IA. Exceptions will only be made on a case-by-case basis where the proposed exception is in the best interest of the Government.

DAFLP's decision on granting exceptions is final and not appealable. SED's should evaluate all requests for exceptions and forward them to DAFLP along with their analysis only if they recommend approval. No exception will be granted without an analysis and documentation of why such an exception is in the Government's best interest.

233-243 (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 $2,558,000.

The total outstanding direct and guaranteed FO, CL, and SW principal balance cannot exceed $2,558,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed $2,558,000.

The total combined outstanding direct and guaranteed FO, CL, SW, and OL principal balance cannot exceed $3,158,000.

The total combined outstanding direct and guaranteed FO, CL, SW, OL, and EM principal balance cannot exceed $3,658,000.

Notes: The maximum loan levels established in this subparagraph are for FY 2027.**--***

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

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

B Submitting FSA-2231 to the Approval Official

When the loan is within the authorized agency official's approval authority, the authorized agency official will execute FSA-2231. Once FSA-2231 is executed, the authorized agency official will submit FSA-2231 to SharePoint according to instructions provided in this subparagraph.

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
- Application for Guarantee for all applicants

244 Loan Approval (7 CFR 762.122) (Continued)

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

* * *

- 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 and requests obligation, the authorized agency official:

- ***--**will submit FSA-2231 to SharePoint for all dispositions (approved, rejected, and withdrawn)**--***

- may then proceed to execute all other loan-related documents, unless otherwise specified by the loan approval official.

The following are instructions for submitting FSA-2231 to SharePoint.

Step	Action
1	Go to **https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/glm.aspx**.
2	Click the "FSA-2231 Submittal Tool" icon.
3	Enter the appropriate information for each of the required fields.
4	Click the attachment icon to upload the completed FSA-2231.
5	CLICK "Submit" to complete the submission of FSA-2231.

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 will 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 will 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.

244 Loan Approval (7 CFR 762.122) (Continued)

C Lender Notification of Authorized Agency Official Decision (Continued)

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 will 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.

•*--If FSA did not approve or reject an application from a PLP lender within 14 calendar--* days of a complete application, the application is supposed to be automatically approved. However, the application cannot be approved unless the environmental review (FSA-850 or environmental assessment) is complete and approved. In these cases, the lender will be notified by letter (subparagraph F) that the financial analysis will stop, but the application will not be approved unless the environmental review is approved. The lender should also be notified that they can request FSA to continue the financial analysis if they would like to receive the percent of guarantee for which they originally applied.

- If it appears the application cannot be approved, the authorized agency official will contact the lender to discuss the reasons for rejection. To ensure good service, the authorized agency official will make a good faith effort to discuss with the lender, in person or by telephone, the reasons the application cannot be approved and possible alternatives. If necessary, the applicant should also be involved in these discussions. Any discussions will be documented in the application file.

- If the application is rejected, the authorized agency official will prepare a letter to the applicant with a copy to the lender informing them the loan is rejected, the reasons for rejection, and their right to appeal the decision as outlined in 1-APP. The letter should:

  - clearly and concisely describe the reason or reasons the application cannot be approved

  - include only the most relevant CFR citations and handbook paragraphs

  - **not** contain acronyms and accusatory wording.

244 Loan Approval (7 CFR 762.122) (Continued)

C Lender Notification of Authorized Agency Official Decision (Continued)

Notes: See 1-EQ, Exhibit 26 for information to be included when notifying the applicant that wetland indicators were determined to be present, as provided in 1-EQ, paragraph 51.

If requested by the lender, FSA may participate in mediation to provide guidance on FSA regulations and guidelines.

If the environmental review determines that there will be a significant impact to the environment, the application **cannot** be approved, and a rejection letter will be prepared according to this subparagraph.

--[7 CFR 762.130(g)] Notifications and documents issued by the Agency or provided by the lender under this section may be delivered electronically.--

D Example of Approval Letter When Funds Are Available

The following is an example of an approval letter when funds are available.

Date: _____

Dear _____:

This letter is to certify that your application on behalf of (insert name of borrower/applicant) for Farm Service Agency loan guarantee assistance has been approved and funds have been obligated.

Enclosed is for FSA-2232 (Conditional Commitment) specifying the conditions you must meet to secure the guarantee. Please review these conditions, complete Part D of the form (Acceptance or Rejection of Conditions), and return it to this office by (insert date).

If you have any questions, please contact this office.

Sincerely,

_____
(Title)

244 Loan Approval (7 CFR 762.122) (Continued)

E Example of Approval Letter When Funds Are Not Available

The following is an example of an approval letter when funds are **not** available.

Date: _____

Dear _____:

This letter is to certify that your application on behalf of (insert name of borrower/applicant) for Farm Service Agency (FSA) loan guarantee assistance has been approved. However, funds are not available at this time to obligate the loan.

The loan will be placed on a waiting list based on the date the application was complete. If a substantial amount of time elapses before the loan is obligated, we may ask you to provide updated information. You should not close the loan until you receive an FSA-2232 (Conditional Commitment) indicating that the loan has been funded.

We appreciate your patience and understanding. If you have any questions, please contact this office.

Sincerely,

_____
(Title)

244 Loan Approval (7 CFR 762.122) (Continued)

F Example of Letter for PLP Lenders When the Environmental Review Is Not *--Completed or Approved Within 14 Calendar Days of a Complete Application

The following is an example of a letter for PLP lenders when the environmental review is **not** yet completed or approved within 14 calendar days of a complete application.**--***

Date: _____

Dear_____:

This letter is to certify that the Farm Service Agency (FSA) failed to make an approval decision within 14 days of receiving your complete application for loan guarantee assistance on behalf of (insert name of borrower/applicant). FSA cannot approve the application or issue a FSA-2232 (Conditional Commitment) until the necessary environmental review has been completed and approved. However, no further financial review of the application will be conducted.

If the environmental review is approved, the application will be approved and you will be notified accordingly. The percent of guarantee would be (enter percent of guarantee). If you wish to obtain the percent of guarantee for which you originally applied, please notify FSA so the financial analysis can be resumed.

If the results of the environmental review would result in the application being rejected, FSA will notify you accordingly.

If you have any questions, please contact this office.

Sincerely,

_____
(Title)

245 Agency Obligation of the Loan (7 CFR 762.130)

A Loan Obligation

[7 CFR 762.130 (b)] Loans are approved subject to the availability of funding. When it appears that there are not adequate funds to meet the needs of all approved applicants, applications that have been approved will be placed on a preference list according to the date of receipt of a complete application.

After the loan approval official executes FSA-2231, the authorized agency official should follow State Office guidance when submitting loan requests for obligation and ensuring that funds have been obligated through GLS.

IF GLS indicates that…	THEN the authorized agency official…
funds have been obligated for the loan	may proceed under subparagraph C and issue the Conditional Commitment.
sufficient funds are not available	must proceed under subparagraph B and place the loan on the waiting list until sufficient funds are available for obligation.

The Conditional Commitment must never be executed until verification is received that funds have been obligated.

Note: If a PLP lender receives an automatic approval of a loan because of FSA's failure to meet the 14-calendar-day response deadline, the lender may not close the loan until funds are obligated and the lender receives the Conditional Commitment.

*--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.

B Funding Priorities

If GLS indicates that funds are not available to obligate a loan, the authorized agency official shall:

- not execute the Conditional Commitment
- inform the lender and applicant that funds are not currently available
- place the loan on a waiting list based on the date the application was considered complete.

245 Agency Obligation of the Loan (7 CFR 762.130) (Continued)

B Funding Priorities (Continued)

***--[7 CFR 762.130(b)] If approved applications have been received on the same day,--* the following will be given priority:**

- **an application from a veteran**
- **an application from an Agency direct loan borrower**
- **an application from an applicant who** is described by 1 of the following:
  - **has a dependent family**
  - **is an owner of livestock and farm implements necessary to successfully carry out farming operations**
  - **is able to make down payments**
- **any other approved application.**

The priority list will be maintained at the level where the funds have been allocated or suballocated.

When funds become available, applications will be funded in priority list order. If a substantial amount of time has elapsed between loan approval and obligation, the authorized agency official may request updated information on the applicant.

245 Agency Obligation of the Loan (7 CFR 762.130) (Continued)

C Issuing 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.

- **Loan Purposes.** The authorized agency official should ensure that the specific purposes for which the loan funds will be used are detailed on the Conditional Commitment. These purposes must be consistent with the purposes shown on Application for Guarantee and any agreed modifications.

- **Security for the Loan.** The authorized agency official should ensure that all security items and expected lien positions are included on the Conditional Commitment.

- **Electronic Applications.** If the lender submitted Application for Guarantee electronically and all of the required electronic signatures are not obtained, then Conditional Commitment, item 17 should specify that the signed copy of the application be submitted with the loan closing documents. FAXed or scanned signatures are acceptable.

- **Lender's Agreement.** The lender will be required to execute FSA's Lender's Agreement if the lender does **not** have one in effect.

- **Corporate Restriction.** Lenders that are corporations must read and certify to the statements on Part C of FSA-2236 before FSA issues FSA-2235. FSA officials will add this as a condition to FSA-2232.

--**In developing the Conditional Commitment, the authorized agency official will tailor the Conditional Commitment to the specific borrower and loan request. Each condition placed on the loan must be appropriate to the specific lending situation with the goal of producing a higher quality loan. The authorized agency official will avoid duplicating requirements already included in FSA-2201, 7 CFR Part 762, FSA-2232, or the PLP Lender's CMS. See Exhibit 22 for a list of conditions by loan type that should be included in Part B of the Conditional Commitment. Conditions listed on FSA-2232 will be limited to those the lender can fulfill before receiving FSA-2235.**--

Issuing the Conditional Commitment with conditions is preferred to rejection of the request.

Example: If the security proposed by the lender will result in an inadequately secured loan, rather than deny the guarantee request, the Conditional Commitment may be executed, subject to the lender obtaining a lien on specified additional collateral.

Once the Conditional Commitment has been developed using the guidelines in this paragraph, the authorized agency official shall submit the Conditional Commitment to the lender for execution according to paragraph 246.

246 Lender's Response to the Conditional Commitment (7 CFR 762.130(c))

A Accepting or Rejecting Conditions

[7 CFR 762.130 (c)] The lender must meet all of the conditions specified in the Conditional Commitment to secure final Agency approval of the guarantee. The lender, after reviewing the conditions listed on the Conditional Commitment, will complete, execute, and return the form to the Agency. If the conditions are not acceptable to the lender, the Agency may agree to alternatives or inform the lender and the applicant of their appeal rights.

* * *

If the lender rejects the conditions, the lender may propose new conditions, along with justification for them. The authorized agency official should review the new conditions and the lender's justification to determine whether they are acceptable to FSA. If the conditions cannot be accepted, the authorized agency official should contact the lender to see if an agreement can be reached that is acceptable to both parties. If the new conditions are accepted or an agreement is reached, the conditions must then be reviewed and approved by the loan approval official before their incorporation in the Conditional Commitment.

If, after all reasonable efforts have been made, an agreement cannot be reached, the authorized agency official shall issue a rejection letter and inform the applicant, with a copy to the lender, of the appeal rights according to 1-APP. Only after completion of the appeal may the authorized agency official proceed with deobligation of funding in paragraph 249.

If a PLP lender rejects an 80 percent guarantee, received as a result of FSA not acting on a request within 14 calendar days of receiving a complete application, the authorized agency official shall continue to process the request and issue a revised Conditional Commitment. If warranted, the revised Conditional Commitment may contain conditions. The lender will have the option of accepting the 80 percent guarantee without conditions or come to an agreement with FSA on any conditions in the revised Conditional Commitment, and receive the requested level of guarantee.

--**Once the lender executes the Conditional Commitment accepting the conditions, it must be returned to FSA before issuing the guarantee. After both parties execute the document, the lender may proceed to close the loan within the timeframe specified in Part D, 21 B of the Conditional Commitment.**--

246 Lender's Response to the Conditional Commitment (7 CFR 762.130(c)) (Continued)

B * * * Extending the Conditional Commitment

*--It is the lender's responsibility to request an extension if one is needed. The authorized agency official may grant an extension in writing to the lender if the lender provides reasonable justification for the extension. If a lender submits closing documentation after the expiration of the Conditional Commitment and an extension was not requested, adequate justification for the delay in closing must be provided. Before issuing a guarantee after an extension of the target closing date, the authorized agency official must ensure the applicant's financial information is still up to date.

The National Office routinely monitors guaranteed loans that have been obligated for an extended period of time without being closed. Similarly, State Offices are recommended to also track obligated but unclosed guaranteed loans.--*

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130)

A Lender's Actions

After loan closing, the lender must submit the following to FSA before issuing the Loan Guarantee:

•*--FSA-2236 Guaranteed Loan Closing Report and Lender Certification

Note: [7 CFR 762.130(d)(4)(i)] The lender must complete an Agency closing report form and return it to the Agency.

[7 CFR 762.130 (d)(1)] The lender will certify as to the following on the form:

- **no major changes have been made in the lender's loan or line of credit conditions and requirements since submission of the application (except those approved in the interim by the Agency in writing)**
- **required hazard, flood, crop, worker's compensation, and personal life insurance (when required) are in effect**
- **truth in lending requirements have been met**
- **all equal employment and equal credit opportunity and nondiscrimination requirements have been or will be met at the appropriate time**
- **the loan or line of credit has been properly closed, and the required security instruments have been obtained, or will be obtained, on any acquired property that cannot be covered initially under State law**
- **the borrower has marketable title to the collateral owned by the borrower, subject to the instrument securing the loan or line of credit to be guaranteed and subject to any other exceptions approved in writing by the Agency**

  Note: When required, an assignment on all USDA crop and livestock program payments has been obtained.

- **when required, personal, joint operation, partnership, or corporate guarantees have been obtained**
- **liens have been perfected and priorities are consistent with requirements of the conditional commitment**

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- **loan proceeds have been, or will be disbursed for purposes and in amounts consistent with the conditional commitment and as specified on the loan application**

  Note: In line of credit cases, if any advances have occurred, advances have been disbursed for purposes and in amounts consistent with the conditional commitment and line of credit agreements.

- **there has been no material adverse change in the borrower's condition, financial or otherwise, since submission of the application**

- **all other requirements specified in the conditional commitment have been met.**

--Note**: Lenders who complete the loan closing report and certify to the above items in LINC will not be required to submit FSA-2236 to FSA.**--

- a completed Application for Guarantee * * * with appropriate signatures if the lender submitted the application electronically without all required signatures

- an acceptable evaluation from SEL's, if the guarantee was approved subject to an evaluation

  Notes: If the loan was approved subject to an appraisal, the lender will certify an appraisal is in their files.

  SEL's should be encouraged to submit the evaluation to FSA before loan closing to ensure compliance with FSA requirements.

- Lenders Agreement

  Note: [7 CFR 762.130(d)(3)] The lender must execute the Agency's lender's agreement and deliver it to the Agency. If a current Lenders Agreement is not on file with FSA, then 1 must be executed before issuing the Loan Guarantee.

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- guarantee fee

[7 CFR 762.130(d)(4)(ii)] The guarantee fee for the loan type will be calculated as follows:

FO guarantee fee = Loan Amount x % guaranteed x (FO percentage established by FSA)

OL guarantee fee = Loan Amount x % guaranteed x (OL percentage established by FSA)

CL guarantee fee = Loan Amount x % guaranteed x (CL percentage established by FSA).

Note: The guarantee fee is established by the Agency at the time the guarantee is obligated. The fee, beginning in FY 2012, is 1.5 percent. The current fee schedule is available at any FSA office. The Agency may change the guarantee fee by a notice in the Federal Register. Guaranteed fees may be adjusted annually based on factors that affect program costs. The nonrefundable fee is paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds.

[7 CFR 762.130(d)(4)(iii)] The following guaranteed loan transactions are not charged a fee:

- **loans involving interest assistance**
- **loans where a majority of the funds are used to refinance an Agency direct loan**
- **loans to beginning * * * or veteran farmers involved in the direct Down Payment Loan program or beginning farmers participating in a qualified State Beginning Farmer Program.**

Note: Only applicants who meet both of the following requirements will qualify for a waiver of the fee:

- meets the definition of a beginning farmer according to Exhibit 2 as of the date the application is received, for the type of guarantee being requested *** * *** or veteran farmer, **and**

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- as of loan closing, applicant has an outstanding balance on a direct down payment loan under 3-FLP, Part 7, Section 2, or a qualified State Beginning Farmer loan; or has a direct down payment loan or a qualified State Beginning Farmer loan approved but funding is not available at the time the guaranteed loan is closed.

  Notes: Applicants meeting only the definition of beginning or veteran farmer will not qualify for the waiver.

  A qualified State Beginning Farmer Program has MOU between the State and USDA and has been approved by DAFLP and signed by the State.

- a copy of the executed promissory note or loan agreement

  Note: [7 CFR 762.130(e)] The lender will use its own promissory notes, line of credit agreements, real estate mortgages (including deeds of trust and *--similar instruments), and security agreements (including personal property mortgages), provided:--*

  - **the forms meet Agency requirements**

    Note: HEL/WL language is required to be included in lender's debt and security instruments as outlined in Part 12 of the conditional commitment if the farming operation has HEL/WL present. However, WL determinations are not always complete, or the applicant may acquire additional farms during the term of the loan. Due to these uncertainties, it is often difficult to determine that there will be no HEL/WL present. Therefore, the HEL/WL language should typically be included in the debt and security instruments for all guaranteed loans.

  - **documents comply with State law and regulation**

  - **the principal and interest repayment schedules are stated clearly in the notes and are consistent with the conditional commitment**

    Note: A lender may use notes with short-term maturities for intermediate and long-term loans provided:

    - the lender has indicated the intended term of the loan

      Note: This may be done by entering the total number of years in the repayment period block of the application form.

    - the subsequent note is a continuation of the original intended repayment plan and not a restructuring of a past due account

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- there is a clear link between the Loan Guarantee and all the notes intended to be covered by the Loan Guarantee. The Loan Guarantee references only the debt instrument used at loan closing. The necessary linkage may be established with a master note, a loan agreement, or by referring in the subsequent notes to the original debt instrument referenced on the Loan Guarantee.

- **the note is executed by the individual liable for the loan**

  Note: For entity applicants, the promissory note will be executed to evidence liability for the entity, any embedded entities, and the individual liability of all entity members (including individual owners of embedded entities)**.** Personal guarantees, or other forms, will not be used to address the individual liability requirement. **Individual liability can be waived by the Agency for members holding less than 10 percent ownership in the entity if the collectability of the loan will not be impaired.**

- **when the loan purpose is to refinance or restructure the lender's own debt, the lender may continue to use the existing debt instrument and attach an allonge that modifies the terms of the original note.**

  Note: This also applies when a lender has closed an approved guaranteed loan before funds are available.

See Exhibit 11 for additional guidance.

- FSA-2236. Lenders that are corporations must read and certify to the statements on Part C of FSA-2236. A lender is a corporation if they file articles of incorporation with the Department of State where their headquarters is located. A completed FSA-2236 must be received for each application

In addition, the lender should take the following actions.

- Inform FSA of the lender's plans to market the loan to the secondary market. These plans must be consistent with Part 15. LOC's may be funded in participation with other lenders, but may not be sold into the secondary market.

- ***--[7 CFR 762.130(d)(2)] The lender must notify the Agency of any scheduled--* inspections during construction and after the guarantee has been issued. The Agency may attend these field inspections. Any inspections or review performed by the Agency, including those with the lender, are for the benefit of the Agency only. Agency inspections do not relieve any other parties of their inspection responsibilities, nor can these parties rely on Agency inspections in any manner.**

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

B FSA Actions

After FSA receives the information from the lender detailed in subparagraph A, the authorized agency official must take the following actions before executing the Loan Guarantee to guarantee the loan.

- Review the Conditional Commitment to ensure that the loan closed according to the agreed conditions.

- Review the executed loan agreement and promissory note and compare with the Conditional Commitment to ensure consistency with the agreed upon terms and personal liability of entity members.

- For SEL's, review the evaluation of collateral to ensure that it meets the requirements of paragraph 183. For CLP and PLP lenders, the agency official will review 20 percent of each lender's evaluations. This should be completed during the lender's file review required by subparagraph 267 B. If the loan was approved subject to an appraisal, the lender will certify an appraisal is in their files.

  Note: For real estate evaluations, this review shall be completed on FSA-2234.

- Review FSA-2236, Part C if the lender is a corporation. Ensure that FSA-2236 is properly completed and review the responses to the questions and signatures. Anyone signing FSA-2211 is considered to have authority to sign FSA-2236. If lender is unable to certify to those items, the lender would be ineligible to receive a guarantee.

- Review the lender's proposed marketing plans to the secondary market. If the lender is proposing to sell the loan or a portion of the loan into the secondary market, documents should be checked to ensure consistency before sale. The authorized agency official should take additional care to review the Conditional Commitment, the Loan Guarantee, the loan agreement, and promissory notes to ensure the following:

  - principal amount and interest rate are consistent

  - closing date on the note and guarantee are consistent

  - borrower's name, lender's name, and FSA contact information are consistent on all documents.

- For loans involving construction, review the lender's proposed plans for construction inspections and how they intend to ensure that the project is completed according to agreed upon terms.

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

B FSA Actions (Continued)

***--**The loan guarantee shall not be issued if the lender has not closed the loan according to the agreed upon conditions and supplied all required closing documents in accordance with FSA requirements.

In those instances, FSA shall make all reasonable efforts to work with the lender to resolve the issue(s) and shall also consider if any conditions can be revised. If the lender is unwilling to correct the problem(s), unable to correct the problem(s), or becomes unresponsive to those requests, the authorized agency official shall issue a rejection letter and inform the applicant, with a copy to the lender, of the appeal rights according to 1-APP. Only after completion of any appeal may the authorized agency official proceed with deobligation of funding as outlined in paragraph 249.**--***

248 Issuing the Loan Guarantee

A Action

Once the requirements of paragraph 247 have been met, the authorized agency official may prepare and issue the Loan Guarantee.

- If the lender submitted loan closing documentation by LINC, the authorized agency official will review the data input by the lender along with the documents received directly from the lender and accept the loan closing in the GLS Add Loan Screen, if acceptable. If the data or other documentation needed is not correct, the agency official will work with appropriate parties to correct the data.

- If the lender completed and submitted hard copy of FSA-2236, the authorized FSA agency official must review and complete the closing in GLS.

The original Loan Guarantee should be provided to the lender to be attached to the original note. A conformed copy, or signed and dated photocopy, with copies of the note should be kept by FSA in the loan docket.

B Documents To Be Transmitted to the RD Business Center, Guaranteed Commercial Branch

The guarantee fee will be processed through NRRS using applicable collection type if the fee is paid by paper check. See 64-FI for additional guidance. Guarantee fees may also be processed through Pre-Authorized Debit in GLS on the Add Loan Closing Screen. If the guarantee fee is paid by Pre-Authorized Debit, no additional action is needed in NRRS. The authorized agency official will make every attempt to review the closing documents before processing the guarantee fee. However, FSA will adhere to the timeframes in 64-FI to process the fee even in situations when the authorized agency official is not able to review the closing documents timely. The loan closing transaction will be input through the GLS Add Loan Closing Screen.

C Refund of Guarantee Fee

The guarantee fee is not refundable once the Loan Guarantee has been issued and loan funds disbursed. However, if the fee was processed before reviewing closing documents and it is later determined that the guarantee cannot be issued, the fee may be refunded to the lender.

The authorized agency official will forward a memorandum to the State Office with the reasons FSA was not able to issue the Loan Guarantee and request that the fee be refunded. If approved, the State Office will FAX the memorandum to the RD Business Center, Guaranteed Commercial Branch, requesting that the fee be refunded.

A request for a guarantee fee refund for any other reason will be forwarded to the National Office for approval.

249 Deobligation of Loan Funds

A Deobligation of Funds

Under certain circumstances, the authorized agency official may need to consider a deobligation of loan funds. If the conditions for the loan or LOC cannot be met after completing the appeal process, the authorized agency official must execute FSA-2072 to cancel the actual obligation.

B FAXing FSA-2072

FSA-2072 should be FAXed to the State Office that will process the cancellation or deobligation through GLS.

250 Replacing or Terminating the Loan Guarantee (7 CFR 762.101 and 762.130)

A Replacing the Loan Guarantee

***--[7 CFR 762.130(f)] If the guarantee or assignment guarantee agreements are lost,--* stolen, destroyed, mutilated, or defaced, except where the evidence of debt was or is a bearer instrument, the Agency will issue a replacement to the lender or holder upon receipt of acceptable documentation, including a certificate of loss or an indemnity bond.** It is the responsibility of the lender to coordinate the replacement activities with the holder and submit the required documents to SED for processing. SED shall contact the National Office for further guidance when replacing the Loan Guarantee.

B Terminating the Loan Guarantee

--[7 CFR 762.101(e)] The Loan Guarantee will automatically terminate as follows:--

- **upon full payment of the guaranteed loan**

  Note: A zero balance within the period authorized for advances on a line of credit will not terminate the guarantee.

- **upon payment of a final loss claim**

- **upon written notice from the lender to the Agency that a guarantee is no longer desired provided the lender holds all of the guaranteed portion of the loan. The Loan Guarantee will be returned to the Agency office for cancellation within 30 days of the date of the notice by the lender.**

250 Replacing or Terminating the Loan Guarantee (7 CFR 762.101 and 762.130) (Continued)

B Terminating the Loan Guarantee (Continued)

There are instances where the authorized agency official may need to consider terminating *--Loan Guarantees without the lender's written notification. For example, when lenders refuse to provide FSA with required status or default status reports.--*

This does not apply to occasional missed or late reports; but to a pattern of missing reports or reports that do not provide new information covering lengthy time periods.

Before terminating the Loan Guarantee, loan files must be documented to reflect attempts made to obtain required FSA-2241's or FSA-2248's from the lender or any other pertinent information on the status of loans.

Authorized agency officials will notify lenders, in writing, the specifics of the reporting problems and provide 30 calendar days to submit updated FSA-2241's, FSA-2248's, or *--other required information.--*

IF lenders fail to provide updated FSA-2241's, FSA-2248's, or there is no response from lenders...	**THEN...**
after the first 30 calendar days	a 2nd letter will be sent to the lender providing an additional 30 calendar days.
after the second 30 calendar days	a final letter will be sent to the lender informing them that because of their failure to follow the requirements of 7 CFR 762.141 (a) and/or (b), any loss claim would be denied according to 7 CFR 762.103(b)(2) and FSA is terminating the Loan Guarantee. **Note:** Appeal rights must be provided according to 1-APP.
or no appeal is filed	the Loan Guarantee will be terminated. **Note:** Loans may not be terminated simply because they have matured.

--Other situations that may justify terminating the guarantee without the lender's written notice should follow the same steps in the provided example. If the State Office believes the guarantee should be terminated because of other circumstances besides failure to submit status or default status reports, the State Office should contact the National Office for guidance before taking action to terminate the guarantee.--

251-261 (Reserved)

Part 11 General Servicing Responsibilities

Section 1 General Servicing Requirements

262 Relationships and Responsibilities (7 CFR 762.140(a))

A Lender Role

Lenders are responsible for servicing the entire loan in a reasonable and prudent manner, protecting and accounting for collateral, and remaining the mortgagee or secured party of record.

The lender cannot enforce the guarantee to the extent that a loss results from a violation of usury laws or negligent servicing.

***--Lenders may submit loan servicing documentation through any electronic means designated by the Agency.**

Notifications and documents issues by the Agency related to loan servicing may be delivered to the lender electronically.--*

The lender is responsible for:

- working with the agency to ensure all environmental requirements are met during the loan servicing actions according to 7 CFR 762.128 and paragraph 208

- complying with all FSA program requirements.

FSA servicing regulations are designed to accommodate standard agricultural lending practices, so lenders can be assured they meet program regulations if they:

- service guaranteed loans in a prudent, traditional manner
- comply with specific program eligibility guidelines and loan limits.

262 Relationships and Responsibilities (7 CFR 762.140(a)) (Continued)

B FSA Role

FSA is responsible for working with lenders to ensure that all servicing and reporting requirements are met. FSA shall:

- *--complete a review of annual financial analyses according to subparagraph 265 F

- concur on feasible servicing requests made by the lender according to paragraphs 278 through 288

- ensure all environmental requirements are followed during loan servicing actions according to paragraph 208, 1-EQ, and 2-EQ

- collect and review all necessary servicing reports required of the lender according to paragraph 266

- review a percentage of the lender's loan files annually to assess program compliance according to paragraph 267.--*

FSA will work closely with SEL's in loan servicing. SEL's may be new to the FSA guaranteed loan program and, therefore, may require additional assistance and guidance. CLP lenders will be monitored less, since these lenders have working knowledge of the program and should need minimal guidance and oversight. PLP lenders have proven experience with the guaranteed loan program and servicing guaranteed loans. PLP lenders will be provided maximum flexibility to service guaranteed loans and minimal supervision by FSA.

When a lender attains PLP status, the lender will service its existing guarantee portfolio under the provisions of its CMS summary and Lender's Agreement. Servicing requirements that were included in the Conditional Commitment for loans made before the lender was a PLP lender may be retained upon mutual agreement between the lender and FSA.

263 Borrower Supervision (7 CFR 762.140(b))

A Overview

Lenders must supervise guaranteed loan borrowers in a manner similar to their supervision of regular loan customers. Lenders are expected to apply standard, agricultural loan servicing principles to their guaranteed customers.

Examples of standard borrower supervision include the following:

- maintaining regular contact with the farmer
- periodically discussing the farmer's goals and monitoring progress in meeting these goals
- accounting for loan proceeds by monitoring expenditures and discussing how these will facilitate the achievement of the operator's expressed goals
- monitoring collateral and tracking the sale of security.

B Lender Supervision of Borrowers

The lender's responsibilities regarding borrower supervision include, but are not limited to the following:

- **ensuring loan funds are not used for unauthorized purposes**
- **ensuring borrower compliance with the covenants and provisions contained in the promissory note, loan agreement, mortgage, security instruments, any other agreements, and this part**

  Note: Any violations which indicate non-compliance on the part of the borrower, must be reported, in writing, to both the Agency and the borrower.

- **ensuring the borrower is in compliance with all laws and regulations applicable to the loan, the collateral, and the operations of the farm**

263 Borrower Supervision (7 CFR 762.140(b)) (Continued)

B Lender Supervision of Borrowers (Continued)

- **receiving all payments of principal and interest on the loan as they fall due and promptly disbursing to any holder its pro-rata share according to the amount of interest the holder has in the loan, less only the lender's servicing fee**

--Note:** Payments from the borrower will be reviewed and applied upon receipt, unless otherwise agree on by the borrower and lender. Payments may not be held in escrow to be applied on the payment due date.**--

- **performing an annual analysis of the borrower's financial condition to determine the borrower's progress.**

Note: Provisions of the Servicemembers Civil Relief Act of 2003 affect guaranteed lenders with borrowers and/or co-borrowers called to active duty. Guaranteed lenders are responsible for:

- understanding their lending institution's rights and remedies
- ensuring that benefits are promptly and properly extended to eligible guaranteed borrowers.

Servicing actions taken according to the Servicemembers Civil Relief Act of 2003 will not jeopardize guaranteed lenders' rights under the loan guarantee.

(7 CFR 762.140(d)) When a lender receives a payment from the sale of encumbered property, loan installments will be paid in the order of lien priority. When a payment is received from the sale of unencumbered property or other sources of income, loan installments will be paid in order of their due date. Agency approval is required for any other proposed payment plans.

--**The loan application, projected farm operating plan, and other loan specific documents, including the Conditional Commitment, will detail the purposes and conditions for the loan. Lenders must inform FSA of any changes in the use of loan funds and revised documentation of feasibility must be in the lender's case file. For LOC's, if deviations to the original plan are made during any of the 5-year operating cycles, such as a change in enterprises, a substantial change in acreage being farmed, or other comparable modifications, the plan must be revised and continue to reflect positive repayment capacity. SEL's must first receive**-- FSA concurrence **before** allowing a change in the use of loan funds. If a borrower uses loan funds improperly, the lender must take steps to correct the violation. If improper use of loan funds results in a loss claim, lenders **must** make every effort to collect the loan's remaining outstanding debt and minimize loss to FSA.

263 Borrower Supervision (7 CFR 762.140(b)) (Continued)

B Lender Supervision of Borrowers (Continued)

--Failure by the lender to document a feasible plan following major changes or to report a-- borrower violation to FSA in a timely manner could result in the reduction or denial of a loss claim.

Borrower's progress is demonstrated by an annual improvement in balance sheets and the meeting of any interim goals (paragraph 265).

The lender shall obtain a perfected security interest in the loan collateral. Lenders **must** obtain secure liens on all collateral as outlined in the Conditional Commitment. A loss claim may be reduced if a lender failed to perfect the loan security.

C FSA Monitoring of Borrower Supervision

If FSA discovers that a lender does not have adequate procedures in place to ensure sound borrower supervision, the authorized agency official should inform the lender in writing of the deficiency and, if necessary, require the lender to submit a plan outlining the actions they will take to correct the deficiency. Failure on the part of the lender to submit a plan or take action to correct the deficiency may result in denial of future loan applications or revocation of status.

For CLP and PLP lenders, any finding of a major deficiency should be forwarded to SED for action.

264 Servicing Collateral (7 CFR 762.142(a))

A Lender Servicing of Collateral

The lender's responsibilities regarding servicing collateral include, but are not limited to, the following:

- **obtain income and insurance assignments when required**
- **ensure the borrower has or obtains marketable title to the collateral**
- **inspect the collateral as often as deemed necessary to properly service the loan**
- **ensure the borrower does not convert loan security**
- **ensure the proceeds from the sale or other disposition of collateral are accounted for and applied in accordance with the lien priorities on which the guarantee is based or used for the purchase of replacement collateral**
- **ensure the loan and the collateral are protected in the event of foreclosure, bankruptcy** (Part 13)**, receivership, insolvency, condemnation, or other litigation**
- **ensure taxes, assessments, or ground rents against or affecting the collateral are paid**
- **ensure adequate insurance is maintained**
- **ensure that insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or used to rebuild or acquire needed replacement collateral.**

These requirements spell out the standard servicing of collateral responsibilities for every FSA-guaranteed loan; however, the lender and the authorized agency official should refer to the specific loan documents, such as the Conditional Commitment, for additional servicing requirements on a loan-by-loan basis.

264 Servicing Collateral (7 CFR 762.142(a)) (Continued)

B FSA Responsibilities

Authorized agency officials can offer assistance to lenders in this area of servicing. Assistance may include the following:

- advising the lender when there is concern that the lender is overestimating or underestimating the value of collateral
- regularly asking the lender about the condition of the borrower's collateral, especially security that is particularly valuable or volatile
- performing cross checks to verify that UCC filings have been made for all collateral
- informing the lender of deficiencies discovered during the annual review and proposing modifications in procedures to resolve the deficiencies.

C FSA Monitoring of Collateral Servicing

If FSA discovers that a lender does not have adequate procedures in place to ensure that the collateral is being serviced to FSA standards, the authorized agency official should inform the lender in writing of the deficiency and, if necessary, require the lender to submit a plan outlining the actions they will take to correct the deficiency. Failure on the part of the lender to submit a plan or take action to correct the deficiency may result in denial of future loan applications or revocation of status until the deficiency is resolved.

For CLP and PLP lenders, any finding of a major deficiency should be forwarded to SED for action.

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

A Overview

The lender must perform an annual financial analysis of the borrower's operation within 90 calendar days of the end of the borrower's operating cycle. SEL's and CLP lenders must *--submit documents to FSA in support of this analysis. **PLP lenders will conduct and document an analysis in accordance with the requirements in the lender's credit management system (CMS). All other lenders will perform an annual analysis of the borrower's financial condition on term loans when the sum of all balances on term loans is greater than $500,000, all line of credit loans, and all loans in monetary or non-monetary default.--***

* * *

*--B Financial Analysis of Borrower by Non-PLP Lenders

The annual analysis for non-PLP lenders will be documented in the lender's file and will include:

- **for loans secured by real estate only, an analysis of the borrower's balance sheet**
- **for loans secured by personal property, lenders will also compare the borrower's actual to planned income and expenses for the past year**
- **an account of the whereabouts or disposition of all collateral.--***

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 ML **also will provide the following for all lines of credit and for all term loans that are in monetary or non-monetary default**:

- **borrower's balance sheet and income and expense statement for the previous year,** if applicable

- ***--for lines of credit only, 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 on a guaranteed line of credit.--*

- **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.

*** * ***

- ***--**the analysis of the balance sheet and comparison of the borrower's actual to planned income and expenses, if applicable.

  Note: Copies of documentation provided to FSA must also be maintained in the lender's files.

Loan Type	Submission Summary for SEL and MLP
Real Estate (monetary or non-monetary default only)	Balance sheet, farm visit report, and analysis of balance sheet.
Term Personal Property (monetary or non-monetary default only)	Balance sheet, farm visit report, income and expense statement, analysis of the balance sheet, and comparison of the borrower's actual to planned income and expenses.
Lines of Credit	Balance sheet, farm visit report, income and expense statement, projected cash flow, analysis of the balance sheet, and comparison of the borrower's actual to planned income and expenses.

--*

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 Documents Submitted to FSA by CLP in Support of Annual Analysis

***--[7 CFR 762.141(c)] CLP lenders also must provide the following:**

- **for all lines of credit and term loans that are in the monetary or non-monetary default, 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.

- **for lines of credit, the written summary will also include a 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.**

***--Note:** Copies of documentation provided to FSA must also be maintained in the lender's files.

Loan Type	Submission Summary for CLP
Real Estate (monetary or non-monetary default only)	A written summary of the lender's annual analysis of the borrower's operation.
Term Personal Property (monetary or non-monetary default only)	A written summary of the lender's annual analysis of the borrower's operation
Lines of Credit	A written summary of the lender's annual analysis of the borrower's operation, including a certification of the following: • a cash flow projecting a feasible plan was obtained • the borrower is in compliance with line of credit agreement • the 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)

E 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 an LOC from an SEL or MLP lender, FSA will also determine whether or not the LOC should be renewed for the next year. If FSA determines the LOC should not be renewed, the authorized agency official will prepare and send a letter to the borrower informing them that FSA does not concur with the renewal, the reason for rejection, and the right to appeal the decision according to paragraph 33 and 1-APP. A copy of the letter must be provided to the lender.

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 follow-up 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** the borrower paying current**, restructuring or liquidation.**

  Note: Liquidation does not cure default until the guarantee is terminated either by the loan being paid in full or a final loss claim being processed.**--***

- **All lenders will submit the appropriate guaranteed loan status reports as of** ***--March 31 and September 30 of each year.** Status reports are due within 30 calendar days after March 31 and September 30, respectively.--*

- **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 must 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 must 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.

266 Lender Reporting Requirements (7 CFR 762.141) (Continued)

B General Reporting Requirements (Continued)

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 must 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

*--Lenders are encouraged to submit status reports through LINC (see Exhibit 5). However, they may also submit FSA-2241 to the County Office. Upon receipt of FSA-2241, the authorized agency official will enter information from FSA-2241 into GLS. The Past Due Status Report Dashboard will be used to ensure status reports are submitted timely. If the lender is not sending or submitting the 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 will review the information provided on FSA-2241 or submitted through LINC using the Guaranteed Loan Servicing Dashboard, Submitted Status Reports tab, to determine whether 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. Corrections may only be entered by FSA, may not be submitted through LINC, and must be provided on FSA-2241.

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 an FSA-2248 has not been submitted, the authorized agency official will contact the lender to request an 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 enter the information in GLS and 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.

267 FSA Loan Servicing Responsibilities

A Overview

Authorized agency officials will be FSA's primary point of contact with lenders on a day-to-day basis. Authorized agency officials must ensure that lenders are appropriately managing their guaranteed loans, and submitting all required reports on time. In cases where lenders may have deficiencies in loan servicing, the authorized agency official should provide loan servicing guidance and assistance.

The purpose of performing lender file reviews is to protect the guarantee, preserve lender status, and minimize losses and the need for adjustments to loss claims.

As part of the review, authorized agency officials will note whether they have become aware of the lender being under any enforcement actions either through checking the appropriate regulatory web sites in subparagraph 46 C or through discussions with the lender.

B Lender Loan Files Review Priorities

For each SEL and MLP, FSA will review 20 percent of the lender's outstanding guaranteed borrowers every 3 years, unless there has been financial deterioration of the lender or the guaranteed program.

For each CLP and PLP lender, FSA must review the files of 20 percent of the lender's *--outstanding guaranteed loan borrowers, up to a maximum of 50 borrowers every 5 years for CLP and every 3 years for PLP, unless there has been financial deterioration of the lender or their guaranteed loan portfolio. In addition, FSA will conduct a loan making file review on 10 percent of every PLP lender's loans written under delegated authority each year with maximum of 4 loans per year and a minimum of 1 loan per year for each PLP lender.--*

Notes: Financial deterioration of the lender is when there is a significant increase in the number of, and/or dollar amounts associated with, the following items from the previous year:

- Default Status Reports
- Past Due Status Reports
- Estimated Loss Claims
- Final Loss Claims.

Financial deterioration may also be evidenced by notification or public notice from lending oversight or review organizations such as:

- Federal Deposit Insurance Corporation (FDIC)
- National Credit Union Administration (NCUA)
- Farm Credit Administration (FCA)
- Federal Reserve Board
- A state banking regulatory agency.

267 FSA Loan Servicing Responsibilities (Continued)

B Lender Loan Files Review Priorities (Continued)

Any such notifications or public notices should be reviewed carefully to determine if there could be an impact of the lender's ability to continue operating or if there are concerns related to the guaranteed program. If concerns arise, a lender review should be completed.

Loans will be selected for review according to the following priorities:

- loans that have recently received or are receiving consideration for rescheduling, deferral, write-down, transfer and assumption, or substitution of lender
- delinquent loans or loans which the lender or FSA has identified as high risk
- loans in which the funds were used to refinance the lender's own debt
- the most recent loans closed by the lender and not yet reviewed
- performing LOC and OL
- performing FO, only if required to reach minimum number of required reviews.

For lenders processing guaranteed loans in more than one State, the file reviews should be done in the State where the lender is headquartered, unless the lender requests the review be conducted in a different location. States are responsible for communicating with each other to determine who will lead the review, who from each State will assist with the review, and which files will be reviewed based on the preceding priorities. The percentage of borrowers to be reviewed is based on the lender's entire guaranteed loan portfolio.

Review Summary		
Lender Type	**Number of Borrowers to Review**	**Minimum Frequency**
SEL	20 percent of guaranteed loan borrowers.	Every 3 years.
CLP	20 percent of guaranteed loan borrowers, with a minimum of 5 borrowers and a maximum of 50 borrowers.	Every 5 years.
PLP	20 percent of guaranteed loan borrowers, with a minimum of 5 borrowers and a maximum of 50 borrowers.	*--Every 3 years.--*
*--PLP-Loan Making Reviews	10 percent of every PLP lender's loans written under delegated authority each year with a maximum of 4 loans per year and a minimum of 1 loan	Every year.--*

267 FSA Loan Servicing Responsibilities (Continued)

B Lender Loan Files Review Priorities (Continued)

FSA-2293 and PLP Checklist, developed by the National Office for each specific lender, *--may be used to document the lender file reviews. For annual loan making file reviews of PLP lender's loans written under delegated authority, the authorized agency official will use only the loan making portion of the PLP Checklist for documentation. All questions on--* each FSA-2293 and PLP Checklist do not require completion for each file reviewed, as long as reviews are sufficient to document that lenders are meeting the underwriting, origination, and servicing requirements of their Lender's Agreement and this handbook. If a loan selected for review based on the preceding priorities was previously reviewed for loan making, it will be reviewed for loan servicing only in the subsequent review.

In addition to the lender's loan file, a copy of the loan account ledger should be obtained and reviewed, and lender's risk-based pricing practices, if applicable. Additional information may be requested and reviewed by FSA, if necessary, based on deficiencies noted in the file, in loss claim reviews, or as suggested by other parties. SED shall determine how the file review requirement will be met in their State.

Note: See Exhibit 4 for State supplement requirements.

267 FSA Loan Servicing Responsibilities (Continued)

C * * *PLP Lender File Review

--To ensure consistent and effective oversight of PLP lender operations, State Offices will coordinate and conduct all PLP lender file reviews except those designated to be completed by the National Office. It is beneficial to both FSA and the lender to conduct PLP lender file reviews through a centralized method, including multi-State file reviews. This review method can benefit:--

- FSA by:
  - helping to lead toward a more consistent handling of the reviews and the associated findings
  - having an opportunity to identify and correct inconsistent practices of the lender or FSA
- lenders by:
  - gaining a better understanding of across-the-board FSA expectations of the lender
  - having minimal disruption to their State operations as a result of FSA file reviews.

*--State Offices will designate an employee to manage the review process. This designated employee will schedule reviews, ensure use of the appropriate PLP Review Checklist, conduct reviews and gather necessary documentation, and maintain statewide consistency in evaluating lender performance.

State Offices should involve local authorized agency officials to provide supporting information and participate in the review when assistance is needed to complete the review. The State Office will ensure all review findings, follow-up actions, and required reporting are completed.--*

To ensure that multi-State reviews are given full consideration, in January of each year, the National Office will contact each State that has lenders with PLP status in a minimum of 2 States. FLC's will work with each other, and with the National Office when necessary, to determine * * * where a multi-State review is necessary. If it is determined that multi-State review is necessary for a PLP lender in 3 or more States, the National Office will take the lead in contacting the lender and coordinating the review. If it is determined that a *--multi-State review is necessary for a PLP lender in only 2 States, the FLC's, or their designee will be responsible for contacting each other to determine who will be contacting the lender to coordinate the review. Lender reviews may be scheduled at any time during the year.--*

267 FSA Loan Servicing Responsibilities (Continued)

C * * * PLP Lender File Review (Continued)

The multi-State review will not alleviate the lender of their responsibility to provide authorized agency officials access to any particular file or files of the lender if in the authorized agency official's opinion an additional review is necessary.

D Authorized Agency Official Review of PLP Lender Loan Files

PLP loan file reviews will be documented by completing the review checklist based on the individual lender's CMS. All review checklists will be either prepared or approved by the National Office. The review of PLP loan files will be based on the terms and conditions specified in the Lender's Agreement.

Note: As the National Offices updates PLP checklists during the lender's renewal or amendment, the States will need to include a question or provide documentation on the last checklist developed from the National Office, that the interest rate charged at loan closing meets the requirements outlined in paragraph 135.

The following questions should be considered during the loan file review.

- Do the files contain sufficient information to document that the underwriting and servicing was consistent with the Lender's Agreement?

- Were servicing actions implemented in a manner consistent with the Lender's Agreement?

- Was servicing prudent and reasonable?

E Authorized Agency Official Response to Loan File Review

During the lender loan file reviews, the authorized agency official shall hold an entrance and exit conference with the lender. At the entrance conference, the authorized agency official will outline the purpose of the review and request any information that will be required to complete the review. At the exit conference, the authorized agency official will discuss with the lender any deficiencies as well as the lender's accomplishments. The authorized agency official will send a letter to the lender outlining the findings of the loan file review. The letter and loan file review forms will be filed in the lender's operational file, with copies forwarded to DD and SED. Copies of letters from PLP reviews should be forwarded to DAFLP, LSPMD to be filed in the lender's PLP file only if major deficiencies are found or other concerns or issues arise.

If the lender is under an enforcement action imposed by the lender's regulatory agency, that finding will be documented in the letter to the lender outlining review findings, and a copy provided to SED. SED shall contact DAFLP, LSPMD.

267 FSA Loan Servicing Responsibilities (Continued)

F Authorized Agency Official Review of Loan Servicing Reports Provided by Lender

The authorized agency official is responsible for obtaining all required information from lenders about the servicing of guaranteed loans. This includes the annual financial analysis performed to determine the borrower's progress on loan payback and goal achievement (paragraph 265), loan status reports (paragraph 266), and all other materials submitted to FSA, including requests by lenders to perform certain servicing actions.

G Authorized Agency Official Approval Authority

Authorized agency officials can approve the following servicing actions:

- alterations in loan conditions that do not prejudice the government's interest
- replacement of collateral
- the use of proceeds from the disposition of collateral.

H DD Servicing Responsibilities

DD servicing responsibilities include:

- providing guidance and assistance to the authorized agency official in monitoring guaranteed loans
- reviewing a sample of lender visit reports and loan reviews, making recommendations or comments, and forwarding reports of deficiencies to SED
- make recommendations to the authorized agency official on all delinquent loans
- conducting other servicing actions as directed by SED.

267 FSA Loan Servicing Responsibilities (Continued)

I SED Servicing Responsibilities

SED's have broad management responsibilities for the guaranteed loan program. SED servicing responsibilities include, but are not limited to, the following:

- review deficiencies identified by the authorized agency official and provide recommendations for resolution
- perform an annual review of each lender's CLP and PLP status, and if the lender is found to be deficient in meeting the minimum criteria, then upon notification to the lender, remove the status

  Note: For PLP lenders, the decision to remove PLP status must be made in the National Office after reviewing SED's recommendation.

- perform appraisal reviews according to 1-FLP, paragraph 143

  Note: See 1-FLP, Part 6 for additional guidance on appraisal review issues.

- maintain a lender file for each guaranteed lender in the State Office.

J Addressing Deficiencies

--If deficiencies in loan making or loan servicing are detected by FSA, the authorized-- agency official will work with the lender to correct any problems. If the lender fails to correct a major loan servicing deficiency, and the deficiency results in a loss, the loss claim may be reduced or denied.

--Exhibit 23 contains examples of major and minor deficiencies. See paragraphs 48, 54, and Exhibit 23 for follow-up actions and consequences of not correcting deficiencies for-- SEL's and PLP lenders, respectively.

K Interagency Agreement Between FSA and FDIC

If a lender who participates in FSA's guaranteed FLP's fails, FDIC may, as Receiver, assume responsibility for the Conditional Commitment, Loan Guarantee, and/or FmHA-449-34 for all guaranteed loans to which the closed bank was a party.

Exhibit 13 outlines the responsibilities of FSA and FDIC in such cases.

268-277 (Reserved)

278 Subordination of Guaranteed Loan Security (7 CFR 762.142)

A Overview

The lender may not subordinate its interest in property which secures a guaranteed loan except as follows:

- **the lender may, with written Agency approval, subordinate its security interest in crops, feeder livestock, livestock offspring, or livestock products when no funds have been advanced from the guaranteed loan for their production, so a lender can make a loan for annual production expenses**

***--Notes:** The authorized agency official may approve a lender's request to subordinate normal income security that was not produced through advances made under the guaranteed loan to allow a borrower to obtain nonguaranteed annual operating credit.

Multi-year assignments of FSA program payments cannot be subordinated. However, in cases where normal income security is being subordinated so another lender can make a loan for annual production expenses, any amount that exceeds the guaranteed loan payment for that year may be released.**--***

- **the lender may, with written Agency approval, subordinate its interest in basic** or additional **security in cases where the subordination is required to refinance an existing prior lien, no additional debt is being incurred, and the lender's security position will not be adversely affected by the subordination**

***--Note:** The authorized agency official will approve the subordination, provided that:

- no additional debt is being incurred (beyond customary closing costs)
- the lender's security position will **not** be adversely affected by the subordination.

- **the Agency's National Office may provide an exception to the subordination prohibition if such action is in the Agency's best interest**, according to subparagraph 278 B.**--***

However, in no case can the loan made under the subordination include tax exempt financing.

--**Subordination requests for easements must be submitted as an exception request to be considered by DAFLP according to subparagraph 278 B.**--

278 Subordination of Guaranteed Loan Security (7 CFR 762.142) (Continued)

B DAFLP Exception to Subordination Prohibition--*

FSA discourages subordination of real estate, equipment, and other basic security and will **not** provide regulatory approval authority at levels lower than DAFLP, except in cases where the subordination is required to allow a lender to refinance an existing prior lien.

When SED determines that the subordination of basic and/or additional security for any other purpose is in the best interest of FSA and the borrower, the request shall be forwarded to the National Office for DAFLP approval. Subordination of basic and/or additional security will **not** be approved simply to allow the operation to expand or to make improvements, unless necessary for the operation to remain feasible, or to allow a lender to secure an operating loan with the security.

A template is available for DAFLP exception requests for subordination along with instructions and examples. The "Template for DAFLP Exception Requests for *--Subordination" can be found under the Loan Servicing Guides and Trainings section--* located on the Program Base Trainings SharePoint site at https://usdagcc.sharepoint.com/sites/FSA-DAFLP/SitePages/programbased.aspx.

The request should contain:

- a description of the transaction including the use of the funds to be obtained through the subordination
- explanation of the borrower's cash flow before and after the proposed subordination documenting the improvement to be attained
- certification that the guaranteed loan will still be secured after the subordination based on a current appraisal

Note: If the subordination request is to refinance existing real estate debt and no additional funds are provided, an appraisal is **not** required.

278 Subordination of Guaranteed Loan Security (7 CFR 762.142) (Continued)

--B DAFLP Exception to Subordination Prohibition (Continued)--

- an explanation of how the subordination is necessary to keep the borrower in business, or otherwise how the Government will benefit from the subordination, other than through conservation of loan funds

- if funds are to be advanced for expansion or improvements, an explanation as to how the proposal is necessary for the feasibility of the operation.

- ***--**certification that environmental requirements of paragraph 208 and 1-EQ have been met

- if the request is for an easement, an explanation of the value of the security both before and after the easement, the scope of the operation, and the proposed use of easement funds.**--***

FSA's refusal to grant an exception to published regulations is **not** appealable.

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 debt and the Agency's position on real estate** (or personal property) **security will not be adversely affected--***

  * * *

- **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**

  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.

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

  Note: Older security items that are now junk or obsolete may be left off of the lender's security agreement 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** (SED or designee according to 1-FLP, Exhibit 1) **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.

280 Partial Releases (7 CFR 762.142(b)) (Continued)

B Lender Request for Partial Release (Continued)

- **security,** other than significant income generating property, **will be released outright, with no consideration, but the total unpaid balance of the guaranteed loan is less than or equal to 75 percent of the value of the security for the loan after the release, excluding the value of growing crops or planned production, based on a current *--appraisal of the security**, if required by the Agency

  Notes: Based on the level of risk and estimated equity involved, the Agency will determine what security must be appraised. Any required security appraisals or valuations must meet the requirements of § 762.127.**--***

  For LOC's, the loan ceiling must be used when calculating the loan to value. The value of crops may be considered in the calculation only if harvested and marketable; for example, stored in bins; and the value of market livestock must be considered at their current weight.

- **significant income generating property will not be released unless it is being replaced, and business assets will not be released for use as a gift or any similar purpose**

  Notes: Significant income generating property is real or personal property that is collateral for the guaranteed loan and generates income that is necessary for the farming operation to achieve a feasible plan.

  Significant income generating property is considered a business asset and will not be released unless being replaced or proceeds are being used for comparable authorized loan purposes if the loan to value is 75 percent or less after the release, and if the lender can demonstrate that the release will improve the borrower's profitability and likelihood of success.

- **Agency concurrence is provided in writing to a lender's written request.**

***--Note: Standard eligible lenders and CLP** and MLP **lenders will submit the--* following to the Agency:**

- **a current balance sheet on the borrower**

- ***--a current appraisal of the security**, if required by the Agency**--***

  Note: Unless specifically requested by FSA, the lender will not be required to provide an appraisal of any real estate security being released. *** * ***

- **a description of the purpose for the release**

- **any other information requested by the Agency to evaluate the proposed servicing action.**

280 Partial Releases (7 CFR 762.142(b)) (Continued)

B Lender Request for Partial Release (Continued)

***--PLP lenders will request servicing approval** (including for partial releases) **according to their agreement with the Agency at the time of PLP status certification.**

If the release is necessary to secure credit or to use proceeds for changes, expansion, or improvements, the requirements of paragraph 208 and 1-EQ must be met.**--***

C FSA Response to Request for Partial Release

Written consent of any prior or junior lien holder must be obtained and delivered to FSA if any proceeds are not applied according to lien priority.

A partial release will not be allowed if it would result in the borrower being released from loan liability.

D Reviewing Requests for Partial Releases

FSA will review and approve or reject the request and notify SEL within 30 calendar days, and CLP and PLP lenders within 14 calendar days, from receipt of a complete request for servicing.

When reviewing a lender's request for a partial release, the authorized agency official should carefully consider if the security to be released is significant income generating property. In all instances, the authorized agency official should assess whether or not the release of land will affect the overall value of the remaining security.

In addition, the authorized agency official will determine whether an appraisal of security is necessary based on risk and perceived equity involved in the release. If there is a question on the value of the security, the authorized agency official should request an appraisal. The appraisal must be paid for by the lender or borrower and meet the requirements of Part 8, ***--**Section 4, Subsection 3. The authorized agency official is responsible for ensuring all environmental requirements have been met.

Partial releases that require agency approval must be approved by SED (or designee according to 1-FLP, Exhibit 1). If FSA determines the release will not be approved, SED will prepare and send a letter to the borrower informing them that FSA does not concur with the release, the reason for denial, and their right to appeal the decision according to paragraph 22 and 1-APP. A copy of the letter must be provided to the lender.**--***

The lender will provide the Agency copies of any agreements executed to carry out the servicing action. * * *

281 Transfers and Assumptions (7 CFR 762.142(d))

A Overview

A transfer and assumption is an action whereby a new, eligible guaranteed loan applicant assumes an existing guaranteed loan. The transfer and assumption process is very similar to the application and approval of a new loan.

B Lender Request for a Transfer and Assumption

The servicing action must be approved by the Agency in writing. The transferee must apply for a loan in accordance with § 762.110 (Part 5)**, and provide any other information requested by the Agency to evaluate the transfer and assumption request. A current appraisal is required unless the lien position of the guaranteed loan will not change.**

Any required security appraisals must meet the requirements of § 762.127 (Part 8, Section 4, Subsection 3).

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 according to § 762.146(c) (the items listed in subparagraph 361 B).--*

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. A release of liability in conjunction with a transfer and assumption may be approved by SED.--*

281 Transfers and Assumptions (7 CFR 762.142(d)) (Continued)

C Conditions and Requirements for a Transfer and Assumption

The following limitations apply to transfers and assumptions.

- **The transferee must meet the eligibility requirements and loan limitations for the *--loan being transferred, including all requirements relating to loan rates and terms, loan security, feasibility, and environmental and other laws applicable to an applicant under this part, except for a current appraisal when permitted in paragraph (d)(2) of this section.--***

  Note: Loans made to beginning or socially disadvantaged farmers in conjunction with the direct FO down payment loan program may be transferred to and assumed only by beginning farmers and socially disadvantaged farmers. Loans made to beginning farmers participating in a qualified State beginning farmer program may be transferred to and assumed only by beginning farmers.

- **The lender will use its own assumption agreements or conveyance instruments providing they are legally sufficient to obligate the transferee for the total outstanding debt.**

- **The lender must give any holder notice of the transfer. If the rate and terms are changed, written concurrence from the holder is required.**

Additional limitations that apply to transfers and assumptions are as follows:

- the market value of the security being acquired, plus any additional security the transferee proposes to give, must be adequate to secure the balance of the guaranteed loan plus any prior liens

- at the time of the assumption, the indebtedness of the transferee may not exceed the limits outlined in subparagraph 244 A.

281 Transfers and Assumptions (7 CFR 762.142(d)) (Continued)

D FSA Response to Request for Transfer and Assumption

The Agency will review, approve or reject the request in accordance with the time *--frames in § 762.130 of this part (Part 6). The Agency will complete the review using FSA-2231.--*

The Agency approves the transfer and assumption by executing a modification of the guarantee to designate the party that assumed the guaranteed debt, the amount of the debt at the time of the assumption, including interest that is being capitalized, and any new loan terms, if applicable.

The authorized agency official will execute FSA-2245 and provide it to the lender for attachment to the original Loan Guarantee.

*--To process a guaranteed loan transfer and assumption in GLS, an Application Package and Loan Guarantee Request must be entered for the transferee.

The Agency will agree to releasing the transferor or any guarantor from liability only if the requirements of § 762.146(c) (the items listed in subparagraph 361 B) **are met.**

Note: The release does not require DAFLP exception in this situation and may be approved by SED.--*

The authorized agency official should treat a request for a transfer as an application for a new guaranteed loan. If all of the program requirements are met the transfer and assumption should be approved by FSA.

The authorized agency official will attach the assumption agreement to the Loan Guarantee or FmHA-449-34. To notify the RD Business Center, Guaranteed Commercial Branch of the assumption, complete and forward FSA-2246. Guaranteed loan fees are not required for transfer and assumption.

The lender will provide the Agency copies of any agreements executed to carry out the servicing action.

282 Additional Loans or Advances (7 CFR 762.146(a))

A Additional Loans or Advances

***--SEL and CLP lenders must not make additional unguaranteed loans or advances) except as provided in the borrower's Loan or Line of Credit Agreement, without documenting that:**

(i) The borrower's account is in good standing;

(ii) The borrower is continuing to operate in accordance with their latest farm operating plan;

(iii) The borrower's projected cash flow budget continues to reflect a feasible plan;

(iv) The guaranteed loan security will continue to remain either separate and identifiable from and will not be intermingled with security for, or have priority over the security for any subsequent loan; and

(v) Proceeds from the sale of loan security will be applied in order of lien priority.

The PLP lender may make additional unguaranteed loans or advances in --* accordance with the lender's agreement with the Agency.

283 Emergency Advances (7 CFR 762.146(a))

A Issuing an Emergency Advance Under LOC

In cases of a guaranteed line of credit, lenders may make an emergency advance when a line of credit has reached its ceiling. The emergency advance will be made as an advance under the line and not as a separate note. An emergency advance made on a loan with interest assistance is **not** and **cannot** be covered under the existing FSA-2221. Therefore, the lender will charge the full note interest rate on the emergency advance and the advance **cannot** be used as part of the average principal balance calculation for the lender's interest assistance claim.

The lender's loan documents must contain sufficient language to provide that any emergency advance will constitute a debt of the borrower to the lender and be secured by the security instrument. The following conditions apply:

- **the loan funds to be advanced are for authorized operating loan purposes**

  Note: An emergency advance may not be used to pay a carryover of an existing LOC or for annual operating expenses for a subsequent year.

- **the financial benefit to the lender and the Government from the advance will exceed the amount of the advance**

- **the loss of crops or livestock is imminent unless the advance is made.**

Note: An emergency advance:

- in excess of the original loan amount is made when some aberration causes expenses to exceed the original budgeted amount, and is necessary to avoid significant damage to or loss of the security

- ***--**will not be approved if the shortfall is because of a major change in the operating plan where revised documentation regarding feasibility was not completed by the lender according to subparagraph 263 B**--***

- shall **not** be used if its use will cause the total amount of the borrower's debt to exceed the statutory limit.

283 Emergency Advances (7 CFR 762.146(a)) (Continued)

A Issuing an Emergency Advance Under LOC (Continued)

The following are examples where an emergency advance may be appropriate.

- The cost of an input item necessary for production of a crop, such as fertilizer or fuel unexpectedly increases substantially in price between the time the loan is made and the time the input is used.

- Unusual weather conditions result in additional expenses, such as a late freeze that results in a replanting of a crop, or an insect infestation results in unanticipated spraying.

- Fire or other calamity destroys a tractor or harvesting equipment just before harvest, and it is necessary to rent equipment, or custom hire for the harvest.

- The cost of inputs for raising livestock unexpectedly increases substantially, such as the cost of feed.

B Lender Request for an Emergency Advance

SEL's and CLP lenders must obtain written permission from the authorized agency official before an emergency advance on LOC can be made.

Emergency advances are authorized for ongoing operations and may be used for OL's with a 1-year term, or in any year of LOC. Where liquidation is imminent, advances will be made as protective advances according to Part 14.

To request an emergency advance, SEL's and CLP lenders must submit the following to the authorized agency official:

- a narrative explaining that the loss of crops and/or livestock is imminent and can be prevented by an infusion of cash

--Note:** A feasible plan is not required, but the narrative must support that the loss to the government will be less with the emergency advance than without it.**--

- cash flow projections

- if necessary, a copy of the modified loan note that reflects the additional cash advanced.

PLP lenders may make emergency advances according to their Lender's Agreement.

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.

--If FSA determines the advance will not be approved, the authorized agency official will-- prepare a letter to the borrower informing them that FSA does not concur with the requested emergency advance, the reason for denial, and their right to appeal the decision according to paragraph 33 and 1-APP. A copy of the letter must be provided to the lender.

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.

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

B Lender Request for Release of Borrower From Liability Upon Withdrawal

PLP lenders shall submit documentation to the authorized agency official in support of a release from liability, as specified in the Lender's Agreement.

C FSA Actions to a Request for Release of Liability Upon Withdrawal

Upon review of the request, the authorized agency official must forward the request and a *--recommendation to SED for action. Following the SED's determination, the lender will be notified in writing. Notification of approval may come from SED, or SED may instruct the County Office to send the written notification. If FSA determines the release will not be approved, SED will prepare and send a letter to the borrower informing them that FSA does not concur with the release of liability request, the reason for denial, and their right to appeal the decision according to paragraph 33 and 1-APP. A copy of the letter must be provided to the lender.--*

The authorized agency official shall manually maintain a Released of Liability list of borrowers and/or co-borrowers who signed FSA-1980-25 or FSA-1980-28 with the July 20, 2001, for later revision date and have been approved and released of liability on active and terminated guaranteed loans. The following information shall be documented for each borrower:

- borrower name
- FSA borrower ID
- loan numbers
- date the release liability was approved.

The "Remove Co-Borrower from the Loan" function in GLS shall not be used in cases where release of liability has been approved.

* * *

D Annual Review of Lender Loan Files in Cases of Release Liability Upon Withdrawal

During the annual FSA lender loan file review, for loans that received a release of liability, the authorized agency official must ensure that the lender proceeded with the release according to the documents provided when seeking FSA approval. In addition, authorized agency officials should ensure that the original loan note has been amended or a new note that is tied to the original has been issued to reflect the release of liability. If anomalies in process or documentation are noted, the authorized agency official should discuss the shortcomings with the lender.

286 Consolidation of Debt (7 CFR 762.146(e))

A Overview

Only OL may be consolidated.

Existing lines of credit may only be consolidated with a new line of credit if the final maturity date and conditions for advances of the new line of credit are made the same as the existing line of credit. OL loan note guaranteed loans may only be consolidated with other OL loan note guarantees.

The borrower must project a feasible plan after the consolidation. See Exhibit 2 for definition of feasible plan.

Guaranteed OL may not be consolidated with a line of credit, even if the line of credit has been rescheduled.

The combining of outstanding principal and interest balances of 2 or more OL's or LOC's constitutes a consolidation of debt.

The following FSA loans cannot be consolidated:

- CL's
- FO's
- **OL's or lines of credit secured by real estate**

  Note: The "ACT" prohibits consolidation for loans secured by real estate.

- OL's or lines of credit with outstanding Interest Rate Buydown Agreement, IA Agreement, or SAA
- non-FSA loans.

The following conditions also apply to consolidation:

- **guaranteed loans made before October 1, 1991, cannot be consolidated with those loans made on or after October 1, 1991**

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)

A Overview (Continued)

- when 2 or more OL's or LOC's are consolidated the combined principal and interest must be kept separate; capitalization of interest is not allowed when loans are only being consolidated

  Note: When a loan is consolidated with a loan that was made using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application with the July 20, 2001, or later revision date, the consolidated debt is eligible for offset.

- *--the environmental requirements of paragraph 208 and 1-EQ must be met.--*

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)

B Request for Consolidation

SEL's must submit a feasible plan to FSA for concurrence before consolidating loans. CLP and PLP lenders may consolidate loans as long as the requirements of this paragraph are met.

C Lender Actions to Consolidate Loans

A new note or line of credit agreement will be taken. The new note or line of credit agreement must describe the note or line of credit agreement being consolidated and must state that the indebtedness evidenced by the note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.

The interest rate for a consolidated OL loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for each type of loan. The new interest rate may not exceed the maximums established in paragraph 135.

The Agency approves the consolidation by executing a modification of guarantee *--(FSA-2245)**. The modification will indicate the consolidated loan amount, new terms,--*** **and percentage of guarantee, and will be attached to the originals of the guarantees being consolidated. If loans with a different guarantee percentage are consolidated, the new guarantee will be at the lowest percentage of guarantee being consolidated.**

Any holders must consent to the consolidation, or the guaranteed portion must be repurchased by the lender.

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)

D FSA Response to Consolidation Request

--The authorized agency official will approve an SEL's request for consolidation if all requirements have been met. When SEL submits a request for a loan consolidation, the-- authorized agency official should verify the following:

- only OL's and LOC's are being considered for consolidation
- the consolidation does not cause the loan principal to exceed program loan limitations
- the consolidation does not adversely affect the value of the security and the lender's security position
- *--the environmental requirements of paragraph 208 and 1-EQ have been met.--*

The authorized agency official must complete FSA-2236 based on the information received from SEL and submit it to the RD Business Center, Guaranteed Commercial Branch, along with a memorandum describing which loans were consolidated.

--If FSA determines the consolidation cannot be approved, the authorized agency official will prepare and send a letter to the borrower informing them that FSA cannot concur with the consolidation, the reason for denial, and their right to appeal the decision according to paragraph 33 and 1-APP. A copy of the letter must be provided to the lender.--

If a PLP or CLP lender consolidates loans:

- copies of documents will be obtained
- compliance with regulations will be verified through annual file reviews
- FSA-2236 is completed and submitted to the RD Business Center, Guaranteed Commercial Branch, along with a memorandum describing which loans were consolidated.

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.

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

C Lender Name or Ownership Changes

When a lender begins doing business under a new name or undergoes an ownership change the lender will notify the Agency. If the lender simply changes their name and there is no change in ownership, location, or TIN, the authorized agency official shall make the change in GLS on the Lender Maintenance Screen.

***--The lender's CLP, PLP, or MLP status is subject to reconsideration when ownership--* changes.** If a status lender is merged with or purchased by a nonstatus lender, and the original lender's management, operating policies, CMS, and personnel are changed as a result, the lender's CLP or PLP status should be revoked. If the newly merged or purchased lender will continue to operate the status lender substantially as it has been managed in the past, revocation may not be necessary. The nonstatus lender will apply for status or their present status will be revoked. If a lender sells any guaranteed loans in their entirety, SED shall determine whether volume requirements of subparagraphs 49 E or 52 E are still being met.

Note: The lender will execute a new lender's agreement when ownership changes.

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

C Lender Name or Ownership Changes (Continued)

The new lender must provide FSA with:

- its new TIN
- a list of all its branches where they will service guaranteed loans, their addresses, and responsible contacts.

Note: An interim request for subsidy payment from the original lender is not required when the entire lender has changed.

--FSA-2243 must be completed and submitted to the RD Business Center, Guaranteed Commercial Branch. One FSA-2243 may be completed with a list of the names, FSA case-- numbers, and loan numbers for the entire guaranteed loan portfolio of the lender attached.

Although guaranteed lenders are responsible for informing FSA when ownership changes occur, acquiring lenders are often unaware of this responsibility. If the authorized agency official becomes aware that a lender with FSA-guaranteed loans has been purchased by or merged with another lender, the authorized agency official shall contact the new management and remind them of their responsibilities under existing Lender's Agreement and the need to process a substitution. If authorized agency officials learn that a lender has been closed or placed in receivership by a financial institution regulatory agency, they shall contact their SED for guidance.

288 Servicing SAA's (7 CFR 762.147)

A Overview

--When receiving a debt write-down, a borrower is required to execute FSA-2253 that entitles the lender to future payments if the real estate used to secure the written down loan appreciates in value. FSA-2253 gives both the lender and FSA the possibility of recapturing money that was written off as a result of a debt write-down.--

Before executing FSA-2253, the lender must obtain an appraisal of the real estate that is used to secure the written down loan. The appraisal figure will be recorded on FSA-2253. The appraisal must be dated within 1 year of FSA-2253 execution to be valid.

All servicing requirements apply to all existing SAA's that were entered into before SAA becoming FSA-2253. For purposes of this handbook, wherever FSA-2253 is referred to, it will also pertain to existing SAA's.

All requirements in this paragraph apply to all lender types, unless otherwise noted.

B Lender Responsibilities When Servicing FSA-2253

The lender is responsible for:

- **monitoring the borrower's compliance with the Shared Appreciation Agreement**
- **notifying the borrower of the amount of recapture due**
- **beginning October 1, 1999, a notice of the agreement's provisions not later than 12 months before the end of the agreement**
- **reimbursing the Agency for its pro-rata share of recapture due.**

288 Servicing SAA's (7 CFR 762.147) (Continued)

C Events That Trigger Recapture

Recapture of any appreciation of real estate security will take place at the end of the term of the Agreement, or sooner, if the following occurs:

- **on the conveyance of the real estate security (or a portion thereof) by the borrower**

  Note: If only a portion of the real estate is conveyed, recapture will only be triggered against the portion conveyed. Partial releases will be handled in *--accordance with § 762.142(b) (paragraph 280); and **transfer of title to the--* spouse of the borrower on the death of such borrower, will not be treated as a conveyance under the agreement.**

- **on the repayment of the loans**

- **if the borrower ceases farming operations.**

Recapture may also occur in either of the following cases:

- the note FSA-2253 is attached to is accelerated
- the borrower dies and there is no spouse to whom the property will be conveyed.

After FSA-2253 has been executed, the lender must monitor the borrower's compliance with FSA-2253. This includes determining when an event that activates FSA-2253 occurs.

When the borrower performs an action that triggers the collection under FSA-2253, the lender will obtain an appraisal of the collateral, determine the recapture due, if any, and notify the borrower of the amount due in writing. **Security values will be determined by appraisals obtained by the lender and meeting the requirements listed in 7 CFR 762.127** (paragraphs 181 through 183). The lender will pay for the appraisal or recapture the appraisal expense from the borrower. If the sale of security triggers recapture and the price received for the security is higher than its appraised value, then the sale price will serve as the upper limit when calculating incremental increase in the appreciation of security.

After recapture, the lender will give FSA its pro-rata share of the proceeds or service the account according to subparagraph F.

To help lenders monitor a borrower's compliance with FSA-2253, authorized agency officials may encourage lenders to use the letter in subparagraph D to remind the borrower of the FSA-2253 commitment.

288 Servicing SAA's (7 CFR 762.147) (Continued)

*--D Example of Letter Reminding Loan Borrowers of Potential Write-Down Recapture

The following is an example of a letter for reminding loan borrowers of potential write-down recapture.

Borrower's Address

Dear (Borrower):

On Month, Day, Year, Name of Lender, wrote down $_____ of a debt that you owed in connection with a guarantee that was provided by the Farm Service Agency (FSA). In consideration for receiving this write-down, you executed a ___10-year ___5-year Shared Appreciation Agreement (Agreement) in connection with the real estate that you pledged as collateral for this loan. We have enclosed a copy of the Agreement for your reference.

This letter is to remind you of the possibility that you may have to repay all or a portion of the amount of your loan that was written down. The Agreement that you signed requires you to repay all or a portion of the debt written down if the real estate that secured the loans increased in value and one of the following occurs:

- ___10 years ___5 years have passed since you signed the Agreement;
- Title of the real estate security (or a portion thereof) was conveyed (with certain exceptions);
- The remainder of the loan has been repaid; or
- You have quit farming.

If you believe the value of your property has increased, you will need to consider this potential liability when you make future plans. The amount of repayment cannot exceed the amount written down.

If you would like any additional information on how this Agreement can affect you and what actions you need to take, please contact this office.

Sincerely,

Lender's Representative

Enclosure

--*

288 Servicing SAA's (7 CFR 762.147) (Continued)

E Calculating Recapture

The amount of recapture will be based on the difference between the value of the security at the time recapture is triggered and the value of the security at the time of *--write-down as shown on the Shared Appreciation Agreement.--*

- **If recapture is triggered within 4 years of the date of the Shared Appreciation Agreement, the lender shall recapture 75 percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement.**

- **If recapture is triggered after 4 years from the date of the Shared Appreciation Agreement, the lender shall recapture 50 percent of any positive appreciation in the market value of the property securing the loan or line of credit agreement.**

***--The amount of recapture will not exceed the amount of write-down shown on the--* Shared Appreciation Agreement.**

288 Servicing SAA's (7 CFR 762.147) (Continued)

F Servicing Recapture Debt

If recapture is triggered under the Shared Appreciation Agreement and the borrower is unable to pay the recapture in a lump sum, the lender may do 1 of the following.

- **Reschedule the recapture debt with the consent of the Agency, provided the lender can document the borrower's ability to make amortized payments on the recapture debt plus pay all other obligations. In such case, the recapture debt will not be covered by the Guarantee.** The lender will send FSA its share of every payment when it's received.

- **Pay the Agency its pro rata share of the recapture due. In such case, the recapture debt of the borrower will be covered by the Guarantee.**

--Note:** FSA-2247 will be completed and submitted to the RD Business Center, Guaranteed Commercial Branch to indicate the new maturity date, if applicable, including the amortization period of the recapture. If the guaranteed loan has matured, complete FSA-2244 and submit it to the RD Business Center, Guaranteed Commercial Branch indicating that the termination will be reversed and the**-- loan reinstated.

- **Service the account in accordance with § 762.149.**

If recapture is triggered, and the borrower is able, but unwilling to pay the recapture in a lump sum, the lender will service the account in accordance with § 762.149.

Any shared appreciation recaptured by the lender will be shared on a pro-rata basis between the lender and the Agency.

All appraisal fees will be paid by the lender. The lender may pass the fee on to the borrower. The borrower has 30 calendar days to repay the debt in a lump sum after receiving a notice of the appreciation due to the lender.

The authorized agency official shall process recapture payments by completing FSA-2254 ***--**and forwarding it with payment to the RD Business Center, Guaranteed Commercial Branch.**--***

288 Servicing SAA's (7 CFR 762.147) (Continued)

G Basis for the Amount of Recapture

Because of 2 consecutive years of drought that destroyed crops, a farmer and lender devised a restructuring plan where $200,000 of remaining debt was written down to $100,000 and FSA-2253 was executed. FO had been guaranteed by FSA at 90 percent. An appraisal at the *--time of the write-down valued the farmer's security at $75,000.--*

One year later the farmer sells his farm for $85,000. The Basis for the Amount of Recapture is equal to:

Value of real estate security (appraisal or sale price, whichever one is higher) at the time of a recapture triggering event minus value of real estate security when FSA-2253 was executed.

Basis for the Amount of Recapture: $85,000 - $75,000 = $10,000.

Since Basis for the Amount of Recapture is positive, the borrower will be required to pay the lender a percentage of the recaptured monies. The percentage to be paid to the lender within the first 4 years of FSA-2253 execution is 75 percent (the percentage drops to 50 percent 4 years after FSA-2253 execution). Therefore, the farmer owes his lender the following:

$10,000 x 75% = $7,500 due the lender.

FSA is entitled to the portion of the shared appreciation equal to the rate of the guarantee on the loan. Therefore, in this case, FSA's pro-rata share is equal to:

$7,500 x 90% = $6,750 due FSA.

At least annually, the authorized agency official will contact all lenders with active FSA-2253's to determine whether any FSA-2253 monies have been collected. To help lenders in their FSA-2253 monitoring responsibilities, a copy of the letter in subparagraph H may be used by FSA employees when performing this annual lender contact.

288 Servicing SAA's (7 CFR 762.147) (Continued)

H Example of Servicing Recapture Debt Reminder Letter

This is an example of a letter for reminding lenders of guaranteed loan accounts that received *--a write-down.

Lender's Address

Dear (Lender's Representative or Sir/Madam):

Our records indicate that the Farm Service Agency (FSA), paid your institution $ ___ on Month, Day, Year, to reimburse it for the guaranteed portion of a $ ___ loss that you suffered by writing down the account of your borrower Borrower's Name. This letter is to remind you that the borrower signed a Shared Appreciation Agreement (SAA) in connection with this write-down and you are obligated to monitor that agreement. We have enclosed a copy of SAA for your reference and provided you with a letter that you may use to remind your borrower of the potential for recapture under SAA.

SAA requires the borrower to repay all or a portion of the debt written down as a result of an increase in value of the real estate that secured the loans written down. This recapture is triggered by any of the following events:

- ___10 years ___5 years have passed since the borrower executed SAA;
- Title to the real estate security (or a portion thereof) was conveyed by the borrower to someone other than the borrower's spouse upon the death of the borrower;
- The loans have been repaid; and
- The borrower quits farming.

Please review your records, consult with the borrower, review land records, or take other actions to determine whether any of the triggering actions have occurred in this case. If so, you should inform the borrower of the amount that they owe your institution under the terms of their agreement. If SAA has not been triggered, you may still wish to remind the borrower of the terms of this agreement, to allow sufficient time for them to plan for this possibility. You are responsible for obtaining any appraisals necessary to document the amount of appreciation; however, you may pass the expense to the borrower.

I sincerely appreciate your efforts to meet the credit needs of the farmers in our area. If you would like any additional information or assistance on this subject, please contact this office.

Sincerely,

Loan Servicing Official

Enclosure

--*

288 Servicing SAA's (7 CFR 762.147) (Continued)

I FSA Monitoring of FSA-2253

If an FSA employee suspects a recapture triggering event has occurred, and the lender has not taken action, the authorized agency official should discuss appropriate servicing actions with the lender.

Beginning October 1, 1999, the lender must provide a borrower notice of the agreement's provisions not later than 12 months before the end. The authorized agency official must send a note to lenders reminding them of FSA-2253 and their responsibilities at the time of recapture triggering.

289-299 (Reserved)

Part 12 Servicing Delinquent Accounts

Section 1 General Process for Restructuring Guaranteed Loans

300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143)

A Default and Servicing Delinquent Loans

A borrower is in default when they are **30 days past due on a payment or in violation of provisions of the loan documents.**

When a default occurs, the lender is expected to work with the borrower so that the loan can be brought current and the borrower can continue the farming operation. Prompt followup on delinquent payments, early recognition of loan problems, and prudent use of restructuring tools are keys to resolving many delinquent loans. The lender has an assortment of restructuring tools that may be used to bring the loan current. These include:

- rescheduling
- deferral
- debt writedown
- ***--**IA, if eligible and if funding is available.**--***

The following table represents the timeline for servicing delinquent loans and the required lender actions for restructuring guaranteed loans.

Delinquent Loan Servicing Timeline (Monetary Default)	
Payment Due Date	Payment Missed
30 Calendar Days After Due Date	Borrower in Default
Within 45 Calendar Days After Due Date	Meeting Between Borrower and Lender
60 Calendar Days After IA Determination	Earliest Date that Lender Can Initiate Foreclosure Action
Within 120 Calendar Days After Due Date	Loan Restructuring Plan Implemented or Decision to Liquidate Made

--Note:** When funding is not available for IA, the date of determination for IA eligibility is the missed payment due date.**--

300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)

B Loan Past Due

Default occurs on the loan immediately upon failure to make a scheduled installment on the day it is due. However, many lenders provide for a 30-calendar-day grace period before a notice of default is mailed or other actions are taken. To comply with this standard, FSA has established 30 calendar days after the payment due date as the maximum allowed before a loan must be declared in default. No direct action, other than monitoring of the situation, is required before this date. However, a lender does not have to wait until the loan is 30 calendar days past due before taking action. For example, perishable security, such as produce, or instances of maltreated livestock may dictate a quicker response to default than 30 calendar days.

If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted in accordance with § 762.145 of this part and Section 2 **prior to the payment coming due.**

If through their involvement with an FSA direct loan, or in any manner, the authorized agency official becomes aware that a guaranteed borrower is in default or likely to default on their loan, they should communicate their concerns to the lender. If the loan payment was due but not paid over 30 calendar days ago, and no reports have been received from the lender, the authorized agency official will contact the lender to request a status report and remind them that they must work with the borrower and take timely action to correct delinquencies or liquidate the loan. Failure to address default in a prudent and timely fashion may result in a reduction or rejection of a lender's request for a loss claim, should a loss claim result. A loss claim may be reduced by the amount caused by the lender's failure to secure property after a default, and will be reduced by the amount of interest that accrues while no contact is made with the borrower or no action is taken to cure the default, once it occurs. Face to face or telephone communication should be followed up with a letter if the loan remains in default and corrective action is not taken.

300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)

C Borrower in Default

PLP lenders will service defaulted loans according to their lender's agreement. In the event of borrower default, SEL and CLP lenders will report to the Agency in accordance with 762.141, and follow the requirements of 762.143.

A guaranteed loan is in default if a loan payment is outstanding 30 calendar days after its due date. A borrower may also be in default if they have violated a loan agreement in another manner such as conversion of loan security, filing bankruptcy, failure to submit reports as required, defaulting on another loan with the same lender, or failure to maintain collateral as agreed. The lender will determine if a loan warrants default status because of a nonmonetary violation of the loan agreement. See paragraph 301 for information on the servicing process for loans in nonmonetary default.

D Borrower and Lender Meeting

The lender will **arrange a meeting with the borrower within 15 days of default, 45 days after payment due date for monetary defaults, to identify the nature of the delinquency and develop a course of action that will eliminate the delinquency and correct the underlying problems. The lender or the borrower may request the attendance of an Agency credit officer. If requested, the Agency credit officer will assist in developing solutions to the borrower's financial problems. Non-monetary defaults will be handled in accordance with the lender's note, loan agreements or any other applicable loan documents.**

During this meeting, the lender should discuss the following items with the borrower.

- Borrower's Ability to Bring Account in Compliance**. The lender and borrower will prepare a current balance sheet and cash flow projection in preparation for the meeting. If the borrower refuses to cooperate, the lender will compile the best *--financial information available.** These statements and their implication in the**--*** borrower's ability to bring the loan current should be discussed at the lender-borrower meeting.

300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)

D Borrower and Lender Meeting (Continued)

- Restructuring Options Available to Borrower. The variety of possible restructuring options includes rescheduling, reamortization, deferral, or debt writedown or a combination thereof as described in paragraphs 325 through 328. After analyzing the current financial condition of the borrower, 1 or more of these options may be presented as possible solutions to resolve the borrower's financial problems.

  Note: If requested, the authorized agency official will assist in developing solutions to the borrower's financial problems. The authorized agency official may offer advice and answer questions to assist in developing solutions to the borrower's financial problems, and may concur with limited proposals, such as short term forbearance, that result from the meeting. In the case of SEL's, official FSA concurrence cannot be provided until FSA receives a formal proposal for restructuring from the lender.

- *--Availability of IA (if currently funded). The lender must inform the borrower about--* the IA Program. If the lender and borrower feel that IA in conjunction with a loan rescheduling will correct the loan default, they may submit an IA request to FSA according to Part 8, Section 3. IA eligibility is determined by FSA according to Part 9. The borrower can waive IA Program eligibility consideration during the meeting. If program eligibility consideration is waived in writing, the loan can be accelerated immediately and a liquidation plan may be submitted to FSA.

The lender will summarize the meeting and proposed solutions on the Agency form for guaranteed loan borrower default status (FSA-2248) **completed after the meeting** and submit it to the local credit office immediately. **The lender will indicate the results on this form for the lender's consideration of the borrower for interest assistance in conjunction with a rescheduling under § 762.145 (b).** Copies of correspondence sent to the borrower about agreements reached may be attached to this report. The meeting summary attached to FSA-2248 should also include the dates of planned servicing actions. The lender must continue to submit FSA-2248 every 60 calendar days until the default is *--resolved or a final loss claim is paid. The lender will include on each report the most--* recent contact with the borrower or action to collect the loan as well as the next planned action and date. If a default is resolved, the lender must submit FSA-2248 by mail or electronically, indicating that the loan is current and the new loan terms and conditions. FSA will input the information, including any comments, through GLS immediately upon receipt, if the information was submitted by mail. Otherwise, the lender will update the information through GLS.

Note: If comments are not provided by the lender, the authorized agency official will notate that comments were not provided by the lender when entering data from FSA-2248 in GLS.

300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)

E Borrower Refusal to Attend Meeting

If after 60 calendar days a delinquent borrower does not respond to the lender's request for a meeting or refuses to discuss resolution of the default, the lender should take actions to protect their security interests and proceed with liquidation of the loan according to subparagraph G.

F Lender Repurchase of Guarantee

The lender **will determine whether it will repurchase the guaranteed portion from the holder in accordance with § 762.144 if the guaranteed portion of the loan was sold on the secondary market.** See Part 15.

The holder may ask the lender to repurchase the guarantee 60 calendar days after the missed payment date. The lender is encouraged to repurchase the guarantee when asked by the holder according to Part 15.

G Earliest Date to Begin to Liquidate Security

The lender may not initiate foreclosure action on the loan until 60 days after eligibility of the borrower to participate in the Interest Assistance Programs has been determined *--by the Agency. When IA is not funded, the date of determination of IA eligibility is the missed payment due date.**--***

Sixty calendar days after the disposition of the issue of IA, the lender may accelerate the loan. When accelerating the loan, SEL's and CLP lenders must submit a liquidation plan to FSA. If at any point before the end of the 60-calendar-day period the borrower waives IA eligibility consideration in writing, the lender may prepare to liquidate the loan immediately. See Part 14.

No abeyance period applies to loan restructuring. The lender and borrower may restructure a loan at any time following the meeting, regardless of the IA eligibility decision.

300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)

H Loan Restructuring Decision

The lender must decide whether to restructure or liquidate the account within 90 days of default, unless the lender can document circumstances that justify an extension by the Agency.

If loan restructuring cannot eliminate the default or the borrower will not eliminate the default within a reasonable period of time, the loan shall be liquidated. See Part 14. If requested by the lender, the authorized agency official may allow brief extensions for the preparation of a restructuring proposal and will document the request, reasons and concurrence in the FSA guaranteed loan file.

If the borrower can present a feasible restructuring proposal, the lender should prepare the plan and submit it to FSA as required by their Lender's Agreement. **Standard eligible lenders must obtain prior written approval of the Agency for all restructuring actions.** See paragraph 313.

FSA expects CLP and PLP lenders to have explored servicing options and implemented a feasible restructuring plan within 90 calendar days of default. If a lender plans to perform a debt writedown, prior approval from FSA is necessary. See paragraph 328. If restructuring is unfeasible, FSA expects the lender to accelerate the loan and prepare for liquidation by this date. See Part 14.

301 Nonmonetary Default - Overall Loan Servicing Process

A Servicing Requirements

If a borrower defaults on his loan because of a nonmonetary default, the lender must service the loan in a manner consistent with monetary default regulations. While FSA does not require the lender to follow the monetary default timeline in the cases of nonmonetary default, FSA expects the lender to have a meeting with the borrower to explain the cause of the default soon after default is declared.

At the meeting between the lender and borrower, the lender should discuss corrective actions desired and options for mitigation of the default. For example, if the borrower was supposed to maintain a herd of 130 breeding animals, but was declared in default because it has decreased to 120, the lender should discuss the availability of replacement collateral, timeframes, and conditions. The borrower and lender should work to develop a feasible restructuring plan.

Once default is declared the lender is expected to take all necessary actions to protect and secure the loan's collateral.

B FSA Concurrence

If the lender and borrower cannot develop a feasible restructuring plan to bring the loan current again, the loan shall be liquidated. FSA will respond to CLP's request to liquidate a loan in the case of a nonmonetary default within 14 calendar days of receiving the lender's request for concurrence on loan liquidation. SEL lenders will be contacted by FSA within 30 calendar days of the receipt of a liquidation request. Once FSA concurs on a lender's request to liquidate a loan as a result of a nonmonetary default, FSA expects the lender to initiate a foreclosure action, accelerate the loan, and file a liquidation plan in a timely manner. See Part 14 for guidelines on liquidation.

302-311 (Reserved)

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 can be restructured using a balloon payment, equal installments, or unequal installments. Under no circumstances may crops or livestock other than breeding stock, be the only security for a loan to be rescheduled using a balloon payment. If a balloon payment is used, the projected value of the 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 other security, a current appraisal is required. The lender is required to project the security value at the time the balloon payment is due based on the remaining life of the security, 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.

- ***--**The lender and FSA will ensure that environmental requirements of paragraph 208 and 1-EQ have been met.**--***

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 * * * 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 the RD Business Center, Guaranteed Commercial 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. The debt write-down request must include the items listed in subparagraph 312 A.**--***

CLP lenders must submit all calculations required in paragraph (e) of this section for debt write-down.

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 will 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 will 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 will 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 paragraph 33 and 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)

Section 3 Restructuring Options

326 Rescheduling of Debt (7 CFR 762.145)

A Overview

Rescheduling involves changing the payment terms of a loan, such as a change in the interest rate or term in years of a note or LOC agreement. The new repayment schedule must be based on the borrower's ability to repay over the maximum loan term or life of the security. A loan does not have to be in default before being rescheduled.

B General Requirements for Rescheduling

[7 CFR 762.145(c)] Payments will be rescheduled within the following terms:

- **FO and existing SW loans may be amortized over the remaining term of the note or rescheduled with an uneven payment schedule over a period not to exceed 40 years from the date of the original note**

- **OL notes must be rescheduled over a period not to exceed 15 years from the date of the rescheduling. An OL line of credit must be rescheduled over a period not to exceed 7 years from the date of the rescheduling or 10 years from the date of the original note, whichever is less. Advances cannot be made against a line of credit loan that has had any portion of the loan rescheduled**

--Note:** In the case of a bankruptcy reorganization, an OL line of credit may be extended up to 15 years from the date of the confirmed plan, but only when secured by real estate. Lenders must submit supporting documentation including a copy of the confirmed bankruptcy plan according to subparagraph 342 B.**--

- **CL will be amortized over the remaining term or rescheduled with an uneven payment schedule. The maturity date cannot exceed 30 years from the date of the original note.**

The interest rate for a rescheduled loan is the negotiated rate agreed upon by the lender and the borrower at the time of the action, subject to the loan limitations for each type of loan.

The interest rate on both the guaranteed portion and the nonguaranteed portion of CL, OL or FO may not exceed the maximums established in paragraph 135, 762.124(a) requirements.

326 Rescheduling of Debt (7 CFR 762.145) (Continued)

C Required Lender Actions

[7 CFR 762.145(c)] A new note is not necessary when rescheduling occurs. However, 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, evidencing the revised repayment schedule and any interest rate change. If a new note is taken, the new note must reference the old note and state that the indebtedness evidenced by the old note or line of credit agreement is not satisfied. The original note or line of credit agreement must be retained.

To request a rescheduling, SEL lenders must submit documentation according to the *--requirements listed in paragraph 312 and obtain FSA approval before implementation of the action. CLP and PLP lenders must submit documentation according to requirements listed in paragraph 312 **after** rescheduling a loan.--*

D Capitalization of Interest

[7 CFR 762.145(b)] The lender may capitalize the outstanding interest when restructuring the loan as follows:

- **As a result of the capitalization of interest, a rescheduled promissory note may increase the amount of principal the borrower is required to pay. However, in no case will such principal amount exceed the statutory loan limits contained in § 761.8.**

- **When accrued interest causes the loan amount to exceed the statutory loan limits, rescheduling may be approved without capitalization of the amount that exceeds the limit. Noncapitalized interest may be scheduled for repayment over the term of the rescheduled note.**

In a restructuring action, if capitalization of interest will cause the increased combined *--principal of the borrower's outstanding OL's, FO's, and CL's to exceed the limits outlined--* in subparagraph 244 A, the portion of the interest that would cause the loan to exceed the loan limit cannot be capitalized. Excess interest will be guaranteed and the lender may schedule the repayment over the term of the rescheduled note. If payments are received on the loan after the restructuring that exceed the regularly scheduled installment, excess payments may be applied to the non-capitalized interest first.

326 Rescheduling of Debt (7 CFR 762.145) (Continued)

D Capitalization of Interest (Continued)

- **Only interest that has accrued at the rate indicated on the borrower's original promissory notes may be capitalized. Late payment fees or default interest penalties that have accrued due to the borrower's failure to make payments as agreed are not covered under the guarantee and may not be capitalized.**

- **Approved capitalized interest will be treated as part of the principal and interest that accrues thereon, in the event that a loss should occur.**

As part of restructuring request, SEL's must receive FSA concurrence before interest can be capitalized.

Following restructuring, the lender should submit FSA-2248 indicating that the loan is current.

The lender may keep a record of late fees and default charges and collect them from the borrower in the case of extra payments or payment in full.

E FSA Review of Capitalization Request

The Agency will execute a modification of guarantee form to identify the new loan principal and the guaranteed portion if greater than the original loan amounts, and to waive the restriction on capitalization of interest, if applicable, to the existing guarantee documents. The modification form will be attached to the original Guarantee as an addendum.

When CLP or PLP has rescheduled or reamortized a loan with capitalized interest, or when the authorized agency official has concurred with SEL restructuring plan that includes capitalized interest, FSA must complete FSA-2245 to reflect the new guaranteed principal and any capitalized interest.

A copy of FSA-2245 will be placed in the FSA guaranteed loan file and the original will be attached to the original guarantee.

326 Rescheduling of Debt (7 CFR 762.145) (Continued)

F IA

Rescheduling of a loan with IA must meet all the conditions described in this paragraph and Part 9.

G Loan Consolidation

If a borrower has 2 or more guaranteed loans, the lender, under certain circumstances, may consolidate the guaranteed loans before rescheduling. The single, consolidated loan would be rescheduled according to this paragraph. See paragraph 286 for conditions about the consolidation of guaranteed loans.

327 Deferrals (7 CFR 762.145(d))

A General Description

A deferral postpones the payment of principal and interest on CL, FO, OL, or LOC to accommodate a temporary inability of the borrower to make scheduled payments. Loan principal can be deferred in whole or part. If the deferment period is 1 year or less, interest can be deferred in whole or in part. Interest may only be deferred in part if the deferral *--period extends over 1 year. Following the deferral period, the lender must resume regular servicing actions. If the loan becomes delinquent or is in non-monetary default, the lender will proceed with default servicing according to Part 12.

The following are examples of when a deferral may be a useful servicing tool because there is a reasonable prospect that the borrower will be able to resume full payments at the end of the deferral period according to 7 CFR 762.145(d):

- A borrower with a guaranteed farm ownership loan loses a poultry contract but has successfully obtained a new contract that will not begin immediately.

- A borrower with a guaranteed LOC was unable to harvest the crop as scheduled because of ongoing adverse weather and will therefore not have the funds needed to make the upcoming installment on time.

- A borrower with a guaranteed farm ownership loan typically makes the annual installment from crop proceeds. Crop proceeds were short this year and only a partial payment was made, so the borrower proposes to make the remaining installment from projected cattle income that will be received later in the year.

- A borrower with a guaranteed term operating loan lost several greenhouses in a fire. The replacement greenhouses are projected to be finished in 6 months, but it will take at least 1 year to fully resume operations for a total of 18 months before income is projected to return.--*

* * *

327 Deferrals (7 CFR 762.145(d)) (Continued)

B Conditions

The following conditions apply to deferrals.

- **Payments may be deferred up to 5 years, but the loan may not be extended beyond the final due date of the note.**
- **The principal portion of the payment may be deferred either in whole or in part.**
- **Interest may be deferred only in part. Payment of a reasonable portion of accruing interest as indicated by the borrower's cash flow projections is required for multi-year deferrals.**
- **There must be a reasonable prospect that the borrower will be able to resume full payments at the end of the deferral period.**

The amount of principal and interest deferred must be based on the borrower's current ability to pay, and projections about ability to pay in the future. If the deferral period is to extend beyond 1 year, only a portion of the interest can be deferred.

--An LOC may not be deferred beyond 1 year. If a deferral of more than 1 year is needed, the LOC must be restructured and no new advances can be made. For LOC deferrals 1 year or less, there must be either inventory on hand to cover the carryover debt balances or the-- borrower must show repayment of the carryover debt plus the new operating cycle advances.

* * *

The loan may be rescheduled after the deferral if payments as scheduled cannot be made.

C Lender Request to Defer a Loan

To request a deferral, SEL lenders must submit documentation according to the requirements listed in paragraph 312. Based on this documentation, the authorized agency official will notify the lender in a timely manner whether or not the deferral plan is approved.

*--CLP lenders must submit documentation according to subparagraph 313 B, after completing the deferral.

PLP lenders may defer loans according to their CMS and provide documentation to FSA according to subparagraph 313 C.

Note: Since deferrals do not change the final maturity date of the loan, it is not necessary for FSA to complete and forward FSA-2249 to the RD Business Center, Guaranteed Commercial Branch.--*

327 Deferrals (7 CFR 762.145(d)) (Continued)

*--D Forbearance Agreements

A forbearance agreement is a formal agreement between a lender and a borrower in which the lender temporarily pauses, reduces, or delays the borrower's loan payments because of financial hardship for a specific period of time. During the forbearance agreement time period, the lender agrees not to begin forced liquidation in exchange for the borrower's agreement to certain conditions.

Common features of a forbearance agreement include, but are not limited to:

- a set time period during which payments are paused or reduced
- a plan for how the missed payments will be repaid (including but not limited to lump sum, refinance, voluntary liquidation)
- an agreement that the lender will begin forced liquidation if the conditions are not met by the end of the forbearance period.

A forbearance agreement is generally a last opportunity for the borrower to avoid forced liquidation by providing additional time to refinance, voluntarily liquidate, or take some other action to pay off the loan balance or bring the account current.

A forbearance agreement differs from a deferral according to 7 CFR 761.146(d) in the following ways:

- Forbearance agreements do not require FSA concurrence, but they should be discussed with FSA before executing.
- If the conditions of the forbearance agreement are not met and the lender proceeds with liquidation, the original missed payment due date must be used when calculating interest on the estimated or final loss claim.
- The lender may choose to continue reporting the loan as past due and delinquent on status and default status reports for the length of the agreement or choose to report the loan as current once the agreement is executed. In either case, the lender should include in the comments a forbearance agreement has been executed along with the date of expiration.--*

*--328 Debt Write-Down (7 CFR 762.145(e))

A Overview

A debt write-down involves writing off a portion of the outstanding balance of a loan. A lender may write down a delinquent guaranteed loan only in an amount sufficient to enable the borrower to repay the reduced debt over the remaining term of the loan. All lenders must seek FSA concurrence before they can execute a debt write-down. Debt write-down loss claims must be approved by SED.

B General Requirements

[7 CFR 762.145(e)(1)] The following conditions apply to debt write-down:

- **A lender may only write-down a delinquent guaranteed loan or line of credit in an amount sufficient to permit the borrower to develop a feasible plan of operation as defined in § 761.2(b) of this chapter.**

- **The lender will request other creditors to negotiate their debts before a write-down is considered.--***

- **The borrower cannot develop a feasible plan after consideration is given to rescheduling and deferral under this section.**

- **The present value of the loan to be written down, based on the interest rate of the rescheduled loan, will be equal to or exceed the net recovery value of the loan collateral.**

- **The loan will be restructured with regular payments at terms no shorter than 5 years for a line of credit and OL term note; and no shorter than 20 years for FO and CL, unless required to be shorter by paragraphs (c)(1)(i) through (ii) of this section** (subparagraph 326 B)**.**

- **No further advances may be made on a line of credit that is written down.**

- **Loans may not be written down with interest assistance. If a borrower's loan *--presently on interest assistance requires a write-down, the write-down will be--* considered without interest assistance.**

***--328 Debt Write-Down (7 CFR 762.145(e)) (Continued)**

B General Requirements (Continued)

- **The write-down is based on writing down the shorter-term loans first.**

- **When a lender requests approval of a write-down for a borrower with multiple loans, the security for all of the loans will be cross-collateralized and continue to serve as security for the loan that is written down. If a borrower has multiple loans and one loan is written off entirely through debt write-down, the security for that loan will not be released and will remain as security for the other written down debt. Additional security instruments will be taken if required to cross-collateralize security or maintain lien priority.**

- **The write-down will be evidenced by an allonge or amendment to the existing note or line of credit reflecting the write-down.**

The payment of a loss claim in conjunction with a debt write-down does not establish a Federal debt and is not subject to offset.

The holder or holders, if any, must agree to the write-down or the lender must repurchase**--*** the guaranteed portion.

C Borrower Execution of FSA-2253

The borrower executes an Agency shared appreciation agreement for loans which are written down and secured by real estate. See paragraph 288 for information on servicing FSA-2253's.

- **The lender will attach the original agreement to the restructured loan document.**

- **The lender will provide the Agency a copy of the executed agreement.**

- **Security instruments must ensure future collection of any appreciation under the agreement.**

***--328 Debt Write-Down (7 CFR 762.145(e)) (Continued)**

D Lender Actions to Support Write-Down Debt Request--*

The lender will prepare and submit the following to the Agency:

- **a current appraisal of all property securing the loan in accordance with § 762.127** and paragraphs 181 through 183

- **a completed report of loss on the appropriate Agency form for the proposed *--write-down loss claim**

- **detailed write-down calculation as follows:**

  Note: Detailed write-down calculations will be recorded on FSA-2252. If a**--*** borrower's cash flow projection indicates that within a definite, foreseeable time, additional repayment will be available for the guaranteed loan, the present value of the loan will be calculated based on an uneven payment stream.

  - **calculate the present value** (Exhibit 10)

  - **determine the net recovery value** (Exhibit 10)

  - ***--if the net recovery value exceeds the present value, write-down is unavailable;--* liquidation becomes the next servicing consideration**

  - **if the present value equals or exceeds the net recovery value, the debt may be written down to the present value**

- **the lender will make any adjustments in the calculations, as requested by the Agency.**

The appraisal will be paid for by the lender, but the cost can be passed to the borrower.

FSA-2252 will be used to calculate lender loss. After the lender loss has been calculated on FSA-2252, the lender loss claim will be submitted on FSA-2254. Lender loss will be the percentage of the guarantee multiplied by the difference between the outstanding principal *--and interest balance of the loan before the write-down and the outstanding balance of the loan after the write-down.

In addition to the materials noted in this paragraph, SEL's and CLP's must submit materials according to paragraph 313 to request a debt write-down.**--***

329 FSA Review and Monitoring of Restructured Loans (7 CFR 762.145(b))

A Post-Restructuring Review and FSA Reporting Requirements

--The authorized agency official will, after receiving a restructured note or LOC or an-- amendment to a note or LOC from a lender, review all applicable restructuring documents received by FSA, including the restructured note and FSA-2248 stating that the loan is current, and ensure that the loan was restructured with the principal, accrued interest, payments, interest rate and terms to which FSA agreed. If any discrepancies are found between regulatory requirements or the restructuring plan FSA originally agreed to and the executed restructuring, the lender must correct the restructured note. After the correctness of the restructured note has been verified, the restructured or amended note and the Modification of Guarantee, if interest was capitalized, should be attached to the copy of the original note.

B FSA Monitoring of Lender Loan Files With Restructured Loans

When reviewing files of loans that have been restructured, FSA employees must ensure that lenders restructured their loans according to the terms agreed to by FSA according to their Lender's Agreement. If the loan was restructured with terms that FSA did not agree to, the lender must adjust the loan terms to comply with terms FSA agreed to originally.

When reviewing CLP loan files, authorized agency officials should ensure that loans were restructured according to FSA rules and regulations and that the materials submitted in support of a restructuring action are accurate.

When reviewing restructured loan files made by PLP lenders, authorized agency officials should ensure that all restructuring was done according to the Lender's Agreement. If the Lender's Agreement is silent on a certain restructuring subject, the PLP lender must follow FSA rules and regulations for CLP lenders.

--FSA may use FSA-2294 as a guide for reviewing debt write-downs.--

329 FSA Review and Monitoring of Restructured Loans (7 CFR 762.145(b)) (Continued)

C FSA Monitoring of Loans That Have Been Restructured

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.

If the lender submits a loss claim on a loan that was restructured, and the loan was not restructured according to FSA-approved terms, the loss claim may be reduced or denied altogether.

330-339 (Reserved)

Part 13 Bankruptcy

340 Bankruptcy (7 CFR 762.148(a))

A Overview

The lender must protect the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings.

B Lender Losses

Lenders can apply to FSA to recover principal, interest, and certain expenses lost as a result *--of bankruptcy proceedings. However, if interest is still accruing on the loan, all recovery proceeds must be applied to principal first and then toward accrued interest.--*

341 Lender's Responsibilities in Bankruptcy Proceedings (7 CFR 762.148(a))

A Lender Responsibilities in Bankruptcy Cases

Lenders must satisfy all requirements pertaining to a creditor in a bankruptcy proceeding, including the procedures under Chapter 7 (Liquidation), Chapter 11 (Reorganization), Chapter 12 (Adjustment of Debts of a Family Farmer with Regular Annual Income), or Chapter 13 (Adjustment of Debts of an Individual with Regular Income) of the Bankruptcy Code (11 U.S.C.), whichever is applicable. Lenders must ensure that a valid proof of claim is submitted; that collateral securing the guaranteed loan is protected; and that all rights of participation are exercised or protected. **The lender's responsibilities include, but are not limited to**, the following requirements.

- **Filing a proof of claim where required and all the necessary papers and pleadings.** If the loan includes FSA-2253, it must be included in the lender's proof of claim. See paragraph 288.

- **Attending, and where necessary, participating in meetings of the creditors and court proceedings.**

- **Protecting the collateral securing the guaranteed loan and resisting any adverse changes that may be made to the collateral.** If the debtor remains in possession, the lender must monitor for any adverse changes that may be made to the collateral and resist those changes by legal action, repossession of the collateral, or other suitable means. If the trustee in bankruptcy has assumed jurisdiction over the collateral, the lender must cooperate with the trustee in the administration of the estate. Such cooperation, however, should not preclude the lender from opposing actions of the trustee that do not advance the interests of the lender. The lender should attend and observe any public sales of collateral held by the trustee, and if appropriate submit a minimum bid.

- **Seeking a dismissal of the bankruptcy proceeding when the operation as proposed by the borrower to the bankruptcy court is not feasible.**

341 Lender's Responsibilities in Bankruptcy Proceedings (7 CFR 762.148(a)) (Continued)

A Lender Responsibilities in Bankruptcy Cases (Continued)

- **Monitor confirmed plans under chapters 11, 12, and 13 of the bankruptcy code to determine borrower compliance. If the borrower fails to comply, the lender will seek a dismissal of the reorganization plan.**

- **When permitted by the bankruptcy code, requesting a modification of any plan of reorganization if it appears additional recoveries are likely.**

- **Keeping the Agency regularly informed in writing of all aspects of the proceedings.**

  - The lender will submit a regular default status report when the borrower defaults and *--should include with the default status report all significant steps in the bankruptcy--* proceeding, including the dates and pertinent details concerning:

    - confirmation of the plan
    - effective date of the plan
    - date the plan is completed
    - failure of the debtor to comply with the plan
    - discharge of the debtor.

  - ***--The lender shall submit a default status report** (FSA-2248) **when the borrower defaults and every 60 days until the default is resolved or a final loss claim is paid.** The initial Default Status Report is sent to the local credit office immediately following the lender-borrower default meeting (see paragraph 313).

  - **The default status report** (FSA-2248) **will be used to inform the Agency of the--* bankruptcy filing, the reorganization plan confirmation date and effective date, when the reorganization plan is complete, and when the borrower is not in compliance with the reorganization plan.**

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148)

A Claims for Expenses in Reorganizations

Lenders will be compensated for expenses and losses incurred as a result of a Chapter 11, 12, or 13 bankruptcy proceeding as follows:

- **Lender's in-house expenses, which are those expenses which would normally be incurred for administration of the loan, including in-house lawyers, are not covered by the guarantee.**

- Expenses paid by lenders to third parties will be compensated as follows

  - **Expenses, such as legal fees, and the cost of appraisals incurred by the lender as a direct result of the borrower's Chapter 11, 12, or 13 reorganization, are covered under the guarantee, provided they are reasonable, customary, and provide a demonstrated economic benefit to the lender and the Agency** and will be paid upon satisfactory claim by the lender. Such expenses must be incurred following the filing of a voluntary petition by the borrower, and must be incurred before discharge of the debtor. Such third party costs must be reasonable and appropriate, and must be documented in the lender's files. Reasonable and appropriate generally will be determined by the commercial standards and practices in that location, and should be typical for the unguaranteed loans of the lender. Appraisal costs significantly higher than typical appraisal costs for a similar appraisal in the same part of the country by an appraiser of similar experience, for example, might be unreasonable.

    Note: When reviewing the ledger provided with a loss claim, it should be noted that interest may accrue on protective advances; however, interest that accrues on legal fees paid by the lender are not covered by the Guarantee.

  - Claims for expenses in reorganizations may be combined with claims for estimated losses of principal and interest or protective advances, but will not be paid the lender before plan confirmation.

B Claims for Estimated Losses of Principal and Interest in Reorganizations

Lenders may submit a claim for losses of principal and interest sustained as a result of a reorganization plan in a bankruptcy reorganization proceeding. Lenders may have had an estimated loss claim approved by FSA before the reorganization bankruptcy filing. These lenders may have to submit a revised loss claim (bankruptcy type 05) as a result of the reorganization plan.

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148) (Continued)

B Claims for Estimated Losses of Principal and Interest in Reorganizations (Continued)

- Claims should be submitted using FSA-2254 to the authorized agency official. The authorized agency official shall review the claim using FSA-2295 and either request modifications by the lender or forward the claim to SED with recommendations and supporting documents as necessary.

- **At confirmation, the lender may submit an estimated loss claim** (bankruptcy type 05) **upon confirmation of the reorganization plan in accordance with the following:** The initial estimated loss claim (bankruptcy type 05) must include a copy of the confirmed bankruptcy plan and a memorandum clearly indicating the plan's confirmation date, the date the plan is to go into effect, and any other relevant information concerning the loan and the loss claim. Supporting documentation must be supplied immediately following confirmation of the plan.

  Note: FSA will submit FSA-2249 and a copy of the confirmed bankruptcy plan to the RD Business Center, Guaranteed Commercial Branch, with any Type 05 loss claim to adjust to the new loan amount.

- When a confirmed plan extends the term of a guaranteed loan beyond the agency's maximum allowable terms, it does not extend the term of the guarantee. When preparing FSA-2249, agency officials will only extend the terms of the loan according to subparagraph 326 B.

- During the bankruptcy, interest accrual coverage begins with the filing date and continues through the plan confirmation date and will be paid as part of the estimated (bankruptcy type 05) loss.

- For subsequent bankruptcy reorganization filings, FSA will cover interest accrual on the portion of the debt determined to have become unsecured because of the multiple filings, but only if the initial bankruptcy was filed within 150 calendar days of default or the lender submitted an estimated loss claim within 150 calendar days of default.

- **The estimated loss claim** (bankruptcy type 05) **will cover the guaranteed percentage of the principal and accrued interest written off, plus any allowable costs incurred as of the effective date of the plan.**

- ***--The lender will submit supporting documentation for the loss claim.** Documentation may include, but is not limited to:

  - receipts or invoices of all legal fees, protective advances, and liquidation expenses
  - ledgers for guaranteed loans and applicable nonguaranteed loans
  - an accounting and appraisal of all loan security.**--***

- **The estimated loss** (bankruptcy type 05) **payment may be revised as consistent with a court-approved reorganization plan.**

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148) (Continued)

- The estimated loss (bankruptcy type 05) claim may be revised after a court-approved partial liquidation of the collateral. When this occurs, the revised claim will be based upon the actual value received for the liquidated collateral as long as the lender made every effort to ensure that maximum proceeds were received. In these cases, FSA will pay the lender additional interest on that portion of debt that is determined to be unsecured on the bankruptcy (type 05) loss claim during and up to 45 calendar days after the court order for the personal property-secured portion of the debt and 90 calendar days for real estate.

C Claims for Estimated Interest-Only Losses in Reorganizations

Lenders may submit an estimated loss claim for interest only after confirmation of the reorganization plan in accordance with the following.

- Claims should be submitted using FSA-2254 to the authorized agency official.

- The interest-only estimated loss claim can be approved only after the confirmation date of the reorganization plan.

- The initial interest-only estimated loss claim may include a claim for interest accrued to the effective date of the reorganization plan (the date when the plan becomes effective). This date may be later than the date the plan is approved by the court (the confirmation date). This loss will be paid as of the plan's effective date with no additional interest accrual after that date.

- If the loan has a variable rate that remains at or below the court-ordered rate during the claim period, no loss claim may be submitted.

- Subsequent claims for interest-only estimated losses covering 1-year periods following the effective date of the reorganization plan may be submitted annually, and will be processed on the anniversary date of the effective date of the reorganization plan or immediately thereafter.

- **The loss claims may cover interest losses sustained as a result of court-ordered, permanent interest rate reduction.**

- **The loss claims will be processed annually on the anniversary date of the effective date of the reorganization plan.**

  Note: Loss claims may also be processed immediately following the payment due date established in the reorganization plan and on that date annually thereafter.

- **If the borrower performs under the terms of the reorganization plan, annual interest reduction loss claims will be submitted on or near the same date, beyond the period of the reorganization plan.**

342 Lender's Claims for Expenses and Estimated Losses in Reorganization Bankruptcy Proceedings (7 CFR 762.148) (Continued)

D Claims for Reimbursement of Protective Advances in Reorganizations

Protective advances made and approved in accordance with § 762.149 *--(subparagraph 360 D) **may be included in an estimated loss claim associated with a--* reorganization, if:**

- **they were incurred in connection with the initiation of liquidation action prior to bankruptcy filing**

- **the advance is required to provide repairs, insurance, etc. to protect the collateral as a result of delays in the case, or failure of the borrower to maintain the security.**

Interest on protective advances will accrue only to the effective date of the reorganization plan.

E Claims for Actual Losses in Reorganizations

Once the reorganization plan is complete, the lender will provide the Agency with documentation of the actual loss sustained.

- **If the actual loss sustained is greater than the estimated loss payment, the lender may submit a revised estimated loss claim to obtain payment of the additional amount owed by the Agency under the guarantee.**

- **If the actual loss is less than the prior estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of the payment of the estimated loss.**

F Payment to Holder in Reorganizations

In reorganization bankruptcy, if a holder makes demand upon the Agency, the Agency will pay the holder interest to the plan's effective date. Accruing interest thereafter will be based upon the provisions of the reorganization plan. For lender and FSA responsibilities upon FSA repurchase, see subparagraph 376 B.

343 Lender's Claims for Expenses and Estimated Losses in Liquidation Bankruptcy Proceedings (7 CFR 762.148)

A Claims for Expenses in Liquidation

[7 CFR 762.148(b)] Reasonable and customary liquidation expenses may be deducted from the proceeds of the collateral in liquidation bankruptcy cases or in reorganization bankruptcy where the plan calls for a partial liquidation of the collateral.

- **In-house expenses are not considered reasonable and customary liquidation expenses and may not be deducted from collateral proceeds.**

- **[7 CFR 762.148(d)] Upon receipt of notification that a borrower has filed for protection under Chapter 7 of the Bankruptcy Code, or upon confirmation of a liquidation plan under Chapter 11, the lender must proceed according to the liquidation procedures of this part** (Part 14).

- **If the property is abandoned by the trustee, the lender will conduct the liquidation according to § 762.149,** and seek to realize value from the property.

- **Proceeds received from partial sale of collateral during bankruptcy may be used by the lender to pay reasonable costs, such as freight, labor and sales commissions, associated with the partial sale. Reasonable use of proceeds for this purpose must be documented with the final loss claim in accordance with § 762.149(i)(4).**

344 FSA Responsibilities in Bankruptcy Proceedings

A Monitoring Responsibilities

The authorized agency official must review the default status report, submitted by the lender and request updates to the bankruptcy proceedings. They should periodically monitor the lender's files to ensure that all necessary actions are taken by the lender concerning a bankruptcy case. This review should include verifying that the lender:

- files proof of claim and all necessary papers and pleadings concerning the case

- attends and where necessary participates in meetings of the creditors and all court proceedings

- seeks adequate protection of the collateral

- advises the authorized agency official of the status of the bankruptcy action

- requests modification or dismissal of any plan of reorganization if it appears that additional recoveries are likely or if the borrower fails to comply with the requirements of the plan.

344 FSA Responsibilities in Bankruptcy Proceedings (Continued)

A Monitoring Responsibilities (Continued)

During a bankruptcy proceeding, the authorized agency official must:

- determine the necessity of an independent appraisal or evaluation according to 7 CFR 762.127 (paragraphs 181 and 182) of collateral

- review documentation supporting loss claims, including expense claims, submitted by the lender

***--Note:** If a Type 01 estimated loss claim was received prior to a reorganization bankruptcy filing but was not yet processed, the agency will cease processing. The days during the bankruptcy deliberations (from filing to confirmation or, if no confirmation, filing to dismissal) will not count against the agency's processing time. If a final loss claim is later filed, the lender will be entitled to interest during the bankruptcy deliberations, according to subparagraph 360 F.

However, if a relief of stay is granted and the lender is able to proceed with liquidating all remaining guaranteed loan security, then the agency may proceed with processing the Type 01 estimated loss claim.

During the bankruptcy proceedings the lender generally does not have the authority to liquidate. Pausing the processing of the Type 01 estimated loss claim during bankruptcy deliberations will prevent any potential overpayment if a Type 05 is needed upon confirmation. The lender will still be entitled to interest during the bankruptcy deliberations on the final loss claim.

- upon confirmation of the reorganization bankruptcy plan, FSA will submit FSA-2249 and a copy of the confirmed bankruptcy plan to the RD Business Center, Guaranteed Commercial Branch, with any Type 05 loss claim to adjust to the new loan amount.**--***

B Post Bankruptcy Plan Completion Actions

When a Chapter 11, 12, or 13 confirmed bankruptcy plan has been completed, unsecured debt will be discharged. Subparagraph 342 E requires the lender to provide documentation on the actual loss sustained. If there has been an additional loss incurred, an adjusted bankruptcy type 05 loss claim will be processed.

If the lender liquidates after a bankruptcy plan has been completed, but before the end of the term of the guarantee, the loss claim will be processed according to paragraphs 359 and 360 using the bankruptcy plan completion date as a beginning date for the new principal loan balance and the interest accrual for the loans.

If the loan pays in full, a loss claim is **not** required.

344 FSA Responsibilities in Bankruptcy Proceedings (Continued)

C Review of Bankruptcy Loss Claim

The authorized agency official must:

- review FSA-2254 submitted by the lender, for accuracy, to ensure that FSA-2254 is coded correctly
- accept the loss claim or contact the lender to obtain revisions or additional information
- forward the claim to SED or its designee.

Note: The payment of any loss claim under a Chapter 7 or reorganization bankruptcy establishes a Federal debt. In the case of a Chapter 7, Regional OGC opinion is required to determine whether the borrower is or is not subject to offset. The payment of a claim under bankruptcy reorganization will not be subject to offset. See subparagraph 363 B for additional guidance.

All loss claims must be approved by SED. Following approval, SED shall forward approved *--loss claims to the RD Business Center, Guaranteed Commercial Branch.--*

345-354 (Reserved)

Part 14 Liquidation

355 Liquidation Process (7 CFR 762.149)

A Liquidation Process Overview

After a lender has determined that a borrower's financial difficulties cannot be solved with *---any one or a combination of the loan restructuring options, the lender must liquidate the--* loan. All lenders are expected to proceed with liquidation in the following chronological order.

- The lender must give the borrower notice that the loan will be liquidated.
- *--The lender must accelerate the note and provide a copy of the acceleration notice to FSA.
- The lender must prepare a liquidation plan. SEL, CLP, and MLP lenders will provide—* FSA with a copy.
- The lender must submit an estimated loss claim with the liquidation plan .
- The lender must liquidate the security.
- The lender must submit a final loss claim.
- The lender must remit future recoveries to FSA in proportion to the percentage of the guarantee.

*--Liquidation steps (maximum timeframes) are summarized in the following table. All dates are measured in calendar days after the missed payment due date. If the lender is liquidating due to non-monetary default, dates are measured in calendar days from the date the lender notified the borrower of the non-monetary default. See subparagraph 300 A for the Delinquent Loan Servicing Timeline and paragraph 301 for additional non-monetary default guidance.

Liquidation Dates	Action
60	Earliest date that lender may initiate foreclosure action. **Note:** 60 days after IA eligibility has been determined (paragraph 300). If IA is not currently funded, 60 days is measured from the missed payment due date.
90	Lender accelerates the loan and gives notice to borrower and FSA.
120	Lender prepares liquidation plan.
150	Liquidation plan and estimated loss claim must be submitted.
170	Liquidation plan must be approved by FSA. **Note:** 20 days after submission of liquidation plan (subparagraph 358 F).
180	Estimated loss claim must be approved by FSA. **Note:** 30 days after submission of estimated loss claim (subparagraph 359 F).
260	Liquidation completed.
290	Final loss claim submitted.
330	FSA should approve or request modification of final loss claim. **Note:** 40 days after submission of final loss claim (subparagraph 360 F).

--*

355 Liquidation Process (7 CFR 762.149) (Continued)

B Earliest Date the Lender Can File to Liquidate Security

The lender may not initiate foreclosure action on the loan until 60 calendar days after eligibility of the borrower to participate in the IA Program has been established by FSA. The lender and borrower must discuss IA Program eligibility at the default meeting. See paragraph 300 for more information on this meeting. If IA eligibility was waived in writing by the borrower, the lender may prepare to liquidate the loan immediately following receipt of the waiver.

--It is the lender's responsibility to request IA on a loan, regardless of the borrower's desire-- or eligibility for the subsidy. However, it must be considered and documented in some fashion that it was rejected as an option. The authorized agency official shall remind the lender of this requirement if they attend the post default lender borrower meeting. Following this meeting or receipt of FSA-2248, the authorized agency official shall make a written entry in the running record of the borrower's FSA file as to the date that IA was considered and when the 60-calendar-day abeyance period ends.

***--Note:** If IA is not currently funded, 60 calendar days is measured from the missed payment due date and all other requirements related to IA are waived.--*

C FSA-2248 Is Submitted

FSA-2248 must be submitted following the lender-borrower default meeting and every 60 calendar days thereafter. The initial FSA-2248 will notify FSA that the borrower is in default and if IA was considered as an option to correct the default. Subsequent FSA-2248 will comment on the progress of liquidation and identify any problems the lender is having or *--may have in completing the liquidation in a timely manner. Once the loan has been accelerated, the lender will include a copy of the acceleration notice with the next FSA-2248 and will begin reporting the loan as fully due and payable (see subparagraph 357 C). If the FSA-2248 is submitted via LINC, the lender will mail or email the acceleration letter to the agency.--*

If FSA-2248 is not received as required, the authorized agency official shall contact the lender, inquire as to the status of the account and request that an accurate report be provided. If necessary, this contact should be followed up with a letter, and if the authorized agency official feels it is necessary, a copy provided to SED. Interest that accrues during unnecessary delays will not be paid as part of a loss claim. SED and DD shall monitor guaranteed loan delinquency reports to ensure that liquidating accounts are being monitored and FSA-2248 are being filed timely.

355 Liquidation Process (7 CFR 762.149) (Continued)

D Decision to Liquidate Must Be Reached * * *

--Within 45 calendar days of the missed payment due date, the lender is expected to notify the borrower of the default and meet with the borrower to discuss solutions. If restructuring is not an option, then within 90 calendar days after the missed payment due date the account should be accelerated and the borrower notified. If a solution that requires more than 90 calendar days is agreed to, the reasons should be indicated on FSA-2248. The authorized agency official will review FSA-2248 and if acceptable, concur with the lender's plan and request a restructuring plan or a liquidation plan if necessary, or mark the file for a follow up action as of the date the account is supposed to be paid current.--

E Liquidation Plan and Estimated Loss Claim Must Be Submitted

Within 150 days after the payment due date, all lenders will prepare a liquidation plan. ***--Standard eligible and CLP** and MLP **lenders will submit a written liquidation plan to the Agency** (see paragraph 358). The authorized agency official will review the lender's timeframe estimates and, based on their knowledge of the case and similar cases in their**--*** area, advise the lender of any concerns. **An estimated loss claim must be filed no later than 150 days past the payment due date unless the account has been completely liquidated and then a final loss claim must be filed** (see paragraph 359). **PLP lenders will submit a liquidation plan as required by their lender's agreement.**

FSA will not pay interest beyond 210 calendar days from the payment due date. If the lender estimates that there will be no loss after considering the costs of liquidation, an estimated loss of zero will be submitted within 150 calendar days of the payment due date. See subparagraph 360 F for information about additional interest that may be paid in some Chapter 7 Bankruptcy cases and when State redemption rights delay the sale of the property. See subparagraph 359 A for information on filing estimated loss claims.

355 Liquidation Process (7 CFR 762.149) (Continued)

F Liquidation Plan Is Approved or Rejected by FSA

When the decision has been made to liquidate, a liquidation plan is required to be submitted *--by SEL, CLP, and MLP lenders in all cases, including when all of the security has been sold, the borrower is liquidating voluntarily, or no loss is expected. FSA must review a--* lender's liquidation plan and either approve it or request modifications within 20 calendar days after it is received. See subparagraph 358 F.

G Estimated Loss Claim Is Approved by FSA or Modified by Lender

When an estimated loss claim is submitted, it may be reviewed and approved separately from *--the liquidation plan. FSA will respond in writing within 30 calendar days of the receipt. If FSA questions the accuracy of the estimated loss claim, FSA will resolve the discrepancy before the 30-calendar-day deadline. See subparagraph 359 F.

Estimated loss claims will only be reviewed for the accuracy of the principal and interest balance (based on the lender's provided ledger and interest accrual rules according to paragraph 359), to ensure the form was completed correctly, and for any mathematical errors. Lenders will reimburse FSA for any overpayments on estimated loss claims at the--* time of a final loss, plus interest, at the note rate.

H Liquidate

--Liquidation is expected to be completed within 260 calendar days after the missed payment due date, unless otherwise approved in the liquidation plan.--

I Final Loss Claim Is Submitted

***--Lenders must submit a final loss claim when the security has been liquidated and all--* proceeds have been received and applied to the account.** See paragraph 360.

A final loss claim should be submitted within 30 calendar days of the completion of *--liquidation or within 290 calendar days after the missed payment due date, whichever comes first, unless an extension of this period is granted. The authorized agency official will--* document the request for an extension and approve it or reject it as soon as practical.

The authorized agency official will monitor liquidations and request a loss claim when they are aware that an account has been liquidated. A final loss claim will be reduced if there are unjustified delays in liquidation or submission of a claim. If the account is paid in full, FSA-2248 and FSA-2241 must be input indicating that the loan is paid and the guarantee terminated.

356 Mediation (7 CFR 762.149(a))

A Mediation Requirements

When it has been determined that a default cannot be cured through any of the servicing options available or if the lender does not wish to utilize any of the authorities provided in this part, the lender must:

- **participate in mediation according to the rules and regulations of any State which has a mandatory farmer-creditor mediation program**
- **consider private mediation services in those states which do not have a mandatory farmer-creditor mediation program**
- **not agree to any proposals to rewrite the terms of a guaranteed loan which do not comply with this part.**

Any agreements reached as a result of mediation involving defaults and or loan restructuring must have written concurrence from the Agency before they are implemented.

If requested by the lender, FSA may participate in mediation to provide guidance on FSA regulations and guidelines. However, the FSA representative may not concur on any restructuring plans that require FSA approval during a mediation meeting. Restructuring plans developed during mediation that require FSA approval must be submitted to the local credit office according to Part 12.

Though not indicated in the liquidation timeline, the mediation process should begin immediately following a lender's decision to liquidate a loan. If the borrower fails to attend the default meeting required by paragraph 300, or if this meeting does not result in a plan for restructuring, then the lender should notify the borrower of the results of the meeting and their intention to proceed with liquidation of the account. This notification should include an offer of mediation, an explanation of what mediation may accomplish, and instructions on how and where a mediation hearing may be requested. This information is available from FSA State Offices or the State Department of Agriculture of the State in which the borrower is located.

B Lender Participation in Mediation

If SED determines that a lender's failure to participate in a mediation program caused a loss to the Government, a final loss claim payment may be reduced or denied. SEL lenders who consistently fail to participate in mediation may jeopardize consideration for CLP or PLP status.

357 Foreclosure and Acceleration (7 CFR 762.149)

A Overview

The lender must initiate foreclosure action and accelerate the loan. The lender may not initiate foreclosure action on the loan until 60 calendar days after eligibility of the borrower *--to participate in the IA Program has been established by FSA. If IA is not currently funded, 60 days is measured from the missed payment due date. The lender may accelerate the--* loan before FSA approval of a liquidation plan.

B Borrower Files for Bankruptcy After Loan Note is Accelerated

If the borrower files bankruptcy after the loan note is accelerated, the lender suspends liquidation proceedings until 1 of the following actions:

- bankruptcy case is dismissed or closed
- order lifting automatic stay is obtained from the court
- property is no longer property of the bankruptcy estate and the borrower has been--* discharged (see Part 13).

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. *** * *** 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.

--**The lender must provide a copy of the acceleration notice to FSA by attaching it to the first FSA-2248 that is submitted following acceleration. The FSA-2248 must reflect the entire balance as past due. All future FSA-2248's and FSA-2241's must reflect the entire balance as past due.**--

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 minimum bid amount. Exhibit 10 may be used to calculate the net recovery value and the minimum 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.

358 Lender Liquidation Plan (7 CFR 762.149(b))

A Overview

--All lenders must prepare a liquidation plan within 150 calendar days of the missed payment due date. SEL, CLP, and MLP lenders must submit a liquidation plan to FSA.--
If applicable, the lender should submit a request for IA reimbursement to FSA within 30 calendar days. The liquidation plan must include a schedule of all projected liquidation activities, and a complete inventory of the security to be sold.

B General Requirements

If a default cannot be cured after considering servicing options and mediation, the lender will proceed with liquidation of the collateral in accordance with the following.

Within 150 days after the payment due date, all lenders will prepare a liquidation plan.
--Standard eligible and CLP** and MLP **lenders will submit a written liquidation plan to--
the Agency which includes:

- **Current balance sheets from all liable parties or, if the parties are not cooperative, the best information available, or in liquidation bankruptcies, a copy of the bankruptcy schedules or discharge notice**

- **A proposed method of maximizing the collection of debt which includes specific plans to collect any remaining loan balances on the guaranteed loan after loan collateral has been liquidated, including possibilities for judgment**

  - **If the borrower has converted loan security, the lender will determine whether litigation is cost effective. The lender must address, in the liquidation plan, whether civil or criminal action will be pursued. If the lender does not pursue the recovery, the reason must be documented when an estimated loss claim is submitted** (subparagraph 360 E)**.**

  - **Any proposal to release the borrower from liability will be addressed in the liquidation plan in accordance with § 762.146(c)(2)** (paragraph 361)**.**

    Note: If according to paragraph 361 the release of liability can be approved, it will not be granted until either all of the collateral is voluntarily conveyed to the lender or it is liquidated.

358 Lender Liquidation Plan (7 CFR 762.149(b)) (Continued)

B General Requirements (Continued)

- **an independent appraisal report on all collateral securing the loan that meets the requirements of § 762.127** (paragraphs 181 through 183) **and a calculation of the net recovery value of the security as defined in §761.2(b) of this chapter** (Exhibit 10)**. The appraisal requirement may be waived by the Agency in the following cases:**

  Note: For poultry and other CAFO facility appraisals, see Exhibit 15.

  - **the bankruptcy trustee is handling the liquidation and the lender has submitted the trustee's determination of value**

  - **the lender's proposed method of liquidation rarely results in receipt of less than market value for livestock and used equipment**

  - **a purchase offer has already been received for more than the debt.**

- **an estimate of time necessary to complete the liquidation**

- **an estimate of reasonable liquidation expenses**

- **an estimate of any protective advances** (paragraph 360)**.**

C Liquidation Status Reports

Lenders must submit FSA-2248 to the authorized agency official every 60 calendar days during liquidation to report on the progress of liquidation. This report should provide information on the disposition of collateral, costs incurred, and specific actions taken by the *--lender or their representative since the previous FSA-2248 submission. If the loan was accelerated, the FSA-2248 must reflect the entire balance as past due. All future FSA-2248's must reflect the entire balance as past due. The lender must also submit a copy of the acceleration letter to FSA.--*

Details on future planned actions, and their estimated dates, must be identified on FSA-2248. Further, any changes in the approved liquidation plan must also be identified on FSA-2248. The authorized agency official shall input the loan status information on FSA-2248 into the GLS and monitor lender compliance with the 60-calendar-day reporting cycle for any loan in default until payment of a final loss claim.

358 Lender Liquidation Plan (7 CFR 762.149(b)) (Continued)

D IA Reimbursement

IA payment will be conducted according to paragraph 228.

E Lender Liquidation Plan and Holders

If the guaranteed portion of a loan undergoing liquidation was sold on the secondary market, see Part 15.

If the holder has not requested the lender to repurchase the guarantee but the lender determines that repurchase of the guarantee is necessary to adequately service the loan, the lender may repurchase the guaranteed portion of the loan from the holder, with the written approval of FSA. See Part 15 for information on the repurchase of loans sold on the secondary market and FSA approval of repurchase.

If the loan undergoing liquidation was sold on the secondary market and the unpaid guaranteed portion is still held by the holder at the time of liquidation plan submission, the liquidation plan must address the lender's plans to repurchase the guarantee. If the lender does not plan to repurchase the guarantee, the liquidation plan must include written notice from the holder certifying that the holder wants to keep the guarantee during liquidation. If the lender plans to repurchase the guarantee, the date of planned repurchase must be noted in the liquidation plan along with a request for FSA concurrence on the repurchase.

358 Lender Liquidation Plan (7 CFR 762.149(b)) (Continued)

F FSA Approval of Liquidation Plan

[7 CFR 762.149(c)] CLP lender's or standard eligible lender's liquidation plan, and any revisions of the plan, must be approved by the Agency.

If, within 20 calendar days of the Agency's receipt of the liquidation plan, the Agency fails to approve it or fails to request that the lender make revisions, the lender may assume the plan is approved. The lender may then proceed to begin liquidation actions at its discretion as long as it has been at least 60 days since the borrower's eligibility for interest assistance was considered.

Upon receipt of the plan, FSA has 20 calendar days to respond in writing, either granting approval of the plan or requesting modification of the plan. The lender's liquidation plan must be submitted to the authorized agency official. The authorized agency official will receive the plan from the lender and notify the lender in writing of the decision to approve or request modification of the plan.

As part of a liquidation plan or a method for liquidation, the lender may propose to accept a deed from the borrower in lieu of a forced liquidation. The estimated loss claim will be based on the net recovery value of the property at the time the lender takes possession of it.

Lenders may include as part of their liquidation plan, environmental related fees, such as those that would be incurred for environmental assessments or environmental cleanup. When this occurs FSA must immediately notify the lender that it will not cover these costs unless the lender can provide documentation that these actions are required by law and the associated fees were not a result of any lender actions.

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149)

A Overview

An estimated loss claim must be submitted by all lenders no later than 150 calendar **days after the payment due date unless the account has been completely liquidated and then the final loss claim must be filed.** If the estimated loss claim is not submitted within 150 calendar days after the missed payment due date, then interest accrual on the estimated loss claim will not exceed 150 calendar days. At a minimum, lenders should be encouraged to submit an estimated loss claim for $0 within 150 calendar days, even if a loss is anticipated.

All lenders will provide FSA with **a copy of the loan ledger indicating loan advances, interest rate changes, protective advances, and application of payments, rental *--proceeds, and security proceeds, including a running outstanding balance total.** A copy of the loan ledger is not required for estimated loss claims of $0 but will be required with the final loss claim if a payment is requested.**--***

Note: The lender's loan ledger must include the following:

- daily interest accrual rate
- unpaid accrued interest
- amount and dates of any advances
- amounts and dates of any payments
- interest rates
- principal balances.

The estimated loss will be based on the following:

- **The Agency will pay the lender the guaranteed percentage of the total outstanding debt, less the net recovery value of the remaining security, less any unaccounted for security.** The lender will certify with the estimated loss claim that appropriate deductions were made for unaccounted for security, if necessary.

- **The lender will discontinue interest accrual on the defaulted loan at the time the estimated loss claim is paid by the Agency** (settlement date)**. The Agency will not pay interest beyond 210 days from the payment due date. If the lender estimates that there will be no loss after considering the costs of liquidation, an estimated loss of zero will be submitted and interest accrual will cease upon approval of the estimated loss and never later than 210 days from the payment due date.**

- Payment of interest up to 210 calendar days is to provide sufficient time for FSA to review the claim and for lenders to provide clarification, when requested (see subparagraph F for details regarding FSA's review), but only in cases where the estimated loss claim was submitted timely. If the estimated loss claim was submitted after 150 calendar days, interest will cease at 150 calendar days.

- Lenders will provide their loan daily interest accrual with their estimated loss claim.

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)

A Overview (Continued)

- * * *The lender may claim interest between the approval date and the date they received the estimated loss claim payment on the final loss claim.

Notes: For Chapter 7 bankruptcy liquidation cases, interest accrual is processed like any estimated loss claim. The date of filing has no impact on the interest accrual determination.

*--If the loan was delinquent prior to the Chapter 7 filing date, interest will be calculated from the missed payment due date. If the loan was current on the Chapter 7 filing date, interest will be calculated from the date of filing.

Additional interest beyond 210 calendar days may be paid in some cases where the loss is following a Chapter 11, 12, or 13 bankruptcy dismissal and in some cases involving borrower-initiated litigation. However, this additional interest will be calculated and paid on the final loss claim only.

FSA will approve the estimated loss claim within 30 calendar days of submission. In cases where the claim was submitted timely, if FSA delays the review and approval beyond 210 calendar days from the missed payment due date, FSA will pay the lender additional interest for each day of FSA's delay to the date of approval. However, this additional interest beyond 210 calendar days will not be included with the loan's interest accrual calculation on the FSA-2254.

In cases where the claim was not submitted timely, FSA will still pay the lender additional interest for each day of FSA's delay beyond 30 calendar days, to the date of approval. However, this additional interest will not be included with the loan's interest accrual calculation on the FSA-2254. (See Exhibit 15.5 for additional information).

Note: If the borrower files for reorganization bankruptcy following the submission of an estimated loss claim but prior to the payment of the estimated loss claim, the Agency will cease processing the estimated loss claim. The days during the bankruptcy deliberations (from filing to confirmation or, if no confirmation, filing to dismissal) will not count against the Agency's processing time. If a final loss claim is later filed, the lender will be entitled to interest during the bankruptcy deliberations, according to subparagraph 360 F.

However, if a relief of stay is granted and the lender is able to proceed with liquidating all remaining guaranteed loan security, then the agency may proceed with processing the Type 01 estimated loss claim.

During the bankruptcy proceedings the lender generally does not have the authority to liquidate. Pausing the processing of the Type 01 estimated loss claim during bankruptcy deliberations will prevent any potential overpayment if a Type 05 is needed upon confirmation, while the lender will still be entitled to interest during the bankruptcy deliberations on the final loss claim.--*

* * *

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)

B Estimated Liquidation Expenses

Certain reasonable costs to liquidate a loan may be included in the estimated loss claim. Eligible liquidation expenses include, but are not limited to, the following:

- appraisals
- marketing expenses
- auctioneer expenses
- legal fees.

Note: Legal fees associated with the liquidation are a liquidation expense. FSA allows reasonable and necessary legal fees, including fees incurred in a Chapter 7 liquidation bankruptcy, to be deducted from the sale of the collateral before application of the net proceeds to the guaranteed debt. Lenders will be compensated for liquidation expenses incurred before the filing of a reorganization bankruptcy proceeding. An estimate of legal fees, and all ***--**liquidation costs, should be provided on the estimated loss claim, and**--*** documentation of actual expenses incurred must be provided with the final loss claim.

Packager fees and outside consultant fees for servicing of guaranteed loans are not covered by the guarantee, and will not be paid in an estimated loss claim.

In-house expenses are not allowable liquidation costs. In-house expenses include, but are not limited to, the following:

- employee salaries
- staff lawyers
- photocopying
- travel.

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)

C Lender Submission of Estimated Loss Claim

--Lenders will prepare and submit the estimated loss claim on FSA-2254 along with a copy of the loan ledger to the authorized agency official. Within 7 calendar days of receipt, the authorized agency official must enter and submit the estimated loss claim into GLS using the Lender Proposed column.--

* * *

*--Estimated loss claims, regardless of lender status, will only be reviewed for accuracy of the principal and interest balance (based on the lender's provided ledger and interest accrual rules of this paragraph), to ensure FSA-2254 was completed correctly, and for any mathematical errors. FSA-2254 instructions provide examples on how to complete certain fields.

Lenders must itemize all expenses claimed and security proceeds in Item 60 of the FSA-2254 or on an attached addendum.--*

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)

D Unapproved Loans or Advances

***--The amount of any payments received or credited by the lender on loans or advances outside of the guarantee that do not meet the requirements of §762.146 will be deducted from any loss claim submitted by the lender on the guaranteed loan, if that--* loan or advance was paid prior, and to the detriment of, the guaranteed loan.** The lender will certify with the estimated loss claim that appropriate deductions were made, if necessary.

E FSA Approval of Protective Advances

FSA will approve a request for a protective advance if the request is reasonable and the value of the security would decrease significantly if the advance was not made. FSA will respond within 14 calendar days to an SEL and CLP written request for concurrence on a protective advance. Concurrence with protective advances can be provided separately from approval of the liquidation plan. See subparagraph 360 D for additional information.

PLP lenders will make protective advances according to the Lender's Agreement.

Protective advances are not paid on a Type 01 estimated loss claim. **Payment for protective advances is made by the Agency when the final loss claim is approved, except in** reorganization **bankruptcy actions.** Protective advances in reorganization bankruptcies may be paid on the Type 05 estimated loss claim, according to subparagraph 342 D.

F FSA Approval and Payment of Estimated Loss Claim

The estimated loss claim is submitted on FSA-2254 to the authorized agency official. FSA will review the submitted claim to ensure it has been completed correctly. For Type 01 estimated loss claims, FSA may request corrections to the form if necessary; however, FSA's review must not include requiring supporting documentation, aside from the loan ledger, as that will be done at the time the final loss claim is processed. For Type 05 estimated loss claims, documentation to support the entire claim is required according to subparagraph 342 B and must be reviewed before approval.

After reviewing FSA-2254 to ensure the form was completed correctly, the authorized agency official shall forward FSA-2254 to the SED with a recommendation to approve the estimated loss claim. If SED finds the estimated loss claim to be accurate, SED shall approve it within 30 calendar days of estimated loss claim submission. If the authorized agency official is unable to recommend approval of the estimated loss claim, the concerns should be reviewed with the SED. The SED will determine if the estimated loss claim will be disputed with the lender. If FSA wants to dispute the estimated loss claim, FSA will attempt to resolve the differences with the lender within 30 calendar days of the submission.

359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)

F FSA Approval and Payment of Estimated Loss Claim (Continued)

*--If FSA and the lender cannot resolve the disputes, resulting in a denial of the lender's entire estimated loss claim request, the authorized agency official will approve the loss claim in GLS for $0 and will not require the lender's signature on the approved FSA-2254. See GLS User Guide for additional information.

If FSA and the lender cannot resolve the disputes resulting in a partial denial of the lender's estimated loss claim request, the authorized agency official will process the approved amount of the estimated loss claim in GLS and will not require the lender's signature on the approved FSA-2254. See GLS User Guide for additional information.

If FSA makes any reductions that the lender will not agree to, SED will prepare and send a letter to the lender informing them of the dollar amount of each deduction with the corresponding CFR and 2-FLP references (see Exhibit 16 for assistance with references) and their right to appeal the decision according to paragraph 33 and 1-APP.

Note: When FSA must request additional information from the lender such as the loan ledger, required documentation for a Type 05 claim, or clarification or a correction to the form to proceed with processing, FSA's review and approval timeframes will pause as of the date of the request and will resume when the requested information is received.

After approval by SED, the authorized agency official must forward FSA-2254 to the RD--* Business Center, Guaranteed Commercial Branch for payment of the estimated loss claim according to 1-FLP, paragraph 5. The RD Business Center, Guaranteed Commercial Branch shall issue a check to the lender within 30 calendar days of receiving FSA-2254.

Note: Estimated loss claims for $0 do not require SED signature and the FSA-2254 will not be submitted to RD Business Center for processing. When the authorized agency official clicks "Refer to NFAOC" in GLS, the status of the estimated loss claim will automatically change to "Complete."

G Application of Estimated Loss Payment

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 estimated loss payment compensates the lender for the loss, but does not reduce the loan balance or cure a delinquency, and should not be reflected as such on FSA-2248.

360 Lender Submission of Final Loss Claim (7 CFR 762.149)

A Overview

***--Lenders must submit a final loss claim when the security has been liquidated and all--* proceeds have been received and applied to the account.**

B General Requirements

If a lender acquires title to property either through voluntary conveyance or foreclosure proceeding, the lender will submit a final loss claim after disposing of the property. The lender may pay reasonable maintenance expenses to protect the value of the property while it is owned by the lender. These may be paid as protective advances or deducted as liquidation expenses from the sales proceeds when the lender disposes of the property. The lender must obtain Agency written concurrence before incurring maintenance expenses which exceed the amounts allowed in § 762.149(e)(1) (subparagraph D).

The lender will make its records available to the Agency for the Agency's audit of the propriety of any loss payment.

The final loss claim will be based on the amount received from the sale of the property, less expenses incurred for its care and maintenance, assuming the lender has acted expeditiously - and prudently to sell it. **All proceeds must be applied to the principal first and then toward accrued interest if the interest is still accruing.**

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

C Lender Submissions of Final Loss Claim

All lenders will submit the following documents with a final loss claim:

- **an accounting of the use of loan funds**
- **an accounting of the disposition of loan security and its proceeds**
- **a copy of the loan ledger indicating loan advances, interest rate changes, protective advances, and application of payments, rental proceeds, and security proceeds, including a running outstanding balance total**

***--Note:** The lender's loan ledger will include the following:

- daily interest accrual rate
- unpaid accrued interest
- amounts and dates of any advances
- amounts and dates of any payments**--***

* * *

- interest rates
- principal balances.

***--**The ledger provided with the final loss claim should reflect the following:

- application of any net liquidation proceeds
- approved protective advances, if applicable
- any voluntary payments
- no additional interest accrual except on protective advances.

The ledger should not reflect that the estimated loss claim was applied as a regular payment.**--***

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

C Lender Submissions of Final Loss Claim (Continued)

- ***--documentation, as requested by the Agency, concerning the lender's compliance with the requirements of this part,** including but not limited to:

  - receipts or invoices of all liquidation expenses (see subparagraph 359 B for liquidation expenses and legal fees) and protective advances

  - settlement statements or similar documents for the sale of all security items

  - ledgers for nonguaranteed loans, to ensure proceeds have been applied accordingly.

Note: Documentation with a final loss claim is not required if:

- the final loss claim is for $0, following a $0 estimated loss claim, or

- the final loss claim (actual loss) is for $0, following an estimated loss claim that resulted in a payment where the entire estimated loss claim must be repaid, according to subparagraph 360 G.**--***

The lender will designate 1 or more financial institutions to which any FSA payments will be made by electronic funds transfer (EFT).

Lenders should also submit EFT account numbers that are to be used for transmission of any loss payment from the Government.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

D Protective Advances

Protective advances are expenses incurred by a lender to protect or preserve collateral from *--loss or deterioration. Protective advances will be reflected on the Type 02 final loss claim, unless they are being advanced for reorganization bankruptcy proceedings, then they may be reflected on the Type 05 estimated loss claim (see subparagraph 342 D).--*

Prior written authorization from the Agency is required for all protective advances in excess of $5,000 for CLP lenders, $3,000 for standard eligible lenders. The dollar amount of protective advances for PLP lenders will be specified when PLP status is awarded by the Agency or as allowed and contained in the lender's agreement.

PLP lenders, for which CMS does not contain the dollar amount of protective advances allowed, are required to obtain FSA's written authorization for advances in excess of $5,000. All other PLP lenders shall follow their CMS in making protective advances.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

D Protective Advances (Continued)

The lender may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances allowed in this part, plus interest that accrues on the protective advances.

--Interest accrues at the note rate from the date of each advance to the date the final loss claim is submitted. A reduction of the final loss claim may be necessary if interest on protective advances continues to accrue because of excessive delays in liquidation or submission of the final loss claim.--

Interest that accrues on protective advances is limited to the guaranteed loan interest accrual cutoff if the protective advance is used to pay off the lender's prior lien.

*--**Payment for protective advances is made by the Agency when the final loss claim is approved, except in bankruptcy actions** (see subparagraph 342 D).--*

Protective advances are used only when the borrower is in liquidation, liquidation is imminent, or when the lender has taken title to real property in a liquidation action.

Legal fees are not a protective advance.

Protective advances may only be made when the lender can demonstrate the advance is in the best interest of the lender and the Government.

Protective advances must constitute a debt of the borrower to the lender and be secured by the security instrument.

Protective advances must not be made in lieu of additional loans.

Protective advances approved by FSA may be made by a lender to protect or preserve the collateral from loss or deterioration. Additional loans made to improve the value of security, such as loans for home improvement, are not protective advances and should not be approved. Protective advances and the interest that accrues on the advances are covered by the guarantee.

E Legal Fees

Legal fees associated with liquidation are a liquidation expense, see subparagraph 359 B. Documentation of actual legal expenses incurred must be provided with the final loss claim.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

F FSA Approval and Payment of Final Loss Claim

The Agency will notify the lender of any discrepancies in the final loss claim or, approve or reject the claim within 40 calendar **days. Failure to do so will result in additional interest days being paid to the lender for the number of days over 40 taken to process the claim.** This additional interest paid to the lender for FSA delays in processing the final loss claim over 40 calendar days is not included with the loan's interest accrual calculation on the FSA-2254. (See Exhibit 15.5 for additional information). FSA officials may use FSA-2296 for this discrepancy review.

Note: When FSA must request additional information from the lender to proceed with processing, FSA's review and approval clock will pause as of the date of the request and will resume when the requested information is received.

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 Agency will reduce a final loss claim based on its calculation of the dollar amount *--of loss caused by the lender's negligent servicing of the account and negligent origination of the account for loans originated using delegated authority. Loss--* claims may be reduced or rejected as a result of the following:

- **A loss claim may be reduced by the amount caused by the lender's failure to secure property after a default, and will be reduced by the amount of interest that accrues when the lender fails to contact the borrower or takes no action to cure the default, once it occurs**

- **Losses incurred as a result of interest accrual during excessive delays in collection, as determined by the Agency, will not be paid**

- **Unauthorized release of security proceeds, failure to verify ownership or possession of security to be purchased, or failure to inspect collateral as often as required to ensure its maintenance.**

- ***--Originating loans using delegated authority that do not meet the Agency's requirements for eligibility, financial feasibility and loan security.--***

- **A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under 7 CFR 762.145** (see subparagraph 329 C).

Packager fees and outside consultant fees for servicing of guaranteed loans are not covered by the guarantee, and will not be paid in a final loss claim.

Losses will not be reduced for the following:

- **Servicing deficiencies that did not contribute materially to the dollar amount of the loss**

- **Unaccounted for security, as long as the lender's efforts to locate and recover the missing collateral was equal to that which would have been expended in the case of an unguaranteed loan in the lender's portfolio.**

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

F FSA Approval and Payment of Final Loss Claim (Continued)

Default interest, late charges, and loan servicing fees are not payable under the loss claim.

The final loss will be the remaining outstanding balance after application of the estimated loss payment and the application of proceeds from the liquidation of the security. The lender will designate one or more financial institutions to which any FSA payments will be made by EFT.

Note: If the final loss claim follows an estimated loss claim that resulted in a payment to the lender and the final loss claim results in either no additional payment to the lender or a partial repayment from the lender, then the settlement date on the final loss claim must be adjusted in GLS to match the date the final loss claim is processed.

Interest accrual as part of a final claim will be the same as the estimated claim, (unless the interest on the estimated claim is incorrectly calculated), except for the following circumstances.

- It may include interest that accrued between the estimated loss claim settlement date and the date the lender received the estimated loss claim payment on all final claims in which an estimated claim was previously submitted timely (within 150 calendar days) and paid.

- **In the case of a Chapter 7 bankruptcy, in cases where the lender** timely **filed an estimated loss claim, FSA will pay the lender interest that accrues during and up to**:

  - ***--45** calendar **days after the date of discharge on the portion of the personal property only secured debt that was estimated to be secured but upon final--* liquidation was found to be unsecured**

  - **90** calendar **days after the date of discharge on the portion of real estate secured debt that was estimated to be secured but was found to be unsecured upon final disposition.**

- **The Agency will pay the lender interest which accrues during and up to 90** calendar **days after the time period the lender is unable to dispose of acquired property because of State imposed redemption rights, on any unsecured portion of the loan during the redemption period, if an estimated loss claim was** timely submitted by the lender and **paid by the Agency during the liquidation action.**

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

F FSA Approval and Payment of Final Loss Claim (Continued)

- *--For Chapter 11, 12, and 13 bankruptcies, if the bankruptcy is dismissed before liquidation, interest accrual may exceed 210 calendar days from the missed payment due date on the final loss claim only. During the bankruptcy, interest continues to accrue, but the days for calculating interest termination do not count against the lender, including cases where the lender did not have an estimated loss claim, because the lender does not have the authority to liquidate. Interest may be paid from the date of filing through the date of confirmation, or if a plan was never confirmed, then to the date of dismissal. In these cases, the authorized agency official shall document that interest accrual exceeded 210 calendar days because of bankruptcy, and any other supporting documentation, in GLS. National Office approval does not need to be requested. See Exhibit 15.5 for examples.

- For cases involving borrower-initiated litigation, interest accrual may exceed 210 calendar days from the missed payment due date on the final loss claim only. During the litigation, interest continues to accrue, but the days for calculating interest accrual termination will not count against the lender, including cases where the lender did not have an estimated loss claim, if the lender is unable to liquidate. In these cases, the authorized agency official shall document that interest accrual exceeded 210 calendar days because of litigation. See Exhibit 15.5 for examples.

If an estimated loss claim was not timely submitted or the final loss claim was not submitted within 150 calendar days of the missed payment due date, interest accrual on the final loss claim may only be paid beyond 150 calendar days from the payment due date if the requirements of one of the last two bullet points above are met (Chapter 11, 12, and 13 bankruptcies or borrower-initiated litigation).

FSA will determine whether the lender has liquidated the account in a timely manner. If liquidation was unduly delayed or the lender did not comply with the reporting requirements of this part, interest accrual will be calculated on the claim to the date that FSA determines--* that liquidation should have reasonably been accomplished.

* * *

FSA may pay a loss when a borrower sells security out of trust. If the borrower has converted loan security, the lender shall determine whether litigation is cost-effective. The lender must determine whether civil or criminal action is cost-effective and will be pursued. If the lender does not pursue the recovery, the reason must be documented when a loss claim is submitted. If recovery of converted security through legal action is possible, a lender may still submit a final loss claim and reimburse FSA according to subparagraph 362 A after proceeds are collected.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

F FSA Approval and Payment of Final Loss Claim (Continued)

*--After reviewing FSA-2254 and all supporting documentation, the authorized agency official will forward FSA-2254 to SED with a recommendation for the final loss claim. If SED finds the final loss claim to be accurate, SED will approve it. If the authorized agency official is unable to recommend approval of the final loss claim, the concerns should be reviewed with SED. SED will determine if the estimated loss claim will be disputed with the lender. If FSA wants to dispute the final loss claim, FSA will attempt to resolve the differences with the lender within 40 calendar days of the submission.

If FSA and the lender cannot resolve the disputes resulting in a denial of the lender's entire final loss claim request, the authorized agency official will approve the loss claim in GLS for $0 and will not require the lender's signature on the approved FSA-2254. See GLS User Guide for additional information.

If FSA and the lender cannot resolve the disputes resulting in a partial denial of the lender's final loss claim request, the authorized agency official will process the approved amount of the final loss claim in GLS and will not require the lender's signature on the approved FSA-2254. See GLS User Guide for additional information.

If FSA makes any reductions that the lender will not agree to, SED will prepare and send a letter to the lender informing them of the dollar amount of each deduction with the corresponding CFR and 2-FLP references (see Exhibit 16 for assistance with references) and their right to appeal the decision according to paragraph 33 and 1-APP.--*

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)

F FSA Approval and Payment of Final Loss Claim (Continued)

* * *

Note: For loans made before February 12, 1999, denied lender's loss claims will be handled according to FmHA Instructions 1980-A and 1980-B in effect at the time the guarantee was issued. See Exhibit 16.

When the final FSA-2254 is accepted by the authorized agency official and approved by *--SED, the authorized agency official will send FSA-2254, including final loss claims with no losses to the RD Business Center, Guaranteed Commercial Branch for payment or processing according to 1-FLP, paragraph 5. The final loss claim will be paid up to the maximum--* amount allowed, as provided in subparagraph 195 C. When a loan is a total loss, the loss payment may exceed the original guaranteed principal and accrued interest, if it includes emergency advances or protective advances.

G Overpayment

If the final loss is less than the estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of the estimated loss payment to the date the final loss claim is submitted.

The amount of overpayment or underpayment will be calculated on FSA-2254. The interest due on any loss claim will be calculated by the RD Business Center, Guaranteed Commercial Branch based on the borrower's rate of interest and the date the estimated claim was paid. If the lender wants to submit a check with their request for a final loss claim, this amount may be obtained by contacting the RD Business Center, Guaranteed Commercial Branch technician before submitting FSA-2254.

H Return of Guarantee

The lender will return the original Guarantee marked paid after receipt of a final loss claim.

The final loss claim payment will be sent by EFT whenever possible. Return of the Guarantee is not required before EFT or delivery of a check. After verification that the final loss claim has been paid, the account will be terminated in GLS.

Note: When the original Guarantee is not available, an electronic copy of the original or some other form of written verification from the lender stating the guarantee is terminated is acceptable.

361 Release of Liability After Liquidation (7 CFR 762.146(c))

A Overview

For loans made using FSA-1980-25 or FSA-1980-28 with the revision date before July 20, 2001, after a final loss claim has been paid, the lender may release the borrower or any guarantor from liability with FSA concurrence if the conditions of subparagraph B can be met.

B Loans Made Using FSA-1980-25 or FSA-1980-28 With a Revision Date Before July 20, 2001

After a final loss claim has been paid on the borrower's account, the lender may release the borrower or guarantor from liability if:

- **the Agency agrees to the release in writing**
- **the lender documents its consideration of the following factors concerning the borrower or guarantors:**
  - **the likelihood that the borrower or guarantor will have a sufficient level of income in the reasonably near future to contribute to a meaningful reduction of the debt**
  - **the prospect that the borrower or guarantor will inherit assets in the near term that may be attached by the Agency for payment of a significant portion of the debt**
  - **whether collateral has been properly accounted for, and whether liability should be retained in order to take action against the borrower or a third party for conversion of security property**
  - **the availability of other income or assets which are not security**
  - **the possibility that assets have been concealed or improperly transferred**
  - **the effect of other guarantors on the loan**
  - **cash consideration or other collateral in exchange for the release of liability.**

The lender will execute its own release of liability documents.

The lender will submit a narrative to the authorized agency official explaining the borrower or entity should be released from liability. The authorized agency official may ask for documentation to support the lender's argument. The authorized agency official will forward all relevant material to SED for review and approval.

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, paragraph 50, using collection code 33.

In cases where a receivable has not been established, or was established but later cancelled, FSA-2254 must also be completed and sent to the RD Business Center, Guaranteed Commercial Branch, according to 1-FLP, paragraph 5. 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".

* * *

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 the RD Business Center, Guaranteed Commercial 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.

--Note:** If a borrower, co-borrower, or both, has been previously released from liability on a loan where a final loss has been paid and a debt offset receivable has been established, the authorized agency official will update the Maintain Debt Offset Screen to remove the borrower, co-borrower, or both, from offset referral.**--

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)

B Guaranteed Final Loss Claim Payments Not Subject to Offset

Final loss claim payments for borrowers who executed FSA-1980-25 with a revision date of July 27, 1999, or earlier, or FSA-1980-28 with a revision date of April 7, 1999, or earlier, shall not be offset.

Loans approved using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date and Application for Guarantee or Preferred Lender Application that are discharged in bankruptcy, will establish a Federal debt, but generally are not subject to offset. Any case where a final loss claim was paid after a Chapter 7 discharge should be processed as follows:

- all pertinent information, such as loss claim and documentation on the bankruptcy including the discharge order, is to be provided to the Regional OGC, requesting their opinion as to whether or not offset can be pursued

- document the case file with OGC's recommendation:

  - if Regional OGC's opinion is that the loan is not subject to offset, the debtor shall be removed from referral to IAO and TOP through the GLS maintenance screens and debts discharged in bankruptcy will be written off upon receipt of the discharge order; SED shall FAX or mail a copy of the discharge order along with a memorandum *--requesting that the debt be written off to the RD Business Center, Guaranteed Commercial Branch--*

  - if Regional OGC's opinion is that the loan is subject to offset, then immediately follow the requirements of subparagraphs 363 D through G.

Notes: Any debt reaffirmed under Chapter 7 bankruptcy on which a final loss claim is later paid, is considered a Federal debt and shall be subject to offset.

In a reorganization bankruptcy, if the confirmed plan is not successfully completed and the bankruptcy is dismissed, the payment of a final loss claim will be considered a Federal debt and shall be subject to offset.

C Payments Not Subject to Offset

The following payments are not subject to offset:

- Federal crop insurance indemnity payments
- the initial payment for planting expenses under certain conservation programs
- program payments ineligible for offset.

Payments will not be offset when the authorized agency official determines that it is not in the best interest of the Government.

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

D Debtor Notification of FSA's Intent to Offset

Immediately upon confirmation of a final loss claim payment, the authorized agency official *--will provide the debtor and any co-debtors notification of intent to offset using FSA-2263, according to this subparagraph and 7 CFR Part 3.

The FSA-2263 must be sent to debtors by certified mail. If FSA-2263 is returned, the authorized agency official will use first class mail or personal delivery.

The date FSA-2263 was received by the debtor and/or co-debtor will be entered in the "Notified Date" field using the GLS Debt Offset Maintenance Screen.

Note: GLS will be updated for the debtor and/or co-debtor with the date of the electronic verification or return receipt of FSA-2263 that is sent by certified mail to a debtor's last known address. If the certified mail was returned then resent by first class mail, the date of delivery will be 3 days following the date the first class mail was sent. This date will be entered in the "Notified Date" field using the GLS Debt Offset**--*** Maintenance Screen. A copy of the electronic verification will be placed in the case file.

The authorized agency official will provide written notification to debtors a minimum of:

- 30 calendar days before affecting non-centralized administrative offset and IAO
- 60 calendar days before affecting TOP.

The debtor's pro rata share of entity payments will be offset according to 7 CFR Part 3 and 7-FLP, paragraph 62 B, after the non-debtor entity members have been notified using ***--**FSA-2264.**--***

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

D Debtor Notification of FSA's Intent to Offset (Continued)

Authorized agency officials will follow 7-FLP, paragraph 63 B, to handle debtor requests *--received as a result of the receipt of FSA-2263 or FSA-2264.--*

Debtors proposing an agreement to repay the debt as an alternative to offset must include the full amount of the Federal debt. The Federal debt must be paid within a short period of time.

E Salary Offset

The authorized agency official will determine whether collection by salary offset is feasible according to 7 CFR Part 3 and 7-FLP, Part 5.

F Referral of Debt for IAO Offset

The authorized agency official will refer debtors for IAO and non-centralized administrative *--offset 30 calendar days after sending FSA-2263 or FSA-2264, or 30 calendar days after the--* conclusion of a review or appeal.

The authorized agency official must complete the debtor's and/or co-debtor's IAO referral information, in GLS on the Debt Offset Maintenance Screen, for the debt to be referred for offset. Indication of referral to IAO in GLS does not automatically refer the debt. The authorized agency official must also work with Farm Program staff to ensure borrower accounts are flagged for offset in Financial Services, Subsidiary, and NPS.

Note: Debtors who are ineligible for IAO or who later become ineligible for IAO will be removed from referral in GLS on the Debt Offset Maintenance Screen and the authorized agency official must work with Farm Program staff to ensure all other flags are removed.

G Referral of Debt to TOP

The authorized agency official will refer debtors to TOP 60 calendar days after *--FSA-2263 was sent or 60 calendar days after the conclusion of a review or appeal.--*

The authorized agency official must complete the debtor's TOP referral information, in GLS on the Debt Offset Maintenance Screen, for the debt to be referred for offset. After the information is entered, debtors will be programmatically referred according to the established Treasury quarterly referral schedule.

After the debt is referred for TOP, the RD Business Center, Guaranteed Commercial Branch will send Exhibit 21. The date of Exhibit 21 will be shown on the debtor's GLS maintenance screen.

Note: Debtors who are ineligible for TOP or who later become ineligible for TOP will be removed from referral in GLS on the Debt Offset Maintenance Screen.

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

H State Office Responsibility

SED will ensure that FSA employees responsible for servicing FLP guaranteed loans notify all County Offices where the debtor receives Federal payments that these payments are to be *--offset according to subparagraphs 363 F and G.

DD will ensure that all County Offices are updated monthly on debtors whose payments are eligible to be offset or are no longer eligible for offset.

Note: Management reports for debts currently referred for IAO and TOP are available in Tableau.

Debts may become ineligible for offset because of bankruptcy filing (see subparagraph 363 L) when:

- it has been 6 years since the last collection or 6 years since the debt was established and collections are less than accruing interest (see subparagraph 363 K)
- the borrower has an approved debt settlement plan (see subparagraph 363 K)
- the debt is referred to DOJ, or when the borrower or coborrower are on active duty in the military.

Debts referred to DOJ will be suspended from TOP according to 7-FLP, subparagraph 352 B. DOJ has exclusive jurisdiction over the debts referred to it, therefore FSA will remove DOJ debts from TOP. If any TOP collections are received after the debt is referred to DOJ but before removal from TOP, DOJ must be notified of the collection. Debt referred to DOJ may continue to be referred for IAO, but the steps in 7-FLP, subparagraph 352 A must be followed.

When a guaranteed borrower, co-borrower, or both, are called to report for induction or military service, debts will be removed from IOA and TOP. Co-borrowers associated--* with the debt must also be suspended from offset collections in GLS in an effort to reduce hardship on the family. Offsets should not be taken during the period of active duty and 3 months thereafter. Any collections received as a result of offset, **after** the date the borrower and/or co-borrower were called to active duty, will be refunded. State Offices will *--make refund request to the RD Business Center, Guaranteed Commercial Branch. When removing the debt from offset, the Reason Deleting selection will be "Other" with "National Defense Act" entered in the "Why Agency Deleting" box for both IAO and TOP.--*

* * *

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 the RD Business Center, Guaranteed Commercial 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 the RD Business Center, Guaranteed Commercial 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 will 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 will 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 will send a copy of FSA-2732 along with a memorandum requesting that the debt be written off to the RD Business Center, Guaranteed Commercial Branch, according to 1-FLP, paragraph 5.

Where it has been a minimum of 6 years since the last collection, FSA will cancel the debt without application according to 7-FLP, paragraph 404, 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 404 D.

Where it has been 6 years since the debt was established and collections are less than accruing interest, FSA will cancel the debt without application, following the guidance in 7-FLP, subparagraph 404 D, upon documentation that the lender and FSA anticipate no increase in collections. The SED will send a copy of FSA-2731 and FSA-2731A, if appropriate, along with a memorandum requesting that the debt be written off to the RD Business Center, Guaranteed Commercial Branch, according to 1-FLP, paragraph 5.

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 will 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 will 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 will send a copy of FSA-2731 and the discharge order along with a memorandum requesting that the debt be written off to the RD Business Center, Guaranteed Commercial Branch, according to 1-FLP, paragraph 5. GLS will have been updated earlier upon FSA notification of the bankruptcy action.

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

M Write Off of Debt When the Debtor Is Released From Liability by DAFLP

Debtors released from liability under subparagraph 361 C will have their outstanding debt written off. SED shall FAX or mail a copy of DAFLP approval along with a memorandum *--requesting that the debt be written off to the RD Business Center, Guaranteed Commercial Branch.--*

364 Release From Liability and Unauthorized Assistance

A Full Faith and Credit

An FSA guaranteed loan is supported by the full faith and credit of the U.S. (see 7 CFR 762.103). As a result, FSA has an obligation to ensure that the Government has not been defrauded by a lender, holder, and/or borrower when obtaining an FSA guaranteed loan. Fraud and misrepresentation by the lender or holder are the only circumstances under which FSA can completely deny liability on a guaranteed loan. Negligent servicing, by contrast, may result in a reduction of liability to the extent of the loss. In addition, the lender and/or holder may face fines and imprisonment under U.S.C. Title 18, Section 1014. Fraud and misrepresentation by the borrower or lender may also lead to criminal penalties under U.S.C. Title 18, Section 1001 that allows fines and/or imprisonment.

B Definitions (7 CFR 761.2(b))

The following definitions are applicable to this paragraph.

<u>False information</u> is information provided by an applicant, borrower or other source to the Agency that the applicant or borrower knows to be incorrect.

Example: Intentional altering of UCC1 to obtain an FSA guaranteed loan.

<u>Inaccurate information</u> is incorrect information provided by an applicant, borrower, lender, or other source without the intent of fraudulently obtaining benefits.

Example: The transposition of numbers in a financing statement or inventory list.

<u>Unauthorized assistance</u> is any loan, loan servicing action, lower interest rate, loan guarantee, or subsidy received by a borrower, or lender, for which the borrower or lender was not eligible, which was not made in accordance with all Agency procedures and requirements, or which the Agency obligated from the wrong appropriation or fund. Unauthorized assistance may result from borrower, lender, or Agency error.

364 Release From Liability and Unauthorized Assistance (Continued)

C Initial Determination That Unauthorized Assistance Was Received

Unauthorized assistance may be identified through audits conducted by OIG, USDA reviews conducted by FSA personnel, information provided by a private citizen, or discovered in processing a loss claim. If FSA employees have reason to believe unauthorized assistance was received, the case will be referred to OIG or the National Office, as appropriate, for review and advice. In every case where it is known or believed by FSA that the assistance was based on false information, investigation by OIG will be requested.

If an FSA official suspects that unauthorized assistance has been received the issues must be documented in the case file. The authorized agency official will specifically state whether the unauthorized assistance was because of any of the following:

- submission of inaccurate information by the borrower and/or lender
- submission of false information by the borrower and/or lender
- submission of inaccurate or false information by another party on the borrower or lender's behalf such as the holder, a seller, developer, real estate broker, attorney, or appraiser when the borrower and/or lender did know the other party had submitted inaccurate or false information
- error by FSA personnel, either in making computations or failure to follow published regulations or other FSA issuance.

D Secondary Market Considerations

According to 7 CFR 762.103, and contained in subparagraph 19 D of this handbook, FSA must purchase the loan from the holder upon request if the lender refuses even if fraud, misrepresentation, or negligent servicing by the lender is suspected.

E Voluntary Cancellation by Lender When Fraud or Misrepresentation Occurs

A lender may request that FSA cancel an FSA-1980-27 or Loan Guarantee in circumstances where FSA intends to seek a denial of liability provided that the lender has not assigned or transferred the loan to another party. A lender cannot cancel an FSA-1980-27 or Loan Guarantee for a loan sold in the secondary market without the concurrence of the holder.

364 Release From Liability and Unauthorized Assistance (Continued)

F Involuntary Cancellation by Lender

In the following circumstances, FSA can terminate an FSA-1980-27 or Loan Guarantee on a loan without the lender's concurrence:

- the guarantee fee is not paid

--Note:** The guarantee fee is usually paid when FSA-2236 is submitted and the loan is**-- closed. Under 7 CFR 762.130, a Loan Guarantee should not be issued until all guarantee fees are paid.

- improper transfer by FDIC of an FSA guaranteed loan to a nonguaranteed loan to a nonparticipating lender.

Note: Interagency Agreement between FSA and FDIC was signed by FSA on December 21, 2016, providing rules about FSA guaranteed loan servicing originated by failed banks. FDIC may sell FSA guaranteed loans only to eligible lenders. Barring the presence of a holder, the improper transfer is grounds for a denial of liability. See Exhibit 13 for a copy of the Interagency Agreement.

G Unauthorized Interest Assistance

For unauthorized interest assistance see:

- paragraph 231
- 7 CFR 762.150(h) and (j).

FSA may make demand on lenders for repayment of unauthorized assistance payments.

365-372 (Reserved)

Part 15 Secondary Market

373 Overview of the Secondary Market for FSA Guaranteed Loans

A Overview

The secondary market is a mechanism that allows lenders to sell the guaranteed portion of a loan. This sale is referred to as an assignment throughout this part because the lender is assigning the benefits to another party (the holder) in return for cash. Through the secondary market, the lender may:

- reduce their interest rate risk

  Note: The lender can transfer the risk of interest rate increases to the secondary market through the assignment of the guaranteed portion of the loan.

- increase liquidity

  Note: The lender can use funds received from a loan assignment for additional lending or investing activity.

- increase return on investment

  Note: By assigning the loan to the secondary market and keeping a servicing fee, a lender may increase their return on the loan and reduce their interest rate risk.

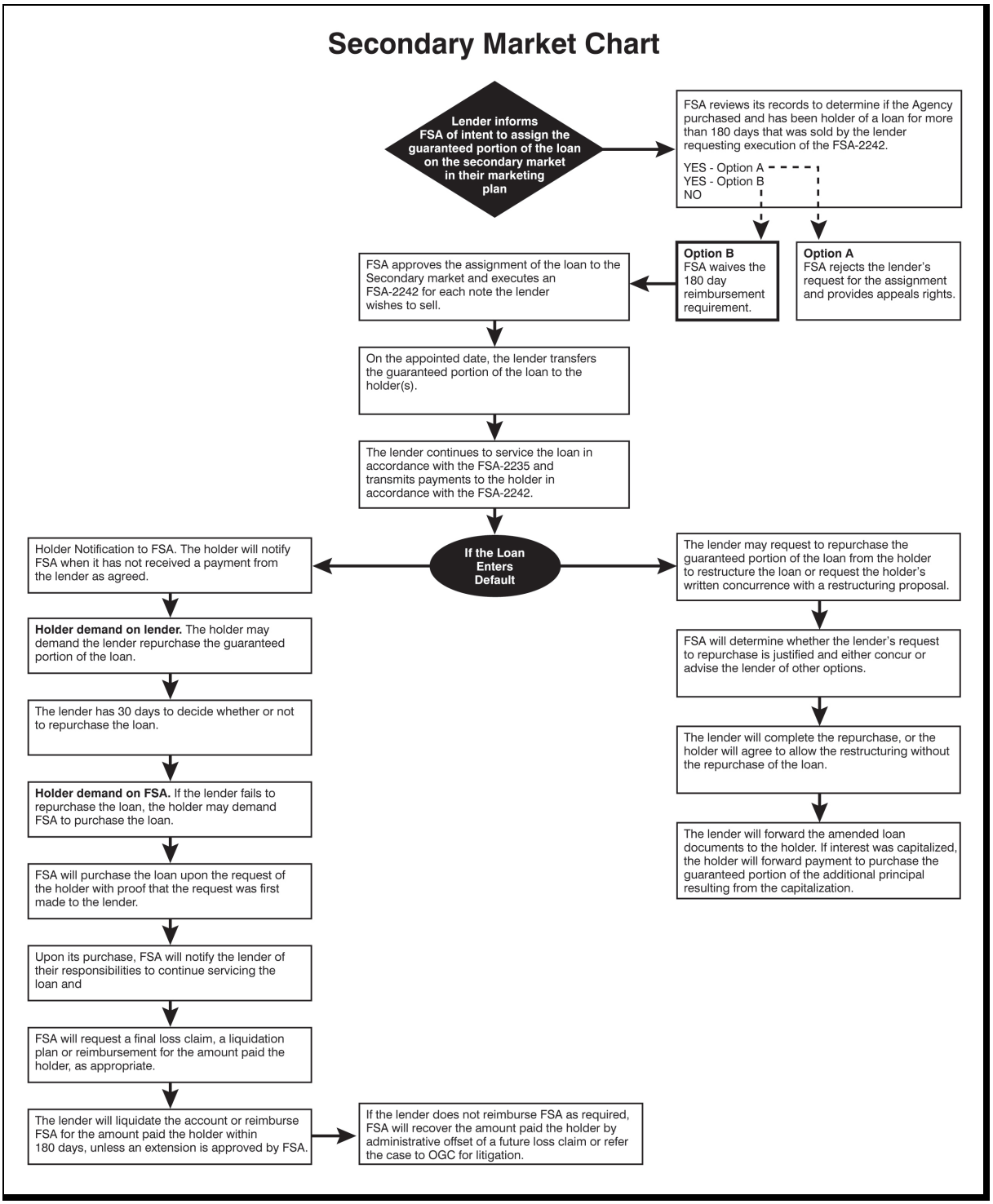
- increase the flexibility of loan terms.

  Note: The presence of the secondary market creates the ability for lenders to provide longer fixed rate terms then they would normally offer.

373 Overview of the Secondary Market for FSA Guaranteed Loans (Continued)

B Secondary Market Flowchart

Following is the secondary market flowchart.



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.

374 Agency Requirements (7 CFR 762.160) (Continued)

B Secondary Market LOC Requirements

LOC's may not be assigned. However, the lender may obtain funding for LOC's from other sources. The lender retains the note, the collateral securing the note, and all responsibility for loan serving and liquidation. The guarantee is applicable only to the primary lender.

C Transfer to the Secondary Market

Lenders generally market guaranteed loans to investors through an intermediary or directly to Farmer Mac.

Lenders are regularly contacted by and normally maintain a list of brokers or dealers interested in the purchase of FSA Guaranteed Loans. In an average transaction, lenders take the following steps to make a typical sale of a guaranteed loan on the secondary market.

-- Before using electronic signatures, lenders should contact the purchasers to ensure the documents will be accepted.--

Step	Who	Action
1	Lender	Contacts several brokers or Farmer Mac for bids on the loan. The brokers will need to know: • loan amount and size of the guaranteed portion • coupon rate (variable or fixed) **Note:** If variable, the broker will need to know the interest adjustment period. • if it is a new loan, when the loan will be funded • maturity date • payment schedule.
2	Lender	Determines the loan servicing fee. Obtain a commitment on the loan servicing fee, usually ranging from 0.4 to 2 percent.
3	Lender	Selects a bid. Analyze all the offers, select the most appropriate, and contact the winning broker. **Negotiations concerning premiums, fees, and additional payments for loans are to take place between the holder and the lender. The Agency will participate in these negotiations only as a provider of information.**

374 Agency Requirements (7 CFR 762.160) (Continued)

C Transfer to the Secondary Market (Continued)

*--

Step	Who	Action
4	Holder	Sends a purchase commitment letter or sales agreement to the lender.
5	Lender	Closes the loan transaction and notifies FSA that the loan is being assigned. The lender forwards the following to FSA: • copy of the signed commitment letter or sales agreement • original FSA-2242 with the lender's signature. These items are in addition to the other documents required for FSA to issue the Loan Guarantee.
6	FSA	Determines whether the loan is eligible to be sold. If eligible, FSA then verifies that the information on FSA-2242 is consistent with FSA-2235 and the promissory note. FSA will then digitally sign FSA-2242 and e-mail the encrypted FSA-2242 **directly** to the holder listed in item 3 and the lender. If the holder requests a hard copy, the authorized agency official will mail the hard copy directly to the holder along with a cover letter, including USDA letterhead as verification of the guarantee.
7	Holder	Executes FSA-2242 and retains FSA-2242 in their files along with FSA-2235. Copies of the executed FSA-2242 shall be forwarded to FSA and the lender according to the holder's procedure. Some holders have electronic retention of documents available to lenders and do not return a hard copy of FSA-2242 to the lender or FSA. It is not necessary for FSA to have a hard copy of a fully executed FSA-2242, unless the holder has requested FSA to repurchase the loan.
8	Holder	Wires the funds to the lender on the settlement date.

--*

374 Agency Requirements (7 CFR 762.160) (Continued)

D Executing FSA-2242's

The lender shall provide FSA with copies of all appropriate forms used in the assignment.

If a lender intends to assign the loan to the secondary market, they should inform FSA of their plans during the post-closing review (subparagraph 247 A).

In assigning a loan on the secondary market, lender will occasionally break the loan into more than 1 note. For each note, FSA will need a separate Loan Guarantee and the lender/broker or holder will need to execute a separate FSA-2242. See subparagraph C.

Once the lender accepts a specific buyer's offer, the lender should notify FSA that the loan is being assigned. The authorized agency official should inform the lender that they must submit FSA-2242 to FSA for execution.

Note: The authorized agency official shall execute FSA-2242 after reviewing it according to this subparagraph. FSA-2242 does not have to be signed by the holder before FSA approval of the assignment. *** * ***

Before executing FSA-2242, the authorized agency official should review the documents to determine the following items.

- To whom is the loan being assigned? According to subparagraph A, a loan may not be assigned to the borrower or someone who has a relationship to the borrower or is an owner or subsidiary of the lender itself.

- Is the loan delinquent? Delinquent loans may not be assigned into the secondary market.

- Is the lender attempting to assign any of the unguaranteed portion of the loan? The lender is only permitted to assign the guaranteed portion of the loan into the secondary market.

- Is FSA currently holding the guaranteed portion of a loan that was purchased more than 180 calendar days after the lender refused the request to repurchase from the holder?

374 Agency Requirements (7 CFR 762.160) (Continued)

D Executing FSA-2242's (Continued)

After the authorized agency official is satisfied that all 4 of these conditions are met, *--FSA-2242 will be executed and e-mailed to the holder.--*

The lender will send the holder the borrower's executed note attached to the Guarantee.

The holder will succeed to all rights of the guarantee pertaining to the portion of the loan assigned.

The holder, upon written notice to the lender and the Agency, may assign the unpaid guaranteed portion of the loan.

The holder must assign the guaranteed portion back to the original lender if requested for servicing or liquidation of the account.

The Guarantee or Assignment of Guarantee in the holder's possession does not cover:

- **Interest accruing 90 days after the holder has demanded repurchase by the lender, except as provided in the Assignment of Guarantee and § 762.144(c)(3)(iii)**

- **Interest accruing 90 days after the lender or Agency requested the holder to surrender evidence of debt repurchase, if the holder has not previously demanded repurchase.**

375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144)

A Holder Demand for Repurchase

The holder may request the lender to repurchase the unpaid guaranteed portion of the loan when either:

- **the borrower has not made a payment of principal and interest due on the loan for at least 60 days**

- **the lender has failed to give the holder its pro-rata share of any payment made by the borrower within 30 days of receipt of a payment.**

The holder shall notify FSA when these circumstances exist. If the holder chooses not to make demand, authorized agency officials will monitor the account. If the loan remains past due for 90 calendar days, the lender will be requested to repurchase the loan. If the lender refuses to repurchase, FSA will immediately require the holder and lender to reconcile the loan balances. FSA will then repurchase from the holder no later than 150 calendar days past due.

When a lender is requested to repurchase a loan from the holder, the lender must consider the request according to the servicing actions that are necessary on the loan. In order to facilitate servicing and simplified accounting of loan transactions, lenders are encouraged to repurchase the loan upon the holder's request.

If the lender does not repurchase the loan, the holder must inform the Agency in writing that demand was made on the lender and the lender refused. Following the lender's refusal, the holder may continue as holder of the guaranteed portion of the loan or request that the Agency purchase the guaranteed portion. Within 30 days after written demand to the Agency from the holder with required attachments, the Agency will forward to the holder payment of the unpaid principal balance, with accrued interest to the date of repurchase. If the holder does not desire repurchase or purchase of a defaulted loan, the lender must forward the holder its pro-rata share of payments, liquidation proceeds and Agency loss payments.

If the lender believes the holder is making demand for repayment outside the allowable reasons, the lender should detail why they believe the demand is unreasonable in a refusal letter to the holder. A copy of this letter should also be forwarded to FSA.

Upon repurchase, the lender shall notify FSA by returning the original FSA-2242.

375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144) (Continued)

B Lender Initiated Repurchase

If due to loan default or imminent loan restructuring, the lender determines that its repurchase is necessary to adequately service the loan, the lender may repurchase the guaranteed portion of the loan from the holder, with the written approval of the Agency.

The requirements in FSA-2242 are as follows:

- the lender may demand repurchase to conduct any of the servicing actions in Part 9, 12, ***--**or 14 and for interest rate reductions according to subparagraph 284 B, as long as all the requirements of this paragraph are met**--***

- lender repurchase is not required if the holder will agree to the restructured terms of the note

- if interest is capitalized, a new note is taken, the original note is amended, or the principal amount is modified, the lender must ensure that the assignment is amended to reflect the actual guaranteed portion held by the holder

  Note: In cases involving the secondary market, a restructuring action may involve repurchase from the holder.

- **the lender will not repurchase from the holder for arbitrage purposes. With its request for Agency concurrence, the lender will notify the Agency of its plans to resell the guaranteed portion following servicing**

- **the holder will sell the guaranteed portion of the loan to the lender for an amount agreed to between the lender and the holder.**

If the lender chooses to repurchase the loan for servicing, SEL and CLP lenders must receive written approval from the authorized agency official or SED or designee before repurchasing a guarantee. The request for approval must include the reason for repurchase; for example, IA, *** * *** default, restructuring, or liquidation; and the proposed servicing or liquidation plan, if any, for the loan or asset.

Once the request is received by FSA, the lender will receive notification of FSA's approval or rejection within 14 calendar days. PLP's do not need FSA approval to repurchase, but must repurchase the guarantee according to the terms of their Lender's Agreement.

The lender must document all attempts to repurchase the loan from the holder in the loan file.

375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144) (Continued)

C Purchase of the Loan or Note by FSA

With its demand on the Agency, the holder will include:

- **a copy of the written demand made upon the lender**
- **originals of the Guarantee and note properly endorsed to the Agency, or the original of the Assignment of Guarantee**
- **a copy of any written response to the demand provided by the lender to the holder**
- **an account which FSA can forward the purchase amount by EFT.**

The amount due the holder from the Agency includes unpaid principal, unpaid interest to the date of demand, and interest which has accrued from the date of demand to the proposed payment date.

The authorized agency official will select a proposed settlement date no later than 30 calendar days from the date of the holder's demand letter to FSA. FSA will only pay interest that accrues based on the accrual method established by the terms of the promissory note.

Upon Agency request, the lender will provide a current statement stating the unpaid principal and interest owed by the borrower and the amount due the holder. A bank officer must certify the statement. Any discrepancy between the amount claimed by the holder and the information submitted by the lender must be resolved by the lender and the holder before payment will be approved by the Agency.

The Agency will not participate in resolution of any such discrepancy. When there is a discrepancy, the 30 day Agency payment requirement to the holder will be suspended until the discrepancy is resolved (subparagraph A).

375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144) (Continued)

C Repurchase of the Loan or Note by FSA (Continued)

Within 30 calendar days of the holder's demand for purchase, the authorized agency official shall:

- review the borrower's loan file

  Note: If the file indicates that a rescheduling or reamortization could correct the default then the authorized agency official should remind the lender of their responsibility for expeditiously liquidating the loan collateral in the event of an FSA purchase. Restructuring of the loan cannot occur once FSA purchase occurs.

- verify the amounts owed to the lender and the holder

- *--complete FSA-2250 and forward it to the RD Business Center, Guaranteed Commercial Branch for processing.--*

At the time of purchase by the Agency, the original Assignment of Guarantee (FSA-1980-36 or FSA-2242) **will be assigned by the holder to the Agency without recourse, including all rights, title, and interest in the loan.**

Purchase by the Agency does not change, alter, or modify any of the lender's obligations to the Agency specified in the Lender's Agreement or the Guarantee. Nor does the purchase waive any of the Agency's rights against the lender. The Agency succeeds to all rights of the holder under the Guarantee including the right to set-off against the lender.

D Repurchase Price of the Loan or Note

The repurchase by the lender will be for an amount equal to the portion of the loan held by the holder plus accrued interest.

The Agency Guarantee will not cover servicing fees that the lender accrues after the repurchase.

When the holder makes a demand on FSA to purchase the guaranteed portion of the loan, the purchase price will be equal to the unpaid principal and accrued interest. See subparagraph E.

375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144) (Continued)

E Interest Paid Upon FSA Repurchase

In the case of a request for Agency purchase, the government will only pay interest that accrues for up to 90 days from the date of the demand letter to the lender requesting the repurchase. However, if the holder requested repurchase from the Agency within 60 days of the request to the lender and for any reason not attributable to the holder and the lender, the Agency cannot make payment within 30 days of the holder's demand to the Agency, the holder will be entitled to interest to the date of the payment. See 7 CFR 762.160(b)(4)(i), subparagraph 374 D.

If at the time the holder requests FSA to purchase a loan or note, more than 90 calendar days have passed since the holder's demand to the lender, the holder will only receive principal and interest due at the time of the holder's request to the lender.

Immediately upon FSA's repurchase FSA will accrue interest at the note rate. (Lender servicing fees are not paid or reimbursed after the repurchase.) In addition, FSA will not cover the lender's fees by allowing the lender to keep the fees out of proceeds received from the liquidation of the collateral after FSA repurchases. In addition, in the event of a loss, if the interest accrual has ceased according to subparagraph 359 A before the FSA repurchase, FSA will not cover the lender's servicing fees by allowing the lender to keep the fees out of proceeds received from the liquidation of the collateral from the ceasing of interest accrual to the repurchase date.

Unless otherwise agreed to by SED and the holder, payment will be made in 30 calendar days of the receipt of the request from the holder.

376 Actions After Agency Repurchase (7 CFR 762.144)

A Request for Lender Repayment

Within 180 days of the Agency's repurchase, the lender will reimburse the Agency the amount of purchase, plus accrued interest, in one of the following ways:

- **by liquidating the loan security and paying the Agency its pro-rata share of liquidation proceeds**
- **paying the Agency [from it's own capital] the full amount paid to the holder plus any accrued interest**
- **the Agency may sell a purchased guaranteed loan on a non-recourse basis, if it determines that selling the portion of the loan that it holds is in the Government's best interest.**

If SED has a loan in their State, which has been purchased by FSA, that they propose to sell to another lender, they will obtain agreement from the current owner of the note and security instruments and forward the following to DAFLP:

- the reasons why the lender cannot comply with the 180-calendar-day reimbursement requirement
- a copy of the request from the lender to whom the loan will be sold
- economic justification for the sale price.

A nonrecourse sale will be at a price determined by DAFLP**. A non-recourse purchase from the Agency requires a written request to the Agency from the party that wants to purchase it, and written concurrence from the lender.**

376 Actions After Agency Repurchase (7 CFR 762.144) (Continued)

A Request for Lender Repayment (Continued)

Once FSA purchases the guarantee from the holder, the authorized agency official shall immediately notify the lender in writing that they must continue to service the loan and pass all payments to FSA according to FSA-1980-27 or Loan Guarantee. The authorized agency official will request in writing, one of the three following actions by the lender within 60 calendar days.

- Payment of the entire purchase amount (guaranteed portion plus accrued interest) of the loan held by FSA. Details of the purchase will be provided in the FSA request including:
  - date demand was made on the lender
  - date demand was made on FSA
  - name of the previous holder
  - amount of purchase price paid by FSA
  - daily interest accrual on the purchase amount
  - notification that the FSA loan guarantee is forfeited upon payment of the purchase amount and that the lender must submit the FSA-2241 indicating the guarantee is to be terminated.

    Note: Upon receipt of the payment and completed FSA-2241 from the lender, the authorized agency official shall complete FSA-2251 and forward the *--payment to the RD Business Center, Guaranteed Commercial Branch.--* Termination of the guarantee should be completed in GLS once the lender's payment has processed.

- If liquidation of loan security has been completed, a properly completed FSA-2254 with loan ledgers and supporting documents. FSA-2254 will be coded for final loss review by SED or designee. If the loss amount is less than the amount held by FSA, the loss claim must include a check from the lender for the difference, plus interest up to the date of payment (subparagraph 360 F).

- If liquidation has not been completed, a liquidation plan, if not already received (subparagraph 358 B). Interest accruing to FSA as holder on the repurchase amount*-- will continue until payment is received from the lender. If liquidation is projected to take longer than 180 calendar days after FSA purchase, the lender will be requested to submit a final loss claim based on receiving the market value of the collateral. See FSA-2254 for calculation of the final loss claim.

FSA will make similar requests of the lender again after 90 and 120 calendar days. If the lender refuses or fails to comply with the request after 180 calendar days, then SED will follow the procedures in subparagraph B.

376 Actions After Agency Repurchase (7 CFR 762.144) (Continued)

A Request for Lender Repayment (Continued)

If a lender fails to comply with the requests, SED shall:

- *--Contact the National Office loan servicing division for instructions on notifying the lender of FSA's intent to the collect the purchase amount by administrative offset (FSA-2701), according to 7-FLP

  Notes: Contact the National Office for appropriate Due Process Notification.--*

  An administrative offset will occur against future loss claims the lender may submit.

- refer the case to the Regional OGC for referral to the US Attorney's office to initiate legal action to collect the amount owed FSA for purchase

- determine whether lender status should be revoked according to 7 CFR 762.106(a)(2)(ix), if the lender is a PLP or CLP lender. See Part 4 for further information on revoking lender status.

B Failure to Reimburse FSA

*--If the lender does not reimburse FSA within 180 calendar days, **[7 CFR 762.144 (c)] the--* lender will be liable for the repurchase amount and any expenses incurred by the Agency to maintain the loan in its portfolio or liquidate the security. While the Agency holds the guaranteed portion of the loan, the lender will transmit to the Agency any payment received from the borrower, including the pro-rata share of liquidation or other proceeds.**

***--[7 CFR 762.144 (c)(9)] If the borrower files for reorganization under the provisions--* of the bankruptcy code or pays the account current while the purchase by the Government is being processed, the Agency may hold the loan as long it determines this action to be in the Agency's interest. If the lender is not proceeding expeditiously to collect the loan or reimbursement is not waived under this paragraph, the Agency will demand payment by the lender and collect the purchase amount through administrative offset of any claims due the lender.**

Upon approval by SED, FSA may continue as holder of the guaranteed portion of the loan until it can be refinanced or the bankruptcy plan is completed, whichever comes first. In such a situation, the authorized agency official shall notify the lender that the lender must send the pro rata share of the borrower's payments directly to FSA.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

None.

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation and Wetland Conservation Certification		66, 208
FmHA-449-34	Loan Note Guarantee		267, 281
FmHA-1980-64	Interest Assistance Agreement		224, 228, 230
FSA-850	Environmental Screening Worksheet		66, 69, 70, 83, 95, 96, 195, 244
FSA-851	Environmental Risk Survey Form		Text, Ex. 22
FSA-1940-3	Request for Obligation of Funds Guaranteed Loans		226, 230
FSA-1980-25	Application for Guarantee		108, 285, 286, 360, 361, 363
FSA-1980-27	Loan Guarantee		364, 376
FSA-1980-28	Preferred Lender Application for Guarantee		108, 285, 360, 361, 363
FSA-1980-36	Assignment of Guarantee		375
FSA-1980-64	Interest Assistance Agreement		224, 228, 230
FSA-2028	Security Agreement		50
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		249
FSA-2201	Lender’s Agreement		Text
FSA-2203	Preferred Lender Sticker		53
FSA-2205	Guaranteed Micro Lender Application		55
FSA-2211	Application for Guarantee		Text
FSA-2221	Interest Assistance Agreement		Text

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2222	Request for Interest Assistance Payment		228, 326
FSA-2231	Guaranteed Loan Evaluation and Obligation Request		96, 108, 151-153, 226, 230, 244, 245
FSA-2232	Conditional Commitment		Text, Ex. 22
FSA-2234	FSA Review of Lender's Evaluation of Collateral		247
FSA-2235	Loan Guarantee		Text
FSA-2236	Guaranteed Loan Closing Report and Lender Certification		46, 227, 245, 247, 248, 286
FSA-2241	Guaranteed Farm Loan Status Report		250, 266, 355, 357, 376, Ex. 12
FSA-2242	Assignment of Guarantee		373-375, Ex. 12
FSA-2243	Notice of Substitution of Lender (Transaction 4034)		287
FSA-2244	Guaranteed Loan Status Update Adjustment (Transaction 4048)		288
FSA-2245	Modification of Loan Guarantee		281, 286, 313, 326, Ex. 12
FSA-2246	Notification of Transfer and Assumption of a Guaranteed Loan Transaction Code 4037		281
FSA-2247	Guaranteed Loan Borrower Adjustments		281, 284, 288
FSA-2248	Guaranteed Farm Loan Default Status Report		Text, Ex. 12
FSA-2249	Request for Restructuring Guaranteed Loans		313, 344
FSA-2250	FSA Purchase of a Guaranteed Loan Portion		375
FSA-2251	Lender's Guaranteed Loan Payment to USDA		376
FSA-2252	Farm Loan Programs Guaranteed Writedown Worksheet		328, Ex. 12
FSA-2253	Shared Appreciation Agreement for Guaranteed Loans		181, 288, 328, 341, Ex. 12
FSA-2254	Guaranteed Loan Report of Loss		Text, Ex. 12
FSA-2261	Report on Collection Activities on Liquidated Accounts		266, 362, Ex. 12

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2263	Notice of the Establishment of Federal Debt, the Demand for Payment, and the Intent to Collect		363
FSA-2264	Notice of Intent to Collect by Administrative Offset for Nonborrower Entity		363
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
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 Redelegations 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
DFO	direct farm ownership	108, 151
DNP	Do Not Pay	46, 108
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	96, 108, 135
GLOC	guaranteed line of credit	108
GLS	guaranteed loan system	248, 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
INA	Immigration and Nationality Act	Ex. 7
LINC	Lender Interactive Network Connection	73, 266, Ex. 5
LOC	line of credit	Text
LTV	loan to value	166
MLP	Micro Lender Program	Text
MPCI	multi-peril crop insurance	Ex. 4.5, 4.6
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
SAM	System for Award Management	108
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
SOFR	Secured Overnight Financing Rate	135
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Redelegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20

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

Act

Act is the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

Additional Security

Additional security is property which provides security in excess of the amount of security value equal to the loan amount.

***--Adequate Security**

Adequate security means property which is required to provide a security value at least equal to the loan amount.--*

Adversely Affect

Adversely affect means that a change unrelated to the issue resolved through the appeal will result in the borrower no longer being eligible for the assistance requested.

Adjustment

Adjustment means the settlement of an FLP debt for less than the total amount owed. The adjusted amount is collected through a series of payments that are scheduled over time. An adjustment is not a final settlement until all scheduled payments have been made. After applying all payments pursuant to the adjustment agreement, any remaining balance is canceled. The amount canceled is reported to the IRS pursuant to § 3.90 of this title and applicable IRS requirements.

Administrative Appraisal Review

Administrative appraisal review is a review of an appraisal to determine if the appraisal:

(i) Meets applicable Agency requirements; and
(ii) Is accurate outside the requirements * * * of USPAP.

Agency

Agency is the FSA.

Agency Official

Agency official is any employee with FSA.

Agricultural Commodity

Agricultural commodity means livestock, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, ornamental plants, nursery crops, nuts, aquaculture species, and the products resulting from livestock, tree farming, and other plant and animal production as determined by the Agency.

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

Allonge

Allonge is an attachment or an addendum to a promissory note.

***--Appraisal**

Appraisal means a written statement independently and impartially prepared, setting forth an opinion as to the value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information. Real estate appraisals must comply with the Uniform Standards of Professional Appraisal Practice (USPAP).--*

Applicant

Applicant is the individual or entity applying for a loan or loan servicing under either the direct or guaranteed loan program.

Aquaculture

Aquaculture is the husbandry of any aquatic organisms (including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic plants) raised in a controlled or selected environment of which the applicant has exclusive rights to use.

Assignment of Guaranteed Portion

Assignment of guaranteed portion is a process by which the lender transfers the right to receive payments or income on a guaranteed loan to another party, usually in return for payment in the amount of the loan's guaranteed principal. The lender retains the unguaranteed portion in its portfolio and receives a fee from the purchaser or assignee to service the loan and receive and remit payments according to a written assignment agreement. This assignment can be reassigned or sold multiple times.

Assignment of Indemnity

Assignment of indemnity is the transfer of rights to compensation under an insurance contract.

Assistance

Assistance is financial assistance in the form of a direct or guaranteed loan or interest subsidy or servicing action.

Assumption

Assumption is the act of agreeing to be legally responsible for another party's indebtedness.

Authorized Agency Official

Authorized agency official is an employee who has either inherent or delegated authority to complete the described action.

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:

***--(i) Meets the loan eligibility requirements for a direct or guaranteed OL, FO, or CL loan, as applicable;**

(ii) 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.

***--(iii) Will materially and substantially participate in the operation of the farm:**
(A) 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; or

(B) 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;

***--(iv) 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)

***--(v) 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;**

***--(vi) 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**

(vii) In the case of an entity:

(A) All the members are related by blood or marriage; and
(B) All the members are beginning farmers.--*

Borrower (or Debtor)

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

Cancellation

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

Cash Flow Budget

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

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

Certified Mail

Certified mail is a delivery service offered by USPS that allows the sender proof of mailing, as well as proof of delivery.

Notes: Certified mail service provides the following:

- electronic verification that an article was delivered or delivery attempt was made

  Note: If the item was delivered, the electronic verification provides the date, time, and location of delivery.

- proof of delivery record (copy of the recipient's signature) that is kept at the Post Office for 2 years after mailing. If needed, the signature proof can be requested after mailing by purchasing the "Return Receipt After Mailing" service.

"Return Receipt" is an additional feature that may be purchased but is **not** required.

*** * ***

Civil Action

Civil action is a court proceeding to protect the Agency's financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

Commercially Foraged

Commercially foraged means the harvesting of naturally occurring plants, or plantlike material, including fungi, that develop naturally with limited management of the resource.

Compromise

Compromise is the settlement of an FLP debt or claim by a lump-sum payment of less than the total amount owed in satisfaction of the debt or claim.

Conditional Commitment

Conditional commitment is the Agency's commitment to a lender that the material the lender has submitted is approved subject to the completion of all listed conditions and requirements.

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

Conservation Contract

Conservation Contract is a contract under which a borrower agrees to set aside land for conservation, recreation or wildlife purposes in exchange for reduction of a portion of an outstanding FLP debt.

Conservation Loan (CL)

CL means a loan made to eligible applicants to cover the costs to the applicant of carrying out a qualified conservation project.

Conservation Plan

Conservation plan means an NRCS-approved written record of the land user's decisions and supporting information, for treatment of a land unit or water as a result of the planning process, that meets NRCS Field Office Technical Guide (FOTG) quality criteria for each natural resource (soil, water, air, plants, and animals) and takes into account economic and social considerations. The conservation plan describes the schedule of operations and activities needed to solve identified natural resource problems and takes advantage of opportunities at a conservation management system level. This definition only applies to the direct loans and guaranteed loans for the Conservation Loan Program.

Conservation Practice

Conservation practice means a specific treatment, such as a structural or vegetative measure, or management technique, commonly used to meet specific needs in planning and implementing conservation, for which standards and specifications have been developed. Conservation practices are contained in the appropriate NRCS Field Office Technical Guide (FOTG), which is based on the National Handbook of Conservation Practices (NHCP).

Conservation Project

Conservation project means conservation measures that address provisions of a conservation plan or Forest Stewardship Management Plan.

Consolidation

Consolidation is the process of combining the outstanding principal and interest balance of two or more loans of the same type made for operating purposes.

Construction

Construction is work such as erecting, repairing, remodeling, relocating, adding to, or salvaging any building or structure, and the installing, repairing, or adding to heating and electrical systems, water systems, sewage disposal systems, walks, steps, and driveways.

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

Controlled

Controlled is when a director or an employee has more than a 50 percent ownership in an entity or, the director or employee, together with relatives of the director or employee, have more than a 50 percent ownership.

Controlled Substance

Controlled substance is the term as defined in 21 U.S.C. 812.

Cooperative

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

Corporation

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

Cosigner

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

County

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

County Average Yield

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

Criminal Action

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

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

Debt Forgiveness

***--<u>Debt forgiveness</u> means the reduction or termination of a debt under the Act in a manner that results in a loss to the Agency:**

(i) Debt forgiveness includes:

(A) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(B) Cancellation of remaining amounts owned after compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981;

(C) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency;

(D) Discharging a debt as a result of bankruptcy; or

(E) Releases of liability which result in a loss to the Agency.

(ii) Debt forgiveness does not include:

(A) Debt reduction through a conservation contract;

(B) Any write-down provided as part of the resolution of a discrimination complaint against the Agency;

(C) Prior debt forgiveness that has been repaid in its entirety;

(D) Consolidation, rescheduling, reamortization, or deferral of a loan; and

(E) Forgiveness of YL debt, due to circumstances beyond the borrower's control.

The Agency will use the criteria in 7 CFR 766.104(a)(1) to determine whether the circumstances were beyond the borrower's control.**--***

Debt Settlement

<u>Debt settlement</u> is a compromise, adjustment, or cancellation of an Agency debt.

***--Debt Write-Down**

<u>Debt write-down</u> means the reduction of the borrower's debt to that amount the Agency--* determines to be collectible based on an analysis of the security value and the borrower's ability to pay.

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

Default

Default is the failure of a borrower to observe any agreement with the Agency, or the lender in the case of a guaranteed loan, as contained in promissory notes, security instruments, and similar or related instruments.

Deferral

Deferral is a postponement of the payment of interest or principal, or both.

Delinquent Borrower

Delinquent borrower, for loan servicing purposes, is a borrower who has failed to make all scheduled payments by the due date.

Direct Loan

Direct loan is a loan funded and serviced by the Agency as the lender.

Disaster

Disaster is an event of unusual and adverse weather conditions or other natural phenomena, or quarantine, that has substantially affected the production of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area as designated by the Agency.

Disaster Area

Disaster area is the county or counties declared or designated as a disaster area for EM loan assistance as a result of disaster related losses. This area includes counties contiguous to those counties declared or designated as disaster areas.

Disaster Yield

Disaster yield is the per-acre yield of an agricultural commodity for the operation during the production cycle when the disaster occurred.

Down Payment Loan

***--Down payment loan is a type of FO** direct **loan made to eligible applicants to finance a--* portion of a real estate purchase under part 764, subpart E of this chapter.**

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

Due Diligence

Due Diligence (762.128) is the process of evaluating real estate in the context of a real estate transaction to determine the presence of contamination from release of hazardous substances, petroleum products, or other environmental hazards and determining what effect, if any, the contamination has on the security value of the property.

Economic Emergency Loan

Economic Emergency loan is a loan that was made or guaranteed to an eligible applicant to allow for continuation of the operation during an economic emergency which was caused by a lack of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. EE loans are not currently funded; however, such outstanding loans are serviced by the Agency or the lender in the case of a guaranteed EE loan.

Emergency Loan

Emergency loan is a loan made to eligible applicants who have incurred substantial financial losses from a disaster.

Embedded Entity

Embedded entity means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in another entity.

Entity

Entity means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Programs purposes.

Entity Member

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

EZ Guarantee

EZ Guarantee means a type of OL or FO of $100,000 or less made using a simplified loan application. As part of the simplified application process, EZ Guarantees are processed using a streamlined underwriting method to determine financial feasibility.

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

False Information

False information is information provided by an applicant, borrower or other source to the Agency that the applicant or borrower knows to be incorrect.

Family Farm

Family farm is a business operation that:

***--(i) Produces agricultural commodities, including agricultural commodities commercially foraged on Indian land for the purposes of OLs, for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence or non-eligible enterprise;**

(ii) Has both physical labor and management provided as follows:

(A) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:

(1) The borrower, with input and assistance allowed from persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or

(2) The members responsible for operating the farm, in the case of an entity; and

(B) A substantial amount of labor to operate the farm is provided by:

(1) The borrower, with input and assistance allowed from persons who are either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or

(2) The members responsible for operating the farm, in the case of an entity;

(iii) May use full-time hired labor in amounts only to supplement family labor; and

(iv) May use reasonable amounts of temporary labor for seasonal peak workload--* periods or intermittently for labor intensive activities.

Family Living Expenses

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

Family Members

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

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

Farm

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

Farmer

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

Farm Income

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

Farm Loan Programs

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

Farm Ownership Loan

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

Farm Program Payments

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

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

Feasible Plan

--Feasible plan means when an applicant or borrower's cash flow budget or farm operating plan indicates that there is sufficient cash inflow to pay all cash outflow. If a loan approval or servicing action exceeds one production cycle and the planned cash flow budget or farm operating plan is atypical due to an interest only or otherwise unequal installment, cash or inventory on hand, new enterprises, carryover debt, atypical planned purchases, important operating changes, or other reasons, a cash flow budget or farm operating plan must be prepared that reflects a typical cycle. If the request is for only one cycle, a feasible plan for only that production cycle is required for approval.--

Fixture

Fixture is an item of personal property attached to real estate in such a way that it cannot be removed without defacing or dismantling the structure, or damaging the item itself.

Floodplains

Floodplains are lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain is used to designate the 100-year floodplain (one percent chance floodplain). The critical floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

Foreclosure Sale

Foreclosure sale is the act of selling security either under the power of sale in the security instrument or through judicial proceedings.

Forest Stewardship Management Plan

Forest Stewardship Management Plan means a property-specific, long-term, multi-resource plan that addresses private landowner objectives while recommending a set and schedule of management practices designed to achieve a desired future forest condition developed and approved through the USDA Forest Service or its agent.

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

Good Faith

--Good faith means when an applicant or borrower provides current, complete, and truthful information when applying for assistance and in all past dealings with the Agency, and adheres to all written agreements with the Agency including, loan agreements, security instruments, farm operating plans, and agreements for use of proceeds. If the borrower's inability to adhere to all agreements is due to circumstances beyond the borrower's control, the Agency will consider the borrower to have acted in good faith. In addition, the Agency may also consider fraud, waste, or conversion actions, when determining if an applicant or borrower has acted in good faith. Such determinations of fraud, waste, or conversion that are substantiated by a legal opinion from OGC constitute an independent basis for determinations of not having acted in good faith.--

Graduation

Graduation is the payment in full of all direct FLP loans, except for CLs, made for operating, real estate, or both purposes by refinancing with other credit sources either with or without an Agency guarantee.

Guaranteed Loan

Guaranteed loan is a loan made and serviced by a lender for which the Agency has entered into a Lender's Agreement and for which the Agency has issued a Loan Guarantee. This term also includes guaranteed lines of credit except where otherwise indicated.

Guarantor

Guarantor is a party not included in the farming operation who assumes responsibility for repayment in the event of default.

Hazard Insurance

Hazard insurance is insurance covering fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workers compensation, or any similar insurance that is available and needed to protect the Agency security or that is required by law.

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

Highly Erodible Land

Highly erodible land is land as determined by Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985.

Holder

Holder is a person or organization other than the lender that holds all or a part of the guaranteed portion of an Agency guaranteed loan but has no servicing responsibilities. When the lender assigns a part of the guaranteed loan by executing an Agency assignment form, the assignee becomes a holder.

Inaccurate Information

Inaccurate information is incorrect information provided by an applicant, borrower, lender, or other source without the intent of fraudulently obtaining benefits.

***--Indian Land**

Indian land, for the purposes of the definition of "family farm" in this section, means land, or the interest therein, that is:

(i) Owned by an Indian tribe;

(ii) Owned by an Indian tribe and is subject to restrictions against alienation or encumbrance by the United States; or

(iii) Held in trust by the United States for an Indian tribe.--*

Indian Reservation

Indian reservation is all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian Tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian Tribe.

***--Indian Tribe**

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.--*

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

In-House Expenses

In-house expenses are expenses associated with credit management and loan servicing by the lender and the lender's contractor. In-house expenses include, but are not limited to, employee salaries, staff lawyers, travel, supplies, and overhead.

Interest Assistance Agreement

Interest Assistance Agreement is the appropriate Agency form executed by the Agency and the lender containing the terms and conditions under which the Agency will make interest assistance payments to the lender on behalf of the guaranteed loan borrower.

Internal Administrative Offset (IAO)

Internal Administrative Offset (IAO) is a non-centralized administrative offset between a USDA creditor agency and a USDA payment authorizing agency.

Joint Financing Arrangement

Joint financing arrangement is an arrangement in which two or more lenders make separate loans simultaneously to supply the funds required by one applicant.

Joint Operation

Joint operation is an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

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

Leasehold

Leasehold is a right to use farm property for a specific period of time under conditions provided for in a lease agreement.

Lender

Lender is the organization making and servicing a loan, or advancing and servicing a line of credit that is guaranteed by the Agency. The lender is also the party requesting a guarantee.

Lender's Agreement

Lender's Agreement is the appropriate Agency form executed by the Agency and the lender setting forth their loan responsibilities when the Loan Guarantee is issued.

Lien

***--Lien is a legally enforceable claim against real or personal property of another obtained--* as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.**

Line of Credit Agreement

Line of Credit Agreement is a contract between the borrower and the lender that contains certain lender and borrower conditions, limitations, and responsibilities for credit extension and acceptance where loan principal balance may fluctuate throughout the term of the contract.

Liquidation

Liquidation is the act of selling security for recovery of amounts owed to the Agency or lender.

Liquidation Expenses

Liquidation expenses are the costs of an appraisal, due diligence evaluation, environmental assessment, outside attorney fees, and other costs incurred as a direct result of liquidating the security for a direct or guaranteed loan. Liquidation expenses do not include internal Agency expenses for a direct loan or in-house expenses for a guaranteed loan.

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

Livestock

Livestock is a member of the animal kingdom, or product thereof, as determined by the Agency.

Loan Agreement

Loan Agreement is a contract between the borrower and the lender that contains certain lender and borrower agreements, conditions, limitations, and responsibilities for credit extension and acceptance.

Loan Servicing Programs

Loan servicing programs include any primary loan servicing program, conservation contract, current market value buyout, and homestead protection.

Loan Transaction

Loan transaction is any loan approval or servicing action.

Loss Claim

Loss claim is a request made to the Agency by a lender to receive a reimbursement based on a percentage of the lender's loss on a loan covered by an Agency guarantee.

Loss Rate

Loss rate is the net amount of loan loss claims paid on FSA guaranteed loans made in the previous 7 years divided by the total loan amount of all such loans guaranteed during the same period.

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

Major Deficiency

Major deficiency is a deficiency that directly effects the soundness of the loan.

Majority Interest

Majority interest is more than a 50 percent interest in an entity held by an individual or group of individuals.

Market Value

***--Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:**
(i) The buyer and seller are typically motivated;
(ii) Both parties are well informed or well advised, and acting in what they consider to be their own best interests;
(iii) A reasonable time is allowed for exposure in the open market;
(iv) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
(v) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.--*

Minor Deficiency

Minor deficiency is a deficiency that violates agency regulations, but does not affect the soundness of the loan.

Mortgage

Mortgage is a legal instrument giving the lender a security interest or lien on real or personal property of any kind. The term "mortgage" also includes the terms "deed of trust" and "security agreement."

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

Natural Disaster

Natural disaster is unusual and adverse weather conditions or natural phenomena that have substantially affected farmers by causing severe physical or production, or both, losses.

Negligent Servicing

Negligent servicing is servicing that fails to include those actions that are considered normal industry standards of loan management or comply with the lender's agreement or the guarantee. Negligent servicing includes failure to act or failure to act in a timely manner consistent with actions of a reasonable lender in loan making, servicing, and collection.

Negotiated Sale

Negotiated sale is a sale in which there is a bargaining of price or terms, or both.

Net Recovery Value of Security

Net recovery value of security is the market value of the security property, assuming that the lender in the case of a guaranteed loan, or the Agency in the case of a direct loan, will acquire the property and sell it for its highest and best use, less the lender's or the Agency's costs of property acquisition, retention, maintenance, and liquidation.

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

Non-Eligible Enterprise

***--Non-eligible enterprise means a business that meets the criteria in any one of the following categories:**

(i) Produces exotic animals, birds, or aquatic organisms or their products which may be agricultural in nature, but are not primarily associated with agricultural production, for example, there is no established or stable market for them or production is speculative in nature;

(ii) Produces animals, birds, or aquatic organisms ordinarily used for pets, companionship, sport, or pleasure and not primarily associated with human consumption, fiber, or draft use;

(iii) Primarily markets goods or provides services which might be agriculturally related, but are not produced by the farming operation; or

(iv) Processes or markets farm products when the majority of the commodities processed or marketed are not produced by the farming operation.

Non-Essential Assets

Non-essential assets means assets in which the borrower has an ownership interest, that:

(i) Do not contribute to:

(A) Income to pay essential family living expenses, or

(B) The farming operation; and

(ii) Are not exempt from judgment creditors or in a bankruptcy action.

For guaranteed loans, it is appropriate for a borrower to hold a reasonable amount of working capital reserves and savings, including those for retirement and education of family members, to support operational stability and growth. A reasonable amount of working capital reserves and savings is not considered a non-essential asset.**--***

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.

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

Non-Traditional Lender

Non-traditional lender is a lender that extends credit but is without federal deposit or share insurance protection. They typically do not hold deposit accounts and are not subject to supervision by the FDIC, Office of Comptroller of the Currency, Office of Thrift Supervision, Federal Reserve Board, Farm Credit Administration, or National Credit Union Administration. They include, but are not limited to, lenders regulated by the U.S. Department of the Treasury's Community Development Financial Institutions Fund.

Normal Income Security

Normal income security is all security not considered basic security, including crops, livestock, poultry products, other property covered by Agency liens that is sold in conjunction with the operation of a farm or other business, and FSA Farm Program payments.

Offset

Offset is the referral of a debt to TOP for offset of payments made to a debtor by Federal agencies other than USDA.

Operating Loan

Operating loan is a loan made to an eligible applicant to assist with the financial costs of operating a farm. The term also includes a direct Youth loan.

Operator

Operator is the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator. Under applicable State law, an entity may have to receive authorization from the State in which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

Partial Release

Partial release is the release of a portion of the security used as collateral for a loan, usually accomplished by the sale of the property.

Partnership

Partnership is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the partnership will operate a farm. It also must be authorized to own both real and personal property and to incur debt in its own name.

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

Past Due

Past due is when a payment is not made by the due date.

Personal Property

Personal property is property that may consist of, but is not limited to, crops, livestock, aquaculture species, farm equipment, inventory, accounts, contract rights, general *--intangibles, and supplies that are covered by financing statements and security agreements, personal property mortgages, and other security instruments.--*

Potential Liquidation Value

Potential liquidation value is the amount of a lender's protective bid at a foreclosure sale. *--Potential liquidation value may be determined by an independent appraiser using--* comparables from other forced liquidation sales.

Present Value

Present value is the present worth of a future stream of payments discounted to the current date.

Presidentially-Designated Emergency

Presidentially-designated emergency is a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

Production Cycle

Production cycle is the time it takes to produce an agricultural commodity from the beginning of the production process until it is normally disposed of or sold.

Program Loans

Program loans include FO, CL, OL, and EM. In addition, for loan servicing purposes the term includes existing loans for the following programs no longer funded: SW, RL, EE, ST, and RHF.

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

Promissory Note

Promissory note is a written agreement to pay a specified sum on demand or at a specified time to the party designated. The terms "promissory note" and "note" are interchangeable.

Prospectus

Prospectus consists of a transmittal letter, a current balance sheet and projected year's budget which is sent to commercial lenders to determine that lenders interest in financing or refinancing specific Agency direct loan applicants and borrowers.

Protective Advances

Protective advance is an advance made by the Agency or a lender to protect or preserve the collateral from loss or deterioration.

Purchase Money Interest

Purchase money interest is a component of UCC dealing with security and lien position. A lender providing for a crop or a particular piece of equipment can frequently have first position on that item despite other financing statements in place.

***--Real Estate Evaluation**

Real estate evaluation is an estimate of value of real estate provided by an individual who is not required to comply with USPAP, using market supported information to analyze the subject property.--*

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

Reamortization

Reamortization is the rewriting of rates or terms, or both, of a loan made for real estate purposes.

Recapture

Recapture is the amount that a guaranteed lender is entitled to recover from a guaranteed loan borrower in consideration for writing down a portion of their guaranteed loan debt when that loan was secured by real estate and that real estate increases in value. Also, the act of collecting shared appreciation.

Reasonable Rates and Terms

Reasonable rates and terms are those commercial rates and terms that other farmers are expected to meet when borrowing from a commercial lender or private source for a similar purpose and similar period of time. The "similar period of time" of available commercial loans will be measured against, but need not be the same as, the remaining or original term of the loan.

Recoverable Cost

Recoverable cost is a loan cost expense chargeable to either a borrower or property account.

Recreation Loan

Recreation loan is a loan that was made to eligible applicants to assist in the conversion of all or a portion of the farm they owned or operated to outdoor income producing recreation enterprises to supplement or supplant farm income. RL's are no longer funded, however, such outstanding loans are serviced by the Agency.

Redemption Right

Redemption right is a Federal or state right to reclaim property for a period of time established by law, by paying the amount paid at the involuntary sale plus accrued interest and costs.

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

Related by Blood or Marriage

Related by blood or marriage is being connected to one another as husband, wife, parent, *--child, brother, sister, uncle, aunt, grandparent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, nephew, niece, cousin, grandson, granddaughter, or the spouses of any of those individuals. "Related by blood or marriage" is used for consistency with a requirement in the CONACT. It has the same meaning as the word "relative" for the Farm Loan Programs regulations in this Chapter.

Relative

Relative means the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of those individuals. Relative has the same meaning as the term "Related by blood or marriage" for the Farm Loan Programs regulations in this Chapter.--*

Rescheduling

Rescheduling is the rewriting of the rates or terms, or both, of a loan made for operating purposes.

Restructuring

Restructuring is changing the terms of a debt through rescheduling, reamortization, *--deferral, write-down, or a combination thereof.--*

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

Security

Security is property or right of any kind that is subject to a real or personal property lien. Any reference to "collateral" or "security property" will be considered a reference to the term "security."

Security Instrument

Security instrument includes any document giving the Agency or lender **a security interest on real or personal property.**

Security Value

***--Security value is the market value of real estate or personal property (less the value of--* any prior liens) used as security for an Agency** or lender's **loan.**

Shared Appreciation Agreement

Shared Appreciation Agreement is an agreement between the Agency, or a lender in the case of a guaranteed loan, and a borrower on the appropriate Agency form that requires the borrower who has received a write-down on a direct or guaranteed loan to repay the Agency or the lender some or all of the write-down received, based on a percentage of any increase in the value of the real estate securing an SAA at a future date.

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

***--Socially Disadvantaged Applicant or Farmer**

Socially disadvantaged applicant or farmer is an individual or entity who is a member of--* a socially disadvantaged group. For entity applicants, the majority interest must be held by socially disadvantaged individuals. For married couples, the socially disadvantaged individual must have at least 50 percent ownership in the farm business and make most of the management decisions, contribute a significant amount of labor, and generally be recognized as the operator of the farm.

Socially Disadvantaged Group

Socially disadvantaged group is a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.

Soil and Water Loan

Soil and Water loan is a loan that was made to an eligible applicant to encourage and facilitate the improvement, protection, and proper use of farmland by providing financing for soil conservation, water development, conservation, and use; forestation; drainage of farmland; the establishment and improvement of permanent pasture; pollution abatement and control; and other related measures consistent with all Federal, State and local environmental standards. SW loans are no longer funded, however, such outstanding loans are serviced by the Agency.

State Beginning Farmer Program

State Beginning Farmer Program is any program that is carried out by, or under contract to, a State and designed to assist persons in obtaining the financial assistance necessary to establish a new or maintain a recently established farming operation.

***--Streamlined Conservation Loan (CL)**

Streamlined CL means a direct or guaranteed CL made to eligible applicants based on reduced documentation.--*

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

Subordination

Subordination is a creditor's temporary relinquishment of all or a portion of its lien priority in favor of another creditor, providing the other creditor with a priority right to collect a debt of a specific dollar amount from the sale of the same collateral.

Subsequent Loans

Subsequent loan is any FLP loan processed by the Agency after an initial loan of the same type has been made to the same borrower.

Technical Appraisal Review

Technical appraisal review is a review of an appraisal to determine if such appraisal meets the requirements of USPAP pursuant to standard 3 of USPAP.

***--Traditional Lender**

Traditional lender is a lender that is subject to examination and supervision by a Federal or State agency, and has Federal deposit or share insurance protection. This includes, but is not limited to, lenders supervised by FDIC, Office of Comptroller of the Currency, Office of Thrift Supervision, Federal Reserve Board, Farm Credit Administration, or National Credit Union Administration.**--***

Transfer and Assumption

Transfer and assumption is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.

Typical Plan

Typical plan is a projected income and expense statement listing all anticipated cash flows for a typical 12 month production cycle; including all farm and nonfarm income and all expenses (including debt service) to be incurred by the borrower during such period.

Typical Cash Flow Budget

Typical cash flow budget is a cash flow budget that reflects the cash inflows and outflows the operation will likely incur during a normal production cycle.

Trust

Trust is an entity that under applicable state law meets the criteria of being a trust of any kind but does not meet the criteria of being a farm cooperative, private domestic corporation, partnership, or joint operation.

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

Unaccounted for Security

Unaccounted for security is security for a direct or guaranteed loan that was misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from its sale have not been applied to the loan.

Unauthorized Assistance

Unauthorized assistance is any loan, loan servicing action, lower interest rate, loan guarantee, or subsidy received by a borrower, or lender, for which the borrower or lender was not eligible, which was not made in accordance with all Agency procedures and requirements, or which the Agency obligated from the wrong appropriation or fund. Unauthorized assistance may result from borrower, lender, or Agency error.

Undivided Ownership Interest

Undivided ownership interest means a common interest in the whole parcel of land that is owned by two or more people. Undivided ownership interest does not include those who own a specific piece of a parcel of land; rather they own a percentage interest in a parcel of land as a whole.

Uniform Standards of Professional Appraisal Practice

Uniform Standards of Professional Appraisal Practice are standards governing the preparation, reporting, and reviewing of appraisals established by the Appraisal Foundation pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

United States

United States is any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands.

U. S. Attorney

U. S. Attorney is an attorney for the United States Department of Justice.

***--Valuation**

Valuation is the estimation or determination of value of personal property or real estate by agency officials, vendors, or third parties, in each case, authorized or approved by the Agency.--*

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

Veteran

Veteran is any person who served in the military, naval, or air service during any war as defined in section 101(12) of title 38, United States Code.

***--Veteran Farmer**

Veteran farmer is a farmer who has served in the Armed Forces (as defined in 38 U.S.C. 101(10) and, the term "Armed Forces" means the U.S. Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard including the reserve components, **who:**

- **has not operated a farm**
- **has operated a farm but for not more than 10 years; or,**
- **is a veteran who served in the active military, naval, or air service, and who was discharged or released from that service under conditions other than dishonorable and who first obtained status as a veteran during the most recent 10-year period**.

For entity applicants, the majority interest must be held by veteran farmers. For married couples, the veteran farmer must have at least 50 percent ownership in the farm business and make most of the management decisions, contribute a significant amount of labor, and generally be recognized as the operator of the farm.**--***

Wetlands

Wetlands are those lands or areas of land as determined by the Natural Resources Conservation Service to meet the requirements provided in section 1201 of the Food Security Act of 1985.

Working Capital

Working capital is cash available to conduct normal daily operations including, but not limited to, paying for feed, seed, fertilizer, pesticides, farm supplies, cooperative stock, and cash rent.

State Supplements

The following table lists required State supplements.

Subparagraph	State Supplement
267 B	Guidance on determining how the file review requirement will be met in their State.

Note: SED's shall:

- issue State supplements according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

--Lender's Loan Narrative (Non-PLP Lenders)--

A Content and Level of Detail

All guaranteed loan requests, except EZ Guarantee loan requests, must include a lender's loan narrative that addresses the 5 "Cs" of credit found in 2-FLP, subparagraph 66 C. The following is a summary of:

- the content FSA expects a typical loan narrative to contain
- factors to consider
- applicable 2-FLP references.

This document is not meant to be all-inclusive and is provided to assist lenders and FSA personnel prepare proper loan narratives. The loan narrative must provide the FSA loan approval official with the information required to ensure that the:

- guaranteed loan applicant meets the eligibility requirements
- proposed use of funds is authorized
- applicant's proposed operation is viable
- proposed security for the loan is sufficient to adequately secure the loan.

Note: Every guaranteed loan application is unique and the level of detail required in the lender's loan narrative will vary.

Example: A loan narrative for an existing FLP customer may have fewer details than an application for a new customer who is refinancing the lender's existing debt. FSA officials must use judgment to determine the appropriate level of detail in the lender's loan narrative.

B Eligibility

2-FLP References	
Subparagraphs: 66 C 66 I 67 A 69 B	Paragraphs: 108 109 (OL) 110 (FO) 111 (OL and FO Entity Applicants) 112 (CL)

The lender's narrative should address how the loan applicant meets FSA's eligibility regulations found in 2-FLP, paragraphs 108-112. Some of these requirements must be addressed with each loan application, and some only need to be discussed if the lender has particular relevant information. The following describes what must be addressed in all cases, what is relevant only in certain cases, and the elements to include in each.

--Lender's Loan Narrative (Non-PLP Lenders)--

B Eligibility (Continued)

Key Eligibility Requirements Lenders MUST Address for Each Loan

[1] Description of the Farming Operation. FSA relies heavily on the lender's description of the operation to determine whether the loan applicant meets the program's statutory requirement to be an owner/operator or tenant/operator of a farm not larger than family size. Without direct knowledge or interaction with the loan applicant, FSA depends on the lender's description of the applicant and operation to make this decision. The following should be discussed:

- What products are raised?
- In what quantities (acres, head, etc.)?
- How are they marketed?
- What is the legal structure of the operation (sole proprietorship, LLC, S corporation, partnership)?
- Who are the owners and what are their roles?
- Who else is involved in the daily management structure?
- How much labor is hired and how much is provided by the owners?
- What are their roles?
- **Entity Example:** Joseph John Farmer and Jane Elizabeth Farmer are the sole members of Down by the Bay Farms, LLC. Down by the Bay Farms, LLC is located at 12345 Farm Town Road, Ranch City, Louisiana and is legally registered to operate in the state of Louisiana. The LLC operates 1,000 acres on a no-till corn/soybean rotation and 500 head cow/calf operation. Joe is primarily responsible for the farming operation while Jane manages the finances and record keeping. The LLC employs one full-time hired hand and two seasonal hired hands.

--Lender's Loan Narrative (Non-PLP Lenders)--

B Eligibility (Continued)

Other items to include in a description of the operation:

- General description of the owned and rented real estate (location, acres, owner, cost/acre, etc.)
- General description of the equipment and other facilities. What key items are owned and rented? What is the condition?
- A list of the location of all land to be farmed (unless submitted separately as part of the application). FSA needs this information for environmental review.
- What are the short-term and long-term goals of farming operation?
- What changes are planned for the farming operation?
- What environmental issues are present (if any) and what is their impact?

Less detail may be required for…	More detail may be required for…
traditional farming enterprises	multiple and/or non-traditional farming enterprises
sole-proprietorships or joint operations	partnerships, LLC's, embedded entities, etc.
there are no changes in the farming operation	there are changes in the farming operation

[2] Credit History. FSA relies on the lender's ability to adequately demonstrate their acceptable credit history. A history of failures to repay past debts when the ability to repay was within the applicant's control will demonstrate unacceptable credit history. FSA does not consider isolated instances of late payment or lack of credit history as unacceptable credit history. The following should be discussed:

- Explain any history of late payments; were they beyond or within the applicant's control?
- Explain low credit score or lack of credit history.
- Describe lending relationship with the financial institution.

Example: Bob and Betty Farmer have a good relationship with ABC Savings Bank. They have had some credit issues in the past. Bob's credit score is 600 and Betty's is 595. Five years ago, Bob and Betty had premature twins who required significant medical care. This led to bills becoming past due and medical debt. Since then, Bob and Betty have worked hard to improve their financial standing by paying extra on debt and regularly communicating with the bank. Most of the medical debt has been paid off and their credit scores are showing marked improvement.

--Lender's Loan Narrative (Non-PLP Lenders)--

B Eligibility (Continued)

Less detail may be required if…	More detail may be required if...
no debt refinance	prior debt refinancing
no credit issues beyond the applicant's control	credit issues beyond the applicant's control
no late payments or isolated instances of late payment	significant number of late payments

[3] Test for Credit. FSA depends on lenders to explain why they cannot make the applicant a loan at reasonable rates and terms without a guarantee.

- The need for the guarantee must be based on a weakness, such as cash flow, new enterprise, irregular performance history, rapid expansion, poor market, net worth, current capital position, limited collateral, new operator.

  Example: A guarantee is required because the applicant does not meet lender standards for capital and repayment capacity. Applicant has a repayment capacity of 1.01 and debt/equity of 55 percent. Internal lending standards require repayment capacity of 1.10 or higher and debt/equity of 50 percent.

- Selling the guaranteed portion on the secondary market alone for just a fixed rate and term is not adequate. Explain how the secondary market rates and terms are necessary for the operation's success.

  Example: Without a guarantee to sell on the secondary market, the lender is not able to offer a fixed interest rate which will benefit the customer's repayment capacity in the long term as well as reduce the overall risk in the future of potential rate increases. This will also allow the customer's repayment capacity to meet internal lender standards.

Less detail may be required if…	More detail may be required if…
meets internal lending standards	does not meet internal lending standards
no debt refinance	there is refinance of debt
no current or recent delinquencies	there are current or recent delinquencies

Other Eligibility Rules to Discuss If Necessary

The following eligibility requirements **typically** do not need to be addressed in the lender's loan narrative, since the lender or applicant self-certifies on the loan application and/or FSA loan official can check on the status of the following items. The following items only require further explanation in unusual circumstances.

--Lender's Loan Narrative (Non-PLP Lenders)--

B Eligibility (Continued)

Does or is the applicant:

- a U.S. citizen, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws?

  Note: Only discuss if applicant is a U.S. non-citizen national or qualified alien.

- meet all the requirements of prior FSA debt forgiveness?

- not delinquent on any Federal Debt?

- not have any outstanding judgments obtained by a Federal Agency?

- have the legal capacity to incur the obligations of the loan?

- have any past convictions of planting, cultivating, growing, producing, harvesting, storing, trafficking, or possessing a controlled substance within the last 5 crop years?

C Loan Proposal

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	Paragraphs: 135 (interest rate) 137 (loan term and payment schedules) 122-123.5 (loan purposes)

The lender must adequately describe the proposed loan that includes a description of:

- loan type, amount, term, rate, and purpose

  Note: For loans containing a balloon payment, include loan renewal conditions.

- the original loan purpose if the loan request is for refinancing

- other proposed loans or loan restructuring (such as non-guaranteed, FSA direct loans, or other) including loan type, amount, term, rate, purpose, and security

- Conservation Plan or Forest Stewardship Management Plan and the need for a qualifying conservation practice (CL only).

--Lender's Loan Narrative (Non-PLP Lenders)--

C Loan Proposal (Continued)

Example: Because of the dry crop year with reduced yield/income and the customer's inability to cover all expenses and debt payments, XYZ Savings Bank is requesting a $345,000 guaranteed operating loan to refinance $100,000 in carryover operating debt, $100,000 in machinery loans from outside sources, and $145,000 existing machinery/livestock loans. This loan will be fixed at 4.5 percent for 7 years.

Example: Savings and Loan Federal Bank is requesting a $700,000 guaranteed line of credit to finance farm operating expenses for the next 5 years. This loan will be a variable rate loan at 5.5 percent for 5 years. At the end of each operating cycle, the credit will be reviewed to determine that cash flow is feasible before funds will be advanced for the next year.

Less detail may be required if...	**More detail may be required if...**
equally amortized loan installments	unequal loan installments and/or balloon payment
no debt refinance	debt refinance
no plans to sell the guaranteed portion of loan	selling the guaranteed portion of loan on secondary market

D Collateral Analysis

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	Paragraphs: 166 (amount and quality of security) 181 (appraisal requirements) 182 (personal property security appraisal requirements) 183 (real estate security appraisal requirements)

The lender must adequately describe security for proposed loan, including:

- assessment of the adequacy of the security being offered to secure the proposed loan (both primary and additional)
- explanation of how the ratios for the operation meet or do not meet internal standards by documenting strengths and weaknesses of the operation
- additional details or clarification on the security value and proposed lien position not apparent on the loan application
- explanation of the method used to establish the market value of the security - evaluation or appraisal and when it was completed

--Lender's Loan Narrative (Non-PLP Lenders)--

D Collateral Analysis (Continued)

- description of remaining useful life for highly specialized buildings

- explanation of how junior liens meet the 85 percent security rule (see 2-FLP, subparagraph 166 D).

Example: Primary security for the proposed loan is a first lien position on all machinery, equipment, and livestock. The bank will require 3rd party appraisals on all items prior to closing to support loan requirements. Additional security offered for the loan proposal is a second lien position on the 160 acres "The south farm" subject to the existing bank loan of $150,000. An internal evaluation will be completed on the additional security.

Less detail may be required if...	More detail may be required if...
first lien	shared or junior lien
real estate security	personal property or crop security

E Capacity Analysis

2-FLP References	
Subparagraphs: 66 C 67 A 69 B 122 E (OL debt refinance) 123 B (FO debt refinance)	Paragraphs: 151-154 (feasibility)

The lender must thoroughly support how the applicant meets their repayment capacity standards, including an explanation or discussion of:

- the method used to determine how repayment capacity standards were met

- how the ratios for the operation meet or do not meet internal standards by documenting strengths and weaknesses of the operation

- the applicant's projected cash flow (including deviations from previous history, strengths and weaknesses, addressing any changes in the pro-forma capacity not shown in the cash flow details)

- the source for the information, adjustments made, and any considerations made for changes in the operation or changes in the farm economy if capacity analysis was based on actual cash flow history (CLP and PLP lenders only)

--Lender's Loan Narrative (Non-PLP Lenders)--

E Capacity Analysis (Continued)

- the lender's standards and how the applicant meets those standards if a credit scorecard model was used (PLP lenders if allowed in CMS)

- assumptions made and basis for commodity prices and yields used to develop the cash flow budget

- why rescheduling or alternative payment schedules are not being offered (if refinancing debt held by lender).

Example: Joe and Jane Farmer's repayment capacity is derived from three prior years tax returns, and one internally prepared 11-month profit and loss statement. Tax returns in all three years show large losses from the Sugar Co-op deductions and patronage loss. These were tax events and not cash events. The tax returns were reconciled and then sugar deductions and losses were added back. The debt service coverage ratio (DSCR) for 2016 was just above 5. The 2017 DSCR was above 1 at 1.46. The 2018 DSCR was .27 with beet income the main driver for farm income loss. Just like in 2019, there was a large amount of crop inventory carried over from 2018. At the end of 2018, $224,000 in crop inventory was carried over into 2019. If those crops were sold at end of 2018 prices, the 2018 DSCR would have been 1.89.

The internal 2019 numbers show the additional farm ground taken on resulting in a 1.15 DSCR. Only expenses that had been paid were used on internal numbers. Last year when this credit was reviewed, the customer had projected a .46 DSCR. Actual DCSR was .27, so their projections were .19 higher. Those projections were actual end of 2019 numbers as of 12/1/2019. The lender concludes that 2019 numbers are accurate and estimates a 1:1 DSCR for 2019. An additional $117,893 in term debt was due before end of year 2019. On the 12/1/2019 balance sheet provided to the lender, there were $309,870 in accounts receivable and $297,000 in accounts payable, resulting in $12,870 additional income. That, along with crop inventory of $539,725, was more than enough to service all debt.

Projections for 2020 have a 1.18 DSCR which exceeds the bank's 1.15 capacity standard. This includes sugar beet income of $35/ton, which is a deviation from past years because full payment of beets has not happened. All commodity prices used on cash flow are based on the bank's established prices. Only bean prices have been modified to $28 based on the customers full contract with Northeastern Bean. An FSA guarantee is required because of capacity shortfall history from sugar beet underpayment. Positive cash flow for 2020 is $158,245.46 on 2020 cash flow.

--Lender's Loan Narrative (Non-PLP Lenders)--

E Capacity Analysis (Continued)

Less detail may be required if…	More detail may be required if…
high debt repayment margin	low debt repayment margin
balance sheet, cash flow projection, and financial and production histories are part of application	balance sheet, cash flow projection, financial or production histories are not part of application

F Capital Analysis

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	Paragraphs: 151-154 (feasibility)

The lender must adequately describe capital position of operation, including a discussion or explanation of:

- applicant's financial condition (in addition to just stating financial ratios, lender should provide context for the type of operation or the life stage of the operation – startup, new enterprise, preparing for retirement)
- ratios for the operation back to internal standards to help document strengths and weaknesses of the operation
- effect of new debt on financial condition
- non-essential assets, if any
- consolidation of balance sheets, if applicable.

Example: Over the last 3 years, the borrowers have shown steady progress in their overall financial condition. Their working capital, debt to asset (D:A), and net worth have all shown marked improvement. Their working capital sits at $250,575, up from $200,000. D:A ratio is 60 percent, down from 63 percent. Net worth is $755,895, up from $735,000. While those improvements have not been large, they have been steady from the major financial uncertainty of the 5 years before these past 3 years. The pro-forma balance sheet shows a small decrease in all these ratios. With the continued financial monitoring implemented over the past few years, this should be a one-time decrease.

--Lender's Loan Narrative (Non-PLP Lenders)--

F Capital Analysis (Continued)

Less detail may be required if…	More detail may be required if…
strong equity position	little or no equity
strong working capital	weak working capital

G Loan Conditions and Servicing Plan

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	

The lender must adequately describe loan conditions and servicing plans, including:

- an explanation of the loan servicing plan describing borrower's financial reporting requirements, limitations and conditions, and other borrower supervision (not required if described in another loan application document)

- the name, and current address of any guarantors or co-signers required to execute the promissory note (not required if this information is listed on the loan application or another application document).

Example: For the line of credit, the borrower will be required to obtain at least catastrophic level crop insurance coverage and give ABC Bank an assignment of crop insurance and government payments. The bank will also require the customer to submit invoices before advancing on the line of credit to manage funds properly since this has been an issue in the past. Customer will agree to a yearly farm inspection and a financial review twice a year. Cash flow will be developed and analyzed annual to determine if the budget is feasible and funds can be advanced for the following year.

Less detail may be required if…	More detail may be required if...
real estate security	equipment, livestock or crop security
FO	OL or LOC
financially strong farming operation	financially weak farming operation

--Lender's Loan Narrative (Non-PLP Lenders)--

H Loan Narrative Guide Checklist

	Eligibility: **Description of Operation** • What products are raised? • In what quantities (acres, head, etc.)? • How are they marketed? • What is the legal structure of the operation (sole proprietorship, LLC, S corporation, partnership)? • Who are the owners and what are their roles? • Who else is involved in the daily management structure? • How much labor is hired and how much is provided by the owners? • What are their roles? **Credit History** • Does the applicant have an acceptable credit history? • Describe your relationship history with the applicant. • Address any negative aspects of their credit history. **Test for Credit** • Why can't the lender make the loan without a guarantee?
	Loan Purpose: • Description of loan type, amount, term, rate, and purpose, (for loans containing a balloon payment, include loan renewal conditions) • Description of any other proposed loans or loan restructuring (non-guaranteed, FSA direct loans, other), including loan type, amount, term, rate, purpose, and security • Description of Conservation Plan or Forest Stewardship Management Plan, and the need for a qualifying conservation practice (CL only)

--Lender's Loan Narrative (Non-PLP Lenders)--

H Loan Narrative Guide Checklist (Continued)

	Collateral Analysis: • Assessment of the adequacy of the security being offered to secure the proposed loan • Discuss the ratios for the operation back to internal standards to help document strengths and weaknesses of the operation • Any additional details or clarification on the security value and proposed lien position not apparent on the loan application • Method used to establish the market value of the security - evaluation or appraisal
	Capacity Analysis: • Discuss applicant's projected cash flow (including deviations from previous history, strengths and weaknesses, addressing any changes in the pro-forma capacity not shown in the cash flow details) • Discuss the ratios for the operation back to internal standards to help document strengths and weaknesses of the operation • Discuss assumptions made and basis for commodity prices and yields used to develop cash flow • Discuss why rescheduling or alternative payment schedules are not being offered (if refinancing debt held by lender)
	Capital Analysis: • Discuss applicant's financial condition (in addition to just stating financial ratios, lender should provide context for the type of operation or the life stage of the operation – startup, new enterprise, preparing for retirement) • Discuss the ratios for the operation back to internal standards to help document strengths and weaknesses of the operation • Effect of new debt on financial condition • Discuss non-essential assets, if any • Discuss consolidation of balance sheets, if applicable
	Loan Conditions and Serving Plan: • Lender loan servicing plan describing borrower's financial reporting requirements, limitations and conditions, and other borrower supervision (not required if described in another loan application document) • The name and current address of any guarantors or co-signers required to execute the promissory note (not required if this information is listed on the loan application or another application document)

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative

Loan proposal:

Describes:
- ✓ The type of loan request
- ✓ Uses of loan funds
- ✓ Interest rate and terms
- ✓ Reasons for refinance if applicable
- ✓ The original loan purpose if refinancing

Sunshine Farm and Ranch and Rural Town Bank are requesting FSA guaranteed loan assistance. Their wheat yields over the past few years were substantially reduced because of late freeze, excessive flooding, hail, and heavy rains. Additionally, excessive repairs to irrigation equipment and excessive heat have affected their corn yields. Even though crop insurance paid, the yield issues have caused carry-over debt on the LOC. The family needs to restructure their balance sheet and term out carry-over debt to overcome this negative set back.

The plan for this proposal was discussed on February 1, 2023, during the pre-application farm visit with all members of the operation. During that visit, Rural Town Bank loan officer Frank Banker was able to:

- view the farming operation and potential security
- conduct an environmental inspection of the property and found no noted ground disturbance or environmental concerns
- discuss a plan on successfully moving forward.

Loan #1: Rural Town Bank requests loan # 8745 be refinanced, along with debt of 3 other creditors. The loan amount requested is $400,500 with a 7-year term and a 3-year adjustable interest rate of 8.75 percent.

Refinance Rural Town Bank (8745)	$229,856
Refinance John Deere Credit	$ 51,200
Refinance Rural Town Coop	$ 22,000
Refinance carry over crop debt	$ 90,000
Additional accrued interest	$ 2,037
FSA guarantee fees	$ 5,407
Total	**$400,500**

Payment will be made annually with the first payment due following fall harvest in the amount of $78,910. Overall term loan payments will be reduced by $25,000 annually with the extended terms.

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

Loan #2: Rural Town Bank also requests an LOC for the upcoming operating year in the amount of $250,000. This will be an annually renewable note for 5 years.

Loan proceeds:

Crop input costs	$195,000
Feed	$ 50,000
Partner withdrawals (Bob and Anne)	$ 5,000
Total	**$250,000**

All income from farm proceeds will be applied to principal as grain or livestock are sold or government payments collected. Annual paydown will occur on the LOC to prevent carry over.

Interest is prime + 1.5 percent paid by December 1 annually or at note maturity. Initial rate projected to be set at 9 percent.

Rural Town Bank is requesting a 90 percent guarantee on both loan requests.

Description of the Farming Operation:

Describes:
- ✓ Who the owners of the operating entity are
- ✓ What percentage they own
- ✓ Who the owners of the land are if they are different from the operating entity
- ✓ Their responsibilities
- ✓ What they raise
- ✓ Size of the operation
- ✓ If any additional hired labor is required

Sunshine Farm and Ranch is a general farm partnership consisting of a father and mother, Bob and Anne Sunshine, and their two sons, Joe and Mike. The following table displays the partnership breakdown.

Partner	Title	Ownership	
Bob Sunshine	Partner	50%	General Management
Anne Sunshine	Partner		Bookkeeping
Joe Sunshine	Partner	25%	Daily management and labor
Mike Sunshine	Partner	25%	Daily management and labor

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

Most strategic business decisions are made by Bob, with Anne assisting with the bookkeeping. Bob and Anne jointly own a 50 percent interest in the partnership. Additionally, Joe and Mike provide all day-to-day labor and management of the operation holding 25 percent interest each. The operation hires occasional seasonal labor. Sunshine Farm and Ranch, located in East and West Counties, farms approximately 2,400 acres of dryland wheat, irrigated corn, and milo, and runs a small cow/calf operation of about 100 head of cows and 4 bulls. Bob individually owns two 160-acre parcels of irrigated farm ground and 300 acres of pasture. Bob and Anne Sunshine reside on one of those parcels. Joe and his wife Mary jointly own 80 acres of pasture and reside there as well. Mike is single and lives in Rural Town, Kansas. Sunshine Farm and Ranch also rents an additional 100 acres of pasture to rotate the cattle throughout the year to help with feed costs. The Sunshine's have been customers of Rural Town Bank since 2004 borrowing for term loans and then expanding the relationship with a revolving LOC as the operation grew larger.

Character:

Describes:
- ✓ If the credit acceptable
- ✓ What the credit report shows
- ✓ If any potential problems have been resolved
- ✓ What credit sources have been investigated
- ✓ The reasoning behind credit issues
- ✓ If the credit issues are within the applicant's control or not

The members of Sunshine Farm and Ranch display strong character and meet lending standards for character despite lower credit scores. They have shown their willingness to communicate openly with the bank about their financial issues.

Bob and Anne's credit score is 790. Their only farm debt is to Rural Town Bank on their owned 320 acres and home.

Joe and Mary's credit score is 689. A hospital bill from an auto accident their oldest son was in showed up on the credit report as a collection account. Auto insurance was slow to resolve the dispute involved in that bill, but it has now been paid in full. Joe and Mary's loan to Rural Town Bank is reported in good standing. They have several credit cards with small balances that are usually resolved in 3 to 6 months.

Mike's credit score is 620. His FMC pickup loan reported 5 late payments in the past 12 months but none over 30 days past due.

Their overall credit history appears satisfactory. Debts over $5,000 not reflected on the credit report have been verified.

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

Goals:

Describes
✓ Short-term goals
✓ Intermediate goals
✓ Long-term goal

The main goal of the operation is to heal from the past few years of financial setbacks. Over the next 5 years, Bob and Anne would like to complete the process of transferring ownership and management of the operation to their boys. After the transition, Bob would continue to assist harvesting spring crops, planting wheat, and helping as needed with the cattle.

Joe sees considerable potential in increasing the operation's profitability and Mary would like to devote more time to chores and bookkeeping after shifting from fulltime teaching to substitute teaching. Joe and Mary's oldest son wants to come back after college and join the operation.

Mike enjoys crop adjusting and has no desire to quit his day job but is willing to put more hours into the operation once Bob cuts back. Mike has indicated that he'd like to move into the country and purchase a small tract of ground.

These are all long-term goals until the operation can correct itself from prior setbacks. The ultimate goal of the operation is to operate profitably on a cash basis. For now, the bank is willing to continue with them using the guaranteed loan program.

Eligibility:

This farm operation meets the loan eligibility requirements outlined in 2 FLP, paragraph 108. The applicant has self-certified to applicable eligibility questions on the application. Credit history and operator of a family farm are addressed in the Character section. The need for the guarantee is addressed in the Capacity, Capital and Collateral sections. Rural Town Bank has determined there are no conflicts of interest present with this application.

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

Capacity:

Describes:
- ✓ Farm Income Sources, such as crops or livestock
- ✓ Lease information
- ✓ Expenses
- ✓ Marketing strategies
- ✓ Non-farm income sources
- ✓ Cash flow ratio information
- ✓ Scorecard model

A review of the financial information for this application indicates that the debt service margin of 1.05 percent does not meet the internal lending standard of 1.15 percent, therefore generating the need for the guarantee.

The cash flow projection provided with the application is for the upcoming crop year and reflects a typical year.

The cash flow is tight with their debt service margin at 1.05 percent. Their operating expense ratio is in line with their 3-year history of 77 percent. This return is good considering the increase in fuel expenses and prior year setbacks. The weakness is offset by grain contracts in place for the upcoming operating cycle, assignment of government payments and crop insurance, as well as established off-farm income.

Acres and yields: Sunshine Farm and Ranch's operation consists mainly of 1,200 acres of dryland wheat with average yields over the past 3 years around 42 bushels/acre. Irrigated corn is planted on 480 acres (2 owned and 1 rented with annual cash rent of $115/acre) with average yields of 220-240 bushels/acre. The remaining 720 acres are planted to milo with average yields ranging 50-80 bushel/acre. Soybeans are planted into the rotation every 3 years on 320 of the irrigated rented acres.

All irrigated croplands have good wells. The owned land wells average about 900 gpm, and the rented land wells averaging between 600-750 gpm. The crop ground has good soils, and the terraces are maintained. Some of the newer rented ground had bindweed problems over the past few years, but it has been mostly eradicated. None of the ground has been classified as HEL or Wetland.

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

Cattle: A smaller part of the operation's income comes from 75 head of calves being sold/retained. The plan utilizes a 2 percent death loss. The operation practices a cull rate of 10 percent with an equal retention rate to keep the average age of the overall herd. Calving rate is based on State historical information of 55 percent. Sunshine Farms sells all the calves to the local cattle feeder. For breeding purposes, the operation primarily utilizes AI with a cleanup bull. The cattle operation is supported by adequate pastures with good water sources. Pastures consist of native grasses and are plentiful in a good rainfall season. The pastures are relatively close together and there is good pond located on Joe's 80 acres. A pond and a creek run through the rented pasture. They would like to eventually add and grow their breeding cattle numbers and have increased from 75 to 100 over the past few years. Additional pasture is always a concern.

Leases: The sprinklers are provided by the landlord with the crop share and expenses split at 50/50. The balance of the rental arrangements are 1/3 landlord and 2/3 tenant.

Expenses: All expenses are in line with the 3-year history (provided) with adjustments made in seed, fertilizer, chemicals, and other inputs to an increase in input expenses.

Marketing: The operation does exercise forward contracting when feasible. The cash flow represents a history of forward contracting, and a typical year plan has also been developed using FSA's farm planning prices.

Nonfarm income and withdrawals: Bob and Anne receive social security income as well as a small partnership draw from the farming operation of $5,000 each year. Joe doesn't work off the farm and Mary is a schoolteacher. Mike works part-time as a crop insurance adjuster. The lender has not injected any off-farm income into the cash flow or personal debt. All members personal cash flows can stand alone. Joe's withdrawals from the farm show up under "labor" for $24,000/year. The operation supports this expense. Mike is paid as "seasonal labor" when necessary; otherwise, no withdrawals are made by Mike.

The family isn't planning any changes to their operation which had been working well until the last few years.

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

Collateral:

Describes
- ✓ The primary security for the loan
- ✓ Details about additional security
- ✓ Appraised values
- ✓ When appraisals were completed
- ✓ Any items not to be included as security
- ✓ Prior liens
- ✓ Non-essential/personal assets to be included in security

Sunshine Farm and Ranch meets the security requirements for internal lending standards of 70 percent. For additional collateral, the lender is requiring all personal ownership in real estate be pledged as security.

Both loans will be secured by a first lien on all farm personal property. The line of credit will have first priority lien on the crops and calves to be produced. Sunshine Farm and Ranch owns the farm equipment used in the operation, except for 2 sprinklers owned individually by Bob. That debt owed to We R Irrigation is included in the cash flow. An appraisal was completed by Ralph Appraiser during a field visit on XX-XX-XXXX, estimating $490,830 in equipment market value. The cattle were inspected at the same time and valued at $1,400/pair or $1,000/cow. Currently, they own 4 bulls valued at $2,000/each. Refer to the personal property appraisal for additional specifics. There are no plans for capital purchases. The collateral offered is adequate to secure the loan at a 70 percent Loan/Appraised Value. Rural Town Bank's underwriting standard is 70 percent, which requires that partners pledge their interest in real estate, subject to prior liens in place to Rural Town Bank. All loans will be cross collateralized.

Capital:

Describes
- ✓ What financial measures were taken into consideration
- ✓ How the new debt affects the operation
- ✓ Post-Close balance sheet analysis
- ✓ Non-essential assets

Given the past financial issues and carryover debt, Sunshine Farm and Ranch's current ratio of 50 percent and debt to asset ratio of 72 percent do not meet Rural Town Bank's internal lending standards for capital, making restructuring necessary.

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

The partnership balance sheet reflects a current ratio of 50 percent ($100,000 Current Assets/$200,000 Current Liabilities); however, this will correct itself shifting carry-over debt to intermediate thus creating a longer pay-out. Debt to asset ratio of 72 percent is higher than preferred because of the carry-over debt taken. After restructuring, the balance sheet will reflect a current ratio of 113 percent which is lower than Rural Town Bank's internal lending standards allow but within the requirements for a new loan with a FSA guarantee. Separate balance sheets for the individuals are enclosed for test for credit determinations and information on reserve equity but have not been included in our analysis.

Conditions & Servicing Plan:

Describes:
- ✓ Financial reporting requirements
- ✓ Borrower supervision requirements
- ✓ Name, SSN, address of any co-signors
- ✓ Any limitations or conditions

Servicing plan: Rural Town Bank's servicing plan includes annual farm visits and requires the borrower to submit annual financial statements, cash flow projection, and tax returns. If the borrower can't make all of their debt payments, an interim balance sheet and cash flow will be developed. LOC advances will be requested either by email or phone and itemized closely to document the expenses, supported by repair, fuel, fertilizer, seed, chemical and feed statements.

Additional conditions are:

1. No capital purchases without lender approval.

2. Assignment of government payments.

3. No advances for future years' operating until the lender has completed an analysis of the previous year or accounted for inventory and a feasible cash flow has been projected.

4. Assignment of MPCI policy to the Bank.

5. Subject to prior liens, Bob and Anne Sunshine and Joe and Mary Sunshine will pledge their real estate as collateral for the loans.

6. All partners and their spouses will sign the security documents.

--Lender's Loan Narrative (Non-PLP Lenders)--

I Sample Lender Narrative (Continued)

7. Family living expenses drawn from the entity are limited to Bob and Anne Sunshine and not to exceed $5,000 annually. All other family living expenses will be covered from non-farm sources.

8. All entity members are required to sign the promissory note as individuals.

Rural Town Bank believes Sunshine Farm and Ranch is on the upward trend financially. Over time, the conditions, servicing plan, and proposed loan structure will assist in the long-term viability of the operation.

*--Delegated Authority (PLP) Lender's Loan Narrative

A Content and Level of Detail

All guaranteed loan requests from lenders with delegated authority must include a lender's loan narrative that addresses the background information for the customer, a description of their operation, loan purpose, and certifications regarding capital position, repayment capacity, collateral, and credit history. The following is a summary of:

- the content FSA expects a typical loan narrative from a lender with delegated authority to contain
- factors to consider
- applicable 2-FLP references.

This document is not meant to be all-inclusive and is provided to assist lenders and FSA personnel prepare proper loan narratives. The loan narrative must provide the FSA loan approval official with the information required to ensure that the:

- guaranteed loan applicant meets the eligibility requirements
- proposed use of funds is authorized
- applicant's proposed operation is viable
- proposed security for the loan is sufficient to adequately secure the loan.

Note: Every guaranteed loan application is unique and the level of detail required in the lender's loan narrative will vary.

B Eligibility

2-FLP References	
Subparagraphs: 66 C 66 I 67 A 69 B	Paragraphs: 108 109 (OL) 110 (FO) 111 (OL and FO Entity Applicants) 112 (CL)

The lender's narrative should address how the loan applicant meets FSA's eligibility regulations found in 2-FLP, paragraphs 108-112. Some of these requirements must be addressed with each loan application, and some only need to be discussed if the lender has particular relevant information. The following describes what must be addressed in all cases, what is relevant only in certain cases, and the elements to include in each.--*

***--Delegated Authority (PLP) Lender's Loan Narrative**

B Eligibility (Continued)

Key Eligibility Requirements Lenders MUST Address for Each Loan

[1] Description of the Farming Operation. FSA relies heavily on the lender's description of the operation to determine whether the loan applicant meets the program's statutory requirement to be an owner/operator or tenant/operator of a farm not larger than family size. Without direct knowledge or interaction with the loan applicant, FSA depends on the lender's description of the applicant and operation to make this decision. The following should be discussed:

- What products are raised?
- In what quantities (acres, head, etc.)?
- How are they marketed?
- What is the legal structure of the operation (sole proprietorship, LLC, S corporation, partnership)?
- Who are the owners and what are their roles?
- Who else is involved in the daily management structure?
- How much labor is hired and how much is provided by the owners?
- What are their roles?
- **Entity Example:** Joseph John Farmer and Jane Elizabeth Farmer are the sole members of Down by the Bay Farms, LLC. Down by the Bay Farms, LLC is located at 12345 Farm Town Road, Ranch City, Louisiana and is legally registered to operate in the state of Louisiana. The LLC operates 1,000 acres on a no-till corn/soybean rotation and 500 head cow/calf operation. Joe is primarily responsible for the farming operation while Jane manages the finances and record keeping. The LLC employs one full-time hired hand and two seasonal hired hands.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative**

B Eligibility (Continued)

Other items to include in a description of the operation:

- General description of the owned and rented real estate (location, acres, owner, cost/acre, etc.)
- General description of the equipment and other facilities. What key items are owned and rented? What is the condition?
- A list of the location of all land to be farmed (unless submitted separately as part of the application). FSA needs this information for environmental review.
- What are the short-term and long-term goals of farming operation?
- What changes are planned for the farming operation?
- What environmental issues are present (if any) and what is their impact?

Less detail may be required for…	**More detail may be required for…**
traditional farming enterprises	multiple and/or non-traditional farming enterprises
sole-proprietorships or joint operations	partnerships, LLC's, embedded entities, etc.
there are no changes in the farming operation	there are changes in the farming operation

[2] Credit History. FSA relies on the lender's ability to adequately demonstrate their acceptable credit history and allows for a certification that the applicant meets this requirement.

[3] Test for Credit. FSA depends on lenders to certify they cannot make the applicant a loan at reasonable rates and terms without a guarantee.

Other Eligibility Rules to Discuss If Necessary

The following eligibility requirements **typically** do not need to be addressed in the lender's loan narrative, since the lender or applicant self-certifies on the loan application and/or FSA loan official can check on the status of the following items. The following items only require further explanation in unusual circumstances.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

B Eligibility (Continued)

Does or is the applicant:

- a U.S. citizen, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws?

  Note: Only discuss if applicant is a U.S. non-citizen national or qualified alien.

- meet all the requirements of prior FSA debt forgiveness?

- not delinquent on any Federal Debt?

- not have any outstanding judgments obtained by a Federal Agency?

- have the legal capacity to incur the obligations of the loan?

- have any past convictions of planting, cultivating, growing, producing, harvesting, storing, trafficking, or possessing a controlled substance within the last 5 crop years?

C Loan Proposal

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	Paragraphs: 135 (interest rate) 137 (loan term and payment schedules) 122-123.5 (loan purposes)

The lender must adequately describe the proposed loan that includes a description of:

- loan type, amount, term, rate, and purpose

  Note: For loans containing a balloon payment, include loan renewal conditions.

- the original loan purpose if the loan request is for refinancing

- other proposed loans or loan restructuring (such as non-guaranteed, FSA direct loans, or other) including loan type, amount, term, rate, purpose, and security

- Conservation Plan or Forest Stewardship Management Plan and the need for a qualifying conservation practice (CL only).**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

C Loan Proposal (Continued)

Example: Because of the dry crop year with reduced yield/income and the customer's inability to cover all expenses and debt payments, XYZ Savings Bank is requesting a $345,000 guaranteed operating loan to refinance $100,000 in carryover operating debt, $100,000 in machinery loans from outside sources, and $145,000 existing machinery/livestock loans. This loan will be fixed at 4.5 percent for 7 years.

Example: Savings and Loan Federal Bank is requesting a $700,000 guaranteed line of credit to finance farm operating expenses for the next 5 years. This loan will be a variable rate loan at 5.5 percent for 5 years. At the end of each operating cycle, the credit will be reviewed to determine that cash flow is feasible before funds will be advanced for the next year.

Less detail may be required if...	More detail may be required if...
equally amortized loan installments	unequal loan installments and/or balloon payment
no debt refinance	debt refinance
no plans to sell the guaranteed portion of loan	selling the guaranteed portion of loan on secondary market

D Collateral Analysis

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	Paragraphs: 166 (amount and quality of security) 181 (appraisal requirements) 182 (personal property security appraisal requirements) 183 (real estate security appraisal requirements)

The lender must certify that there is adequate security being obtained for the proposed loan and the security meets internal lending standards. Lender must provide the LTV.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

E Capacity Analysis

2-FLP References	
Subparagraphs: 66 C 67 A 69 B 122 E (OL debt refinance) 123 B (FO debt refinance)	Paragraphs: 154 (feasibility)

The lender must certify the applicant meets their repayment capacity standards and provide the following key ratios: Debt Service Coverage Ratio (DSCR). The lender must further certify that the positive repayment capacity was determined using realistic information and assumptions for the current operating cycle for all loans and also for the typical operating cycle if the loan will span multiple operating cycles.

F Capital Analysis

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	Paragraphs: 154 (feasibility)

The lender must certify the capital position of operation meets their repayment capacity standards and provide a few key ratios: Current Ratio, Debt to Assets, and Net Worth.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

G Loan Conditions and Servicing Plan

2-FLP References	
Subparagraphs: 66 C 67 A 69 B	

The lender must adequately describe loan conditions and servicing plans, including:

- an explanation of the loan servicing plan describing borrower's financial reporting requirements, limitations and conditions, and other borrower supervision (not required if described in another loan application document)

- the name, and current address of any guarantors or co-signers required to execute the promissory note (not required if this information is listed on the loan application or another application document).

Example: For the line of credit, the borrower will be required to obtain at least catastrophic level crop insurance coverage and give ABC Bank an assignment of crop insurance and government payments. The bank will also require the customer to submit invoices before advancing on the line of credit to manage funds properly since this has been an issue in the past. Customer will agree to a yearly farm inspection and a financial review twice a year. Cash flow will be developed and analyzed annual to determine if the budget is feasible and funds can be advanced for the following year.

Less detail may be required if…	More detail may be required if...
real estate security	equipment, livestock or crop security
FO	OL or LOC
financially strong farming operation	financially weak farming operation

--*

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

H Loan Narrative Guide Checklist

	Eligibility: **Description of Operation** • What products are raised? • In what quantities (acres, head, etc.)? • How are they marketed? • What is the legal structure of the operation (sole proprietorship, LLC, S corporation, partnership)? • Who are the owners and what are their roles? • Who else is involved in the daily management structure? • How much labor is hired and how much is provided by the owners? • What are their roles? **Credit History and Test for Credit** • Certification
	Loan Purpose: • Description of loan type, amount, term, rate, and purpose, (for loans containing a balloon payment, include loan renewal conditions) • Description of any other proposed loans or loan restructuring (non-guaranteed, FSA direct loans, other), including loan type, amount, term, rate, purpose, and security • Description of Conservation Plan or Forest Stewardship Management Plan, and the need for a qualifying conservation practice (CL only)
	Collateral, Capacity and Capital Analysis: • Certification • Key Ratios: Current Ratio, Debt Service Coverage Ratio, Debt to Asset Ratio, Net worth, Loan to Value
	Loan Conditions and Serving Plan: • Lender loan servicing plan describing borrower's financial reporting requirements, limitations and conditions, and other borrower supervision (not required if described in another loan application document) • The name and current address of any guarantors or co-signers required to execute the promissory note (not required if this information is listed on the loan application or another application document)

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

I Sample Delegated Authority Lender Narrative

Loan proposal:

Describes:
- ✓ The type of loan request
- ✓ Uses of loan funds
- ✓ Interest rate and terms
- ✓ Reasons for refinance if applicable
- ✓ The original loan purpose if refinancing

Sunshine Farm and Ranch and Rural Town Bank are requesting FSA guaranteed loan assistance. Their wheat yields over the past few years were substantially reduced because of late freeze, excessive flooding, hail, and heavy rains. Additionally, excessive repairs to irrigation equipment and excessive heat have affected their corn yields. Even though crop insurance paid, the yield issues have caused carry-over debt on the LOC. The family needs to restructure their balance sheet and term out carry-over debt to overcome this negative set back.

The plan for this proposal was discussed on February 1, 2023, during the pre-application farm visit with all members of the operation. During that visit, Rural Town Bank loan officer Frank Banker was able to:

- view the farming operation and potential security
- conduct an environmental inspection of the property and found no noted ground disturbance or environmental concerns
- discuss a plan on successfully moving forward.

Loan #1: Rural Town Bank requests loan # 8745 be refinanced, along with debt of 3 other creditors. The loan amount requested is $400,500 with a 7-year term and a 3-year adjustable interest rate of 8.75 percent.

Refinance Rural Town Bank (8745)	$229,856
Refinance John Deere Credit	$ 51,200
Refinance Rural Town Coop	$ 22,000
Refinance carry over crop debt	$ 90,000
Additional accrued interest	$ 2,037
FSA guarantee fees	$ 5,407
Total	**$400,500**

Payment will be made annually with the first payment due following fall harvest in the amount of $78,910. Overall term loan payments will be reduced by $25,000 annually with the extended terms.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

I Sample Delegated Authority Lender Narrative (Continued)

Loan #2: Rural Town Bank also requests an LOC for the upcoming operating year in the amount of $250,000. This will be an annually renewable note for 5 years.

Loan proceeds:

Crop input costs	$195,000
Feed	$ 50,000
Partner withdrawals (Bob and Anne)	$ 5,000
Total	**$250,000**

All income from farm proceeds will be applied to principal as grain or livestock are sold or government payments collected. Annual paydown will occur on the LOC to prevent carry over.

Interest is prime + 1.5 percent paid by December 1 annually or at note maturity. Initial rate projected to be set at 9 percent.

Rural Town Bank is requesting a 90 percent guarantee on both loan requests.

Description of the Farming Operation:

Describes:
- ✓ Who the owners of the operating entity are
- ✓ What percentage they own
- ✓ Who the owners of the land are if they are different from the operating entity
- ✓ Their responsibilities
- ✓ What they raise
- ✓ Size of the operation
- ✓ If any additional hired labor is required

Sunshine Farm and Ranch is a general farm partnership consisting of a father and mother, Bob and Anne Sunshine, and their 2 sons, Joe and Mike. The following table displays the partnership breakdown.

Partner	Title	Ownership	
Bob Sunshine	Partner	50%	General Management
Anne Sunshine	Partner		Bookkeeping
Joe Sunshine	Partner	25%	Daily management and labor
Mike Sunshine	Partner	25%	Daily management and labor

--*

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

I Sample Delegated Authority Lender Narrative (Continued)

Most strategic business decisions are made by Bob, with Anne assisting with the bookkeeping. Bob and Anne jointly own a 50 percent interest in the partnership. Additionally, Joe and Mike provide all day-to-day labor and management of the operation holding 25 percent interest each. The operation hires occasional seasonal labor. Sunshine Farm and Ranch, located in East and West Counties, farms approximately 2,400 acres of dryland wheat, irrigated corn, and milo, and runs a small cow/calf operation of about 100 head of cows and 4 bulls. Bob individually owns two 160-acre parcels of irrigated farm ground and 300 acres of pasture. Bob and Anne Sunshine reside on one of those parcels. Joe and his wife Mary jointly own 80 acres of pasture and reside there as well. Mike is single and lives in Rural Town, Kansas. Sunshine Farm and Ranch also rents an additional 100 acres of pasture to rotate the cattle throughout the year to help with feed costs. The Sunshine's have been customers of Rural Town Bank since 2004 borrowing for term loans and then expanding the relationship with a revolving LOC as the operation grew larger.

Character:

Certifies:
- ✓ The applicants have an acceptable credit history
- ✓ Meet the test for credit requirements

Describes:
- ✓ Short-term goals
- ✓ Intermediate goals
- ✓ Long-term goal

The members of Sunshine Farm and Ranch display strong character and meet lending standards for character despite lower credit scores. They have shown their willingness to communicate openly with the bank about their financial issues.

Rural Town Bank certifies that the applicants meet all requirements for credit history and test for credit.

Goals:

The main goal of the operation is to heal from the past few years of financial setbacks. Over the next 5 years, Bob and Anne would like to complete the process of transferring ownership and management of the operation to their boys. After the transition, Bob would continue to assist harvesting spring crops, planting wheat, and helping as needed with the cattle.

Joe sees considerable potential in increasing the operation's profitability and Mary would like to devote more time to chores and bookkeeping after shifting from fulltime teaching to substitute teaching. Joe and Mary's oldest son wants to come back after college and join the operation.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

I Sample Delegated Authority Lender Narrative (Continued)

Mike enjoys crop adjusting and has no desire to quit his day job but is willing to put more hours into the operation once Bob cuts back. Mike has indicated that he'd like to move into the country and purchase a small tract of ground.

These are all long-term goals until the operation can correct itself from prior setbacks. The ultimate goal of the operation is to operate profitably on a cash basis. For now, the bank is willing to continue with them using the guaranteed loan program.

Eligibility:

This farm operation meets the loan eligibility requirements outlined in paragraph 108. The applicant has self-certified to applicable eligibility questions on the application. Credit history, test for credit and operator of a family farm are addressed in the Character section. Rural Town Bank has determined there are no conflicts of interest present with this application.

Capacity:

Certifies the applicant:
- ✓ Meets all internal lending capacity standards.
- ✓ Includes Debt Service Coverage Ratio/Margin

Rural Town Bank certifies that Sunshine Farm and Ranch meet minimum capacity lending standards. The proposed debt service margin is 1.05 percent. Rural Town Bank further certifies the positive repayment capacity was determined using realistic information and assumptions for the current operating cycle for all loans and for the typical operating cycle.

Collateral:

Certifies the applicant:
- ✓ Meets internal collateral standards
- ✓ Includes LTV

Sunshine Farm and Ranch meets the security requirements for internal lending standards at 70 percent. For additional collateral, the lender is requiring all personal ownership in real estate be pledged as security.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

I Sample Delegated Authority Lender Narrative (Continued)

Capital:

Certifies the applicant:
✓ Meets internal lending standards for capital analysis
✓ Includes Current Ratio, Debt to Asset and Net worth

Rural Town Bank certifies Sunshine Farm and Ranch's operation meets our internal capital requirements. With a current ratio of 105 percent and debt to asset ratio of 72 percent. Sunshine Farm and Ranch's net worth is $1,500,000. After restructuring, the balance sheet will reflect a current ratio of 113 percent.

Conditions & Servicing Plan:

Describes:
✓ Financial reporting requirements
✓ Borrower supervision requirements
✓ Name, SSN, address of any co-signors
✓ Any limitations or conditions

Servicing plan: Rural Town Bank's servicing plan includes annual farm visits and requires the borrower to submit annual financial statements, cash flow projection, and tax returns. If the borrower can't make all of their debt payments, an interim balance sheet and cash flow will be developed. LOC advances will be requested either by email or phone and itemized closely to document the expenses, supported by repair, fuel, fertilizer, seed, chemical and feed statements.

Additional conditions are:

1. No capital purchases without lender approval.

2. Assignment of government payments.

3. No advances for future years' operating until the lender has completed an analysis of the previous year or accounted for inventory and a feasible cash flow has been projected.

4. Assignment of MPCI policy to the Bank.

5. Subject to prior liens, Bob and Anne Sunshine and Joe and Mary Sunshine will pledge their real estate as collateral for the loans.

6. All partners and their spouses will sign the security documents.**--***

***--Delegated Authority (PLP) Lender's Loan Narrative (Continued)**

I Sample Delegated Authority Lender Narrative (Continued)

7. Family living expenses drawn from the entity are limited to Bob and Anne Sunshine and not to exceed $5,000 annually. All other family living expenses will be covered from non-farm sources.

8. All entity members are required to sign the promissory note as individuals.

Rural Town Bank believes Sunshine Farm and Ranch is on the upward trend financially. Over time, the conditions, servicing plan, and proposed loan structure will assist in the long-term viability of the operation.**--***

Exhibit 5

(Par. 73, 266)

Electronic Access for FSA Lenders

A Creating an Account With USDA eAuthentication Level 2 Access

USDA developed a centralized service to provide authentication for participating in USDA Web services. USDA eAuthentication provides centralized administration of users and a unified credential that can be used to provide users with single sign-on capability across all participating Web applications.

USDA eAuthentication Level 2 accounts enables the secure presentation of information and electronic signing of submissions. FSA lenders **must** obtain USDA eAuthentication Level 2 account to acquire a Level 2 user ID and password. Follow these steps to obtain a Level 2 account.

*--

Step	Action
1	Go to https://www.eauth.usda.gov/eauth/b/usda/registration. Select the "Customer" radio button and CLICK "Continue".
2	Enter your email address and CLICK "Submit".
3	After users submit the registration, they will receive an email with instructions on how to continue their registration.
4	CLICK "Continue Registration" from the email and complete the required fields to complete your registration.
5	When the user attempts to access forms or LINC as outlined later in this exhibit, they will be prompted to enter the eAuth ID and password they created and will then be prompted to complete a one-time identity verification process to initially gain access to those systems.
6	If the user needs administrative access to LINC, send request, in writing to FSA State Office, ATTN: FLP Division, to link the validated eAuthentication ID as either a lender administrator or branch administrator in LINC. **Note:** If the user only needs representative access to LINC, they do not need to contact FSA. Instead, they can simply contact their own lender administrator to be added as a representative.

--*

B Accessing Forms

Although all FSA lenders have access to online forms, users **must** register for a USDA Level 2 user ID and password to be able to save their information on the form and to submit the form electronically through "**eForms**".

Lenders with an eAuthentication Level 2 user ID and password shall follow these steps to access forms.

Step	Action
1	Go to the Service Center Agencies eForms Home Page at **http://forms.sc.egov.usda.gov/eForms/welcomeAction.do** and CLICK "**Login**".
2	On the eAuthentication Warning Screen, CLICK "**I Agree**".
3	On the USDA eAuthentication Login Screen, enter user ID and password and CLICK "**Login**". **Note:** When viewing forms, have only 1 browser window open. Each form has a supporting instruction file that explains how to complete the form.

Electronic Access to Forms for FSA Lenders (Continued)

C Searching for Forms

To search for forms, follow subparagraph B, under "eForms", CLICK "**Browse Forms**", and do either of the following:

- select the Agency, program, and service name from the corresponding drop-down menus to narrow the search results

- when searching for a specific form, enter information in the "Form Number" and "Title or "Keywords" fields.

CLICK "**Search**" to view all forms that meet user's search criteria.

D Submitting Forms

***--**Forms may be submitted electronically to FSA as follows:

- e-mail with an attached file

- FAX

- through USDA's Online Services once Level 2 eAuthentication access has been obtained, according to the following instructions:

  After a lender's representative has registered and received a user ID and password, the representative may submit forms electronically through "eForms" at **http://www.sc.egov.usda.gov**. CLICK "**eForms**", log in, and follow the instructions to find, complete, and submit forms. Other electronic documents needed for a complete application may be attached to the application and submitted to FSA.

The eAuthentication Level 2 user ID serves as the signature when submitting forms electronically. There is no need to follow up with a paper copy of the form; however, only one Level 2 user ID may be attached to a document when filing electronically. If additional signatures are needed on the same document, they will need to be provided in another manner.**--***

E Application Authorization Security Management (AASM) System

AASM is the database that contains lenders' information and the eAuthentication user ID's of all lender-employees authorized to participate in electronic reporting. FSA initially, and the lender's Security Administrators (SA's) thereafter, will use AASM to authorize lender-employees to access the USDA Lender Interactive Network Connection (LINC).

Electronic Access to Forms for FSA Lenders (Continued)

E Application Authorization Security Management (AASM) System (Continued)

***--**Each lender must designate an employee as their Security Administrator who will have the authority and responsibility of granting access to other employees designated by the lender to use FSA's electronic reporting applications. The Security Administrator can have authority over all of the lender's portfolio as a Lender Administrator or can be limited to a single branch as a Branch Administrator. The Security Administrator will be the point of contact for FSA for maintaining the lender employees' eAuthentication ID's in AASM. A lender can choose to designate additional Security Administrators to act as a backup for the primary Security Administrator.

After the Security Administrators are designated and the requirements have been fulfilled, the lender shall have the Security Administrator contact FSA with his/her eAuthentication ID and lender information to be validated and entered into AASM.

After Security Administrators are validated in the system, they will receive an e-mail confirmation validating their authorization and authority to add additional lender employees to AASM. Additional lender employees may be added by logging into the USDA LINC web site at **https://usdalinc.sc.egov.usda.gov**.

Note: The e-mail confirmation is sent to the e-mail address the Security Administrator entered when creating the eAuthentication account.

The following types of roles can be assigned to lender employees in AASM by the Security Administrator.

- "Representative" is an employee that the lender designates and authorizes to input electronic data through the USDA LINC website. The Security Administrator can authorize access for the entire portfolio as a Lender Representative or limit access to a specific branch as a Branch Representative.

- "Viewer" is an employee that the lender authorizes to view loan data and has view only capabilities of all transactions in the USDA LINC site. The Security Administrator can authorize access for the entire portfolio as a Lender Viewer or limit access to a specific branch as a Branch Viewer.

Note: FSA does **not** add or maintain any roles for lenders' employees.

After authorized in AASM, lender-employees may use LINC to close guaranteed loans and**--*** manage lender semiannual and default status reports that keep the lender up-to-date in FSA's accounting records. Lenders may request more than one SA to be authorized in AASM.

Electronic Access to Forms for FSA Lenders (Continued)

E Application Authorization Security Management (AASM) System (Continued)

The lenders' SA's are:

- FSA points-of-contact for maintaining the lender-employees' USDA eAuthentication Level 2 ID's in AASM
- responsible for adding and removing other employees designated by the lender to use LINC.

Lender-employees:

- are responsible for ensuring that they adhere to the requirements outlined in FSA-2201
- are required to have a Level 2 user ID and password before being authorized in AASM (subparagraph A)
- do not need another Level 2 account and may use their existing Level 2 user ID and password if they have Level 2 access with another USDA Agency.

The FSA LINC User Guide at **https://www.fsa.usda.gov/Internet/FSA_File/gls_lender_linc_user_guide.pdf** provides further details on adding a lender-employee in AASM.

F Lender Interactive Network Connection (LINC)

In addition to "**eForms**", information supplied by lenders through the **USDA LINC** web site *--meets the submission requirements. LINC is located at **https://usdalinc.sc.egov.usda.gov/ --*** and allows electronic reporting by lenders to FSA. LINC allows lenders to:

- submit semiannual and default status reports
- add loan closings
- view loans
- add lender EFT's for pre-authorized debit (PAD) information
- add lender-employees in AASM.

See the FSA LINC User Guide for instructions on completing these functions.

Lenders are not required to submit hard copies of information, such as loan closing reports or status reports.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien

Qualified Alien: *As defined under PRWORA (8 U.S.C. 1641):*

1. *An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;*
2. *An alien who is granted asylum under section 208 of such Act;*
3. *A refugee who is admitted to the United States under section 207 of such Act;*
4. *An alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year;*
5. *An alien whose deportation is being withheld under section 243(h) of such Act;*
6. *An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;*
7. *An alien who is a Cuban/Haitian Entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980;*
8. *An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act. 8 U.S.C. 1641 contains more on aliens battered or subjected to extreme cruelty.*

The documents listed below will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of "qualified alien" for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Under the Immigration and Nationality Act (the "INA"), all aliens over the age of 14 who remain in the United States for longer than 30 days are required to register with the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) and obtain an alien registration document. All aliens over the age of 18 who receive a registration document are required to carry it with them at all times. With certain exceptions (e.g., Canadian visitors), aliens entering the U.S. are normally issued a registration document (e.g., a USCIS Form I-94) at the time of entry. The documents listed below that are registration documents are indicated with an asterisk ("*"). Each of the documents listed below will demonstrate lawful status, and you should not require presentation of a registration document if the applicant presents one of the other legally acceptable documents that reasonably appears on its face to be genuine and to relate to the person presenting it. However, if the document presented is not a registration document and does not on its face reasonably appear to be genuine or to relate to the person presenting it, it is appropriate to ask the applicant to produce his or her registration document as additional evidence of immigration status, so long as the request is not made for a discriminatory reason. Presentation of a registration document listed below that reasonably appears on its face to be genuine and to relate to the person presenting it (or to satisfy a higher applicable standard) will often obviate the need to verify the applicant's immigration status with USCIS; if the applicant presents a registration document that does not meet this standard, sending USCIS a copy of the document will assist it in verifying the applicant's status quickly and accurately.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

A Alien Lawfully Admitted for Permanent Residence

*USCIS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card"); or
Unexpired Temporary I-551 stamp in foreign passport or on *USCIS Form I-94.

B Asylee

*USCIS Form I-94 annotated with stamp showing grant of asylum under section 208 of the INA;
*USCIS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(5)";
*USCIS Form I-766 (Employment Authorization Document) annotated "A5";
Grant letter from the Asylum Office of USCIS; or
Order of an immigration judge, granting asylum.

C Refugee

*USCIS Form I-94 annotated with stamp showing admission under Sec. 207 of the INA;
*USCIS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)";
*USCIS Form I-766 (Employment Authorization Document) annotated "A3"; or
USCIS Form I-571 (Refugee Travel Document).

D Alien Paroled Into the U.S. for a Least One-Year

*USCIS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

E Alien Whose Deportation or Removal Was Withheld

*USCIS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(10)";
*USCIS Form I-766 (Employment Authorization Document) annotated "A10"; or
Order from an immigration judge showing deportation withheld under Sec. 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Sec. 241(b)(3) of the INA.

F Alien Granted Conditional Entry

*USCIS Form I-94 with stamp showing admission under Sec. 203(a)(7) of the INA;
*USCIS Form I-688B (Employment Authorization Card) annotated "274a.12(a)(3)"; or
*USCIS Form I-766 (Employment Authorization Document) annotated "A3".

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

G Cuban/Haitian Entrant

*USCIS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card") with the code CU6, CU7, or CH6 Unexpired temporary I-551 stamp in foreign passport or on
*USCIS Form I-94 with the code CU6 or CU7; or
USCIS Form I-94 with stamp showing parole as "Cuba/Haitian Entrant" under Section 212(d)(5) of the INA.

H Alien Who Has Been Battered or Subjected to Extreme Cruelty

Guidance as to the requirements that must be met for an alien to fall within this category of qualified alien is set forth in DOJ's Notice of Interim Guidance. Note that Title IV, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, contains provisions requiring that, upon the effective date of the new affidavit of support (required under section 213A of the Act), when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person's spouse. Certain exceptions are made for indigent qualified aliens and for qualified aliens who (or whose children) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent's family and for qualified alien children whose parents have been subjected to such abuse.

I Expired or Absent Documentation

If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local USCIS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file USCIS Form G-845 and Supplement, along with the alien registration number and a copy of any expired USCIS document presented, with the local USCIS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from USCIS pertains to the applicant whose identity you have verified.

J Receipt for Replacement Document

If an applicant presents a receipt indicating that he or she has applied to USCIS for a replacement document for one of the documents identified above, file USCIS Form G-845 and Supplement along with a copy of the receipt with the local USCIS office to verify status. Upon return receipt of information from USCIS, confirm that it pertains to the applicant whose identity you have verified. You should ask to see the replacement document at a later date.

Interim Guidance: Documentary Evidence of Status as a Qualified Alien (Continued)

K Applicants With Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (e.g. mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, ***--**national origin, sex, religion, age or disability.**--***

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National

U.S. Non-Citizen National: *A person born in America Samoa or Swains Island on or after the date the U.S. acquired America Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport with a document bearing a photograph of the person.*

Copies of the following documents will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), demonstrate that a person is a U.S. citizen or non-citizen national for purposes of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. (To the extent citizenship or nationality of a child is relevant to a benefit eligibility determination, the documents should demonstrate the child's status rather than that of the parent.) The lists set forth in Paragraphs A and B below are drawn from existing guidance published by the Social Security Administration ("SSA") and regulations issued by the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), regarding determination of U.S. citizenship and nationality; the lists in Paragraphs C through F are drawn solely from the SSA guidance. These lists are not exhaustive; you should refer to guidance issued by the agency or department overseeing your program to determine if it accepts documents or other evidence of citizenship not listed below.

A. Primary Evidence:

(1) A birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in the U.S. Note: If the document shows that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen--see Paragraph C below.

(2) United States passport (except limited passports, which are issued for periods of less than five years);

(3) Report of birth abroad of a U.S. citizen (FS-240) (issued by the Department of State to U.S. citizens);

(4) Certificate of birth (FS-545) (issued by a foreign service post) or Certification of Report of Birth (DS-1350) (issued by the Department of State), copies of which are available from the Department of State;

(5) Certificate of Naturalization (N-550 or N-570) (issued by USCIS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N-570 is a replacement certificate issued when the N- 550 has been lost or mutilated or the individual's name has been changed);

(6) Certificate of Citizenship (N-560 or N-561) (issued by USCIS to individuals who derive U.S. citizenship through a parent; the N- 561 is a replacement certificate issued when the N-560 has been lost or mutilated or the individual's name has been changed);

(7) United States Citizen Identification Card (I-197) (issued by USCIS until April 7, 1983, to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I-179, last issued in February 1974);
(8) Northern Mariana Identification Card (issued by USCIS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);
(9) Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS-240, FS-545 or DS-1350);
(10) American Indian Card with a classification code "KIC" and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

B. Secondary Evidence: If the applicant cannot present one of the documents listed in A above, the following may be relied upon to establish U.S. citizenship or nationality:

(1) Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made;
(2) Evidence of civil service employment by the U.S. government before June 1, 1976;
(3) Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);
(4) Census record showing name, U.S. citizenship or a U.S. place of birth, and date of birth or age of applicant;
(5) Adoption Finalization Papers showing the child's name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) or, where or adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child's name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or
(6) Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship (e.g. a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction)).

Interim Guidance: Documentary Evidence of Status as a U.S. Non-Citizen National (Continued)

C. Collective Naturalization: If the applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

(1) Puerto Rico: Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917, and that he or she did not take an oath of allegiance to Spain;

(2) U.S. Virgin Islands: Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927; The applicant's statement indicating resident in the U.S. Virgin Islands as a Danish citizen on January 17, 1917, and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., U.S. possession or territory or the Canal Zone on June 28, 1932.

(3) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)): Evidence of birth in NMI, TTPI citizenship and residence in NMI, the U.S., or a U.S. territory or possession on November 3, 1986, (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); Evidence of TTPI citizenship, continuous residence in NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975, and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or Evidence of continuous domicile in NMI since before January 1, 1974, and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time). Note: If a person entered NMI as a nonimmigrant and lived in NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

D. Derivative Citizenship: If the applicant cannot present one of the documents listed in A or B above, you should make a determination of derivative U.S. citizenship in the following situations:

(1) Applicant born abroad to two U.S. citizen parents: Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.

(2) Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent: Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of the relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

(3) Applicant born out of wedlock abroad to a U.S. citizen mother: Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.

(4) Applicant born in the Canal Zone or the Republic of Panama: A birth certificate showing birth in the Canal Zone on or after February 26, 1904, and before October 1, 1979, and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or A birth certificate showing birth in the Republic of Panama on or after February 26, 1904, and before October 1, 1979, and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

E. All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

(1) If the applicant is in the U.S., refer him or her to the local USCIS office for determination of U.S. citizenship;

(2) If the applicant is outside the U.S., refer him or her to the State Department for a U.S. citizenship determination.

(3) Adoption of Foreign-Born Child by U.S. Citizen: If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S. citizenship; Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the applicant to the local USCIS district office for a determination of U.S. citizenship if the applicant provides no evidence of U.S. citizenship.

(4) U.S. Citizenship By Marriage: A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922. Ask for: Evidence of U.S. citizenship of the husband, and evidence showing the marriage occurred before September 22, 1922. Note: If the husband was an alien at the time of the marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.

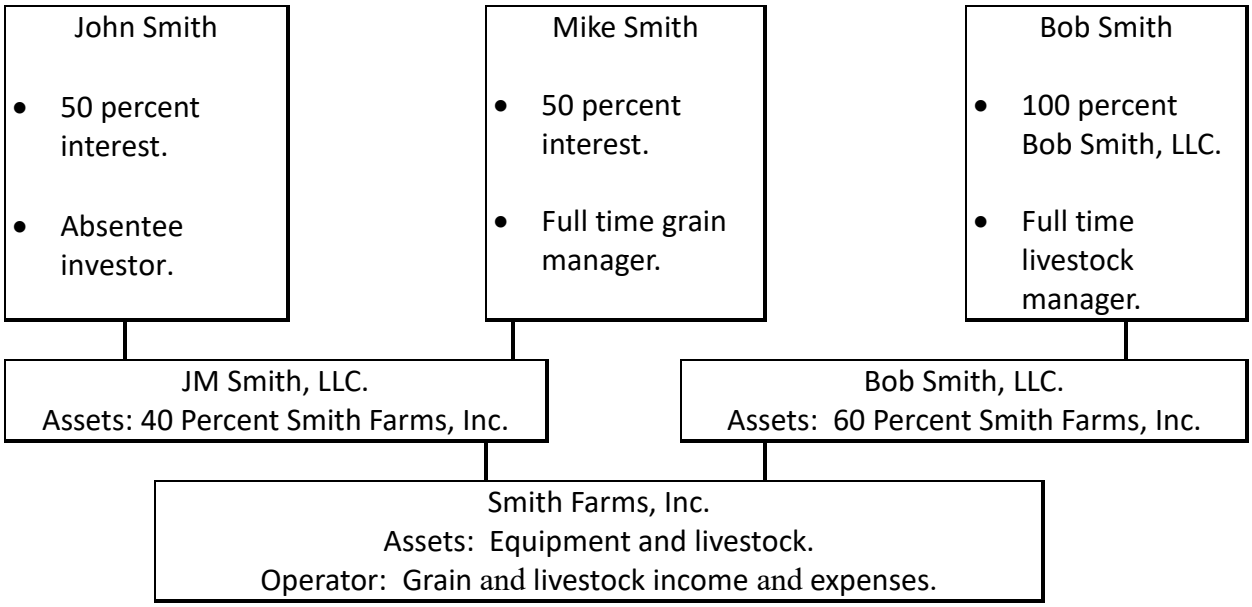
(5) Applicants With Disabilities and Nondiscrimination: If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or nationality (e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, *--you should not discriminate against applicants on the basis of race, national origin, sex,--* religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.

***--Embedded Entity Examples**

A Determining Embedded Entities

Subparagraphs B and C have been provided to help in determining whether embedded entities meet 7 CFR 762.120 FLP rules.

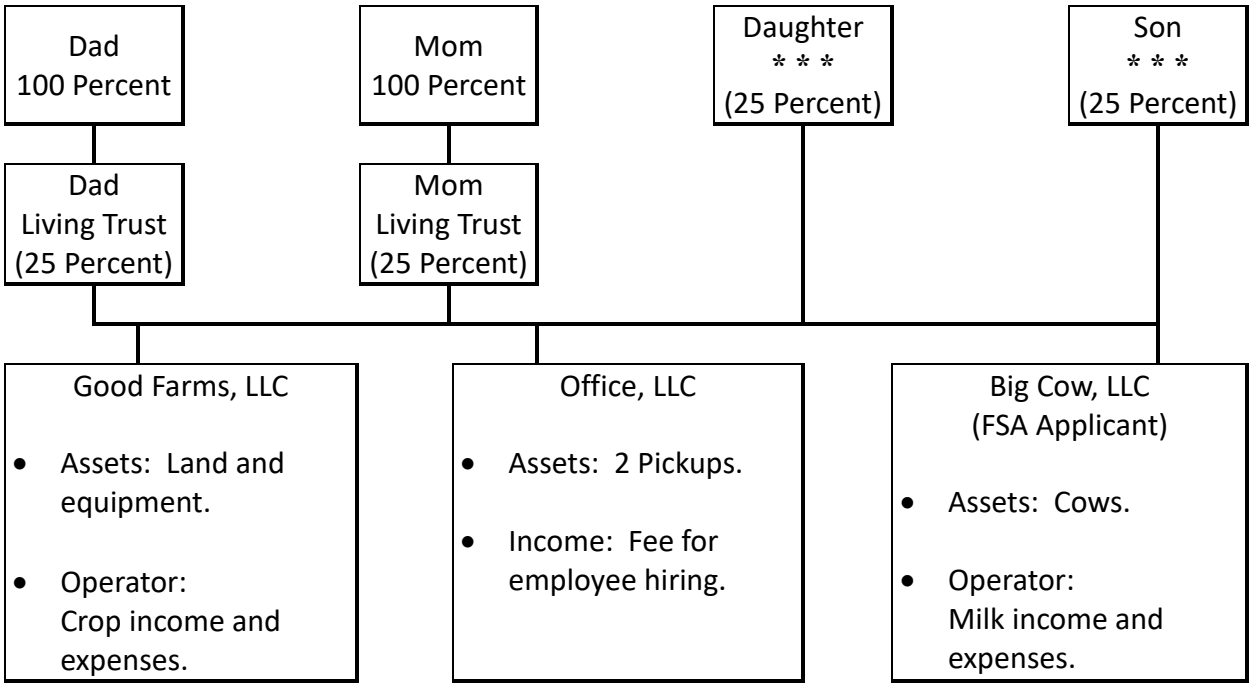
B Embedded Entity Example 1



JM Smith, LLC, fails the 75 percent test because only Mike is actively involved in the operation and he owns only 50 percent of the embedded entity, JM Smith, LLC. If Mike Smith owned 75 percent of JM Smith, LLC, then the application would meet the embedded entity test.**--***

Embedded Entity Examples (Continued)

C Embedded Entity Example 2



Both Mom and Dad must be actively involved in managing or operating the family farm. Daughter and Son are not involved in embedded entities, so they are not subject to the 75 percent rule.

Either Good Farms, LLC, or Big Cow, LLC, could be the FSA applicant depending on the purpose of the loan.

Lender Loss Rate Calculation

$$\text{Lender Loss Rate} = \frac{\text{(Total } \textit{losses paid} \text{ on loans made during the past 7 years)}}{\text{(Total } \textit{loan amount} \text{ during the past 7 years)}}$$

Calculations and Formulas (Continued)

Present Value Calculation

Present Value is the current value of an expected future cashflow. In order to execute a debt writedown, the present value of the loan being written down must be greater than or equal to the net recovery value of the loan's security.

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

Balance Available is Projected to Remain CONSTANT During Loan Repayment Schedule

Balance Available

1. Balance Available for Term Debt Repayment (BATDR)	$ _____	
2. All Other Debt Payments	–$ _____	
3. Balance Available (line 1 – line 2)		$ _____

Present Value

4. Repayment Schedule (in years)	_____	
5. Interest Rate	_____	%
6. Loan Amortization Factor	_____	
7. **Present Value = Balance Available (Line 3) divided by Loan Amortization Factor (Line 6)**		$ _____

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

Actual formula for present value of a regular payment stream: $V = A\left[\frac{1-(1+i)^{-N}}{i}\right]$

where V equals value, A is the payment, i is the interest rate, and N is the number of payments in months or years as applicable. Use of conversion table or calculator is recommended.

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 _____

[1]HP=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:

_____	+	_____	=	_____
Net Recovery Value		Prior Lien Amount		Maximum Bid

OR; the unpaid guaranteed loan balance plus prior lien:

_____	+	_____	=	_____
Unpaid Guaranteed Loan Balance--*		Prior Lien Amount		Maximum Bid

Calculations and Formulas (Continued)

Average Daily Principal Balance and IA Payment Calculations

Calculate ADPB by multiplying the principal balance times the actual number of days it is outstanding. The sum of the daily principal balance is then divided by the total calendar days outstanding for a partial year or by 365 calendar days for a full year regardless of the interest accrual method.

The following is an example of a full year calculation for ADPB.

Date	Number of Days	Principal Balance	Total
January 1 – April 15	104	$25,000	$2,600,000
April 16 – July 15	91	$20,000	$1,820,000
July 16 – September 15	62	$15,000	$930,000
September 16 – January 1	108	$10,000	$1,080,000
Total	**365**		**$6,430,000**

$6,430,000 ÷ 365 = $17,616.44 ADPB for a full year.

The following is an example of a **partial year** calculation for ADPB.

Date	Number of Days	Principal Balance	Total
June 12 – August 2	51	$15,000	$765,000
August 3 – September 28	57	$10,000	$570,000
September 29 – October 29	31	$12,000	$372,000
Total	**139**		**$1,707,000**

$1,707,000 ÷ 139 = $12,280.58 ADPB for the partial year.

Note: For the purpose of calculating ADPB for payment of IA, for loans made after June 8, 2007, the principal balance for calculating interest assistance shall not exceed $400,000 or the original loan amount, whichever is less, on any given day.

Calculations and Formulas (Continued)

Average Daily Principal Balance and IA Payment Calculations (Continued)

The following is an example of a loan, made under the rule limiting IA to 5 years and $400,000 or the original loan amount, whichever is less, that is restructured on July 1st, with capitalized interest above the original loan amount. For purposes of this example, the original loan amount was $300,000.

The lender's actual ledger may look like the following.

Date	Number of Days	Principal Balance	Total
January 1 – July 1	181	$280,000	$50,680,000
July 2 – January 1	184	$310,000	$57,040,000
Total	**365**		**$107,720,000**

$107,720,000 ÷ 365 = $295,068.49 ADPB for a full year.

For purposes of calculating IA on this loan, ADPB should be calculated as follows.

Date	Number of Days	Principal Balance	Total
January 1 – July 1	181	$280,000	$50,680,000
July 2 – January 1	184	$300,000	$55,200,000
Total	**365**		**$105,880,000**

$105,880,000 ÷ 365 = $290,082.19 ADPB for a full year.

- The lender can use interest basis (360, 365, 360/365) as indicated by the promissory note for calculating interest for the borrower. Some methods result in a slightly higher interest payment by the borrower; however, this is irrelevant to the amount FSA will pay, which is fixed at 4 percent.

- An interest assistance claim submitted with interest accrual based on 360 and then multiplied by 365 is not acceptable.

- If a loan is closed on a 365-calendar-day basis, interest that accrues on February 29 is not ***--**recognized by the GLS and will not be paid.**--***

- GLS does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.

Calculations and Formulas (Continued)

IA Payment Calculation

Full Year
ADPB x 4 percent **Note:** Interest basis is not an issue. **Example:** $100,000 x 4 percent = $4,000
Partial Year (360-Day Base)
ADPB x 4 percent x [(number of months in the claim period x 30 calendar days) + additional days in excess of a month] ÷ 360 **Note:** Convert all months to 30 calendar days. The system does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period. **Example:** Claim period is March 1 through June 5 (3 months x 30 calendar days = 90 + 5 - 1 = 94 calendar days). $100,000 x 4 percent = $4,000 x 94 calendar days ÷ 360 = $1,044.44 interest assistance payment.
Partial Year (365-Day Base)
ADPB x 4 percent x actual days in the claim period ÷ 365. **Note:** Count actual days in the month. The system does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period. **Example:** Claim period is March 1 through June 5, which equals 97 - 1 calendar days. $100,000 x 4 percent = $4,000 x 96 calendar days ÷ 365 = $1,052.05 interest assistance payment.

***--Using an Allonge for a Loan Already Closed by the Lender When Guarantee Funds Were Not Available**

For guaranteed loans closed before obligation, FSA requires lenders to either execute a new promissory note or an allonge to establish a new closing date. The allonge establishes the principal amount at the time the guarantee is issued. When an allonge is used, FSA will use the allonge date and the principal amount stated on the allonge to complete FSA-2235. Any rules and/or guidance in place for the promissory note apply to the allonge.

- **Requirements for an Allonge**

  Lenders may use their own allonge. FSA does not require any specific language other than the allonge must do the following.

  - Identify the promissory note which it is modifying.
  - Be signed by the borrowers as they have signed the promissory note.
  - State the principal amount and accrued interest on the loan, as of the date the allonge is executed.
  - Include the date the allonge is executed by the borrowers.
  - Be provided to FSA along with a copy of the original promissory note, before receiving the loan guarantee.

- **FSA Actions to Close the Guarantee**

  - Complete **FSA-2235** as follows.

Block	Entry
5, 8(c), and 10	Principal amount stated on the allonge.
7	Date the allonge is executed by the borrowers.
8(b) and 9	Lender's note ID number that is referenced on the allonge.

  - Complete the closing transaction in GLS using the date of the allonge as the closing date and the principal amount stated on the allonge as the loan amount.**--***

***--Using an Allonge for a Loan Already Closed by the Lender When Guarantee Funds Were Not Available (Continued)**

- **If a Payment Has Been Made Before Issuing the Guarantee**

  If the principal amount has been paid down since the promissory note was executed, the principal amount that may be lower than the obligated loan amount, will be entered on FSA-2235 and entered into GLS.

IF the…	THEN…
principal has been paid down and there is accrued interest on the note	the lender may modify the loan to establish a new principal amount that may include part of or all the accrued interest. The lender may use an allonge or new promissory note. In all cases, the new principal balance cannot be greater than loan amount approved and obligated by FSA.
new principal balance is lower than the obligation amount	FSA will need to do a partial, not full, deobligation in GLS.

- **Secondary Market**

  If the lender plans to sell the guaranteed portion on the secondary market, the loan approval official will attach a memo on FSA letterhead to the loan guarantee using the following example language, modified to include actual information:

  "Farm Service Agency (FSA) acknowledges that the allonge entered into on May 28, 2013, between Bob and Betty Borrower, Anytown, USA, and First Bank, Anytown, USA, attaches to and amends promissory note number 1234 in the amount of $300,000 and executed on April 1, 2013. FSA also acknowledges that this allonge was executed for the purpose of obtaining a guarantee on the previously executed promissory note 1234 and the date of the executed allonge is the closing date used for FSA Loan Guarantee purposes."**--***

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	√	√	√

Interagency Agreement

*--

INTERAGENCY AGREEMENT
BETWEEN
UNITED STATES DEPARTMENT OF AGRICULTURE AND
THE FEDERAL DEPOSIT INSURANCE CORPORATION

I. PURPOSE

The purpose of this Inter Agency Agreement ("IAA") between the United States Department of Agriculture (USDA) and the Federal Deposit Insurance Corporation, in its receivership capacity ("FDIC"), is to provide timely and cost-effective administration, servicing, collection, and sale of loans or portions thereof, that are guaranteed by the USDA and for which the FDIC as Receiver is successor in interest to a failed depository institution which was a USDA lender.

This Agreement supersedes all previous agreements and Memoranda of Understanding between Farm Service Agency (FSA) or Rural Development (RD), USDA and FDIC previously agreed to and any subsequent amendments.

II. BACKGROUND

Under the authority of 7 USC 1981 the Secretary of Agriculture may make contracts for services incident to making, insuring, collecting, and servicing loans and property as necessary to carry out the purposes of the Consolidated Farm and Rural Development Act (Con Act), 7 USC 1921 et seq. FSA Farm Loan Programs and most Rural Development (RD) loans are authorized by the Con Act. The Secretary has similar authority to enter into agreements to carry out title V of the Housing Act of 1949 under 42 USC 1480. That title authorizes the RD housing programs. RD also makes guaranteed loans under the energy title of the Farm Security and Rural Investment Act of 2002 (Pub.L. 107-171), as amended by the Food, Conservation, and Energy Act of 2008 (Pub.L. 110-246), and reauthorized in the Agricultural Act of 2014 (Public Law No: 113-79). Under 12 USC 1821 (d)(2)(E) and 12 USC 1823(d)(3)(A), the FDIC acting in its corporate or receivership capacity has the authority to liquidate the assets of failed insured depository institutions ("failed financial institutions") when the FDIC is appointed Receiver. Under 12 USC 1819(a), FDIC has the authority to enter into an agreement such as this IAA. It is not the purpose of this IAA to abrogate existing statutes, rules or regulations of the FDIC, or USDA.

NOW THEREFORE, USDA and FDIC, in a spirit of cooperation, agree as follows:

III. DEFINED TERMS

Whenever used in this Agreement, the following terms will have the meanings set forth in this Section III:

--*

Interagency Agreement (Continued)

*--

- "FDIC Investor" means any purchaser from the FDIC who/which is not an FSA or RD approved lender.

- "FDIC Loan Sale" means a sale conducted by the FDIC in accordance with Section IV (L) of this IAA, for the purposes of liquidating loans owned or made by a failed financial institution and transferring them to one or more FSA or RD Lenders, or FDIC Investors.

- "FDIC Loan Sale Agreement" means the written agreement between the FDIC and any purchaser of loans in an FDIC Loan Sale.

- "FSA Borrower" means all obligors and guarantors (other than FSA) of an FSA guaranteed farm loan.

- "FSA Lender" means a lender that is an approved lender under FSA's guaranteed Farm Loan Program.

- "FSA Loan" means any Farm Loan Programs loan guaranteed under the Con Act.

- "FSA Purchased Loan" means an FSA Loan of which FSA has repurchased a guaranteed portion of the loan from a holder and is the legal owner of such interest in the FSA Loan.

- "Performing Loan" means a loan that is paying as agreed (currently less than 60 days past due) and is expected to pay in full under the terms of the note. Prior delinquencies or file-documentation problems do not disqualify a loan as performing.

- "Non-performing Loans" means a loan that is 60 days past due or is past the note (including modifications) maturity date, regardless of whether ongoing payments are being received from the borrower. Non-performing Loans also include all guaranteed loans with loan related judgments, deficiency balances, or charge-offs regardless of delinquency.

- "Participation" means a loan arrangement where a primary or lead lender is the lender of record but the loan funds may be provided by one or more other lenders due to the loan size or other factors. Typically, participating lenders share in the interest income or profit on the loan based on the relative amount of the loan funds provided after deducting the servicing fees of the primary or lead lender. USDA guarantee responsibilities run to the lender of record and not to such participants.

IAA FDIC USDA 10272016

--*

- "RD Borrower" means all obligors and guarantors (other than RD) of an RD guaranteed Loan.
- "RD Lender" means a lender that is an approved lender for the relevant RD guaranteed loan program.
- "RD Loan" means any loan guaranteed by RD.
- "RD Purchased Loan" means an RD Loan of which RD has repurchased a guaranteed portion from the holder and is the legal owner of such repurchased interest in the RD Loan.
- "Rural Development" or (RD) means the mission area within USDA which includes the Rural Housing Service (RHS), Rural Utilities Service (RUS), and Rural Business-Cooperative Service (RBS).
- "Secondary Market Investor" or "Secondary Market Holder" means a purchaser of all or part of a guaranteed interest in an FSA Loan or an RD Loan.
- "Servicing released" means the FSA or RD Loan sold by the FDIC requires the buyer to service that loan. In some instances the FDIC will service (directly or indirectly through a third party servicer) a "servicing released" loan for an interim period between the date of closing the sale, and the date the loan is transferred to the buyer's system of record. This interim servicing period is not intended to be longer than thirty (30) calendar days after the closing date.

IV. SCOPE AND RESPONSIBILITIES

A. PROTOCOL FOR REFERENCE TO USDA LOANS

All correspondence, spreadsheets, and other communications between FDIC and USDA regarding FSA or RD Loans will include: (1) the FSA or RD Loan number and the borrower name, and (2) any loan number and loan name assigned by the failed financial institution or FDIC.

B. FDIC TO NOTIFY USDA WHEN FDIC IS APPOINTED RECEIVER OF AN FSA OR RD LENDER

FDIC will notify the appropriate USDA contact(s) by read receipt email within five (5) business days after FDIC is appointed Receiver of a financial institution which operated as an FSA or RD Lender. Upon receiving this notification, USDA will, within 3 business days, provide a list of all guaranteed loans with the failed financial institution to the FDIC contact

identified in the notification. Additionally, USDA will provide the FDIC Point of Contact ("POC") with the contact names, addresses and phone numbers of the local USDA offices the FDIC receivership will be working with on any acquired FSA and/or RD loans.

C. FDIC TO NOTIFY AFFECTED FSA AND RD BORROWERS

1. When FDIC becomes successor in interest to any FSA or RD Loan as Receiver of an FSA or RD Lender, FDIC will notify affected FSA or RD Borrowers in writing and give them the address to which future loan payments should be submitted and provide contact information for FDIC.

2. When FDIC sells an FSA or RD Loan in an FDIC Loan Sale, FDIC will send a "good-bye" letter to the FSA or RD Borrower stating the date the loan was sold and the contact information for the buyer of the Loan.

D. SERVICING OF FSA AND RD LOANS PRIOR TO SALE BY FDIC

1. FDIC will service all FSA or RD Loans, using generally accepted commercial banking standards employed by prudent lenders and applicable FSA and RD regulations and contracts. FSA and RD shall provide the FDIC POC with Internet links and other necessary documents to facilitate the FDIC's efforts to adhere to the applicable FSA and RD regulations and contracts. This will continue until the FSA or RD Loan is sold to an FDIC Investor, or a FSA or RD Lender and the servicing is released to such buyer.

   For the avoidance of doubt, nothing contained in this IAA shall waive or prevent the exercise of any powers granted to the FDIC as Receiver of a failed financial institution, by statute or otherwise, including the right to repudiate contracts. In addition, it is understood that FDIC as Receiver is not an open financial institution conducting commercial banking activities or operations, but rather is engaged in winding-up and liquidating activities. As a consequence, while FDIC as Receiver may make funding decisions on loans in the pipeline of the failed bank as of the date of failure, it will not: initiate any new FSA or RD loan applications, meet any net worth requirements, prepare audited financial statements, obtain directors/officers insurance, or comply with these types of ancillary ongoing business activities.

2. If the failed financial institution sold participation(s) to third parties that were repurchased by FSA or RD, the FDIC will continue to perform under these participation agreements as

successor-in-interest to the failed financial institution. Notwithstanding this provision, the FDIC retains its authority relative to the handling of loans where obligors elect to exercise their right of offset on excess deposits. This may result in the FDIC issuing a Receivership Certificate to FSA or RD to the extent of the offset.

3. In those instances where FDIC is servicing FSA or RD Loans:

   a. FDIC will receive loan payments directly from FSA or RD Borrowers.

   b. FDIC will respond to any FSA or RD Borrower inquiries regarding payments on such loans. All borrower inquiries shall be re-directed to FDIC.

   c. FDIC will keep all necessary records regarding payments received and will make all payment distributions to FSA or RD and holders of the unguaranteed interests or participation interests in each FSA or RD Loan as appropriate.

   d. If the guaranteed portion of an FSA or RD Loan has been sold to a Secondary Market Investor, and FSA or RD has not purchased such portion of the loan, FDIC will forward the Secondary Market Investor's share of any loan payments along with an accounting of such funds.

   e. For all non-performing loans with guarantees that FSA or RD consider valid, FDIC will consider restructuring with all servicing actions authorized by the appropriate state office of the FSA or RD. After receipt of a restructuring approval request from the FDIC, the respective FSA or RD state office shall have 10 business days from the date of receipt or date of receipt of any additional information requested to provide the requested approval. If the requested approval is not received by the FDIC POC within the 10 day period, the FDIC shall immediately notify the FSA and/or RD POC as designated in this IAA and allow for an additional 3 business days to acquire the requested approval. After such 3-day period and if the requested approval has still not been received by the FDIC POC, the FDIC shall proceed forward as it deems in the best interest of the respective receivership; FSA and/or RD shall be bound by the FDIC receivership decision.

f. When an FSA or RD Conditional Commitment for Guarantee has been issued to a closed bank, such commitment will be deemed canceled unless the Receiver and USDA agree that the funding of the loan will be in the best interest of USDA and enhance the ability of the FSA or RD Borrower to fulfill its obligation under any existing USDA direct or guaranteed loan.

E. USDA AND FDIC WILL MAXIMIZE THE NUMBER OF FSA AND RD LOANS INCLUDED IN FDIC SALES EVENTS

It is the goal of FDIC to market 90 percent of all saleable FSA and RD Loans to approved lenders for the programs involved when appropriate, and to FDIC Investors within ninety (90) days of a financial institution's failure. It is highly desirable and beneficial for FDIC and USDA to work together to expeditiously sell all performing and non-performing FSA and RD Loans to FSA and RD approved lenders with the guarantee intact after the failure of a financial institution. Sales to "FDIC Investors" will not retain the USDA guarantee. Therefore, FDIC and USDA shall work together to include as many FSA or RD Loans as possible in FDIC's post-financial institution failure loan sales ("FDIC Loan Sales") and sell such loans to FSA and RD Lenders when appropriate. For the avoidance of doubt, nothing contained in this IAA shall prevent the FDIC from selling FSA and RD loans to FDIC Investors, including without limitation, an assuming institution in connection with a failed bank resolution, even if such sale would result in the loss of the USDA guarantee.

F. DISPOSITION OF GUARANTEED LOANS

USDA and the Receiver shall resolve the specific loan scenarios for Performing and Non-Performing Loans in accordance with paragraphs IV (H) through (L).

G. USDA FILE REVIEW

1. USDA's determination of the validity and continuation of its guarantee on each of its loans in the failed financial institution's FSA or RD Loan portfolio is critical to the accomplishment of FDIC's goal stated in Paragraph E above. In order for USDA to make its determination regarding the continuation of the guarantees, it is necessary that USDA review the failed financial institution's FSA and RD Loan files. The parties will safeguard all personally identifiable borrower information during this review in accordance with applicable law. To facilitate USDA's ability to expeditiously review these files, as soon as is practical after the appointment of FDIC as receiver of the failed financial institution,

Interagency Agreement (Continued)

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FDIC will segregate FSA and RD Loan files from the failed financial institution's other loan files. Depending on the book value of the loan(s) and number of loans involved, FDIC will make FSA and RD Loan files available to USDA in one of the following manners in preferred order:

a. FDIC will provide USDA access at the failed bank premises to conduct a file review, as appropriate; or

b. FDIC, at its own expense, will image the necessary documents for FSA and/or RD based on the FSA/RD provided instructions. In coordination with USDA, these imaged documents will be transferred to USDA via FDIC secure file transfer in accordance with the FDIC's then applicable document security policies for review as appropriate. In lieu thereof, FDIC may, in its discretion, provide USDA with access to a secure electronic venue for review of scanned images of said necessary documents.

2. USDA and FDIC will work together during the file review so that USDA can determine whether any future loss claim would be reduced or denied, or if the guarantee is valid as of the date of the file review.

3. Within twenty (20) business days of the completion of the USDA file review, or within a timeframe agreed to by FDIC and USDA, USDA will identify for FDIC based on the information available as of the date of the file review: (a) those FSA and RD Loans that have a valid guarantee; and (b) those FSA and RD Loans that may have a problem that may cause FSA or RD to reduce or deny any future loss claim request. USDA will notify FDIC of any reasons for possible denial or reduction of any future loss claim for each FSA and RD Loan, including denial or reduction due to documentation deficiencies.

4. Before a final decision is rendered on loans that USDA has indicated a possible denial or reduction due to documentation deficiencies, FDIC will be provided a period of 21 business days to locate the missing documents. If the documents are located, FDIC will submit the missing documents to USDA for reconsideration. Within 21 business days of the FDIC presenting the missing documentation, USDA shall provide the FDIC with a final decision that USDA is satisfied with the additional documentation and USDA will provide FDIC with a final report of (1) loans indicating the validity and continuation of its guarantee based on the

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information available at that time and (2) those loans wherein there is no guaranty.

H. FDIC'S REQUEST FOR USDA TO PAY A FINAL LOSS CLAIM ON NON-PERFORMING FSA OR RD LOANS WHEN USDA HAS DETERMINED THE GUARANTEE IS VALID

Within twenty (20) business days of FDIC receiving USDA's notification described in Paragraph G (3) and (4) of this Section of the IAA, or within a timeframe agreed to by FDIC and USDA, FDIC will submit to the appropriate USDA Point of Contact ("POC") listed in Section VII of this IAA, via read receipt email, written formal requests for USDA to honor its guarantee and purchase obligations on certain non-performing FSA/RD guaranteed loans. FDIC Purchase Requests (the equivalent of a final loss claim) will consist of the principal and interest balances less appraised value of collateral, based on a current appraisal. Purchase Requests will include all documentation required by the applicable USDA regulations. To facilitate these Purchase Requests, the USDA shall provide the FDIC POC with a detailed list of the required documentation or shall provide the FDIC POC with an Internet link to the specific USDA regulation that details the documentation required. Within twenty (20) business days after receiving the Purchase Requests from FDIC or within a timeframe agreed to by FDIC and USDA, USDA will examine all Purchase Request documentation and determine in its sole discretion under applicable rules and regulations whether USDA will pay the loss claims. FSA or RD will either (1) agree to the loss claims and remit the required funds to FDIC electronically; or (2) withhold one or more of the loss claims and provide written explanation to FDIC for such withholding.

In the event USDA denies or reduces a loss claim, USDA and FDIC shall immediately discuss and address the loss claim so that USDA can reach a final loss claim determination on that FSA or RD Loan.

I. USDA SECONDARY MARKET PURCHASE, FDIC SALE, PAYMENT AND CANCELLATION OF USDA GUARANTEE

When FSA or RD is required to purchase the guaranteed portion of a performing loan from a Secondary Market Investor while FDIC holds an ownership interest, the guarantee will become invalid. FDIC will obtain a current appraisal of the remaining loan collateral and any other documentation necessary to determine the value of the loan. FDIC shall place the loan into a loan pool as described in Section L. Upon the sale of the loan, FSA and/or RD shall be entitled to their participatory interest of the net sale proceeds attributed to that loan.

K. CANCELLATION OF USDA GUARANTEE

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Interagency Agreement (Continued)

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Notwithstanding the provisions in Paragraph H or I, USDA reserves the right to cancel or reduce its guarantee on any FSA or RD Loan in accordance with applicable USDA regulations. In the event that USDA cancels or reduces a guarantee, it will notify the FDIC POC via read receipt email within 5 business days of the FSA or RD cancellation or reduction.

L. FDIC'S MARKETING AND SALE OF FSA AND RD LOANS

In accordance with FDIC's goal cited in Paragraph E of this Section, FDIC will attempt to market FSA and RD Loans within ninety (90) days of the related financial institution's failure.

1. In any sale of an FSA or RD Loan portfolio, FDIC will seek to expose the FSA or RD Loans to an appropriately wide market of qualified potential buyers. FDIC will market RD Loans to RD Lenders and FDIC Investors. FDIC and USDA understand and agree that to maintain the FSA or RD guarantees, a purchaser must be an FSA or RD approved lender, respectively. Lender approval requirements will vary by guaranteed loan program.

2. FDIC will assemble and pool a failed financial institution's outstanding FSA Loans and RD Loans as follows:

   a. 100% owned FSA Loans when the failed institution retains the guaranteed portion of the loan - This pool will include all loans which FSA indicates its guarantee remains in-force, or FSA has found documentation deficiencies that, if cured, would allow FSA to entertain a request from the buyer for transfer of the FSA guarantee. FDIC will make every effort to correct document deficiencies prior to the sale of these loans. FDIC will disclose in the loan sale those loans which have documentation deficiencies. This pool must be sold to an FSA Lender in accordance with FSA regulations in order for the FSA guarantee to remain in-force

   b. 100% owned RD Loans when the failed institution retains the guaranteed portion of the loan. Where applicable, this pool will include all loans which RD indicates its guarantee remains in-force, or RD has found documentation deficiencies that, if cured, would allow RD to entertain a request from the buyer for transfer of the RD guarantee. FDIC will make every effort to correct document deficiencies prior to the sale of these loans. FDIC will disclose in the loan sale those loans which have documentation deficiencies. This pool must be sold to a

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Interagency Agreement (Continued)

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RD approved Lender in accordance with appropriate agency regulations in order for the RD guarantee to remain in-force.

c. FSA Loans when the guaranteed portion of the loans is held by third parties - This pool must be sold to an FSA Lender, to retain the guarantee to the lender.

d. RD Loans when the guaranteed portion of the loans is held by third parties - This pool must be sold to an RD Lender, to retain the guarantee to the lender.

e. FSA Purchased Loans - This pool will include those loans of which FSA has purchased the guarantee portion from a Secondary Market Investor or when FSA has paid an estimated loss claim, prior to the time the Receivership is established and those non-performing loans that FSA purchases subsequent to establishment of the Receivership. This pool will be comprised of the unguaranteed portion of FSA Loans owned by FDIC and the FSA purchased portion of the loans that have been assigned to FDIC.

When the FDIC is servicing an FSA secondary market purchased loan and retains a legal ownership interest, USDA shall expeditiously assign any ownership interest it has in the loan to FDIC pursuant to an Authorization and Consent to the Sale of Loans and Assignment of Participation Interest form as set out in Exhibit A attached hereto. All loans will be sold on a Servicing Released basis without the guarantee.

f. RD Purchased Loans - This pool will include those loans of which RD has purchased the guarantee portion from a Secondary Market Investor or when RD has paid an estimated loss claim, prior to the time the Receivership is established and those non-performing loans that RD purchases subsequent to establishment of the Receivership. This pool will be comprised of the unguaranteed portion of RD Loans owned by FDIC and the RD purchased portion of the loans that have been assigned to FDIC.

When the FDIC is servicing an RD secondary market purchased loan and retains a legal ownership interest, USDA shall expeditiously assign any ownership interest it has in the loan to FDIC pursuant to an Authorization and Consent to the Sale of Loans and Assignment of

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Participation Interest form as set out in Exhibit A attached hereto. All loans will be sold on a Servicing Released basis without the guarantee.

g. Loans that FSA or RD has determined their guarantee is no longer valid, including those on which FSA or RD has already paid a final loss claim to FDIC, will be placed in various homogenous loan pools of the failed financial institution as loans without a guarantee.

3. With regard to FDIC sales of assembled pools to purchasers of failed financial institution loans, FDIC reserves the right to sell loan pools to the highest bidder as follows:

a. For loans described in Paragraph L(2)(a), FSA loans that are 100% owned by the FDIC, the FDIC must make all purchasers aware that the loan is not guaranteed by FSA if the purchaser is not an eligible FSA Lender. The FDIC POC will notify FSA via read receipt email, within 2 business days of the FDIC determining the winning bidder of the name of the winning bidder. FSA will, within 5 business days of this FDIC notification, notify the FDIC POC via read receipt email, if the winning bidder is not eligible as an FSA lender.

b. For loans described in Paragraph L (2) (c), the FDIC must sell these loans to an FSA lender in order to retain the guaranty to the lender and protect the third party participant.

c. For loans described in Paragraph L(2)(b), RD loans that are 100% owned by the FDIC, the FDIC must make all purchasers aware that the loan is not guaranteed by RD if the purchaser is not an eligible RD lender. The FDIC POC will notify RD via read receipt email, within 2 business days of the FDIC determining the name of the winning bidder. RD will, within 5 business days of this FDIC notification, notify the FDIC POC via read receipt email, if the winning bidder is not eligible as an RD lender.

d. For loans described in Paragraph L (2) (d), the FDIC must sell these loans to an RD lender in order to retain the guaranty and protect the third party participant.

4. Notwithstanding the foregoing, FDIC may elect to include FSA and RD loans in broader portfolio offerings if, in its discretion,

FDIC determines that this is the appropriate course of action for the failed institution(s) involved.

5. FDIC will remit to USDA its share of the sale proceeds as described in Exhibit A, Authorization and Consent to the Sale of Loans and Assignment of Participation Interest.

6. In connection with any FSA or RD loan with respect to which FDIC has remitted to USDA the USDA's share of sales proceeds as provided in paragraph L (5), FSA and RD agree to reimburse FDIC in the amount of proceeds paid to USDA attributable to such loan in the event that FDIC is required to repurchase such loan from the purchaser under the terms of the applicable FDIC Loan Sale Agreement. Such reimbursement shall be made within twenty (20) days of notification by FDIC that it has repurchased the loan from the purchaser. The effect of such repurchase and reimbursement will be to "unwind" the transaction solely as it relates to such loan and the FDIC will recommence servicing of such loan in accordance with the applicable provisions of this IAA.

V. ONGOING PROCEDURES

FSA and FDIC may agree to jointly establish procedures for administration, servicing, collection, and sale of FSA loans. RD and FDIC may agree to jointly establish procedures for administration, servicing, collection, and sale of RD loans. If any such procedures are established, such will be submitted as an exhibit or attachment to this agreement.

VI. EXPENDITURES

This IAA does not authorize the expenditure of funds by either FDIC or USDA.

VII. POINTS OF CONTACT (POC)

The individuals, offices, and departments listed in this section will be the respective points of contact for this IAA. This POC may be amended by any party upon written notice to the other party.

The POC for this IAA will be the following:

For FSA:

Craig Nehls
Deputy Director
Loan Servicing and Property Management Division

Interagency Agreement (Continued)

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Farm Service Agency
1400 Independence Ave, SW
STOP 0523
Washington. DC 20250

Telephone: (202) 720-0628
Fax: (202) 720-6797
E-mail: Craig.Nehls@wdc.usda.gov

For RD:

Mr. David Lewis
Branch Chief
Business and Industry Division (Servicing)
USDA, Rural Development
1400 Independence Ave, SW
MS 3224, Room 6859
Washington, DC 20250

Telephone (202) 690-0797
Fax: (202) 720-6003
E-mail: David.Lewis@wdc.usda.gov

For FDIC:

Mike Spaid
Assistant Director, Asset Management
Federal Deposit Insurance Corporation
1601 Bryan Street
Dallas, Texas 75201

Telephone: (972) 761-2223
Fax: (972) 761-2223
E-mail: mspaid@fdic.gov

Pamela Chrystal
Resolution & Receiverships Specialist, Asset Management
Federal Deposit Insurance Corporation
1601 Bryan Street
Dallas, Texas 75201

Telephone: (972) 560-3797
Fax: (972) 560-3797
E-mail: pchrystal@fdic.gov

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Interagency Agreement (Continued)

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The POCs will facilitate communication between the two parties as necessary. All notices required under this IAA must be delivered to each POC.

VIII. INITIAL TERM OF IAA AND RENEWAL

This IAA will take effect at the time of execution by all parties and will remain in effect for three years from that date. Unless the IAA is renewed, FDIC may not sell or transfer USDA's interest in any FSA or RD Loan after the end of the three-year period. The parties may, before or after expiration of the IAA, agree in writing to renew the IAA with the same or modified terms and conditions for a maximum renewal term of three years. The IAA may be renewed on more than one occasion. Expiration of this IAA will have no effect on the obligations of USDA or FDIC with respect to all FSA or RD Loans that FDIC administered, serviced, collected and/or sold prior to the expiration of this IAA.

No later than 180 days before the expiration of the initial term of this IAA, the parties will discuss renewal or modification of this IAA.

IX. AMENDMENTS AND MODIFICATIONS

USDA and FDIC may negotiate modifications to this IAA to clarify, expand or revise its terms. Any party may request negotiations to effect changes to this IAA. This IAA may be amended or modified only upon written mutual agreement of the parties.

X. RESOLUTION OF DISPUTES BETWEEN PARTIES

This IAA is for the purpose of improving the servicing process and disposition of USDA guaranteed loan portfolios under the supervision of FDIC. Nothing within this IAA alters the legal rights of either party pursuant to signed agreements between the FSA and any FSA Lender for which FDIC serves as Receiver. Nothing within this IAA alters the legal rights of either party pursuant to signed agreements between the RD and any RD Lender for which FDIC serves as Receiver. This IAA does not create any legal rights or obligations on the part of any third parties. FDIC and USDA shall attempt to resolve all disputes or disagreements regarding this IAA through the Points of Contact listed in Section VII.

XI. TERMINATION

USDA or FDIC may terminate this IAA on thirty (30) days written notice to the other parties. Termination will have no effect on the obligations of USDA or FDIC with respect to any FDIC Loan Sale that was approved prior to termination of this IAA.

XII. ASSIGNMENT

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Interagency Agreement (Continued)

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Except as provided herein, neither USDA nor FDIC will assign its respective rights, duties, responsibilities, or obligations under this IAA without prior written consent of the other party.

XIII. NO THIRD PARTY BENEFICIARY

The parties acknowledge that this IAA is intended to benefit only USDA and FDIC and their respective successors and permitted assigns, and no other party is entitled to enforce the obligations of this IAA.

XIV. APPLICABILITY

This IAA applies to all FSA and RD Loans that FDIC is appointed to administer, service, collect, and sell which are currently held by or acquired by the FDIC after the execution date of this IAA but prior to the expiration of this IAA. This IAA applies to FDIC only in its Receivership capacity and its corporate liquidator capacity as the successor in interest to assets of failed depository institutions. It is not the purpose of this IAA to abrogate existing statutes, rules or regulations of FDIC, or USDA and nothing contained in this IAA shall be construed to restrict or limit the statutory authority provided to either FDIC or USDA. For the avoidance of doubt, nothing contained in this IAA shall be construed to limit or prevent FDIC from exercising its statutory authority regarding selling or transferring receivership assets, such as FSA or RD Loans, to third parties, including without limitation, an Assuming Institution in connection with a failed bank resolution, or to FDIC Investors. In addition, notwithstanding any other language contained anywhere in this IAA, it is understood and acknowledged that any and all claims against FDIC as successor to a failed financial institution shall be processed only under the claims process and procedures established under the Federal Deposit Insurance Act.

XV. AUTHORITY

The parties enter into this IAA under the authority of 7 USC 1981, 42 USC 1480, 12 USC 1819(a), 12 USC 1821(d) (2), and 12 USC 1823 (d) (3) (A) of the Federal Deposit Insurance Act, all as amended.

XVI. SIGNATURES

The signatories below represent they have the authority to make the commitments set forth in this IAA on behalf of their respective organizations. This IAA is being signed on behalf of USDA by the Farm Service Agency and the Rural Housing Service, the Rural Utilities Service, and the Rural Business-Cooperative Service, the three agencies that are under the Rural Development mission area at USDA. This instrument may be executed in a number of identical counterparts, each of which, for all purposes, shall be deemed an original.

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Interagency Agreement (Continued)

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SIGNATURE PAGE TO FOLLOW

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IN WITNESS WHEREFORE, EACH PARTY HAS CAUSED THIS INSTRUMENT TO BE SIGNED ON ITS BEHALF BY ITS DULY AUTHORIZED AGENTS.

Executed this _____ day of _____, 2016

UNITED STATES DEPARTMENT OF AGRICULTURE by

FARM SERVICY AGENCY

By _____

Title: Administrator, Farm Service Agency

and

RURAL DEVELOPMENT

By _____

Title: Administrator, Rural Business-Cooperative Service

By _____

Title: Administrator, Rural Housing Service

By _____

Title: Administrator, Rural Utilities Service

FEDERAL DEPOSIT INSURANCE CORPORATION

By _____

Title: Director, Division of Resolutions and Receiverships

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Interagency Agreement (Continued)

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SIGNATURE PAGE TO FOLLOW

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IN WITNESS WHEREFORE, EACH PARTY HAS CAUSED THIS INSTRUMENT TO BE SIGNED ON ITS BEHALF BY ITS DULY AUTHORIZED AGENTS.

Executed this _____ day of _____, 2016

UNITED STATES DEPARTMENT OF AGRICULTURE by

FARM SERVICY AGENCY

By _____

Title: Administrator, Farm Service Agency

and

RURAL DEVELOPMENT

By _____

Title: Administrator, Rural Business-Cooperative Service

By _____

Title: Administrator, Rural Housing Service

By _____

Title: Administrator, Rural Utilities Service

FEDERAL DEPOSIT INSURANCE CORPORATION

By _____

Title: Director, Division of Resolutions and Receiverships

IAA FDIC USDA 10272016

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SIGNATURE PAGE TO FOLLOW

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IN WITNESS WHEREFORE, EACH PARTY HAS CAUSED THIS INSTRUMENT TO BE SIGNED ON ITS BEHALF BY ITS DULY AUTHORIZED AGENTS.

Executed this _____ day of _____, 2016

UNITED STATES DEPARTMENT OF AGRICULTURE by

FARM SERVICY AGENCY

By _____

Title: Administrator, Farm Service Agency

and

RURAL DEVELOPMENT

By _____

Title: Administrator, Rural Business-Cooperative Service

By Tony Hernandez

Title: Administrator, Rural Housing Service

By _____

Title: Administrator, Rural Utilities Service

FEDERAL DEPOSIT INSURANCE CORPORATION

By _____

Title: Director, Division of Resolutions and Receiverships

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Interagency Agreement (Continued)

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SIGNATURE PAGE TO FOLLOW

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IN WITNESS WHEREFORE, EACH PARTY HAS CAUSED THIS INSTRUMENT TO BE SIGNED ON ITS BEHALF BY ITS DULY AUTHORIZED AGENTS.

Executed this 21st day of December, 2016

UNITED STATES DEPARTMENT OF AGRICULTURE by

FARM SERVICY AGENCY

By _____

Title: Administrator, Farm Service Agency

and

RURAL DEVELOPMENT

By _____

Title: Administrator, Rural Business-Cooperative Service

By _____

Title: Administrator, Rural Housing Service

By _____

Title: Administrator, Rural Utilities Service

FEDERAL DEPOSIT INSURANCE CORPORATION

By Bret Edwards 12/21/16

Title: Director, Division of Resolutions and Receiverships

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Interagency Agreement (Continued)

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EXHIBIT "A"

AUTHORIZATION AND CONSENT TO THE SALE OF LOANS
AND ASSIGNMENT OF PARTICIPATION INTEREST

This Authorization and Consent to the Sale of Loans (this "Agreement") is made this _____ day of _____, 20___ by and between the U.S. Department of Agriculture ("USDA") and the Federal Deposit Insurance Corporation (the "FDIC") as Receiver of _____ (name of failed financial institution, city and state).

RECITALS

A. _____ (name of failed financial institution, city and state) (the "Lender") originated and was the holder of an interest in each of the loans identified on Attachment I to this Agreement (the "Loans"), each of which Loans were previously guaranteed by Farm Service Agency (FSA) or Rural Development (RD), USDA pursuant to a Lender's Agreement executed by the Lender and Agency and a Loan Note Guarantee executed by the Agency.

B. The Lender was declared insolvent and FDIC was appointed as Receiver ("FDIC/Receiver"). FDIC/Receiver assumed all of Lender's rights, title, and interest in the Loans.

C. As a result of a default, USDA purchased the guaranteed portion from a secondary market investor or holder pursuant to the Loan Guarantee and acquired a participation interest in the Loans. FDIC/Receiver holds legal title to and a participation interest in the Loans. FDIC/Receiver is the Servicer of the Loans.

D. FDIC/Receiver wishes to include the Loans in several pools of loans ("Pool") in one of its upcoming loan sales ("Sale"), of which the Sale will involve the transfer of all legal rights, title, and interest in the Loans.

E. In order to facilitate the marketing and sale of the Loans, USDA wishes to transfer its participation interest in the Loans to FDIC/Receiver pursuant to the terms and conditions set forth in this Agreement so FDIC/Receiver will have all rights, title, and interest in the Loans at the time the transactions that constitute a Sale are consummated.

TERMS

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1. When USDA holds a financial interest in the loan as a result of paying an estimated loss claim or purchasing the guaranteed portion from a secondary market investor, FDIC/Receiver promises to promptly remit to USDA its share of sale proceeds and other payments in accordance with Paragraphs 5 and 6. Therefore, USDA hereby assigns, transfers, sets over, and conveys to FDIC/Receiver all of FSA's and RD's participation interests in the Loans.

2. USDA hereby authorizes and consents to FDIC's sale of the Loans so long as the Pool in which a Loan or Loans is sold, is sold at or above FDIC/Receiver's valuation (the "FDIC Valuation") for that Pool.

3. In the event FDIC/Receiver wishes to sell a Pool including a Loan or Loans for a price lower than FDIC Valuation for that Pool (a "Below-FDIC Valuation Pool"), the FDIC/Receiver POC will send, via read receipt email, to USDA POCs listed in the Inter-Agency Agreement between the parties, the bid results regarding the Below-FDIC Valuation Pool.

USDA shall have 2 business days from receipt of this read receipt email notification to agree to or decline the sale of such Below-FDIC Valuation Pool at the proposed below-valuation price. Within said 2 business days, USDA will notify the FDIC POC, via read receipt email written notice of its decision. If USDA agrees to the sale of the Below-FDIC Valuation Pool, FDIC/Receiver may sell the Below-FDIC Valuation Pool. If FSA or RD does not agree to the sale of the Below-FDIC Valuation Pool, the FDIC/Receiver may not sell the Below-FDIC Valuation Pool. In no event shall USDA have the authority to instruct FDIC/Receiver to sell a Below-FDIC Valuation Pool if FDIC/Receiver chooses not to sell such Below- FDIC Valuation Pool.

4. In connection herewith, USDA authorizes FDIC/Receiver to undertake such actions as FDIC/Receiver may deem appropriate to market and sell the Loans, including, but not limited to, the disclosure of any and all information in FDIC/Receiver's possession regarding the Loans.

5. Attachment I sets out the percentage of USDA's present ownership in each Loan. In consideration of the mutual benefits to be derived from FDIC/Receiver's sale of the Loans as described above, FDIC/Receiver and USDA agree that USDA will receive, as to each Loan sold in a Sale, the same percentage of net proceeds of that Loan as the percentage of USDA's ownership in that Loan shown in Attachment I. Also, FDIC/Receiver will pay USDA that same percentage of the principal and interest portion of any Loan payments received by the FDIC/Receiver pursuant to the terms of the applicable loan sale agreement. FDIC/Receiver agrees to remit USDA's share of net proceeds and Loan payments to USDA within thirty (30) days after closing with the successful bidder.

6. As part of the Sale, FDIC/Receiver will break down the bid on each Pool as to the percent of the bid attributable to each loan in the Pool. This will enable FDIC/Receiver to demonstrate the sale price of each Loan. Following the sale of the Loans, FDIC/Receiver will remit to USDA their share of proceeds as described in

IAA FDIC USDA 10272016

Paragraph 5 above. FDIC/Receiver agrees to provide this bid information to USDA upon USDA's request.

7. As an inducement to FDIC/Receiver to include the Loans in a Sale, USDA represents and warrants to and covenants with FDIC/Receiver that, as to the participation interests it has assigned herein:

(a) USDA had a participation interest in each of the Loans;

(b) USDA had the right to sell such interests;

(c) USDA had not pledged, hypothecated, assigned, released or subordinated its interests in any of the Loans;

(d) USDA has all requisite power and authority to execute this Agreement and to perform all of its obligations pursuant to this Agreement and USDA has taken all necessary actions to authorize the execution, delivery, and performance of this Agreement and this Agreement is a valid and binding agreement enforceable against USDA in accordance with its terms;

8. FDIC/Receiver and USDA agree to cooperate in facilitating the transactions contemplated in this Agreement by promptly executing any required amendments or documents or providing necessary information as appropriate and authorized by law.

9. This Agreement will be governed by, construed and enforced in accordance with applicable Federal law.

10. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11. Each part of this Agreement is intended to be severable. If any term, covenant, condition, or provision hereof is illegal, invalid, or unenforceable for any reason, such illegality, invalidity, or unenforceability is not to affect the legality, validity, or enforceability of the remaining parts of this Agreement, and all such remaining parts of this Agreement will be legal, valid, and enforceable and have full force and effect as if the illegal, invalid, or unenforceable part had not been included.

12. This instrument may be executed in a number of identical counterparts, each of which, for all purposes, shall be deemed an original.

[SIGNATURE PAGE TO FOLLOW]

Interagency Agreement (Continued)

*--

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first written above.

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

By:
Printed name:
Title: State Executive Director

WITNESS

OR

U.S. DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

By:
Printed name:
Title: State Director

WITNESS

FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER OF (THE SPECIFIC BANK NAME)

By:
Printed Name:
Attorney-in-Fact

ATTEST/WITNESS

IAA FDIC USDA 10272016

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Interagency Agreement (Continued)

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ACKNOWLEDGMENTS

DISTRICT OF COLUMBIA, ss:

Before me, the undersigned Notary Public, personally appeared _____, the Authorized Agent for the United States Department of Agriculture and the person who executed the foregoing instrument by virtue of the authority vested in him, and he acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal this _____ day of _____, 20___

[SEAL]

Notary Public

My commission expires

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Interagency Agreement (Continued)

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STATE OF TEXAS)(
)(
COUNTY OF DALLAS)(

Before me, the undersigned Notary Public, personally appeared _____, Attorney-in Fact for the Federal Deposit Insurance Corporation and the person who executed the foregoing instrument by virtue of the authority vested in him/her, and he acknowledged to me that he/she executed the same as the act of the Federal Deposit Insurance Corporation acting in the capacity therein stated for the purposes and consideration therein expressed.

Given under my hand and seal this _____ day of , 20___.

[SEAL]

Notary Public

IAA FDIC USDA 10272016

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Interagency Agreement (Continued)

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ATTACHMENT I

SCHEDULE OF LOANS

IAA FDIC USDA 10272016

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*--FSA Appraisal Guidelines

Land, Agricultural Improvements, CAFO, Rural Residence, Farm

The following information elements and content descriptions are provided as guidelines to assist lenders and appraisers when delivering USPAP compliant appraisal reports acceptable to FSA. Information Element labels shall be used in the report for clarity.

An Appraisal Report following these guidelines and completed by a qualified Certified General Real Estate Appraiser will meet FSA's underwriting rules. See Appraisal Guideline Addendums for specialty type properties such as poultry, dairy, etc.

For unique situations that do not fit the following guidelines, contact FSA with questions.

Step	Information Element	Content Description
1	Client	The client will be the lending institution as designated on the appraisal order or Letter of Engagement. Appraisal must be ordered by a financial institution.
2	Intended User(s)	The intended user(s) will be the lending institution and others as listed by the lender on the appraisal order or Letter of Engagement. FSA should be included as an intended user along with others that will rely upon the report. Do not include the borrower or property owner as an intended user.
3	Intended Use	Loan origination or loan servicing.
4	Appraisal Report	Prominently state the "Appraisal Report" option. Ensure that the report meets the content of an appraisal report from USPAP and the following FSA guidelines: i. Must have a Table of Contents with all pages sequentially numbered. ii. Appraiser resume listing applicable appraisal education and experience. iii. Restricted reports are not acceptable.
5	Purpose, Condition, Effective Date of Value, Inspection and Report Dates	Provides an "Opinion of Market Value. The condition of the subject should be, "As Is", "As Improved", or "Subject To". If "As Improved" or "Subject To" is used, describe why. State the effective date, inspection date, and report date. The inspection date should typically be the effective date of value. Explain if it is not (such as in a retrospective appraisal).
6	Market Value	Definition and source of market value.
7	Hypothetical Condition/ Extraordinary Assumptions	All hypothetical conditions and extraordinary assumptions shall be **clearly** and **conspicuously** described and state that their use might have affected the assignment results. For proposed new construction, a hypothetical condition would apply.

***--FSA Appraisal Guidelines (Continued)**

Land, Agricultural Improvements, CAFO, Rural Residence, Farm (Continued)

Step	Information Element	Content Description
8	Estate Appraised	Define the estate property rights; Fee simple, Leased fee, Leasehold, Life Estate, etc. and list restrictions to the estate (conservation easements, water rights, encumbrances, contracts, marketing agreements, etc.).
9	Scope of Work	Clearly identify the appraisal problem and provide a summary of the extent of research, verification and analysis to solve it, consistent with fulfilling USPAP Scope of Work rule, Client instructions and these guidelines. Include the appraisal order or Letter of Engagement along with any scope of work modifications, if applicable.
10a	Subject Property	i. Adequately identify the subject property with a legal description, map, tax number and/or 911 street address if improved. Include a GPS (latitude/longitude) reference if available. ii. Review and discuss listing and/or auction information and seller disclosures when applicable. iii. Analyze Flood Zone and Flood Map and identify if flood zone affects the subject property and reflect the effect of flood zone in the analysis of subject utility and market appeal, summarizing the result in the Appraisal report. iv. Provide and label color photos for dwelling and major improvements that contribute to value. Provide bare land photos for significant topographical features and permanent plantings.

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***--FSA Appraisal Guidelines (Continued)**

Land, Agricultural Improvements, CAFO, Rural Residence, Farm (Continued)

Step	Information Element	Content Description
10b	Physical Characteristics	i. Inspect all structural improvements on the subject. Interiors of major buildings shall be inspected. If a physical inspection is not possible, contact the client for authorization to continue without a physical interior inspection. ii. Include a sketch of subject dwelling(s) with contributory value and other major buildings, if applicable. Sketches should provide basis for determining structure size. iii. Include a color site aerial or sketch with labels for numerous buildings (dairy, swine, poultry, headquarters, etc.) iv. Provide color aerial, soil, topographical, permanent plantings and/or other applicable maps. Show property outlines and labels on the maps to describe the property. Include soil legend with soil map. v. Discuss fixtures and personal property (ensure that there is adequate justification for classification and valuation of personal property and fixtures). vi. Summarize any environmental concerns in the appraisal report discovered during the property inspection, and discuss their effect on value. This does not meet the due diligence requirements of the FSA for an environmental inspection.
10c	Legal Characteristics	i. Any impacts of zoning, easements, contracts, entitlements, encumbrances, water rights, partial interests, etc. shall be discussed and supported from the market if value adjustments are required. ii. Describe (not state) zoning to include; building eligibility, minimum lot size, feedlot registration and/or permits, and other pertinent factors that are applicable for the market area. iii. Describe irrigation, drainage and related issues in the appraisal report.
10d	Economic Characteristics	Economic impacts or characteristics of productivity, production and ownership costs, gross and net income, etc., shall be discussed and supported from the market if value adjustments are required. Discuss general market economics, or the economics of a specialized facility.

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***--FSA Appraisal Guidelines (Continued)**

Land, Agricultural Improvements, CAFO, Rural Residence, Farm (Continued)

Step	Information Element	Content Description
10e	Characteristics of the Estate Being Appraised	As part of the appraisal assignment under USPAP, characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal must be considered; the property appraised must be identified including the property rights. This typically will include surface and subsurface rights, if the estate of the Subject property is whole. Consideration of oil, gas, minerals, timber, etc., and their possible influence on the value of the subject property constitutes good appraisal practice and should be discussed in the appraisal report.
10f	New Construction	The report shall include a copy of a blueprint, draft, and/or sketch, provided to the appraiser, along with a summary of cost estimates for the project. Client shall provide adequate documentation for the appraiser to develop a credible appraisal that is not misleading.
10g	Location	Describe the demographics, community services and market influences of the area. Discuss economic, industry and market trends. Identify the similar market area neighborhood or similar facility types for comparable sales.
11	Subject and Sales History	Analyze current sale agreements, options, or listings of the subject. Research, analyze, and report any prior sales of the subject or comparable sales within 3 years for all property types.
12	Highest and Best Use	Consider each factor of H&BU; legally permissible, physically possible, financially feasible and maximally productive (highest value). Describe and state reasoning and analysis for H&BU based on subject characteristics and market influences. Develop H&BU for "as vacant" and "as improved" when necessary. Land and improvements **must** be valued with the "consistent use" concept.

***--FSA Appraisal Guidelines (Continued)**

Land, Agricultural Improvements, CAFO, Rural Residence, Farm (Continued)

Step	Information Element	Content Description
13	Comparable Sale Data and Analysis	Sales should be selected that have similar attributes of the subject, and described and analyzed so the reader has a clear understanding of how the "opinion of value" is supported. H&BU of comparable sales should be consistent with H&BU of subject. i. Provide important attributes of the sale; date, price, terms, legal description, 911 street address when improved, tax ID, land classes, and improvement description. ii. Include a color site aerial or sketch with labels for numerous buildings (dairy, swine, HQ, etc.). iii. Provide color aerial, soil, topographical, permanent plantings and/or other applicable maps. iv. Color photos shall show dwelling and major improvements that contribute to value. v. Disclose how the sale was verified and marketed with a party to the transaction. vi. Provide bare land photos for significant topographical features and permanent plantings. vii. Summarize or include legible copies of the Certificate of Real Estate Value, Multi Listing Service, contracts, carry back mortgages, or other similar supporting documentation (retain documents in your work file). viii. Discuss fixtures and personal property (ensure that adequate justification for classification and valuation of personal property and fixtures is provided). ix. Sale analysis shall easily verify the applicable units of comparison and rates that support the value of the subject. For example; land class ratio, building replacement cost new, derived depreciation rates, improvement contribution, contribution of timber, minerals, water rights, etc., as well as income and expense estimates should all be analyzed consistently and the analysis should support the subject analysis. Describe how land allocations were made.

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***--FSA Appraisal Guidelines (Continued)**

Land, Agricultural Improvements, CAFO, Rural Residence, Farm (Continued)

Step	Information Element	Content Description
14	Contracts for Production, Marketing or Other Similar Agreements	Summarize market *I* production contracts, marketing plans, or other similar documents for the subject and sales. i If a market and/or production contract exist in which the value of the subject property is dependent upon the contract (i.e. poultry contract), then an analysis of the relationship of the contract to the subject's real property and how the contract impacts the value of the real property must be explained in the appraisal report. ii. Similar sales with similar contracts should be used to value the subject if a market and/or production contract is in place.
15	Location Map	Location map shall easily locate subject and sales. The location map should provide sufficient detail for the reader to locate the properties if the other maps provided in the report do not have sufficient detail to locate the properties. Roads by name or number may be needed to find the property.
16	Value Approaches	All three approaches to value should be considered and used when necessary for credible assignment results. It is acceptable not to use an approach provided solid justification that the approach is not necessary for credible results. i. The Income Approach should be included for agricultural income producing properties. ii. Land classification should be based on the market of the subject and sales. iii. When value adjustments are required for physical characteristics (access, soils, water features, view, topography, drainage, climate, size, shape, site and structure improvements, permanent plantings, etc.), discuss and support from the market. iv. Subject pending sale can't be used as a comparable, but needs to be analyzed and discussed.
17	Sales Comparison Approach	Provide a sales base within the report to adequately support the analysis. i. Units of comparison should be derived from the market. ii. Sales must be analyzed within the report for the reader to understand how the appraiser has applied those units of comparison to the Subject.

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***--FSA Appraisal Guidelines (Continued)**

Land, Agricultural Improvements, CAFO, Rural Residence, Farm (Continued)

Step	Information Element	Content Description
18	Cost Approach	Provide a sales base within the report to adequately support the analysis. i. Describe construction quality, utility, and condition ii. Provide support for land value and replacement cost new within the appraisal report. iii. Extract depreciation from the sales analysis in the report so the reader can understand the reasoning for applying depreciation rates to the subject. iv. Reconcile strengths and weaknesses of the Cost Approach.
19	Income Approach	Provide a sales base within the report to adequately support the analysis. i. Provide support for income, expenses, and rates within the appraisal report. ii. Analyze sales for the applicable rate that is used. iii. Explain reasoning for subject income, expense and rate selection. iv. Reconcile strengths and weaknesses of the Income Approach.
20	Reconciliation	Describe support for the "Opinion of Value" reviewing strengths and weaknesses of each approach to value and discuss the reconciliation. Consider the value of the whole, versus the sum of the parts.
21	Certification	Include the signed Certification compliant with the current USPAP. Include signature(s), State(s) of license, full name of license class, and license number(s), for example, "MN Certified General Real Property License 20000001". Do not abbreviate license class, such as "CRRPA".

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*--FSA Appraisal Guidelines for Poultry

Poultry Addendum to FSA Appraisal Guidelines

In addition to the general FSA Appraisal Guidelines, the following is a supplement specific to poultry appraisals.

Step	Information Element	Content Description
1	Market Description	Summarize the market for poultry operations in the subject area based on contacts with local integrators, lenders, and growers. Determine the amount and range of contract production payments and terms being paid to poultry operators. The description shall discuss the subject integrator as well as other integrators operating in the area.
2	Subject Description	Describe the poultry buildings and fixtures and/or equipment associated with each building in sufficient detail, including the age and condition of each. For existing facilities, state and discuss the actual age and effective age for each and reconcile any differences. Typically, a lower effective age requires detailed documentation of significant upgrades. Identify and document all prior repairs and/or upgrades including cost estimates and year completed. A visual inspection of the interior is necessary to adequately assess the condition for existing facilities. If subject is an existing facility, appraised "as-improved" to include repairs and/or upgrades, document the proposed repairs and/or upgrades including cost estimates. A hypothetical condition should be stated. If the subject is new construction, summarize the actual construction cost quotes and/or estimates associated with the new construction and include in the appraisal copies of quotes and specs sufficient to adequately describe the proposed construction. A hypothetical condition should be stated. Identify the legal permitted capacity. Identify any personal property included on subject and/or sales, and show contributory value separately from real estate. Adequately describe the land and land improvements as well as any other improvements.

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***--FSA Appraisal Guidelines for Poultry (Continued)**

Poultry Addendum to FSA Appraisal Guidelines (Continued)

Step	Information Element	Content Description
3	Poultry Production Contract and/or Agreement	Summarize the contract or proposed grower contract and/or agreement with the integrator (if applicable) for the subject, and under what terms and/or conditions the contract is subject to (such as any repairs or upgrades to the facilities that may be required to obtain the contract). Include income and expense estimates. If the value of the subject property is dependent upon the contract, then an analysis of the relationship of the contract to the subject's real property and how the contract impacts the value of the real property must be explained in the appraisal report.
4	Integrator Requirements	Describe the standards for equipment and buildings required by integrators and whether the subject's poultry houses meet, exceed, or do not meet the integrator's standards. Discuss the compatibility of the subject improvements with requirements of other integrators in the area as well. If the poultry house(s): • are no longer in operation, additional discussion is needed • are obsolete, this needs to be explained in the appraisal • can be put back into production, then an estimated cost to cure and bring them in compliance with the integrator's contract standards shall be provided.

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***--FSA Appraisal Guidelines for Poultry (Continued)**

Poultry Addendum to FSA Appraisal Guidelines (Continued)

Step	Information Element	Content Description
5	Approaches to Value	For a poultry appraisal, generally all 3 approaches are applicable and necessary. Analyze the local sales that are available to adequately support the value of the subject's poultry facilities. When there are insufficient local sales, regional sales may be considered. Analyze and adequately support adjustments for locational differences if applicable. Discuss and support the selection of comparable sales. Incorporate the same appraisal methods and techniques to analyze the subject and comparable sales and provided adequate documentation of adjustments to support the subject value conclusion. Include sufficient detail from the sales analysis in the appraisal to support the subject analysis. Units of comparison should be determined from the market, but for poultry appraisals, the most common unit of comparison is square footage of the poultry houses.
6	Sales Comparison Approach	Show direct comparison of subject and sales summarized in a grid. Explain and support all adjustments in sufficient detail. Use a unit of comparison that is understandable and supportable. FSA recommends using value per square foot of poultry houses.

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***--FSA Appraisal Guidelines for Poultry (Continued)**

Poultry Addendum to FSA Appraisal Guidelines (Continued)

Step	Information Element	Content Description
7	Cost Approach	Provide market data to support typical replacement cost new. Use typical cost for replacement cost new calculations, but discuss any differences in actual quotes and/or estimates from typical cost. For existing operations, also provide market data to support typical economic life and to support depreciation rates used. Include the following: • The contributory value of the land components. Include vacant land sales to support the contributory values. • The contributory value of any site improvements (wells, septic tanks, roads and loading areas, etc.). Discuss whether building pads are included with buildings or with site improvements. • The contributory value and remaining economic life of each building, taking into account physical, functional and external obsolescence. Buildings of like kind, age, and condition can be grouped. See comments under Item 2 above. • The contributory value and remaining economic life of equipment/fixtures associated with each building, taking into account physical, functional and external obsolescence. Equipment of like kind, age, and condition can be grouped. See comments under item 2 above.
8	Income Approach	Show income and expense projections used in the income approach. Income and expenses should be based on income and expenses extracted from market data for a typical operation. Compare to integrator's projections. Projected income and expenses for other farm related enterprises, if applicable, should be addressed as well. Discuss subject actual income and expenses vs. typical income and expenses if different.
9	Final Value Allocation	Allocate the final value opinion into the contributory value of the component parts for the land, land improvements, and structural improvements (including fixtures and equipment). The contributory value of any personal property included in the value should be shown separately.

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***--FSA Appraisal Guidelines for Dairy**

Dairy Addendum to FSA Appraisal Guidelines

The following information elements and content descriptions are provided as guidelines to assist the lenders and appraisers to deliver a USPAP compliant appraisal report acceptable to FSA. Information Element labels should be used in the report for clarity.

A Dairy appraisal following FSA's Guidelines for guaranteed lenders in conjunction with the Dairy Guidelines completed by a qualified Certified General Real Estate Appraiser will meet FSA's underwriting rules.

For unique situations that do not fit the following guidelines, contact FSA with questions.

Item	Information Element	Content Description
1	Market Description	Summarize the market for milk and dairy products in the subject's marketing area with emphasis on the number of milk handlers and/or milk cooperatives. Are there sufficient alternatives for milk sales in the local area? Explain the supply and demand factors. The availability of support services for dairying should be addressed in the appraisal report.
2	Subject Description	Describe the following building categories of the dairy operation in sufficient detail and in relation to their utility and contribution to the whole enterprise: describe the livestock facilities design and capacity for cows and young stock, milking facilities, feed storage, machinery & equipment storage, fixtures, personal property, and waste storage and handling. State and discuss the actual ages, effective ages and remaining economic lives for the farm buildings or building categories listed above. Discuss condition and any prior repairs/upgrades to the property's buildings with actual or estimated costs. Describe farm dwelling(s) and other outbuildings with contributory value. For new construction, summarize the actual construction cost quotes/estimates associated with the new construction and include in the appraisal copies of quotes and specifications that are sufficient to adequately describe the proposed construction. If an existing facility is appraised "as-improved" that will include repairs/upgrades, document the proposed repairs/upgrades and include the estimated cost.

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***-- FSA Appraisal Guidelines for Dairy (Continued)**

Dairy Addendum to FSA Appraisal Guidelines (Continued)

Item	Information Element	Content Description
2 (Cntd)	Subject Description (Continued)	Identify the legal permitted capacity in AUs (animal units). Identify and discuss if the dairy is a confined animal feed operation (CAFO). Does the CAFO have an approved nutrient/manure management plan that is in compliance, with adequate and available acres? Appraisers should be provided with information related to the operations status as a CAFO and compliance on their nutrient/manure management plan when the information is available. Appraisers should review and discuss this information with the property owner and note any compliance issues. Analyze and discuss the market area feed base capacity to support the operation. Discuss the available legal surface and groundwater rights (verification if available) necessary to support the projected dairy capacity in the analysis. Identify and differentiate between the equipment considered personal property and fixtures required for the ongoing farm operation for the subject and/or sales. Show contributory value separately for non-real property items.
3	Approaches to Value	For dairy appraisals, generally all three approaches are applicable and necessary. Analyze available local sales to adequately support the value of the subject's dairy facilities. When there are insufficient local sales, regional sales may be considered. Analyze and adequately support adjustments for locational differences if applicable. Discuss and support the selection of comparable sales. Sales selected should reflect the attributes of the subject and should be similar operations. Sales verification is the key to the analysis of dairy farm sales and should include the same degree of building description and analysis as listed above under "Subject Description". Analyze subject and sales in the same manner and include sufficient detail from the sales analysis in the appraisal to support the appraisal. Units of comparison, as determined from the market, should be discussed. Commonly used units of comparison for dairy farms are $/acre or $/stall/milk cow. The exclusion of any of the 3 approaches to value must explain why an excluded approach is not necessary for credible results.

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***--FSA Appraisal Guidelines for Dairy (Continued)**

Dairy Addendum to FSA Appraisal Guidelines (Continued)

Item	Information Element	Content Description
4	Sales Comparison Approach	Show direct (head to head) comparison of subject and sales summarized in a grid. Explain and support all adjustments in sufficient detail. Explain how the value opinion was selected from the direct comparisons (i.e. which sales were given the most weight). Comparability of sales should focus on similarities relating to housing (conventional or free stall) and feed (purchased/grown/land base) and/or other similarities that influence value.
5	Cost Approach	Show cost approach calculations including replacement cost new (RCN) estimates and contributory values. Use typical cost for RCN calculations and discuss any differences in actual quotes/estimates from typical cost (if applicable). Provide market data to support typical RCN. Sales analysis should support depreciation rates and typical economic life. Include the following for subject and sales: • Show the contributory value of each building with significant contributory value and discuss effective ages and remaining economic life, taking into account physical, functional and external obsolescence. Buildings of like use, age, and condition can be grouped for analysis purposes and should be adequately described. • Show the contributory value of fixtures/equipment and discuss effective age and remaining economic life, taking into account physical, functional and external obsolescence. • Show the contributory value of the land components supported by local sales and state the contributory value of any site improvements (wells, septic tanks, pads and roads) as a separate entry, or as part of the building contributory value. If site improvement value is included as part of the building contributory value, ensure that any value differences are explained and discussed.

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***--FSA Appraisal Guidelines (Continued)**

Dairy Addendum to FSA Appraisal Guidelines (Continued)

Item	Information Element	Content Description
6	Income Approach	Cash rent and typical owner/operator are the generally suggested methods used for income approach calculations. If cash rent information is limited, typical owner operator data can be used from dairy farm business summaries of similar sized dairy operations to estimate typical incomes and expenses. Projected income and expenses for other farm enterprises should be addressed as well. Discuss the subject's enterprises actual income & expenses vs. typical when significant differences occur. Property should be appraised on a fee simple basis verse a leased fee basis. Discuss selection of cap rates and which sales are given the most weight. Rate selection should be from similar sales and homogenous data, i.e., cash rents comps or owner/operator mirroring the method used for the subject.
7	Reconciliation & Final Value Allocation	Reconcile the three approaches to value and discuss which approach is given the most weight. Allocate the final value opinion into the contributory value of the component parts for the land, land improvements, and structural improvements (including fixtures and equipment). The contributory value of any non-real property items included in the value should be shown separately and discussed.

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***--FSA Appraisal Guidelines for Hog (Continued)**

Hog Addendum to FSA Appraisal Guidelines

The following information elements and content descriptions are provided as guidelines to assist the lenders and appraisers to deliver a USPAP compliant appraisal report acceptable to FSA. Information Element labels should be used in the report for clarity.

A Hog appraisal following FSA's Guidelines for guaranteed lenders in conjunction with these Swine Guidelines completed by a qualified Certified General Real Estate Appraiser will meet FSA's underwriting rules. They should be used in conjunction with the regular appraisal guidelines suggested by FSA.

For unique situations that do not fit the following guidelines, contact FSA with questions.

Item	Information Element	Content Description
1	Market Description	Summarize the market for hog operations in the subject area based on contacts with local integrators, lenders, and growers. Provide a general discussion of the rates and terms being offered by integrators to hog producers. The description shall discuss the subject integrator as well as other integrators operating in the area.
2	Subject Description	Describe the hog buildings and fixtures/equipment associated with each building in sufficient detail including the age and condition of each. For existing facilities, state and discuss the actual age and effective age for each and reconcile any differences. Typically, a lower effective age requires detailed documentation of significant upgrades. Identify and document all prior repairs/upgrades including cost estimates and year completed. A visual inspection of the interior is necessary to adequately assess the condition for existing facilities. If interior inspection is not possible contact the Client for guidance. If the subject is an existing facility, appraised "as-improved" to include repairs/upgrades, document the proposed repairs/upgrades including cost estimates. A hypothetical condition should be stated. If the subject is new construction, summarize the actual construction cost quotes/estimates associated with the new construction and include in the appraisal copies of quotes and specifications sufficient to adequately describe the proposed construction. A hypothetical condition should be stated.

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***--FSA Appraisal Guidelines (Continued)**

Hog Addendum to FSA Appraisal Guidelines (Continued)

Item	Information Element	Content Description
2 (cntd)	Subject Description (Continued)	Identify the legal permitted capacity in AUs (animal units). Does the Confined Animal Feed Operation (CAFO) have an approved nutrient / manure management plan that is in compliance, with adequate and available acres? Appraisers should be provided with information related to the operations status as a CAFO and compliance on their nutrient/manure management plan when the information is available. Appraisers should review and discuss this information with the property owner and note any compliance issues. If applicable, discuss the available legal surface and groundwater rights (verification if available) necessary to support the projected hog capacity in the analysis. Discuss manure premiums and/or manure easements (spray field easements/application easements) or other similar issues. Ensure they are adequately addressed in the nutrient/manure management plan.
3	Hog Production Contract/ Agreement	Summarize the contract or proposed grower contract/agreement with the integrator (if applicable) for the subject and under what terms and/or conditions the contract is subject to (i.e. any repairs or upgrades to the facilities that may be required to obtain the contract). Include income and expense estimates. Is the subject contract similar to a typical market contract? If there are significant contract differences between the existing contract (leased fee) and typical market contract (fee simple) that impact value, they should be discussed with the Client and in the report.
4	Integrator Requirements	Describe the standards for equipment and buildings required by integrators and whether the subject's hog building(s) meet, exceed, or do not meet the integrator's standards, if applicable. Discuss the compatibility of the subject improvements with requirements of other integrators in the area as well. If the hog building(s) are no longer in operation, additional discussion is needed. If the building(s) are obsolete, this needs to be explained in the appraisal. If the building(s) can be put back into production, then an estimated cost to cure to bring them into compliance with the integrator's contract standards should be provided.

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***-- FSA Appraisal Guidelines For Hog (Continued)**

Hog Addendum to FSA Appraisal Guidelines (Continued)

Item	Information Element	Content Description
5	Approaches to Value	For a hog appraisal, generally all three approaches are applicable and necessary. Analyze such local sales that are available to adequately support the value of the subject's hog facilities. When there are insufficient local sales, regional sales may be considered. Analyze and adequately support adjustments for locational differences if applicable. Discuss and support the selection of comparable sales. Include sufficient detail from the sales analysis in the appraisal to support the subject analysis. Units of comparison should be determined from the market.
6	Sales Comparison Approach	Show direct (head to head) comparison of subject and sales summarized in a grid. Explain and support all adjustments in sufficient detail. Use a market unit of comparison that is understandable and supportable. Explain which sales were given the most weight from the direct comparisons for the value opinion.
7	Cost Approach	Provide market (local/cost provider) data to support typical replacement cost new (RCN). Use typical cost for RCN calculations, but discuss any differences in actual quotes/estimates from typical cost. For existing operations, also provide market data to support typical economic life and to support depreciation rates used. Include the following for subject and sales data: • The contributory value of the land components. Include vacant land sales to support the contributory values or appropriate appraisal method or technique. • The contributory value of any site improvements (manure lagoons, wells, septic tanks, roads and loading areas, etc.). They should be consistently analyzed. Describe, discuss and explain. Any significant value differences should explained and discussed. • The contributory value of each building and the contributory value of the fixtures/equipment. Include the RCN, effective age, and remaining economic life. Document the physical, functional and external depreciation calculations.

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***--FSA Appraisal Guidelines for Hog (Continued)**

Hog Addendum to FSA Appraisal Guidelines (Continued)

Item	Information Element	Content Description
8	Income Approach	Compare and discuss actual income and expenses from the contract projections to typical market income & expenses. Other projected farm related income and expenses, should be discussed as well. Property should be appraised on a fee simple basis. Discuss selection of cap rates and which sales are given the most weight.
9	Final Value Allocation	Allocate the final value opinion into the contributory value of the component parts for the land, land improvements, and structural improvements (including fixtures and equipment). The contributory value of any personal property included in the value should be shown separately.

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Appraisals for the Liquidation of Poultry and Other CAFO's

A Background

Poultry and other CAFO facilities are often appraised for the "liquidation or salvage" value by a guaranteed lender when submitting a loss claim because CAFO is no longer active. Subsequently, a third party may purchase the facility for the "liquidation or salvage" value and obtain a contract from an integrator that then inflates the value of the property to its "highest and best use" value as an active CAFO. This results in a greater loss paid by FSA than necessary and the possibility that FSA will approve a guarantee on the same property on which it previously paid a substantial loss.

B State and County Offices Responsibilities

State and County Offices are required to:

- analyze lender's liquidation appraisals for poultry and other CAFO's to ensure that the market conditions for CAFO's and the demand for producers by area integrators has been properly reflected in the appraisal

- advise guaranteed lenders that they should, according to USPAP when submitting loss claims, appraise CAFO property to determine the "highest and best use" value considering the demand for CAFO facilities and operators by the area integrators and only use "liquidation or salvage" value appraisals when there is no demand and it is likely that the *--property will not be used for a CAFO in the future.--*

C Appraising Poultry Facilities and Other CAFO's for Loss Claims

If the market indicates that there is a demand for CAFO facilities with integrators in the area, then the appraisal requested by the lender will be a market value appraisal less the cost of repairs or retro-fitting, if necessary. When assigning the scope of work for the appraisal according to USPAP Standards Rule 1-2(f), the lender should require appraiser to:

- survey all existing integrators in the area as to the feasibility of the availability of an operating contract on the property

- appraise the property for its "highest and best use" value as required by USPAP Standard Rule 1-3.

Appraisers should be held accountable by the lender for a "liquidation or salvage" value appraisal of a CAFO facility that is in fact suitable as a functional facility. Lenders will be advised that FSA will be closely reviewing these types of appraisals.

Appraisals for the Liquidation of Poultry and Other CAFO's (Continued)

D Appraisals and Actions After Final Loss Claims

This table provides guidance for appraisals and actions that shall be taken after final loss claims.

IF...	THEN...
within 2 years of payment of the final loss claim, there is a loan request on the same property that includes an appraisal at a greater value than the appraisal used to calculate the final loss payment	the appraisals should be thoroughly reviewed to determine the reason for the discrepancy. **Note:** Any loan application received in this circumstance must be very thoroughly reviewed.
it is determined that the property appraisal at the time of the loss claim payment was deficient	FSA will initiate actions against the lender to recover the difference in value.
a property securing a poultry operation or other CAFO is repurchased at the foreclosure sale and subsequently re-sold by the lender for a higher value than the appraised value	the proceeds exceeding the appraised value must be paid proportionally to FSA as determined in the final loss claim.

***--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.

--**The RD Business Center 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.

Loss Claims

A Estimated Loss Claim Interest Accrual Examples

*--Lender submits estimated loss claim on day 149. FSA approves on day 160. Lender receives 160 calendar days of interest.

Lender submits estimated loss claim on day 160. FSA approves on day 170. Lender receives 150 calendar days of interest.--*

Lender submits estimated loss claim on day 90. FSA approves on day 140 after 20 calendar days *--of lender delay in providing FSA requested clarification. Lender receives 140 calendar days of--* interest. * * *

Lender submits estimated loss claim on day 140. FSA approves on day 190 after 30 calendar *--days of lender and FSA discussing points of clarification and revising the claim for accuracy. Lender receives 190 calendar days of interest accrual.--*

* * *

*--B Estimated Loss Claim Interest Accrual When FSA Delays Approval Over 30 Days

When additional interest is owed to the lender due to FSA delays in approving the estimated loss claim over 30 calendar days, FSA will pay the lender additional interest, regardless if the estimated loss claim was submitted timely.

If the claim was submitted timely and FSA delays over 30 calendar days cause interest accrual to exceed 210 calendar days, the interest accrual for each day beyond 210 calendar days will be calculated based on the principal portion of the loss claim only and will not be included in the loan's interest accrual shown on item 20 of the FSA-2254.

If the claim was not submitted timely, interest accrual on item 20 of the FSA-2254 will not exceed 150 calendar days, except when allowed for reorganization bankruptcy or borrower-initiated litigation. For each day of interest due to FSA delays in processing over 30 calendar days, the interest accrual will be calculated based on the principal portion of the loss claim only (item 53).

The calculation for the principal portion of the loss claim is as follows:

Principal (item 19 + item 23) / Total Loan Items (item 22 + item 25) x Balance Due lender – Legal Expense Payment (item 48 – item 44) = Principal Portion of Loss Claim (item 53)--*

Loss Claims

***--B Estimated Loss Claim Interest Accrual When FSA Delays Approval Over 30 Days (Continued)**

When additional interest is owed to the lender, beyond what is allowable in item 20, FSA must calculate the principal portion of the loss claim (item 53) and indicate that additional interest is owed on item 52. The number of interest days owed based on the principal portion of the loss claim must be provided to RD BC when the estimated loss claim is submitted for payment (may be included in item 60).

The additional interest due to FSA delays that is owed to the lender beyond what is allowed in item 20 will not be included in item 20 so that it will not be part of the borrower's Federal debt when a final loss claim is processed.

Examples:

Lender submits estimated loss claim on day 150. FSA approves on day 220. Lender will receive 210 max calendar days of interest, reflected in item 20. Lender will also receive 10 additional days of interest, based on the principal portion of the loss claim only (item 53), because FSA delays in processing over 30 calendar days exceeded 210 calendar days.

Lender submits estimated loss claim on day 150. FSA approves on day 200. Lender will receive 200 days of interest, reflected in item 20. While FSA did delay approval over 30 calendar days, the delay did not cause the interest accrual in item 20 to exceed 210 calendar days.

Lender submits estimated loss claim on day 160. FSA approves on day 200. Lender will receive max 150 calendar days of interest in item 20 and will also receive 10 additional days of interest due to FSA's delay over 30 calendar days in processing, based on the principal portion of the loss claim (item 53) only.**--***

Loss Claims (Continued)

C Estimated Loss Claim Interest Accrual When Reorganization Bankruptcy Is Filed and Dismissed Examples

* * *

***--**Lender submits estimated loss claim on day 110. Borrower files reorganization bankruptcy on day 120. Bankruptcy is dismissed on day 220. FSA approves on day 225. Lender will receive max 210 calendar days of interest. When the lender submits a final loss claim, they may claim interest between the 210 days maximum allowed on the estimated claim and the date of dismissal, for an additional 10 days. FSA's 30-day timeframe for processing the estimated loss claim is paused during the bankruptcy deliberations, however the lender will still be compensated for the 10 days not covered in item 20 of the estimated loss claim on the final loss claim (see subparagraph 359 A and 344 A).

Lender submits estimated loss claim on day 155. Borrower files reorganization bankruptcy on day 160. Bankruptcy is dismissed on day 260 . FSA approves on day 300. Lender will receive 150 calendar days of interest accrual in item 20. Lender will also receive 15 additional days of interest due to FSA delays over 30 calendar days in processing (5 days between submission of estimated loss claim and bankruptcy filing, plus 40 days between dismissal and FSA approval, minus 30 days allowed for processing), based on the principal portion of the loss claim only (item 53). FSA's 30-day timeframe for processing the estimated loss claim is paused during the bankruptcy deliberations, however the lender will still be compensated for the 100 days between bankruptcy filing and dismissal not covered in item 20 of the estimated loss claim on the final loss claim (see subparagraphs 359 A and 344 A).**--***

D Estimated Loss Claim With Borrower-Initiated Litigation Example

--**Lender submits estimated loss claim on day 110. Borrower files suit on day 130. Estimated loss claim is approved on day 160. Suit is dismissed on day 270. Lender will receive 160 calendar days of interest accrual in item 20. When lender files the final loss claim they will receive an additional 110 days of interest accrual in item 20 (270 (day of dismissal) – 160 days (day estimated loss claim was approved) = 110 days).**--

E Estimated Loss Claim Post Reorganization Bankruptcy Plan Completion

--**Handled the same as any other liquidation. Following the completion of a Chapter 11, 12, or 13 bankruptcy plan, the loan balances and terms remain in effect, as per the plan.**--

* * *

Loss Claims (Continued)

F Final Loss Claim Interest Accrual Examples

***--**Lender submits final loss claim with interest accruing through 150 calendar days. FSA approves on day 190. The estimated loss claim was approved by FSA on day 150 and lender was paid for 150 calendar days of interest accrual, receiving the estimated loss payment on day 155. Lender may receive 5 additional calendar days of interest accrual on the final loss claim in item 20 (155 days) based upon the daily interest accrual rate submitted with the estimated loss claim.

Lender submits final loss claim on day 300. FSA approves on day 335. An estimated loss claim was not previously submitted. FSA approves the final loss claim on day 330. Lender will receive 150 calendar days of interest in item 20.**--***

***--G Final Loss Claim Interest Accrual When FSA Delays Approval Over 40 Days**

When additional interest is owed to the lender due to FSA delays in approving the final loss claim over 40 calendar days, FSA will pay the lender additional interest, regardless if the estimated loss claim was submitted timely. However, the additional interest due to FSA delays over 40 calendar days will not be included in the loan's interest accrual shown on item 20 of the FSA-2254. The interest accrual will be calculated based on the principal portion of the loss claim only (item 53).

The calculation for the principal portion of the loss claim is as follows:

Principal (item 19 + item 23) / Total Loan Items (item 22 + item 25) x Balance Due lender – Legal Expense Payment (item 48 – item 44) = Principal Portion of Loss Claim (item 53)

When additional interest is owed to the lender, beyond what is allowable in item 20, FSA must calculate the principal portion of the loss claim (item 53) and indicate that additional interest is owed on item 52. The number of interest days owed based on the principal portion of the loss claim must be provided to RD Business Center, Guaranteed Commercial Branch when the estimated loss claim is submitted for payment (may be included in item 60).

The additional interest caused by FSA delays will not be part of the borrower's Federal debt when a final loss claim is processed. --*

Loss Claims (Continued)

***--G Final Loss Claim Interest Accrual When FSA Delays Approval Over 40 Days (Continued)**

Examples:

Lender submits final loss claim with complete information that reflects interest accruing through 140 calendar days, after having an estimated loss claim timely submitted and timely approved by FSA. FSA approved the estimated loss claim on day 140 and lender was paid on day 143. FSA approves the final loss claim 60 calendar days after receiving the final loss claim with complete information. Lender may receive 3 additional days of interest accrual on the final loss claim in item 20, based upon the daily interest accrual rate submitted with the estimated loss claim. Lender will also receive 20 calendar days of additional interest for FSA delays over 40 calendar days of processing, based on the principal portion of the loss claim only (item 53).

Lender submits final loss claim with accruing interest through 180 calendar days, after having an estimated loss claim submitted and paid timely. FSA approved estimated loss claim on day 180 and lender was paid on day 183. FSA approves the final loss claim 75 calendar days after it was submitted. However, on day 10 after submission, FSA requested additional information from the lender required to proceed with the review. Information was provided 30 calendar days after the request. Lender may receive 3 additional days of interest accrual on the final loss claim in item 20, based upon the daily interest accrual rate submitted with the estimated loss claim. Lender will also receive 5 additional days of interest due to FSA's delay over 40 calendar days of processing (75 days total processing days – 30 days paused for lender requested information = 45 days of FSA processing – 40 calendar days allowed for FSA processing = 5 calendar days). This additional interest due to FSA delays is based on the principal portion of the loss claim only (item 53).**--***

H Final Loss Claim Interest Accrual When Reorganization Bankruptcy Is Filed and *--Dismissed (Type 01 Estimated Loss Previously Paid)

Lender files estimated loss claim on day 100. FSA approves estimated loss claim on day 125 with 125 days of accrued interest. Lender receives payment on day 128. Borrower files Chapter 12 bankruptcy on day 130. Bankruptcy is dismissed on day 310. Lender submits final loss claim on day 400. FSA approves final loss claim on day 440. Lender receives 308 calendar days of interest accrual, reflected in item 20. (125 days paid on estimated loss claim + 3 days between estimated loss claim approval and payment received by lender + 180 days for bankruptcy deliberations = 308 days). Interest may exceed the 210 calendar days typically allowed when an estimated loss claim is submitted timely, according to subparagraph 360 F.

Lender files estimated loss claim on day 160. FSA approves estimated loss claim on day 165 with 165 days of accrued interest. Lender receives payment on day 169. Borrower files Chapter 12 Bankruptcy on day 180. Bankruptcy is dismissed on day 280. Lender submits final loss claim on day 400. FSA approves final loss claim on day 440. Lender receives 269 days of interest accrual in item 20 (165 days paid on estimated claim + 4 days between estimated loss claim approval and payment received by lender + 100 days for bankruptcy deliberations = 269). Interest may exceed the 150 calendar days typically allowed when an estimated loss claim is not submitted timely, according to subparagraph 360 F.**--***

Loss Claims (Continued)

***--I Final Loss Claim Interest Accrual When Reorganization Bankruptcy is Filed and Dismissed (Type 05 Estimated Loss Previously Paid)**

Borrower files Chapter 12 bankruptcy on day 175 and gets a confirmed plan on day 300. Lender files Type 05 estimated loss claim on day 320. FSA approves on day 330. The bankruptcy plan is dismissed on day 400. Lender submits final loss claim on day 500. FSA approves on day 530. FSA must work with RD BC to convert the previously paid Type 05 to a Type 01 estimated loss claim. On the final loss claim, the lender will receive 275 days of interest accrual in item 20 (150 maximum allowed because an estimated loss claim was not submitted within 150 days + 125 days for bankruptcy deliberations = 275).**--***

J Final Loss Claim Interest Accrual With Borrower-Initiated Litigation (Estimated Loss Previously Paid)

--**Lender files estimated loss claim on day 130. Information is complete. FSA approves loss claim on day 160 with 160 days of interest accrual. Lender receives payment on day 170. Borrower files lawsuit that prohibits lender from liquidating on day 200. Lawsuit is dismissed on day 300. Lender completes liquidation and submits final loss claim on day 350. FSA approves final loss claim on day 400. Lender receives 270 calendar days of interest accrual reflected in item 20. (160 days paid on estimated loss claim + 10 days between estimated loss claim approval and payment received by lender + 100 for litigation deliberations = 270 days). Lender will also receive 10 calendar days for FSA processing over 40 calendar days. This additional interest due to FSA delays is based on the principal portion of the loss claim only (item 53, see subparagraph G).**--

K Final Loss Claim Post Reorganization Bankruptcy Plan Completion

--**Handled the same as any other liquidation. Following the completion of a Chapter 11, 12, or 13 bankruptcy plan, the loan balances and terms remain in effect, as per the plan.**--

Comparison Guide for Loss Claim Decisions and Appeals

*--The following guide may be used to assist with loss claim reductions and denials and appeals. For loans made before February 12, 1999, reductions and denials will be handled according to FmHA Instructions 1980-A and 1980-B in effect at the time the guarantee was issued.

Loss claims may only be reduced by the calculation of the dollar amount of loss caused by the lender's negligence and each reduction must cite the applicable CFR (or FmHA) and references in this handbook.

Subject	2-FLP	7 CFR	FmHA Instructions 1980-A and 1980-B
Unauthorized use of loan funds	Paragraphs 122 and 123 Subparagraphs123.5 and 263 B	762.121, 762.140(b)	1980.11, 1980.130(h), 1980.175(c), 1980.180(c), 1980.185(c)
Interest accrual	Subparagraphs 355 E, 359 A, and 360 F	762.149(d)(2)	1980.146 (d)(1)(V), 1980.146 (e)(1), and 1980, Subpart A, Appendix B (D) (2)
Protecting loan collateral in bankruptcy, foreclosure, insolvency, or any other litigation	Subparagraphs 264 A, 341 A, and 360 F	762.142(a)(6), 762.148(a), and 762.149(h)(6)(i)	1980.130 (j) and 1980.144
Lender fails to contact borrower or takes no action to cure default	Subparagraphs 19 C and 360 F	762.103 and 762.149(h)(6)(i)	1980.145
Lender supervision of borrower	Subparagraphs 263 B and 360 F	762.140(b)	1980.130
Application of payments	Subparagraphs 263 B and 360 F	762.140(b)	
Unauthorized release of security proceeds	Subparagraphs 15 C, 264 A, and 360 F	762.103, 762.142(a)(5), 762.142(b), and 762.149(h)(6)(ii)	1980.130 (k)
Unauthorized subordination	Paragraph 278 Subparagraph 360 F	762.142(c)	
Failure to inspect collateral or ensure borrower does not convert security	Subparagraphs 19 C, 264 A, and 360 F	762.103, 762.142(a)(3) and (4), and 762.149(h)(6)(ii)	1980.130 (i)
Failure to verify ownership or possession of security	Subparagraphs 264 A and 360 F	762.142(a)(2) and 762.149(h)(6)(ii)	1980.130 (b) and (d)
Protective advances	Subparagraphs 359 E and 360 D	762.149(e)	1980.136
Fraud, misrepresentation, and negligent servicing	Subparagraphs 19 B, 19 C, 329 C, and 360 F	762.103 and 762.149(b), 762.149(i)(6)	1980.130

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Notice of Referral to the Department of Treasury to Collect Through the Treasury Offset *--Program (TOP) - Sent by the RD Business Center Only--*

Notice of Referral to the Department of Treasury to Collect Through the Treasury Offset Program (TOP)

Dear [Insert name of debtor]:

Our records indicate that the Farm Service Agency (FSA) paid a final loss claim to your lender on your guaranteed loan account and that amount is considered a Federal debt you now owe FSA. FSA previously demanded payment and notified you of intended debt collection actions and your rights in resolving the delinquency. As notified, FSA will use centralized administrative offset through the Treasury Offset Program (TOP) as required by the Debt Collection Improvement Act, 31 U.S.C. 3716, the Federal Claims Collection Standards, 31 C.F.R. parts 900-904, and the USDA administrative offset regulations at 7 C.F.R. Part 3 to collect your delinquent debt.

The time periods for resolving this matter have expired and your delinquent debt has been referred to TOP. Interest is accruing daily on this debt. The total amount due will continue to increase until the debt is paid or settled.

A representative of the Department of Treasury will contact you regarding offsets of Federal payments after they occur. To avoid offset of an Internal Revenue Service (IRS) tax refund where a joint Federal income tax return is filed and your spouse is not responsible for the debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

For further information, call the toll-free number at 1-800-428-9643.

Sincerely,

Conditional Commitment Guidelines

A Conditions by Loan Type

The following table provides the conditions by loan type to assist authorized agency officials when preparing FSA-2232. The authorized agency official should select appropriate conditions from the table. This is not a complete list so additional conditions may apply to unique situations.

Operating Line of Credit (OL-LOC)	
Number	**Condition**
1	The lender certifies that no prior year's operating expenses will be included in the OL/LOC.
2	**(SEL & CLP)** The lender agrees not to make any additional loans or advances (non-guaranteed loans) to the borrower without written concurrence from FSA.
3	(**Include for entities)** The promissory note will be executed by the member(s) authorized to sign for the entity and by all entity members as individuals.
5-Year LOC	
Number	**Condition (In addition to 1 through 3 in this table)**
4	All advances on the LOC must be made within 5 years from the date of the loan guarantee.
5	Each subsequent promissory note used for this LOC must reference the original promissory note number.

Term Operating Loan (TOL)	
Number	**Condition**
1	**(SEL & CLP)** The lender agrees not to make any additional loans or advances (non-guaranteed loans) to the borrower without written concurrence from FSA.
2	(**Include for entities)** The promissory note will be executed by the member(s) authorized to sign for the entity and by all entity members as individuals.
3	The lender assures that prior lien instruments will not contain future advance clauses (except for taxes, insurance, or other reasonable costs to protect security), or cancellation summary forfeiture, or other clauses that jeopardize the Government's or lender's interest or the borrower's ability to pay the guaranteed loan.
4	**(When real estate is primary security)** The lender must retain documentation of environmental due diligence with a completed American Society of Testing Materials e-1528 questionnaire, FSA-851, or similar questionnaire.

Conditional Commitment Guidelines (Continued)

A Conditions by Loan Type (Continued)

Farm Ownership Loan (FO)	
Number	**Condition**
1	(**Include for entities)** The promissory note will be executed by the member(s) authorized to sign for the entity and by all members of the entity as individuals.
2	The lender assures that prior lien instruments will not contain future advance clauses (except for taxes, insurance, or other reasonable costs to protect security), or cancellation summary forfeiture, or other clauses that jeopardize the Government's or lender's interest or the borrower's ability to pay the guaranteed loan.
3	The lender must retain documentation of environmental due diligence with a completed American Society of Testing Materials e-1528 questionnaire, FSA-851, or similar questionnaire.
4	Following the closing of the loan the borrower will be required to update their records with FSA farm programs to be added as owner/operator on the farm purchased.
Shared Lien Position	
Number	**Condition (In addition to 1 through 4 in this table)**
5	This guaranteed FO loan in the amount of $_____ is to be closed simultaneously with an unguaranteed loan in the amount of $_____. These loans will equally share a lien position on approximately ___ acres of real estate along with leases and improvements. In the event the security is liquidated, the proceeds will be divided pro rata based on the above loan amounts totaling $_____. If liquidation occurs, __% of the proceeds would be applied onto the guaranteed loan and the remaining __% of the proceeds would be applied onto the unguaranteed loan.

Conditional Commitment Guidelines (Continued)

B FSA-2232, "Conditional Commitment" Best Practices

Approval officials will utilize the following best practices when completing FSA-2232.

Eligibility. If the loan is approved subject to a prior loss, federal delinquency, or judgement that is expected to be cured, these details and any evidence required should be described as a condition. Otherwise, there is no need to restate eligibility requirements under item 17, "Other".

Loan Purpose. Describe fully in item 14 (see examples in FSA-2232, Instructions for Preparation). Do not repeat under item 17, "Other".

Limitations. If FLP debt must be paid down prior to closing, or with funds, describe the details under other conditions. If an existing guaranteed loan is to be paid off, state this under item 17, "Other".

Security. Describe on the table in item 16 (see examples in FSA-2232, Instructions for Preparation). Specify clearly the lien position expected, but do not detail the method of perfection. Do not repeat security requirements in item 17, "Other" unless additional clarification is necessary, such as a shared lien.

Appraisals. Do not repeat appraisal requirements already in 2-FLP or require lenders to submit appraisals to FSA prior to receiving the guarantee.

Interest Rate and Loan terms. Describe interest rates and loan repayment terms in item 15 (see examples in FSA-2232, Instructions for Preparation). Do not repeat under item 17, "Other".

Insurance. Insurance requirements are described in paragraph 138. Generally, the loan approval official should not provide additional specificity, and consider it the lender's responsibility to determine adequate insurance.

Environmental. Generally, all environmental requirements and reviews must be completed prior to loan approval. Agency officials should avoid adding conditions outside of the lender's own environmental due diligence (FSA-851) requirements.

Obligation of Entity Members. Entity member personal obligation for debt requirements is outlined in this handbook and 7 CFR 762.130. Nevertheless, under certain circumstances it may be advisable to include the details of who must sign the promissory note under item 17, "Other" as a reminder.

Lender Responsibility for documenting loan advances. The lender's responsibility to track and document the purposes for which loan funds are advanced are described in subparagraph 247 A and 7 CFR 762.130; therefore, there is no need to restate this under item 17, "Other" on the Conditional Commitment.

***--Lender Review Deficiencies**

When a pattern of deficiencies is discovered during the lender file review process, this exhibit must be utilized to identify whether the issues constitute major or minor deficiencies. The list of deficiencies in the table is not considered an all-inclusive list as other deficiencies may be identified during review. Contact the National Office for guidance about whether a deficiency not identified in this exhibit is considered major or minor.

When 40 percent of the borrower files reviewed for any given lender are found to have a combination of major or minor deficiencies, State Offices will contact the National Office with a recommendation for a corrective action plan, including potential revocation of status. A corrective action plan should include a list of identified deficiencies, required corrective action needed for each deficiency, and timeline for completion.

When 20 percent of the borrower files reviewed for any given lender are found to have 1 or more major deficiencies, State Offices will contact the National Office with a recommendation for a corrective action plan, including potential revocation of status. Reviewing officials, along with the National Office, must also consider the lender's overall portfolio delinquency, loss rate, and repetition of major and minor deficiencies prior to pursuing a potential revocation of status.

For PLP lenders, if either of the deficiency thresholds above are met during the annual loan making file review process, a full file review will be scheduled and conducted by FSA before finalizing a corrective action plan.

Loan Making

The following table describes the major and minor deficiencies for loan making:

IF the lender…	THEN the deficiency is…	AND the paragraph or subparagraph reference is…
fails to perform environmental due diligence (FSA-851 or similar form) and no hazardous substances were subsequently discovered	minor	208.
fails to obtain and maintain adequate insurance (hazard, flood, property) with loss payable clause to the lender, if applicable	minor	138.
fails to verify significant debts/obtain credit report that does not adversely affect feasibility. SEL/CLP > $5,000, PLP as stated in CMS	minor	67 C.
uses unsupportable projections or unsound assumptions without justification that do not adversely affect feasibility.	minor	151.
commits fraud/misrepresentation	major	19 B.

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***--Lender Review Deficiencies (Continued)**

Loan Making (Continued)

IF the lender…	THEN the deficiency is…	AND the paragraph or subparagraph reference is…
fails to perform environmental due diligence (FSA-851 or similar form) and hazardous substances were subsequently discovered	major	208.
fails to verify significant debts/obtain credit report which results in the plan no longer being feasible. SEL/CLP > $5,000, PLP as stated in CMS	major	67 C.
fails to document borrower eligibility for credit history and test for credit (PLP lender)	major	108.
misuses funds for purposes not approved by Agency	major	122-123.5.
uses unsupportable projections or unsound assumptions without justification which results in the plan no longer being feasible	major	151.
fails to obtain security interest(s) or perfect required lien position as established on the conditional commitment	major	166.
fails to complete or obtain an evaluation/appraisal for primary security	major	181.
fails to perform a capacity analysis according to CMS (PLP Lender)	major	154.
fails to perform a capital analysis according to CMS (PLP lender)	major	154.
fails to satisfy the conditions of the conditional commitment	major	244 C.

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***--Lender Review Deficiencies (Continued)**

Loan Servicing

The following table describes the major and minor deficiencies for loan servicing.

IF the lender…	THEN the deficiency is…	AND the paragraph or subparagraph reference is…
advances funds on LOC over the loan ceiling	minor	124 B.
fails to perform inspections or monitoring timely	minor	264.
fails to perform annual analysis (LOC and monetary default) (Non-PLP lenders)	minor	265.
fails to obtain FSA approval before advancing future years' funds on a guaranteed LOC (SEL)	minor	265.
fails to document borrower met the requirements for additional loans or advances in accordance with regulations and/or CMS	minor	282 A.
fails to obtain concurrence on emergency advances in accordance with regulations and CMS	minor	283 A.
fails to provide default status report within 45 days of default	minor	300.
fails to service loans in non-monetary default	minor	301 A.
fails to restructure the loan in accordance with regulations and/or CMS, including deferrals, capitalization of interest, etc.	minor	312.
fails to prepare a liquidation plan	minor	355 E.
fails to submit final loss claims within 30 days after liquidation	minor	355 I.
fails to obtain concurrence on protective advances in accordance with regulations and/or CMS	minor	359 E.
fails to have a ledger documenting the purpose and dollar amounts of all disbursements and payments	minor	360 C.
releases proceeds without prior authorization when required	major	263 B.
fails to adhere to reporting requirements for the entire portfolio for more than 2 years	major	266.
executes unauthorized subordination or partial releases when the LTV is negatively impacted	major	278 and 280 B.
releases a borrower of liability without prior authorization	major	285 A and 361 B.

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***--Lender Review Deficiencies (Continued)**

Loan Servicing (Continued)

IF the lender…	THEN the deficiency is…	AND the paragraph or subparagraph reference is…
fails to protect the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings	major	340 A.
fails to complete or obtain an evaluation or appraisal as appropriate prior to liquidation	major	358 B.
misapplies payments (applied to non-guaranteed loans or out of lien priority)	major	360 F.

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