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

Guaranteed Loan Making and Servicing 2-FLP (Revision 1)	**Amendment 17**

Approved by: Deputy Administrator, Farm Loan Programs

Chris P. Beyerhelm

Amendment Transmittal

A Reason for Amendment

Subparagraph 151 B has been amended to provide guidance on determining feasibility for production contracts.

Subparagraph 247 A has been amended to clarify qualified State Beginning Farmer Program.

Subparagraph 327 A has been amended to provide guidance on deferrals for poultry and hog growers.

Page Control Chart		
TC	**Text**	**Exhibit**
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52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

J Qualified Person

The lender must **designate a person or persons, either by name, title, or position within the organization, to process and service PLP loans for the Agency.**

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

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

53 Approval Requirements (7 CFR 762.106)

A Request for Approval

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

- Part I. The Lender's Application Letter demonstrating the lender meets the PLP criteria, excluding CMS.
- Part II. SED Comments and Recommendation. This part of the package will be developed from information gathered from the following sources:
  - County Offices where the lender proposes to do business and has done business in the past
  - in a multi-State request, the other FSA State Offices located in the lender's region

53 Approval Requirements (7 CFR 762.106) (Continued)

A Request for Approval (Continued)

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

- the lender's PLP application package

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

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

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

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

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

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

B DAFLP Review

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

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 operating plan**--***
- a narrative
- a suggested plan for servicing
- an appraisal.

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

73 Filing Applications Electronically

A Registering to Submit Applications

Lenders may submit applications electronically through USDA's Online Services 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

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

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.

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.**--***

151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)

B Feasible Plan (Continued)

***--**Poultry or hog production contracts are the basis of grower income and facility value. The dependability of production contracts has a profound impact on the prospects for loan repayment. "Flock-to-flock" or "turn-by-turn" type arrangements alone may not be a dependable source of income or a reasonable projection of income for poultry or hog applicants who **do not** have a financial performance history with FSA.

Note: For contract income to be considered dependable, the contract must:

- be for a minimum period of 3 years
- provide for termination based on objective "for cause" criteria only
- require that the grower be notified of specific reasons for cancellation
- provide assurance of the grower's opportunity to generate enough income to ensure repayment of the loan, by incorporating requirements such as a minimum number of flocks or turns a year, minimum number of bird or hog placements per year, or similar quantifiable requirements.

Applicants requesting loans to expand their poultry or hog operation by adding more houses/barns or purchasing additional land to increase the size of the poultry or hog operation, and who **are** presently indebted to FSA, will be required to have a contract with a minimum 3-year term. The contract must at least cover the facilities financed with the guaranteed funds. When contract income **cannot** be determined to be dependable and likely to continue, that is **cannot** be used to reasonably project future income, the authorized agency officials shall:

- inform the guaranteed lender of the contract provisions that result in the determination
- provide an opportunity for submitting a revised contract before a final decision on the request.

Note: Whenever possible, guarantee requests should be approved subject to modification of unacceptable contract provisions.**--***

151 Determining Financial Feasibility of Loans (7 CFR 762.125) (Continued)

B Feasible Plan (Continued)

***--**The impact of industry trends must be assessed in guaranteed loan requests from poultry and/or hog growers and can be based on standard production budgets developed by contractors, consultants, or extension specialists. While these budgets are acceptable starting points, the budget must reflect realistic performance assumptions for the individual situation, including, but not limited to, the following:

- increased input costs
- changes in unit numbers and weights
- increased idle time between flocks of poultry or turns of hogs
- other relevant factors that affect net income.

The impact of age, condition, and potential obsolescence of the facilities must be assessed for loans to purchase or refinance existing facilities. Budgets must factor in any reduced efficiency and the potential costs for required modernization of existing facilities to comply with production contract requirements.

Note: Unless PLP lender's CMS specifically addresses how production contracts are evaluated and analyzed for financial feasibility, PLP lenders will comply with the requirements of this subparagraph.**--***

152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125)

A Purpose

SEL's must follow FSA methodology for calculating projected income and expenses. This paragraph explains the methodology SEL's must use.

B Projected Income and Expenses

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.

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

A Lender's Actions (Continued)

- **when required, personal, joint operation, partnership, or corporate guarantees have been obtained**
- **liens have been perfected and priorities are consistent with requirements of the conditional commitment**
- **loan proceeds have been, or will be disbursed for purposes and in amounts consistent with the conditional commitment and as specified on the loan application**

  Note: In line of credit cases, if any advances have occurred, advances have been disbursed for purposes and in amounts consistent with the conditional commitment and line of credit agreements.

- **there has been no material adverse change in the borrower's condition, financial or otherwise, since submission of the application**
- **all other requirements specified in the conditional commitment have been met.**

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  Note: The lender must complete an Agency closing report form and return it to the Agency.

- a completed Application for Guarantee or Preferred Lender Application with appropriate signatures if the lender submitted the application electronically without all required signatures
- an acceptable appraisal from SEL's, if the guarantee was approved, subject to an appraisal

  Note: SEL's should be encouraged to submit this appraisal to FSA before loan closing to ensure compliance with FSA requirements.

- Lenders Agreement

  Note: The lender must execute the Agency's lender's agreement and deliver it to the Agency. If a current Lenders Agreement is not on file with FSA, then 1 must be executed before issuing the Loan Guarantee.

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

A Lender's Actions (Continued)

- guarantee fee

Notes: The guarantee fee is established by the Agency at the time the guarantee is obligated. The fee, beginning in FY 2012, is 1.5 percent. The current fee schedule is available at any FSA office. The Agency may change the guarantee fee by a notice in the Federal Register. Guaranteed fees may be adjusted annually based on factors that affect program costs. The nonrefundable fee is paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds. The guarantee fee for the loan type will be calculated as follows:

FO guarantee fee = Loan Amount x % guaranteed x (FO percentage established by FSA)

OL guarantee fee = Loan Amount x % guaranteed x (OL percentage established by FSA)

CL guarantee fee = Loan Amount x % guaranteed x (CL percentage established by FSA).

Note: Loans obligated on or after October 1, 2011, will be charged a guarantee fee of 1.5 percent. Any loan obligated before October 1, 2011, but closed after October 1, 2011, will be charged a guarantee fee of 1 percent.

The following guaranteed loan transactions are not charged a fee:

- **loans involving interest assistance**
- **loans where a majority of the funds are used to refinance an Agency direct loan**
- **loans to beginning or socially disadvantaged farmers involved in the direct Downpayment Loan program or beginning farmers participating in a qualified State Beginning Farmer Program.**

  Note: Only applicants who meet the requirements of the beginning or socially disadvantaged farmer, and are participating in the direct Downpayment Loan program under 3-FLP, Part 7, Section 2, will qualify for a waiver of the fee. Applicants meeting only the definition of beginning or socially disadvantaged farmer will not qualify for the waiver.

--**A qualified State Beginning Farmer Program has MOU between the State and USDA has been approved by DAFLP and signed by the State.**--

327 Deferrals (7 CFR 762.145(d))

A General Description

A deferral postpones the payment of principal and interest on CL, FO, OL, or LOC to accommodate a temporary inability of the borrower to make scheduled payments. Loan principal can be deferred in whole or part. If the deferment period is 1 year or less, interest can be deferred in whole or in part. Interest may only be deferred in part if the deferral period extends over 1 year.

***--**A deferral may be particularly useful for borrowers who have lost contracts with their current contractor, but have obtained a contract with a new contractor that will **not** begin immediately. The authorized agency officials should immediately inform affected lenders that a 90-calendar-day forbearance, extension, or loan modification can be approved if the lender believes the problem (loss of contract or reduction of bird or hog placement) can be resolved in a timely manner. The 90-calendar-day forbearance will be considered only if all other servicing actions, such as rescheduling of debt, deferral, or writedown, will **not** resolve the problem. At the end of the 90-calendar-day period, the lender **must** resume their regular servicing actions.

If the:

- problem is **not** resolved and the loan account is delinquent, the lender will proceed with default servicing

- loss of contract puts the loan in nonmonetary default based on the promissory note or loan agreements, the lender will review the promissory note and determine whether they may proceed with default servicing

- lender is **not** pursuing liquidation for loans in nonmonetary default, the lender and borrower must be actively seeking other sources of income.

Most guaranteed loans impacted have lender's agreements that require interest accrual to cease 90 calendar days from the date of the decision to liquidate. The agreement to exercise forbearance allows for a liquidation decision to be made, if necessary, when the forbearance period is complete. However, in all cases, the loan guarantee will **not** cover interest beyond 210 calendar days from the payment due date.**--***

327 Deferrals (7 CFR 762.145(d)) (Continued)

B Conditions

The following conditions apply to deferrals.

- **Payments may be deferred up to 5 years, but the loan may not be extended beyond the final due date of the note.**
- **The principal portion of the payment may be deferred either in whole or in part.**
- **Interest may be deferred only in part. Payment of a reasonable portion of accruing interest as indicated by the borrower's cash flow projections is required for multi-year deferrals.**
- **There must be a reasonable prospect that the borrower will be able to resume full payments at the end of the deferral period.**

The amount of principal and interest deferred must be based on the borrower's current ability to pay, and projections about ability to pay in the future. If the deferral period is to extend beyond 1 year, only a portion of the interest can be deferred.

If a LOC deferral exceeds 1 year, then LOC must be restructured and no new advances can be made. For LOC deferrals for less than 1 year there must be either inventory on hand to cover the carryover debt balances or the borrower must show repayment of the carryover debt plus the new operating cycle advances. If the LOC deferral is 1 year or less, it is unnecessary to notify FLOO.

The loan may be rescheduled after the deferral if payments as scheduled cannot be made.

C Lender Request to Defer a Loan

To request a deferral, SEL lenders must submit documentation according to the requirements listed in paragraph 312. Based on this documentation, the authorized agency official will notify the lender in a timely manner whether or not the deferral plan is approved.

CLP lenders must submit documentation according to paragraph 313, after completing the loan restructuring.

PLP must restructure loans according to the Lender's Agreement and provide post-restructuring documentation to FSA according to paragraph 313.