

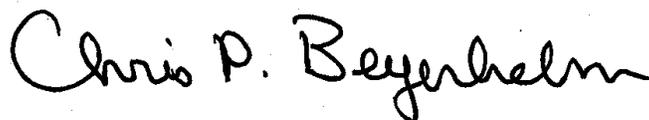
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 10

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 15 A has been amended to expand on program purposes.

Subparagraph 16 B has been amended to include requirements for CL Program loans and Streamlined CL applicants.

Subparagraph 17 D has been added to include CL as a type of guaranteed loan.

Subparagraphs 49 C and 52 F have been amended to correct the wording of the CFR references.

Subparagraphs 49 E and 50 B have been amended to include CL's in the minimum number of guaranteed loans for CLP eligibility.

Subparagraphs 51 C and 54 C have been amended to include an additional CFR reference.

Subparagraph 66 A has been amended to include:

- conservation plan and transition plan to the list of items needed for a complete application
- references to CL.

Subparagraph 66 C has been amended to include additional items to be included in the loan narrative if the loan request is for CL.

Subparagraph 66 E has been amended to include cash flow requirements for Streamlined CL's.

Subparagraph 66 J has been added to include a conservation plan as a requirement for CL's.

Subparagraph 66 K has been added to include a transition plan as a requirement for CL priority funding.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraphs 67 A, D, and E have been amended to include a reference to subparagraph 70.5 B.

Subparagraph 68 A has been amended to include submission requirements for CL's.

Subparagraph 70 A has been amended to include conservation plan and transition plan to the list of items needed for a complete application.

Paragraph 70.5 has been added to include application requirements for CL's and Streamlined CL's.

Subparagraph 72 A has been amended to note that the Market Placement Program does **not** apply to CL's.

Subparagraph 83 B has been amended to add 75 percent guarantee for CL's.

Subparagraphs 108 A and J have been amended to add test for credit does **not** apply to CL's.

Subparagraph 108 C has been amended to include CL as a loan type.

Paragraph 111 has been amended to include reference to OL's and FO's.

Paragraph 112 has been added to include applicant requirements and entity applicant requirements for CL's.

Subparagraph 122 D has been amended to clarify when financing a marketing activity is allowable.

Paragraph 123.5 has been added to include CL purposes.

Subparagraph 124 B has been amended to:

- correct the CFR reference for noneligible enterprises
- clarify that CL's can be made to noneligible enterprises.

Subparagraph 137 E has been added to include CL terms.

Subparagraph 137 F has been amended to match 7 CFR 762.124(d).

Subparagraph 151 B has been amended to include direction to handle inaccurate cash flow budgets.

Subparagraphs 152 B and 153 B have been amended to instruct lenders how to handle feasibility for Streamlined CL's.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraphs 195 A and B have been amended to include 75 percent guarantee for CL's.

Subparagraph 195 D has been added to include maximum loss for CL's.

Subparagraphs 208 B and 244 A have been amended to include CL's.

Subparagraph 244 B has been amended to instruct authorized agency officials to verify that a lender has a Lender's Agreement in effect.

Subparagraph 244 C has been amended to clarify lender notification of an adverse decision.

Subparagraph 245 C has been amended to add instruction for a Lender's Agreement.

Subparagraphs 265 B and D have been amended to guide SEL and CLP lenders in completing financial analysis for Streamlined CL's.

Subparagraph 267 B has been amended to include CL's in lender loan file review priorities.

Subparagraph 286 A has been amended to include CL as a loan type that cannot be consolidated.

Subparagraph 312 A has been amended to guide lenders when rescheduling CL's.

Subparagraph 326 B has been amended to include the terms of rescheduled payments for CL's.

Subparagraph 328 B has been amended to include additional language covering the term of rescheduled payments for CL's that are written down.

Exhibit 2 has been amended to:

- include CL in the "beginning farmer" and "program loans" definitions
- add the definitions of:
 - "agency official"
 - "approval official"
 - "authorized agency official"
 - "conservation loan"
 - "conservation plan"
 - "conservation practice"
 - "conservation project"
 - "streamlined conservation loan"
- exclude CL's from the "graduation" definition.

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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.
employee conflict of interest	3-PM.
environmental requirements	1-EQ.
forms that cannot be accepted by FAX	1-CM.
maintenance of general and administrative files	25-AS.
Privacy Act	3-INFO.
processing collections	3-FI.
reports	20-AS.
reviews and appeals	1-APP.

Notes: See FmHA Instruction 1945-A for information on the disaster designation process.

RD Instruction 1940-G must be used along with 1-EQ.

See RD Instructions 1951-C and 1956-B for information on administrative offset and debt settlements, respectively.

B Helpful Links

The Helpful Links web site at

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

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

Regulated lenders who have experience in agricultural lending are eligible to participate in the FSA Guaranteed Farm Loan Program. Lenders who have little or no experience with FSA-guaranteed loans are considered SEL's and must originate and service loans under SEL requirements.

Lenders who have a positive track record of participation in the program may participate in 1 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 CLP and PLP lenders, Lenders Agreement is valid for 5 years from the date of execution by SED or DAFLP. For SEL's, Lenders Agreement is valid indefinitely from the time of execution by the 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 FSC, FLOO 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.--*

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

C Loan Production and Performance

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.

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 Part 1945, subpart A of this title**
(3-FLP).

SED is granted the authority to waive this criteria on a bank-by-bank 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.--*

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

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

***--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 ever and five such loans in the past 2 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.

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/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/LOC's and--*
5 loans within the past 2 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 shall 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. A lender may request CLP status for all branches within a State, or only the specific branches that are using the guaranteed program. **The Agency will determine which branches of the lender have the necessary experience and ability to participate in the CLP program based on the information submitted in the lender application and on Agency experience.** The branch offices for which CLP status is granted are listed on Lenders Agreement.

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 original will be kept in the State Office and copies will be sent to the lender, along with as many FSA-2202's as needed, 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. FSA-2202 can be ordered from Kansas City Warehouse supply.

D Renewal

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.

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 at least 60 calendar days before the expiration of the current Lenders Agreement.

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 Monitoring Reviews**

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 at least 20 percent of CLP's files over the course of a year, according to the priorities in subparagraph 267 B.

B Operational File

Each County Office specified on the Lenders Agreement shall maintain an operational file for each CLP lender as in the SEL Program. For CLP, SED shall also maintain a file for their SED Internal Annual Review.

At least annually, SED shall collect and review information about the performance of each CLP lender, including monitoring reviews from all County Offices that monitor the lender. These monitoring reviews shall be used to determine whether CLP status should continue.

C Revoking CLP Status

In addition to the sanctions that may be imposed in subparagraph 48 C, **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
- 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

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) (Continued)

D PLP CMS Guidelines (Continued)

III. Loan Servicing and Administration.

A. General Servicing.

- Describe your portfolio oversight. Discuss how risk is monitored on an ongoing basis and how often and what type of financial information is obtained based on borrower or loan type.
- Describe your procedure for advancing for loan or line of credit purposes, monitoring the use of loan funds, and verification of existence or acquisition of collateral.
- Describe your security monitoring, maintenance, inspection, and reassessment procedures. Describe your insurance requirements. Describe your policy regarding releasing collateral for trade, replacement, and sale.

B. Delinquencies.

- Describe any increased servicing procedures for distressed or “watch list” loans.
- Describe your procedures for reminder notices, default notification, personal contact, and preparation of servicing plans. Describe actions taken at various past due timeframes.
- Describe your policies on extensions, abeyance, deferral, and rescheduling and how the decision is documented.

C. Liquidation.

- Describe your procedures on acceleration, referral to legal counsel, foreclosure, replevin, and reporting to bank management.
- Describe your policies and procedures regarding protective advances, deeds in lieu of foreclosure, judgments, and release from liability.

D. Other.

- Describe your policies regarding release of security without consideration and release of co-signers, co-borrowers, or guarantors from liability.
- Describe any exceptions to loan policies or procedures and other information that is relevant to FSA-guaranteed loans.

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

E FSA Experience

***--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 in the past 5 years.

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

F Loss Rate

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.--

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.

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 1945, subpart A.

This waiver may be granted only by DAFLP.

G Sound Loan Proposals

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.

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

C Revoking PLP Status

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

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
- 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.

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

C Revoking PLP Status (Continued)

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

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.

55-64 (Reserved)

Part 5 Loan Application Requirements (7 CFR 762.110)**Section 1 Application Requirements for SEL's and CLP Lenders****65 General Application Requirements****A Application Requirements**

SEL's and CLP lenders must perform at least the same level of evaluation and documentation for guaranteed loans as 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.

Lenders may use FSA-2291 as an application processing checklist. FSA may use FSA-2292 to review an application for completeness.

B Maintaining Complete Loan File

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 and 67 and all correspondence with the borrower about servicing actions and other loan-related documentation generated after loan approval.

The Agency may request additional information from any lender or review the lender's loan file as needed to make eligibility and approval decisions.

66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110)

A Application Package

A complete application for loans of \$125,000 or less from SEL and CLP lenders **must, at least, consist of:**

- **the application form** (Application for Guarantee) (subparagraph B)
- **loan narrative** (subparagraph C)
- **balance sheet** (subparagraph D)
- ***--cash flow budget** unless waived (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)
- ***--for CL guarantees, a copy of the conservation plan** (subparagraph J)
- **plans to transition to organic or sustainable agriculture** (if needed for CL, see subparagraph K).--*

In addition to the minimum requirements, the lender will perform at least the same level of evaluation and documentation for a guaranteed loan that the lender typically performs for non-guaranteed loans of a similar type and amount.

The \$125,000 threshold includes 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 meet the threshold thereby avoiding additional documentation.

Separate \$125,000 thresholds apply to FO and OL/LOC. An application requesting guarantees of loans of different types (FO or OL/LOC), each of which is \$125,000 or less, will be processed under the requirements of this paragraph. The maximum loan package that can be processed under this paragraph is \$250,000.

The Agency may require lenders with a lender loss rate in excess of the rate for CLP lenders to assemble additional documentation from (paragraph 67).

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

66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)

B Application Form

Lenders may use Application for Guarantee or their own loan application form if it contains the same information. If a lender uses its own application form, the lender must attach an executed Application for Guarantee containing the applicant's name and address and any information not on the lender's form.

Note: Applications submitted electronically will be processed according to subparagraph 73 B.

C Loan Narrative

The application package must include a narrative description of the lender's underwriting of the loan. The narrative must contain information and analysis of any loan application data that are out of the ordinary, or at variance with normal practices for the type of operation and region. The narrative must be an evaluation and not just a summary of the data. It may be *--less detailed for a borrower who already has a guaranteed loan or an FSA direct loan.--*

The narrative should address the following, as applicable:

- describe the farming operation, such as types of enterprises, key personnel and management structure, their roles and background, proposed changes to the operation and adequacy of real estate, equipment, and other facilities
- an assessment of the adequacy of the collateral being offered to secure the proposed loan
- a discussion of the applicant's financial condition and projected repayment ability

Notes: The lender should discuss any significant assumptions or deviations from historical performance in the proposed cash flow budget.

--If the application is for CL and the applicant meets the requirements to waive the cash flow requirement, the lender should discuss the applicant's financial conditions that qualify the applicant for the waiver.--

66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)

C Loan Narrative (Continued)

- the name, Social Security number, and current address of any co-borrowers or co-signers required to execute the note at loan closing
- the short-term and long-term business goals of the operation
- the borrower's reporting requirements, limitations, and other conditions based on the lender's analysis of the proposal
- lender servicing plan describing the borrower's financial reporting requirements, limitations and conditions, plans for visiting the borrower, and any other borrower supervision
- if the loan contains balloon payments, the conditions related to the renewal of loan
- a discussion of how the applicant meets the loan eligibility requirements
- *--if the application is for CL, a discussion of the conservation plan and need for the qualifying conservation practices including a discussion of the transition plan, if applicable.--*

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 1 cash flow budget may need to be developed.

- *--For Streamlined CL according to subparagraph 70.5 B, the lender should follow their internal procedure to determine financial feasibility. It is **not** required that these cash flow budgets be submitted to FSA.--*

F Description 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.

66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)

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 to complete this review is part of a complete application.

I Additional Requirements for Entity Applicants

Entity applicants must submit additional information for each entity member. The application must contain the following information about each entity member:

- full legal name
- address
- Social Security number
- percent ownership interest in the entity
- current balance sheet.

*--J Conservation Plans

CL applicants must submit a copy of their current conservation plan. The plan must address conservation practices that will be financed by the CL request.

K Transition Plan

To request consideration for priority funding when the loan funds will be used to facilitate a transition to organic or sustainable agriculture, an applicant must submit a plan discussing how they will carry out the transition. 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.--*

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

A complete application package for a guaranteed loan over \$125,000 will consist of the ~~items~~ **in paragraph 66, plus subparagraphs B through G, unless waived when conditions in** subparagraph 70.5 B are met.~~.*~~

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 Over \$1,000

Verification 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, unless waived by subparagraph 70.5 B.

E Production History

The application should include **3 years of production history (SEL only)**, unless waived by subparagraph 70.5 B.~~.*~~

F Proposed Loan Agreements

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

G Development Plans

If construction or development is planned, a copy of the plans, a copy of the specifications, and a development schedule is needed.

68 Submission Requirements for SEL's and CLP Lenders

A Submission Requirements

The following table summarizes the submission requirements for SEL's and CLP lenders. In addition to the items submitted to FSA, lenders are expected to maintain in their files all applicable items that do not need to be submitted. See subparagraph B.

Submission Requirement	For Loans \$125,000 or Less		For Loans More Than \$125,000	
	SEL	CLP Lender	SEL	CLP Lender
Application Form	Y	Y	Y	Y
Loan Narrative	Y	Y	Y	Y
Balance Sheet	Y	Y	Y	Y
--Cash Flow Budget (if applicable)--	Y	Y	Y	Y
Description of Farmed Land	Y	Y	Y	Y
Entity Information (if applicable)	Y	Y	Y	Y
Credit Report	Y	F	Y	F
Environmental Information (if applicable)	Y	Y	Y	Y
*--Conservation Plan (for CL only)	Y	Y	Y	Y
Transition Plan (for CL if applicable)	Y	Y	Y	Y--*
Proposed Loan Agreement			Y	F
Verification of Debts Over \$1,000			Y	F
*--Verification of Income (if applicable)			Y	F
3 Years of Production History (if applicable)			Y	N/A
3 Years of Financial History (if applicable)--*			Y	F
Development Plans (if applicable)			Y	F

Note: Items marked with an "F" are items that do not have to be submitted, but must be maintained in the lender's file.

B Lender Certification

Lenders certify that they have the required documentation in their files by signing the Application for Guarantee.

69 (Reserved)

Section 2 Preferred Lender Applications

70 Application Requirements for PLP Lenders (7 CFR 762.110)

A Application Requirements

A complete application for PLP lenders will consist of:

- **an application form** (Preferred Lender Application)

Note: Applications submitted electronically will be processed according to subparagraph 73 B.
- **a loan narrative**
- **any other items agreed to during the approval of the PLP lender's status and contained in the PLP lender agreement**
- **--for CL guarantees, a copy of the conservation plan** (subparagraph 66 J)
- **plan to transition to organic or sustainable agriculture** (if needed for CL, see subparagraph 66 K).--*

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

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

70 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 5 “C’s” of credit; that is, character, capacity, capital, conditions, and collateral.

For many PLP lenders, the narrative will often contain the same information submitted to the lender’s loan committee. Since the authorized agency official will rely on the narrative and application form for making the loan approval decision, it is important that the narrative covers any issues or questions that may arise during the evaluation process.

C Submitting Applications Outside Normal Trade Area

PLP status will be approved for the lender’s normal trade area as defined in CMS. If a lender wants to make a guaranteed loan outside of this area, the lender should contact the State Office responsible for that area for guidance on where to submit the request for guarantee. On a case-by-case basis, SED may authorize the approval of guarantees outside the lender’s normal trade area if SED determines that the lender can adequately make and service the loan. If the lender wants to permanently expand its approved normal trade area, it will request an expansion through SED to DAFLP.

Section 3 Other Guaranteed Application Options***--70.5 Application Requirements for CL's (7 CFR 762.110(d))****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
- will **not** need to pass the test for credit, and the graduation requirements of OL and FO loans do **not** apply.

All CL applications will consist of the applicable items as outlined in paragraphs 66, 67, 68, and 70.

B 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(d)] For CL guarantee applicants meeting 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**
- **have a FICO credit score from the Agency obtained credit report of at least 700. For entity applicants, the individual members of the entity must be at least 700.--***

71 Application Requirements for Subsequent OL's

A Application Requirements

Subsequent OL's within the same operating cycle do not require the complete application submission in paragraphs 65, 66, 67, 68, and 70. See subparagraph B.

B Submission Requirement

Only items that have changed from the original application must be submitted, such as the cash flow projection.

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

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(g)) (Continued)**C FSA Preparation of Loan Application**

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 business 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 web site. 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**

Once 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.

If the lender submits the application electronically and all the required electronic signatures are not obtained, the application will be processed. However, the original, completed Application for Guarantee or Preferred Lender Application, with appropriate applicant signatures, must be provided to FSA before FSA will issue the guarantee.

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 web site.

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

73 Filing Applications Electronically (Continued)**C Lender Requirements for Electronic Reporting (Continued)**

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.

Once 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.

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

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, as defined in paragraphs 65, 66, 67, and 68.

B Processing Timeframes for CLP and PLP Lenders

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 75 percent guarantee for CL, as appropriate.

The counting of the 14 calendar days begins when FSA determines that the application is complete, as provided in paragraphs 65, 66, 67, 68, and 70.

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 a 75, 80, 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 Summary of Processing Timeframes

This table summarizes processing timeframes for SEL’s and CLP and PLP lenders.

Lender Type	Processing Timeframe in Calendar Days From the Date the Application Is Complete
SEL	30 calendar days
CLP	14 calendar days
PLP	14 calendar days

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

The authorized agency official is responsible for:

- processing applications within the allotted timeframes
- maintaining a tracking system to ensure that:
 - CLP and PLP lender applications are processed within 14 calendar days
 - SEL applications are processed within 30 calendar days
- 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.

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 Designated Review Official Responsibilities**

Officials designated by SED to review rejected SDA applications shall:

- in each office of their jurisdiction review at least 50 percent of the rejected loan applications from SDA applicants who were rejected in each quarter
- if any improper rejections are found, review all rejected SDA loan applications in the approval official's coverage area
- notify SED of any problems detected
- *--with the FLC's advice, take action on the incorrectly rejected loan applications to--*
correct any errors
- recommend appropriate personnel actions, such as training or revocation of loan approval authority, for the approval official responsible for rejections that appear to reflect a pattern or practice of discrimination against SDA applicants
- review the reasons and explanations why decisions have not been made on complete loan applications in a timely manner.

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

D FLC Responsibilities

FLC’s shall:

- monitor loan application processing timeframes, GLS data entry, and performance goal accomplishments using GLS reports, as follows

Step	Action
1	*--Go to https://arcticocean.sc.egov.usda.gov/flp/IndexServlet and CLICK--* “LOGON”, CLICK “Continue”, sign into eAuthentication, and CLICK “Guaranteed Loan System”.
2	Log into GLS and CLICK: <ul style="list-style-type: none"> • “Reports” • “FSA Reports” • “Application Reports” • “GLS2208 Report - Guaranteed Loan Average Processing Times”.
3	In the Search Criteria section, on the Process Date box drop-down menu, select “Applications Received” and input the date range for the query. <p>Note: Drill down capability is available by County or Servicing Office. To drill down by:</p> <ul style="list-style-type: none"> • County Office, in the: <ul style="list-style-type: none"> • Sort Options section, on the Major Sort box drop-down menu, select “Geographic State” • Report Options section, in the Report Format, select “Details” • Servicing Office, in the: <ul style="list-style-type: none"> • Sort Options section, on the Major Sort box drop-down menu, select “Servicing State” • Report Options section, in the Report Format, select “Details”.

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

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
- 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.--*

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

B Clarification of Applicant

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

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

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

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

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

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

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

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

C No Agency Loss (Continued)

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 writedown and the loan was later liquidated at a loss.

A lender should contact the local FSA office if it is unsure of an applicant's eligibility.

Note: The authorized agency official shall verify and document previous loss to the government, or debt forgiveness, for each applicant and all individuals who will sign the promissory note. SSN or tax ID number for each will be entered into the following databases to document eligibility. Screen prints of the information used as the basis for the eligibility determination will be placed in the case file.

- DLS Customer Profile (printer friendly version) verification of both current/past debts and any prior debt forgiveness.
- The View Loan Screen in GLS will be used to verify previous debt forgiveness for guaranteed loans. At the Loan List Screen, enter the tax ID number or name of the applicant and each individual who will sign the promissory note. The Loan List Screen will be displayed with previous and current loan information for the individuals entered. Detail information for a specific loan can be accessed by selecting the View Loan Screen from the "Action" drop-down box and clicking on the loan number hyperlink.

D Delinquency on Federal Debt

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.

E Outstanding Recorded Judgments

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

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.

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.

U.S. non-citizen nationals and qualified aliens must submit appropriate documentation to verify immigration status as provided in Exhibits 7 and 8, as applicable.

G Legal Capacity to Incur Loan

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

The applicant, in past dealings with the Agency, must not have provided the Agency with false or misleading documents or statements.

--108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)--**I Credit History**

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.**

J Test for Credit

***--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.**

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 shall:

- 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.

K Controlled Substances

[7 CFR 762.120] 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.

Applicants convicted of any Federal or State offense consisting of the distribution (trafficking) of a controlled substance shall, at the discretion of the court, be ineligible for any or all program payments and benefits:

- for up to 5 years after the 1st conviction
- for up to 10 years after the 2nd conviction
- permanently for a 3rd or subsequent conviction.

Applicants convicted of Federal or State offense for the possession of a controlled substance shall be ineligible, at the discretion of the court, for any or all program benefits, as follows:

- up to 1 year upon the 1st conviction
- up to 5 years after a 2nd or subsequent conviction.

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

Application for Guarantee or Preferred Lender Application both require 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.

L 15-Year OL Time Limit

Note: Enforcement of this subparagraph is suspended until December 31, 2010.

[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.

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

M Determining Years of Eligibility for Guaranteed OL's

Note: Enforcement of this subparagraph is suspended until December 31, 2010.

Applicants are eligible to close guaranteed or direct OL's in 15 nonconsecutive years. The following table summarizes the eligibility requirement based on the applicant's status on October 28, 1992, and the number of years the applicant has received direct or guaranteed loans.

IF the applicant had...	THEN they are eligible for...
direct or guaranteed OL's closed in 10 or more years on or before October 28, 1992	5 years of guaranteed OL closing after October 28, 1992. 5 years - _____ = _____ (# years loan closed after 10/28/92 or advances made on LOC) (# years remaining)
fewer than 10 years of direct or guaranteed OL's closed on or before October 28, 1992	15 years of guaranteed OL. 15 years - _____ = _____ (# years loan closed or advances made on LOC) (# years remaining)

Note: Before October 28, 1992, only the year in which the loan was closed is counted. Subsequent year advances on LOC's closed before October 28, 1992, do **not** count as an additional year of eligibility. However, after October 28, 1992, subsequent advances on LOC's are counted as a year of eligibility used.

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

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.

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

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

Each entity member's ownership interest may not exceed the family farm definition limits.

B Entity Ownership of Large Farms

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

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

D Entity Member Requirement

The entity members are not themselves entities.

***--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

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 or ranching in the United States after the loan is made**
- **the entity members are not themselves entities**
- **the entity must be authorized to operate a farm in the State or States in which the farm is located.**

Individual applicants for CL guarantees must be farmers or ranchers 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

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**
- **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**
- **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**

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

B Term OL Purposes (Continued)

- 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 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.

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 or build any type of structure, including personal dwellings, related to the farming enterprise.

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] 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.

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

B FO Purposes (Continued)

- **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.**

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.

--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

Loan funds disbursed under a CL guarantee may be used for any conservation activities included in a conservation 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] 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 762.121)**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.

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 1954, 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 762.121) (Continued)***--B Specific OL, FO, and CL Limitations (Continued)--***

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.

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.

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.--*

125-134 (Reserved)

--137 Loan Term and Payment Schedules (7 CFR 762.124(b), (c), (d), and (e))--

A OL's Repayment Schedule

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 chattel or real estate security for the period of repayment.

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

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**

**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

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**

Each loan must be scheduled for repayment over a period not to exceed 20 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

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 to establish a new enterprise, develop a farm, or recover from a disaster or an economic reversal.**
- **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.**

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. PLP lenders use methods outlined in their CMS to determine the financial feasibility of a loan.

B Feasible Plan

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.

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 cash flow budget used in the loan application must:

- reflect, as closely as possible, the predicted cash flow of the operating cycle
- be documented in sufficient detail to adequately reflect the overall condition of the operation.

*--The lender's projected cash flow budget should include all cash inflows and outflows. If the authorized agency official determines that cash inflows have been overestimated or cash outflows have been underestimated or omitted from the plan, 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.--*

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

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.

SEL's also must use reliable or reasonable forecasted crop or livestock prices. Where available, the operation's actual production records must be used to estimate future production yields. The expenses used in the cash flow budget should be based on prior experience and be consistent with anticipated prices for similar goods and services. Projections of income from FSA farm programs should be prepared with assistance from FSA farm program staff.

The projected production yields and financial performance should not be outside of the range of the applicant's previous performance, unless fully documented and justified. The loan narrative must support the projected production, income, and expenses, explain any discrepancies, and support other major assumptions used in the cash flow budget.

***--Note:** For Streamlined CL requests, SEL's will follow their internal procedures for determining financial feasibility.--*

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.

B Using Financial History

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. 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 lender should consider the range and trends as indicators of the capability and limitations of the operator, land, and equipment. The projection should:

- reflect what the current or proposed operation can reasonably and justifiably accomplish
- not be outside the range of historical performance unless fully justified.

The loan narrative should:

- document the method used to project income and expenses
- provide an explanation of any deviations from historical production
- address any major changes in yields or prices.

***--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

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.

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 justification for assumptions made during the determination of financial feasibility.

155-165 (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 proposed in the application 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.

B Adequate Security

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.

The lender will obtain a lien on additional security when necessary to protect the Agency's interest.

The lender must determine the amount of security required to adequately secure a loan. At a minimum, FSA requires the value of the security to be at least equal to the loan amount. However, more security will be taken whenever it is available. A 1:1 loan to value ratio is not adequate when additional security is available. The adequacy of security will be judged in consideration of the total security available, prior liens, and the lender's normal practices. More security may be required if the quality of the security is low, cash flow is below average, production capability is suspect, management history is limited, or enterprise is not firmly established or is atypical for the area.

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.

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.

166 Amount and Quality of Security (7 CFR 762.126) (Continued)**B Adequate Security (Continued)**

To evaluate the quality and overall adequacy of the proposed security, the authorized agency official should evaluate the lender's analysis of the security and the applicant's financial position. The authorized agency official may determine that more security is required to protect FSA's interests based on the answers to the following questions.

- *--Is the value of the basic security at least equal to the proposed loan amount?--*
- Is additional security available?
- Is this a specialized operation with limited sale opportunities?
- What is the age, durability, probable depreciation rate, and life of the security and how does this compare to the term of the loan?
- *--What is the proposed lien position on the basic security?--*
- Is the applicant's net worth high or low compared with their total liabilities, including the proposed amount of the loan or LOC?
- Does the applicant have a strong cash flow position and high profitability?

C Security Requirements for SEL's and CLP and PLP Lenders

The type of lender has no bearing on the type or amount of security required to adequately secure a loan. The authorized agency official should evaluate the proposed security for loan applications from SEL's and CLP and PLP lenders using the same evaluation criteria.

Subsection 4 Maximum Loss for Percent of Loan Guarantee

195 Percent of Guarantee (7 CFR 762.129 and 762.130)

A Standard Guarantee

***--Except for CLs, 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.**

Except for CLs, all guarantees issued to CLP and PLP lenders will not be less than 80 percent.

For CLs, the percent of guarantee will be 75 percent regardless of the lender's status or timeframes.--*

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.

Complete applications from PLP lenders will be approved or rejected not later than 14 calendar days after receipt. If this 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 75 percent guarantee for CL, as appropriate.--*

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.

--C Maximum Loss for FO and OL--

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.**

195 Percent of Guarantee (7 CFR 762.129 and 762.130) (Continued)

***--D Guaranteed CL**

For CL, the percent of guarantee will be 75 percent of the principal amount of the loan. The maximum loss under the guarantee will be any loss sustained by the lender on the guaranteed portion including:

- the pro rata share of principal and interest indebtedness as evidenced by the note or by assumption agreement
- the pro rata share of principal and interest indebtedness on secured protective and emergency advances made in accordance with this subpart
- 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

The guarantee will be issued at 95 percent in any of the following circumstances:

- the sole purpose of a guaranteed FO or OL loan is to refinance an Agency direct farm loan

Notes: When only a portion of the loan is used to refinance a direct Agency loan, a weighted percentage of a guarantee will be provided.

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.

196 Exception to Standard Guarantee Limits (7 CFR 762.129) (Continued)

A Exceptions (Continued)

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.

- **when the purpose of an FO loan guarantee is to participate in the down payment loan program**
- **when a guaranteed OL is made to a farmer who is participating in the Agency’s down payment loan program**

Notes: The guaranteed OL must be made during the period that a borrower has the down payment loan outstanding.

The downpayment loan program refers only to FO made under 3-FLP, Part 7, Section 2. Applicants meeting only the definition of beginning or socially disadvantaged farmer will not qualify for a 95 percent guarantee.

- loans made under a State beginning farmer program where a memorandum of understanding between the State and USDA has been signed
- **when a guaranteed OL is made to a farmer who farms land subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction on an Indian tribe.**

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 guaranteed loans. authorized agency officials should consult 7 CFR Part 1940, subpart G, * * * for guidance on what FSA must do to comply with the National Environmental Policy Act, 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.

B Environmental Requirements

The requirements found in 7 CFR part 1940, subpart G, must be met for guaranteed *-OL, FO, and CL. CLP and PLP 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.

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.**

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 assessment for each loan application as required in 7 CFR Part 1940, subpart G. The certification by the lender on Application for Guarantee or Preferred Lender Application 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

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.

Part 10 Processing Approvals and Issuing the Guarantee

244 Loan Approval (7 CFR 762.122)

A Loan Limits

The agency will not guarantee any loan that would result in the applicant's total indebtedness exceeding the limits established in § 761.8 of this chapter (1-FLP, paragraph 29).

*--The maximum FO, CL, or OL levels outlined in this subparagraph include the guaranteed loan being made plus any outstanding direct or guaranteed principal balances, as indicated, owed by anyone who will sign the promissory note.

The total outstanding combined guaranteed FO, CL, SW, and OL principal balance cannot exceed \$1,112,000.

The total outstanding direct and guaranteed FO, CL, and SW principal balance cannot exceed \$1,112,000.

The total outstanding direct and guaranteed OL principal balance cannot exceed \$1,112,000.

The total combined outstanding direct and guaranteed FO, CL, SW, and OL balance cannot exceed \$1,412,000.

The total combined outstanding direct and guaranteed FO, CL, SW, OL, and EM balance--* cannot exceed \$1,912,000.

Note: The dollar limit of guaranteed loans is adjusted annually based on the percentage change in the Prices Paid by Farmers Index, as compiled by USDA.

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

244 Loan Approval (7 CFR 762.122) (Continued)**B Submitting FSA-2231 to the * * * Approval Official**

When the loan exceeds the authorized agency official's approval authority, the authorized agency official should send the approval official all information the approval official needs to evaluate the loan request, including the following:

- a completed FSA-2231
- GLS Loan Approval Screens
- Application for Guarantee for SEL and CLP applicants or Preferred Lender Application for PLP applicants
- Conditional Commitment with recommended changes
- the balance sheet and cash flow statement (for SEL applicants)
- the loan narrative
- any other information the approval official requests.

--The authorized agency official should verify the lender has a Lender's Agreement in effect.--

Once the loan approval official executes FSA-2231, the authorized agency official may then proceed to execute all other loan-related documents, unless otherwise specified by the loan approval official.

C Lender Notification of Authorized Agency Official Decision

The lender and applicant should be informed of the approval decision in writing.

- If the application is approved and funds are available, the authorized agency official shall prepare a letter to the lender (subparagraph D), with a copy to the applicant, and a Conditional Commitment, and proceed to paragraph 245.
- If the application is approved and funds are not available, the authorized agency official shall prepare a letter (subparagraph E) to the lender with a copy to the applicant, informing them the loan is approved, subject to the allocation of funding. This letter should inform the lender that funding is being requested and the loan should not be closed until they receive the Conditional Commitment, agree to the conditions, and execute the document.

244 Loan Approval (7 CFR 762.122) (Continued)

C Lender Notification of Authorized Agency Official Decision (Continued)

- *--If it appears the application cannot be approved, the authorized agency official shall contact the lender to discuss the reasons for rejection. To ensure good service, the authorized agency official shall 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 shall 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.

Note: If requested by the lender, FSA may participate in mediation to provide guidance on FSA regulations and guidelines.--*

D Example of Approval Letter When Funds Are Available

The following is an example of an approval letter when funds are available.

Date: _____
Dear _____:
<p>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.</p> <p>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).</p> <p>If you have any questions, please contact this office.</p>
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 _____:
<p>This letter is to certify that your application on behalf of (<i>insert name of borrower/applicant</i>) for Farm Service Agency (FSA) loan guarantee assistance has been approved. However, funds are not available at this time to obligate the loan.</p> <p>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.</p> <p>We appreciate your patience and understanding. If you have any questions, please contact this office.</p> <p style="text-align: right;">Sincerely,</p> <p style="text-align: right;">_____ (Title)</p>

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 or Preferred Lender Application and any agreed modifications.
- **Security for the Loan.** The authorized agency official should ensure that additional security items not listed on Application for Guarantee and Preferred Lender Application, but required by FSA, are included on the Conditional Commitment.
- **Electronic Applications.** If the lender submitted Application for Guarantee or Preferred Lender Application electronically and all of the required electronic signatures are not obtained, then Conditional Commitment, item 17 should specify that the original, signed copy of the application be submitted with the loan closing documents.
- **--Lender's Agreement.** The lender will be required to execute FSA's Lender's Agreement if the lender does **not** have one in effect.--*

In developing the Conditional Commitment, the authorized agency official shall tailor the Conditional Commitment to the specific borrower. Long lists of standard conditions developed for all borrowers should not be used. Each condition placed on the loan must be appropriate to the specific lending situation and produce a higher quality loan.

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**

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.

When the lender receives the Conditional Commitment, the lender should carefully review all the conditions. If the lender accepts all of the conditions, the lender should complete, sign, and return the Conditional Commitment to the authorized agency official.

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 250.

If a PLP lender rejects an 80 percent guarantee, received as a result of FSA not acting on a request within 14 calendar days, 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.

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)**B FSA Actions**

Once 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.
- 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.

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. 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 FSC, FLOO

--The guarantee fee will be processed through the National Receipts and Receivable System using applicable collection type. See 3-FI for additional guidance. The authorized agency-- official shall make every attempt to review the closing documents before processing the guarantee fee. However, FSA shall adhere to the timeframes in 3-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 shall be input through GLS Add Loan 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 FSC, FLOO, requesting that the fee be refunded.

A request for a guarantee fee refund for any other reason shall 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.

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 perform an annual analysis in accordance with the requirements established in the Lender's Agreement** and document their files. However, PLP lenders do not submit the annual analysis to FSA for review. This paragraph describes the specific requirements for SEL's and CLP lenders.

B Financial Analysis of Borrower by SEL

The annual analysis will include:

- **for loans secured by real estate only, the analysis for standard eligible lenders must include a balance sheet**
- **for loans secured by chattels, all lenders will review the borrower's progress regarding business goals, trends, and changes in financial performance, and compare actual to planned income and expenses for the past year**

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

- **an account of the whereabouts or disposition of all collateral**
- **a discussion of any observations about the farm business with the borrower.**

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

C Documents Submitted to FSA by SEL in Support of Annual Analysis

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

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

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

- **an annual farm visit report or collateral inspection**
- **narrative summary of borrower's financial progress, if applicable.**

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

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

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

D Annual Analysis of Borrower by CLP Lender

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

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

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

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

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

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

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, FSA will annually review the files of 40 percent of the lender's outstanding guaranteed OL and/or OL-LOC borrowers, unless the 40 percent requirement would result in borrowers being reviewed who were reviewed the previous year. If the 40 percent requirement would result in some of the same borrowers being subject to review, then, for *--those borrowers, the review will be every other year. SEL files for FO-only and CL-only--* borrowers will be reviewed within 3 years of the date the loan is closed and subsequently if the loans become nonperforming. For each CLP and PLP lender, FSA must annually review the files of 20 percent of the lender's outstanding guaranteed loan borrowers. If the file reviews for a PLP lender have found no major deficiencies during the first 3 years of reviews, the frequency of file reviews may be reduced to biennially, and the number of files reviewed may be reduced to a minimum of 5 borrowers, or 10 percent of the lender's borrowers, whichever is greater. For lenders processing guaranteed loans in more than 1 State, the file reviews should be done in the State where the lender is headquartered, and other States in the lender's service area may send personnel to assist in the review.

267 FSA Loan Servicing Responsibilities (Continued)**B Lender Loan Files Review Priorities (Continued)**

Loans are selected for review according to the following priorities:

- loans receiving consideration for rescheduling, deferral, writedown, 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
- other loans.

FSA-2293 and PLP Checklist, developed by the National Office for each specific lender, may be used to document the lender file reviews. 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 Lenders Agreement and this handbook. In addition to the lender's loan file, a copy of the loan account ledger should be obtained and reviewed. 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.

Section 2 General Servicing Actions**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 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**
- **the lender may, with written Agency approval, subordinate its interest in basic or additional security in cases where the subordination is required to allow another lender 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**
- **the Agency's National Office may provide an exception to the subordination prohibition if such action is in the Agency's best interest.**

However, in no case can the loan made under the subordination include tax exempt financing.

B Lender Request for Subordination of Guaranteed Loan Security

The * * * authorized agency official may approve a lender's request to subordinate crops, feeder livestock, livestock offspring, milk, produce, and other normal income security that were not produced through advances made under the guaranteed loan, to allow a borrower to obtain unguaranteed annual operating credit. Multi-year assignments of FSA program payments will not be subordinated. However, in those 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.

278 Subordination of Guaranteed Loan Security (7 CFR 762.142) (Continued)

B Lender Request for Subordination of Guaranteed Loan Security (Continued)

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 another lender to refinance an existing prior lien. The * * * authorized agency official will approve the subordination, provided:

- no additional debt is being incurred
- the lender's security position will **not** be adversely affected by the subordination.

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. 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.

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.

FSA's refusal to grant an exception to published regulations is **not** appealable.

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 Lenders 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. SED shall notify the lender of the decision in a timely manner either by notifying the lender directly or by instructing the County Office to inform the lender of whether the borrower may be released from liability.

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 § 762.102(b) 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.

286 Consolidation of Debt (7 CFR 762.146(e)) (Continued)

A Overview (Continued)

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**
- 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.

288 Servicing SAA's (7 CFR 762.147)**A Overview**

When receiving a debt writedown, 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 writedown.

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.**

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.

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.**

Note: 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.

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

- **a feasible plan * * ***

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

- **current financial statements from all liable parties**
- **verification of nonfarm income**
- **verification of all debts of \$1,000 or more**
- **applicable credit reports**
- **financial history (and production history for standard eligible lenders) for the past 3 years to support the cash flow projections.**
- **A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.**

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

- **Loans secured by real estate and/or equipment can be restructured using a balloon payment, equal installments, or unequal installments. Under no circumstances may livestock or crops alone be used as security for a loan to be rescheduled using a balloon payment. If a balloon payment is used, the projected value of the real estate and/or equipment security must indicate that the loan will be fully secured when the balloon payment becomes due. The projected value will be derived from a current appraisal adjusted for depreciation of depreciable property, such as buildings and other improvements, that occurs until the balloon payment is due. For equipment security, a current appraisal is required. The lender is required to project the security value of the equipment at the time the balloon payment is due based on the remaining life of the equipment, or the depreciation schedule on the borrower's Federal income tax return. Loans restructured with a balloon payment that are secured by real estate will have a minimum term of 5 years, and other loans will have a minimum of 3 years before the scheduled balloon payment. If statutory limits on terms of loans prevent the minimum terms, balloon payments may not be used. If the loan is restructured with unequal installments, a feasible plan, as defined in §762.102(b), 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.** See subparagraph 326 D.

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

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

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

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

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

--For CL, the lender must certify that the borrower remains in compliance with the approved conservation plan.--

B Lender Approval

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.

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.

After SEL has restructured the loan, the lender must submit:

- FSA-2248 indicating that the loan is current
- copies of restructured notes or LOC's.

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 FSC, FLOO.

Note: For loans with IA, see subparagraphs 230 D and E for additional requirements.

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.**
- **--CL will be amortized over the remaining term or rescheduled with an uneven payment schedule. The maturity date cannot exceed 20 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.

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 313 and obtain FSA approval before implementation of the action. CLP and PLP lenders must submit documentation according to requirements listed in paragraph 313 **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 and FO’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.

328 Debt Writedown (7 CFR 762.145(e))

A Overview

A debt writedown 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 writedown. Debt writedown loss claims must be approved by SED.

B General Requirements

The following conditions apply to debt writedown:

- **A lender may only writedown 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 § 762.102(b).**
- **The lender will request other creditors to negotiate their debts before a writedown 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 writedown, the writedown will be considered without interest assistance.**

328 Debt Writedown (7 CFR 762.145(e)) (Continued)

B General Requirements (Continued)

- **The writedown is based on writing down the shorter-term loans first.**
- **When a lender requests approval of a writedown 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 writedown, 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 writedown will be evidenced by an allonge or amendment to the existing note or line of credit reflecting the writedown.**

The payment of a loss claim in conjunction with a debt writedown does not establish a Federal debt and is not subject to offset.

The holder or holders, if any, must agree to the writedown 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.**

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 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).--

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

Forms (Continued)

Number	Title	Display Reference	Reference
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		136, 288, 328, 342, Part 14, 376, Ex. 12
FSA-2261	Report on Collection Activities on Liquidated Accounts		266, 362, Ex. 12
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2291	Lender's Processing Checklist		65, 95
FSA-2292	Guaranteed Loan Processing Checklist		65
FSA-2293	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-2294	Debt Writedown Review Checklist		329
FSA-2295	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-2296	Guaranteed Loan Final Loss Review Checklist		360
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
RD 1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD 1956-1	Application for Settlement of Indebtedness		363
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

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
ACT	Consolidated Farm and Rural Development Act	1, 108, 286
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	358, Ex. 15
CL	conservation loan	Text, Ex. 2
CMS	Credit Management System	Text
EL	emergency livestock loan	108
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
LINC	Lender Interactive Network Connection	73, 266
LOC	line of credit	Text
PLP	Preferred Lender Program	Text, Ex. 12
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 7
SAA	Shared Appreciation Agreement	286, 288, Ex. 2
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Re delegations of Authority

This table lists the re delegations 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.

Adjustment

Adjustment is a form of settlement that reduces the financial obligation to the Agency, conditioned upon the completion of payment of a specified amount at a future time. An adjustment is not a final settlement until all payments have been made under the agreement.

Administrative Appraisal Review

Administrative appraisal review is a review of an appraisal to determine if the appraisal:

- (1) Meets applicable Agency requirements; and**
- (2) Is accurate outside the requirements of standard 3 of USPAP.**

Agency

Agency is the FSA.

***--Agency Official**

Agency official is any employee with FSA.--*

Agricultural Commodity

Agricultural commodity is livestock, livestock products, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, tree farming, nursery crops, nuts, aquaculture species, and other plant and animal production, as determined by the Agency.

Allonge

Allonge is an attachment or an addendum to a promissory note.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

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)

Average Agricultural Loan Customer

Average agricultural loan customer is a conventional farm borrower who is required to pledge crops, livestock, other chattel and/or real estate security for the loan. This term does not include a high-risk farmer with limited security and management ability who is generally charged a higher interest rate by conventional agricultural lenders. Also, this term does not include a low-risk farm customer who obtains financing on a secured or unsecured basis, who is able to pledge as collateral for a loan items such as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance.

Basic Security

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency. With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are typically treated as normal income security unless the borrower does not have replacements that will keep the numbers and production up to planned levels. However, if the borrower plans to make a significant reduction in the foundation livestock herd or flock, the animals that are sold in making this reduction will be considered basic security.

Beginning Farmer

Beginning farmer is an individual or entity who:

- *--(1) Meets the loan eligibility requirements for a direct or guaranteed OL, FO, or CL--* loan, as applicable;
- (2) Has not operated a farm for more than 10 years. This requirement applies to all members of an entity;
- (3) Will materially and substantially participate in the operation of the farm:
 - (i) In the case of a loan made to an individual, individually or with the family members, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm, consistent with the practices in the county or State where the farm is located.
 - (ii) In the case of a loan made to an entity, all members must materially and substantially participate in the operation of the farm. Material and substantial participation requires that the member provide some amount of the management, or labor and management necessary for day-to-day activities, such that if the individual did not provide these inputs, operation of the farm would be seriously impaired;
- (4) Agrees to participate in any loan assessment and borrower training required by Agency regulations;

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Beginning Farmer (Continued)

(5) Except for an OL applicant, does not own real farm property or who, directly or through interests in family farm entities owns real farm property, the aggregate acreage of which does not exceed 30 percent of the median acreage of the farms in the county where the property is located. If the farm is located in more than one county, the median 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 median farm acreage of the county where the major portion of the farm is located will be used. The median county farm acreage will be determined from the most recent Census of Agriculture;

(6) Demonstrates that the available resources of the applicant and spouse (if any) are not sufficient to enable the applicant to enter or continue farming on a viable scale; and

(7) In the case of an entity:

- (i) All the members are related by blood or marriage; and
- (ii) All the members are beginning farmers.

Borrower (or Debtor)

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term "borrower" includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Cancellation

Cancellation is the final discharge of, and release of liability for, a financial obligation to the Agency on which no settlement amount has been paid.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

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.”

Chattel Security

Chattel security 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, chattel mortgages, and other security instruments.

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.

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.

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.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

***--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 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 that is planned and applied according to NRCS standards and specifications as a part of a resource management system for land, water, and related resources.

Conservation Project

Conservation project means conservation measures that address provisions of a conservation 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.

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.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Feasible Plan

Feasible plan is 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 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 one 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.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Good Faith

Good faith is 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, but not limited to, loan agreement, security instruments, farm operating plans, and agreements for use of proceeds. The Agency considers a borrower to act in good faith, however, if the borrower's inability to adhere to all agreements is due to circumstances beyond the borrower's control. In addition, the Agency will consider fraud, waste, or conversion actions, when substantiated by a legal opinion from OGC, when determining if an applicant or borrower has 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.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Potential Liquidation Value

Potential liquidation value is the amount of a lender's protective bid at a foreclosure sale. Potential liquidation value is 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.

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 chattel 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 writedown on a direct or guaranteed loan to repay the Agency or the lender some or all of the writedown 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.--*