

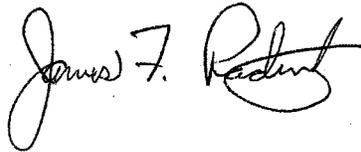
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loanmaking
3-FLP (Revision 2)**

Amendment 23

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 4 A has been amended to add references to DFO-ML and DOL-ML.

Subparagraphs 42 A, 45 B, 65 B, 65 D, 73 A, 73 B, 94 H, 95 B, 112 C, 241 B, 241 C, 248 A, 352 A, and 431 B have been amended to clarify that information shall be input in FBP instead of the physical file.

Subparagraph 43 B has been amended to clarify requirements for a complete DOL-ML application.

Subparagraph 43 C has been added to provide instructions for what constitutes a complete DFO-ML application.

Subparagraph 66 B has been amended to clarify that the documentation requirements include the ML programs.

Subparagraph 69 A, 227 A, and 228 D have been amended to incorporate additional language.

Subparagraph 69 A has been amended to clarify that it's applicable for DOL-ML purposes.

Subparagraph 95 A has been amended to include appraisal/evaluation requirements for DFO-ML.

Subparagraph 131 A has been amended to include DFO-ML in FO loan uses.

Subparagraph 132 D has been amended to include youth loan to the experience requirements for DFO-ML.

Subparagraph 132 E has been amended to add a non-CFR note to FO term limits until the CFR can be amended to match the statute.

Paragraph 133.5 has been added to provide the loan purpose for DFO-ML.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 134 A has been amended to clarify that the joint financing arrangements are applicable to DFO-ML.

Subparagraph 135 B has been amended to add the term requirements for DFO-ML.

Subparagraph 135 D has been amended to clarify the security requirements for DFO-ML.

Subparagraph 151 A has been amended to clarify the downpayment program is applicable to DFO-ML.

Subparagraph 152 A has been amended to clarify that eligibility requirements include DFO-ML.

Subparagraph 153 C has been amended to clarify that the maximum downpayment loan under DFO-ML will be \$50,000.

Subparagraph 201 A has been amended to include DOL-ML in general OL loan uses.

Subparagraph 201 M has been removed because the information is no longer needed.

Subparagraph 204 C has been amended to include instructions on the documentation required when the OL term used is less than 7 years.

Subparagraph 205 A has been amended to clarify the security requirements for DOL-ML.

Paragraph 216 has been amended to reflect that it is applicable to DOL-ML.

Subparagraph 352 C and 354 B have been amended to clarify that this information goes in the physical file.

Subparagraph 354 B has been amended to provide guidance about cancellation of funds.

Subparagraph 419 B has been amended to clarify information to be input on security agreements related to ML's.

Exhibit 2 has been amended to expand the definition of microloan to include DFO-ML, DOL-ML, and the guaranteed ML program.

Exhibit 7 has been amended to make minor edits.

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*--H Clearance of State-Modified National Forms and State-Created Forms

The following provides guidance on obtaining approval of State-modified and State-created forms.

Instrument	State Office Action	National Office Action
<p>New State-modified and State-created forms.</p>	<p>In SDMS, submit the following for prior approval:</p> <ul style="list-style-type: none"> • State supplement that requires using the form <p>Note: Submit separately all the State supplements for forms in the 2000 series.</p> <ul style="list-style-type: none"> • electronic or scanned copy of National or State-created form, providing modifications needed • revised instructions for completion for National form, if applicable; or instructions for completion for State-created form. <p>Notes: Include margins, font size, and any other specific requirements for forms that will be filed.</p> <p>State-obtained OGC approval of form may be requested during National Office review.</p>	<ul style="list-style-type: none"> • Coordinate the development of the form with the appropriate National Office area. • Review and ensure nondiscrimination, privacy act, and public burden statements are included, as needed. • Send proposal to State for approval. • Coordinate uploading form and instructions for completion to http://intranet.fsa.usda.gov/dam/ffasforms/forms.html when state supplement is approved.
<p>Existing State-modified and State-created forms</p>	<p>In SDMS, submit the following for prior approval:</p> <ul style="list-style-type: none"> • electronic or scanned copy of form indicating needed changes • electronic or scanned copy of instructions for completion, as needed • State supplement that requires using the form, only if changes are needed. 	<ul style="list-style-type: none"> • Review and ensure that current nondiscrimination, privacy act, and public burden statements are included, as needed. • Send proposal to State for approval. • Coordinate uploading form and instructions for completion to http://intranet.fsa.usda.gov/dam/ffasforms/forms.html.

--*

4 Introduction to Direct FLP's

A FSA Loan Programs

[7 CFR 764.1(a)] This part describes the Agency's policies for making direct FLP loans.

[7 CFR 764.1(b)] The Agency makes the following types of loans:

***--(1) FO, including DFO-ML Down Payment loans (Part 7);**

(2) OL, including DOL-ML and Youth loans (Part 9);--*

(3) EM (Part 10); and

(4) CL (Part 8).

5-20 (Reserved)

Part 2 (Reserved)

21-40 (Reserved)

42 Complete Loan Application (Continued)

A Requirements (Continued)

[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.

Notes: The applicant may submit alternate documents if they contain all information collected on FSA-2002.

If tax returns are not available or do not exist, the application will not be considered incomplete for that reason. The authorized agency official must make a notation in *--FBP of the reason tax returns are not available. A lack of tax returns may be--* consideration when making credit history determinations as it relates to the applicant fulfilling obligations to other parties (subparagraph 65 A), managerial ability determination (paragraph 69), or feasibility (paragraph 351).

[7 CFR 764.51(b)(5)] The last 3 years of farm production records, unless the applicant has been farming less than 3 years;

Production information will be provided by the applicant on FSA-2003.

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

Notes: The applicant may submit alternate documents, if they contain all information collected on FSA-2003.

For cash basis operations, such as farmers who sell produce at farmer markets, it may not be possible or useful to determine yield. In those cases, income and expenses may be substituted for yields to determine production.

[7 CFR 764.51(b)(6)] Except for CL, documentation that the applicant and each member of an entity applicant cannot obtain sufficient credit elsewhere on reasonable rates and terms, including a loan guaranteed by the Agency;

Applicants provide documentation that they are unable to obtain credit elsewhere by signing FSA-2001, FSA-2314, or FSA-2330. However, after reviewing the financial information and type of loan requested (EM's have a different credit elsewhere requirements), FSA may require written evidence to support the applicant's inability to obtain credit elsewhere. FSA will use the Market Placement Program to assist qualified applicants in obtaining a guaranteed farm loan from a commercial lender, where applicable.

42 Complete Loan Application (Continued)**A Requirements (Continued)****[7 CFR 764.51(b)(7)] Documentation of compliance with the Agency's environmental regulations contained in subpart G of 7 CFR 1940;**

An applicant must have AD-1026 on file for all real estate owned or rented.

Note: A new AD-1026 is not required for each subsequent loan if there has been no change to the applicant's farming operation.

See RD Instruction 1940-G and 1-EQ for additional information on environmental regulations and requirements.

[7 CFR 764.51(b)(8)] Verification of all non-farm income;

A self-employed applicant's income may be verified by 3 years of income tax returns.

An applicant employed outside of the farm will submit either of the following:

- FSA-2004 authorizing FSA to send FSA-2014 to the applicant's employer
- 2 most recent earning statements.

Notes: The amount and dependability of income from a cosigner, including a nonapplicant spouse, will be verified using the listed format. See subparagraph 371 C for information about cosigner signature and eligibility requirements.

If a nonapplicant will be providing information and will sign FSA-2026, the nonapplicant will complete FSA-2001, Part C. If a nonapplicant's income will only be used to cover family living/owner withdrawal, the nonapplicant must sign FSA-2004 and FSA-2007 but will not be required to sign FSA-2026.

If needed for an operation to cash flow, then the income of individual entity members can be verified as needed.

[7 CFR 764.51(b)(9)] A current financial statement and the operation's farm operating plan, including the projected cash flow budget reflecting production, income, expenses, and loan repayment plan;

The applicant will supply most of this information on FSA-2037 and FSA-2038.

[7 CFR 764.51(b)(10)] A legal description of the farm property owned or to be acquired and, if applicable, any leases, contracts, options, and other agreements with regard to the property;

Note: FSA-2006 will be provided by the applicant as part of the complete application.

--43 Streamlined OL, ML (FO and OL), and Streamlined CL Requests--**A Complete Streamlined OL Application**

A complete streamlined OL application includes:

- completed FSA-2314
- environmental information
- farm operating plan (updated to current production year)
- payment of credit report fee
- balance sheet
- prior year or years financial and production records.

Notes: An applicant is qualified for loan processing under streamlined OL provisions when all the streamlined OL requirements in subparagraph 217 A are met.

The Farm Business Plan information, (cash flow, balance sheet, financial records, production records, and Credit Presentation) shall be updated only as necessary to complete information added to the records.

--B Complete DOL-ML Applications--

[7 CFR 764.51(c)(2)] The applicant must submit the following:

[7 CFR 764.51(c)(2)(i)] items (1), (2), (3), (6), (7), (9), and (11) of paragraph (b) of this section (paragraph 42)

[7 CFR 764.51(c)(2)(ii)] Financial and Production records for the most recent production cycle if available, and practicable to project the cash flow of the operating cycle;

[7 CFR 764.51(c)(2)(iv)] Verification of all non-farm income relied upon for repayment; and

[7 CFR 764.51(c)(3)] The Agency may require an ML applicant to submit any other information listed in paragraph (b) of this section upon request when specifically needed to make a determination on the loan application.

--A complete DOL-ML application includes:--

- completed FSA-2330
- entity information, if applicable
- written description of applicant's farm training and experience, included on FSA-2330
- environmental information
- credit elsewhere requirements
- farm operating plan, included on FSA-2330
- payment of credit report fee
- balance sheet, included on FSA-2330.

***--Note:** An applicant is qualified for loan processing under DOL-ML provisions, when all of the DOL-ML requirements in subparagraph 216 B are met.--*

*--43 Streamlined OL, ML (FO and OL), and Streamlined CL Requests (Continued)

C Complete DFO-ML Applications

[7 CFR 764.51(d)(2) The applicant must submit the following:

[7 CFR 764.51(d)(2)(i) items (1), (2), (3), (6), (7), (9), (10), (11) of paragraph (b) of this section (paragraph 42)

[7 CFR 764.51(d)(2)(ii) Financial and Production records for the most recent production cycle if available and practicable to project the cash flow of the operating cycle, and

[7 CFR 764.51(d)(2)(iv) Verification of all non-farm income relied upon for repayment, and

[7 CFR 764.51(d)(2)(v) Verification of applicant's farm experience.

[7 CFR 764.51(d)(3) The Agency may require an DFO-ML applicant to submit any other information listed in paragraph (b) of this section upon request when specifically needed to make a determination on the loan application.

A complete DFO-ML application includes:

- completed FSA-2330
- entity information, if applicable
- written description of the applicant's farm training and experience (if not included on FSA-2330)
- legal description of the farm property owned or to be acquired and if leases, contracts options, and other agreements with regard to the property
- verification of applicant's farm experience.

Note: Additional information may only be required on a case-by-case basis when essential for an eligibility or credit decision. The basis for the request for additional information shall be documented in FBP. State and County Offices may not establish blanket requirements for additional information without prior approval of the National Office.--*

--43 Streamlined OL, ML (FO and OL), and Streamlined CL Requests (Continued)--

D Complete Streamlined CL Applications

[7 CFR 764.51(d)(6)] **Submit the following items:**

(i) Items identified in paragraphs (b)(1), (b)(2), (b)(3), (b)(7), (b)(11), (b)(15), and (b)(16) of this section (paragraph 42),

(ii) A current financial statement less than 90 calendar days old, and,

(iii) Upon Agency request, other information specified in paragraph (b) of this section necessary to make a determination on the loan application.

A complete Streamlined CL application includes the following:

- completed FSA-2001
- entity information
- written description of farm training and experience
- environmental information
- payment of credit report fee
- approved conservation plan

Note: FSA considers either NRCS CPA-1155 or the Tool Kit proof the applicant has an NRCS-approved conservation plan.

- if desired, request for priority funding with plan to transition to organic or sustainable agriculture
- current financial statement.

Note: An applicant is qualified for loan processing under Streamlined CL provisions when all Streamlined CL requirements in subparagraph 191 B are met.

45 Processing Loan Applications (Continued)

B Notification of Incomplete Application (Continued)

The authorized agency official must notify the applicant in writing within 10 calendar days, after receiving the incomplete application, by using FSA-2304. FSA-2304 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received
- offer assistance to the applicant if they do not understand what is required or are having difficulty obtaining the required information
- establish a due date for receiving the information of 20 calendar days from the date of FSA-2304.

Exception: An EM application will not be withdrawn if the information required under 7 CFR 764.51(b)(14) (see subparagraph 42 A) is the only information that has not been received. Specifically, if accurate disaster year production information is not available, because of the producer having not completed harvest, the application will be held for a reasonable time to allow for the information to become available.

Note: FSA has determined that a reasonable time period is 3 months after the normal conclusion of harvest.

For EM's, insert the following on FSA-2304 for disaster year production information only.

“We must receive the following information by (add 20 calendar days to the date the authorized agency official determines to be 3 months after the normal conclusion of harvest) so that we can continue processing your request for assistance.”

If information is needed from other USDA agencies, the agency official will inform those agencies and the applicant of the information needed, and note the date of the request in *--FBP. For OL applications, the agency official will request that the information be--* returned within 15 calendar days of receiving the request.

Note: If it is clear that the application will be rejected for obvious eligibility reasons, the authorized agency official shall provide an application rejection letter with appropriate appeal or review rights.

45 Processing Loan Applications (Continued)

B Notification of Incomplete Application (Continued)

[7 CFR 764.52(b)] If the additional information is not received, the Agency will provide written notice that the application will be withdrawn if the information is not received within 10 calendar days of the date of this second notice.

If the applicant does not respond or does not supply all of the information requested within the 20 calendar day period specified on FSA-2304, the authorized agency official must immediately provide FSA-2305 by regular mail or hand delivery. FSA-2305 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received and unless the applicant supplies the required information, the application will be withdrawn
- establish a due date for receiving the information of 10 calendar days from the date of FSA-2305
- contain the ECOA statement according to 1-FLP, paragraph 41.

--The authorized agency official must notify DD weekly, by e-mail, the names, dates, and reasons FSA-2305 was sent to applicants.--

FSA will withdraw the application if the additional material is not provided.

Applicants will be sent FSA-2306 to inform them that their application has been withdrawn. FSA-2306 will be provided by regular mail or hand delivery.

The withdrawn application will be maintained according to 25-AS.

65 Credit History (Continued)

B Verifying Direct Loan Losses

An agency official shall use the customer profile in DLS to enter TIN for the applicant and each individual who will sign FSA-2026.

IF...	THEN...
the applicant's TIN is not found in DLS	a screen print of the page will be placed in position 3 of the case file.
the applicant's TIN shows a previous debt in DLS	refer to the list of paid codes provided in Exhibit 10.
the paid code indicates debt forgiveness	use the customer profile in DLS to determine the type, date, and amount of the debt forgiveness and if the debt forgiveness has been paid in full. History is available from 1989 to present. If the debt forgiveness was a write-down, determine the type, date, amount of the debt forgiveness, and if the debt forgiveness has been paid in full. If an equity record exists, the online history should be reviewed for partial write-downs.
it is determined that the applicant or any individual who will sign FSA-2026 has received debt forgiveness that has not been paid in full	review appropriate program regulations to determine if the type and date of the debt forgiveness makes the applicant ineligible for the type of assistance requested. Note: Exceptions for EM's still apply. The authorized agency official should document all *--findings in FBP.--*

C Verifying Guaranteed Loan Losses

The authorized agency official shall access the View Loan Screen in GLS to verify previous entity member's debt forgiveness for guaranteed loans. At the Loan List Screen, enter the random ID/account number or name of the applicant and each individual who will sign FSA-2026. The Loan List Screen will display previous and current loan information for the individuals entered. Detail information for a specific loan can be accessed by selecting the View Loan Screen from the "Action" drop-down box and clicking on the loan number hyperlink.

D Assessing Past Repayment Problems

[7 CFR 764.101(d)(3)] A history of failures to repay past debts as they came due when the ability to repay was within the applicant's control will demonstrate unacceptable credit history. The following circumstances, for example, do not automatically indicate an unacceptable credit history.

65 Credit History (Continued)

D Assessing Past Repayment Problems (Continued)

(i) Foreclosures, judgments, delinquent payments of the applicant which occurred, more than 36 months before the application, if no recent similar situations have occurred, or Agency delinquencies that have been resolved through loan servicing programs available under 7 CFR Part 766 (5-FLP).

(ii) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(iii) “No history” of credit transactions by the applicant.

(iv) Recent foreclosure, judgment, bankruptcy, or delinquent payment when the applicant can satisfactorily demonstrate that the adverse action or delinquency was caused by circumstances that were of a temporary nature and were beyond the applicant’s control; or was the result of a refusal to make full payment because of defective goods or services or other justifiable dispute relating to the purchase or contract for goods or services.

Isolated delinquent payments because of unforeseen medical expenses are considered beyond the applicant’s control.

Example: Applicant had a baby born prematurely and incurred large, unpaid accounts because of medical bills. The applicant should demonstrate that they have made payments on other debts as agreed.

Nonpayment of a debt because of circumstances within an applicant’s control may be used as an indication of unacceptable credit history. The mere fact that an applicant filed bankruptcy will not be used as an indication of unacceptable credit history. The circumstances causing the nonpayment of debt must be considered.

When an applicant’s credit history includes an adverse or delinquent account status, the authorized agency official shall meet with the applicant to discuss the questionable account. The objectives of the meeting are to gather information to determine whether the adverse account status was caused by circumstances beyond the applicant’s control and to explain FSA creditworthiness requirements to the applicant. In addition, the applicant will be counseled about the importance of paying accounts as agreed and provided guidance on *--improving their credit history. The meeting shall be documented in FBP. If additional--* information is to be provided by the applicant as a result of the meeting, this will be confirmed with the applicant in writing.

Note: Credit scores will not be:

- used as an indicator of poor credit history
- used as a basis of denial
- cited as an indicator of unacceptable credit in a denial letter.

66 Credit Elsewhere

A General Requirement

[7 CFR 764.101(e)] Except for CL, the applicant, and all entity members in the case of an entity, must be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms. The Agency will evaluate the ability to obtain credit based on factors including, but not limited to:

(1) Loan amounts, rates, and terms available in the marketplace; and

The applicant must certify in writing on FSA-2001, FSA-2314, or FSA-2330 that the applicant is unable to obtain sufficient credit, with or without a guarantee, to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in, or near, where the applicant resides for loans for similar purposes and periods of time.

(2) Property interests, income, and significant non-essential assets.***--B Documentation Requirements for FO and OL (Including DFO-ML and DOL-ML)--***

No applicant will be required to obtain credit denial letters from a lender, when obtaining an FO or OL, until the application has been reviewed and a determination made that the applicant has a reasonable potential to obtain financing from other credit sources.

Some areas of the nation do not have a significant number of lenders who are making agricultural loans (credit desert). In addition, even if lenders are making agricultural loans, there are particular areas where loans are less likely to be made (such as Indian Reservations) or history indicates the applicant's chance of obtaining financing from a lender is low, regardless of meeting the lenders underwriting standards. Some lenders appear willing to make loans in these areas but only at rates and terms that are unreasonable compared to rates and terms offered outside these areas.

Consequently, when FSA loan officers are considering the "test for credit", they must not only consider the financial strength of the applicant, but also if other lenders are "actively" making agricultural loans in the applicant's area at reasonable rates and terms in comparison to areas where credit is readily available.

If based on evaluation of the application, the authorized agency official determines there is a reasonable possibility that the applicant can obtain credit elsewhere, the authorized agency official:

- may request the applicant apply for credit from a commercial lender and obtain a letter of denial
- may request applicant apply to additional lenders outside of local community
- may pursue market placement according to 2-FLP, paragraph 72

66 Credit Elsewhere (Continued)

B Documentation Requirements for FO and OL (Continued)

- must document results.

--If based on the evaluation of the application, the authorized agency official determines the applicant will not qualify for credit elsewhere, the authorized agency official must-- document the reasons in the applicant's file.

Note: Applicants will be encouraged to supplement FO's and OL's with credit from other credit sources to the extent economically feasible and according to sound financial management practices.

The fact that an applicant has obtained credit for farm purposes through credit cards, finance companies, or other "sub-prime" lenders does not constitute failure to meet the test for credit unless the rates and terms for that credit are similar to the rates and terms offered on loans for the same purpose by other farm lenders in the community.

C Documentation Requirements for EM

An applicant for EM has different credit elsewhere requirements. To meet the requirements, applicants must supply documentation according to subparagraph 242 F.

67 Delinquent Federal Debt and Unpaid Federal Judgments

A General Requirement

[7 CFR 764.101(f)] As provided in 31 CFR Part 285, except for EM loan applicants, the applicant and anyone who will sign the Promissory Note must not be in delinquent status on any Federal debt, other than a debt under the Internal Revenue Code of 1986 at the time of loan closing. All delinquent debts, however, will be considered in determining credit history and ability to repay under this part.

The applicant must not be delinquent on any nontax Federal debt (not paid within 90 calendar days of the due date) according to 31 CFR §285.13. Verification through CAIVRS, the credit report, DLS screens, and GLS View Loan Screen is sufficient. However, if it becomes known, and verified, through other means that the applicant is delinquent on a Federal debt, this information must be considered when making an eligibility determination.

Note: A FSA-guaranteed loan is not considered a Federal debt unless a final loss claim has been paid on a guaranteed loan made using 1 of the following:

- FSA-1980-25 or FSA-1980-28 with the July 20,2001, or later revision date
- FSA-2211 or FSA-2212.

Delinquent Federal tax debt only affects eligibility as it relates to credit history according to paragraph 65.

69 Managerial Ability (Continued)

A General Requirement (Continued)

Examples: Annie's Project.

Alcorn State University Small Farm Outreach Training and Technical Assistance Program.

Michigan State University Organic Farmer Program.

- other comprehensive agricultural programs that include the following or similar topics:
 - financial records and budget analysis; developing farm business plans; asset management; cost of production and benchmarking
 - risk management; developing a risk management strategy; strengths, weaknesses, opportunities, and threats analysis; business and strategic planning
 - marketing plans and strategy; advertising; product and enterprise diversification.

Note: Applicants may meet the managerial requirement through education in conjunction with farm experience or on-the-job training.

Example: Vocational or general agriculture classes in high school, provided that the applicant also has experience working on a farm and participated in and *--successfully completed applicable projects in 4-H, FFA, tribal youth organizations, or another agriculture affiliated group.--*

(2) On-the-job training. For example, the applicant is currently working on a farm as part of an apprenticeship program.

To meet the managerial ability requirement through on-the-job training alone, the applicant is currently:

- working, or has recently worked, as hired farm labor with management responsibilities

Example: A hired hand or farm labor team leader who makes independent day-to-day farm management decisions.

- completing, or recently completed, a farm mentorship or internship program with an emphasis on management requirements and day-to-day farm decisions, such as those offerings found through:
 - Rogue Farm Corps
 - Cultivating Success
 - Many Hands Farm Corps

69 **Managerial Ability (Continued)****A General Requirement (Continued)**

- The Samuel Roberts Noble Foundation
- Midwest Organic and Sustainable Education Service Farmer-to-Farmer Mentoring Program
- Georgia Organics Mentoring Program
- participating, or recently participated, in urban or community-supported agriculture programs which incorporate basic agricultural training, such as:
 - Agriculture Training Institute
 - Refugee Agriculture Partnership Programs
 - Columbia Center for Urban Agriculture
 - Growing Power, Inc.
 - Center for Urban Agriculture at Fairview Gardens
 - Mary Queen of Vietnam Community Development Corporation, Inc., and the Viet Village Aquaponic Park Project.

[7 CFR 764.101(i)(3)] Farming experience. For example, the applicant has been an owner, manager, or operator of a farm business for at least one entire production cycle or for ML's the applicant may have obtained and successfully repaid one FSA youth OL; and

Farm experience of the applicant, without regard to lapse of time between the farm experience and the new application, will be taken into consideration in determining loan eligibility. If farm experience occurred more than 5 years prior to the date of the new application, the applicant must demonstrate sufficient on-the-job training or education within the last 5 years to demonstrate managerial ability.

If relying solely on farm experience that occurred more than 5 years before the application, the applicant may supplement that experience with:

- recent on-the-job training, such as a mentorship
- recent education, such as extension courses or courses that meet the borrower training requirements established in Part 18.

The on-the-job training or education does not have to be fully completed, provided the training or education meets the requirements of this subparagraph. When an applicant is determined eligible subject to completion of borrower or on-the job training or education, completion of the action shall be listed as a loan approval condition on FSA-2313.

69 **Managerial Ability (Continued)****A General Requirement (Continued)**

To meet the managerial ability requirement through farming experience alone, the applicant may have:

- been an owner of a farm business with management and operator responsibilities for at least 1 entire production and marketing cycle
- been employed as a migrant farm worker and has been elevated to a leadership or foreperson position for at least 1 entire production and marketing cycle and whose responsibilities include crop and field management, livestock health, breeding supervision, labor management or hiring, or general farm management
- been employed as a farm manager or farm management consultant for at least 1 entire production and marketing cycle
- raised on a farm and held significant responsibility for day-to-day management decisions for at least 1 entire production and marketing cycle
- obtained and successfully repaid one FSA Youth-OL.

The applicant may document this experience through FSA farm records or similar documentation.

Applicants should be able to demonstrate that they have carried out their operation according to standard farming practices in the area including keeping accurate records of income and expenses, income tax records, and breeding statistics, as applicable.

***--[7 CFR 764.101(i)(4)] Alternative for ML's made for OL purposes. DOL-ML applicants also may demonstrate management ability by one of the following:**

[7 CFR 764.101(i)(4)(i)] Certification of a past participation with an agriculture-related organization, such as, but not limited to, 4-H Club, FFA, Beginning Farmers and Rancher Development Programs, Community Based Organizations, or Tribal Youth Organizations that demonstrates experience in a related enterprise, or--*

[7 CFR 764.101(i)(4)(ii)] A self-directed apprenticeship combined with either prior sufficient experience working on a farm or significant small business management experience. As a condition of receiving the loan, the self-directed apprenticeship requires that the applicant seek, receive, and apply guidance from a qualified person during the first cycle of production and marketing typical for the applicant's operation, and agree to form development partnership with the applicant to share knowledge, skills, information, and perspective of agriculture to foster the applicant's development of technical skills and management ability.

69 Managerial Ability (Continued)

A General Requirement (Continued)

***--Example: An application seeking DOL-ML financing to produce tomatoes to sell at a--* farmers market knows a local farmer that produces salad green and this farmer is willing to mentor the applicant during the first production cycle. The farmer's mentorship of the applicant can include advice and applied knowledge on crop planning, supply sources, pest and disease management, and outlets for marketing and sales. The applicant is the responsible party throughout the mentorship for obtaining guidance from the mentor.**

Note: The mentor does not have to have the exact same type of operation as the applicant, but should be related, i.e. the applicant for a tomato *--DOL-ML should not have a dairy farmer as his mentor unless he--* also has produce experience.

70 Borrower Training

A General Requirement

[7 CFR 764.101(j)] The applicant must agree to meet the training requirements in subpart K of this part (Part 18, Section 1). Borrower training requirements for Streamlined CL applicants will be automatically waived without further documentation. All other applicants are required to complete FSA-2370 according to subparagraph 472 B, only if they are requesting a borrower training waiver.

71 Owner/Operator of a Family Farm

A General Requirement

[7 CFR 764.101(k)(1)] Except for CL, the applicant must be the operator of a family farm after the loan is closed.

[7 CFR 764.101(k)(2)] For an entity applicant, if the entity members holding a majority interest are:

- (i) Related by blood or marriage, at least one member must be the operator of a family farm;**
- (ii) Not related by blood or marriage, the entity members holding a majority interest must be the operators of a family farm.**

[7 CFR 764.101(k)(3)] Except for EM loans, the collective interests of the members may be larger than a family farm only if:

- (i) Each member's ownership interest is not larger than a family farm;**
- (ii) All of the members of the entity are related by blood or marriage; and**
- (iii) All of the members are or will become operators of the family farm; and**

72 Entity Composition (Continued)

D Treatment of Trusts

SED's, after consultation with the Regional OGC, shall issue a State supplement about the following for trusts:

- security requirements when lending to trusts
- unique characteristics of State trust statutes.

In trusts cases, SED shall consult with the Regional OGC to determine if:

- nonparticipant beneficiaries, third party trustees, beneficiaries of a revocable trust, and beneficiaries with only a future interest need to sign on behalf of the trust and as individuals
- submitted trust documents demonstrate valid organization under State law
- trustee has authority to mortgage trust property for the planned farming purposes.

E Life Estates

An FO involving a life estate may be made under certain circumstances to:

- both the life estate holder and the remainderman, if both:
 - have a legal right to occupy and operate the farm
 - are eligible for the loan independently
 - parties sign the note and lien instrument
- just the remainderman, if the remainderman has a legal right to operate the farm
- just the life estate holder, if:
 - there is no restriction placed on a life estate holder who occupies and operates a farm
 - the lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

***--F NPO's**

NPO's are not eligible to receive FSA loan assistance. Eligible entities must be comprised of members who have an individual ownership interest in the entity and can assume personal liability on FSA-2026, as required by subparagraph 371 C.--*

73 Final Eligibility Determination**A Eligible Applicants**

Within 5 calendar days of a favorable eligibility determination, the authorized agency official will provide written notification to the applicant using FSA-2308. The notification should clearly explain that a decision of eligibility does not constitute loan approval. When notifying the applicant of a favorable eligibility decision, the authorized agency official, if necessary, will schedule a meeting with the applicant to proceed with developing the loan docket.

The authorized agency official must document in the FBP Credit Action whether the applicant meets:

- all eligibility requirements
- SDA requirements
- the beginning farmer definition.

If the applicant is determined eligible and additional information becomes available that indicates the original eligibility determination was in error, the authorized agency official will reconsider the eligibility determination. The authorized agency official will clearly *--document in FBP whether the applicant still meets eligibility requirements. Written--* notification of the action taken will be sent to the applicant within 5 calendar days of the determination.

Note: If not already in the applicant's file, obtain SF-3881 according to 63-FI.

73 Final Eligibility Determination (Continued)**B Ineligible Applicants**

If the authorized agency official determines the applicant ineligible, the authorized agency official must:

- document in FBP and DLS the specific reasons for denial
- cite CFR references as applicable
- notify the applicant in writing, within 5 calendar days, of the determination providing appeal rights according to 1-APP and ECOA and nondiscrimination statements according to 1-FLP, paragraph 41.

Note: See paragraph 356 for further guidance on actions to be taken when an application is denied.

If the unfavorable decision is the result of a determination that the applicant is not creditworthy, the authorized agency official will meet with the applicant before sending a rejection letter to:

- discuss the credit report information in detail
- explain the reasons for the adverse decision
- provide the applicant with a copy of the credit report including the name and address of the credit reporting company and any other nonconfidential information used to make the creditworthiness decision
- inform the applicant that any dispute about the accuracy of the information in the credit report must be resolved between the credit reporting company and the applicant.

If the applicant fails to attend the meeting, a rejection letter will immediately be sent and the *--fact that the applicant failed to attend the meeting will be documented in FBP.--*

Note: If denial is based on information obtained from a source other than a credit reporting company, the applicant will be advised that the information can only be disclosed upon written request.

74 **Limitations****A Program Limitations**

[7 CFR 764.102(a)] Limitations specific to each loan program are contained in subparts D through I of this part (Parts 7 through 10).

B Maximum Loan Limits

[7 CFR 764.102 (b)] The total principal balance owed to the Agency at any one time by the applicant, or anyone who will sign the promissory note, cannot exceed the limits established in § 761.8 of this chapter (1-FLP, paragraph 29).

C Loan Funds Used in the United States

[7 CFR 764.102(c)] The funds from the FLP loan must be used for farming operations located in the United States.

D Highly Erodible Soil and Wetlands Conversion

[7 CFR 764.102(d)] The Agency will not make a loan if the proceeds will be used:

(1) For any purpose that contributes to excessive erosion of highly erodible land, or to the conversion of wetlands;

*** * ***

(2) To drain, dredge, fill, level, or otherwise manipulate a wetland; or

(3) To engage in any activity that results in impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands as defined in the Food Security Act of 1985.

***--Notes:** The above includes HEL and wetland provisions administered by NRCS and the Army Corp of Engineers. The Corp may issue permits for specific agriculture and related wetland activities which they determine to be permissible.

See RD Instruction 1940 G, Exhibit M for guidance if NRCS has determined that the applicant committed any of the above violations.--*

E Construction

[7 CFR 764.102(e)] Any construction financed by the Agency must comply with the standards established in § 761.10 of this chapter (1-FLP, Part 5).

F Non-eligible Enterprise

[7 CFR 764.102(f)] Loan funds will not be used to establish or support a non-eligible enterprise, even if the non-eligible enterprise contributes to the farm. Notwithstanding this limitation, an EM loan may cover qualified equine losses as specified in subpart I of this part.

See Exhibit 2 for the definition of noneligible enterprise.

75-90 (Reserved)

94 Exceptions to Security Requirements (Continued)

G ST Loans

[7 CFR 764.106(f) On marginal land and timber that secures an outstanding ST loan.

FSA is statutorily prohibited from taking additional liens on property securing an ST loan.

H Documenting Exceptions

When security is not taken for any of the mentioned reasons, the authorized agency official
--must document the decision in FBP.--

95 Appraisals and Values

A Adequate Security

[7 CFR 764.107(a)] The value of real estate will be established by an appraisal
***--completed in accordance with §761.7 (1-FLP) of this chapter.** For ML's made for FO purposes, in lieu of an appraisal, the value of the real estate will be established by an evaluation completed by the authorized agency official.--*

A real estate appraisal is required when real estate is taken as basic security and the amount of the loan to be secured by the real estate exceeds \$50,000.

A new real estate appraisal is not required if the latest appraisal report available is not over 1 year old, unless significant changes in the market value of real estate have occurred in the area within the 1 year period.

***--Note:** An acceptable evaluation for FO ML 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, including where information was obtained i.e. court house records, comparable sales, property tax assessments, etc,
- include an effective date of the evaluation and a signature of the preparer.

If a DFO-ML is made in conjunction with a real estate loan from another lender, that lender's evaluation or appraisal may be used as a determination of the property's market value. A copy of the evaluation information or appraisal must be included in the loan file as documentation of the determination.

Note: See 1-FLP, subparagraph 141 G for additional information about using third party appraisals.--*

95 Appraisals and Values (Continued)**A Adequate Security (Continued)**

[7 CFR 764.107(b)] The value of chattels will be established as follows:

An appraisal will be completed to determine market value and applicant equity when:

- an initial loan is made on chattel property owned by the applicant
- properties to be acquired when the item can be specifically identified
- a subsequent loan is made to refinance debt.

***--[7 CFR 764.107(B)(1)] The security value of annual livestock and crop production is--* presumed to be 100 percent of the amount loaned for annual operating and family living expenses, as outlined in the approved farm operating plan.**

***--[7 CFR 764.107(B)(2)] The value of livestock and equipment will be established by--* an appraisal completed in accordance with §761.7 (1-FLP) of this chapter.**

B Situation When Appraisals Are Not Required

An appraisal is not required for:

- real estate or chattels taken as additional security
- nonessential assets
- loans for annual operating and family living expenses when crops are the primary security.

The authorized agency official, to whom SED delegated authority under 1-FLP, will estimate ***--the market value. The authorized agency official must document the value in FBP, with--*** the basis for the estimate. If the applicant disagrees with the estimated values, FSA may accept an appraisal from the applicant, obtained at the applicant's expense, if the appraisal meets all FSA requirements.

96–110 (Reserved)

112 Type of Insurance Required (Continued)**C Crop Insurance**

[7 CFR 764.108(c)] Growing crops used to provide adequate security must be covered by crop insurance if such insurance is available. The Agency must be listed as loss payee for the insurance indemnity payment.

Note: This reference applies when FSA is actually financing the crop with loan funds. In these cases, the requirement for crop insurance cannot be waived. The assignment is obtained on crop insurance company's forms, provided they meet RMA requirements.

If perennial crops are used to secure loans with a term of more than 1 year, the applicant will be required to obtain crop insurance in all subsequent years until the loan is paid in full.

[7 CFR 764.108(d)] Prior to closing the loan, the applicant must have obtained at least the catastrophic risk protection level of crop insurance coverage for each crop which is a basic part of the applicant's total operation, if such insurance is available, unless the applicant executes a written waiver of any emergency crop loss assistance with respect to such crop. The applicant must execute an assignment of indemnity in favor of the Agency for this coverage.

Note: This reference applies when FSA is not financing the crop with loan funds, but is taking a lien on the crop for additional security. The assignment is obtained on crop insurance company's forms, provided they meet RMA requirements. The reason that *--crop insurance was not obtained must be documented in FBP.--*

Example: The loan was not obtained until after the sign-up period for crop insurance has expired.

D NAP

The NAP program is an important tool in managing potential risk for individuals who raise crops not covered by standard crop insurance. The authorized agency official will discuss the NAP program with all applicants who plan to raise crops which are eligible for NAP coverage. FSA should determine if using NAP coverage is cost effective for the operation and if it will likely benefit both the applicant and the Agency as part of the overall farm plan. If NAP coverage is likely to provide benefits to the operation, applicants will be encouraged to participate in the NAP program.

113 Documentation**A General**

Before loan closing, applicants must provide the applicable documentation required according to subparagraphs B and C.

B Documentation of Hazard and Flood Insurance

An applicant should demonstrate hazard or flood insurance coverage by 1 or more of the following documents:

- an insurance policy showing the effective date
- an endorsement to a policy showing the effective date
- a written binder showing the effective date
- a “declaration” page furnished by the insurance company, clearly stating that it is an original declaration page, and showing the effective date
- a receipt for insurance premiums, if the receipt shows the period covered.

An applicant relying on a written binder or receipt for premiums must submit an acceptable insurance policy or endorsement to the authorized agency official within 60 calendar days after the effective date of the policy and before the expiration date of the binder.

The applicant must demonstrate, either through receipts for insurance premiums or another way, that the insurance is effective for at least 12 months following loan closing.

Coverage for a building under construction should be demonstrated by either coverage under a builder’s risk:

- policy naming the applicant as the insured
- endorsement for a policy issued to the applicant.

A policy or endorsement used to cover a building while the building is under construction must convert automatically to full coverage once the building is completed or the applicant must obtain other acceptable coverage.

The authorized agency official shall not rely upon a builder’s risk policy issued to the contractor who is constructing the building.

Part 7 Farm Ownership Loan (FO) Programs

*--Section 1 FO (Regular and Microloan)

131 Uses

A General

[7 CFR 764.151] FO loan funds (including DFO-ML) may only be used to:--*

See subparagraphs B through F for FO uses.

B Farm Purchases

FO funds may only be used to:

[7 CFR 764.151(a)] Acquire or enlarge a farm or make a down payment on a farm.

Examples include, but are not limited to, the purchase of easements, the applicant's portion of land being subdivided, purchase of cooperative stock, appraisal and survey fees, and participation in special FO programs. Downpayments are authorized as a loan purpose subject to the following.

- A deed is obtained and the transaction is properly documented by debt and security instruments.
- Any prior liens meet the FO security requirements for FSA's junior lien position.
- For contract purchases, purchase contracts must properly obligate the buyer and seller to fulfill the terms of the contract, provide the buyer with possession, control, and beneficial use of the property, and entitle the buyer to marketable title upon fulfillment of the contract terms. The deed must be held in trust by a bonded agent until transferred to the buyer. Upon a buyer's default, the seller must give FSA written notice of the default and a reasonable opportunity to cure the default. The applicant must repay any sums advanced by FSA.

Note: The gross farm income generated by the operation (the applicant's entire proposed operation, including the property to be purchased) associated with the purchase must be proportionate to the purchase price. An operation generating a few thousand dollars in annual gross sales is not considered proportionate for the purchase of real estate requiring debt service of multiples of the operation's gross sales. A typical year plan must reflect that the operation will produce a significant amount of the income necessary to repay the loan.

131 Uses (Continued)

B Farm Purchases (Continued)

The authorized agency official should advise the applicant to have an understanding with the seller on such items as:

- land description and number of acres
- buildings and fixtures included in the transaction

Note: The applicant should determine the condition of property attached to the land and the working condition of any fixtures with movable parts.

- minerals and the effect any mineral reservation has on the land value and operating it as a farm
- access to the land or any part of it
- the party responsible for taxes and insurance
- the party who will receive the income from the land during the crop year of the transaction.

C Capital Improvements

FO funds may only be used to:

[7 CFR 764.151(b)] Make capital improvements to a farm owned by the applicant, for construction, purchase or improvement of farm dwellings, service buildings or other facilities and improvements essential to the farming operation. In the case of leased property, the applicant must have a lease to ensure use of the improvement over its useful life or to ensure that the applicant receives compensation for any remaining economic life upon termination of the lease;

FO funds can be used to purchase, improve, or build any type of structure, including a *--dwelling that either adequately meets family needs and is modest in size, cost, and design, provided the structure is related to the farming enterprise. The dwelling shall be located on the farm when FO funds are used to purchase the dwelling. However, if the applicant--* already owns a dwelling located close to the farm, FO funds may be used to repair or improve the dwelling.

An applicant must be the owner of the property, or hold a lease interest for the property, which has a term at least equal to the term of the proposed loan on the property, which the improvement is to be made. In the case of Indian tribal lands, trust properties, and Hawaiian homelands, the applicant's leasehold must show an ownership interest as specified by a State supplement.

132 Eligibility (Continued)

D Farm Experience

The applicant:

[7 CFR 764.152(d)] and in the case of an entity, one or more members constituting a majority interest, must have participated in the business operations of a farm for at least 3 years out of the 10 years prior to the date the application is submitted. One of these years can be substituted with the following experience;

- (1) Postsecondary education in agriculture business, horticulture, animal science, agronomy, or other agriculture related fields,**
- (2) Significant business management experience, or**
- (3) Leadership or management experience while serving in any branch of the military.**

Note: To meet the substitution requirements for 1 year out of the 3 years the applicant can use any 1 of the following:

- postsecondary education, that is at least 16 semester hours in agriculture business, horticulture, animal science, agronomy, or other agriculture related fields
- significant business management, that is at least 1 year of management experience in a non-agriculture-related field where the applicant's day-to-day responsibilities included direct management experience, such as personnel decisions, payroll, and inventory ordering; however, not an individual who is a manager in title only
- military leadership or management that is, as a general rule, any officer or E5 or above will have completed an acceptable military leadership course.

Factors to determine participation in the business operations of a farm (see definition in Exhibit 2) are similar to those for determining adequate farming experience necessary to ensure a reasonable prospect of success in the operation. The level of farm experience or managerial ability will depend on the complexity of the operation and the amount of the loan request. The authorized agency official will consider each application on a case-by-case basis.

Note: The applicant need not have been the primary operator.

--[764.152(e)] for an ML made for FO purposes, if an applicant has successfully repaid an FSA financed youth loan, the term of that loan may be used towards the 3 years of management experience required for an FO direct loan.--

132 Eligibility (Continued)**D Farm Experience (Continued)**

Applicants shall document that their participation in the business operation of a farm was not solely as a laborer. Documentation may include, but is not limited to:

- written statements from other parties with knowledge of applicant's role and responsibilities in the business operation of a farm
- documents from the applicant that indicate their responsibilities in the business operation of a farm.

For an individual applicant to be an operator, the applicant must have participated and provided labor and management of the farm for at least 3 years.

For an entity applicant to be an operator, 1 or more members constituting a majority interest must have participated in the operation of the farm for at least 3 years and provided labor and management.

Example 1: Jane Smith applies for FO to purchase a hog farm adjacent to the hog farm currently owned by her mother. She recently graduated from law school. Her father died 4 years ago and she assumed responsibility for the farm, and continued to oversee the day-to-day operation of the farm while she attended school.

Jane Smith is eligible for FO since she has had significant responsibility for the day-to-day business operations of a farm for more than 3 years within the last 10 years.

Example 2: John Doe applies for FO to purchase a grain farm. He indicates on his application that he was born and raised on a farm and worked for his father until about 5 years ago. His father then turned over 40 acres of the family farm to him. For 2 years, John made all management decisions for the 40 acres. In addition, John helped make management decisions when working with his father before operating his 40 acres. For the last 3 years, John has worked in town and has not been involved with the farm.

John Doe is eligible for FO as he had management responsibility, and made day-to-day decisions on the 40 acres for 2 years, and before that, participated in the operation of a farm for more than 1 year as he made management decisions while working for his father. This combination of experience enables John to meet the requirement that he has participated in the operation of a farm for 3 out of the last 10 years.

132 Eligibility (Continued)

D Farm Experience (Continued)

Example 3: John Smith applies for an FO to purchase a farm. He indicates on his application that he has worked as a migrant laborer for the last 10 years. 5 years ago he was placed in a managerial position where in addition to supervising the work crew, he decides what fields are to be worked, planting rates, and the majority of daily management decisions related to the operation.

John Smith is eligible for an FO as his work as the crew leader and daily manager of the operation is sufficient to qualify for FSA assistance.

Example 4: Fred Farmer applies for an FO to purchase a farm. His application indicates that he has been operating a rented farm for the last 2 years, making all management decisions and provided the majority of the labor. Before that he attended college for 2 years, and even though he did not graduate, he does have 16 hours of agriculture courses.

Fred Farmer is eligible for an FO to purchase a farm because his agriculture course work can be substituted for 1 year of the 3 year requirement to purchase a farm.

E Term Limits

The applicant:

[7 CFR 764.152(e)] And anyone who will sign the promissory note, must satisfy at least one of the following conditions:

- (1) Meet the definition of a beginning farmer;**
- (2) Have not had a direct FO loan outstanding for more than a total of 10 years prior to the date the new FO loan is closed.**

***--Note:** OGC has interpreted the CONACT to allow the use of “outstanding” in the CFR, and therefore is consistent with the statute.--*

- (3) Have never received a direct FO loan.**

133 Limitations**A General**

[7 CFR 764.153] **The applicant must:**

- (a) **Comply with the general limitations established at § 764.102** (paragraph 74);
- (b) **Have dwellings and other buildings necessary for the planned operation of the farm available for use after the loan is made.**

The necessary buildings must be located on the applicant's farm, except when the:

- applicant already owns an adequate, decent, safe, and sanitary dwelling suitable for the family's needs that is located close enough to the farm so the farm may be operated successfully
- applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm
- applicant occupies suitable buildings that the applicant will eventually inherit or be permitted to purchase from a relative
- farm does not have an adequate dwelling and the applicant owns a suitable mobile home that will be used as the applicant's home.

***--Note:** FSA can finance a manufactured home, placed on a permanent foundation; however, mobile homes, remaining on wheels, may not be financed. In both cases, FO funds can cover the cost of necessary improvements, such as--* anchoring the home and water and sanitary requirements.

B Loan Limits

See 1-FLP, paragraph 29 for FO limits.

C Refinancing

Refinancing of real estate debt is prohibited except for bridge loans according to subparagraph 131 F.

133 Limitations (Continued)**D Compliance with Special Laws and Regulations**

Applicants will be required to comply with applicable Federal, State, and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic purposes; installing facilities for draining land; and making changes in the use of the land affected by zoning regulations.

SED and FLP staff will consult with NRCS, U.S. Geological Survey, Army Corp of Engineers, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. SED shall issue State supplements to provide guidelines which:

- state all requirements to be met, including the acquisition of water rights
- define areas where development of ground water for irrigation is not recommended
- define areas where land drainage is restricted.

--133.5 Direct Farm Ownership - Microloan (DFO-ML)*A Overview**

Applicants meeting the requirements established in subparagraph 43 C may apply for DFO-ML's.

B Requirements

[7 CFR 764.51(d)] For ML request for FO purposes, all of the following criteria must be met:

[7 CFR 764.51(d)(1)] The loan request is:

(i) To pay for any authorized purpose under the FO program

(ii) \$50,000 or less and the applicant's total outstanding Agency FO debt at the time of loan closing will be \$50,000 or less.--*

134 Joint Financing Arrangements**A General**

--The following regulations and requirements will apply to both the regular FO and DFO-ML.--

[7 CFR 764.154(a)(3)] If the FO loan is part of a joint financing arrangement and the amount of the Agency's loan does not exceed 50 percent of the total amount financed, the interest rate charged will be the greater of the following:

(i) The Agency's Direct Farm Ownership rate, available in each agency office, minus 2 percent; or

(ii) 2.5 percent.

FSA encourages using joint financing arrangements. In such arrangements, an applicant obtains financing from another lender, which can be a commercial lender, a State program, or the seller of a farm. The applicant will use this financing along with FSA financing for any authorized FO purpose.

See 1-FLP, Exhibit 17 for interest rates.

Note: If the regular FO interest rate is lower than the participation rate, the loan will be made as a regular FO.

Other lender's loans may be guaranteed by FSA. See 2-FLP.

B FSA Loan Made at Same Time as Other Lenders

When an FO is made at the same time as a loan from another lender, that lender's lien will have priority over the FSA lien unless otherwise agreed. The lender's lien priority can cover payment of taxes, property insurance, reasonable maintenance to protect the security, and reasonable foreclosure costs including attorney's fees in addition to principal and interest.

135 Rates, Terms, Payments, and Security

A Rates

[7 CFR 764.154(a)(1)] The interest rate is the Agency's Direct Farm Ownership rate, available in each Agency office.

See 1-FLP, Exhibit 17 for interest rates.

[7 CFR 764.154(a)(2)] The limited resource Farm Ownership interest rate is available to applicants who are unable to develop a feasible plan at regular interest rates.

See subparagraph 351 C for more information on limited resource loans when the farm operating plan shows that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

[7 CFR 764.154(a)(4)] The interest rate charged will be the lower of the rate in effect at the time of loan approval or loan closing.

B Terms

***--[7 CFR 764.154(b)] Except for ML's made for FO purposes, the Agency schedules--* repayment of an FO loan based on the applicant's ability to repay and the useful life of the security. In no event will the term be more than 40 years from the date of the note.**

The FO term may not exceed the useful life of the security or 40 years, whichever is less.

When setting the term, the authorized agency official must review:

- FBP or other similar plans of operation to establish repayment ability
- the appraisal to establish the useful life of the security.

The specific term of a loan is determined by the applicant's projected ability to repay the loan as shown by FBP or other farm plan developed according to 1-FLP, Part 8.

--[7 CFR 764.154(b)(1)] For ML's made for FO purposes, the Agency schedules repayment of an FO based on the applicant's ability to repay and the useful life of the security. In no event will the term be more than 25 years from the date of the note.--

135 Rates, Terms, Payments, and Security (Continued)**B Terms (Continued)**

The loan term must be the minimum period of time that the projected ability to repay will allow. Loan terms are considered in 5-year increments.

Example: If a 15-year term would not result in a feasible plan, then 20 years would be considered, then 25 years, and so on until the resulting installment will fit in a feasible plan.

Repayment terms that include balloon installments are prohibited.

Note: Balloon installments result when scheduled payments are insufficient to pay the loan without requiring a final installment that exceeds twice the amount of a regularly amortized installment.

C Payment Frequency

All notes are scheduled with annual payments. Assignments or FSA-2027 can be put in place to collect payments that correspond with the income stream of the applicant's operation.

The minimum scheduled annual payment for the first 5 years must be the interest accrued on the principal balance. The applicant must be informed that no reduction will be made in principal when an interest only payment is scheduled. FSA typically considers such payments when a farming operation is new and not fully developed, but will have a future income stream. One example of such an operation is establishing a new orchard.

D Security

[7 CFR 764.155] An FO loan must be secured:

(a) In accordance with §§ 764.103 through 764.106 (paragraphs 91 through 94);

(b) At a minimum, by the real estate being purchased or improved.

--(c) In accordance with §§764.103(c) and 764.101(e), ML's are exempted from the requirements of obtaining 150% security and taking a lien on non-essential assets. Therefore, an ML made for FO purposes, while following the applicable provisions of 764.103 through 764.106, may be secured only by the real estate being purchased or improved, as long as it meets the 100% security requirement.--

136 Subsequent Loans

A General

A subsequent FO is a loan made to an applicant who is currently in debt for an FO.

A subsequent loan may be made for the same purpose, under the same conditions, and processed in the same manner as an initial loan.

A new real estate mortgage will not be necessary provided:

- a new mortgage is not required by State law
- that all the land which will serve as security for the subsequent loan is described on the present real estate mortgage
- the real estate mortgage has a future advance clause and a State supplement provides authority for using such a clause
- the required lien priority is obtained with the existing mortgage and future advance clause.

SED shall issue a State supplement about when to obtain a new mortgage for a subsequent loan.

Section 2 Downpayment Program

151 Uses

A General

--The following regulations and requirements will apply to both the regular FO and DFO-ML.--

[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.

Note: For Downpayment loan purposes, the applicant must meet the definition of a beginning farmer, according to Exhibit 2, at the time the application is received by FSA.

152 Eligibility

A Requirements

[7 CFR 764.202] **The applicant must:**

(a) **Comply with the general eligibility requirements established at § 764.101**
~~*(--(paragraphs 62 through 72) and the FO (including DFO-ML) eligibility requirements--*~~
of § 764.152 (paragraph 132); and

(b) **Be a beginning farmer or socially disadvantaged farmer.**

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

B Farm Size for Beginning Farmers

The applicant must not own more than 30 percent of the average size farm as established under the beginning farmer definition at the time of the application. The applicant may exceed the 30 percent after the loan is closed.

The average farm acreage and 30 percent of the average acreage shall be published in a State supplement. The 30 percent of the average acreage will be rounded to the closest tenth of a percent.

Example: The average size farm for the county is 94 acres. 30 percent of the average, rounded to the nearest tenth, is 28.2 acres. Therefore to meet the beginning farmer requirements, the applicant must own no more than 28.2 acres.

If the farm is located in more than 1 county, FSA uses the average 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 average farm acreage of the county where the largest portion of the farm is located.

Note: Average farm size does **not** apply to SDA applicants. However, the family farm requirement under § 764.101(k) (paragraph 71) does apply.

153 Limitations**A General**

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

- (1) Comply with the general limitations established at § 764.102 (paragraph 73).**

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) \$667,000; subject to the direct FO dollar limit specified in 7 CFR 761.8(a)(1)(i).**

-[7 CFR 764.203(c)] Downpayment loans made as DFO-ML may not exceed \$50,000.--

Note: The balance of the purchase price not covered by the downpayment loan and applicant downpayment may be financed by a commercial, cooperative, or private lender, including the seller.

D Maximum Combined Loans

***-[7 CFR 764.203(d)] 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 Rates**

[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:

(a) Be secured in accordance with §§ 764.103 through 764.106 (paragraphs 91 through 93);

(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 requirements.

155-170 (Reserved)

Part 9 Operating Loan (OL) Program

Section 1 OL's

201 Uses

A General

--[7 CFR 764.251(a)] Except as provided in paragraph (b) OL and DOL-ML loan funds may only be used for: See subparagraphs B through M for OL uses.--

Note: To conserve FSA funding, applicants will be strongly encouraged to obtain a portion of their credit needs from other sources if possible. Such arrangements may include splitting annual operating from term loan purposes, vendor credit, FSA guarantees, and subordinations. Maximizing the use of other available credit sources, especially for shorter term operating credit, will allow FSA to better meet program demand.

B Reorganizing a Farm

OL funds may only be **used** for:

[7 CFR 764.251(a)(1)] Costs associated with reorganizing a farm to improve its profitability;

The following requirements apply when reorganizing a farm.

- Reorganizing the farm means changing enterprises, production practices, marketing methods, or other parts of the farm business to enhance the viability of the farm.
- Examples of acceptable use of loan funds under this provision include but are not limited to:
 - purchase of equipment to convert from conventional to no-till production
 - change from stocker to cow/calf production
 - shifting from row crop to vegetable production
 - purchasing grain drying and storage equipment to facilitate better marketing
 - purchase shares in value-added processing and marketing cooperatives.

Note: These situations are for illustrative purposes only. Any similar operational changes are acceptable as long as a realistic farm plan indicates the changes will improve the financial viability of the farm.

201 Uses (Continued)**C Chattel and Other Purchases**

OL funds may only be used for:

[7 CFR 764.251(a)(2)] Purchase of livestock, including poultry, farm equipment, quotas and bases, and cooperative stock for credit, production, processing or marketing purposes;

Funds may be used only for purchases essential to the success of the farming operation.

Farm vehicles used for farm operating purposes may be purchased, repaired, or refinanced only when the following conditions apply.

- The applicant provides verification that the vehicle will be used exclusively for farm operating purposes. Examples of vehicles used for farm operating purposes include, but are not limited to, grain or livestock hauling trucks, vehicles needed to pull wagons or livestock trailers, and pick-up trucks.
 - A pick-up truck used primarily as a personal vehicle shall not be financed.
 - The income tax treatment of a vehicle is a good indication of its use. If the farm vehicle is or will be depreciated as a farm asset, FSA financing may be authorized.
- The applicant documents need for purchasing, repairing, or refinancing.
- Other credit is not available from usual sources, including dealers and banks. When a farm vehicle is being purchased, dealer and bank financing is usually readily available, often at low rates.
- The vehicle being purchased, repaired, or refinanced is modest in size, utility, and cost and meets the needs of the operation.

201 Uses (Continued)

K Refinancing Farm Related Debts (Continued)

A direct OL may be made to refinance a guaranteed OL when the following conditions are met.

- The circumstances resulting in the need to refinance were beyond the applicant's control.
- Refinancing is in the best interest of the Government and the applicant.
- The guaranteed OL must be paid in full at the time the direct OL is closed.

L Minor Real Estate Repairs or Improvements

OL funds may only be used for:

[7 CFR 764.251(a)(11)] Costs for minor real estate repairs or improvements, provided the loan can be repaid within 7 years.

OL funds may be used for limited real estate improvements, provided the loan can be repaid within 7 years, according to the following guidelines.

- Repairs and improvements to existing structures that are treated as expenses, rather than capital improvements, shall be considered an annual operating expense.
- Fixtures to a farm building may be considered farm equipment and thus financed with OL funds.
- Loans may be approved for building construction.

Note: Construction or improvements amortized over periods longer than 7 years are assumed to be real estate rather than operating purposes and will not be financed with OL funds.

Example: An \$8,000 loan for a pole barn to be repaid over 7 years could be authorized. However, a \$100,000 building financed with a 21-year amortization and a 7-year balloon payment is not permitted. The 21-year amortization period indicates this loan is for real estate rather than operating purposes.

- Any purchase of real estate is not authorized.

* * *

202 Eligibility**A General**

***--[7 CFR 764.252(a)] The applicant must comply with the general eligibility--* requirements established at § 764.101 (paragraphs 62 through 72).**

See subparagraphs B through G for OL program specific eligibility. If different from the general eligibility according to paragraphs 62 through 72, the information in this paragraph is to be substituted for those portions.

B Prior FSA Losses

The applicant:

***--[7 CFR 764.252(b)] The applicant and anyone who will sign the promissory note, except as provided in paragraph (c) of this section, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.**

[7 CFR 764.252(c)] The applicant and anyone who will sign the promissory note may receive direct OL loans to pay annual farm operating and family living expenses, provided that the applicant meets all the other applicable requirements under this--* part, if the applicant:

- (1) Received a writedown under section 353 of the Act;**
- (2) Is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code; or**
- (3) Received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for the county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FLP loans prior to the beginning date of the incidence period of a Presidentially-designated emergency and received debt forgiveness on that debt within three years after the designation of such emergency meet this exception.**

*** * ***

204 Rates, Terms, and Repayment

A Rates

[7 CFR 764.254(a)(1)] The interest rate is the Agency's Direct Operating Loan rate, available in each Agency office.

See 1-FLP, Exhibit 17 for interest rates.

[7 CFR 764.254(a)(2)] The limited resource Operating Loan interest rate is available to applicants who are unable to develop a feasible plan at regular interest rates.

See subparagraph 351 C for more information on limited resource loans when the farm operating plan shows that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

Note: When the regular OL interest rate is equal to or less than the limited resource rate, the limited resource rate will not be used.

[7 CFR 764.254(a)(3)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.

* * *

--[7 CFR 764.254(a)(4)] The Agency's direct ML OL interest rate on an ML to a beginning farmer or veteran rancher is available in each Agency office. ML borrowers in these groups have the option of choosing the ML OL interest rate or the Direct OL interest rate in effect at the time of loan approval, or if lower, the rate in effect at the time of closing.--

B Annual OL Term

[7 CFR 764.254(b)(1)] The Agency schedules repayment of annual OL loans made for family living and farm operating expenses when planned income is projected to be available.

(i) The term of the loan may not exceed 18 months from the date of the note.

(ii) The term of the loan may exceed 18 months in unusual situations such as establishing a new enterprise, developing a farm, purchasing feed while crops are being established, marketing plans, or recovery from a disaster or economic reverse. In no event will the term of the loan exceed 7 years from the date of the note. Crops and livestock produced for sale will not be considered adequate security for such loans.

The applicant repays an annual OL when income becomes available. The repayment period will normally be within 12 months, or no more than 18 months after the date of loan closing, if necessary, when marketing plans extend beyond 12 months; for example, when crops or livestock take longer than 12 months to mature. The authorized agency official, by using FSA-2027, may approve a supplemental payment agreement for applicants who receive substantial income from which payments are to be made before their installment due date.

204 Rates, Terms, and Repayment (Continued)

C Other OL Terms

[7 CFR 764.254(b)(2)] The Agency schedules the repayment of all other OL loans based on the applicant's ability to repay and the useful life of the security. In no event will the term of the loan exceed 7 years from the date of the note. Repayment schedules may include equal, unequal, or balloon installments if needed to establish a new enterprise, develop a farm, or recover from a disaster or economic reversal. Loans with balloon installments:

***--Note:** If the loan official determines that a term of less than 7 years is warranted, the justification for the reduction must be fully documented in the FBP Credit Presentation, including a discussion of the collateral taken and reason the collateral is not sufficient for the full 7-year term.--*

(i) Must have adequate security, at the time the balloon installment comes due. Crops, livestock other than breeding stock, or livestock products produced are not adequate collateral for such loans.

(ii) Are only authorized when the applicant can project the ability to refinance the remaining debt at the time the balloon payment comes due based on the expected financial condition of the operation, the depreciated value of the collateral, and the principal balance on the loan.

When the applicant's projected repayment ability will not allow normal repayment within 7 years, a 7-year loan with a 21-year balloon amortized installment schedule may be offered.

There must be adequate collateral for the loan at the time the balloon payment is due. Circumstances that warrant balloon installments include establishing a new enterprise, developing a farm, purchasing feed while feed crops are being established or during recovery from a disaster, or economic reverses. In no case will annual crops be used as the sole collateral securing balloon installment. A loan with a balloon installment must be adequately secured by basic security, which may include foundation stock, farm equipment, and/or real estate. The amount of the balloon installment should not exceed that amount which the applicant could reasonably expect to pay during a maximum additional 15-year period.

Note: The 21-year balloon amortized installment factor represents the minimum amount the payments would be based upon restructuring the remaining balloon payment over the maximum 15-year period.

(iii) Are not authorized when loan funds are used for real estate repairs or improvements.

204 Rates, Terms, and Repayment (Continued)

D Repayment

The farm operating plan used to project repayment ability must be completed according to 1-FLP, Part 8.

The OL repayment schedule may include equal, unequal, or balloon payments.

- The first payment is due when income is received or within 18 months.
- After the initial payment, payments are scheduled annually unless the loan is repaid in a single payment.
- The repayment term for OL is 1 to 7 years, as determined by the applicant's projected repayment ability.
- Annual installments must cover, at a minimum, the accrued interest.
- Annual installments may be collected by assignments and supplemental payments.
- If unequal or interest only installments are scheduled, the applicant must be able to show that there will sufficient resources available to pay the loan in full by the final maturity date.

205 Security

A General

[7 CFR 764.255] An OL loan must be secured:

(a) In accordance with §§ 764.103 through 764.106 (paragraphs 91 through 94).

(b) Except for ML's, by a:

(1) First lien on all property or products acquired or produced with loan funds;

(2) Lien of equal or higher position of that held by the creditor being refinanced with loan funds.

--[7 CFR 764.255(c)] For DOL-ML's:--

[7 CFR 764.255(c)(1)] For annual operating purpose loans must be secured by a first lien on farm property or products having a security value of at least 100 percent of the loan amount, and up to 150 percent, when available. A lien is not required on crops or livestock financed with annual operating ML's. However, the loan must be secured at least 100 percent and up to 150 percent if available, without taking a lien on personal residences or nonessential assets.

[7 CFR 764.255(c)(2)] For loans made for purposes other than annual operating loans must be secured by a first lien on farm property or products purchased with loan funds and having a security value of at least 100 percent of the loan amount.

Notes: Loans made for refinancing purposes will be secured by a lien on any farm property valued at least 100 percent of the loan amount.

In cases where livestock is the only security that will be pledged, FSA will take no more than 100 percent of the loan amount when separate and identifiable security can clearly be established.

[7 CFR 764.255(c)(3)] A lien on real estate is not required unless the value of the farm products, farm property, and other assets available to secure the loan is not at least equal to 100 percent of the loan amount.

[7 CFR 764.255(c)(4)] Notwithstanding the provisions of paragraphs (c)(1), (c)(2), and (c)(3) of this section, FSA will not require a lien on a personal residence.

206-215 (Reserved)

--Section 2 Microloan OL's and Streamlined OL's*216 DOL-ML Process****A Overview**

Applicants meeting the requirements established in subparagraph 43 B may apply for DOL-ML's.

B Requirements

[7 CFR 764.51(c)] For ML request for OL purposes, all of the following criteria--* must be met:

[7 CFR 764.51(c)(1)] The loan request is:

[7 CFR 764.51(c)(1)(i)] To pay annual or term operating expenses,

[7 CFR 764.51(c)(1)(ii)] \$50,000 or less and the applicant's total outstanding Agency OL debt at the time of loan closing will be \$50,000 or less.

Note: For ML purposes, FSA has determined that an operation with gross sales of agricultural products of at least \$1,000 annually will be recognized as a farm.

217 Streamlined OL Process

A Requirements

* * * For a streamlined OL request:

- the applicant must be current on all payments to all creditors including FSA
- the loan requested is to pay annual operation expenses
- the applicant received and repaid 1 annual OL loan or has sufficient inventory to pay the loan in-full
- there have been no significant changes to the operation since the prior year's application

Note: If the operation consist of the same type of commodities and/or livestock and will not require additional labor or equipment resources, the change will not be considered significant. However, if the operation changes or adds commodities or practices, or makes a change that requires additional labor or equipment resources, the change will be considered significant. Whenever there are significant changes to the operation, a streamlined application is not appropriate.

- the updated cash flow for the new loan is positive for repayment to FSA and all creditors
- the loan amount for the new loan may be increased as long as it is supported by the cash flow and the applicant continue to meet the streamlined OL requirements
- *--the applicant must not have received primary loan servicing in the previous year--*
- all other requirements remain the same as any standard OL.

Notes: If there have been no significant changes, the previous FBP will be copied and brought forward as the streamlined OL plan. The FBP date will be changed to reflect *--it is the streamlined OL plan. The authorized agency official must input a new credit presentation that documents OL is being processed as a streamlined application--* request. All pertinent information on the previous credit presentation may be copied and brought forward. All other documents will be updated or prepared, as necessary, and required by streamlined application procedures.

See subparagraph 43 A for what constitutes a complete streamlined OL application.

218-225 (Reserved)

Section 3 Youth Loans**226 Youth Loan Application Process****A Application Requirements**

See paragraph 44 for complete youth loan application requirements.

B Youth Loan Exceptions to Operating Loan Requirements

The following requirements from 1-FLP, Part 8 do not apply to the Youth Loan program.

- Farm assessments are not required for youth loans.
- All new youth loans are automatically classified as a “3”.

Note: If a youth loan borrower reaches the age of majority and subsequently gets a direct OL and/or FO, all loans including any outstanding youth loans will be entered into FBP and classified based upon data collected.

- FSA-2037 and FSA-2038 will not be required except in complex cases where information provided on FSA-2301 is inadequate.

C Initial Meeting with Youth Loan Applicant

The authorized agency official should offer a preliminary meeting with the youth to discuss:

- the Youth Loan program, including authorized use of funds and eligibility requirements
- whether the youth has appropriate supervision
- the proposed plan.

227 Uses and Limitations

A Uses

[7 CFR 764.301] Youth loan funds may only be used to finance a modest, income-producing, agriculture-related, educational project while participating in 4-H, *--FFA, tribal youth organizations, or a similar organization.--*

A youth loan provides an opportunity for a rural youth to acquire experience and education in agriculture-related skills. The approved project must be related to the business of agriculture and must not be a noneligible enterprise. See Exhibit 2. Each project must be part of an organized and supervised program of work and must produce sufficient income to repay the loan.

The applicant must use youth loan funds only to pay the expenses associated with the approved project.

Note: The youth must be participating in an established organization that supports *--agricultural projects, such as 4-H, FFA, tribal youth organizations, or a similar--* organization. The organization provides the structure, the adult supervision, and the expertise to help the youth plan and complete the project.

B Limitations

[7 CFR 764.303(a)] The applicant must comply with the general limitations established at § 764.102 (paragraph 74).

Loan funds may not be used to:

- purchase real estate or make real estate improvements
- refinance debts
- pay family living expenses, except as they relate directly to the approved educational project
- finance a personal vehicle.

Note: The applicant may use loan funds to make only very minor repairs to real estate, for example to fix a window or repair a shed, when the repair is directly related to the approved project.

228 Eligibility (Continued)

D Project Advisor

The applicant:

[7 CFR 764.302(e)] Must be recommended and continuously supervised by a project advisor, such as a 4-H Club advisor, a vocational teacher, a county extension agent, *-tribal youth organizations, or other agriculture-related organizational sponsor; and--*

The application for a youth loan must contain a recommendation from the project advisor and verify that:

- the project advisor:
 - will sponsor the youth
 - has training and/or experience to supervise youth
 - is available to help the youth plan the project, to review the youth's books and records, and to answer questions
- the youth is a member of an organization.

While the project advisor should supervise the youth applicant to an extent acceptable to the authorized agency official, the authorized agency official still has the primary responsibility for supervising the loan.

E Parental Consent

The applicant:

[7 CFR 764.302(f)] Must obtain a written recommendation and consent from a parent or guardian if the applicant has not reached the age of majority under state law.

F Requiring Cosigners

A cosigner will be required only if it is determined that the applicant cannot possibly meet the repayment or security requirements for the loan request.

Note: When a plan is feasible using realistic figures, a cosigner will not be required.

229 Rates, Terms, and Repayment**A Rates**

[7 CFR 764.304(a)(1)] The interest rate is the Agency's Direct Operating Loan rate, available in each Agency office.

[7 CFR 764.304(a)(2)] The limited resource Operating Loan interest rate is not available for Youth loans.

[7 CFR 764.304(a)(3)] The interest rate charged will be the lower rate in effect at the time of loan approval or loan closing.

See 1-FLP, Exhibit 17 for interest rates.

B Terms

[7 CFR 764.304(b)] Youth loan terms are the same as for an OL established at § 764.254(b) (paragraph 204).

Payments will be tailored to the type of project for which the loan is made.

Exception: Balloon payments are prohibited.

C Repayment Frequency

Youth loan repayment schedules may include equal or unequal payments:

- the first payment is due when income is received or within 18 months
- after the initial payment, payments are scheduled annually unless the loan is repaid in a single payment
- annual installments must cover, at a minimum, the accrued interest.

241 Uses (Continued)

B Chattel Physical Loss (Continued)

(v) Pay essential family living and farm operating expenses, in the case of an operation that has suffered livestock losses not from breeding stock or losses to stored crops held for sale; and

Note: In these cases the loan funds attributed to the loss of normal income security can be used to pay essential farm operating and family living expenses, while loan funds attributed to the loss of basic security can be used only to replace the property that was lost.

Example: An applicant suffers a loss of 100 brood cows and 90 of their calves. The brood cows are basic security and the calves would have been sold this year to produce farm income that would have been used to pay expenses. The loan funds resulting from the loss of calves may be used for any authorized operating purpose, but the funds from the loss of the brood cows must be used only to purchase suitable replacements.

(vi) Refinance farm-related debts other than real estate to improve farm profitability, if the applicant has refinanced direct or guaranteed loans four times or fewer and one of the following conditions is met:

- (A) A designated or declared disaster caused the need for refinancing; or**
(B) The debts to be refinanced are owed to a creditor other than the USDA.

Note: FSA employees are prohibited from and will not guarantee repayment of advances from other credit sources, either personally or on behalf of the applicant or FSA.

The following requirements apply when refinancing debt.

- Only nonreal estate debts incurred for farm purposes may be refinanced.

Note: This does not preclude the payment of past due or current due payments on real estate debt.

- Loan funds must be needed as a result of a loss to normal income security.
- It is not possible to develop a feasible plan without the refinancing.

241 Uses (Continued)

B Chattel Physical Loss (Continued)

- The entire debt may not be refinanced if using loan funds to pay only the delinquent installments, current year installments, or both will result in a feasible plan.
- The applicant does not have the resources, such as cash, certificates of deposits, stored crops to be sold, to cure any delinquency.
- The lender or creditor to be refinanced is unwilling to restructure the debt at rates and terms that would permit the applicant to develop a feasible plan.

Note: This includes providing an FSA guarantee to a lender or creditor meeting the eligibility requirements in 2-FLP, Part 4.

The following additional requirements apply when refinancing direct and guaranteed FLP loans.

- Only direct and guaranteed FLP loans made for authorized operating loan purposes may be refinanced.
- The need to refinance the guaranteed loan is the result of the disaster and it is in the Government's best financial interest to do so.

Note: The authorized agency official must document that the guaranteed lender to be refinanced will not restructure the guaranteed loan at rates and terms that would permit the applicant to develop a feasible plan.

- Servicing the direct loan with Primary Loan Servicing or DSA will not result in a feasible plan.
- The applicant is the sole obligor on the loan to be refinanced.
- The entire direct or guaranteed FLP loan may not be refinanced if using loan funds to pay only the delinquent installments, current year installments, or both will result in a feasible plan.

--Compliance with these requirements shall be documented in FBP of the loan file.--

241 Uses (Continued)

C Production Losses (Continued)

The following additional requirements apply when refinancing direct and guaranteed FLP loans.

- Only direct and guaranteed FLP loans made for authorized operating loan purposes may be refinanced.
- The need to refinance the guaranteed loan is the result of the disaster and it is in the Government's best financial interest to do so.

Note: The authorized agency official must document that the guaranteed lender to be refinanced will not restructure the guaranteed loan at rates and terms that would permit the applicant to develop a feasible plan.

- Servicing the direct loan with Primary Loan Servicing or DSA will not result in a feasible plan.
- The applicant is the sole obligor on the loan to be refinanced.

The entire direct or guaranteed FLP loan may not be refinanced if using loan funds to pay only the delinquent installments, current year installments, or both will result in a feasible plan.

--Compliance with these requirements shall be documented in FBP of the loan file.--

[7 CFR 764.351(b)(7)] Replace lost working capital.

See Exhibit 2 for the definition of working capital.

242 Eligibility

A General

The applicant:

[7 CFR 764.352(a)] Must comply with the general eligibility requirements established at § 764.101 (paragraphs 62 through 72);

*--See subparagraphs B through M for EM program specific eligibility. If different from the general eligibility according to paragraphs 62 through 72, the information in this paragraph will be substituted for those portions.

B Family Farm and Non-Eligible Enterprise

See paragraph 71, and the definition of family farm and non-eligible enterprise in--* Exhibit 2, for more information on determining whether the applicant's farm meets the family farm definition.

C Established Farmer

The applicant:

[7 CFR 764.352(b)] Must be an established farmer;

See Exhibit 2 for the definition of established farmer.

Note: Estates are not considered established farmers and are therefore not eligible.

246 Security Requirements (Continued)

B Lack of Adequate Security

[7 CFR 764.355(c)] Notwithstanding the requirements of paragraph (a) and (b) of this section, when adequate security is not available because of the disaster, the loan may be approved if the Agency determines, based on an otherwise feasible plan, there is a reasonable assurance that the applicant has the ability to repay the loan provided:

(1) The applicant has pledged as security for the loan all available personal and business security, except as provided in § 764.106 (paragraph 94);

If the applicant is an entity, all members also must pledge all assets, both personal and business, as collateral.

(2) The farm operating plan, approved by the Agency, indicates the loan will be repaid based upon the applicant's production and income history; addresses applicable pricing risks through the use of marketing contracts, hedging, options, or other revenue protection mechanisms, and includes a marketing plan or similar risk management practice;

(3) The applicant has had positive net cash farm income in at least 3 of the past 5 years, and

Net farm income is determined by subtracting all cash farm expenses from all farm income reported on Schedule F and other related schedules of the applicant's Federal income tax returns.

Positive net cash farm income is determined by analysis of the applicant's tax records for the 5 years immediately preceding the disaster year. If the applicant has been farming less than 5 years, a positive net cash farm income must have been achieved in 50 percent or more of the years farmed.

Note: If depreciation is shown on Schedule F, it is not a cash expense and must not be included as an expense.

(4) The applicant has provided the Agency an assignment on any USDA program payments to be received.

247 Real Estate Security Requirements**A Title Clearance Requirements**

[7 CFR 764.355(d)] For loans over \$25,000, title clearance is required when real estate is taken as security.

[7 CFR 764.355(e)] For loans of \$25,000 or less, when real estate is taken as security, a certification of ownership in real estate is required. Certification of ownership may be in the form of an affidavit which is signed by the applicant, names the record owner of the real estate in question and lists the balances due on all known debts against the real estate. Whenever the Agency is uncertain of the record owner or debts against the real estate security, a title search is required.

248 Appraisal and Valuation Requirements**A Establishing Values for Real Estate**

SED may issue a State supplement waiving the real estate appraisal requirement for an applicant receiving only an EM. The State supplement shall:

- establish the conditions under which the requirement to obtain an appraisal may be waived, which must apply to all applicants
- *--require that the estimated value of security be established and documented in FBP by--* someone, other than the authorized agency official, who has been delegated this authority by SED based on adequate experience and knowledge of methods for evaluating security values
- establish procedures allowing an applicant to dispute the estimated value of security by having an appraisal completed, at their expense, by an appraiser meeting the qualification requirements in 1-FLP, paragraph 145.

351 Reviewing and Evaluating Applications (Continued)

E Environmental

The applicant has complied with or has plans in place for the proposed operation, which
 *--cover all the environmental requirements of 1-EQ and RD Instruction 1940-G and will not violate CONACT, Section 363; the Food, Security Act of 1985 (Sodbuster, Swampbuster); Executive Order 11990; or the Clean Water Acts.

See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.

The authorized loan official must ensure the applicant has certified that he or she will not violate HEL or WC provisions and that loan funds will not be used for a purpose that will contribute to a violation of HEL or WC provisions.

According to 6-CP, applicants must certify that they will not violate HEL and WC provisions by completing and executing AD-1026 for each farming interest. If, on AD-1026, question 6, 7A, 7B, or 7C is answered “yes” by the applicant, then AD-1026 will be referred to NRCS for a HEL or wetland determination, as appropriate.

A conservation plan may be required if the property contains HEL. If a conservation plan is required, NRCS should be contacted to:

- determine what the conservation plan will contain
- evaluate if the applicant has the resources to carry out the plan.

The authorized agency official should consider the proposed use of loan funds; the contents of the conservation plan, if a conservation plan exists; and changes in land use when determining whether an applicant is likely to violate HEL and WC provisions.--*

F Loan Narrative

The authorized agency official shall document each item considered under subparagraphs B through E to support the final loan decision. The documentation shall be added to the FBP’s Credit Presentation to document the decision making process.

Note: If repayment ability is used as security according to subparagraph 246 B, documentation of the requirements of that section shall be included in the narrative.

352 Loan Approval

A Assessment

--The authorized agency official must confirm and document in FBP that the loan-- assessment is complete or updated, when required, and necessary supervision is planned.

B Establishing Loan Approval Conditions

[7 CFR 764.401(a)(2)] The Agency will place conditions upon loan approval it determines necessary to protect its interest and maximize the applicant's potential for success.

Authorized agency officials shall not make any written or oral commitments or in any way imply that a loan will be made to any individual or entity before the closing of a loan.

The authorized agency official must specify on FSA-2313, or an attachment if necessary, any conditions that must be met including, but not limited to, the following:

- borrower training requirements as established in subparagraph 472 C
- all security requirements, including required lien position
- any agreements needed with prior lienholders
- supervised bank account according to 1-FLP, Part 4
- obtaining an appraisal that demonstrates that the security requirements can be met if the loan was approved subject to obtaining an appraisal
- any actions required of the applicant before loan closing, such as:
 - insurance and indemnity requirements
 - assignments from sale proceeds or income
 - reduction of outstanding indebtedness to meet maximum loan limits.

When a loan is approved for which funds are available and a title search is necessary, check (✓) the following statement on FSA-2313:

“Loan funds will be made available to you within 15 business days of loan approval. However, you agree that in certain circumstances the 15 business days may be exceeded when additional information, such as a lien and/or title search, an appraisal, subordination, etc. is needed prior to loan closing.”

Note: FSA-2313 will be sent by regular mail or hand delivered.

352 Loan Approval (Continued)

C Approval

[7 CFR 764.401(a)(1)] The Agency will approve a loan only if it determines that:

(i) The applicant's farm operating plan reflects a feasible plan, which includes repayment of the proposed loan and demonstrates that all other credit needs can be met;

Streamlined CL's are considered feasible when all requirements in subparagraph 191 B are met.

When FSA determines that an FO or OL applicant's financial condition justifies a reduced annual interest rate, FSA charges the applicant the limited resource rate.

FSA uses this reduced interest rate only to assist applicants who otherwise meet all requirements for a FSA direct loan, but whose farm operating plan indicates that a feasible plan cannot be achieved at the regular interest rate.

Note: The authorized agency official shall not approve loans at the limited resource rate when the regular interest rate is less than or equal to the limited resource rate.

(ii) The proposed use of loan funds is authorized for the type of loan requested;

(iii) The applicant has been determined eligible for the type of loan requested;

(iv) All security requirements for the type of loan requested have been, or will be met before the loan is closed;

(v) The applicant's total indebtedness to the Agency, including the proposed loan, will not exceed the maximum limits established in § 761.8 (1-FLP, paragraph 29) of this chapter;

Note: When the indebtedness of the applicant, or anyone who will sign the note, exceeds the maximum loan limits established in 1-FLP, paragraph 29, at the time of loan approval, the applicant's operating plan must reflect that funds will be available to reduce the indebtedness before loan closing.

(vi) There have been no significant changes in the farm operating plan or the applicant's financial condition since the time the Agency received a complete application; and

(vii) All other pertinent requirements have been, or will be met before the loan is closed.

352 Loan Approval (Continued)**C Approval (Continued)**

The authorized agency official must determine that the appropriate environmental reviews and determinations have been completed and the loan will not violate any portion of 1-EQ, RD Instruction 1940-G, State Environmental requirements, and any other relevant requirements.

Note: An applicant will be advised that compliance with all applicable local, State, and Federal special laws and regulations will be required.

The authorized agency official will approve the loan by executing the electronic signature command in the credit presentation section of FBP. FSA-2313:

- will be provided to the applicant as notification of loan approval and conditions
- must be signed and returned by the applicant “within 15 business days”
- must be “returned within 15 business days” or the application will be withdrawn.

--The authorized agency official must include, in the physical case file, all components of-- FBP that require signatures as outline in 1-FLP, Exhibit 15.

Note: See 4-FLP, Part 9 for approving assumptions.

353 Funding Approved Loans (Continued)**B Preferences When There is Limited Funding (Continued)**

[7 CFR 764.54(b)(2)] **Second, an applicant who is not a veteran, but:**

- (i) Has a dependent family;**
- (ii) Is able to make a downpayment; or**
- (iii) Owns livestock and farm implements necessary to farm successfully.**

[7 CFR 764.54(b)(3)] **Third, to other eligible applicants.**

FSA uses the secondary priorities only when funding is limited and more than 1 loan application was received on the same date.

C When Loan Funds Become Available

[7 CFR 764.53(f)] **If funding becomes available, the Agency will resume processing of approved loans in accordance with this part.**

*--When funds become available, the applicant will be notified immediately by letter, such as Exhibit 24, sent by regular mail or hand delivered. The letter will:

- advise the applicant to “contact FSA within 15 business days from the date of the letter”
- contain the statement, “if the applicant does not contact the authorized agency official within 15 business days from the date of the letter, the application will be withdrawn”.--*

354 Changes After Loan Approval

A Changes in Loan Amount

If it becomes necessary to increase or decrease the amount of the loan before loan closing, the authorized agency official requests that all distributed loan forms be returned to FSA and reprocessed. If the change is minor and replacement forms can readily be completed and submitted, a memorandum justifying the change is attached to the revised forms and sent to the State Office.

B Cancellation of Funds

The authorized agency official cancels obligations, advances, checks, and electronic fund disbursements according to 3-FI, paragraph 90 and other appropriate FI directives.

- *--Note:** On September 30 of the 5th FY after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

Before loan closing, but after the Finance Office completes de-obligation, file original FSA-2072 in the physical case file with a screen print of the ADPS Unclosed (UN)--* Screen. After loan closing, see 4-FLP, subparagraph 61 E.

When necessary, the authorized agency official prepares and executes FSA-2026 reflecting the revised total of the loan and the revised repayment schedule.

C Cancellation of Loan

When a loan is canceled:

- the authorized agency official notifies the State Office and to the National Financial and Accounting Operations Center, Farm Services Branch of loan cancellation by using FSA-2072
- the authorized agency official notifies the designated closing agent that the loan has been canceled

Note: If the loan, based upon updated information after initial approval, is rejected because of problems with eligibility or feasibility, see paragraph 351.

- at the request of the applicant, the application will be withdrawn. See subparagraph 45 D for more information.

419 Closing Chattel Secured Loans

A General

[7 CFR 764.402(c)] The following requirements apply to loans secured by chattel:

(1) The Agency will close a chattel loan only when it determines the Agency requirements for the loan have been satisfied;

The authorized agency official or closing agent shall take the following steps:

- check the security description to ensure it covers all property taken as security and includes the legal description if so required by State supplement
- review all prior liens and encumbrances on the security to determine which must be modified, eliminated, or waived. In doing so, the authorized agency official will work with the applicant to fully understand and resolve any exceptions
- prepare FSA-2040 according to 4-FLP, paragraph 162.

(2) A financing statement is required for every loan except when a filed financing statement covering the applicant's property is still effective, covers all types of chattel property that will serve as security for the loan, describes the land on which crops and fixtures are or will be located, and complies with the law of the jurisdiction where filed;

419 Closing Chattel Secured Loans (Continued)**B Using FSA-2028's**

[7 CFR 764.402(c)(3)] A new security agreement is required for new loans, as necessary to secure the loan under State law, prior to the disbursement of loan funds.

FSA requires a new FSA-2028 whenever filing UCC-1.

The authorized agency official should describe on FSA-2028 all of the chattel property that will serve as security. The authorized agency official will identify security specifically as follows:

•*--for ML's, only those items being specifically taken as security--*

- crop production by describing the real estate on which the crops are grown and by the landowner's name
- livestock by type and exact number
- equipment by manufacturer, model, year, and serial number, where possible

Note: If this information is not available, a written description of the equipment should be provided.

- all accounts, goods, supplies, and inventory by an appropriate description by item or type of property.

When security is held by more than 1 owner who wishes to pledge the full value of the property as security, the authorized agency official must ensure that all owners execute FSA-2028's pledging the security.

420-430 (Reserved)

Section 4 Actions After Loan Closing

431 Disbursing Funds

A When and How Loan Funds are Disbursed

[7 CFR 764.402(e)(3)] The Agency or closing agent will be responsible for disbursing loan funds. The electronic funds transfer process, followed by Treasury checks, is the Agency's preferred methods of loan funds disbursement. The Agency will use these processes to disburse loan proceeds directly to creditors being refinanced with loan funds, to sellers of chattel property being acquired with loan funds, or directly to the borrower's personal bank account. A supervised bank account will be used according to Subpart B of part 761 of this chapter (1-FLP, Part 4) only when these processes are not practicable.

Note: FSA has added the applicant as an approved recipient of loan proceeds by EFT or Treasury Checks for loan disbursements. This practice may be implemented immediately and will be included in an upcoming CFR update.

The authorized agency official or closing agent may disburse loan funds in a lump sum or in multiple disbursements. CL's that are for a project taking multiple years will be funded by multiple disbursements.

The authorized agency official or closing agent normally will not disburse loan funds before filing and recording the security instruments. The authorized official or closing agent may disburse loan funds for real estate loans after all documents are signed but before actual recording of the mortgage.

Loan funds may be placed in escrow until necessary instruments are recorded; however, development funds may be placed in escrow only with the approval of the authorized agency official.

Loan funds for payment of a lien may be disbursed only upon the recording of a discharge, satisfaction, or releasing prior lien interests or assignment where necessary to protect FSA's interests.

Closing agents should provide FSA an itemized accounting of loan proceeds using any format that provides all required information necessary to fully account for loan proceeds.

B Handling Loan Funds

If loan funds are received and the loan cannot be closed within 20 workdays from the date the funds were received, the authorized agency official will return or cancel the funds according to 3-FI. The authorized agency official will document the new closing date to *--which the applicant has agreed in FBP.--*

432 Review Closing Documents

A General

The authorized agency official must review the closing documents to ensure accuracy and completeness, and if necessary, to take corrective action.

Note: This does not relieve the closing agent from their legal responsibilities.

B DLS

Once the loan is closed, the authorized agency official will enter the final information about the loanmaking process into DLS.

See 1-FLP for general information on DLS.

C Loan Classification

The authorized agency official must classify a new loan, including CL's, within 10 calendar days of loan closing.

See 1-FLP, Part 8 for instructions on loan classification.

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
BCIS	Bureau of Citizenship and Immigration Services	Ex. 8, 9
CONACT	Consolidated Farm and Rural Development Act	1, 69, 132, Ex. 16
CAT	Catastrophic Risk Protection Endorsement	113, 244
CL	Conservation Loans	Text, Ex. 2
DFO	Direct Farm Ownership	Text
DOL	Direct Operating Loan	4, 43, 66, 69
FFA	Future Farmers of America	69, 227
FICO	Fair Isaac Corporation	191
FmHA	Farmers Home Administration	2, 94, 202
FP	Farm Program	41, 93, 244, Ex. 2
INA	Immigration and Nationality Act	Ex. 8
ML	Microloan	Text
NPO	nonprofit organization	72
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 8
SAM	System for Award Management	68, 451
SDMS	State Directive Management System	3, 355
ST	softwood timber	94, Ex. 2

Re delegations of Authority

None

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

Livestock

Livestock means a member of the animal kingdom, or product thereof, as determined by the Agency.

Majority Interest

Majority interest means more than a 50 percent interest in an entity held by an individual or group of individuals.

Market Value

Market value means the amount that an informed and willing buyer would pay an informed and willing, but not forced, seller in a completely voluntary sale.

Microloan (ML)

--ML means a type of OL or FO of \$50,000 or less made using a reduced loan application. Direct ML's are made under modified eligibility and security requirements. Guaranteed ML's are processed using a separate underwriting method to determine financial feasibility.--

Mortgage

Mortgage means a legal instrument giving the lender a security interest or lien on real or personal property of any kind. The term "mortgage" also includes the terms "deed of trust" and "security agreement".

Natural Disaster

Natural disaster means unusual and adverse weather conditions or a natural phenomenon that has substantially affected farmers by causing severe physical or production, or both, losses.

Non-Eligible Enterprise

Non-eligible enterprise means 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.

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

Non-Essential Asset

Non-essential asset means **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.**

Normal Income Security

Normal income security means **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.**

Normal Production Yield

Normal production yield means **used in 7 CFR Part 764 for EM's, means:**

- (1) The per-acre actual production history of the crops produced by the farming operation used to determine Federal Crop Insurance payments or payment under the Noninsured Crop Disaster Assistance Program for the production year during which the disaster occurred;**
- (2) The applicant's own production records or the records of production on which FSA farm program payments are made contained in the applicant's farm program file for the previous three years, when the actual production history is not available;**
- (3) The county average production yield, when the production records outlined in (1) and (2) above are not available.**

OL

OL means **a loan made to an eligible applicant to assist with the financial costs of operating a farm. The term also includes a Youth loan.**

Operator

Operator means **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.**

Owner-Operator

Owner-operator means **the individual or entity that owns the land on which a farm is located and provides the labor, management, and capital to operate the farm. An entity may have to receive authorization from the State in which the farm is located to be the owner-operator of the farm.**

Information Needed for a Complete Loan Application Determination for FSA Direct Operating and Farm Ownership Loans

Following is the Information Needed for a Complete Loan Application Determination for FSA Direct Operating and Farm Ownership Loans letter.

*--

3-FLP, Exhibit 7

(Use Agency Letterhead formatted with local return address)

[Name]
[Address]
[City, State, Zip]

**INFORMATION NEEDED FOR A COMPLETE LOAN APPLICATION DETERMINATION
(For FSA DIRECT OPERATING and FARM OWNERSHIP LOANS)
(Not for Use with Microloan, Streamlined OL, Youth Loan, or Emergency Loan Applications)**

Dear [Name]

Date [MM-DD-YYYY]

The FSA loan application process begins with a complete loan application. The complete loan application allows the loan officer to determine your eligibility to receive FSA farm loan assistance. Listed below are the items FSA requires to conduct its initial loan application assessment.

Any required forms listed below are enclosed/attached. Please note that in some cases you are permitted to use alternative methods of providing the same information instead of using FSA's forms as long as they provide all the information found on the associated form.

After a review of the items listed below, your FSA loan officer may request additional information not listed, if that information is considered necessary to complete processing your loan application. This can include written documentation that credit is not available elsewhere.

NOTE: For **Entity Applicants**, including all **Embedded Entities**, the information listed below is required for (1) the entity; (2) the embedded entity; **and** (3) **each** individual entity member.

1. FSA-2001, "Request for Direct Loan Assistance"
2. FSA-2002, "Three Year Financial History" or similar form acceptable to the Agency. Please do not provide only financial summaries. (Note: If there are no individually owned assets, husband and wife joint operations may submit a consolidated balance sheet.)
3. Complete Tax Returns, including Schedule F if available, for the past 3 years or for each year you have been in business, whichever is less.
4. FSA-2003, "Three-Year Production History", or similar form acceptable to the Agency, for the past 3 years or for each year you have been in business, whichever is less.
5. FSA-2004, "Authorization to Release Information" (Note: If relying on non-farm income or other assets of a *non-applicant spouse* to generate a positive cash flow or pay family living expenses, the non-applicant spouse must execute an FSA-2004 or provide their 2 most recent earning statements.)
6. FSA-2005, "Creditor List"
7. FSA-2006, "Property Owned and Leased"
8. Legal descriptions of all farm property owned or to be acquired
9. Copies of all leases, contracts, options, and other agreements associated with the farm property

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***--Information Needed for a Complete Loan Application Determination for FSA Direct Operating and Farm Ownership Loans (Continued)**

9. Copies of all leases, contracts, options, and other agreements associated with the farm property
10. FSA-2015, "Verification of Debts and Assets", or similar documentation acceptable to the Agency, for all credit cards, loans and other bank accounts with a balance exceeding \$1,000. Any original documents you submit will be returned to you. Acceptable documents may include most recent monthly billing statement, most recent statement of account, most recent invoice, or most recent bank statement.
11. FSA-2037, "Farm Business Plan Worksheet Balance Sheet" and the FSA-2038, "Farm Business Plan Worksheet Projected/Actual Income and Expense" for the next 12 months. Similar forms acceptable to the Agency may be used; however, *should not be more than 90 days old*.
12. Credit Report Fee, using personal or bank check, made payable to the *Farm Service Agency* for the type of applicant as shown below. Entity members should be prepared to remit payment for individual credit report in addition to the commercial report.
- Individual \$ _____ Joint \$ _____ Commercial \$ _____
13. FSA-2302, "Description of Farm Training and Experience." Please be detailed in your description. Narratives should include, and are not limited to:
- a. Personal Life Experience/On the Job Training
 - b. Secondary Education
 - c. Webinars or Online Training Courses
 - d. Extension Service Workshops attended
 - e. Participation in agriculturally-related youth organizations, such as 4-H or FFA
 - f. Recipient of FSA Youth Loan with brief description of project
 - g. Work in Community-Based Organization Gardens or Urban Farming
 - h. Agricultural Internships or Apprenticeships
14. Verification of Non-Farm Income, such as off-farm employment, Social Security, rental income, pension plans, etc. The most recent 2 pay stubs, statements of benefits, or similar documentation will usually be sufficient.
15. AD-1026, "Highly Erodible Land Conservation and Wetland Conservation Certification"
16. **For Entity Applicants Only, including All Embedded Entities:** Provide all the following documents, as available or applicable:
- a. Copies of any Organizational and Operation Documents (e.g., Charter, Articles of Incorporation, Bylaws, Partnership or Joint Operation Agreement, etc.).
 - b. Evidence of current registration and good standing with relevant state regulatory agencies
 - c. A duly adopted resolution to apply for and obtain financing
 - d. A balance sheet not more than 90 days old for the entity
 - e. A balance sheet not more than 90 days old for each individual entity member
17. **For Entity Applicants Only, including All Embedded Entities,** AD-3030, "Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants".

--*