

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Direct Loan Making 3-FLP (Revision 2)	Amendment 46
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Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 41 A has been amended to remove reference to FSA-2330.

Subparagraph 41 B has been amended to remove references to FSA-2330.

Subparagraph 42 A has been amended to remove references to FSA-2330, FSA-2302, FSA-2002, FSA-2003, FSA-2004, FSA-2005, FSA-2006, FSA-2037 and FSA-2038.

Subparagraph 43 B has been amended to remove references to FSA-2330.

Subparagraph 43 C has been amended to remove references to FSA-2330.

Subparagraph 45 A has been amended to remove reference to FSA-2330.

Subparagraph 62 B has been amended to remove references to FSA-2330.

Subparagraph 66 A has been amended to remove reference to FSA-2330.

Subparagraph 68 A has been amended to remove reference to FSA-2330.

Subparagraph 472 B has been amended to remove reference to FSA-2002, FSA-2003 and FSA-2302.

Exhibit 6 has been amended to remove reference to FSA-2330 and update the table for FSA-2004 ECOA requirement.

Amendment Transmittal (Continued)

Page Control Chart		
TC	Text	Exhibit
	3-1, 3-2 3-2.5, 3-2.6 3-3 through 3-6 3-6.5, 3-6.6 3-7, through 3-12 3-13, 3-14 4-1, 4-2 4-8.5, 4-8.6 4-11, 4-12 18-3, 18-4	1, pages 1-4 6, pages 1, 2

Part 3 Loan Application

41 Obtaining and Filing a Loan Application

A Obtaining a Loan Application

A loan application may be obtained from:

- any FSA office
- FSA's web site at **www.fsa.usda.gov**
- eGov's web site at **www.sc.egov.usda.gov**.

An agency official will:

- not refuse to provide a requested application to any person
- not discourage the prospective applicant to apply for a direct loan even when loan funds are limited or unavailable

Note: On Friday, May 13, 2011, FR notice was published to inform the public that, because of a lack of funding for the CL program, direct CL applications will not be accepted until further notice. Agency officials should advise prospective applicants of the availability of other FSA loan programs.

- not make oral or written statements that would discourage any individual from applying for assistance based on any ECOA prohibited basis (race, color, religion, national origin, sex, marital status, age, applicant's income deriving from public assistance, or because the applicant has in good faith exercised any right under the Consumer Protection Act)

Note: Additional information, as necessary, may be requested; however, information that would create unapproved paperwork burden will not be requested. Specifically, anything that asks the applicant to provide information to FSA is not allowed by the State without approval from the National Office.

- provide assistance as necessary to help applicants complete the application

* * *

Note: Information about race, national origin, sex, and marital status is collected on a *--voluntarily basis on FSA-2001, FSA-2301, and FSA-2314.--*

B Filing a Loan Application

[7 CFR 764.51(a)] A loan application must be submitted in the name of the actual operator of the farm. Two or more applicants applying jointly will be considered an entity applicant. The Agency will consider tax filing status and other business dealings as indicators of the operator of the farm.

41 Obtaining and Filing a Loan Application (Continued)

B Filing a Loan Application (Continued)

Generally, requiring a non-applicant's spouse signature on loan documents is a violation of ECOA regulations. Therefore, unless required by State law, FSA will not require the signature of an applicant's spouse or other person, other than a joint applicant, on any credit instrument if the applicant qualifies under FSA's standards of creditworthiness for the amount and terms of the credit requested. FSA will **not** consider the submission of a joint financial statement or other evidence of jointly held assets, such as a joint bank account, as an application for joint credit. See Exhibit 6 for guidance on submitting documents in compliance with ECOA as required by this handbook.

Upon receiving an application for direct loan assistance, the authorized agency official and DD shall follow 1-PL to ensure that the type of operation reflected on FSA-2001 is consistent with any representations previously made by the applicant for FP benefits.

If any difference in representations of the farming operation is identified, notify the applicant
--using FSA-2304 and insert the following reason why the application is incomplete.--

“A review of your FSA records revealed inconsistent representations in how your farming operation is conducted. (Provide details of different representations identified by FSA records.) Documentation must be provided to resolve the inconsistencies identified prior to your application for assistance to be considered complete.”

Note: See subparagraph 45 B for notification of incomplete application guidance.

Exception: An application will not be considered incomplete if the difference in representation is the result of either of the following:

- *--married persons representing themselves as a joint operation for FLP--* assistance but combined as a single person for FP
- producer participating in 2 separate and distinct operations.

* * *

When receiving an application from married persons, FSA cannot treat a married couple applying together the same way as 1 person applying individually. A married person may apply according to 1 of the following, depending on how the farm is operated.

- “As an individual” – A married person should apply as an individual when they are the operator of the farm, and the spouse has minimal involvement in the farm operation, particularly the day-to-day management and operations. In such cases, the nonfarming spouse will not be required to sign the application, except when required by State law to perfect a lien on marital or jointly owned property.

41 Obtaining and Filing a Loan Application (Continued)

B Filing a Loan Application (Continued)

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

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

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

All applicants, including an entity, should ordinarily file their loan application with the FSA FLP office serving the area where the headquarters of the farm operation is located. In situations where an operation is spread out between multiple county or State jurisdictions, the operation headquarters will typically be the location where the majority of operational and production activities occur. Once an FLP servicing office is assigned, efforts should be taken to maintain account activities with that servicing office providing significant farming activities are likely to continue within the jurisdiction of the FLP servicing office originally assigned.

If the authorized agency official is not present in the office where the application is filed,--* the receiving office must immediately contact the office where the authorized agency official is located to determine whether the application needs to be forwarded to that office for processing.

Exceptions: For applications from:

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

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

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

Electronic applications may be accepted from applicants who have Level 2 eAuthentication credentials. FAXed and emailed applications are acceptable. See 1-FLP for a list of forms that must be signed with an original pen and ink signature, or a digital signature completed with an approved 2-factor authentication process.

C Notification of Targeted Funding and Limited Resource Interest Rates

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

--FSA-2001, FSA-2301, and FSA-2314 provide applicants notification, as applicable, that a portion of FO, CL, and OL funds are targeted for SDA and beginning farmer assistance. In addition, FSA-2001 and FSA-2314 provide notification of the availability of limited-- resource interest rates for FO's and OL's.

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

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

41 Obtaining and Filing a Loan Application (Continued)**D Technical Assistance**

Agency officials are required to:

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

E SED Action

SED's will prepare and publicize, at least semi-annually, through newspaper articles, radio announcements, and television broadcasts, that FSA targets direct and guaranteed loan funds to beginning and SDA farmers.

These required outreach efforts are in addition to information provided in State or Service Center newsletters.

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

42 Complete Loan Application**A Requirements**

[7 CFR 764.51(b)] A complete loan application, except as provided in paragraphs (c) through (f) of this section (paragraphs 43 and 44), will include:

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

The application must be initialed, signed, and dated by the applicant. An unsigned *--FSA-2001, FSA-2301, or FSA-2314 will be considered an incomplete application.

Notes: FSA-2001 or FSA-2314, with missing initials only, will not be considered--* incomplete; however, initials shall be obtained before loan closing.

Youth loan applications should be filed according to paragraph 44.

The authorized agency official shall consider if an application can be ML or Streamlined before requiring a regular, full documentation application. See paragraphs 216 and 217. ML and streamlined OL applications should be filed according to paragraph 43.

Streamlined OL applications should be filed according to paragraph 43, but a qualified applicant needs to only submit additional information necessary to make their application complete when added to the information already in the applicants file.

42 Complete Loan Application (Continued)

A Requirements (Continued)

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

[7 CFR 764.51 (b)(2)(i)] A complete list of entity members showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or stock held in the entity by each member, or the percentage of interest in the entity held by each member;

Note: Each member of the entity must demonstrate individual ownership of the entity by owning either shares or a percentage of the entity.

[7 CFR 764.51 (b)(2)(ii)] A current financial statement from each member of the entity;

[7 CFR 764.51 (b)(2)(iii)] A current financial statement from the entity itself;

Note: A completed AD-3030 must be submitted each time a corporation applies for assistance. This does not include LLC's and trusts.

[7 CFR 764.51(b)(2)(iv)] A copy of the entity's charter or any entity agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution adopted by the Board of Directors or entity members authorizing specified officers of the entity to apply for and obtain the desired loan and execute required debt, security and other loan instruments and agreements;

Note: If entity documents require more than 1 member to apply, then all identified
--members, including members in embedded entities, must sign FSA-2001, Part J.--

[7 CFR 764.51(b)(2)(v)] In the form of married couples applying as a joint operation, items (i) and (iv) will not be required. The Agency may request copies of the marriage license, prenuptial agreement or similar documents as needed to verify loan eligibility and security. Items (ii) and (iii) are only required to the extent needed to show the individual and joint finances of the husband and wife without duplication.

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

- applicable CCC-502/CCC-902
- jointly filed tax return
- marriage license
- prenuptial agreement
- similar documentation.

42 Complete Loan Application (Continued)

A Requirements (Continued)

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

[7 CFR 764.51(b)(3)] A written description of the applicant's farm training and experience, including each entity member who will be involved in managing or operating the farm. Farm experience of the applicant, without regard to lapse of time between the experience and the new application, may be included in the applicant's written description. If farm experience occurred more than 5 years prior to the date of the application, the applicant must demonstrate sufficient on-the-job training or education within the last 5 years to demonstrate managerial ability.

Note: See subparagraph 69 A for additional guidance if farm experience occurred more than 5 years before application.

A complete description of the applicant's farm training and experience is required for new applicants and when significant changes to an existing borrower's operation have occurred.

[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;

* * * Existing borrowers do not need to resubmit historical financial information already on file. Additional financial records, such as balance sheets, may be requested, if necessary, for the last 3 years.

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

***--Note:** 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 taken into 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).--*

42 Complete Loan Application (Continued)

A Requirements (Continued)

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

* * *

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:** Existing borrowers do not need to resubmit historical production information already on file.--*

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 or FSA-2314. 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.

[7 CFR 764.51(b)(7)] Documentation of compliance with the Agency's environmental regulations contained in 7 CFR Parts 12 and 799.

An applicant must have AD-1026 on file for all real estate owned or rented. From an environmental compliance perspective, an application is considered complete upon receipt of:

- a current AD-1026
- information within the applicant's ability to control about the specific location and nature of the proposed action so that the appropriate level of environmental review can be completed.

42 Complete Loan Application (Continued)

A Requirements (Continued)

Notes: Applications may not be approved “subject to” completion of the requisite level of environmental review, including, but not limited to, obtaining and providing to FSA copies of all permits and plans. In addition, the time needed to process or obtain permits, plans, approvals, or complete environmental assessments does not constitute a basis for withdrawing an application as incomplete.

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

See 1-EQ and 6-CP 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 may submit any of the following:

- *--FSA-2014 sent by FSA the applicant’s employer--*
- 2 most recent earning statements
 - Tax forms such as 1099 or W-2
 - Bank statements verifying income.

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

If a nonapplicant’s income will only be used to cover family living/owner withdrawal, the nonapplicant must not be required to sign FSA-2004, FSA-2007, FSA-2026, or any other loan documents. See Exhibit 6 for guidance on submitting documents in compliance with ECOA as required by this handbook.

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

42 Complete Loan Application (Continued)

A Requirements (Continued)

[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-2001, Parts H and I. Documents containing similar information from outside sources may be considered as suitable substitutes for these parts.--

[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;

An application will not typically be considered complete without a full legal description for property to be purchased or used as primary security for a loan. Partial or abbreviated descriptions are not typically adequate for these circumstances. Applications to purchase only a portion of a larger parcel will not be complete unless the Agency is provided a legal description of the specific property to be purchased.

* * *

42 Complete Loan Application (Continued)**A Requirements (Continued)**

This information will be used to determine:

- FSA security
- value of security
- eligibility
- potential income affecting cash flow.

[7 CFR 764.51(b)(11)] Payment to the Agency for ordering a credit report on the applicant;

The agency official will record the date the credit report fee is received in DLS.

[7 CFR 764.51(b)(12)] Verification of all debts;

* * *

The authorized agency official:

- must verify the status of debts over \$5,000
- must confirm the balance of the debt, the applicant's payment history on the debt including any delinquency and the payment schedule including the amount and date of the next scheduled installment
- may obtain this information with any of the following as long as the required information is provided:
 - credit report
 - FSA-2310 (EM's)
 - CAIVRS
 - completed FSA-2015
 - most recent billing statement for the debt (e.g., credit card debt)
 - any other form of verification, including phone calls, that provides the required information.

42 Complete Loan Application (Continued)

A Requirements (Continued)

[7 CFR 764.51(b)(13)] Any additional information deemed necessary by the Agency to effectively evaluate the applicant's eligibility and farm operating plan;

Examples of additional information include:

- divorce or separation decree
- child support or alimony payments
- 2 additional years for farm production or financial records (in extenuating circumstances)
- *--payment to complete required State and county lien searches (many States and counties offer certified searches free of charge).--*

[7 CFR 764.51(b)(14)] For EM loans, a statement of loss or damage on the appropriate Agency form (FSA-2309).

[7 CFR 764.51(b)(15)] For CL only, a conservation plan or Forest Stewardship Management Plan as defined in 761.2 of this chapter; (see Exhibit 2 for definition of conservation plan and Forest Stewardship Management Plan) and

Note: NRCS CPA-1155 or Tool Kit is considered sufficient documentation.

[7 CFR 764.51(b)(16)] For CL only, and if the applicant wishes to request consideration for priority funding, plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition.

Note: For all FLP loans involving construction, according to 1-FLP, Part 5.

B Existing Information in Applicant's File

[7 CFR 764.51(f)] The applicant need not submit any information under this section (subparagraph A) that already exists in the applicant's Agency file and is still current.

Information less than 90 calendar days old, unless noted otherwise, is considered current.

***--Notes:** Information that does not change, such as college transcripts, will be considered current and should be used as part of any future application.

If not already in the applicant's file, obtain SF-3881 according to 63-FI, if needed to establish an account to for Electronic Funds Transfer. This item is not required for a complete application, but can be requested early in the application process.--*

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-E 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-2001
- entity information, if applicable
- written description of applicant's farm training and experience, included on FSA-2001
- environmental information
- credit elsewhere requirements
- farm operating plan, included on FSA-2001
- payment of credit report fee
- balance sheet, included on FSA-2001.--*

Note: An applicant is qualified for loan processing under DOL-ML provisions when all 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-2001
- entity information, if applicable
- written description of the applicant's farm training and experience (included on FSA-2001)--*
- 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.

44 Youth Loan Requests**A Complete Youth Loan Application**

A youth loan application is submitted by using FSA-2301, which includes the majority of information for a youth loan application. See Part 9, Section 3 for more information on youth loans.

[7 CFR 764.51(e)] For a youth loan request:

(1) The applicant must submit items (1), (7), and (9) of paragraph (b) of this section (paragraph 42).

These items are the following:

- completed FSA-2301
- environmental information
- farm operating plan (when FSA-2301 is not considered sufficient).

(2) Applicants 18 years or older, must also provide items (11) and (12) of paragraph (b) of this section (paragraph 42).

These items are the following:

- payment to FSA for ordering a credit report
- verification of all debts.

(3) The Agency may require a youth loan applicant to submit any other information listed in paragraph (b) of this section (paragraph 42) as needed to make a determination on the loan application.

45 Processing Loan Applications

A Application Review

Upon receiving a loan application, the agency official shall:

- *--insert date application was received on FSA-2001, FSA-2301, or FSA-2314--*

Note: DLS is the official loan application date record.

- determine whether application is complete
- enter loan application information into DLS
- assemble loan application according to 32-AS
- obtain credit report
- obtain CAIVRS
- complete FSA-850, or Environmental Assessment, whichever is applicable, as provided by 1-EQ.

If an application is received and the applicant has not completed the section that identifies race, ethnicity, or gender of the applicant or members of the entity, the application will be processed as a non-SDA.

Exception: An application from an existing SDA, who has previously provided the documentation needed to qualify as SDA, does not need to resubmit qualifying information.

Note: Race, ethnicity, and gender determinations completed as observed by a FSA employee will not be used to qualify an applicant for SDA funding.

B Notification of Incomplete Application

[7 CFR 764.52(a)] Within 7 calendar days of receipt of an incomplete application, the Agency will provide the applicant written notice of any additional information which must be provided. The applicant must provide the additional information within 15 calendar days of the date of this notice.

Note: If the 15th calendar day is a Saturday, Sunday, Federal holiday, or any other day the office is closed, FSA will accept the applicant's additional application information the next business day.

Part 4 General Eligibility and Loan Limitations

Section 1 Eligibility Requirements

61 Overview

A General

[7 CFR 764.101] The following requirements must be met, unless otherwise provided in the eligibility requirements for the particular type of loan.

See:

- paragraphs 62 through 72 for eligibility requirements
- subparagraph 371 C for loan document signature requirements.

62 Controlled Substances**A Controlled Substance Convictions Except Possession and Trafficking**

[7 CFR 764.101(a)] The applicant and anyone who will sign the promissory note must not be ineligible for loans as a result of a conviction for controlled substances according to 7 CFR 718 of this chapter.

Notwithstanding any other provision of law, any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payment made under any Act, with respect to any commodity produced during the crop year of conviction and the 4 succeeding crop years, by such person.

B Convictions for Drug Trafficking and Possession

--FSA-2001, FSA-2301, and FSA-2314 require applicants to certify that they are not ineligible for Federal benefits based on a conviction of any Federal or State controlled substance offense. Self-certifications on FSA-2001, FSA-2301, and FSA-2314 will be the only-- documentation required involving convictions of controlled substances.

65 Credit History (Continued)**D Assessing Past Repayment Problems (Continued)**

--In some cases, credit reports for applicants may have been negatively impacted by delays in healthcare reimbursements, slow interaction with other agencies and organizations, or by other circumstances beyond the applicant's control. Therefore, extra diligence should be taken to review the credit reports to determine if the circumstances were beyond the control of the applicant. Loan officials should consider if problems identified on the credit report have been corrected or will be corrected if the requested loan is approved. This is especially true of credit reports for microloan applicants who may have been operating using personal credit cards or high interest non-agricultural loans before applying with FSA.--

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 or FSA-2314 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.

67 Delinquent Federal Debt and Unpaid Federal Judgments (Continued)

A General Requirement (Continued)

[7 CFR 764.101(g)] The applicant and anyone who will sign the promissory note must have no outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

The authorized agency official shall review debt verification obtained according to subparagraph 65 B.

B Resolving Delinquent Federal Debt and Judgments

Applicants who pay their delinquent Federal debt or judgment in full or otherwise resolve the delinquency or judgment before or at loan closing may be eligible.

Note: FSA will consider such debts as part of the creditworthiness eligibility requirement and in determining cash flow during the loan evaluation process.

68 Federal Crop Insurance Violations

A General Requirement

[7 CFR 764.101(h)] The applicant, and all entity members in the case of an entity, must not be ineligible due to disqualification resulting from Federal Crop Insurance violation, according to 7 CFR Part 718.

Federal Crop Insurance Act, Section 515(h) provides that a person who willfully and intentionally provides any false or inaccurate information to FCIC or to an approved insurance provider with respect to a policy or plan of FCIC insurance after notice and an opportunity for a hearing on the record, will be subject to 1 or more sanctions that may change the applicant's eligibility for all Federal assistance.

Applicants, as well as individual entity members, will self-certify on FSA-2001, *--FSA-2301, or FSA-2314 that they have not been disqualified. Additionally, RMA will--* notify the National Office of individuals and entities that have been disqualified as a result of crop insurance violations. The National Office will notify the State Office. State Offices shall notify the appropriate County Office.

Notes: See 7 CFR 718.11 for additional information on disqualifications.

Go to SAM at <http://www.sam.gov/portal/public/SAM> for information on disqualified individuals and entities.

69 Managerial Ability

A General Requirement

For an entity to meet the requirements in this subparagraph, either the individual holding the majority interest in the entity or the individual responsible for the day-to-day operations of the entity must demonstrate sufficient managerial ability as described in this paragraph.

[7 CFR 764.101(i)] The applicant must have sufficient managerial ability to assure reasonable prospects of loan repayment, as determined by the Agency. The applicant must demonstrate this managerial ability by:

The applicant may satisfy the managerial ability requirement with **any** combination of education, on-the-job training and farm experience, or by meeting **just 1** of these criteria. The level of management ability required 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.

(1) Education. For example, the applicant obtained a 4-year college degree in agricultural business, horticulture, animal science, agronomy, or other agricultural-related field.

To meet the managerial requirement through education alone, the applicant has completed or is completing an educational program in agriculture. Acceptable educational programs include any of the following:

- a 4-year college degree or graduate degree in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields
- a 2-year degree from a technical college in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields
- successful completion of farm management curriculum offered by the Cooperative Extension Service, a community college, adult vocational agriculture program, or land grant university

Examples: The Small Farm Program, University of Arkansas-Pine Bluff.

--Specialty Crops Program, Colorado State University.--

Cultivating Success, University of Idaho Extension, Washington State
University Small Farms and Rural Roots.

- successful completion of a community-based, nationally based, non-profit, or similar farm workshop programs

472 Assessing an Individual's Need for Training (Continued)

B Determining Whether to Waive Training Requirements

[7 CFR 764.453(a)] The applicant must request the waiver in writing.

FSA-2370 should not be obtained until a review of borrower training requirements is completed. FSA-2370 is not considered part of a complete application. Approving official must make a determination on training requirements for each loan in the package.

[7 CFR 764.453(b)] The Agency will grant a waiver for training in production, financial management, or both, under the following conditions:

(1) The applicant submits evidence of successful completion of a course similar to a course approved under section § 764.457 (paragraph 492) and the Agency determines that additional training is not needed; or

(2) The applicant submits evidence, which demonstrates to the Agency's satisfaction the applicant's experience and training necessary for a successful and efficient operation.

After the applicant has been determined eligible, and before loan closing, the authorized agency official will determine whether to waive training.

If an applicant is applying for additional FSA assistance or benefits, such as a subsequent loan, the authorized agency official must reassess whether to waive a borrower's training requirements even if FSA waived training for the applicant's initial loan. Borrower training is determined on a per loan basis.

The authorized agency official will:

- determine whether to waive financial management training based on the applicant's:
 - *--financial history and training/experience provided with the application
 - practical experience
 - demonstrated ability to keep records
 - education and training
- consider the complexity of the applicant's operation and amount of loan requested
- determine whether to waive the production training requirement based on a review of their production history and training/experience provided with the application.--*

If the applicant does not have a 3-year production history, the authorized agency official will consider any similar practical experience the applicant might have.

472 Assessing an Individual's Need for Training (Continued)**B Determining Whether to Waive Training Requirements (Continued)**

[7 CFR 764.453(c)] If the production and financial functions of the operation are shared among individual entity members, the Agency will consider the collective knowledge and skills of the individuals when determining whether to waive training requirements.

--[7 CFR 764.453(d)] When considering subsequent loan actions, previous training requirements that have not yet been satisfied may be waived by the Agency should the borrower submit satisfactory evidence in accordance with § 7 CFR 764.453(b).--

[7 CFR 764.452(f)] The Agency cannot reject a request for a direct loan based solely on an applicant's need for training.

However, as described in paragraph 69, an applicant must demonstrate managerial ability through education, training, or experience to be eligible to receive a direct loan.

C Notifying Applicant of the Training Decision

[7 CFR 764.452(g)] The Agency will provide written notification of required training or waiver of training.

[7 CFR 764.452(e)] Even if a waiver is granted, the borrower must complete borrower training as a condition for future loans if and when Agency supervision provided in 7 CFR 761 subpart C (1-FLP, Part 8) reflects that such training is needed.

D Production Training Requirements

[7 CFR 764.452(b)] When the Agency determines that production training is required, the applicant must agree to complete course work covering production management in each crop or livestock enterprise the Agency determines necessary.

FSA will require an applicant to complete production management training only in crop or livestock enterprises that are relevant to the applicant's operation.

Items to be included in the training are those production management requirements found in subparagraph 492 C.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

This table lists the required reports in this handbook.

Reports Control Number	Title	Reporting Period	Submission Date	Negative Reports	Reference
RPT-1-00-FLP 09-2	SDA Loan Review Summary	Annually	By October 31 each year	Required	355

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Appendix to Form for AD-1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		42
AD-3030	Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants		42
CCC-10	Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents		91, 416, Ex. 6
CCC-36	Assignment of Payment		418
CCC-37	Joint Payment Authorization		418
CCC-452	NAP Production and Yield Report		244
CCC-452 Manual	NAP Actual Production History and Approved Yield Record		244
CCC-502A	Farm Operating Plan for Payment Eligibility Review for an Individual		42
CCC-502B	Farm Operating Plan for Payment Eligibility Review for a Joint Venture or General Partnership		42
CCC-502C	Farm Operating Plan for Payment Eligibility Review for Corporations, Limited Partnerships or Other Similar Entities		42
CCC-502D	Farm Operating Plan for Payment Eligibility Review for an Estate or Trust		42
CCC-502EZ	Farm Operating Plan for Payment Eligibility Review for an Individual		42
CCC-902E	Farm Operating Plan for an Entity 2009 and Subsequent Program Year		42
CCC-902I	Farm Operating Plan for an Individual 2009 and Subsequent Program Years		42
DS-1350	Certification of Report of Birth		Ex. 9

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

Forms (Continued)

Number	Title	Display Reference	Reference
FS-240	Consular Report of Birth		Ex. 9
FS-545	Certificate of Birth		Ex. 9
FSA-570	Waiver of Eligibility for Emergency Assistance		113
FSA-850	Environmental Screening Worksheet		45
FSA-2001	Request for Direct Loan Assistance		33, 41, 42, 43, 45, 62, 66, 68, 416, Ex. 6
FSA-2006	Property Owned and Leased		42
FSA-2007	Cosigner Application and Agreement		42, 371, Ex. 6
FSA-2008	Recorded Security Instruments (Chattel)		433
FSA-2014	Verification of Income		42
FSA-2015	Verification of Debts and Assets		42, 242
FSA-2026	Promissory Note		Text, Ex. 6
FSA-2029	Real Estate Mortgage or Deed of Trust		3, 92, 398, Ex. 4
FSA-2037	Farm Business Plan Worksheet (Balance Sheet)		42, 226
FSA-2038	Farm Business Plan Worksheet (Projected/Actual Income and Expense)		42, 226
FSA-2040	Agreement for the Use of Proceeds/Release of Chattel Security		419, Ex. 6
FSA-2041	Assignment of Proceeds from the Sale of Products		93, 418
FSA-2042	Consent to Payment of Proceeds from the Sale of Products		93, 418
FSA-2043	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest		93, 418
FSA-2044	Assignment of Income From Real Estate Security		92
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		354

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2301	Request for Youth Loan		41, 42, 44, 45, 62, 226, Ex. 6
FSA-2304	Notice of Incomplete Application		41, 42, 45
FSA-2305	Second Notice of Incomplete Application		45
FSA-2306	Notice of Application Withdrawal/Pending Withdrawal		45
FSA-2307	Notice of Complete Application		45
FSA-2309	Certification of Disaster Losses		42, 244
FSA-2310	Request for Lender's Verification of Loan Application		42, 242
FSA-2311	Calculation of Actual Losses Worksheet		244
FSA-2313	Notification of Loan Approval and Borrower Responsibilities		69, 91, 352, Ex. 26
FSA-2314	Streamlined Request for Direct OL Assistance		41-43, 45, 62, 66, 68
FSA-2317	Consent and Subordination Agreement		92
FSA-2318	Agreement for the Disposition of Jointly Owned Property		416, 418
FSA-2319	Agreement with Prior Lien Holder		92
FSA-2320	Property Insurance Mortgage Clause (Without Contribution)		114, Ex. 4
FSA-2340	Selection of Attorney/Title Agent		372, 373.5
FSA-2341	Certification of Attorney		372, 373.5, 397,
FSA-2342	Certification of Title Agent		372, 373.6, 397,
FSA-2343	Transmittal of Title Information		397
FSA-2344	Preliminary Title Opinion		397
FSA-2350	Loan Closing Instructions		398
FSA-2351	Certification of Improvement of Property		398
FSA-2352	Final Title Opinion		398, 433
FSA-2360	Report of Lien Search		417
FSA-2361	Lender Subordination Agreement		417

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2370	Request for Waiver of Borrower Training Requirements / Borrower Training Assessment		70, 472
FSA-2371	Agreement to Complete Training		473
FSA-2375	Agreement to Conduct Production or Financial Management Training		493, 494
FSA-2376	Borrower Training Course Evaluation		494
FSA-2510	Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due		3
FSA-2512	Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less than 90 Days past Due		3
FSA-2514	Notice of Availability of Loan Servicing to Borrowers Who are in Non-Monetary Default		3
FSA-2535	Conservation Contract		3
G-845	Document Verification Request		Ex. 8
HUD 1	Uniform Settlement Statement		398
I-94	Arrival/Departure Record		Ex. 8
I-179	Certificate of Birth Abroad		Ex. 9
I-197	United States Citizen Identification Card		Ex. 9
I-551	Alien Registration Receipt Card		64, Ex. 8
I-571	Refugee Travel Document		Ex. 8
I-688B	Employment Authorization Card		Ex. 8
I-766	Employment Authorization Document		Ex. 8
N-550	Certificate of Naturalization		Ex. 9
N-560	Certificate of U.S. Citizenship		Ex. 9
N-561	Certificate of U.S. Citizenship		Ex. 9
N-570	Certificate of Naturalization		Ex. 9
NRCS CPA-1155	Conservation Plan/Schedule of Operations		42, 43, 171, Ex. 2
NRCS CPA-1202	Conservation Program Contract		173
Schedule F (Form 1040)	Profit or Loss from Farming		246
SF-3881	ACH Vendor/Miscellaneous Payment Enrollment Form		73
UCC-1	National Financing Statement		92, 93, 373, 398, 417, 419, 433

ECOA Compliance Guide

Submission Requirements

The following table is being provided as an ECOA compliance guide that lists the authorized documents for submission based on applicant/party types. This list is not an all-inclusive processing list. Agency officials must still comply with other applicable regulations for eligibility and feasibility determinations.

Authorized Documents for Submission	Applicant(s)	Cosigner(s)	Non-Applicant Spouse Covering Family Living Expenses Only ¹	Non-Applicant(s) Signing Security Instruments Only
Application (FSA-2001, * * * or FSA-2301)	Y	N	N	N
Cosigner Application and Agreement (FSA-2007)	N	Y	N	N
Credit Report	Y	Y	N	N
Authorization to Release Information (FSA) * * *	Y	Y	N	N
Verification of Debts	Y	Y	N	N
Verification of Income	Y	Y	N	N
Promissory Note (FSA-2026)	Y	Y	N	N
Security Instruments (FSA-2028, FSA-2040, and/or other security documents if applicable)	Y/N ²	Y/N ²	N	Y
Community Property State or Other State-Specific Requirements per OGC (if applicable) ³	Y	Y	Y	Y
Authorization to File a Financing Statement and Related Documents (CCC-10)	N	Y/N ²	N	Y

^{1/} If the non-applicant spouse has off farm income that pays only family living expenses and does not contribute to the farm operation, then neither the off farm income nor the family living expenses will be included in FBP. If family living expenses/owner withdrawals do not appear reasonable, the loan official must provide an explanation in FBP as justification.

^{2/} Yes, if applicant/co-signer has a security interest in the collateral pledged for the loan. No, if applicant/co-signer does not have a security interest in the collateral pledged for the loan.

^{3/} States must consult its local OGC for State-specific guidance. For example, a joint marital asset State may require both spouses to sign all security instruments.

ECOA Compliance Guide (Continued)

Note: Generally, FSA may not require the signature of another person unless FSA has first determined the applicant alone does not qualify for the credit requested. ECOA regulations state that a creditor may not request information about an applicant's spouse or former spouse except under the following circumstances:

- the non-applicant spouse will be a joint obligor on the account; and/or
- the non-applicant spouse will be contractually liable on the account; and/or
- the applicant is relying on the spouse's income, at least in part, as a source of repayment; and/or
- the applicant resides in a community property state, or the property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a state; and/or
- the applicant is relying on alimony, child support, or separate maintenance income as a basis for obtaining the credit.

Improperly requiring an applicant who is individually creditworthy to obtain the signature of a spouse or other person to be considered for credit approval is an ECOA violation.

ECOA:

- permits a spouse or non-applicant to sign security instruments where the collateral pledged for the loan is at least partially owned by the spouse or non-applicant, as is often the case in community property States
- allows creditors to require a co-borrower or guarantor where the applicant does not qualify for the credit alone

Note: Creditors cannot require that the co-borrower or guarantor be the applicant's spouse.

- permits spouses or non-applicants to sign security instruments if necessary to perfect FSA's security interest.