

For: State and County Offices

Questions and Answers From National Training

Approved by: Deputy Administrator, Farm Programs



1 Overview

A

Background

PSD received numerous questions on Farm Storage Facility Loan Program (FSFLP) during the national training meeting the week of May 15, 2000. Most of the questions are addressed in Exhibit I. Another notice will be forthcoming with additional questions and answers.

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Purpose

This notice provides:

- answers to the majority of the questions received
 - clarification regarding FSFL-2.
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Disposal Date May, 1, 2001	Distribution State Offices; State Offices relay to County Offices
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Questions and Answers

Notice FSFL-2 provides that action cannot be taken before the loan is approved. This will take plenty of time. How can producers comply with that before it is approved?

The approval process may take up to 30 calendar days. Producers may make purchase commitments but may not accept delivery of any parts, begin site preparation, foundation construction or upgrading any existing facilities before approval. Producers must comply to maintain eligibility for the loan. One of the concerns is that anything delivered to the farm may then fall under a lien held by someone other than CCC.

Notice FSFL-2 provided that the retroactive procedures were applicable between February 2 and May 11, 2000, while the press release indicated May 30, 2000. Which date should be used?

County Offices should apply the retroactive procedures for actions taken by producers between February 2 and May 30, 2000.

Why is the interest rate for FSFLP different from the CCC loan rate?

The CCC loan rate announced monthly is based upon the rate Treasury charges for notes with 1 year maturities. For commodity loans, the Federal Agriculture Improvement and Reform Act of 1996 requires CCC to add 1 percent to the interest rate. For FSFLP, the interest rate will be based upon Treasury interest rates for notes with 3- to 8-year maturities to coincide with the 7-year term of the FSFL loan.

Will there be an extension of the FSFLP term?

No. Extensions are not authorized according to 7 CFR 1436.7.

Why wasn't condominium storage included as eligible storage?

The emergency implementation of FSFLP was justified to address the shortage of available **on-farm** storage. The interim rule provides for an immediate implementation of a loan program to provide financing for on-farm storage. CCC solicited comments in the interim rule on other types of eligible storage. Comments received during the comment period will be considered for inclusion in the publication of the final rule.

If a producer has sufficient storage but wants to purchase new equipment, is FSFL available for the equipment purchase?

No. Producers must demonstrate a storage need to be eligible to receive FSFL. Producers who have demonstrated a storage need may include eligible equipment in the loan.

How will compliance with environmental regulations be documented?

CEPD has developed a new form, FSA-850, which is forthcoming, for use by County Offices to document environmental site assessments.

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Questions and Answers (Continued)

Producers may go to a local bank to get a loan and come to the County Office for refinancing; is that going to be permissible?

Yes, provided the producer complies with all eligibility requirements, obtains committee approval, and provides CCC with the required security interest.

Will producers who are convicted of growing controlled substances be eligible for FSFLP?

No. Any producer who has been convicted of growing controlled substances will be ineligible for FSFLP.

Is there an appeals process for the producer?

Yes. This is a committee decision. Follow 1-APP for providing appeal rights to producers.

Will producers be required to get crop insurance for the entire life of the loan?

Yes. Producers will be required to purchase any type of crop insurance for any planted facility loan commodities each year of the loan term.

Can producers borrow the down payment for the loan?

Producers will have to provide for the down payment to be available in cash or check at the time of closing. If producers must borrow the down payment, the collateral must be free and clear of all liens as CCC must have the sole security interest in the collateral. On loans over \$50,000, any lienholders must subordinate their interest in the underlying realty to CCC.

If a producer already has a current FLP farm and home plan, will we be able to use it?

Yes. It may be updated in conjunction with a Farm Loans representative.

On storage eligibility, what if the producer doesn't have 3 years of crops reported?

Use what is available in the County Office. If only 2 years of crop history is available, then use an average of the available 2 years. If only 1 year, then use the available year.

If 20 years ago, we made a loan on a flat structure that is now being used as an equipment shed; are we going to make another loan on a new flat structure?

Yes. If the producer is otherwise eligible. The older flat structure does not have to be included as available storage if it is used solely for equipment storage.

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Questions and Answers (Continued)

In the storage eligibility determination, should crib capacity for ear corn be included if a producer is changing corn production to all shell rather than ear?

No, only applicable comparable types of existing storage capacity are considered in the storage need formula.

What if producers remove an old facility before requesting a loan for a new facility; is that a problem?

No. Producers may also renovate existing structures.

For loans made to partnerships, who will have to sign the note?

Signature requirements will vary based upon whose financial information is used to determine ability to repay and whose realty is being offered for security. 1-CM provides guidelines for signature requirements. Consult with the OGC Regional attorney for specific guidelines.

If a producer wants to build a multi-purpose flat structure with a portion of the structure permanently intended for purposes other than storing grain, can we prorate the costs to cover just the grain storage part of the structure?

Yes. The loan may cover a proportionate cost of the building related to grain storage.

Is just grain handling equipment eligible for a loan?

No. The producer would have to show a need for on-farm storage to include any drying or handling equipment.

Are temporary or portable storage units eligible?

No. Only permanently affixed storage units and equipment are eligible for loan.

Are all the eligibility requirements in the regulations and are they all subject to comments?

Yes.

What is the definition of entire parcel?

A piece of land that has already been legally described. We will not survey a smaller piece of land or request appraisals.

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Questions and Answers (Continued)

If Farm Loans already has a lien, will we get a severance agreement signed?

No. The regulations at 7 CFR 1436.8(b) do not require any agreement with regard to the first lien from any agency of the Department of Agriculture. We plan to develop an agreement with Farm Loans to cover a pro rata share of our loan if Farm Loans forecloses.

Would we preclude partnerships and joint ventures from signing the security agreements?

No.

Will the interest amortization be re-calculated after receipt of each repayment?

No. Repayments will be received and applied against the installment due. The last repayment will be recalculated to re-amortize interest.

Is there a time limit of application approval?

Yes. The time limit is 4 months from the date of approval.

Will producers be allowed to construct storage structures on 1 of the old Government bin sites?

No. CCC has encountered numerous problems with hazardous waste issues on the old Government bin sites.

Is a power-of-attorney going to work for husband and wife?

Follow 1-CM for guidance on using a power-of-attorney.

Would it be appropriate to establish a rate/bushel cost for the bins?

STC has authority to establish a per bushel rate as a guideline or maximum net cost rate.

Should the financial documentation be included in the executive minutes or the regular minutes?

The financial information and related determination should be included in the executive minutes.

What is the OMB circular number related to financial requirements and the website address?

OMB Circular No. A-129 is available on www.whitehouse.gov/omb/circulars/a129/a129.html.

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Questions and Answers (Continued)

What exactly is the sequential order of filing UCC-1's and receiving funding approval?

COC must approve the loan first before funding approval is requested. UCC-1's should be filed as soon as a good description of the collateral and the real estate location are available.

There is a form relative to real estate mortgage that is used in FLP and has been approved by OGC; does this form have to be re-approved for these particular loans?

Each State Office must develop a FSFLP security instrument to be used in their State in the form of a real estate mortgage, a deed of trust, or other document. OGC will provide assistance in developing the security instrument.

How many installment payments are there for FSFL?

The loan is a 7 year loan with 7 equal annual installments.

Under what conditions will the spouse be required to sign loan documents?

Any spouses or co-debtors included in the financial analysis or other eligibility determinations or on the realty will need to sign the loan documents. Obtain advice for other signatures from the Regional Office of General Counsel.

Are both the environmental site evaluation and the due diligence report required for all FSFL loans, over and under \$50,000?

Yes. These are required for all FSFL loans.

When are tenants eligible to be a borrower?

Tenants must meet all the eligibility requirements for the loan and obtain loan approval. Tenants may offer an alternative form of security rather than realty for the loan. Tenants must show approval from the landlord to construct the bin on the landlord's property.

Can a producer pay the surveying and appraisal cost to subdivide a parcel to offer as security?

No. Producers may not survey out a smaller portion of land to offer as security. They may offer an alternative form of security.

Who is the secured party in these loans?

The secured party on FSFLP is CCC. FSFLP is authorized by the CCC Charter Act and funded through CCC.

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Questions and Answers (Continued)

Are we going to contact producers to notify them that they are eligible for the program?

No, applicants will be notified only when their application is approved and funded.

Are we doing severance agreements on all loans?

No, only loans of \$50,000 or less require a severance agreement. Loans over \$50,000 do not require a severance agreement because CCC will have a superior lien position to secure the loan using the underlying real estate.

Will we accept a long term lease agreement from a tenant farmer who does not have real estate of his own?

If no real estate is available to secure a loan, a tenant farmer must provide another form of security, such as a letter of credit.

What is meant by “other forms of security”?

Instruments such as letters of credit or performance bonds.

If the producer does not come in within the 4 month approval period to proceed with the loan, do we start the process over again when he does come in?

Yes, the producer would have to apply again. Any supporting documentation that is still applicable may be used.
