

For: FSA Offices

Approved Methods to Pay Uniform Commercial Code (UCC) Fees

Approved by: Deputy Administrator, Management



1 Overview

A Background

Revisions to Article 9 of UCC have altered how State governments require lenders to conduct UCC lien searches and file UCC documents. FSA/CCC is an active lender in the agricultural community and must comply with each State's implementation of Article 9 to protect the financial interest of the Federal Government. The most sweeping changes in the revised Article 9 relate to searching and filing UCC documents. Revised Article 9 eliminated the need for signatures and allowed for signature authentication, which facilitates electronic searching and filing. Each State has adopted some type of central filing system, which is administered by its Secretary of State (SOS).

In late 2002, each State Office completed a survey that was developed and analyzed by a team of representatives from farm programs (FP), FLP, FMD, and DAFO. This survey was designed to identify obstacles preventing FSA/CCC from using the electronic capabilities offered by many SOS's. The survey gave the analysis team valuable insight into each SOS's unique procedures for requesting and paying for UCC filings and searches. Based on this information, the team recommended the process discussed in this notice which was approved by the Administrator.

B Purpose

This notice informs State and County Offices of methods and procedures that may be implemented to take advantage of available UCC filing and search capabilities.

C Contact

State Offices with questions about this notice should contact Vivian Lu by:

- e-mail at Vivian_Lu@wdc.usda.gov
- telephone at 703-305-1311.

Disposal Date

August 1, 2004

Distribution

FSA Offices; State Offices relay to County Offices

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2 Authorized Methods for Paying UCC Fees

A Selecting Method and Procedures

SED's, in consultation with the Administrative Officer, Farm Loan Chief, and the applicable State Office FP specialist, may choose 1 of the methods and procedures in subparagraph B for implementation in all offices within their jurisdiction. SED's shall consider the following when making a selection:

- costs to FSA/CCC, as well as loan applicants and borrowers, when applicable
- timeliness in recording lien instruments and obtaining searches.

B Methods and Procedures Available

In addition to submitting filing and search requests by mail or in person, the following methods and procedures may be used, if available:

- prepaid account with SOS where SOS draws down the prepaid amount to pay for UCC transactions requested and authorized according to paragraph 3
- monthly invoicing by SOS as authorized by subparagraph 4 where transactions are paid after the service is provided
- contract with a third-party processor as authorized by subparagraph 5 where payment is made to the contractor after transactions are completed.

Notes: These processes may be centralized in the State Office or may be decentralized into each County Office depending on what SOS will allow and what is most cost efficient for the State Office.

Procedures requiring unique installation of software that will reside on State or County Office computer systems shall not be installed without prior approval from the Interoperability Lab. The website, <http://servicecenter.kcc.usda.gov>, provides software certified for installation on XP workstations under the Common Computing Environment, and guidance for submitting applications for certification testing.

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3 Establishing and Managing Prepaid Accounts

A Overview of Process

The most common payment option offered by States with electronic capabilities is establishing a prepaid account with SOS. Using this account requires that States obtain approval by Controller, CCC, to use CCC funds to establish a prepaid account with SOS. An overview of the process for using and replenishing the prepaid account is in the following table.

Step	Action
1	The FSA office requests a service from SOS.
2	SOS draws the search and filing charges from the prepaid account as the services are completed.
3	SOS provides a summary of charges to the State at least monthly.
4	The State or local FSA office has a reconciliation process in place similar to the process used to obtain credit reports to ensure that all charges to the account are appropriate and identify which funding source should be charged.
5	Based on the reconciliation, the State or local FSA office periodically replenishes the account from the appropriate funding source. This ensures that the prepaid account is timely replenished and that the appropriate funding source is being used to pay for the various loan program charges.

B Requesting Approval to Establish Prepaid Accounts

A prepaid account can be established using CCC funds to pay for fees charged by SOS for both FP and FLP activities only after authorization is received from Controller, CCC. SED shall request approval of funding to establish a prepaid account by submitting a completed CCC-41. The amount authorized for the prepaid accounts should be equal to 2 months of anticipated costs. At a minimum, SED should consider the following information when determining the level of funding needed for prepaid accounts:

- average number of filings and searches per month by program, that is, FLP, apple loan, marketing assistance loan, Farm Storage Facility Loan, Sugar Storage Facility Loan, and other programs, as authorized
- average cost of filings and searches per month
- costs associated with establishing prepaid accounts and related users.

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3 Establishing and Managing Prepaid Accounts (Continued)

B Requesting Approval to Establish Prepaid Accounts (Continued)

Funding will be approved at the State level however, the State can determine the number of accounts to be established according to the following guidelines:

- separate accounts should **not** be established for FP and FLP
- there are 2 approaches to opening prepaid accounts within a State:
 - 1 prepaid account per State
 - multiple prepaid accounts within the State with:
 - 1 prepaid account at the State Office and selected County Offices that conduct business directly with SOS
 - each County Office with its own prepaid account, as requested by SOS.

C Handling Existing Prepaid Accounts

SED shall:

- request approval for any prepaid account established before this notice was issued, according to subparagraph B
- close or reduce any accounts exceeding the amount authorized by Controller, CCC.

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3 Establishing and Managing Prepaid Accounts (Continued)

D Submitting Requests to Controller, CCC

SED's shall:

- determine the funding amount that should be established in the State

Note: The amount authorized for the prepaid account should be equal to 2 months of anticipated costs for the State.

- complete CCC-41 (Exhibit 1)
- submit CCC-41 and a copy of any prepaid account agreement required by SOS to Controller, CCC using either of the following methods:
 - e-mail to Vivian Lu at Vivian_Lu@wdc.usda.gov
 - FAX to Vivian Lu at 703-305-1144.

E Approval of Request by Controller, CCC

A team of FLP and FP staff will review the request to determine the reasonability of the funding level requested based on history and make a recommendation to the Controller. Controller, CCC, will notify SED in writing of the funding level authorized. Once the Controller notifies SED of the funding amount authorized, the prepaid accounts may be established by issuing CCC-184 or direct deposit using CCC program code "UCC".

F Replenishing the Prepaid Account

State or County Offices, as applicable, shall replenish prepaid accounts after reconciling the invoice provided by SOS. The State or County Office shall replenish the prepaid account using a properly coded payment, depending on whether the transaction is related to:

- FLP's
- FP's.

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4 Monthly Invoicing by SOS

A Overview of Process

This process allows SOS's to submit a monthly invoice to FSA/CCC for activity processed in the prior month. The invoice shall identify the requests for services processed and be reconciled to identify which program (FLP or FP) incurred the cost. The State, or local office, shall pay the invoice using the appropriate funding source based on the verification of the type of loans using SOS services.

B No Prior Authorization Required

Specific Controller authorization is not required to use this method of payment because existing authorities are already available and allow immediate implementation of this method.

5 Contract With a Third Party Processor

A Overview of Process

A method often used by the private sector is consolidating procurement of lien services into a single processing unit with expertise in perfecting liens in all States, and having field offices request the desired services through that processing unit. The processing unit (contractor) would then work with the respective SOS to obtain the necessary UCC service, pay for the service, notify the requesting office, and charge the cost to the requesting office.

This method provides a single approach for FSA/CCC to obtain the needed UCC services without concern about the individual SOS rules or processes. It requires the contractor to establish relationships with each SOS to process lien searches and file UCC documents. The contractor charges a service fee for the search and filing in addition to the respective fees charged by SOS. This method should be given consideration in States where other alternatives are not available.

B No Prior Authorization Required

Prior authorization is not required to use this method of payment because existing authorities are already available and allow immediate implementation of this method.

C State Responsibility

Contracts shall be:

- solicited and administered by a warranted contracting officer according to the Federal Acquisition Regulations
- paid from the appropriate funding sources according to subparagraph 6 A.

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6 UCC Filings and Searches Charge Tracking Report

A State Office Responsibilities

SED's shall issue a directive providing guidance on the method and procedures selected for implementation, addressing at a minimum:

- using the appropriate funding source for replenishment/payment depending on whether the transaction is related to:
 - FLP's
 - FP's
- monitoring and reconciling requests and payments using CCC-42 (see Exhibit 2) according to subparagraphs B through D
- designating State and County Office employees responsible for tracking, reconciliation, and payment.

State or County Offices, as applicable, shall:

- do 1 of the following:
 - replenish the prepaid account
 - pay the invoice as billed by SOS
 - pay the invoice as billed by the contractor
- issue payments for the appropriate FP/FLP program using appropriate system and program code as applicable.

B Recording Requested UCC Filings and Searches

The designated State or County Office employee, as applicable, shall track the UCC filings and searches requested **each day**. This shall include, at a minimum:

- the borrower's last and first name
- program name
- loan number and/or case number
- UCC action requested (that is, filing or search type)
- cost of the activity.

Note: Process payments received from FLP applicants and borrowers using collection code 36 or 38, as appropriate from 3-FI, Exhibit 5.

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6 UCC Filings and Searches Charge Tracking Report (Continued)

C Recording SOS or Contractor Invoices

At least once a month, the designated State or County Office employee should track the UCC filings and searches invoiced by SOS or contractor. This shall include, at a minimum, the:

- invoice number for the month by SOS or contractor
- amount billed for each action on the invoice.

The designated State or County Office employee should contact SOS or the contractor if a:

- lien or search record was not invoiced by SOS
- cost incurred did not match the amount invoiced by SOS.

D Processing Replenishment/Payment of Completed UCC Filings and Searches

After recording the SOS or contractor invoice, the designated State or County Office employee shall:

- verify that completed actions and charges correspond to requested actions and projected costs
- replenish the prepaid account or process payment to SOS or contractor, as appropriate
 - using CCC-184 or EFT with the appropriate program code from 1-FI, Exhibit 5, subparagraph G for FP
 - according to 1-FLP, Part 7 and Exhibit 14 for FLP.

At least once a month, the designated State or County Office employee should track the UCC filings and searches replenished to a prepaid account or payments made to SOS or contractor. This shall include, at a minimum, the:

- date of replenishment or payment
- appropriate program that incurred the charge
- check number or reference number for replenishment or payment.

E Website for CCC-41 and CCC-42

Electronic copies of CCC-41 and CCC-42 are available from the FFAS Employee Forms Online Website at <http://165.221.16.90/DAM/ffasforms/forms.html>.

CCC-41, UCC Filing and Search Request for Approval to Establish Prepaid Account

Following is a copy of CCC-41.

This form is available electronically.

CCC-41 U.S. DEPARTMENT OF AGRICULTURE (11-05-03) Commodity Credit Corporation UCC FILING AND SEARCH REQUEST FOR APPROVAL TO ESTABLISH PREPAID ACCOUNT	1A. STATE OFFICE NAME	1B. STATE CODE	2. PREPARED DATE <i>(MM-DD-YYYY)</i>
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INSTRUCTIONS: State Offices shall complete this form and submit to Controller, CCC. A copy of any agreement to be executed by FSA and the Secretary of State (SOS) shall be attached.

3. Total amount required to cover Farm Program (FP) and Farm Loan Program (FLP) UCC filing and search fees for two months. (Projected yearly cost divided by 6.)	\$
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4. Enter below the average number and average cost of UCC filings and searches requested by FP and FLP.

A. Description of UCC Filings and Searches	B. FP	C. FLP
(1) Average number of UCC filings per month:		
(2) Average number of UCC searches requested per month:		
(3) Average cost of UCC filing:		
(4) Average cost of UCC search:		

5. Costs associated with establishing the prepaid account *(Enter a the dollar amount for the type of costs for (1) through (4) below.)*

A. Type of Cost	B. Amount of Cost	A. Type of Cost	B. Amount of Cost
(1) One time fee	\$	(3) Recurring fee	\$
(2) Annual fee	\$	(4) Other fee	\$

5C. Give explanation of recurring or other fees:

6. Describe the state's established procedures for filing and searching UCC documents:

7. Describe the reconciliation process that will be implemented. A sample format must be attached if CCC-42 will not be utilized.

8. Indicate in the checkbox(es) below, the documents which are attached to Form CCC-41:

A copy of the SOS account agreement.

Form CCC-42, UCC Filing and Search Charge Tracking Report

Other monthly tracking and reconciliation process that is similar to CCC-42.

9A. Submitted by SED <i>(Type name)</i>	9B. Signature of Submitted by SED	9C. Date <i>(MM-DD-YYYY)</i>
10A. Signature of Controller	10B. Controller's Approval or Disapproval <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	10C. Date <i>(MM-DD-YYYY)</i>

CCC-42, UCC Filing and Search Charge Tracking Report

A Instructions for Completing CCC-42

Item No.	Instruction
1	Enter the name of the State or County Office that: <ul style="list-style-type: none"> • replenishes the prepaid account for filing and search fees • pays the Secretary of State’s office for filing and search fees • pays the contractor UCC for filing and search fees.
2	Enter the State or County Office code.
3	Enter FY reported.
4A	Enter the date the filing or search action was requested.
4B	Enter the name of the borrower, last name first, for whom the filing or search was requested.
4C	Enter an “X” in the FP or FLP column, as appropriate.
4D	Enter the loan/case number of the borrower for whom the filing or search was requested.
4E	Enter an “X” in the filing or search column, as appropriate.
4F	Enter the filing or search fee.
5A	Enter the invoice number, date of invoice or billing statement, or other information from the invoice or billing statement submitted by the Secretary of State’s office or the contractor.
5B	Enter the total cost charged for the UCC filing or search. Note: Total cost shall include the fee charged for the transaction plus any applicable contractor fees, copy fees, or other associated fees.
6A	Enter the date funds were remitted to replenish the prepaid account, to pay the Secretary of State for monthly invoices, or to pay contractor.
6B	Enter the program or system code from which payment was made.
6C	Enter the check number, or payment number if paid by EFT.
6D	Enter the amount of payment.

CCC-42, UCC Filing and Search Charge Tracking Report (Continued)

B Copy of CCC-42

Following is an example of CCC-42.

This form is available electronically.

<p>CCC-42 (11-06-03)</p> <p style="text-align: center;">U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation</p> <p style="text-align: center;">UCC FILING AND SEARCH CHARGE TRACKING REPORT</p>	<p style="text-align: right;">PAGE _____ OF _____</p> <p>1. NAME OF STATE OR COUNTY OFFICE</p> <hr/> <p>2. STATE AND COUNTY CODE</p> <p>3. FISCAL YEAR PREPARED</p>												
<p>INSTRUCTIONS: The designated State or County Office employee shall complete Item 4 at the time a search or filing action is requested. Items 4 and 5 will be completed at least once each month. Complete Item 6 after replenishment/payments.</p>													
4. REQUESTED UCC FILINGS AND SEARCHES						5. BILLING REGISTER		6. UCC FILINGS AND SEARCHES REPLENISHMENT/PAYMENT					
A. DATE (MM-DD-YYYY)	B. BORROWER'S NAME (Last, First)	C. PROGRAM (Checkmark)		D. LOAN/CASE NUMBER	E. UCC ACTION (Checkmark)		F. COST OF ACTIVITY \$	A. IDENTIFIER (Invoice No.)	B. AMOUNT BILLED \$	A. DATE OF PAYMENT (MM-DD-YYYY)	B. PROGRAM OR SYSTEM CODE	C. CHECK PAYMENT NO.	D. PAYMENT AMOUNT \$
		FP	FLP		Filing	Search							