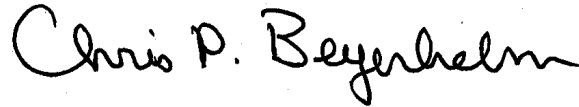


UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

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



**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraphs 45 B, 91 D, 352 B, 352 D, 353 C, and 472 C have been amended to remove the requirement that FSA-2305, FSA-2306, and FSA-2313 be sent by certified mail.

Subparagraph 91 A and has been amended to correct the reference for EM security.

Exhibit 24 has been amended to remove the requirement that it be sent certified mail.

**Note:** The requirement that the applicant sign FSA-2305, FSA-2306, FSA-2313 and Exhibit 24 when hand delivered has been eliminated..

| <b>Page Control Chart</b> |   |                |
|---------------------------|---|----------------|
| <b>TC</b>                 | <b>Text</b>   | <b>Exhibit</b> |
|                           | 3-15 through 3-18<br>5-1, 5-2<br>15-3 through 15-10<br>18-3, 18-4 | 24, page 1     |



## 45 Processing Loan Applications (Continued)

**B Notification of Incomplete Application (Continued)**

**[7 CFR 764.52(a)] Within 10 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 20 calendar days of the date of this notice.**

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

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

**Exception:** An EM application will not be withdrawn if the information required under 7 CFR 764.51(b)(14) (see subparagraph 42 A) is the only information that has not been received.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

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

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

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

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

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

## 45 Processing Loan Applications (Continued)

**B Notification of Incomplete Application (Continued)**

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

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

\* \* \*

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

**Note:** A copy of FSA-2305 must be sent to DD at the same time it is sent to the applicant.

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

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

\* \* \*

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

## 45 Processing Loan Applications (Continued)

**C Processing of Complete Application**

**[7 CFR 764.53] Upon receiving a complete loan application, the Agency will:**

**[7 CFR 764.53(a)] Consider the loan application in the order received, based on the date the application was determined to be complete; and**

**[7 CFR 764.53(b)] Provide written notice to the applicant that the application is complete.**

The authorized agency official must notify the applicant in writing within 10 calendar days after receiving the complete application using FSA-2307.

**Note:** Insert the date the application was determined to be complete on either FSA-2001 or FSA-2301.

**[7 CFR 764.53(d)] Except for CL requests, if based on the Agency's review of the application, it appears the applicant's credit needs could be met through the guaranteed loan program, the Agency will assist the applicant in securing guaranteed loan assistance**

**\*--under the market placement program as specified in 762.110(h) of this chapter (2-FLP, paragraph 72).--\***

**D Applicant Withdraws Application**

The applicant may request that a loan application be withdrawn at any time during the loanmaking process.

If the applicant makes the request:

- in writing, the authorized agency official will send FSA-2306 and withdraw the application
- by phone, the authorized agency official will send FSA-2306 to the applicant that, per their request, the loan application will be withdrawn unless the applicant contacts the \*--County Office within 10 calendar days of the date of FSA-2306.--\*

**Note:** The authorized agency official shall maintain withdrawn applications according to 25-AS.

**E Reactivating Withdrawn Application**

A withdrawn application may not be reactivated. The applicant must file a new application.

**Note:** Any information in the withdrawn file that is still current may be included with the new application. Generally, information less than 90 calendar days old, unless noted otherwise, is considered current.

**45 Processing Loan Applications (Continued)**

**F Loan Processing When Civil Rights Complaint Has Been Filed**

The filing of a civil rights complaint does not stop loan processing activity. If an application for assistance has been filed, that request must be processed according to FSA instructions.

Because failure to advise an applicant of their ineligibility may be considered an adverse action in itself, the authorized agency official should timely process all applications, in those instances where a discrimination complaint is filed, and notify the applicant of the decision. The authorized agency official must fully explain to the applicant the basis for the unfavorable eligibility or feasibility decision according to paragraph 356.

**G Priority Consideration for Prevailing Claimants**

See current FLP notice for guidance on priority consideration.

**46-60 (Reserved)**

**Part 5 Loan Security****91 Security Requirements****A General**

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

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

- paragraph 135 for FO security
- paragraph 154 for downpayment 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 H of this part (Part 10). If the applicant's assets do not provide adequate security, the Agency may accept:**

**(1) A pledge of security from a third party; or**

In cases where nonapplicants will pledge the full value of chattel 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 chattel security pledged by multiple owners.

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

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

## 91 Security Requirements (Continued)

**C Additional Security**

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

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

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

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

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

**D Choice of Security**

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

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

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



**351 Reviewing and Evaluating Applications (Continued)**

**E Environmental**

The applicant has complied with or has plans in place for the proposed operation, which cover all the environmental requirements of 1-EQ and RD Instruction 1940-G and is not in violation of the Sodbuster, Swampbuster, and Clean Water Acts.

**F Loan Narrative**

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

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

## 352 Loan Approval

### A Assessment

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

### B Establishing Loan Approval Conditions

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

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

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

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

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

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

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

## 352 Loan Approval (Continued)

**C Approval**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**352 Loan Approval (Continued)****D Actions After Loan Approval**

After the loan application is approved, the authorized agency official will:

- input data into DLS
- notify applicant of approval and any conditions using FSA-2313  
\* \* \*
- prepare for loan closing.

**[7 CFR 764.402(e)(1)] Loan funds will be made available to the applicant within \*--15 “business” days of loan approval, subject to the availability of funding.--\***

Funds must be provided to the applicant within 15 workdays of when they become available unless the applicant agrees to a longer period.

Loan applications will be processed through approval subject to the availability of funds. FSA-2313 will be executed at the time of approval.

**E Failure to Meet or Accept Loan Approval Conditions**

If an applicant informs the authorized agency official that the loan approval conditions established under subparagraph B are unacceptable or cannot be met:

- the authorized agency official will meet with the applicant to discuss the condition or conditions which are unacceptable or cannot be met
- explore alternatives which are different from the condition in question but would result in compliance with the program requirements the condition addresses
- the application will be withdrawn, and the applicant notified with appropriate review rights for nonappealable decisions according to 1-APP, if an agreement cannot be reached and the applicant cannot or will not meet the conditions in question.

**Note:** The loan obligation shall not be cancelled until the withdrawal decision is administratively final, as defined in 1-APP.

**353 Funding Approved Loans****A Lack of Program Funds**

**[7 CFR 764.53(e)] In the absence of funds for a direct loan, the Agency will keep an approved loan application on file until funding is available. At least annually, the Agency will contact the applicant to determine if the Agency should retain the application or if the applicant wants the application withdrawn.**

The authorized agency official will notify the applicant in writing that funds are not currently available and place the approved loan on a waiting list based on the date the loan application was received.

The authorized agency official will contact the approved loan applicant at least once a year to determine whether the applicant is still interested in receiving a FSA loan. If the applicant wants the loan application to remain active, the applicant must provide FSA with a written request within 30 calendar days and must also provide updated financial information. If the applicant does not want the loan application to remain active, it will be withdrawn.

**B Preferences When There is Limited Funding**

**[7 CFR 764.54(a)] When there is a shortage of loan funds, approved applications will be funded in the order of the date the application was received, whether or not complete.**

**[7 CFR 764.54(b)] If two or more applications were received on the same date, the Agency will give preference to:**

**(1) First, an applicant who is a veteran of any war;**

See Exhibit 2 for the definition of veteran.

**Note:** Period of war means that it was officially declared a war, with a defined beginning date, by Congress and was officially ended, with a prescribed date, by either Presidential proclamation or concurrent resolution of the Congress.

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

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

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

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

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

**C When Loan Funds Become Available**

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

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

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

**354 Changes After Loan Approval****A Changes in Loan Amount**

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

**B Cancellation of Funds**

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

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

**C Cancellation of Loan**

When a loan is canceled:

- the authorized agency official notifies the State Office and FSC, FLOO of loan cancellation by using FSA-2072
- the authorized agency official notifies the designated closing agent that the loan has been canceled

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

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



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

**B Determining Whether to Waive Training Requirements**

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

Use FSA-2370 to request a waiver.

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

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

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

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

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

The authorized agency official will:

- determine whether to waive financial management training based on the applicant's:
  - FSA-2002 and FSA-2302
  - practical experience
  - demonstrated ability to keep records
  - education and training
- consider the complexity of the applicant's operation
- determine whether to waive the production training requirement based on a review of FSA-2003 and FSA-2302.

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

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

**B Determining Whether to Waive Training Requirements (Continued)**

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

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

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

**C Notifying Applicant of the Training Decision**

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

\* \* \*

\*--If training is required, on FSA-2313 include the names of approved vendors in the applicant's area.--\*

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

**D Production Training Requirements**

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

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

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

## Notice of Funding Availability

**\*--Note:** Exhibit 24 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “**FFAS Employee Forms/Publications Site**”, “**Find Current Forms Using Our Form Number Search**”, in “Form Number” field, ENTER “**3-FLP Exhibit 24**”, and CLICK “**Submit**”.

3-FLP, Exhibit 24

(Use Agency Letterhead format with local return address.)

### NOTICE OF FUNDING AVAILABILITY

[Borrower Name/Address]  
[Borrower Address]  
[City, State, Zip Code]

<Applicant's Name>

This notice is to inform you that funds may now be available for the Farm Service Agency (FSA) to resume processing your approved loan(s). As stated on FSA-2313, “Notification of Loan Approval and Borrower Responsibilities”, dated \_\_\_\_\_, FSA may request updated financial and eligibility information.

Please contact this office to schedule an appointment, so that the processing of your approved loan may continue. If you do not contact this office within 15 business days from the date of this notice your application and loan approval will be withdrawn. No review, mediation, or appeal rights will be provided.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant’s income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

For more information or if you have any questions, please contact [this office or the specific office name] at [County Office Address] or telephone [phone number].

Sincerely,

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