

For: State and County Offices

Farm Storage Facility Loan (FSFL) Program Questions and Answers

Approved by: Deputy Administrator, Farm Programs



1 Questions and Answers

A

Background

PSD continues to receive questions about FSFL program provisions.

B

Purpose

This notice provides:

- answers to questions that:
 - have been received since Notice FSFL-3
 - may not be covered in the forthcoming 1-FSFL
- changes in policy that are less restrictive than the regulation in the interim rule.

<p>Disposal Date</p> <p>May 1, 2001</p>	<p>Distribution</p> <p>State Offices; State Offices relay to County Offices</p>
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Application Related Questions and Answers

Questions and Answers

Is there anything special or different that needs to be done to process loans from applicants who began construction during the retroactive period?

Before these loans are approved by COC, County Offices shall obtain documentation that proves the project was started during the retroactive period. If the loan is approved, County Offices shall note in the remarks section of CCC-185 and in the applicable COC meeting minutes that the applicant was eligible to begin site preparation and/or construction during the retroactive period of February 2, 2000, through May 30, 2000.

Determining Storage Need Related Questions and Answers

Questions and Answers
<p>Some farmers lease farm storage space that is not owned. How do we treat the leased space relative to existing space?</p> <p>If there are 2 or more years remaining on a lease for storage, count the leased storage as existing capacity.</p>
<p>If an applicant has a long term lease on a farm and storage for facility loan commodities is available on the farm for his use, does the capacity count against his production need?</p> <p>Yes, if there are more than 2 years remaining on the lease.</p>
<p>If the borrower is a partnership, we understand that only the land operated by the partnership can be used to establish total space needs. However, if the individual members of the partnerships have their own farm and the farm has storage space, does the individual's farm storage space count as existing capacity for the partnership operation?</p> <p>No, we need to conduct like comparisons of production and existing capacity tracking FSA-578 crop shares.</p>
<p>If the members of a joint venture apply for FSFL's as individuals using their individual farming operations, can we use the crops grown on the farm operated by the joint venture to establish need for the individuals based on shares of the joint venture farm?</p> <p>Yes, if the crops reported by the joint venture had crop shares for the members.</p>
<p>Do we count existing capacity if it is used for the storage of nonfacility loan commodities such as peas and lentils?</p> <p>Until the definition of a facility loan commodity changes, existing capacity used primarily for nonfacility loan commodities is not counted.</p>
<p>Is flat storage without a concrete floor considered as existing facility loan commodity storage?</p> <p>No.</p>

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Determining Storage Need Related Questions and Answers (Continued)

Questions and Answers

Is the producer required to plant the crop the bin is being built for?

Yes, if the borrower is establishing a storage need for a facility loan commodity, the borrower is expected to use the structure based on the storage need for which the proceeds of the loan were disbursed. If a borrower's cropping operation changes, we may address the situation as part of a servicing action.

Can STC set a limit on the amount of eligible drying or handling capacity relative to the storage need?

Yes.

An applicant has 2 bins that have enough capacity to cover his total storage needs. However, he raises 3 crops that require separate storage. Can he obtain a loan for a third bin?

No.

Does prevented planting count as eligible production?

No.

Facility Loan Commodity Related Questions and Answers

<p>Questions and Answers</p>

<p>Must a facility loan commodity be stored in the structure the first year?</p>

<p>Yes.</p>

Credit Report Related Questions and Answers

Questions and Answers**How do State and County Offices obtain credit reports and what type of credit report should be obtained?**

Use the system currently being used, that utilizes existing FSA credit report contracts and existing methods to order and obtain reports. If this is not possible, State Offices should develop a similar system for CCC. Reports may be paid for singly or combined by CCC check using the program code for filing UCC's.

Obtain the type of report that suits CCC's needs. If a 'mortgage' type report provides information that can be used to provide information for severance agreements in addition to credit history, such a report may be worth the additional cost.

Can a credit report be utilized to determine compliance with the Debt Collection Act of 1996 (DCIA)?

Yes. Until further notice, do not use CAIVRS to determine compliance with DCIA.

Financial Analysis Related Questions and Answers

Questions and Answers
Can an applicant use a balance sheet and cash flow statement generated by his own accounting system, such as from personal computing software?
Yes, if it provides all the information required to determine ability to repay.
What is considered to be a current financial statement?
A financial statement that was prepared within the last 90 days.

Crop Insurance Related Questions and Answers

Questions and Answers

<p>Will just hail insurance meet the crop insurance requirement?</p>

<p>No, a policy has changed so that only any level of multi peril insurance from FCIC or a private company will meet the requirement.</p>

Security Related Questions and Answers

Questions and Answers
<p>Are real estate liens required for loans of \$50,000 or less?</p> <p>No, a policy change has removed this requirement.</p>
<p>Will approving committees be authorized to require a real estate lien for loans of \$50,000 or less if determined to be necessary?</p> <p>No.</p>
<p>Can we accept a letter report instead of a title commitment?</p> <p>Yes, for loans of \$50,000 and under if the letter report provides the information needed to obtain a proper severance agreement. Since it may not be a guarantee of proper title which title insurance or a title opinion would provide, a letter report may not be suitable for loans exceeding \$50,000. Consult with your OGC representative.</p>
<p>Do we need a certified collateral lien search on the day of closing or is a verbal update OK?</p> <p>Consult with OGC on this matter.</p>
<p>If FLP has a real estate lien in second position or lower, will CCC try to obtain a first lien?</p> <p>Yes, for loans exceeding \$50,000 and if FLP does not have a first lien, we will try to obtain a first. If a first cannot be obtained, we will not ask FLP to subordinate to CCC.</p>
<p>Is an FSA established tract equivalent to an entire described real estate parcel?</p> <p>Not in all cases. FSA tracts may be entirely different from a real estate parcel. For real estate security purposes, use the parcel as described in a deed or similar instrument.</p>
<p>If equipment is added to a structure that CCC has a lien on and another lender has a lien on the added equipment, what should we do?</p> <p>No further action is necessary as long as CCC continues to hold the sole security interest in the collateral on which the loan is based.</p>
<p>If FLP has a real estate lien, is a severance agreement required from FLP for loans under \$50,000?</p> <p>No.</p>
<p>If a title opinion is requested, does the County Office do a real estate lien search?</p> <p>No.</p>

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Security Related Questions and Answers (Continued)

Questions and Answers
<p>If the County Office does a real estate lien search, is a title opinion necessary?</p> <p>No, not for loans under \$50,000. However, State Offices shall establish a policy on this matter.</p>
<p>If a borrower obtains a loan this year for \$45,000 and another 1 next year for \$45,000, will a real estate mortgage in first position be required for the second year loan?</p> <p>Yes, policy has changed to require a real estate lien if the aggregate outstanding balance of a borrower's loans exceeds \$50,000.</p>
<p>Why do we require UCC-1 for loans over \$50,000 when we file a real estate lien?</p> <p>UCC-1 needs to be filed as soon as possible to protect CCC against liens that may be filed before a lien on the real estate can be filed.</p>
<p>Can the applicant make a larger than required down payment to avoid the requirement for a real estate lien?</p> <p>Yes.</p>
<p>Will a husband and wife sign UCC-1 the same as required by FLP?</p> <p>Consult with OGC.</p>
<p>Should UCC-1 be filed after the loan is approved?</p> <p>No, file UCC-1 as soon as a good description of the collateral is available. If the loan is not approved, the applicant may request and pay for a termination.</p>
<p>Can a letter of credit be accepted on a yearly basis, decreasing the amount each year by the installment paid?</p> <p>Yes, however we must warn the borrower that failure to provide a new letter of credit by the day after expiration of the old one will result in CCC calling the loan.</p>
<p>A son wants to build a bin on his father's land. A bank holds a real estate lien on the father's land. Is a severance agreement required from the bank or just the father?</p> <p>Obtain a severance agreement from the bank and a lease or similar agreement from the father.</p>
<p>Can CCC take equipment or other chattel as security?</p> <p>No.</p>

Equipment Related Questions and Answers

Questions and Answers
<p>Does equipment, such as ladders, have to meet OSHA requirements?</p> <p>Yes, PSD will obtain the requirements. County Offices shall verify the requirements are being followed on each loan as part of the final inspection.</p>
<p>Are bulkheads in flat structures required and do they have to be permanently affixed?</p> <p>Yes, bulkheads or whatever system is necessary to make the structure suitable for whole grain storage will be required. Portable bulkheads are acceptable as long as they are determined by COC to be adequate for the proper functioning of flat storage system.</p>
<p>Are floor tubes used for aeration eligible?</p> <p>Yes, if the approving committee determines that such a system is necessary for the proper storage of grain and all other eligibility requirements are met.</p>
<p>If moving a used bin to a new site, what costs are eligible for a loan?</p> <p>Site preparation, installation cost, new handling or drying equipment, and the concrete pad. The cost of the bin and moving it are not eligible costs.</p>
<p>Is equipment to control dust eligible?</p> <p>Yes, if COC determines that such equipment is necessary.</p>
<p>Are weigh scales eligible?</p> <p>No, scales are not considered to be eligible handling equipment.</p>
<p>If an applicant can increase his capacity by installing bulkheads and a concrete floor in a structure not used for facility loan commodities, are the renovation costs eligible?</p> <p>Yes, if the primary use of the structure will be to store whole grain.</p>
<p>May equipment be delivered to the proposed location before a loan is approved?</p> <p>Yes, if UCC-1 has been obtained, filed, and there are no lien holders on the real estate. However, site preparation may not begin because the environmental analysis must be conducted.</p>
<p>When capacity is increased on 1 bin, is the cost of upgrading another bin eligible for a loan?</p> <p>No.</p>

Loan Limit Related Questions and Answers

Questions and Answers

If a husband and wife form an informal joint venture using both their social security numbers and apply for 1 loan, what is the loan limit?

The loan limit is \$100,000 and applies to each loan, no matter how many borrowers or co-borrowers sign a loan.

Net Cost Item Related Questions and Answers

Questions and Answers
Why is a trade-in not allowed towards a down payment? Because of questionable trade-in values.
Can on farm labor be used as an eligible net cost item? No.
Can on farm material be used as an eligible net cost item? Yes, provided the material, such as lumber from trees on the farm, is new and the applicant submits an acceptable certification document to be reviewed and approved by COC.

Servicing Related Questions and Answers

Questions and Answers

Is proof of real estate tax status required for all loans? What about personal property tax?

Yes, proof of real estate tax is required to protect CCC's interest in the collateral. Proof of personal property tax is not required.

Does the requirement for STC representative review of the first 5 applications apply to an actual county or office operation?

To the administrative County Office.

Can the requirement for STC representative review of the first 5 applications apply to approved applications?

Yes, concurrence and corrective actions should be obtained any time before the loan is disbursed.

What form should the initial and subsequent inspections be documented on?

Until an inspection checklist is developed, establish a running case record in each folder. The running case record is a narrative documenting the findings of the inspection as well as other contacts with the loan applicant.

Miscellaneous Questions and Answers

Questions and Answers
<p>How is work to be measured for the workload reporting/measurement system?</p> <p>PSD will make recommendations to BUD about unit descriptions and counts.</p>
<p>Will EFT be used for loan disbursements?</p> <p>Until County Offices become familiar with loan closings, disburse loans through CCC-184.</p>
<p>Can COC delegate authority to CED's, FLM's, or Program Technicians to approve CCC-186?</p> <p>COC can only delegate authority to CED, who is a representative of CCC, to sign CCC-186.</p>
<p>Will executive COC meeting minutes documenting FSFL program determinations be available if needed for a NAD appeal?</p> <p>Yes, as long as determinations involving persons other than the appellant, are blacked out.</p>
