UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Direct Loan Making 3-FLP (Revision 2)	**Amendment 58**

Approved by: Deputy Administrator, Farm Loan Programs

Amendment Transmittal

A Reasons for Amendment

Subparagraph 91 C has been amended to correct the CFR reference by changing the term "primary security" to "adequate security".

Subparagraph 112 C has been amended to remove outdated CFR references to crop insurance waivers and provide updated guidance regarding crop insurance requirements.

Subparagraph 113 C has been amended to remove the reference to FSA-570.

Subparagraph 153 B has been amended to clarify the down payment source can be a documented gift.

Subparagraph 373.5 D has been amended to clarify closing agent liability insurance requirements.

Subparagraph 432 A has been amended to provide guidance for changing the interest rate on Down Payment loans when the interest rate is lower at the time of loan closing than loan approval.

Exhibit 6 has been amended to clarify FSA-2040 is completed according to 4-FLP, subparagraph 20 A.

Page Control Chart		
TC	**Text**	**Exhibit**
	3-1, 3-2 3-7, 3-8 5-1, 5-2 6-1 through 6-6 7-43, 7-44 16-9, 16-10 16-97, 16-98	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**.

Applicants may choose to apply using the FSA OLA.

An agency official will:

- not refuse to provide a requested application to any person

- *--not discourage the prospective applicant from applying 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.

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 to 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, upon Agency request, any leases, contracts, options, and other agreements related to the operation;**

An application for the purchase of real estate will not be considered complete without a signed real estate purchase contract or similar document reflecting the transaction is agreed to by all parties. This document does not need to contain a full legal description of the property to be purchased for the application to be considered complete. If a full legal description of the property to be purchased is not provided as part of the complete application, the approval official will discuss the need to obtain a full legal description with the applicant, and formally require the receipt of the legal description in the Loan Closing and Document Requirements section of FBP and FSA-2313. FSA will also require as a loan closing and document requirement a full legal description for property not being purchased, but which will be required as security for a loan. Applications to purchase a portion of a larger parcel will be considered complete if the Agency is provided a description of the portion to be purchased (for example, a map with the parcel to be purchased adequately marked). Likewise, the legal description of a primary residence to be excluded as security per 7 CFR 764.106(d) may be informally identified before loan approval and be required as a loan closing requirement.

Note: A full legal description will be needed to complete a real estate appraisal to ensure the appropriate property is appraised. While the legal description is not needed for a complete application, an applicant must provide the information before an appraisal is ordered.**--***

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 *--adequate security.

Applicable additional security for a loan where real estate serves as adequate 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.

Part 6 Insurance

111 Overview

A Adequate Insurance

[7 CFR 764.108] The applicant must obtain and maintain insurance equal to the lesser of the value of the security at the time of loan closing or the principal of all FLP and non-FLP loans secured by the property, subject to the following:

*--**[7 CFR 764.108(a)] All security, except growing crops, must be covered by hazard--* insurance if it is readily available (sold by insurance agents in the applicant's normal trade area) and insurance premiums do not exceed the benefit. The Agency must be listed as loss payee for the insurance indemnity payment or as a beneficiary of the mortgagee loss payable clause.**

The hazard insurance obtained by the applicant, at a minimum, should be the standard insurance policy for the locality in which the property is located.

Note: The requirement to obtain hazard insurance does not apply to non-essential assets and additional basic security. However, crop insurance is required whenever crops are taken as either primary or additional security, as provided in subparagraph 112 C.

B Qualifications of Insurance Agents and Companies

The applicant is responsible for selecting the agent for hazard insurance coverage. The insurance agent and the company supplying the policy should be licensed or otherwise authorized by law to transact the business in the State or other jurisdiction where the property is located. State insurance regulators can provide information about the licensing status of companies.

If the required insurance is not available at comparable rates from an insurance company licensed or otherwise authorized to do business, the authorized agency official may accept insurance from another company if:

- OGC advises that policies issued by the company will be enforceable in the State
- SED determines that the company is reputable and financially sound.

112 Type of Insurance Required

A Hazard Insurance

Subparagraphs A through C contain general insurance requirements.

Hazard insurance is required if the security is the applicant's dwelling, other buildings, and basic security equipment or livestock that are necessary for the farm operation or that provide income to ensure the orderly repayment of the loan.

The authorized agency official may waive the insurance requirement if 1 or more of the following conditions apply:

- cost of insurance is very high in comparison to the value of the property
- property is subject to very slight hazards
- building has a depreciated value of $2,500 or less.

The minimum amount of coverage for buildings, improvements, and personal property will be equal to the lesser of the value of security or the cumulative principal owed on all FLP and non-FLP loans at the time of loan closing. Waivers need to be justified and documented in the credit presentation of the Farm Business Plan.

B Flood Insurance

[7 CFR 764.108(b)] Real estate security located in flood or mudslide prone areas must be covered by flood or mudslide insurance. The Agency must be listed as a beneficiary of the mortgagee loss payable clause.

The contents of a building must be insured separately from the building itself.

C Crop Insurance

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

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

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

The specific insurance plan and amount of coverage is at the applicant's discretion if the plan meets the Catastrophic Risk Protection level for each crop. Insurance products that are based on farm revenue may be considered adequate.

112 Type of Insurance Required (Continued)

C Crop Insurance (Continued)

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

***--**Applicants must obtain at least the catastrophic risk protection level of crop insurance coverage, if available, for each crop of economic significance, as defined by 7 CFR 400.651. The reason that crop insurance was not obtained must be documented in FBP and must be for a reason beyond the applicant's control.

Example: The loan or farm was not obtained until after the signup period for crop insurance expired.

Note: 7 CFR 764.108(d) currently indicates that a borrower may opt to execute a waiver of emergency crop loss assistance in lieu of obtaining crop insurance. However, the agency, in consultation with OGC, has determined that provision does not comply with Section 371 of the CONACT (7 U.S.C. 2008f) which simply requires FLP borrowers to obtain crop insurance, if available, as a condition of receiving a FLP direct or guaranteed loan. 7 CFR 764.108(d) will be updated to reflect this, but effective immediately, FSA no longer allows for a waiver of the requirement to obtain crop insurance.**--***

D NAP

The NAP program is an important tool in managing potential risk for individuals who raise crops not covered by standard crop insurance. The authorized agency official will discuss the NAP program with all applicants who plan to raise crops which are eligible for NAP coverage. FSA should determine if using NAP coverage is cost effective for the operation and if it will likely benefit both the applicant and the Agency as part of the overall farm plan. If NAP coverage is likely to provide benefits to the operation, applicants will be encouraged to participate in the NAP program, but under no circumstances can it be made mandatory.**--***

113 Documentation

A General

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

B Documentation of Hazard and Flood Insurance

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

- an insurance policy showing the effective date

- an endorsement to a policy showing the effective date

- a written binder showing the effective date

- a "declaration" page furnished by the insurance company, clearly stating that it is an original declaration page, and showing the effective date

- a receipt for insurance premiums, if the receipt shows the period covered.

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

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

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

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

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

--**The authorized agency official will not rely upon a builder's risk policy issued to the**-- contractor who is constructing the building.

113 Documentation (Continued)

C Documentation of Crop Insurance

An applicant can demonstrate meeting the crop insurance requirement by evidence of 1 of the following, as applicable:

- CAT
- crop insurance policy.

*** * ***

114 Indemnity

A General

The insurance provider must complete FSA-2320, attach to the insurance policy, endorsement, or binder, and provide to the authorized agency official before closing. The mandatory mortgage clause in FSA-2320 provides that loss or damage under the policy ***--**will be payable to the FSA as mortgagee.**--***

B Using Mortgage Clauses and FSA-2320's

If the standard mortgage clause in FSA-2320 has been incorporated into the language and is printed in the terms of the policy adopted for use in a State, a separate FSA-2320 is not required.

If using a mortgage clause other than the standard mortgage clause on FSA-2320 has been made mandatory by State law or insurance regulation, SED should issue a State supplement about using that mortgage clause.

115-130 (Reserved)

153 Limitations

A General

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

[7 CFR 764.203(a)(1)] Comply with the general limitations established at § 764.102 (paragraph 74)**.**

B Minimum Down Payment

The applicant must:

[7 CFR 764.203(a)(2)] Provide a minimum down payment of 5 percent of the purchase price of the farm.

--**The applicant must provide the minimum down payment in cash, documentable gifts, or other sources of non-borrowed funds.**--

C Maximum FSA Loan Amount

[7 CFR 764.203(b)] Down payment loans will not exceed 45 percent of the lesser of:

[7 CFR 764.203(b)(1)] The purchase price,
[7 CFR 764.203(b)(2)] The appraised value of the farm to be acquired, or
[7 CFR 764.203(b)(3)] $667,000; subject to the direct FO dollar limit specified in 7 CFR 761.8(a)(1)(i).

These CFR limitations are applicable as limitations toward each Down Payment loan.

Multiple Down Payment loans can be obtained simultaneously if the purchases have separate purchase agreements for legally separate parcels.

Down Payment loans can be combined with FSA joint financing loans, subject to maximum loan limits in 1-FLP, paragraph 29. When combined with another direct FO loan, total FSA financing cannot exceed 45 percent of the lesser of the purchase price or the appraised value of the farm to be acquired.

Note: The balance of the purchase price not covered by FSA direct loan funds and applicant down payment may be financed by another lender, which can include a commercial lender, State program, cooperative lender, seller of the farm, or private lender.

153 Limitations (Continued)

C Maximum FSA Loan Amount (Continued)

Example 1: An applicant who is a beginning farmer, socially disadvantaged farmer, or veteran farmer is purchasing a 40-acre farm for $1,000,000. The property also appraises for $1,000,000. FSA could structure financing as follows:

- a minimum of $50,000 down payment in cash
- at least $500,000 financed by another lender
- a maximum of $300,150 as a Down Payment FO
- a maximum of $149,850 as a joint financing FO.

Example 2: The same borrower in Example 1 continues to be a beginning farmer, socially disadvantaged farmer, or veteran farmer. The borrower still owes the debts incurred in the above Example 1 and applies to FSA for the purchase of a ***--**separate 80-acre property. Subject to the $600,000 direct FO loan limit, FSA could consider the following options for the 80-acre purchase:

- a subsequent Down Payment FO for the maximum of 45 percent of the lesser of the purchase price or the appraised value of the 80 acres

- a combination of a subsequent Down Payment FO and joint financing FO if total FSA financing for the 80 acres does not exceed 45 percent of the purchase price or the appraised value.

[7 CFR 764.203(c)] Down payment loans made as ML for FO purposes may not exceed $50,000.

The following is an example of a DFO-ML down payment loan.

Example:	Purchase Price	$325,000
	Cash Down Payment	$ 16,250
	Down Payment DFO-ML	$ 50,000**--***
	Other Financing	$258,750

* * *

D Maximum Combined Loans

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

373.5 Approving Closing Agents (Continued)

D Liability Insurance

A closing agent must:

[7 CFR 764.402(d)(3)(iii)] Maintain liability insurance;

All closing agents must protect FSA against damage, loss, fraud, theft, or injury as a result of negligence by the closing agent, approved attorney, or title company *** * ***.

- ***--**Title agents or attorneys providing a title insurance policy and either a closing protection letter or certification of a fidelity bond do not require additional liability insurance.
- Attorneys providing a title opinion will certify their level of professional liability insurance coverage on FSA-2341. The minimum coverage required, per-occurrence, is equal to the loan amount. The deductible cannot exceed $25,000.

The following table provides acceptable coverage options and corresponding form requirements.

Acceptable Coverage Options			
Title Clearance	**What Closing Agent Uses to Protect FSA**	**Closing Agent**	**Form Used**
Title Insurance	Title Insurance + Closing Protection Letter	Title Agent	FSA-2342
		Attorney	FSA-2341
	Title Insurance + Fidelity Bond	Title Agent	FSA-2342
		Attorney	FSA-2341
Title Opinion	Fidelity Bond + Professional Liability Insurance	Attorney	FSA-2341

Closing protection letters must include certification of the company's ability to cover potential losses. A standard form from the American Land Title Association is often used, however it may also be known regionally as an "Insured Closing Letter," "Indemnification Agreement," "Insured Closing Service Agreement," or "Statement of Settlement Service Responsibilities".**--***

* * *

E Fidelity Bond

The closing agent must:

[7 CFR 764.402(d)(3)(iv)] Have a fidelity bond that covers all employees with access to loan funds;

FSA-2341 and FSA-2342 provide certification that the closing agent meets the fidelity bond requirement. SED will issue a State supplement based on the fidelity bond State practice.

Note: When covered by a protection letter, closing agents will not be required to obtain liability insurance or a fidelity bond.

373.5 Approving Closing Agents (Continued)

F Current Knowledge of State Requirements

The closing agent must:

[7 CFR 764.402(d)(3)(v)] Have current knowledge of the requirements of State law in connection with the loan closing and title clearance;

Closing agents are responsible for having current knowledge of the requirements of State law in connection with loan closing and title clearance and should advise FSA of any changes in State law that necessitate changes in FSA's State mortgage forms and State supplements.

G Conflict of Interest

The closing agent must:

[7 CFR 764.402(d)(3)(vi)] Not represent both the buyer and seller in the transaction;

***--[7 CFR 764.402(d)(3)(vii)] Not be a relative or business associate with the applicant; and**

A closing agent who has, or whose spouse, child, or business associate has, a financial interest in the real estate that will secure the FSA debt will not be involved in the title**--*** clearance or loan closing process.

Financial interest includes having an equity, creditor, or debtor interest in any corporation, trust, or partnership with a financial interest in the real estate that will secure the FSA debt.

H Prompt Services

The closing agent must:

[7 CFR 764.402(d)(3)(viii)] Act promptly to provide required services.

A closing agent's delay in providing services without justification may be a basis for not approving the closing agent in future cases.

I Declining the Closing Agent

If the authorized agency official cannot approve the closing agent, the authorized agency official, within 5 workdays from receiving FSA-2341 or FSA-2342, will send the agent a letter, with a copy to the applicant, explaining the reasons for disapproval. FSA does not provide appeal rights to the agent.

The applicant will be provided a new FSA-2340 to select a different closing agent. The applicant may identify the same agent if that agent can meet the requirements that they had previously not met.**--***

Section 4 Actions After Loan Closing

431 Disbursing Funds

A When and How Loan Funds are Disbursed

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

--Note:** FSA has added the applicant as an approved recipient of loan proceeds through EFT or Treasury checks for loan disbursements. This practice may be implemented immediately and will be included in an upcoming CFR update. In rare instances where a wire transfer is required, officials will follow Exhibit 27.**--

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

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

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

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

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

B Handling Loan Funds

If loan funds are received and the loan cannot be closed within 20 workdays from the date the funds were received, the authorized agency official will return or cancel the funds according to 64-FI. The authorized agency official will document the new closing date to which the applicant has agreed in FBP.

432 Review Closing Documents

A General

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

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

--**For Down Payment loans, when the interest rate at loan closing is less than the rate at approval and the loan closes in ADPS at the incorrect interest rate, the County Office must submit an FSA-2446 to RDBCSO to have the lower rate manually applied to the loan.**--

B DLS

Once the loan is closed, the authorized agency official will enter the final information about the loan making process into DLS, including:

- borrower training information
- loan closing date
- loan installment information.

Within 10 calendar days of loan closing, the DLS Loan Servicing Dashboard will be updated to establish the following workflows:

- ***--**Operational Review
- Farm Visits**--***
- Security Instruments including financing statement and/or mortgages

See 1-FLP for general information and detailed instructions on DLS and the DLS Users Guide.

C Loan Classification

The authorized agency official must classify a new loan by completing a post-closing loan classification, including CL's. Within 10 calendar days of loan closing in DLS, the Operational Review workflow in DLS, must be input in to the DLS dashboard.

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-850	Environmental Screening Worksheet		45
FSA-2001	Request for Direct Loan Assistance		Text, 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

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		Text, 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. Ex. 6
FSA-2341	Certification of Attorney		372, 373.5, 397
FSA-2342	Certification of Title Agent		372, 373.5, 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		91-93, 205, 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. FSA-2040 will be prepared according to 4-FLP, subparagraph 20 A. 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.