

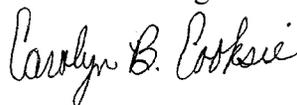
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loanmaking
3-FLP (Revision 1)**

Amendment 3

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraphs 41 C and E have been amended to make editorial changes.

Subparagraphs 91 A and C have been amended to change "Beginning Farmer Downpayment" to "Downpayment".

Subparagraph 137 B has been amended to add an address for sending MOU's.

Part 7, Section 2 has been amended to change "Beginning Farmer Down Payment" to "Downpayment".

Paragraph 151 has been amended to include socially disadvantaged farmers as a targeted group for using down payment funds to finance the purchase of a family farm.

Subparagraph 152 A has been amended to include a socially disadvantaged farmer as an eligible applicant.

Subparagraph 152 B has been amended to:

- clarify that the farm size requirement applies to beginning farmers
- add a note that farm size does **not** apply to socially disadvantaged applicants. However, the family-sized farm requirement will be considered in determining eligibility.

Subparagraph 153 B has been amended to change the minimum down payment to 5 percent of the purchase price.

Subparagraph 153 C has been amended to clarify the maximum loan amount for down payment loans.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 153 D has been amended to clarify maximum combined loans an applicant seeking down payment assistance may obtain.

Subparagraph 154 A has been amended to change the interest rate for down payment loans.

Subparagraph 154 B has been amended to change the schedule repayment periods to 20 years.

Subparagraph 154 C has been amended to clarify that a balloon payment will not be due within the first 20 years of the loan.

Exhibit 2 has been amended to modify definitions.

Page Control Chart		
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41 **Obtaining and Filing a Loan Application (Continued)****B Filing a Loan Application (Continued)**

- “As a joint operation” – Married persons should apply as a joint operation if they share the responsibilities of the farm including day-to-day management and operations, they wish to apply for the loan together, and they have not formed some other operating entity such as a partnership, LLC, trust, or corporation. When a married couple does apply as a joint operation, both parties must meet the eligibility requirements in Part 4.
- “As an entity” – If married persons have formed a legal entity (partnership, LLC, etc.), which operates the farm, the entity must apply for the loan.

Notes: Forming or changing the form of an entity can have significant tax and legal consequences. Loan officials should not advise applicants whether or not to form an entity, or what type of entity to form. It is appropriate to explain the impact of any proposed change to applicant structure on loan eligibility and on any existing FSA loans. Applicants considering entity formation or a change in operating structure should be strongly encouraged to seek guidance from qualified professionals such as a tax accountant or attorney.

An application from a husband and wife as a joint operation for FLP assistance, but who are combined as a single person for FP benefits, shall be considered as being the same type of operation, and therefore requires no corrective action.

All applicants, including an entity, should ordinarily file their loan application with the FSA FLP office serving the area where the headquarters of the farm operation is located. If the authorized agency official is not present in the office when the application is filed, the receiving office must immediately contact the office where the authorized agency official is located to determine whether the application needs to be forwarded to that office for processing.

Exceptions: For applications from:

- FSA employees and relatives of employees, see 3-PM
- applicants who have either filed a new discrimination complaint or have an outstanding discrimination complaint, contact DD and SED for direction on application processing.

In unclear cases, the authorized agency official should contact SED for a determination on where the applicant should file the loan application.

Electronic applications may be accepted from applicants who have Level 2 eAuth *-credentials. FAXed applications are acceptable; however, an original signature **must** be obtained on the application before loan approval.--*

41 Obtaining and Filing a Loan Application (Continued)***--C Notification of Targeted Funding and Limited Resource Interest Rates**

To determine whether an applicant is a member of a socially disadvantaged group, the applicant must voluntarily provide the applicant's ethnicity, race, and gender on FSA-2001 or FSA-2301. If the applicant will not voluntarily provide the ethnicity, race, or gender information, targeted funding will not be available.

FSA-2001 and FSA-2301 provide applicants notification that a portion of FO and OL funds are targeted for socially disadvantaged and beginning farmer assistance. In addition, FSA-2001 provides notification of the availability of limited resource interest rates for FO's and OL's.

See Exhibit 2 for definitions of beginning farmer, limited resource interest rates, socially disadvantaged applicant or farmer, and socially disadvantaged group.

Note: Targeted socially disadvantaged farmer funding is available for youth loans, but targeted beginning farmer assistance and limited resource interest rates are not--* available for youth loans.

D Technical Assistance

Agency officials are required to:

- inform applicants that FSA will provide technical assistance, if needed, to complete FSA forms and gather information necessary for a complete application
- explain the application procedure and process, and the requirements for a complete application
- assist applicants in completing FSA forms and identifying sources of information needed for a complete application, if assistance is requested
- inform applicants of other technical assistance providers who may be of assistance at minimal or no charge; examples include, but are not limited to the Cooperative Extension Service, institutions and organizations providing assistance under Section 2501 or other USDA outreach grants, SCORE, and other similar organizations
- advise applicants of alternatives that would help overcome barriers to being determined eligible, but caution that significant changes may have tax, estate planning, or other legal implications that may require consultation with an accountant, legal counsel, or other qualified expert.

41 Obtaining and Filing a Loan Application (Continued)**E SED Action**

SED's will prepare and publicize, at least semi-annually, through newspaper articles, radio announcements, and television broadcasts, that FSA targets direct and guaranteed loan funds *--to beginning and socially disadvantaged farmers. These required outreach efforts are in addition to information provided in State or Service Center newsletters.

Note: Outreach to assist these potential applicants will include maintaining and documenting close liaison and attending meetings with local, State, and national organizations serving beginning and socially disadvantaged farmers.--*

42 Complete Loan Application**A Requirements**

[7 CFR 764.51(b)] A complete loan application, except as provided in paragraphs (c) through (e) of this section, (paragraphs 42 through 44) will include:

[7 CFR 764.51(b)(1)] The completed Agency application form;

The application must be signed and dated by the applicant. An unsigned FSA-2001 or FSA-2301 will be returned to the applicant.

Note: Youth loan applications should be filed according to paragraph 44.

[7 CFR 764.51(b)(2)] If the applicant is an entity:

(i) A complete list of entity members showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or stock held in the entity by each member, or the percentage of interest in the entity held by each member;

(ii) A current personal financial statement from each member of the entity;

(iii) A current financial statement from the entity itself;

(iv) A copy of the entity's charter or any entity agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution adopted by the Board of Directors or entity members authorizing specified officers of the entity to apply for and obtain the desired loan and execute required debt, security and other loan instruments and agreements;

Note: If entity documents require more than 1 member to apply, then all identified members must sign FSA-2001, Part E, item 18A.

42 Complete Loan Application (Continued)

A Requirements (Continued)

(v) In the form of married couples applying as a joint operation, items (i) and (iv) will not be required. The Agency may request copies of the marriage license, prenuptial agreement or similar documents as needed to verify loan eligibility and security. Items (ii) and (iii) are only required to the extent needed to show the individual and joint finances of the husband and wife without duplication.

*--For a married couple, FSA will accept any of the following to verify existence of a joint operation:

- applicable FSA-502
- jointly filed tax return
- marriage license
- prenuptial agreement
- similar documentation.--*

Ordinarily, individual financial statements are not required from a married couple applying as a joint operation. However, in States without community property laws and in some other States, individual financial statements may be necessary to obtain a complete picture of the financial situation. A State supplement will be issued when applicable to provide additional guidance and related information requirements for a married couple applying as a joint operation.

[7 CFR 764.51(b)(3)] A written description of the applicant's farm training and experience, including each entity member who will be involved in managing or operating the farm;

This requirement applies to either new applications or when significant changes to an applicant's operation have occurred. The applicant will provide the information using FSA-2302.

[7 CFR 764.51(b)(4)] The last 3 years of farm financial records, including tax returns, unless the applicant has been farming less than 3 years;

*--Financial information will be primarily provided by the applicant on FSA-2002. Additional financial records, such as balance sheets, may be requested if necessary, for the last 3 years.

The authorized agency official may request up to 2 additional years of farm financial records in extenuating circumstances, such as natural disasters or adverse economic conditions.

Note: The applicant may submit alternate documents as long as they contain all information collected on FSA-2002.--*

Part 5 Loan Security

91 Security Requirements

A General

[7 CFR 764.103(a)] Security requirements specific to each loan program are outlined in subparts D through H of this part (Parts 7 through 9).

For the specific requirements for each direct loan program, see:

- paragraph 135 for FO security
- *--paragraph 154 for downpayment loan security--*
- paragraph 175 for OL security
- paragraph 215 for youth loan security
- paragraph 236 for EM security.

Advice on obtaining security will be obtained from OGC when necessary, especially on obtaining security when a life estate is involved.

B Adequate Security

[7 CFR 764.103(b)] All loans must be secured by assets having a security value of at least 100 percent of the loan amount, except for EM loans as provided in subpart H of this part (Part 9). If the applicant's assets do not provide adequate security, the Agency may accept:

[7 CFR 764.103(b)(1)] A pledge of security from a third party; or

In cases where nonapplicants will pledge chattel security, the authorized agency official will obtain either a signed CCC-10 and FSA-2028 from the nonapplicant authorizing FSA to file the required instrument to perfect FSA's lien or the nonapplicant can provide FSA-2318.

Note: FSA-2318 does not require using either CCC-10 or FSA-2028.

In unique situations, such as areas where land is held in communal rather than fee simple title, or where DOJ lacks jurisdiction, it may be necessary for SED, with advice from OGC, to issue a State supplement.

[7 CFR 764.103(b)(2)] Interests in property not owned by the applicant (such as leases that provide a mortgageable value, water rights, easements, mineral rights, and royalties).

The value of adequate security is established according to subparagraph 95 A.

91 Security Requirements (Continued)

C Additional Security

[7 CFR 764.103(c)] An additional amount of security up to 150 percent of the loan amount will be taken when available, except for * * * downpayment loans and youth loans.

In the case of an entity, when all the security held by the entity does not meet the requirement for additional security up to 150 percent of the loan amount, FSA will take liens on personal assets held by individual members, as security to the extent that the members have suitable personal assets. The entity will select and notify FSA which asset it prefers to offer as security for the loan.

The authorized agency official will take security with a value that exceeds 150 percent of the loan amount if it is not practical to separate the property.

The value of additional security is established according to subparagraph 95 B.

Note: If a loan is in conjunction with EQIP, the EQIP contract will be considered the additional security needed to meet the 150 percent requirement.

D Choice of Security

[7 CFR 764.103(d)] The Agency will choose the best security available when there are several alternatives that meet the Agency's security requirement.

When there are several alternatives available, any 1 of which will meet the security requirements for the loan, the authorized agency official has the discretion to select the best alternative for obtaining adequate security. The choice of security the will be included on FSA-2313 which shall be sent by certified mail or hand delivery.

Notes: If hand delivered, FSA must obtain a signed statement from the applicant acknowledging receiving FSA-2313 on the specific date.

FSA primarily chooses between like types of security. For example, FSA will not choose chattel over real estate if real estate is the appropriate security for the loan and other real estate is available. FSA will also consider lien position when choosing security.

137 Program Outreach

A General

In addition to outreach requirements in subparagraph 41 E, SED shall be responsible for publicizing the Direct FO program, including the Down Payment FO Loan program, to the maximum extent practical by:

- maintaining efforts to inform potential applicants and retiring farmers of the program
- coordinating with State Beginning Farmer programs and other organizations that assist beginning farmers * * *.

B Relationship between FSA and a State Beginning Farmer Program

--SED's are delegated authority to execute MOU with any State Beginning Farmer program-- expressing an interest in coordinating financial assistance to beginning farmers. MOU must be executed within 60 days of the State notifying SED in writing of such interest, and will be developed according to Exhibit 16.

Under MOU, FSA will agree to provide qualified beginning farmers with a downpayment loan under Section 2 and/or a guarantee of the balance of the purchase price provided by the State program.

This agreement will be subject to applicable law, loan approval requirements, and the availability of funds. FSA will not charge a fee to obtain or retain a guarantee in connection with any joint funding under MOU.

If any changes are made to MOU, the Regional OGC will be consulted before signing MOU. *--SED's will send copies of signed MOU's to LMD by mail to:

Director
USDA FSA DAFLP LMD
STOP 0522
1400 Independence Ave SW
Washington DC 20250-0522.--*

138-150 (Reserved)

Section 2 * * * Downpayment Program

151 Uses

A General

[7 CFR 764.201] * * * Downpayment loan funds may be used to partially finance the *--purchase of a family farm by an eligible beginning farmer or socially disadvantaged farmer.--*

152 Eligibility**A Requirements**

[7 CFR 764.202] The applicant must:

[7 CFR 764.202(a)] Comply with the general eligibility requirements established at § 764.101 (paragraphs 62 through 72) and the FO eligibility requirements of § 764.152 (paragraph 132); and

***--[7 CFR 764.202(b)] Be a beginning farmer or socially disadvantaged farmer.**

See Exhibit 2 for the definition of a beginning farmer and socially disadvantaged farmer.

B Farm Size for Beginning Farmers--*

The applicant's operation must not exceed the size established under the beginning farmer definition.

If the farm is located in more than 1 county, FSA uses the median farm acreage of the county where the applicant's residence is located.

If the applicant's residence is not located on the farm or if the applicant is an entity, FSA uses the median farm acreage of the county where the largest portion of the farm is located.

The median county farm acreage is published in a State supplement.

***--Note:** Farm size does **not** apply to socially disadvantaged applicants. However, the family-sized farm requirement under § 764.101 does apply.--*

153 Limitations

A General

[7 CFR 764.203(a)(1)] **The applicant must:**

(1) Comply with the general limitations established at § 764.102 (paragraph 73); and

B Minimum Downpayment

The applicant must:

***--[7 CFR 764.203(a)(2)] Provide a minimum downpayment of 5 percent of the--*
purchase price of the farm.**

The applicant must provide the minimum down payment in cash.

* * *

C Maximum FSA Loan Amount

***--[7 CFR 764.203(b)] Downpayment loans will not exceed 45 percent of the lesser of:**

- (1) The purchase price,**
- (2) The appraised value of the farm to be acquired, or**
- (3) \$500,000.--***

D Maximum Combined Loans

[7 CFR 764.203(c)] Financing provided by the Agency and all other creditors must not exceed 95 percent of the purchase price. Financing provided by eligible lenders may--* be guaranteed by the Agency under part 762 of this chapter (2-FLP).

154 Rates, Terms, and Security**A Rate**

***--[7 CFR 764.204(a)] The interest rate for Downpayment loans will be the regular direct FO rate minus 4 percent, but in no case less than 1.5 percent. See 1-FLP, Exhibit 17 for current rates.**

B FSA Terms

[7 CFR 764.204(b)(1)] The Agency schedules repayment of Downpayment loans in equal, annual installments over a term not to exceed 20 years.

The authorized agency official may schedule repayment over a period of less than 20 years if requested by the applicant and the farm operating plan (see 1-FLP, Part 8, Section 3) indicates that the loan can be repaid within the period requested.

C Other Lender Terms

[7 CFR 764.204(b)(2)] The non-Agency financing must have an amortization period of at least 30 years and cannot have a balloon payment due within the first 20 years of--* the loan.

D Minimum Security Requirements

[7 CFR 764.205] A * * * Downpayment loan must:

[7 CFR 764.205(a)] Be secured in accordance with §§ 764.103 through 764.106 (paragraphs 91 through 93);

[7 CFR 764.205(b)] Be secured by a lien on the property being acquired with the loan funds and junior only to the party financing the balance of the purchase price.

FSA:

- requires adequate security on a * * * downpayment loan as it does for an FO
- does not require additional security
- does not require a lien on nonessential assets.

See Part 5 for detailed information on security interests.

155-170 (Reserved)

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

Beginning Farmer

Beginning farmer is an individual or entity who:

- (1) Meets the loan eligibility requirements for a direct or guaranteed OL or FO 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;
- (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.

* * *

Definition 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 or Real Estate Essential to the Farming Operation

Chattel or real estate essential to the farming operation is chattel or real estate that would be necessary for the applicant to continue operating the farm after the disaster in a manner similar to the manner in which the farm was operated immediately prior to the disaster, as determined by the Agency.

Chattel Security

Chattel security is property that may consist of, but is not limited to: crops; livestock; aquacultural species; farm business and recreational equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Closing Agent

Closing agent is the attorney or title insurance company selected by the applicant and approved by the Agency to provide closing services for the proposed loan or servicing action. Unless a title insurance company provides loan closing services, the term “title company” does not include “title insurance company.”

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)***--Downpayment Loan**

Downpayment loan is a type of FO loan made to beginning farmers and socially disadvantaged farmers to finance a portion of a real estate purchase under Part 764, Subpart E of this chapter (Part 7, Section 2).--*

Emergency Loan

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

Entity

Entity is a corporation, partnership, joint operation, cooperative, limited liability company or trust.

Essential Family Living and Farm Operating Expenses

Essential family living and farm operating expenses:

- (1) Are those that are basic, crucial or indispensable.
- (2) Are determined by the Agency based on the following considerations:
 - (i) The specific borrower's operation;
 - (ii) What is typical for that type of operation in the area; and
 - (iii) What is an efficient method of production considering the borrower's resources.
- (3) Include, but are not limited to essential: household operating expenses; food, including lunches; clothing and personal care; health and medical expenses, including medical insurance; house repair and sanitation; school and religious expenses; transportation; hired labor; machinery repair; farm building and fence repair; interest on loans and credit or purchase agreement; rent on equipment, land, and buildings; feed for animals; seed, fertilizer, pesticides, herbicides, spray materials and other necessary farm supplies; livestock expenses, including medical supplies, artificial insemination, and veterinarian bills; machinery hire; fuel and oil; taxes; water charges; personal, property and crop insurance; auto and truck expenses; and utility payments.

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

Established Farmer

Established farmer is a farmer who operates the farm (in the case of an entity, its members as a group) who:

- (1) Actively participated in the operation and the management, including but not limited to, exercising control over, making decisions regarding, and establishing the direction of, the farming operation at the time of the disaster;
- (2) Spends a substantial portion of time in carrying out the farming operation;
- (3) Planted the crop, or purchased or produced the livestock on the farming operation;
- (4) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the operation's projected cash flow for the next crop year or the next 12-month period, as mutually determined; and
- (5) Is not:
 - (i) An entity whose members are themselves entities; or
 - (ii) An integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the farming operation is not managed by an outside full-time manager or management service and Agency loans shall be based on the applicant's share of the agricultural production as set forth in the contract;
 - (iii) An operation which employs a full time farm manager.

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.

Family Farm

A Family Farm is a farm 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 and 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 and 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.

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**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 individual borrower.

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.

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 Program Payments

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

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 * * * Downpayment loans.

Farmer

Farmer is an individual, corporation, partnership, joint operation, cooperative, trust, or limited liability company that is the operator of a farm.

Definition 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 operation 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 operation 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 operation plan must be prepared that reflects a typical cycle. If the request is for only one cycle, a feasible plan for only one cycle is required for approval.

Situations may arise in which an applicant/borrower cannot develop a feasible plan because of open accounts or judgment debts that are considered fully due and payable.

In such cases, when the applicant/borrower indicates that a creditor is willing to extend terms which would enable a feasible plan to be developed, the approval official must obtain written documentation that an agreement has been reached.

Acceptable documentation will be any of the following:

- promissory note reflecting the rates and terms of the agreement
- dated and signed allonge or attachment to existing promissory note or judgment, which states the new rate and terms

Note: Any revision of terms in a court-ordered judgment must be approved by the court with guidance from OGC.

- written agreement between the creditor and the applicant/borrower clearly stating the rates and terms and signed by the borrower and the creditor.

Financially Viable Operation

Financially viable operation, for the purposes of considering a waiver of OL term limits under §764.252 of this chapter, is a farming operation that, with Agency assistance, is projected to improve its financial condition over a period of time to the point that the operator can obtain commercial credit without further Agency assistance. Such an operation must generate sufficient income to:

- (1) Meet annual operating expenses and debt payments as they become due;**
- (2) Meet essential family living expenses to the extent they are not met by dependable non-farm income;**
- (3) Provide for replacement of capital items; and**
- (4) Provide for long-term financial growth.**

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)***--Quarantine**

Quarantine is a quarantine imposed by the Secretary under the Plant Protection Act or animal quarantine laws (as defined in Section 2509 of the Food Agriculture, Conservation, and Trade Act of 1990).--*

Reasonable Rates and Terms

Reasonable rates and terms are those commercial rates and terms that other farmers are expected to meet when borrowing from a commercial lender or private source for a similar purpose and similar period of time. The “similar period of time” of available commercial loans will be measured against, but need not be the same as, the remaining or original term of the loan.

Related by Blood or Marriage

Related by blood or marriage is being connected to one another as husband, wife, parent, child, brother, sister, uncle, aunt, or grandparent.

Relative

Relative is the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of the foregoing.

Rural Youth

Rural youth is a person who has reached the age of 10 but has not reached the age of 21 and resides in a rural area or any city or town with a population of 50,000 or fewer people.

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 a security interest on real or personal property.

Security Value

Security value is the value of real estate or chattel property (less the value of any prior liens) used as security for an Agency loan.

Definition 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.

Softwood Timber Program Loan

Softwood Timber Program loan was available to eligible financially distressed borrowers who would take marginal land, including highly erodible land, out of production of agricultural commodities other than the production of softwood timber. ST loans are no longer available, however, such outstanding loans are serviced by the Agency.

Supervised Bank Account

Supervised bank account is an account with a financial institution established through a deposit agreement entered into between the borrower, the Agency, and the financial institution.

United States

United States is any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands.

Memorandum of Understanding Between FSA and [Enter Name of State Beginning Farmer Program]

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Memorandum of Understanding Between FSA and [Enter Name of State Beginning Farmer Program]

1. SUBJECT:

Implementation of Section 309(i) of the Consolidated Farm and Rural Development Act (CONACT), as added by Section 5 of the Agricultural Credit Improvement Act of 1992 (Pub. L. 102-554, October 28, 1992).

2. PURPOSE:

The purpose of this Memorandum of Understanding (MOU) is to provide cooperation and participation in joint funding between FSA and (enter name of State Beginning Farm Program).

3. BACKGROUND:

Section 309(i) of the CONACT requires that an MOU between FSA and any State Beginning Farmer Program be entered into when the State expresses interest, in writing, to coordinate financial assistance to beginning farmers. The CONACT describes a State Beginning Farmer program as any program that is “(A) carried out by, or under contract with, a State; and (B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming operations.”

4. AGREEMENT:

It is mutually agreed by the parties to this MOU that they will cooperate and participate in joint funding as specified below:

- A. If (enter name of State Beginning Farmer Program) makes a commitment to provide a qualified beginning farmer with financing to establish or maintain a viable farming operation, FSA will provide financial assistance through the use of the Downpayment Loan Program and/or the guaranteed loan programs subject to all of the following:
 - 1. applicable law and regulations
 - 2. normal loan approval criteria, and
 - 3. availability of funds.
- B. FSA will not provide guaranteed assistance when the funds have been derived from tax-exempt bonds.
- C. FSA will not charge a fee to obtain or retain a guarantee in connection with any joint funding under this MOU.

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Memorandum of Understanding Between FSA and [Enter Name of State Beginning Farmer Program] (Continued)

Memorandum of Understanding Between FSA and [Enter Name of State Beginning Farmer Program]

5. IMPLEMENTATION

This MOU is effective immediately upon the last signature dated below and will continue in effect until modified or revoked by agreement of both parties, or revoked by either party alone upon thirty (30) days written notice. Modification to this document may be made by mutual agreement and such modifications will be in effect upon the signing of the modified document.

(NAME)
State Executive Director
Farm Service Agency
(City, State)

(NAME)
(Name of State Beginning Farmer
Program)
(City, State)

DATE

DATE