

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 55

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Paragraph 97 has been amended to revise the time periods for a lender to provide the items necessary for a complete application.

Subparagraphs 109 B and 110 B have been amended to clarify operator requirements for entities.

Subparagraph 122 B has been amended to clarify authorized Term OL purposes.

Subparagraph 123 B has been amended to correct the spelling of “down payment”.

Subparagraph 138 B has been amended to correct a CFR reference.

Subparagraph 166 A has been amended to correct instructions for completing FSA-2232.

Subparagraph 183 B has been amended to clarify the acceptable age of a real estate appraisal.

Subparagraph 209 A has been amended to clarify guidance for ensuring compliance with the National Historic Preservation Act.

Subparagraph 247 A has been amended to correct the spelling of “down payment”.

Exhibit 2 has been amended to:

- correct the spelling of “down payment”
- clarify operator requirements within the definition of a family farm
- add a definition of Non-monetary Default.

Amendment Transmittal (Continued)

Page Control Chart		
TC	Text	Exhibit
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97 **Incomplete Application (7 CFR 762.110(h))**

A Initial Notification of Lender

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

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

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

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

B Example of First Notification Letter

The following is an example of a first notification letter.

*--

<p>Dear _____:</p> <p>Your application on behalf of (insert name of borrower/applicant) for Farm Service Agency loan guarantee assistance was received on (insert date Application for Guarantee was received). However, certain details are missing from the application. We must receive the following information before we can continue processing the request:</p> <p>(Insert list of items necessary to complete application.)</p> <p>Please provide these items (or request an extension) by (insert date 15 calendar days after date of letter). If you have any questions about the application, please contact this office.</p> <p>Sincerely,</p> <hr style="border: 0.5px solid black;"/> <p>(Title)</p>
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Note: The phrase in bold in the last paragraph is optional and should only be used if environmental items are needed that will take longer than 15 days to obtain. If--* no additional environmental information is needed, the language in bold should be removed before sending the letter.

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

C Second Notification

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

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

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

D Example of Second Notification Letter

The following is an example of a second notification letter.

*--

Date: _____

Dear _____:

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

(Insert list of items necessary to complete application.)

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

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

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

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

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

Sincerely,

(Title)

--*

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

E Automatic Withdrawal of Application

If the lender does not provide the information needed to complete its application by the deadline established in an Agency request for the information, the application will be considered withdrawn by the lender.

The authorized Agency official shall provide the lender with written notification that the application is withdrawn.

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

A Operator Requirement (Continued)

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

B Entity Borrower Requirements

In the case of an entity borrower:

- the entity must be authorized to operate, and own if the entity is also an owner, a farm in the state or states in which the farm is located
- either of the following:
 - if the entity members holding a majority interest are related by marriage or blood, at least one member of the entity also must operate the family farm
 - if the entity members holding a majority interest are not related by marriage or blood, the entity members holding at least 50 percent interest must also--* operate the family farm.

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

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

A Owner and Operator Requirement

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

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

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

B Entity Requirements

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

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

- either of the following:
 - **if the entity members holding a majority interest are related by marriage or blood, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm**
 - **if the entity members holding a majority interest are not related by marriage *--or blood, the entity members holding at least 50 percent interest must operate the family farm and the entity members holding at least 50 percent interest--* or the entity must own the farm.**

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

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

Section 2 Loan Purposes and Limitations

122 OL Purposes (7 CFR 762.121(a))

A General OL Purposes

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

B Term OL Purposes

[7 CFR 762.121(a)] Loan funds disbursed under an OL guarantee may only be used for the following purposes:

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

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

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

When considering these requests:

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

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

- **payment of annual farm operating expenses, examples of which include feed, seed, fertilizer, pesticides, farm supplies, repairs and improvements which are to be expensed, cash rent and family subsistence**
- **payment of scheduled principal and interest payments on term debt provided the debt is for authorized FO or OL purposes**
- **other farm needs**

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

B Term OL Purposes (Continued)

- **payment of costs associated with land and water development for conservation or use purposes**
- **refinancing indebtedness incurred for any authorized OL purpose, when the lender and applicant can demonstrate the need to refinance**
- **payment of loan closing costs**
- **payment of costs associated with complying with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. § 655 and 667); this purpose is limited to applicants who demonstrate that compliance *--or non-compliance with the standards will cause them substantial economic--* injury**
- **payment of training costs required or recommended by the Agency.**

C Real Estate Improvements

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

D Processing or Marketing Purposes

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

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

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

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

- compare the relative size of revenues and expenses for the farm and nonfarm operations
- consider the portion of goods marketed or processed that the farm raises versus the portion obtained from other entities. If the applicant produces more than 50 percent of the commodity being processed, the enterprise may be allowable.

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

E Refinancing

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

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

F LOC Purposes

Loan funds under a line of credit may be advanced only for the following purposes:

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

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

- **payment of current annual operating debts advanced for the current operating cycle; under no circumstances can carry-over operating debts from a previous operating cycle be refinanced**
- **purchase of routine capital assets, such as replacement of livestock, that will be repaid within the operating cycle**

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

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

- **payment of scheduled, non-delinquent term debt payments provided the debt is for authorized FO or OL purposes**
- **purchase of cooperative stock for credit, production, processing, or marketing purposes**
- **payment of loan closing costs.**

123 FO Purposes (7 CFR 762.121(b))**A General FO Purposes**

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

B FO Purposes

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

- **acquire or enlarge a farm**

Examples: Examples include, but are not limited to:

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

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

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

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

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

137 Loan Term and Payment Schedules (7 CFR 762.124(b), (c), (d), and (e)) (Continued)**G Loan Term to Qualified Alien**

The loan term to a qualified alien may not exceed the number of years of residency that they have been formally granted by the documents described in Exhibit 7. This is to ensure that the operation's viability and guaranteed loan security are not adversely affected during the term of the loan.

Note: An applicant may lawfully be admitted to the U.S. for permanent residence per Bureau of Citizenship and Immigration Service Form I-551, commonly known as the Green Card or Alien Registration Card. The Bureau of Citizenship and Immigration Service Form I-551 may have an expiration date. The expiration date is for the card only. Their U.S. permanent resident status is not affected. Unless the applicant acts in an unlawful way that demands the removal of the status or voluntarily give up the status, their permanent resident status remains. Therefore, in these cases, the applicant's residency will be considered permanent.

H Multiple Notes

When a lender uses multiple notes for a loan, such as a guaranteed and unguaranteed portion, the loan term for both portions **must** be the same. For example, it is not permitted to have a 5-year term for the unguaranteed portion and a 7-year term for the guaranteed portion.

138 Insurance Requirements (7 CFR 762.123(a))**A Lender Responsibilities**

Lenders must require borrowers to maintain adequate property, public liability, and crop insurance to protect the lender and Government's interests.

Insurance is not required in every situation. When insurance is warranted, lenders should obtain an assignment, including crop insurance.

B Crop Insurance

By loan closing, applicants must either:

- **obtain at least the catastrophic risk protection (CAT) level of crop insurance coverage, if available, for each crop of economic significance, as defined by *--7 CFR 400.651--***
- **waive eligibility for emergency crop loss assistance in connection with the uninsured crop. EM loan assistance under 7 CFR Part 764 of this chapter (3-FLP) is not considered emergency crop loss assistance for purposes of this waiver and execution of the waiver does not render the borrower ineligible for EM loans.**

Insurance, including crop insurance, also must be obtained as required by the lender or the Agency based on the strengths and weaknesses of the loan.

138 Insurance Requirements (7 CFR 762.123(a)) (Continued)**C Flood Insurance**

Applicants must purchase flood insurance if buildings are or will be located in a special flood hazard area as defined by FEMA maps and if flood insurance is available.

Regulatory agencies require that lenders determine whether a building or structure offered as security for a loan will be located in a special flood hazard area. The lender shall follow their regulator's guidance on documenting and escrowing for flood insurance.

FSA shall not approve a loan guarantee in which security offered for the loan contains a structure located in a special flood hazard area unless flood insurance is obtained under the National Flood Insurance Program. If a structure is located in a special flood hazard area and the community is not participating in the National Flood Insurance Program, the loan cannot be guaranteed. If there are no structures located in a special flood hazard area, the guarantee may be approved.

139 Inspection Requirements (7 CFR 762.123(b))**A Inspection Requirements**

Before submitting an application the lender must make an inspection of the farm to assess the suitability of the farm and to determine any development that is needed to make it a suitable farm.

During the inspection, the lender should determine whether the applicant has adequate property, buildings, and equipment to operate a viable farm.

B Inspection and Assessment Documentation

A summary of the farm inspection and the lender's assessment of the viability of the operation should be mentioned in the application narrative.

140-150 (Reserved)

Subsection 2 Security of the Loan

166 Amount and Quality of Security (7 CFR 762.126)

A Purpose

The lender is responsible for ensuring that proper and adequate security for the guaranteed loan is obtained and maintained. Lenders must obtain the lien position stated in FSA-2232 for each security item and perfect each lien. This paragraph explains the guidelines FSA will use in evaluating whether the lender has proposed adequate security for the guaranteed loan.

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

B Adequate Security

[7 CFR 762.126(a)(1)] The lender is responsible for ensuring that proper and adequate security is obtained and maintained to fully secure the loan, protect the interest of the lender and the Agency, and assure repayment of the loan or line of credit.

The following types of security should be considered:

- Adequate security is the amount of security sufficient to secure a loan, which is further described in this paragraph.
- Minimum security requires the value of the security to be at least equal to the loan amount. A 1:1 loan to value ratio is not adequate when additional security is available.
- Additional security is property which provides security in excess of minimum security. Additional security will be taken whenever it is available up to the level of adequate security. Assets in excess of adequate are not required to be taken as collateral.

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 uncertain, management history is limited, or enterprise is not firmly established or is atypical for the area. The lender shall propose the amount of security required to adequately secure a loan.

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 will 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 when:

- additional security is available
- the loan involves a specialized operation with limited sale opportunities
- the age, durability, probable depreciation rate, and life of the security is close to the term of the loan, leaving little margin.
- the proposal involves a junior lien position
- the applicant's net worth is low compared with their total liabilities, including the proposed amount of the loan or LOC
- the applicant has a weak cash flow position and low profitability
- management history is limited.

[7 CFR 762.126(b)(1)] All security must secure the entire loan or line of credit. The lender may not take separate security to secure only that portion of the loan or line of credit not covered by the guarantee.

[7 CFR 762.126(b)(2)] The lender may not require compensating balances or certificates of deposit as means of eliminating the lender's exposure on the unguaranteed portion of the loan or line of credit. However, compensating balances or certificates of deposit as otherwise used in the ordinary course of business are allowed for both the guaranteed and unguaranteed portions.--*

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

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

--182 Chattel Appraisals (7 CFR 762.127(b)) (Continued)*C Reports**

[7 CFR 762.127(b)(3)] Appraisal reports may be on the Agency's appraisal of chattel property form or on any other appraisal form containing at least the same information.

D Appraiser Qualifications

[7 CFR 762.127(b)(4)] Chattel appraisals will be performed by appraisers who possess sufficient experience or training to establish market (not retail) values as determined by the Agency.

The important qualification for chattel appraisers is the ability to establish the value of equipment as reflected at auction sales. An appraiser's qualifications can be demonstrated through their years of experience, number of appraisals performed, and any relevant education or training.

183 Real Estate Security (7 CFR 762.127(c))**A Loans of \$250,000 or Less**

[7 CFR 762.127(c)(1)] For loans of \$250,000 or less, the lender must document the value of the real estate by applying the same policies and procedures as their non-guaranteed loans.

Federal regulators published Interagency Appraisal and Evaluation Guidelines detailing both when a lender may use an evaluation of collateral rather than obtain an appraisal, and the standards that an evaluation must meet. An evaluation is an alternative method to establish collateral value. When requested, lenders must be able to support they have met the requirements contained in the Interagency Appraisal and Evaluation Guidelines.

Interagency Appraisal and Evaluation Guidelines direct lenders to establish policies outlining when to obtain an appraisal. These policies should consider the borrower's risk characteristics, the collateral's expected loan-to-value ratio, the type of property involved, and other factors. FSA expects the lender to:

- apply these same policies to guaranteed loans
- request an appraisal when they would do so for nonguaranteed loans, such as when the expected loan-to-value is above their established standards.

Authorized agency officials have the discretion to require an appraisal, but will do so **only** for loans with unusually high risk factors. Justification for this requirement will be clearly documented.--*

183 Real Estate Security (7 CFR 762.127(c)) (Continued)

A Loans of \$250,000 or Less (Continued)

An acceptable evaluation must:

- identify the location of the property
- provide a description of the property, including any improvements and its current and projected use
- provide confirmation that the property was physically inspected and the date of the inspection
- describe the analysis performed and supporting information used to determine the property's market value
- provide information supporting the preparer's experience and other qualifications to complete the evaluation and independence from the loan transaction

Note: Qualifications may be demonstrated through years of experience, number of appraisals or evaluations performed, and any other relevant education or experience.

- include an effective date of the evaluation and a signature of the preparer.

When requested, the lender must demonstrate that the method or tools used to determine value is consistent with safe and sound lending practices. This includes supporting the qualifications of the person completing the evaluation or the validity of any automated tool used.

B Loans Greater Than \$250,000

[7 CFR 762.127(c)(2)] For loans greater than \$250,000, the lender must document the *--value of real estate using a current appraisal (not more than 18 months old) completed by a State Certified General Appraiser. Real estate appraisals must be completed in accordance with USPAP. Restricted reports as defined in USPAP are not acceptable. The Agency may allow an appraisal more than 18 months old to be used only if documentation provided by the lender reflects each of the following:

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

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

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

183 Real Estate Security (7 CFR 762.127(c)) (Continued)**B Loans Greater Than \$250,000 (Continued)**

[7 CFR 762.127(c)(3)] Agency determinations under paragraph (c)(2) of this section
***--(this subparagraph) to permit appraisals more than 18 months old are not appealable.**

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

Generally, the 3 approaches to value are required when all are necessary to produce credible assignment results. Appraisal development may, however, be limited in nature as established in the scope of work. An appraisal that has been limited in scope might result in an exclusion of 1 or more of the approaches to value, if deemed unnecessary or not representative. An example of this might be the exclusion of the cost approach to value when appraising cropland where there are no improvements or when the improvements are functionally obsolete and have no remaining contributory value.

The appraisal report must be a USPAP compliant appraisal report. Restricted reports, as defined in USPAP, are normally only for internal use, may be simply a letter of value, have limited information, and are not acceptable for guarantee requests.

184-194 (Reserved)

209 National Historic Preservation Act (7 CFR 762.128(c)(3))

A Requirements

The lender will examine the security property to determine if there are any structures or archeological sites which are listed or may be eligible for listing in the National Register of Historic Places. The lender may consult with the Agency for guidance on which situations will need further review in accordance with the National Historical Preservation Act and 7 CFR Part 799.

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

Exception: FSA may not delegate the responsibility of consulting with the Tribal Historic Preservation Officer and any other interested Tribe.

FSA expects the lender to:

- consult with the authorized agency official for guidance on what situations will need historic property review and consultation

IF the proposed loan is for an activity that is...	THEN...
not an undertaking of National Historic Preservation Act, Section 106, or it is an undertaking but has no potential to impact historic properties if these properties may be present	no further Section 106 review is required; FSA personnel may see the EQ series for further information and guidance on undertakings.
for an activity that is an undertaking of the National Historic Preservation Act, Section 106 and has the potential to impact historic properties if these properties may be present	further Section 106 review is required.

Examples: Historic properties include structures over 50 years old, sites of any age with significant historic or archaeological value, and burial grounds.

209 National Historic Preservation Act (7 CFR 762.128(c)(3)) (Continued)

A Requirements (Continued)

- examine the farm property and question the owner, if available

* * *

- check other sources of information, such as local historical societies or universities
- indicate on the Application for Guarantee and describe, include a picture if available, if property has structures or archaeological sites that may be eligible for listing in the National Register of Historic Places
- indicate on the Application for Guarantee if the property has no structures or archaeological sites that may be eligible
- document in the applicant's case file the site visit and consultation about the presence or absence of historic property
- provide information, as necessary, to the authorized agency official for use in completing the environmental review.

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

A Lender's Actions (Continued)

- **loan proceeds have been, or will be disbursed for purposes and in amounts consistent with the conditional commitment and as specified on the loan application**

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

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

***--Note:** Lenders who complete the loan closing report and certify to the above items in LINC will not be required to submit FSA-2236 to FSA.--*

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

Notes: If the loan was approved subject to an appraisal, the lender will certify an appraisal is in their files.

SEL's should be encouraged to submit the evaluation to FSA before loan closing to ensure compliance with FSA requirements.

- Lenders Agreement

Note: [7 CFR 762.130(d)(3)] **The lender must execute the Agency's lender's agreement and deliver it to the Agency.** If a current Lenders Agreement is not on file with FSA, then 1 must be executed before issuing the Loan Guarantee.

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

A Lender's Actions (Continued)

- guarantee fee

[7 CFR 762.130(d)(4)(ii)] The guarantee fee for the loan type will be calculated as follows:

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

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

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

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

[7 CFR 762.130(d)(4)(iii)] The following guaranteed loan transactions are not charged a fee:

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

Note: Only applicants who meet both of the following requirements will qualify for a waiver of the fee:

- meets the definition of a beginning farmer according to Exhibit 2 as of the date the application is received, for the type of guarantee being requested, or socially disadvantaged farmer, **and**

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

Default

Default is the failure of a borrower to observe any agreement with the Agency, or the lender in the case of a guaranteed loan, as contained in promissory notes, security instruments, and similar or related instruments.

Deferral

Deferral is a postponement of the payment of interest or principal, or both.

Delinquent Borrower

Delinquent borrower, for loan servicing purposes, is a borrower who has failed to make all scheduled payments by the due date.

Direct Loan

Direct loan is a loan funded and serviced by the Agency as the lender.

Disaster

Disaster is an event of unusual and adverse weather conditions or other natural phenomena, or quarantine, that has substantially affected the production of agricultural commodities by causing physical property or production losses in a county, or similar political subdivision, that triggered the inclusion of such county or political subdivision in the disaster area as designated by the Agency.

Disaster Area

Disaster area is the county or counties declared or designated as a disaster area for EM loan assistance as a result of disaster related losses. This area includes counties contiguous to those counties declared or designated as disaster areas.

Disaster Yield

Disaster yield is the per-acre yield of an agricultural commodity for the operation during the production cycle when the disaster occurred.

***--Down Payment Loan**

Down Payment loan is a type of FO direct loan made to eligible applicants to finance a--* portion of a real estate purchase under part 764, subpart E of this chapter.

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

Due Diligence

Due Diligence (762.128) is the process of evaluating real estate in the context of a real estate transaction to determine the presence of contamination from release of hazardous substances, petroleum products, or other environmental hazards and determining what effect, if any, the contamination has on the security value of the property.

Economic Emergency Loan

Economic Emergency loan is a loan that was made or guaranteed to an eligible applicant to allow for continuation of the operation during an economic emergency which was caused by a lack of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. EE loans are not currently funded; however, such outstanding loans are serviced by the Agency or the lender in the case of a guaranteed EE loan.

Emergency Loan

Emergency loan is a loan made to eligible applicants who have incurred substantial financial losses from a disaster.

Embedded Entity

Embedded entity means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in another entity.

Entity

Entity means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Programs purposes.

Entity Member

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

***--EZ Guarantee**

EZ Guarantee means a type of OL or FO of \$100,000 or less made using a simplified loan application. As part of the simplified application process, EZ Guarantees are processed using a streamlined underwriting method to determine financial feasibility. --*

False Information

False information is information provided by an applicant, borrower or other source to the Agency that the applicant or borrower knows to be incorrect

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

Family Farm

Family farm is a business operation that:

- (1) Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence;
- (2) Has both physical labor and management provided as follows:
 - (i) The majority of day-to-day, operational decisions, and all strategic management decisions are made by:
 - *--(A) The borrower, with input and assistance allowed from persons who are--* either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
 - (B) The members responsible for operating the farm, in the case of an entity.
 - (ii) A substantial amount of labor to operate the farm is provided by:
 - *--(A) The borrower, with input and assistance allowed from persons who are--* either related to the borrower by blood or marriage, or are a relative, for an individual borrower; or
 - (B) The members responsible for operating the farm, in the case of an entity.
- (3) May use full-time hired labor in amounts only to supplement family labor.
- (4) May use reasonable amounts of temporary labor for seasonal peak workload periods or intermittently for labor intensive activities.

Family Living Expenses

Family living expenses are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

Family Members

Family members are the immediate members of the family residing in the same household with the borrower.

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

Farm is a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term “farm” also includes the term “ranch.” It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

Farmer

Farmer is an individual, corporation, partnership, joint operation, cooperative, trust, or limited liability company that is the operator of a farm. The term “farmer” also includes the term “rancher”.

Farm Income

Farm income is the proceeds from the sale of agricultural commodities that are normally sold annually during the regular course of business, such as crops, feeder livestock, and other farm products.

Farm Loan Programs

Farm Loan Programs are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

Farm Ownership Loan

Farm Ownership loan is a loan made to eligible applicants to purchase, enlarge, or make capital improvements to family farms, or to promote soil and water conservation and *--protection. It also includes the direct down payment loan.--*

Farm Program Payments

Farm Program payments are benefits received from FSA for any commodity, disaster, or cost share program.

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

Non-Eligible Enterprise

Non-eligible enterprise is a business that meets the criteria in any one of the following categories:

- (1) Produces exotic animals, birds, or aquatic organisms or their products which may be agricultural in nature, but are not normally associated with agricultural production, e.g. there is no established or stable market for them or production is speculative in nature.**
- (2) Produces non-farm animals, birds, or aquatic organisms ordinarily used for pets, companionship, or pleasure and not typically associated with human consumption, fiber, or draft use.**
- (3) Markets non-farm goods or provides services which might be agriculturally related, but are not produced by the farming operation.**
- (4) Processes or markets farm products when the majority of the commodities processed or marketed are not produced by the farming operation.**

Nonessential Assets

Nonessential assets are assets in which the borrower has an ownership interest, that:

- (1) Do not contribute to:**
 - (i) Income to pay essential family living expenses, or**
 - (ii) The farming operation; and**
- (2) Are not exempt from judgment creditors or in a bankruptcy action.**

***--Non-Monetary Default**

Non-monetary default means a situation where a borrower is not in compliance with the covenants or requirements of the loan documents, program requirements, or loan.--*

Nontraditional Lender

Nontraditional lender is a lender that extends credit but is without federal deposit or share insurance protection. They typically do not hold deposit accounts and are not subject to supervision by the FDIC, Office of Comptroller of the Currency, Office of Thrift Supervision, Federal Reserve Board, Farm Credit Administration, or National Credit Union Administration. They include, but are not limited to, lenders regulated by the U.S. Department of the Treasury's Community Development Financial Institutions Fund.

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

Normal Income Security

Normal income security is all security not considered basic security, including crops, livestock, poultry products, other property covered by Agency liens that is sold in conjunction with the operation of a farm or other business, and FSA Farm Program payments.

Offset

Offset is the referral of a debt to TOP for offset of payments made to a debtor by Federal agencies other than USDA.

Operating Loan

Operating loan is a loan made to an eligible applicant to assist with the financial costs of operating a farm. The term also includes a direct Youth loan.

Operator

Operator is the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator. Under applicable State law, an entity may have to receive authorization from the State in which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

Partial Release

Partial release is the release of a portion of the security used as collateral for a loan, usually accomplished by the sale of the property.

Partnership

Partnership is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the partnership will operate a farm. It also must be authorized to own both real and personal property and to incur debt in its own name.

Past Due

Past due is when a payment is not made by the due date.