

**For:** State and County Offices, CMA’s, DMA’s, LSA’s, and Cotton Clerks

**SBA Economic Injury Disaster Loan (EIDL) Lien Waivers for MAL**

**Approved by:** Deputy Administrator, Farm Programs



**1 Overview**

**A Background**

As a result of the Paycheck Protection Program and Health Care Enactment Act of 2020, the SBA EIDL Program was expanded to agricultural businesses affected by COVID-19.

Small agricultural businesses can apply for the EIDL Program from SBA as well as MAL’s offered through FSA. As a result of the MAL lien search process, FSA has identified SBA as a lien holder of agricultural commodities for customers who have received SBA EIDL loans. This is because SBA filed UCC-1’s with State authorities that provided a general lien on all business assets to secure their EIDL without an exclusion for agricultural commodities. The broad nature of the standard filing provided SBA a lien on farm products, crops, livestock, and equipment.

SBA issued a document detailing frequently asked questions (FAQ’s) specific to agricultural businesses; however, additional clarification was needed to ensure that FSA’s and CCC’s interest is secure for the MAL program.

For EIDL’s that have already been issued, SBA has informed FSA that they intend to amend the liens for those EIDL’s to revise the collateral statement. The revision will exclude agricultural commodities from that lien. Accordingly, any producer that had an EIDL before receiving an MAL, that EIDL will no longer cover agricultural commodities and remain a prior lien on any MAL commodity.

This notice does **not** change the current pandemic relief policy regarding the \$250,000 threshold in which lien searches are required or if other liens are discovered for MAL commodities that fall within the threshold. It is a loan applicant’s responsibility to ensure that all valid lien waivers are obtained or UCC-3’s amending the EIDL collateral description are filed. FSA offices and alternative delivery partners will **not** disburse loans when required lien waivers, UCC-3’s, or subordination agreements have not been filed as applicable.

Disposal Date	Distribution
July 1, 2023	State Offices; State Offices relay to County Offices, CMA’s, DMA’s, LSA’s, and Cotton Clerks

**1 Overview (Continued)**

**B Purpose**

This notice provides guidance on lien waiver policies for customers who have received a loan through the SBA EIDL Program and have also applied for an MAL through FSA.

**Note:** Exhibit 1 provides SBA EIDL FAQ's for Agriculture Business and Farming Operations.

**2 Lien Waiver Policy and Procedures for MAL**

**A MAL Lien Waivers**

Policy for conducting lien searches and completing lien waivers for the MAL program is available in 8-LP, paragraphs 504 and 505 for all commodities, and for cotton MAL's according to 7-CN, paragraph 124.

Ensure that the most current version of CCC-679 (09-05-19) is used to request the lien holder's signature.

**B FSA Process for Requesting Signature or Amendment from SBA Lienholder**

County Offices or alternative delivery partners will:

- enter required information on CCC-679 as follows:
  - complete items 1 through 4
  - in item 5(a), check "To the producer".

**Note:** Items 6 and 7 will be completed by SBA.

- scan and email the form to **SBA.USDA.MAL@SBA.GOV**.

To facilitate the response from SBA:

- include the EIDL number that is provided in the UCC-1 filing on the FSA lien waiver or subordination agreement

**Note:** The EIDL number can be found in UCC-1, item 4, "COLLATERAL", after the description of the collateral. On CCC-679, enter the EIDL number with the producer's name on the appropriate FSA form, otherwise, enter the EIDL number in the remarks section if available.

- provide a copy of the UCC-1 filing statement in the email request
- do **not** compile multiple lien waivers or subordination agreements in one PDF document, and keep request forms separate per producer
- multiple PDF files may be attached in one email.

**2 Lien Waiver Policy and Procedures for MAL (Continued)**

**B FSA Process for Requesting Signature or Amendment from SBA Lienholder (Continued)**

County Office employees or alternative delivery partners must:

- allow at least a 1-week turn around to receive a response from SBA before contacting the State Office for additional assistance
- inform the producer/applicant that SBA will notify or contact them directly about changes or amendments to the EIDL Loan Agreement and Authorization and UCC-3 Amendment for Restatement of UCC-1
- inform the producer/applicant that UCC-3 must be filed by **the producer/applicant** to update the existing lien filed by SBA.
- **not** disburse loans before receiving proper evidence that the producer has filed the appropriate UCC Amendment that removes the MAL commodity from UCC-1 and paid appropriate fees (see subparagraph C).
- not send multiple requests to SBA for the same producer/applicant without first contacting the State Office specialist (alternative delivery partners may contact the program manager).

State Office employees must contact the respective program manager if there are concerns after the lien waiver or subordination agreement has been submitted.

**C SBA Response After Receiving Lien Waiver Request**

Once a lien waiver request is submitted, SBA will modify the collateral statement on UCC-1 and submit the amendment to be filed by the producer/borrower.

After SBA receives the lien waiver from FSA, SBA:

- will assign the request to a designated team member to contact the EIDL borrower
- team members will confirm that the EIDL borrower is seeking an FSA loan and advise that the Collateral Security statement will be amended to allow the borrower to continue to obtain additional loan assistance for agricultural commodities without notifying SBA in the future
- team members will advise borrower that SBA will be sending a “LM” collateral change letter (see Exhibit 2 for an example letter) and UCC-3 Amendment (see Exhibit 3 for an example) which will exclude the agricultural commodities from the lien
- will forward a copy of the LM letter and UCC-3 to the FSA requestor to advise that SBA EIDL does not secure the items listed on the MAL lien waiver request, but UCC-3 is not effective until filed.

## Notice LP-2279

### 2 Lien Waiver Policy and Procedures for MAL (Continued)

#### D Producer Action after Receipt of LM and UCC-3

Once the producer/borrower has received the LM letter and UCC-3 from SBA, the producer/borrower must do the following:

- file UCC-3 in the appropriate office according to State guidance
- pay the applicable filing fee
- provide evidence of the filing to the County Office.

**Notes:** Evidence may vary by state. Please contact your local UCC filing authority and/or regional attorney if you have questions about the evidence provided. The evidence must demonstrate that the collateral security statement for the EIDL has been amended to exclude, “All farm products, including crops, livestock, and other agricultural commodities, and/or the proceeds from any sale of these items”.

Neither SBA, nor FSA, are responsible for paying UCC-3 filing fees.

FSA offices and alternative delivery partners will **not** disburse loans until evidence has been submitted verifying the filing of UCC-3's, or subordination agreements for a producer/borrower that also has a SBA EIDL.

## SBA COVID-19 EIDL FAQ's for Agricultural Business and Farming Operations

Following are SBA COVID-19 EIDL FAQ's for Agricultural Business and Farming Operations.



U.S. Small Business  
Administration

Agricultural Business and Farming  
Operations  
COVID-19 EIDL FAQ

### Frequently Asked Questions Regarding Agricultural and Farm Loan Collateral Security and the SBA Economic Injury Disaster Loan Program (EIDL)

**Overview:** The Paycheck Protection Program and Health Care Enhancement Act, enacted on April 24, 2020, expanded eligibility of agricultural enterprises for U.S. Small Business Administration (SBA) Economic Injury Disaster Loans (EIDLs) and Advances (grants) for COVID-19. Although not traditionally a part of EIDL funding, as a result of this new authority agricultural businesses with 500 or fewer employees are now eligible for EIDL assistance in response to the COVID-19 pandemic.

Nonprofit organizations, small business owners and small agricultural businesses in all U.S. states and territories are currently eligible to apply for a low-interest loan due to Coronavirus (COVID-19).

In light of questions from agricultural businesses regarding the effect of SBA collateral requirements on continuing operations of the agricultural businesses and/or farming operations, SBA is issuing the following guidance and clarification.

#### Frequently Asked Questions

1. **Is SBA requiring agricultural businesses to pledge collateral for the EIDL loan, if so what type?**  
**Yes.** Collateral is required for all COVID-19 EIDL loans over \$25,000. SBA files a UCC-1 general security interest against non-real estate business assets.
2. **Will SBA place a lien on farm products such as agricultural commodities, crops, livestock, and/or the proceeds from any sale of these items.**  
**No.** SBA does not require farm products to serve as collateral on COVID-19 EIDL loans. SBA's standard UCC-1 is not set up to create a security interest in any farm products such as agricultural commodities, crops, and/or livestock. SBA has no intent to create a lien on any of these items.
3. **Is SBA required to be included on any checks agricultural businesses and farms receive from the sale of crops, livestock, or other agricultural commodities?**  
**No.** Farmers and purchasers of farm products and agricultural commodities are not required to notify SBA as part of any sale of these items and borrowers are not required to remit to SBA any proceeds from the sale of agricultural production commodities in the ordinary course of business. SBA does not need to be included in any financing transactions or on any checks from purchasers involving these items.

## SBA COVID-19 EIDL FAQ's for Agricultural Business and Farming Operations (Continued)



U.S. Small Business  
Administration

Agricultural Business and Farming  
Operations  
EIDL FAQ

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**4. Does SBA have a lien on my equipment if I obtain a COVID-19 EIDL loan over \$25,000?**

**Yes.** The SBA's standard UCC-1 creates a security interest in all business equipment.

**5. Does SBA need to be notified if I sell or trade equipment?**

**Yes.** SBA's consent is required before selling or transferring collateral secured by the loans, including equipment.

**6. Do I have to remit to SBA the net proceeds from the sale or trade of equipment?**

**Yes, unless alternative conditions are agreed up prior to the sale or trade of the equipment securing the loan.** You must notify SBA of any net proceeds from the sale or trade of collateral equipment.

**7. Will SBA subordinate its lien if I have to finance new equipment for my business?**

SBA will review requests to subordinate its lien interest to new loans upon request.

**Note:** This memorandum is intended to provide general guidance and clarification exclusive to collateral security involving COVID-19 EIDL loans for Agricultural Businesses and Farms. Applicants and borrowers with additional questions about SBA's Economic Injury Disaster Loan program may call the Disaster Customer Service Center at 1-800-659-2955 (TTY: 1-800-877-8339) or send an email to [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov).

The SBA also has local district offices that can work with Agricultural Businesses and Farms if they need further assistance. Please go to [www.sba.gov/local-assistance](http://www.sba.gov/local-assistance) to locate the email address and phone number for the nearest SBA district office.

**Example of LM Letter**

Following is an example of the LM Letter.



**U.S. SMALL BUSINESS ADMINISTRATION**  
**Covid EIDL Servicing Center**  
**14925 Kingsport Road**  
**Fort Worth, Texas 76155**

**833-853-5638**  
**For Relay**  
**Service Dial**  
**7-1-1**

March 20, 2023

John Smith, Owner/Officer  
ZZZ FARMS  
123 MAIN ST  
ANYWHERE, IA 33333

RE: SBA Disaster Loan Application Number: 3300000001  
SBA EIDL Loan Number: 1234567890

Dear John Smith,

We received your request to obtain a Marketing Assistance Loan from the USDA, Farm Service Agency, Commodity Credit Corporation (CCC) for the following Commodity: **SOYBEANS** – Crop Year: **2023**. This correspondence serves to amend the language of the collateral security for your EIDL to specifically exclude “All Farm Products, including Crops, Livestock and other Agricultural Commodities, and/or the proceeds from any sale of these items.”

As this loan was secured by a UCC-1 Financing Statement, this letter serves as authorization for you to file a UCC-3 Amendment for Restatement of the UCC-1 with the respective state filing office that will amend the language of the collateral security associated with this loan. The UCC-3 must be filed for an amendment of the UCC-1 to be effective.

Please see below UCC filing information as reference:

**UCC filed on 07/25/2020 in IOWA - (S.O.S.) with filing number: 123456789012 207797851319**  
You may visit your respective state UCC filing office website for information on filing the UCC-3.

**This letter is a permanent amendment to your Loan Authorization and Agreement.**  
**ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.**

If you have any questions, please contact us at the toll-free number listed above.

Sincerely,

COVID EIDL Servicing Center

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 Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Consumer Response Center, Federal Trade Commission, Washington, D.C. 20580.

SBA Form Loan Modification

