

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Guaranteed Loan Making and Servicing 2-FLP (Revision 1)	Amendment 62
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Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 46 E has been amended to include a reference to DNP.

Subparagraphs 108 A and 108 D have been amended to remove references to CAIVRS and replace them with references to DNP.

Page Control Chart		
TC	Text	Exhibit
	4.2-5, 4.2-6 8-1 through 8-4	1, pages 3, 4

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

C Examination and Supervision (Continued)

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

- If no derogatory search results are found, then the lender meets this eligibility requirement.
- If derogatory search results are found, the approval official shall document as much as possible about the search result, then consider the extent to which the regulator's action could affect the lender's ability to properly service the loan. Old memorandums or actions unrelated to the lender's financial condition or lending activities are not a concern. For further guidance, contact the State Office. State Offices may contact the National Office for guidance as needed.--*

D Local Lender

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

- **normally makes loans in the region or geographic location in which the applicant's operation being financed is located**
- **demonstrates specific expertise in making and servicing loans for the proposed operation.**

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

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

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

E Debarment and Suspension

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

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

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

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

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

Part 8 Loan Evaluation

Section 1 Applicant Eligibility (7 CFR 762.120)

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

A Summary of Eligibility Requirements

An applicant, including members of an entity applicant, must meet the following eligibility criteria to obtain a guaranteed loan. An eligible applicant is an applicant that:

- meets all requirements about prior debt forgiveness
- is not delinquent on any Federal debt
- ***--Note:** The authorized agency official shall check DNP to verify that the applicant is not delinquent on any Federal debt. See 1-FLP, paragraph 53, and 1-FLP, Exhibit 15.6, for more information on DNP.--*
- does not have any outstanding recorded judgments obtained by the United States in a Federal court
- is a citizen of the United States, a U.S. non-citizen national, or a qualified alien under applicable Federal immigrations laws
- has the legal capacity to incur the obligations of the loan
- has an acceptable credit history
- is unable to obtain sufficient credit elsewhere without a guarantee

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

- has not been convicted of planting, cultivating, growing, producing, harvesting, storing, trafficking, or possessing a controlled substance within the last 5 crop years

Note: If an applicant is convicted of one of the offenses above, they may be ineligible during the crop year of the conviction and the next 4 succeeding crop years. Therefore, at the time of the application, if the applicant's conviction was within the past 5 years, they could be considered ineligible.

- is not ineligible because of disqualification resulting from a Federal Crop Insurance violation.

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

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)**B Clarification of Applicant**

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

C No Agency Loss

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; or**
- **received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for a county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FSA loans prior to the beginning date of the incidence period for a Presidentially-designated emergency and received debt forgiveness on that debt within three years after the designation of such emergency meet this exception.**

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

C No Agency Loss (Continued)

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

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

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

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.

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

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

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

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

E Outstanding Recorded Judgments

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.

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

Forms (Continued)

Number	Title	Display Reference	Reference
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
FSA-2701	Notice of Intent to Collect by Administrative Offset		376
FSA-2731	Cancellation of Debt Without Application (RD-1956-1)		363
FSA-2731A	Cancellation of Debt Without Application (Continuation)		363
FSA-2732	Debt Settlement Application (RD-1956-1 Application For Settlement of Indebtedness)		363
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
NRCS CPA-1155	Conservation Plan or Schedule of Operations		66
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

Note: Agency officials may use digital signatures on all Guaranteed Loan Program forms. Lenders and loan applicants may use digital or other electronic signatures on all Guaranteed Loan Program forms.

Some secondary market holders may not accept digital signatures on FSA-2235 and FSA-2242. Lenders should verify with their secondary market holders and notify FSA if digital signatures will **not** be accepted.

Authorized agency officials shall reference the User Guide for Digital Signatures on FLP's Presentation intranet web site for instructions to create a digital signature with their employee LINCPASS.

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AASM	Application Authorization Security Management	73, Ex. 5
ACT	Consolidated Farm and Rural Development Act	1, 108, 286
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	181, 358, Ex. 15
CL	conservation loan	Text, Ex. 2
CMS	Credit Management System	Text
DNP	Do Not Pay	46, 108
EL	emergency livestock loan	108
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
FTP	file transfer protocol	Ex. 15.4
GFO	guaranteed farm ownership loan	135
GLOC	guaranteed line of credit	108
GLS	guaranteed loan system	Ex. 15.4
GOL	guaranteed operation loan	135
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
LINC	Lender Interactive Network Connection	73, 266, Ex. 5
LOC	line of credit	Text
MLP	Micro Lender Program	Text
NPO	nonprofit organization	111
PLP	Preferred Lender Program	Text, Ex. 12
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 7
SAA	Shared Appreciation Agreement	286, 288, Ex. 2
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
SOFR	Secured Overnight Financing Rate	135
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Delegations of Authority

This table lists the delegations of authority in this handbook.

Delegation	Reference
Administering handbook provisions	20