

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

<b>Direct Loan Making 3-FLP (Revision 2)</b>	<b>Amendment 57</b>
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**Approved by:** Deputy Administrator, Farm Loan Programs



**Amendment Transmittal**

**A Reasons for Amendment**

The handbook text has been updated throughout to:

- replace “gender” with “sex” to comply with Executive Orders 14151 and 14168
- combine race/ethnicity.

Subparagraph 66 B has been amended to instruct that applications that do not qualify for Application Fast Track meet credit elsewhere requirements.

Subparagraph 91 C has been amended to identify machinery and equipment as typically not practicable to separate and clarify that FSA will take a lien on the entire line of machinery and equipment for security when machinery and equipment is used as collateral.

Subparagraph 95 A has been amended to clarify the real estate evaluation value conclusion will be included in the Credit Presentation rather than the Farm Assessment.

Subparagraph 204 C has been amended to remove requirement to include a completed FLP Amortization Tool in loan documents.

Subparagraph 205 A has been amended to identify machinery and equipment as typically not practicable to separate and clarify that FSA will take a lien on the entire line of machinery and equipment for security when machinery and equipment is used as collateral.

Paragraph 217 has been amended to remove Microloans from types of loans not qualified for the Streamlined OL process.

## Amendment Transmittal (Continued)

### A Reasons for Amendment (Continued)

Subparagraph 355 D has been amended to replace a reference to a legacy processing times report with the Direct Loan Applications Dashboard.

Subparagraph 355 C has been removed because of the elimination of specific SDA application reviews.

Subparagraph 355 D has been amended to eliminate the SDA Lender Review Reports.

Subparagraph 399 C has been amended to remove the reference to PAD.

Subparagraph 419 A has been amended to remove the reference to PAD.

Exhibit 26 has been amended for the discontinuation of new PAD agreements and servicing of existing PAD agreements.

Exhibit 27 has been amended to update the wire transfer request requirements.

Page Control Chart		
TC	Text	Exhibit
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## 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**.

Applicants may choose to apply using the FSA Online Loan Application (OLA).

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/ethnicity, 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 will 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, will 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, including those submitted through OLA, 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 race/ethnicity and sex on FSA-2001 or FSA-2301. If the applicant will not voluntarily provide the race/ethnicity or sex, 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.

**Note:** Applicants utilizing OLA for submission may require technical assistance or have questions about the OLA process. Although FSA staff will not have access to the customer's OLA, guidance and information for assisting applicants can be found in the FSA Online Loan Application User Guide.

### 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 all farmers and ranchers.--\*

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 farmers and ranchers.--\*

**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 will be obtained before loan closing.

Youth loan applications should be filed according to paragraph 44.

The authorized agency official will 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.



**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(f)] For a youth loan request:--\***

**[7 CFR 764.51(f)(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).

**[7 CFR 764.51(f)(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.

**[7 CFR 764.51(f)(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 will:

- 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 DNP report
- 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 sex 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 sex 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 15<sup>th</sup> 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.

## 66 Credit Elsewhere (Continued)

**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.

\*--Except for applicants that are formal entities, the credit elsewhere requirement will be satisfied if the loan request does not qualify for Application Fast Track (AFT). No further documentation is required. Formal entity applicants and all applicants qualifying for AFT will be evaluated following the standard credit elsewhere guidance contained in this paragraph.--\*

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
- 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.

## 66 Credit Elsewhere (Continued)

**B Documentation Requirements for FO and OL (Including DFO-ML and DOL-ML) (Continued)**

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 \*--DNP, 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:** An 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.

Debts and receivables established by Farm Programs will be reviewed for compliance with this subparagraph. Established debts that are forgiven or granted relief will not hinder eligibility for Farm Loan Programs, but should be considered when assessing credit history.

## Part 5 Loan Security

### 91 Security Requirements

#### A General

**[7 CFR 764.103(a)] Security requirements specific to each loan program are outlined in subparts D through I of this part (Parts 7 through 10), and**

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

- paragraph 135 for FO security
- \*--paragraph 154 for Down Payment loan security--\*
- paragraph 175 for CL security
- paragraph 205 for OL security
- paragraph 230 for youth loan security
- paragraph 246 for EM security.

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

#### B Adequate Security

**[7 CFR 764.103(b)] All loans must be secured by assets having a security value of at least 100 percent of the loan amount, except for EM loans as provided in subpart I of this part (Part 10). If the applicant's assets do not provide adequate security, the Agency may accept:**

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

\*--In cases where non-applicants will pledge the full value of personal property security, the--\* authorized agency official will obtain CCC-10 and FSA-2028 from the nonapplicant authorizing FSA to file the required instrument to perfect FSA's lien.

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

\*--See subparagraph 416 C for further guidance on personal property security pledged by--\* multiple owners.

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

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

## 91 Security Requirements (Continued)

**C Additional Security**

**[7 CFR 764.103(c)] An additional amount of security will be required, if available, to reach a 125 percent security margin. Total loan security in excess of what is needed to achieve a security margin of 125 percent will only be taken when it is not practicable to separate the security, or if necessary to satisfy the requirements of § 764.254(b)(2)(i) of this chapter. Loans that do not require additional security are down payment loans, MLs, youth loans, and FOs for the purchase of a farm where the applicant provides a cash down payment equal to 5 percent or greater of the purchase price. Non-real estate assets will not be taken as additional security for any loan where real estate serves as primary security.**

Applicable additional security for a loan where real estate serves a primary security may include land, permanent structures, and fixtures that can be described on the security instrument, including but not limited to, bins, silos, and gutter cleaners. Also included are items that are considered part of the farm and ordinarily pass with the title to the farm. These items include assignments of leases and leasehold interests having mortgageable value, water rights, easements, rights-of-way, revenues, mineral rights, and royalties from mineral rights.

In the case of an entity, when all the security held by the entity does not meet the requirement for additional security up to 125 percent of the loan amount, FSA will take liens on assets held by individual members, as security to the extent that the members have suitable assets. The entity will select and notify FSA which asset it prefers to offer as security for the loan. Personal property held by an entity member will not be taken as additional security for any loan where real estate serves as primary security.

The authorized agency official will take security with equity that exceeds 125 percent of the loan amount if it is not practical to separately secure the property. Notably, a legally defined tract of real estate is often not practical to split because of extensive and costly processes at \*--the local level. Additionally, it is recognized that a blanket lien on all livestock or all equipment may also result in a security margin exceeding 125 percent as it is typically not practical to separate within species of livestock or lines of equipment in security instruments. Loan approval officials need to take steps to ensure the Agency is not taking more than 125 percent security when avoidable. Standard UCC-1 statements providing a blanket lien on all personal property should only be altered if determined necessary by the Regional OGC such as when a purchase money security interest needs to be established for equipment being purchased using FSA funds and another creditor already holds a blanket first lien on equipment.--\*

**Example 1:** FSA approves a loan to purchase cattle. FSA files a blanket UCC-1 that includes all livestock. The applicant signs FSA-2028 that includes the description of cattle to be purchased and any existing breeding cattle. Note that FSA-2028 includes an after acquired clause. Since individual cattle would not be considered separate and identifiable, FSA will require a security interest in all cattle, even if the total value of cattle exceeds 125 percent of the loan amount.

## 91 Security Requirements (Continued)

## C Additional Security (Continued)

**Example 2:** An annual OL of \$100,000 is secured primarily by crops. The applicant has equity in equipment valued at \$60,000 and equity in breeding livestock valued at \$30,000. The loan approval official should perfect the Agency's lien on crops and breeding livestock, and ensure equipment is not taken as security for the Agency loan.

**Example 3:** A term OL of \$200,000 is secured primarily by equipment with equity valued at \$250,000. The loan approval official should perfect the Agency's lien on \*--the line of equipment only, and ensure other personal property, including--\* crops, are not taken as security.

The selection of additional security must be determined based on available equity in the assets at the time of loan making. As stated in this subparagraph, FSA will only require (as additional security) assets with equity that exceeds 125 percent of the loan amount if it is not practical to separately secure the property. A tract of real estate with a single legal description is often not practical to split into parts. It is rarely practical to separate security \*--within species of livestock or lines of equipment. The following additional security--\* examples are provided.

**Example 1:** Using the regular FO program, FSA is financing the \$200,000 purchase of a property that has an appraised value of \$200,000. The applicant presently owns 3 tracts of unimproved real estate, each with a separate legal description. FSA estimates the value of Tract 1 to be \$25,000, Tract 2 to be \$50,000, and Tract 3 to be \$150,000. Bank ABC has a single mortgage or deed of trust filed on all 3 existing tracts securing a loan balance of \$150,000. Barring any applicable exceptions to additional security requirements provided in paragraph 94, FSA should obtain the required \$50,000 of additional security by requiring Tracts 2 and 3 as additional security.

**Example 2:** FSA is providing a \$100,000 term OL to a new FLP customer to purchase a combine. FSA considers the combine to be purchased to be valued at \$100,000. The applicant presently owns a line of equipment valued at \$400,000, and owns no other assets suitable as additional security for the term OL. Bank XYZ has outstanding debt of \$200,000 secured by the applicant's \*--entire \$400,000 existing line of equipment. FSA would perfect a first lien on the combine being purchased and would also take a junior lien on the entire \$400,000 line of equipment as additional security.--\*

**91 Security Requirements (Continued)****C Additional Security (Continued)**

**\*--Example 3:** FSA is providing a \$100,000 term OL (loan 44-02) for an existing borrower to purchase a combine. FSA considers the combine to be purchased to be valued at \$100,000. The borrower presently owns a line of equipment valued at \$400,000, and owns no other assets suitable as additional security for loan 44-02. This line of equipment valued at \$400,000 serves as security for FSA's only outstanding loan of \$200,000 (loan 44-01) and would also serve as additional security for the new loan (loan 44-02).--\*

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

**Note:** The 125 percent should be the available equity, after taking prior liens into consideration.

**D Choice of Security**

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

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

FSA primarily chooses between like types of security. FSA will also consider lien position when choosing security.



## 94 Exceptions to Security Requirements (Continued)

### E Personal Residence of Applicant (Continued)

7 CFR 764.103(b) requires that all loans (except for EM loans meeting certain criteria) must be secured by assets having a security value of at least 100 percent of the loan amount. This may require FSA obtain a security interest in real estate not being purchased or improved with loan funds. In such a case, for the primary personal residence and appurtenances of the applicant or any entity members to be excepted, remaining adequate security must meet the requirement of at least 100 percent of the loan amount.

A security interest in the primary personal residence and appurtenances of the applicant or any entity members will not be required as additional security [7 CFR 764.103(c)] when located on a separate parcel of up to the greater of 10 acres or the minimum size that meets all State and local requirements for a division into a separate legal lot.

7 CFR 764.106(d)(1) includes that to be excepted, the personal residence and appurtenances of the applicant or any entity members must be located on a separate parcel. If the tract to be excepted is not already legally separated at the time of loan application, the applicant will be provided the opportunity to obtain an adequate legal description and meet any additional State or local requirements for separation of the residence before loan closing. The applicant will be responsible for any associated costs. Legal separation of the residence must result in the remaining security property being marketable and accessible.

A farmstead, including farm buildings and other improvements, may lay within the separated parcel of up to the greater of 10 acres or the minimum size able to be parceled into a separate legal lot.

### F Other Assets of Applicant

**[7 CFR 764.106(e)] When the property is subsistence livestock, cash, working capital accounts the applicants uses for the farming operation, retirement accounts, personal vehicles necessary for family living, household contents, or small equipment such as hand tools and lawn mowers; or**

### 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, except that for ML's for FO purposes, the appraisal requirement may be satisfied by an evaluation by an authorized agency official that establishes the value of the real estate.**

**Note:** Until CFR is amended, the following instructions will be followed:

When real estate is taken as security, regardless of loan type, the real estate appraisal requirement may be satisfied by an evaluation from a loan approval official when the total amount of the Agency debt to be secured by the real estate does not exceed \$50,000. FSA-2132 will be used to document a real estate evaluation.

A new real estate appraisal is not required if the latest appraisal report available is not over 18 months old, unless significant changes in the market value of real estate have occurred in the area within the 18-month period.

**Note:** To document real estate evaluations completed by FLP staff FSA-2132 will be used. An acceptable evaluation for FO ML must:

- be performed by a loan approval official that the SED has delegated the authority to perform real estate evaluations after sufficient training and experience
- --include the real estate evaluation value conclusion in the Credit Presentation of--\* the FBP
- 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.

## 204 Rates, Terms, and Repayment (Continued)

**C Other OL Terms (Continued)**

**(i) Must be secured by an amount projected at the time of loan closing to be at least equal to the direct loan balance outstanding at the time the balloon installment comes due, which may exceed the additional security requirements of § 764.103(c) of this chapter. Total loan security in excess of the requirements of this provision (paragraph (b)(2)(i)) will only be taken when it is not practicable to separate the security. 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 or restructure 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 balloon structure may be offered. The maximum balloon structure will be an amortized installment schedule of 21 years, less the number of interest-only or partial principal scheduled installments. The total number of interest-only, partial principal scheduled installments, and years used in the amortization calculation, will not exceed the useful life of all security for the loan.

There must be adequate collateral for the loan at the time the balloon payment is due. For any balloon repayment schedule, the approval official must consider the projected unpaid principal balance remaining at maturity and the estimated depreciated value of the primary security at maturity. In most cases, when both interest-only installments and a balloon is offered, this will require a primary and additional security value at the time of loan closing in excess of the loan amount (if the security is other than real estate). For any balloon repayment schedule, the loan approval official must appropriately document the projection of adequate security at loan maturity. \* \* \*

In no case will annual crops or market livestock be used as the sole collateral securing a loan with a 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 loan approval official must document expected life of all security when offering balloon installments.

Useful security life expectancy of common security types for an OL will be considered as follows:

- real estate – 40 years (unless the real estate includes significant rapidly depreciating improvements such as specialized confinement buildings, in which case a weighted life expectancy may be required)

**204 Rates, Terms, and Repayment (Continued)****C Other OL Terms (Continued)**

- livestock breeding herd – 12 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official (typical year cash flow must support an adequate replacement plan in place)
- machinery or equipment – 12 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official
- high tunnel – 7 years, may be decreased or increased by as much as 3 years with substantiating documentation by the loan approval official.

When processing a potential OL balloon installment, the useful life expectancy of all security consisting of multiple security types should be considered:

- for machinery or equipment of varying life expectancies, the loan approval official should document and use a calculated, weighted average, considering the machinery or equipment guidance in this subparagraph
- for real estate including rapidly depreciating improvements, the loan approval official should document and use a calculated, weighted average
- when real estate not including the value of rapidly depreciating improvements equates to 50 percent or more of the total value of FSA security for the OL, a total life expectancy of security will be considered to be 21 years
- when real estate not including the value of rapidly depreciating improvements is at least 25 percent but less than 50 percent of the total value of FSA security for the OL, a total life expectancy of security will be considered to be 15 years.

Exceptions must be issued in writing by SED, FLC, FLS, or DD for either of the following:

- the security useful life expectancies in this subparagraph
- the determination of the expected life as security for assets not addressed in this subparagraph.

States may provide a State supplement addressing related issues including:

- deviations from the useful life expectancy guidance in this subparagraph for assets described in this subparagraph that have unique local attributes
- life of security terms for common security assets not described in this subparagraph.

## 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.

\*--For annual operating loans the first payment is due when income is received or within 24 months.

The following address repayment for an OL other than annual operating.

- The repayment schedule may include equal, unequal, or balloon payments.
- The first payment is due within 12 months of loan closing.
- After the initial payment, payments are scheduled annually on the anniversary of the initial payment unless the loan is repaid in a single payment.
- 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, to be refinanced, or to be restructured by the final maturity date.
- Unequal installments are authorized during the first 3 years of the loan. The minimum scheduled annual payment for the first 3 installments 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 payment schedules when a farming operation is new and not fully developed but will have a future income stream establishing a new enterprise, developing a farm, recovering from a disaster or economic reversal, or when necessary to provide for the accumulation of a reasonable amount of working capital reserves and savings, including those for retirement and education of family members. Equally amortized installments will typically begin no later than the 4<sup>th</sup> installment of the loan. Unequal installments may be structured in years 4 through 6 of the loan only with written concurrence of SED, FLC, FLS, or DD. This concurrence will typically be considered when a farming operation is new and not fully developed but will have a future income stream. An example of such an operation is a farm establishing a new orchard.

**Note:** Unequal, interest-only, or balloon installments through the 3<sup>rd</sup> installment may be necessary to provide a reasonable amount of working capital reserves and savings according to 1-FLP, Part 8.--\*

## 205 Security

## A General

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

**[7 CFR 764.255(a)] In accordance with §§ 764.103 through 764.106** (paragraphs 91 through 94).

**[7 CFR 764.255(b)] Except for MLs or OLs made for the purpose of minor real estate repairs or improvements, by a:**

**[7 CFR 764.255(b)(1)] First lien on all property or products acquired or produced with loan funds;**

**[7 CFR 764.255(b)(2)] Lien of equal or higher position of that held by the creditor being refinanced with loan funds.**

An OL to refinance debt from another creditor will require that FSA has the same collateral that was previously held by the creditor that is being refinanced with loan funds. However, \*--when separate and identifiable collateral held by the creditor exceeds 125 percent of FSA's loan, FSA's required security may be reduced down to 125 percent of FSA's loan amount. In these cases, test for credit must be thoroughly documented. It is not practicable to separate security within species of livestock or lines of machinery and equipment. Therefore, FSA will take a lien on the entire line of machinery and equipment or group of livestock when machinery and equipment or livestock is used as security.--\*

**Examples:** FSA is refinancing a lender's \$100,000 machinery loan. The lender has \$400,000 of machinery securing their loan. \* \* \*

A commercial lender holds a blanket UCC-1 on crops, machinery, and livestock. The lender has a crop input loan (considered by the lender as primarily secured by crops), a machinery loan (considered by the lender as primarily secured by machinery), and a livestock loan (considered by the lender as primarily secured by livestock). FSA is refinancing the lender's machinery loan. FSA must require a lien of equal or higher position of that held by the \*--creditor on all machinery.--\*

**[7 CFR 764.255(c)] For ML's used for OL purposes:**

**[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.** A lien is not required on crops or livestock financed with annual operating ML's. If a lien is not obtained on products produced with ML funds used for an annual operating purpose, a security interest in other farm property is necessary to meet the requirement to obtain a security value of at least 100 percent.

## 205 Security (Continued)

## A General (Continued)

**[7 CFR 764.255(c)(2)] For loans made for purposes other than annual operating purposes or for the purpose of minor real estate repairs or improvements, 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.

FSA will take no more than 100 percent of the loan amount when separate and identifiable security can clearly be established. It is not practicable to separate security within species of livestock or lines of machinery and equipment. Therefore, FSA will take a lien on the entire line of machinery and equipment or group of livestock when machinery and equipment or livestock is used as security.--\*

**[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.**

**[7 CFR 764.255(d)] For OLs made for the purpose of minor real estate repairs or improvements, the Agency must obtain a lien on the real estate repaired or improved in accordance with the requirements of § 764.104, while also ensuring the provisions of § 764.103(b) requiring adequate security are satisfied.**

A junior lien on the real estate repaired or improved with OL funds will be acceptable if all the following are met:

- a first lien on the real estate repaired or improved is not available
- each prior lienholder signs FSA-2319 before loan closing
- the applicant agrees on FSA-2029 to obtain permission from FSA before granting any additional security interest in the real estate
- the OL made for the purpose of minor real estate repairs or improvements is secured by assets having a security value of at least 100 percent of the loan amount.

**Note:** Fixtures are to be secured according to paragraph 92.

## 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 an ML request, all of the following criteria must be met:**

**[7 CFR 764.51(c)(1)] The loan requested for OL purposes 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;**

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

**Notes:** 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.

The loan limits allow a borrower to receive up to \$50,000 in OL Microloan funds and \$50,000 in FO Microloan funds, for a total of \$100,000. However, in no case will the loans exceed the individual loan type amount even if done in combination.

DOL – ML must be less than or equal to \$50,000.

DFO – ML must be less than or equal to \$50,000.

\* \* \*

## 217 Streamlined OL Process

### A Overview

The Streamlined Operating Loan (OL) process provides existing FSA loan borrowers, meeting the requirements established in subparagraph 43 A, the opportunity to apply for direct annual operating and/or term operating loans with an abbreviated application process using FSA-2314. The Streamlined OL application eases the quantity of documentation submitted by an applicant and the underwriting performed by the authorized agency official. This does not mean priority consideration for application processing. Farm Ownership, Down Payment Loans, Conservation Loans, \* \* \* and Youth Loans do not qualify to use the Streamlined OL process.

### B General Requirements for all Streamlined OL Requests

The following are general requirements for all Streamlined OL requests.

- The applicant must not be delinquent with any creditors, including FSA.
- There have been no significant changes to the operation since the last closed direct FSA loan.

**Note:** If the operation consists of the same type of commodities and/or livestock and will not require additional labor or equipment resources beyond what is being financed using the Streamlined OL, the change will not be considered significant. However, if the operation changes commodities, enterprises, practices, management, or requires additional labor or equipment resources beyond what is being financed using the Streamlined OL, 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 if it is supported by the cash flow and the applicant continues to meet the streamlined OL requirements.
- The applicant must not have received primary loan servicing in the previous year.
- Refinancing of any type is prohibited, because refinancing requests are not eligible for a Streamlined OL.
- \*--All other requirements remain the same as any direct OL or direct OL-ML.--\*

**217 Streamlined OL Process (Continued)****C Streamlined OL – Annual Operating Loans**

FSA will consider Streamlined OL requests for annual operating loan purposes that satisfy the criteria provided in subparagraph 217 B in addition to the following.

- The loan request is to cover projected annual operating and family living expenses.
- The applicant has financed the preceding crop year with an FSA direct annual operating \*--loan or direct OL-ML.--\*
- The loan request may be increased beyond the previously closed annual operating loan when supported by a feasible cash flow.
- Capacity increases of up to 20% are still eligible to be processed as a Streamlined OL.

**Note:** Capacity increases can be qualified by, but not limited to, documenting total crop acres, livestock head count, and total production.

**D Streamlined OL – Term Operating Loans**

FSA will consider Streamlined OL requests for certain term operating loan purposes that satisfy the criteria provided in subparagraph 217 B in addition to the following:

- The loan request is limited strictly to the purchase of livestock or equipment
- The applicant has not received a Streamlined OL Term Operating Loan in the last 12 months

**Notes:** The Agency will consider and approve Streamlined OL Annual and Term Operating Loans as part of the same application package when possible.

If there have been no significant changes, the previous FBP will be copied and brought forward as the Streamlined OL plan with minimal changes required, such as commodity price updates. 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 the OL is being processed as a Streamlined OL application request. All pertinent information on the previous credit presentation may be copied and brought forward. In cases where the capacity or loan amount has increased, the Agency will document the changes under the Capacity section of the credit presentation. All other typical loan making documents will be updated or prepared, as necessary.

**218-225 (Reserved)**



**355 Monitoring FSA Approval (Continued)**

\* \* \*

**C FLC Action**

FLC will:

- monitor loan application processing timeframes, DLS, and performance goal accomplishments using Intranet application reports
- **\*--Note:** Offices will access reports from the “Direct Loan Applications” dashboard including the Loan Request Overview tab, Processing Time tab, and Loan Request Details tab through the Dashboards FSA Landing Page at [https://cxodashboard.dl.usda.gov/#/site/FPAC/views/FSALandingPage/LandingPage\\_1?iid=1&redirect=auth](https://cxodashboard.dl.usda.gov/#/site/FPAC/views/FSALandingPage/LandingPage_1?iid=1&redirect=auth). These reports include data on processing times--\* and final disposition of loan applications.
- provide reports on loan application processing timeframes to SED
- provide technical advice and direction for corrective actions on improperly rejected or withdrawn loan applications.

**355 Monitoring FSA Approval (Continued)****D SED Action**

SED will:

- designate DD or other qualified State Office personnel as review officials

\* \* \*

- emphasize the importance of timely loan application processing for all applicants
- ensure that loan application processing data is monitored through DLS or Intranet application reports, so that applications are being processed in a timely and equitable manner in the State
- manage staff resources appropriately to minimize loan application processing delays
- when necessary, initiate or monitor appropriate personnel actions recommended by the designated review official
- review the:
  - reports on loan application processing problems submitted by the designated review officials
  - FLC reports \* \* \* average loan application processing timeframes
- provide DD's with report findings and ensure that DD's monitor County Office \* \* \* activity.

\* \* \*

## 398 Requesting Loan Closing

### A Loan Closing

If the preliminary title opinion reflects that FSA can obtain the required lien, the authorized \*--agency official will:--\*

- order the funds for closing

**Notes:** Use EFT unless circumstances warrant an exception.

See Exhibit 27 for guidance on wire transfer requests.

- send a closing package to the closing agent with the following forms and documents, as needed:
  - FSA-2026
  - FSA-2029
  - assignment of income documents, as appropriate
  - FSA-2350
  - FSA-2351
  - FSA-2352
  - UCC-1, if applicable
  - supervised bank account documents
  - loan check, if funds not provided by EFT
  - RD 3550-28.

**Note:** FSA neither requires nor will provide HUD-1 for loan closings. As provided in 24 CFR 3500.5(b)(1) and (2), loans on property of 25 acres or more and loans for agricultural purposes are exempt from the Real Estate Settlement Procedures Act requirement to provide applicants HUD-1. If closing agents include HUD-1 in the loan closing package, it is their responsibility to complete it, including signature requirements.

\*--A copy of the most recent version of “Your FSA Farm Loan Compass” will be provided physically or electronically to all **new** FLP customers at or before the time of their first loan closing.--\*

If exceptions or newly recorded items arise between the date of the preliminary title opinion and date of closing, the transaction will not be closed until these entries can be cleared or approved by FSA. The closing agent will advise the authorized agency official of the nature of such intervening instruments and the effect on obtaining a valid mortgage of the priority required or the title insurance policy to be issued.

**399 Closing Agent Responsibilities****A Scheduling Loan Closing**

The closing agent should schedule the loan closing within 3 workdays of receiving notification from FSA that the loan should be closed. FO's are considered closed when the mortgage is filed for record.

**B Execution of Documents**

The closing agent must ensure that all closing forms are properly executed and must file and record all documents as required by law.

SED will issue a State supplement, subject to the Regional OGC's approval, providing guidance in correcting errors in recorded security instruments.

**C Documents**

The authorized agency official must:

- document that the loan file contains satisfactory evidence that all applicable requirements have been met or will be met before loan closing
- confirm and document that the applicant has obtained or will obtain any required insurance before loan closing.

\* \* \*

**D Disbursing Loan Funds**

Loan funds will be disbursed according to paragraph 431. See Exhibit 27 for guidance on wire transfer requests.

**E Taxes and Assessments**

The closing agent must ensure that all taxes and assessments are paid.



## 419 Closing Personal Property Secured Loans

### A General

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

**[7 CFR 764.402(c)(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 will 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, subparagraph 20 A.

\* \* \*

**[7 CFR 764.402(c)(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;**

According to subparagraph 418 F, SED will issue a State supplement providing local guidance on perfecting liens, which will include guidance on financing statement

\*--requirements to perfect liens on personal property, including establishing purchase money security interests when FSA finances specific pieces of machinery and equipment. Subject to regional OGC guidance, financing statements should include blanket lien filing language that broadly references personal property. The blanket lien filing may be established, or amended, to include more precise language, as needed, to perfect a purchase money security interest. Alternatively, a separate lien filing may be used to establish a purchase money security interest.--\*

**419 Closing Personal Property 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 the personal property that will serve as security. The authorized agency official will identify security specifically as follows:

- 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.

**Note:** Blanket security descriptions that perfect a lien on all equipment and livestock are not authorized to be used in the FSA-2028. Security items must be specifically identified \*--as described in this subparagraph. While blanket statements may be standard for--\* financing statement filings, subject to OGC regional guidance, they cannot be used in the FSA-2028. Updates to FSA-2028 will occasionally be required and should be signed by all individuals required to perfect the required Agency security interest.

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)**

## Reports, Forms, Abbreviations, and Redelegations of Authority

### Reports

None.

### 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-2003	Three-Year Production History		42
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-2028	Security Agreement		91, 416, 419, 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
FSA-2132	Real Estate Evaluation		95

## **Interim Guidance for Documentary Evidence of Status as Qualified Alien (Continued)**

### **G Cuban/Haitian Entrant**

- \*BCIS Form I-551 (commonly known as a “green card”) with code “CU6”, “CU7”, or “CH6”
- Unexpired temporary BCIS I-551 stamp in foreign passport or on \*BCIS Form I-94 with code “CU6” or “CU7”
- BCIS Form I-94 with stamp showing parole as “Cuba/Haitian Entrant” under Section 212(d)(5) of INA.

### **H Alien Who Has Been Battered or Subjected to Extreme Cruelty**

Guidance as to the requirements that must be met for an alien to fall within this category of qualified alien is set forth in DOJ’s Notice of Interim Guidance. Note that Title IV, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, contains provisions requiring that, upon the effective date of the new affidavit of support (required under section 213A of the Act), when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person’s spouse. Certain exceptions are made for indigent qualified aliens and for qualified aliens who (or whose children) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent’s family and for qualified alien children whose parents have been subjected to such abuse.

### **I Expired or Absent Documentation**

If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local BCIS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file BCIS Form G-845 and Supplement, along with the alien registration number and a copy of any expired BCIS document presented, with the local BCIS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from BCIS pertains to the applicant whose identity you have verified.

### **J Receipt for Replacement Document**

If an applicant presents a receipt indicating that he or she has applied to BCIS for a replacement document for one of the documents identified above, file BCIS Form G-845 and Supplement along with a copy of the receipt with the local BCIS office to verify status. Upon return receipt of information from BCIS, confirm that it pertains to the applicant whose identity you have verified. You should ask to see the replacement document at a later date.

**Interim Guidance for Documentary Evidence of Status as Qualified Alien (Continued)**

**K Applicants With Disabilities and Nondiscrimination**

If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (e.g. mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of

\*--race/ethnicity, national origin, sex, religion, age or disability.--\*

**Interim Guidance for Documentary Evidence of Status as a U.S. Noncitizen National (Continued)****E All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within 1 of the listed categories but is unable to present the listed documentation:**

- (1) If the applicant is in U.S., refer him or her to the local BCIS office for determination of U.S. citizenship.
- (2) If the applicant is outside U.S., refer him or her to the State Department for a U.S. citizenship determination.
- (3) **Adoption of Foreign-Born Child by U.S. Citizen.** If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the listed criteria, obtain other evidence of U.S. citizenship. Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the applicant to the local BCIS district office for a determination of U.S. citizenship if the applicant provides no evidence of U.S. citizenship.
- (4) **U.S. Citizenship By Marriage.** A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922. Ask for evidence of U.S. citizenship of the husband, and evidence showing the marriage occurred before September 22, 1922. If the husband was an alien at the time of the marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in U.S. at that time and continued to reside in U.S.
- (5) **Applicants With Disabilities and Nondiscrimination.** If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or nationality (e.g., mental retardation, amnesia, or other cognitive, mental or physical impairment), make every effort to assist the individual to obtain the required evidence. In addition, do  
\*--not discriminate against applicants on the basis of race/ethnicity, national origin, sex,--\*  
religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.





**Preauthorized Debit (PAD)**

PAD payments are customer authorized transactions that allow the Rural Development Business Center to electronically collect loan payments from a customer's account at a FI. FSA FLP has discontinued the establishment of new PAD agreements for direct loans.

**A Rural Development Business Center Actions**

RDBC will continue to service existing PAD agreements unless changes are required. Modifications to agreements, including changes to banking information or returns for insufficient funds, will trigger an automatic termination of the PAD agreement. Terminated PAD agreements cannot be reinstated.

**B County Office Actions**

A borrower may voluntarily cancel PAD by submitting a written request to the County Office. Within 5 workdays of receipt of borrower's request to cancel PAD, County Office should notify the Collections Branch to terminate PAD by a detailed letter. A copy of the borrower's request and County Office's letter will be kept in the case file.--\*

**Preauthorized Debit (PAD) (Continued)**

**\*--C PAD Rejection for Non-Payment**

When the FI cannot post the PAD transaction to the designated borrower's account, the FI may reject the transaction.

When a PAD transaction is rejected, the Collections Branch will process the return and a 2C transaction will reverse the payment from the borrowers' account. The Collections Branch will contact the County Office to notify them the PAD agreement has been canceled. The County Office will notify the borrower of the canceled PAD agreement and alternative payment options.--\*

**Preauthorized Debit (PAD) (Continued)**

**\*--D Alternative Payment Options**

County Office staff are encouraged to offer suggestions for alternative methods of payment to affected producers.

- The Pay My Loan (PML) portal provides customers with the option to make their payment online. Recurring payments are not currently available in PML.
- Most banking institutions offer a bill pay service which could be set up to send payments to the FSA without manual user intervention on a recurring basis.

Physical and EFT payments continue to be accepted at any County Office location.--\*

\* \* \*



## **Instructions for Wire Transfer Requests for FLP Activities**

\*--DCIA requires that most federal payments be made through EFT. Wire requests are reserved for emergency situations and are cleared by the National Office before submitting to RDBCSO for processing.

All requests for wire transfers must be routed through the State Office for clearance. State Office staff will review each request to ensure that all required information is present and that the request meets the criteria for requesting an emergency wire as outlined below. Once the State Office has cleared the request, they will email it with a brief recommendation to Heather Laubenthal, LMD, at [heather.laubenthal@usda.gov](mailto:heather.laubenthal@usda.gov).

The following guidance for wire transfer requests for loan closing activities must be followed:

- Requests must be submitted to LMD at least 48 hours prior to loan closings to ensure funds are received timely.
- There must be an active (i.e., current fiscal year) obligation request for the wire transfer action.
- If a loan is canceled prior to disbursing a wire transfer; notify LMD immediately to ensure loan funds are returned to the agency.

### **Emergency Request Criteria**

Circumstances outside the control of the applicant or agency that would result in loss of property or contracts are considered emergency situations. Insufficient prior planning or inconvenience does not meet the requirements for an emergency wire transfer. Wire transfer requests not meeting the emergency criteria will not be approved.--\*

### **Documentation Required for Wire Transfer Requests**

- **Wire transfer instructions:** The agency official will obtain the wire transfer information for the recipient institution and submit with the request package. Submit on recipient's institution official letterhead with the following information:
  - contact information for official at recipient institution, if applicable
  - recipient institution's EIN or TIN number.
- **Written wire request instructions:** Provide the following information in a Word document or email:
  - borrower's name and/or entity name noted on closing documents
  - full case number
  - loan number and amount.

\* \* \*

