

Farm Service Agency Guaranteed Lender Training September 2013

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~ 2013 FSA Topics ~

- * Different Lender Types
- * Loan Making Refresher
- * Max Interest Rate Rule
- * Funds Exhausted - what now?
- * Mediation
- * Loan Servicing Options
(FLP Notice 653)
- * Direct Microloans / Streamlined

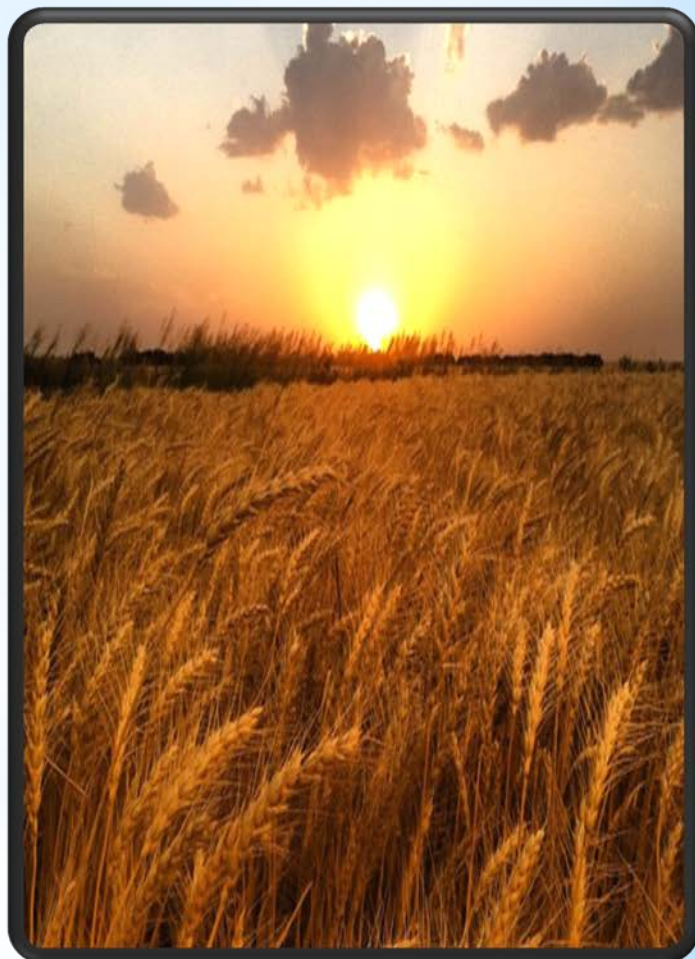


Partners joining us:

- * **Small Business Administration**
- * **Rural Development**



The increased guaranteed loan limit will be \$1,355,000. This loan limit is adjusted each year based on the Prices Paid by Farmers Index as compiled by the National Agriculture Statistics Services (NASS). Total combined outstanding direct and guaranteed FO, OL & SW balances cannot exceed \$1,655,000.



**Guaranteed Loan Limit:
\$1,355,000 effective
10/1/13**

SEL or CLP or >>



PLP: Process and Service according to **own standards**

**Preferred
(PLP)**

CLP: Use FSA rules but **certify** they have documentation

**Certified
(CLP)**

SEL: Use FSA Rules and submit all documentation

**Standard Eligible
Lenders**



SEL/CLP/PLP Loan Making Differences

SEL	CLP	PLP
All items submitted with application	Lender certifies supporting docs in file for application	Application form and narrative only
Repayment Capacity demonstrated by cash flow projection & supported by production and financial history	Repayment Capacity may be demonstrated by financial history alone if consistent with lender's normal policies	Repayment Capacity demonstrated according to lender's normal practices as stated in CMS
30 day statutory approval deadline (frequently faster)	14 day statutory approval deadline	14 day automatic approval
Appraisal submitted before closing	Lender certifies appraisal was obtained	Lender certifies appraisal was obtained
Guarantees at any level up to 90% or 95%	Guarantees from 80% up to 90% or 95% (except CL)	Guarantees from 80% up to 90% or 95% (except CL)

SEL/CLP/PLP Loan Servicing Differences

SEL	CLP	PLP
<p>Year end analysis completed and submitted according to 2FLP</p>	<p>Lender has more flexibility to determine need for year end analysis based on borrower</p>	<p>Year end analysis based on lenders normal practices outlined in CMS</p>
<p>FSA approval for most routine servicing actions such as partial releases, additional loans, emergency advances</p>	<p>FSA approval for most routine servicing actions such as partial releases, additional loans, emergency advances</p>	<p>Flexibility for routine servicing actions (partial releases, additional loans, emergency advances)</p>
<p>Follow 2FLP for handling defaulted loans and servicing actions</p>	<p>Follow 2FLP for handling defaulted loans and servicing actions</p>	<p>Flexibility for handling defaulted loans and restructuring actions</p>

A sample Credit Management Summary (CMS) is available for download at:

http://www.fsa.usda.gov/Internet/FSA_File/example_cms.doc

Preferred Lender Status is to get as close to how the lender makes and services loans to non-guaranteed loan customers, taking into consideration the CFR.

To aide in developing “your” CMS - here are some tips:

- ✓ Don't tell us what you think we want to hear
- ✓ Tell us what you do for your non-guaranteed loans
- ✓ What are your standards for non-guaranteed loans
- ✓ When these standards are not met and a guarantee is requested, discuss compensating strengths

Remember, you do not have to particularly follow all areas of the 2-FLP Handbook -

- ✓ Loan documentation
- ✓ Underwriting methods and standards
 - Repayment capacity - method and acceptable level
 - Collateral requirements - loan to value;
 - Capital requirements
- ✓ Monitoring and reporting requirements

Most all lenders who are subject to acceptable State or Federal regulatory agencies qualify for Standard Eligibility. A lender must have experience in making and servicing ag loans. They must maintain an office near enough to the collateral's location to adequately service the guaranteed loan. FSA 2201, "Lender's Agreement" is required.

Lender's Guide to Elevated Lender Eligibility Status for FSA Guaranteed Loan Programs

What is the Certified Lender Program?

The purpose of the Certified Lender Program (CLP) is to minimize the time required for experienced lenders to obtain responses to requests for guarantee, permit maximum use of the lender's own forms, and permit the lender to certify compliance rather than provide supporting documentation. Lenders with a proven ability to process and service FSA guaranteed loans will be given greater flexibility.

Advantages to CLP Lenders

- Less paperwork to submit to FSA
- More flexibility to use your own forms and processes
- Approval of loan within 14 days – faster in most cases
- Increased servicing authority

Attaining CLP Status:

Lenders who meet all of the following criteria may be granted CLP lender status for a 5- year period:

- Provide evidence of being an "eligible lender."
- Loan losses – net recovery – do not exceed 7 percent
- Have closed a minimum of 10 FSA guaranteed FO loans, soil and water loans, and OLs/lines of credit, with 5 of these loans closed within the past 2 years
- Have the capacity to process and service FSA guaranteed OL/lines of credit
- 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 use forms acceptable to FSA for processing, analyzing, securing, and servicing FSA guaranteed loans/lines of credit. 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.



United States Department of Agriculture

USDA is an equal
opportunity
employer, provider
and lender.

What is the Preferred Lender Program?

The Preferred Lender Program (PLP) was designed for elite lenders with high volume and minimal losses, and those who have demonstrated proficiency making and servicing FSA guaranteed loans. Like CLP, lenders with “preferred” status have broad authority in making and servicing FSA guaranteed loans, and PLP lenders are able to use their own forms. Lenders applying for PLP outline the manner in which they intend to process and service FSA loan guarantees. This “credit management system” becomes the basis for making approval decisions on submitted applications.

Advantages to PLP Lenders:

- Simplified application process consisting of a 1-page application form (FSA-2212) and loan narrative.
- Automatic approval of any complete loan application submitted if not acted on by FSA within 14 calendar days.
- Increased servicing flexibility and authority.

Attaining PLP Status:

Lenders who meet all of the following criteria may be granted PLP status for a 5-year period:

- Provide evidence of meeting all CLP eligibility criteria.
- Loan losses is set at 3 percent.
- Have closed on a minimum of 20 FSA guaranteed FO loans, soil and water loans, and OLs/lines of credit in the past 5 years.
- Demonstrate a consistent, above-average ability to process and service guaranteed loans.
- Have an acceptable management system (CMS), approved by FSA, for originating and servicing guaranteed loans. The CMS is based on the lender’s written credit policies and underwriting standards, loan documentation requirements, analysis of new loan requests, portfolio management, and other information.

FSA Online Services:

To participate in FSA’s guaranteed loan program, please obtain, sign and forward a FSA Lender’s Agreement, Form FSA 2201. This and other forms may be found at www.sc.egov.usda.gov.

Additional information regarding guaranteed loan programs can be found at www.fsa.usda.gov/ks or by contacting the FSA State Office, 3600 Anderson Avenue, Manhattan, KS 66503 (Phone: 785.539.3531)

August 2013



United States Department of Agriculture

- Loan Making Common Findings -

Applicant must not exceed the 15-Year OL Term Limit [7 CFR 762.122] found in 2-FLP Handbook at Paragraph 108 L and M.

[7 CFR 762.122] No guaranteed OL shall be made to any applicant after the 15th year that an applicant, or any individual signing the promissory note, received a direct or guaranteed OL.

If a borrower had any combination of direct or guaranteed OL closed in 10 or more prior calendar years, before October 28, 1992, eligibility to receive new guaranteed OL is extended for 5 additional years from October 28, 1992, and the years need not run consecutively. However, in the case of a line of credit, each year in which an advance is made after October 28, 1992, counts toward the 5 additional years.

Once determined eligible, a loan or line of credit may be approved for any authorized term.

Example: A 5-year LOC may be approved on the last year an applicant is eligible and advances may be made for 5 years.



- Loan Making Common Findings -

2-FLP Handbook - Paragraph 108 N

Operator Requirement - a loan should be submitted in the name of the actual operator of the farm. This should be consistent with any representation previously made by the applicant for farm program benefits.



1. Applicant is the operator of the farm
2. Co-Applicant only needed if more than 1 operator
3. Co-Applicant should not be: **a)** related non-operating entity
b) co-signers, etc.

- Loan Making Common Findings -

Recurring Deficiencies in annual file reviews:

- ✓ Failure to obtain a complete appraisal report
- ✓ Failure to perfect a lien
- ✓ Failure to verify debts (over \$1,000)
- ✓ Failure to obtain a credit report
- ✓ Using unsound lender practices, such as unsupportable projections, inadequate collateral or unsound assumptions

Note: For Preferred Lenders (PLP), these findings, if reoccurring could affect the renewal of the lender's status.



- Loan Making Common Findings -

Can FSA release information to assist with loan making and servicing?

Yes! According to Section 1619 of the Food, Conservation, and Energy Act of 2008 - "routine uses" for FSA - Farm Loan Programs include:

1. When working with you (the lender) and FSA determines the individual may be financially capable of qualifying for credit with or without a guarantee.
2. When you (the lender) has a lien against the same property as FSA, for the purpose of collection of that debt. These loans can be under the direct or guaranteed loan programs.
3. Information may be released to a collection or servicing contractor, financial institution or local, State or Federal agency, when FSA determines such referral is appropriate for servicing or collection the borrower's account.

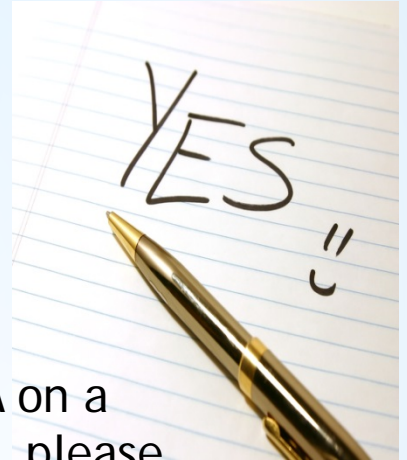
What can be released? Disclosures may include names, home addresses, financial information and in collection of debt cases it may include social security numbers - without consent from the applicant/borrower.



- Loan **Making** Common Findings -

Can FSA release FSA Map information necessary to complete a real estate appraisal?

....with exception.....



When working in partnership with FSA on a guaranteed loan or participation loan, please contact the FSA Farm Programs office and ask that they coordinate with the Farm Loan Programs Office to complete a request to allow the release of information to your Real Estate Appraiser.

Maps, Contracts, Farm Field and Tract Numbers, attributes on imagery, data contained in USDA geospatial information systems (GIS) or anything relating to specific locations that was provided by the farm producer or gathered by the USDA for agricultural land or operations **MAY NOT** be released without consent from the farm producer or farm owner.





Anytown Lender
123 Lending Street
Anytown, KS

Dear Lender:

You have submitted a Guaranteed loan application on behalf of Applicant/Borrower Name. The 2008 Farm Bill (Section 1619) generally prohibits FSA from releasing aerial maps containing agricultural related attributes unless the program participant/landowner gives written consent. This restriction applies to appraisers as well as the general public. Your appraiser can likely obtain the written consent of your Guaranteed loan applicant, but may be unable to obtain written consent from owners of comparable sales.

An exception in Section 1619 allows certified or state licensed appraisers qualified to perform and **actually performing** real estate appraisals for USDA to obtain a copy of the CLU map, without a release from the landowner, along with the following:

- DCP Contract Base Acres
- Payment yields
- DCP cropland and cropland acres
- Copies of aerial photography
- CRP acres
- HEL designations
- Wetland classifications

Please forward this letter (or email) to the appraiser who will be completing real estate appraisal(s) for this Guaranteed application. He/she may present a copy of this letter to FSA Farm Programs office(s) as evidence of authorization to obtain maps and data needed for this particular appraisal.

Feel free to contact me if you have any questions or concerns.

Sincerely,

FSA Farm Loan Manager

cc: FSA County Executive Director

- Loan Making Common Findings -

2-FLP Handbook Paragraph 139 A - Inspection Requirement:

A field visit by the bank loan officer is required for all applicants/borrowers prior to the application's submission to FSA for all lender types. The field visit should be discussed in the loan narrative.

Remember, real estate taken as primary security must have a FSA-851 "Environmental Risk Survey" completed.

PART F - ENVIRONMENTAL INFORMATION		
YES	NO	Based on a site visit to the loan applicant's operation and discussion of the operating plan, answer the following: (If "YES" please explain and attach to this form):
<input type="checkbox"/>	<input type="checkbox"/>	47. Floodplains: If the loan will be secured by real estate, does the property contain any existing structures (i.e. farm dwellings or service buildings) or does the proposal involve development (i.e. construction, channeling, or other alteration) located within the 100-year floodplain as defined by FEMA floodplain maps, NRCS soil surveys, or other documentation?
<input type="checkbox"/>	<input type="checkbox"/>	48. State Water Quality Standards: Did the investigation indicate the operation may violate State Water Quality Standards?
<input type="checkbox"/>	<input type="checkbox"/>	49. Historical and Archaeological Sites: Does the property contain structures over 50 years old, structures with significant architectural features, or does the property have any historical significance which may make it eligible for the National Register of Historic Places?
<input type="checkbox"/>	<input type="checkbox"/>	50. Wetlands and Highly Erodible Land: Will loan funds be used for any purpose that may contribute to the erosion of Highly Erodible Land or the Conversion of Wetlands; OR will loan funds be used to drain, dredge, fill, or otherwise manipulate any land or reduce the flow, circulation, or reach of water?
<input type="checkbox"/>	<input type="checkbox"/>	51. Hazardous Substances: If the loan will be secured by real estate, did the "due diligence" investigation in respect to underground storage tanks and contamination from hazardous substances indicate contamination?



- Loan Making Common Findings -

Signatures needed on Application for Guarantee (FSA 2211 or 2212):

- Applicant
- Co-Applicant
- Spouse, lender policy *
- Entity members - member(s) who are authorized to sign on behalf of the entity

Signatures on Note and Security Documents:

- Applicant
- Co-Applicant
- Spouse - if lender required and income needed for feasible cash flow, spouse must sign Note and security documents
- Entity member(s) who are authorized to sign for the entity, and by all members of the entity as individuals. Personal guarantees, or other forms will not be used to address the individual liability requirement. *



- Loan Making Common Findings -

- General Eligibility for your applicant (including members of an entity applicant) is summarized as follows:
 - Meets all requirements about prior debt forgiveness
 - Is not delinquent on any Federal Debt
 - Does not have any outstanding recorded judgments obtained by the United States in a Federal Court
 - Is a citizen of the U.S., 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
 - Has not been convicted of planting, cultivating, producing, harvesting, storing, trafficking, or possessing a controlled substance with the last 5 crop years

The lender should address eligibility in the loan narrative that accompanies the loan application.



Lender Narrative Guideline and Template

1. **Description of the farming operation.** (*Character and eligibility***)

- Type of Enterprise
- Key Personnel – entity members and their roles
- Management structure
- Background of the farm operation and those members
- Past performance
- Proposed changes to the operation
- Is real estate, owned and rented, adequate and can sustain reasonable success
- Is the equipment (& real estate) adequate along with other facilities needed for the operation
- Briefly discuss how the applicant is eligible for a guaranteed loan and the lender's need for the Guarantee.** (*simple statement: FSA eligibility requirements per 2-FLP Handbook, Part 8, Paragraph 108 and the applicants meets those.*)

2. **Provide an assessment of the collateral being offered.** (*Collateral*)

Describe the collateral being used to secure the proposed loan. Is it adequate? Does the lender require additional collateral? What is the valuation method? Loan to value? Is it in line with lender's underwriting?

3. **Discuss the credit being requested if it cannot be thoroughly explained/itemized on the loan application. Discuss the loan applicant's financial condition and projected plan with repayment ability.** (*Credit, Capital and Capacity*)

What is the applicant's current position – working capital? Debt structure and equity. Include any significant assumptions that you are making towards his/her financial state and/or cash flow projection. **Include deviations from historical performance.** Key here is to provide documentation to support the proposed loan with the projected cash flow and post close balance sheet. If there are weaknesses, what are the offsetting strengths? *Note: If application is for a Conservation Loan (CL) and the applicant meets the requirements to waive the CF requirement, the lender should discuss how the applicant qualifies for the waiver.*

4. **Names of all entity members** will be provided in the case of entities that have an interest in the farm operation. Share percentages should be provided, along with current addresses of those members, co-borrowers or co-signers that will be required to execute the Note. Social Security numbers are provided in the event they are not located on the Application.

5. **What are the short-term and long-term business goals of the operation?** Discuss these with your customer and give brief comments in narrative.

6. **What will be your customer's reporting requirements?** (*Conditions*)

Are there any limitations to those requirements? Based on your analysis of the aforementioned topics, should any mitigating measures be taken to assist the borrower to meet their goals to have long term viability?

7. **What is the lender's servicing plan after the loan is closed?** (*Conditions*)

Planned visits and monitoring of the operation? Year-end analysis of the operation and reporting requirements required of the borrower. Will there be any capital purchase limitations that will require the lender's pre-approval? Other conditions with the loan?

8. **If the application is for a CL**, discuss the conservation plan and need for qualifying conservation practices including a discussion of the transition plan, if applicable.
9. **If the loan contains balloon payments**, state the conditions related to the renewal of the loan.

Any other pertinent information relative to the request should be provided. Keep in mind the narrative is the most important piece of the application package. It may contain out of the ordinary data or variances in normal practices for the type of operation. It is an evaluation and not a summary. Note: It may less detailed for an existing direct or guaranteed FSA borrower.

A review of eligibility requirements found in **2-FLP Handbook - Paragraph 108 A are following in a summarized format. Please review the Handbook for more detailed information and explanation. 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 (obtained from FSA County Office)
- ✓ is not delinquent on any Federal debt, other than IRS
- ✓ does not have any outstanding recorded judgments obtained by the United States in a any 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; includes all members who will be liable for the loan
- ✓ has an acceptable credit history; includes all entity members.
- ✓ is unable to obtain sufficient credit elsewhere without a guarantee (exception: CL guarantees)
- ✓ has not been convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the last 5 crop years.
- ✓ does not exceed the 15-Year OL Time Limit

Funding is limited / exhausted - Now what?

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 of the note and alternative repayment schedules have been considered before requesting a new guarantee.

Refinancing debt that is already covered by a guarantee used limited funding resources and causes the borrower to pay the guarantee fee a second time.

Lender and FSA should discuss prior to the application if debt restructuring options are an alternative (2-FLP Handbook - Part 12) and whether or not it will improve the borrower's cash flow and likelihood of success without refinancing the guaranteed debt.

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

2-FLP Handbook Paragraph 123 B



Funding is limited / exhausted - Now what?

Typically, after a guaranteed loan is approved and FSA ensures that funds are obligated the lender is issued a Conditional Commitment.

Some lenders have previously experienced exhausted funds with the retired guaranteed interest assistance program. This year was the first year that some lenders may have been caught in the Guaranteed Farm Ownership (G-FO) shortage.

Under certain circumstances a lender may find it necessary to close a loan that has been approved but funds are not available. Any lender who decides to close an approved loan should contact FSA before closing to determine whether there will be any additional closing conditions that would be issued on the Conditional Commitment.

Lenders should be aware that the closing is at their own risk and all interest accrued on the lender's loan before the guaranteed loan closing (execution of the allonge) **will not** be covered by the guarantee.

2-FLP Handbook Paragraph 244 C



EC-FLP-13-026: Use of an Allonge with Guaranteed Loan Closings

For: FLP

Date Posted: 8/26/2013

Program: FLP

Approved By: /s/ Dawna Ford

This EC message replaces EC-FLP-13-014 posted 4/24/13.

Because of limited funding and the change issued in Amendment 23 to 2-FLP Paragraph 244 C (6/13/13), more lenders are finding it increasingly important to close their guaranteed loan prior to obtaining guaranteed funding with the expectation of receiving a Loan Guarantee when funding becomes available. Guidance is provided herein and 2-FLP will be amended to include the use of an allonge or modification.

As stated in Paragraph 244 C, the lender's closing prior to the obligation of the guaranteed loan will be at their own risk. *Typically*, all interest accrued on the lender's loan before the guaranteed loan closing will not be covered by the guarantee. At this time, KS STO FLP Division does not plan to change WP Letter 2FLP1002 "Approval Letter – Funds not Available", because we don't want lenders to make a practice of closing their loans first and then seeking a guarantee later. If the lender asks the Agency to allow the closing, after approval but prior to the obligation – the County Office will then remind the lender of this paragraph and document the file with the discussion.

2-FLP Handbook Paragraph 247 A beginning at Page 10-13 states that a copy of the executed promissory note will be provided [to FSA] and that **"the lender will use its own promissory notes"** and continues to list some provisions. One provision is that **"the principal and interest repayment schedules are stated clearly in the notes and are consistent with the conditional commitment"**.

FSA has and will continue to allow the lender to use existing promissory notes when the loan purpose is to refinance or restructure the lender's own debt. Those existing notes will be modified by an Allonge or modification agreement. This document must clearly reference and identify the new terms taking place, reference the existing note and state that the new indebtedness is now covered by an FSA guarantee. Describing this information will create the proper linkage from the lender's existing note to the Loan Guarantee. An Allonge example is attached; however, keep in mind that the lender may use it's own modification agreement. The Allonge or modification must be acknowledged (signed and dated) by both the borrower(s) and the Lender.

The allonge or modification agreement will establish the FSA closing date of the guaranteed loan with the beginning advance amount as disclosed (Principal) on the document which should agree with the the guaranteed loan amount when obligated. However, it could read differently if the borrower has made a principal reduction since the time the Lender closed their loan. Requirements for the allonge or modification agreement should display the following statements, as a minimum:

- 1) Identify the Promissory Note which is being modified.
- 2) State the principal amount and accrued interest on the loan, as of the date it is executed.
- 3) Include the date it is executed and signed by the borrowers – which should be all borrowers who signed the note, including any co-signer’s, if applicable.
- 4) Provide a copy of the allonge or modification agreement to the County Office, along with a copy of the Promissory Note, before issuing the Loan Guarantee.

Lender/FSA County Office action on FSA 2235 - Loan Guarantee and input into GLS:

- 1) Blocks 5, 8 (c) and 10 – Enter the principal amount stated on the allonge/modification
- 2) Block 7 – Enter the date the allonge is executed by the borrowers
- 3) Blocks 8 (b) and 9 – Enter the lender’s note ID number that is referenced on the allonge/modification
- 4) Complete the closing transaction in GLS using the date of the allonge/modification as the “closing date” and the principal amount stated on the allonge as the loan advanced amount. **Note: If the principal amount has been decreased (or changed) from the original loan amount obligated, FSA 2072 will need to be prepared and faxed to the State Office, prior to closing in GLS, to complete a partial deobligation.*

In the case of the lender selling the guarantee portion on the secondary market, please contact the State Office for additional guidance in issuing the Loan Guarantee. Questions should be directed to Shelly Wolf, FLS in the State Office, FLP Division.

Disposal Date: 8/26/2014

Created By: Shelly Wolf, FLS

End of EC Message

Example

Allonge to Promissory Note

This allonge is taken to modify the original terms of the Promissory Note dated _____ executed by _____ and _____ (Borrowers) with the _____ (Lender/Bank name) and will be attached to the Original Note Number dated _____.

Original Note No. _____ is now recognized to be tied to a guaranteed loan with the Farm Service Agency (FSA) on the date below signed by the borrower(s) and the Lender. This date is also considered the "closing date" for FSA's guaranteed loan. Terms and Conditions are recognized in the Conditional Commitment dated and accepted by the Lender on _____.

As of _____ (date signed below), the principal amount is \$_____ together with accrued interest of \$_____.

(Lender may also describe any interest rate changes or collateral requirements, etc. that are now described differently than on the Note or loan agreement.)

Borrower(s):

Date: _____

Lender:

By: _____
(authorized representative)

Date: _____

End of Allonge Example

~ Maximum Interest Rate Rule ~



New rule became effective May 3, 2013. Comment period closed June 3, 2013. 2-FLP Handbook Paragraph 135

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

- For lenders using risk-based pricing practices, the risk tier at least one tier lower than that borrower would received without a guarantee. The lender must provide the Agency with copies of its written pricing practices upon request.
- Lenders not using risk-based pricing practices, for variable rate or fixed rate loans will proceed as outlined in 2-FLP Paragraph 135 C.



~ MAXIMUM INTEREST RATE RULE ~

This new rule became effective May 3, 2013. The comment period closed June 3, 2013. Reference: 2-FLP Handbook Paragraph 135

****Why provide this Maximum Interest rate rule?**

- *Lenders expressed FSA's interest rate policies were –
- too vague and difficult to determine Agency's interest rate compliance
 - No longer consistent with industry standards or other agencies with similar programs

****What did this rule remove?**

- The term "average agricultural loan customer"
- Makes compliance easier by tying maximum rates to specified spreads over widely published indices
- Enables lender to price loans as they currently do
- Ensures FSA borrowers are receiving the benefits resulting from lower interest rate

**Note: Rate adjustments are agreed to by the lender and borrower and details how often interest rates will be adjusted.

- Can be daily, monthly, quarterly, semi-annually, annually – or a determined number of years.
- Typically included in the lender/borrower loan instruments.

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

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

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

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

Note: The maximum rate is not based on loan terms, purpose, or type. It is based on how long the interest rate is fixed. For variable rate loans and loans with an interest rate

fixed for less than 5 years, regardless of program type (CL, OL or FO), the maximum rate is based on the 3-month LIBOR index.

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

After loan closing, the authorized agency official will review loan closing documents, verify the interest rate charged the guarantee customer does not exceed the maximum rate, and document in the FSA running record.

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

* 3-month LIBOR at http://mortgage-x.com/general/indexes/historical_wsj_libor.asp - scroll down to find year and date needed

* 5-year Treasury at <http://www.federalreserve.gov/releases/h15/data.htm> - scroll down to 5-year Treasury constant maturities and click on the business day.

Kansas Agricultural Mediation Services (KAMS)
2A Edwards Hall, KSU Campus
Manhattan, KS 66506-4806

- * A USDA grant program with **K-State Research and Extension at Kansas State University**

- * Experienced Agricultural Mediators:
 - No cost for agricultural credit mediations

- * Preparatory Services:
 - Low cost, on-farm financial analysis through **KSU Farm Analyst Program**
 - Low cost, legal advice and assistance through **Kansas Legal Services, Inc.**

Process changes / Same service

- * KAMS now provides all parties, including lenders and other creditors, legal advice through **Kansas Legal Services, Inc.** to help prepare for mediation.
- * To provide farm financial counseling services through the **K-State Farm Analyst Program** at a reduced cost under the KAMS grant, creditors will be asked to sign an agreement to mediate earlier in the process.
- * In most cases the matter can be resolved without a mediation session but the agreement to mediate is still necessary.

Kansas Agricultural Mediation Services (KAMS)

Part of K-State Research and Extension

1-800-321-3276

KAMS Services

- Low cost on-farm financial counseling through the K-State Research and Extension Farm Analyst Program.
- Low cost legal advice for ALL parties (both creditors and producers) through Kansas Legal Services, Inc.
- Mediation with Kansas approved agricultural mediators.
- Use of grant funds for legal and financial advice limited to “preparation” for mediation.
- Any party may request mediation.

Changes in KAMS Process

- Other parties, in addition to the producer, will be contacted and offered legal and financial advice in preparation for mediation.
- An agreement to mediate form will now be signed by all parties up front rather than waiting until a mediation session is needed.
- Grant funds may not be used for KLS to represent a party at a face-to-face mediation session.

Contact Information:

2A Edwards Hall, KSU Campus

Manhattan, KS 66506-4806

1-800-321-3276; 785-532-6958

Website: <http://www.ksre.ksu.edu/kams/>

K·STATE
Research and Extension

- Loan Servicing Issues -



Servicing Line of Credit loan (LOC):

When a LOC is closed, the lender must ensure that the LOC was made for current year's operating debt and not any carry-over debt from prior years. Any carry-over debt must be termed out with a G-OL.

In the case of overlapping cycles, if the previous years' cycle has not concluded (e.g. grain still on hand) then that debt may be rolled into the new line.

Should a loss claim be submitted to FSA after all security is liquidated, the lender must be able to show that the LOC funds advanced were for the current operating cycle for each approved advance*.

*SEL's must received prior written approval to advance on subsequent years on the LOC.

- Loan **Servicing** Issues -

Subordinations of direct loan security - 2 FLP
Handbook Paragraph 279 A

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

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

- Loan **Servicing** Issues -

Notice FLP-653 "Guidance on Direct and Guaranteed Loan Making and Servicing Actions

- Available Repayment Terms for Annual OL's and LOC's
- Refinancing Lender's Debt
- Releasing Normal Income Security for Essential Family Living and Farm Operating
- Loan Servicing Options

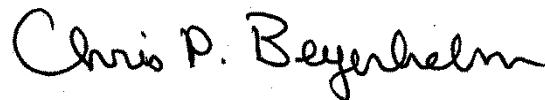


For: State and County Offices

1-FLP, 2-FLP, 3-FLP
4-FLP, 5-FLP

Guidance on Direct and Guaranteed Loan Making and Servicing Actions

Approved by: Deputy Administrator, Farm Loan Programs



1 Overview

A Background

Natural disasters and high feed costs continue to create financial stress for many farmers and/or ranchers. FSA is committed to using all available authorities, consistent with prudent lending practices, to assist borrowers in times of financial stress.

B Purpose

This notice continues the policy and guidance provided in Notice FLP-623.

C Contact

If there are questions about this notice:

- County Offices shall contact their State Office
- State Offices shall contact either of the following:
 - LMD at 202-720-3889 for loan making inquiries
 - LSPMD at 202-720-1984 for loan servicing inquiries.

Disposal Date

June 1, 2014

Distribution

State Offices; State Offices relay to County Offices

Notice FLP-653

2 Direct Loan Making

A Repayment Terms

3-FLP, subparagraph 204 B allows repayment of annual OL's to be scheduled beyond 18 months under extenuating circumstances, including recovery from economic reversal. This provision is intended as a means to help borrowers survive through unique periods of financial difficulty. When considering this provision, repayment terms for annual OL's:

- shall be repaid in the shortest timeframe possible and be consistent with cash flow projections
- may be extended beyond 18 months, only when necessary for a feasible plan, and must **not** exceed 7 years.

In assessing the decision to extend the repayment period beyond 18 months, the loan **must be secured by basic security** according to 3-FLP, subparagraph 204 B. Repayment of term OL's may include unequal repayment schedules under extenuating circumstances including recovery from economic reversal according to 3-FLP, subparagraph 204 C.

Note: Annual OL repayment periods exceeding 18 months or term loans with unequal installments shall be used only in unusual situations. With either repayment schedule, there must be adequate basic security. Borrower equity may be depleted and FSA's ability to provide additional loan assistance may be reduced. FLP staff should have a candid discussion with borrowers about the implications of using these payment structures for their operation during FBP development.

B Determining Repayment Period

In addition to the current year FBP developed for applicants, a "feasible plan" requires the development of a typical cash flow budget in situations where the planned cash flow budget is atypical and the loan approval action exceeds 1 production cycle. Therefore, **two FBP's** shall be prepared to:

- determine a feasible repayment period
- show the long-term viability of the operation.

C DLS

When obligating an annual operating loan for more than 18 months, Field Offices shall:

- use the Type of Assistance code (051, 106, 211 or 212) for OL-Term loans
- select Loan Purpose Code "08" to indicate annual operating expenses.

Notice FLP-653

3 Direct Loan Servicing

A Releasing Normal Income Security for Essential Family Living and Farm Operating

Normal income security proceeds may be released according to 4-FLP, subparagraph 163 B and any additional guidance in approved State Supplements. Any portion of the proceeds planned for FSA FLP debt reduction may be released as needed for essential family living or farm operating expenses. County Offices shall revise FBP and FSA-2040 to account for the release of proceeds according to 4-FLP, subparagraph 162 E.

Note: Normal income security includes crop, milk, market livestock, and livestock product sales.

B Notifying Borrowers of Available Servicing Options

For counties designated as disaster areas, County Offices shall notify all active borrowers of DSA availability according to 5-FLP, Part 2.

Borrowers who are in financial distress, or request primary loan servicing will be:

- notified according to 5-FLP, Part 3
- given all primary loan servicing options allowed.

Debt restructure may be considered while the borrower is still current under 5-FLP, Parts 2, 3, and 4. All restructuring options available for distressed borrowers will be considered, including the following:

- DSA
- rescheduling
- consolidation
- reamortization
- deferral for 1 to 5 years.

Attention should be given to the deferral authorities and procedures in 5-FLP, paragraphs 159 and 160, to ensure that deferral is considered in a manner that provides adequate time for borrowers to recover financially while limiting interest accrual on the deferred balance.

Note: Borrowers who become delinquent will immediately be considered for debt writedown, and those that become 90 calendar days past due will be notified again of all options according to 5-FLP.

4 Guaranteed Loan Making

A Informing Guaranteed Lenders

Authorized loan officials shall inform guaranteed lenders of:

- direct loan making and loan servicing policies in this notice
- options available to assist guaranteed loan borrowers.

B Available Repayment Terms for Annual OL's and Lines of Credit

2-FLP, paragraph 137 allows lenders to schedule repayment of annual OL's and lines of credit for up to 7 years when recovering from an economic reversal and to schedule unequal installments on term loans if needed to recover from an economic reversal. These measures are authorized to assist producers with long-term viability in obtaining operating capital in difficult times, and should be used with care and caution. Consistent with direct loan policies, the requirement to meet the definition of "feasible plan" using a typical plan also applies to guaranteed loans. Lenders shall structure repayment over the shortest period of time practical, based on cash flow budgets.

When lenders use extended repayment terms for annual OL's or lines of credit, the lender must ensure that proper and adequate security is obtained. 2-FLP, subparagraph 166 B provides the following:

- the lender **must** ensure that adequate collateral is obtained and maintained to protect the interests of the lender and Government

Note: When repayment of an annual production loan is scheduled over multiple years, the:

- borrower's expected normal income security will **not** be sufficient security
- loan must be secured with basic security having an expected life equal to or greater than the term of the loan.
- additional security may be required if the cash flow margin is excessively tight.

Note: The amount of basic security needed above a 1:1 collateral ratio is dependent on the particular operation, considering the requirement for the lender to maintain adequate security. In no case will a loan or line of credit be extended beyond the current operating cycle without adequate basic security.

4 Guaranteed Loan Making (Continued)

C Refinancing Lender's Debt

Lenders are to be cautioned against extensive use of refinancing their own debt to transfer risk of loss to the Government. In cases where a lender is refinancing their own debts, FSA is authorized to reduce the percent of guarantee based on the credit risk to the lender and FSA both before and after the transaction, according to 2-FLP, subparagraph 195 A. OL and FO guarantees to CLP and Preferred Lender Program lenders will not be less than 80 percent. Authorized agency officials should consider this authority during this period of financial stress and ensure that available rates and terms for the refinancing improve the applicant's likelihood of success, rather than simply transferring risk to the Government.

5 Guaranteed Loan Servicing

A Releasing Normal Income Security for Essential Family Living and Farm Operating

Lenders are permitted to temporarily release normal income security. However, any releases beyond what is necessary to make the annual payments will require the lender to prepare a cash flow budget showing repayment in the year of the release or a typical year cash flow budget reflecting loan restructuring, including deferrals, that will be necessary to keep the operation in business. Documents shall be submitted according to the lender status requirements in 2-FLP.

Note: Normal income security includes crop, milk, market livestock, and livestock product sales.

B Loan Servicing Options

Lenders may consider all options under 2-FLP, Parts 11 and 12 including a line of credit emergency advance, deferral and writedown to assist farmers and/or ranchers.

Requests for a subordination from lenders to advance additional funds against basic or additional security will be immediately forwarded to DAFLP for exception authority consideration according to 2-FLP, subparagraphs 278 A and B. The subordination request must document that it is for a farming and/or ranching operation experiencing distress.



What is a Microloan and FSA's Vision

A microloan (ML) is an operating loan, either annual or term, that does not exceed \$35,000 when the loan is closed AND the total OL principal indebtedness to the Agency does not exceed \$35,000. ML's have an abbreviated application process and are made to eligible applicants to finance farm operating costs.

FSA's Vision

- ❖ Provide an entry way for operators who perceive that FSA loans are only for larger, established farms or may be intimidated by the paperwork;
- ❖ A bridge for Youth Loan borrowers to transition to larger-scale operations;
- ❖ Simplicity of the Youth Loan application for operators seeking small Operating Loans.

Microloans

Overview

The Farm Service Agency (FSA) developed the Microloan (ML) program to better serve the unique financial operating needs of beginning, niche and the smallest of family farm operations by modifying its Operating Loan (OL) application, eligibility and security requirements. The program will offer more flexible access to credit and will serve as an attractive loan alternative for smaller farming operations like specialty crop producers and operators of community supported agriculture (CSA). These smaller farms, including non-traditional farm operations, often face limited financing options.

Use of Microloans

Microloans can be used for all approved operating expenses as authorized by the FSA Operating Loan Program, including but not limited to:

- Initial start-up expenses;
- Annual expenses such as seed, fertilizer, utilities, land rents;
- Marketing and distribution expenses;
- Family living expenses;
- Purchase of livestock, equipment, and other materials essential to farm operations;
- Minor farm improvements such as wells and coolers;
- Hoop houses to extend the growing season;
- Essential tools;
- Irrigation;
- Delivery vehicles.

Simplified Application Process

The application process for microloans will be simpler, requiring less paperwork to fill out, to coincide with the smaller loan amount that will be associated with microloans. Requirements for managerial experience and loan security have been modified to accommodate smaller farm operations, beginning farmers and those with no farm management experience. FSA understands that there will be applicants for the ML program who want to farm but do not have traditional farm experience or have not been raised on a farm or within a rural community with agriculture-affiliated organizations. ML program applicants will need to have some farm experience; however, FSA will consider an applicant's small business experience as well as any experience with a self-guided apprenticeship as a means to meet the farm management requirement. This will assist applicants who have limited farm skills by providing them with an opportunity to gain farm management experience while working with a mentor during the first production and marketing cycle.

Security Requirements

For annual operating purposes, microloans must be secured by a first lien on a farm property or agricultural products having a security value of at least 100 percent of the microloan amount, and up to 150 percent, when available. Microloans made for purposes other than annual

operating expenses must be secured by a first lien on a farm property or agricultural products purchased with loan funds and having a security value of at least 100 percent of the microloan amount.

Rates and Terms

Eligible applicants may obtain a microloan for up to \$35,000. The repayment term may vary and will not exceed seven years. Annual operating loans are repaid within 12 months or when the agricultural commodities produced are sold. Interest rates are based on the regular OL rates that are in effect at the time of the microloan approval or microloan closing, whichever is less.

Obtaining Forms and Submitting an Application

FSA Microloan application forms can be obtained from the local FSA office or can be downloaded and printed from the USDA website. Applicants who are having problems gathering information or completing forms should contact their local FSA office for help. After completing the required paperwork, an applicant should submit the farm loan application to the [local FSA office](#).

The following form must be completed:

[FSA 2330 – Request for Microloan Assistance](#)

[\(Instruction Form for FSA 2330\)](#)

FACT SHEET

Microloans

August 2013

What Happens After a Loan Application is Submitted?

After a loan application is submitted, FSA reviews the application and determines if the applicant is eligible for the requested loan. The applicant will receive written notification of each step in the process, such as when the application is received, when more information is needed, when an eligibility determination is made, and when a final decision is made. If the application is approved, FSA makes the loan and funds are distributed as needed. If the application is denied, the applicant is notified in writing of the specific reasons for the denial, and provided reconsideration and appeal rights.

Eligibility Criteria and Additional Information

To qualify for assistance, the applicant must not be larger than a family-sized farmer, have a satisfactory history of meeting credit obligations, be unable to obtain credit elsewhere at reasonable rates and terms, and meet all other loan eligibility requirements. Additional information on the FSA microloan program may be obtained at local FSA offices or through the FSA website at www.fsa.usda.gov.

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FACT SHEET

UNITED STATES DEPARTMENT OF AGRICULTURE
FARM SERVICE AGENCY

OCTOBER 2013

Farm Loan Information Chart

The following chart summarizes FSA farm loan information, effective **Oct. 1, 2013**. Additional details are available at local FSA offices and on FSA's website: www.fsa.usda.gov.

Program	Maximum Loan Amount	Rates and Terms	Use of Proceeds
Direct Farm Ownership (FO)	\$300,000	<ul style="list-style-type: none"> Rate based on Agency borrowing costs Term up to 40 years 	<ul style="list-style-type: none"> Purchase farm Construct buildings or other capital improvements Soil and water conservation Pay closing costs
Direct Farm Ownership (FO) Participation	\$300,000	<ul style="list-style-type: none"> Interest rate 5.0% or less if at least 50% of loan amount provided by other lender Term up to 40 years 	Same as Direct FO
Direct Down Payment Farm Ownership Program	The lesser of: <ul style="list-style-type: none"> 45% of the purchase price, 45% of the appraised value, \$225,000 	<ul style="list-style-type: none"> Rate is direct FO rate less 4% with a floor of 1.5% Term of 20 years Down payment of at least 5% 	<ul style="list-style-type: none"> Purchase of farm by a beginning or socially disadvantaged farmer
Direct Operating (OL)	\$300,000	<ul style="list-style-type: none"> Rate based on Agency borrowing cost Term from 1 to 7 years 	<ul style="list-style-type: none"> Purchase livestock, poultry, equipment, feed, seed, farm chemicals and supplies Soil and water conservation Refinance debts with certain limitations
Direct Operating Microloan (ML)	\$35,000	Same as Direct OL	Same as Direct OL
Direct Emergency	100% actual or physical losses \$500,000 maximum program indebtedness	<ul style="list-style-type: none"> Rate is based on the OL rate plus 1% Term from 1 to 7 years for non-real estate purposes Term up to 40 years for physical losses on real estate 	<ul style="list-style-type: none"> Restore or replace essential property Pay all or part of production costs associated with the disaster year Pay essential family living expenses Reorganize the farming operation Refinance debts with certain limitations
Guaranteed Operating	\$1,355,000 (Amount adjusted annually for inflation)	<ul style="list-style-type: none"> Rate determined by the lender Term from 1 to 7 years Loan guarantee fee is 1.5% 	<ul style="list-style-type: none"> Same as direct OL
Guaranteed Farm Ownership	\$1,355,000 (Amount adjusted annually for inflation)	<ul style="list-style-type: none"> Rate determined by the lender Term up to 40 years Loan guarantee fee is 1.5% 	<ul style="list-style-type: none"> Same as direct FO except loan may be used to refinance debts
Guaranteed Conservation Loan (CL)	\$1,355,000 (Amount adjusted annually for inflation)	<ul style="list-style-type: none"> Rate determined by the lender Term not to exceed 30 years, or shorter period, based on the life of the security Loan guarantee fee is 1.5% Eligibility requirements expanded to include large and financially strong operations 	<ul style="list-style-type: none"> Implement any conservation practice in an NRCS approved conservation plan May be used to refinance debts related to implementing an NRCS approved conservation plan
Land Contract (LC) Guarantee	The purchase price of the farm cannot exceed the lesser of: <ul style="list-style-type: none"> \$500,000 The current market value of property 	<ul style="list-style-type: none"> Rate cannot exceed the direct FO interest rate plus 3% Amortized over a minimum of 20 years with no balloon payments during the first 10 years of loan Down payment of at least 5% 	<ul style="list-style-type: none"> Sell real estate through a land contract to a beginning or socially disadvantaged farmer Guarantee is with the seller of the real estate

The USDA is an equal opportunity provider and employer. To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W. Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

Thank you for your attendance! Find us on the web and other social media – 1st stop:

www.fsa.usda.gov/ks

The screenshot shows the USDA FSA Kansas website. The top navigation bar includes links for Home, FSA Home, About FSA, Newsroom, Online Services, Forms, Help, Contact Us, and En Español. A search bar is located on the left side. The main content area features a 'Welcome to Kansas FSA - What's in the News' section with several news items, including 'August Online State Newsletter' and 'USDA Designates 9 Counties in Kansas as Primary Natural Disaster Areas'. There are also sections for 'Deadlines', 'Spotlights', and 'Microloans'. On the right side, there are 'I Want To...' and 'Hot Links' sections. At the bottom right, there is a 'STAY CONNECTED' section with social media icons and a 'Sign up for updates' form with a 'Go' button circled in red.

1. Top navigation bar: Click for navigation to other areas within FSA.
2. Browse by FSA subjects – like FSA Programs, including Farm Loan Programs.
3. Center – Welcome *highlights *deadlines *spotlights *Etc.
4. “Hot Links” that navigate to other resources, news and tools within FSA or USDA.
5. Stay connected links to FSA (National) Twitter, Facebook, YouTube, etc.
Sign up for updates. When the Kansas FSA website is updated, newsletter added or other changes – you will be notified via email. You can adjust your preferences to the types of news or updates and include your County, as well – or even other states.
6. Close guaranteed loans, report semi-annual and default statuses using FSA’s guaranteed loan system (LINC) – start here to request an eAuth Level 2 ID →→ www.eauth.egov.usda.gov ←←