

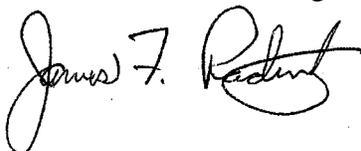
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Guaranteed Loan Making and Servicing
2-FLP (Revision 1)**

Amendment 25

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 50 C has been amended to remove references to FSA-2202.

Subparagraph 66 C has been amended to clarify SEL and CLP lenders will inform FSA in the loan narrative how they plan to determine real estate collateral value.

Subparagraph 70 B has been amended to clarify PLP lenders will inform FSA in the loan narrative how they plan to determine real estate collateral value.

Subparagraph 112 B has been amended to remove references to ranching and ranchers.

Subparagraph 124 B has been amended to add CFR reference and revise the year of the Internal Revenue Code reference.

Paragraphs 181 through 183 have been amended to allow lenders to:

- complete evaluations of collateral for certain loans under \$250,000
- use appraisals over 12 months old under certain circumstances.

Paragraph 247 has been amended to:

- clarify a lender may submit an evaluation or appraisal depending on the loan
- instruct the FSA loan official to review SEL evaluations before issuing the loan guarantee
- instruct the FSA loan official to review CLP and PLP lender evaluations during their lender file reviews.

Subparagraphs 285 A, 312 A, 328 B, and 358 B have been amended to correct CFR references.

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50 Approval of Certified Lenders (7 CFR 762.106) (Continued)**B Eligibility Criteria**

Before a lender is approved for CLP status, the lender must demonstrate compliance with the following eligibility criteria:

- provide evidence of being an eligible lender
- provide information to show that loan losses (net of recovery) do not exceed 7 percent
- have the capacity to process and service FSA-guaranteed loans
- certify that the person designated to process and service FSA-guaranteed loans has attended FSA loan processing and servicing training within the previous 12 months or will attend training within the next 12 months
- agree to send for annual training the designated person from each of the lender's offices responsible for processing and servicing guaranteed loans
- agree to use forms acceptable to FSA for processing, analyzing, securing, and servicing FSA-guaranteed loans/LOC's
- if not previously submitted, copies of financial statements, cash flow plans, loan agreements, analysis sheets, security agreements, and promissory notes should be submitted with the request for CLP status
- *--have closed a minimum of 10 FSA-guaranteed FO, SW, CL, and OL loans/LOC's and--*
5 loans within the past 2 years.

C FSA Approval

The CLP-eligible lender will have a track record in FSA programs. SED may request that authorized agency officials that the lender has worked with provide a recommendation for CLP status and any issues or concerns that should be considered by SED before granting CLP status. SED shall make a decision on CLP status within 30 calendar days of receipt of the lender's complete application.

50 Approval of Certified Lenders (7 CFR 762.106) (Continued)

C FSA Approval (Continued)

CLP status is granted on a statewide basis by SED. A separate Lenders Agreement is required for each State. A lender may request CLP status for all branches within a State, or *--only the specific branches that are using the guaranteed program. [7 CFR 762.106(d)(2)]

The Agency will determine which branches of the lender have the necessary experience and ability to participate in the CL Program based on the information submitted in the lender application and on Agency experience. The branch offices for which CLP status is granted are listed on Lenders Agreement.

[7 CFR 762.106(d)(3)] **Lenders who meet the criteria will be granted CLP status for a period not to exceed 5 years.** Once a Lenders Agreement is executed by the CLP lender and SED, the original will be kept in the State Office and copies will be sent to the lender and County Offices where the lender is expected to submit applications. In addition, the FSA-approved lender forms and the names of the lender's designated representatives will be sent to the affected County Offices.

D Renewal

[7 CFR 762.106(f)(1)] **CLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.**

[7 CFR 762.106(f)(2)] **Renewal of CLP status is not automatic. A lender must--*** submit a written request for renewal of a lender's agreement with CLP status which includes information:

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

A request for renewal of CLP status must be submitted to FSA at least 60 calendar days before the expiration of the current Lenders Agreement.

*--[7 CFR 762.106(f)(3)] **CLP status will be renewed if the applicable eligibility criteria--* under this section are met, and no cause exists for denying renewal under paragraph (g) of this section (subparagraph 51 C).**

66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)**B Application Form**

Lenders may use Application for Guarantee or their own loan application form if it contains the same information. If a lender uses its own application form, the lender must attach an executed Application for Guarantee containing the applicant's name and address and any information not on the lender's form.

Note: Applications submitted electronically will be processed according to subparagraph 73 B.

C Loan Narrative

The application package must include a narrative description of the lender's underwriting of the loan. The narrative must contain information and analysis of any loan application data that are out of the ordinary, or at variance with normal practices for the type of operation and region. The narrative must be an evaluation and not just a summary of the data. It may be less detailed for a borrower who already has a guaranteed loan or an FSA direct loan.

The narrative should address the following, as applicable:

- describe the farming operation, such as types of enterprises, key personnel and management structure, their roles and background, proposed changes to the operation and adequacy of real estate, equipment, and other facilities
- an assessment of the adequacy of the collateral being offered to secure the proposed loan *--and the proposed method to establish market value, evaluation, or appraisal--*
- a discussion of the applicant's financial condition and projected repayment ability

Notes: The lender should discuss any significant assumptions or deviations from historical performance in the proposed cash flow budget.

If the application is for CL and the applicant meets the requirements to waive the cash flow requirement, the lender should discuss the applicant's financial conditions that qualify the applicant for the waiver.

66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)**C Loan Narrative (Continued)**

- the name, Social Security number, and current address of any co-borrowers or co-signers required to execute the note at loan closing
- the short-term and long-term business goals of the operation
- the borrower's reporting requirements, limitations, and other conditions based on the lender's analysis of the proposal
- lender servicing plan describing the borrower's financial reporting requirements, limitations and conditions, plans for visiting the borrower, and any other borrower supervision
- if the loan contains balloon payments, the conditions related to the renewal of loan
- a discussion of how the applicant meets the loan eligibility requirements
- *--if the application is for CL, a discussion of the conservation plan or Forest Stewardship Management Plan and need for the qualifying conservation practices including a--* discussion of the transition plan, if applicable.

D Balance Sheet

The application package must contain a balance sheet for the applicant that was prepared within 90 calendar days of the application submission.

E Cash Flow Budget

The lender should submit a cash flow budget as described in Exhibit 2. If significant changes are expected in the operation during the life of the loan, more than 1 cash flow budget may need to be developed.

For Streamlined CL according to subparagraph 70.5 B, the lender should follow their internal procedure to determine financial feasibility. It is **not** required that these cash flow budgets be submitted to FSA.

F Description of Farmed Land

A description of the location of each tract of land to be farmed by the applicant should be provided. This may be by FSA farm number, legal description, plat map, or other identifying method. This may be included as part of the loan narrative.

G Credit Report

A credit report on the applicant's credit history must be provided. In addition, lenders should consider any other pertinent information concerning the applicant's credit history. CLP lenders are not required to submit the credit report to FSA.

Section 2 Preferred Lender Applications

70 Application Requirements for PLP Lenders (7 CFR 762.110)

A Application Requirements

A complete application for PLP lenders will consist of:

- **an application form** (Preferred Lender Application)

Note: Applications submitted electronically will be processed according to subparagraph 73 B.
- **a loan narrative**
- **any other items agreed to during the approval of the PLP lender's status and contained in the PLP lender agreement**
- ***--for CL guarantees, a copy of the conservation plan or Forest Stewardship Management Plan** (subparagraph 66 J)--*
- **plan to transition to organic or sustainable agriculture** (if needed for CL, see subparagraph 66 K).

PLP lenders must certify that the required items, not submitted, are in their files. On a case-by-case basis, **the Agency may request additional information from any lender or review the lender's files as needed to make eligibility and approval decisions.** These requests shall be made only in situations when, because of the unique characteristics of the loan request, an eligibility or approval decision cannot be made without additional information.

FSA can conduct its environmental review in most cases without additional information from the lender. However, occasionally additional information is needed, and until this information is received, the application is not complete, and the 14-calendar-day timeframe does not start. Situations needing additional information often involve wetland determinations, potential historical or archaeological sites, or construction of major confinement livestock facilities. The review is FSA's responsibility to conduct. However, the information to complete this review is part of a complete application.

70 Application Requirements for PLP Lenders (7 CFR 762.110) (Continued)**B Loan Narrative**

FSA expects PLP lenders to include, in the narrative, a discussion of the 5 “C’s” of credit; that is, character, capacity, capital, conditions, and collateral.

For many PLP lenders, the narrative will often contain the same information submitted to the lender’s loan committee. Since the authorized agency official will rely on the narrative and application form for making the loan approval decision, it is important that the narrative *--covers any issues or questions that may arise during the loan evaluation process.

The lender shall state the proposed method to establish the real estate market value, evaluation, or appraisal.--*

If the application is for CL, a discussion of the conservation plan or Forest Stewardship Management Plan and need for the qualifying conservation practices including a discussion of the transition plan, if applicable, must be provided in the loan narrative.

C Submitting Applications Outside Normal Trade Area

PLP status will be approved for the lender’s normal trade area as defined in CMS. If a lender wants to make a guaranteed loan outside of this area, the lender should contact the State Office responsible for that area for guidance on where to submit the request for guarantee. On a case-by-case basis, SED may authorize the approval of guarantees outside the lender’s normal trade area if SED determines that the lender can adequately make and service the loan. If the lender wants to permanently expand its approved normal trade area, it will request an expansion through SED to DAFLP.

112 Specific Requirements for CL's (7 CFR 762.120)**A Applicant Requirements**

CL applicants do **not** have to meet the following:

- “family farm” definition
- test for credit requirement.

Note: Because of this, some CL applicants will be very strong financially, with high debt service capacities and significantly more than adequate equity to secure the loan request. See paragraph 70.5.

B Eligibility Criteria

***--[7 CFR 762.120(l)] Entity applicants for CL guarantees must meet the following--* eligibility criteria:**

- **the majority interest holders of the entity must meet the requirements of subparagraphs 108 F, H, and I of this section**
- **the entity must be controlled by farmers engaged primarily and directly in farming * * * in the United States after the loan is made**
- **the entity members are not themselves entities**
- **the entity must be authorized to operate a farm in the State or States in which the farm is located.**

***--[7 CFR 762.120(m)] Individual applicants for CL guarantees must be farmers in the--* United States.**

113-121 (Reserved)

Section 2 Loan Purposes and Limitations**122 OL Purposes (7 CFR 762.121(a))****A General OL Purposes**

The authorized agency official shall review loan applications to ensure that OL funds are used for authorized purposes.

B Term OL Purposes

--[7 CFR 762.121(a)] Loan funds disbursed under an OL guarantee may only be used--
for the following purposes:

- **payment of costs associated with reorganizing a farm to improve its profitability**
- **purchase of livestock, including poultry, and farm equipment or fixtures, quotas and bases, and cooperative stock for credit, production, processing or marketing purposes**

Note: Acquiring farm assets by purchasing 100 percent of a corporation's stock is considered to be the same as purchasing the assets themselves. The corporation must be the operator at the time of loan closing. State Offices shall contact the *--National Office for guidance in processing these requests.--*

- **payment of annual farm operating expenses, examples of which include feed, seed, fertilizer, pesticides, farm supplies, repairs and improvements which are to be expensed, cash rent and family subsistence**
- **payment of scheduled principal and interest payments on term debt provided the debt is for authorized FO or OL purposes**
- **other farm needs**
- **payment of costs associated with land and water development for conservation or use purposes**
- **refinancing indebtedness incurred for any authorized OL purpose, when the lender and applicant can demonstrate the need to refinance**

122 OL Purposes (7 CFR 762.121(a)) (Continued)

B Term OL Purposes (Continued)

- payment of loan closing costs
- payment of costs associated with complying with Federal or State-approved standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. § 655 and 667); this purpose is limited to applicants who demonstrate that compliance with the standards will cause them substantial economic injury
- payment of training costs required or recommended by the Agency.

C Real Estate Improvements

Term OL funds may be used for limited real estate improvements, so long as the loan can be repaid within 7 years. These improvements can take the form of fixtures to existing farm buildings or new building construction. Improvements financed over periods longer than 7 years are assumed to be for real estate rather than operating purposes and will not be financed with OL funds.

D Processing or Marketing Purposes

Allowable marketing costs include the purchase of quotas and expenses related to the sale of farm products produced by the applicant. FSA funds cannot be used to finance the resale of agricultural commodities produced by other farm entities.

OL funds can also be used to finance the initial processing of agricultural commodities produced by the applicant's farm.

Examples: Examples of allowable processing activities include canning tomatoes and packaging maple syrup.

Generally, for the financing of a marketing activity to be eligible, the activity must be a natural extension of the farming operation. In determining allowable enterprises, authorized agency officials should:

- compare the relative size of revenues and expenses for the farm and nonfarm operations
- consider the portion of goods marketed or processed that the farm raises versus the portion obtained from other entities. If the applicant produces more than 50 percent of the commodity being processed, the enterprise may be allowable.

123.5 CL Purposes (7 CFR 762.121(c)) (Continued)

B CL Purposes (Continued)

***--[7 CFR 762.122(c)] When FO or CL funds are used for improvements to leased--* land, the terms of the lease must provide either of the following:**

- **reasonable assurance that the applicant will have use of the improvement over its useful life**
- **compensation for any unexhausted value of the improvement if the lease is terminated.**

--124 Loan Limitations (7 CFR 762.122 and 761.8)--

A General Guaranteed Loan Limitations

Applicants are limited in the total amount of money they can borrow through FSA programs and in how they can use the funds they receive. The authorized agency official must review loan applications to ensure that they comply with FSA limitation requirements.

B Specific OL, FO, and CL Limitations

[7 CFR 761.8(c)] The total dollar amount of line of credit advances and income releases cannot exceed the total estimated expenses, less interest expense, as indicated on the borrower's cash flow budget, unless the cash flow budget is revised and continues to reflect a feasible plan.

The amount of loan proceeds that the lender advances plus the amount of income that the lender releases to the borrower normally cannot exceed the borrower's total planned expenses, excluding interest expense. However, additional amounts may be advanced or released if a revised feasible plan, as defined in Exhibit 2, is developed.

***--[7 CFR 762.122(d)] The Agency will not guarantee any loan made with the proceeds of any obligation the interest on which is excluded from income under Section 103 of the Internal Revenue Code of 1986, as amended. Funds generated through the issuance--* of tax-exempt obligations may not be used to purchase the guaranteed portion of any Agency guaranteed loan. An Agency guaranteed loan may not serve as collateral for a tax-exempt bond issue.**

Many States have financing programs for, typically, beginning farmers using Tax Exempt Industrial Revenue Agricultural Bonds ("Aggie Bonds"). Because of their tax-exempt status, FSA cannot guarantee loans funded with Aggie Bonds.

--124 Loan Limitations (7 CFR 762.122 and 761.8) (Continued)--

B Specific OL, FO, and CL Limitations (Continued)

The Agency will not guarantee any loan to purchase, build, or expand buildings located in a special 100 year floodplain as defined by FEMA flood hazard maps unless flood insurance is available and purchased.

If FEMA floodplain maps have not been completed, this restriction will not apply. However, if the floodplain maps have been completed for the area, but the community has chosen to not make flood insurance available, a guarantee cannot be approved for a loan to construct buildings on the floodplain or purchase farm property if buildings are located on the floodplain. A loan for refinancing or construction of buildings outside the floodplain would not be prohibited.

Loans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity. A decision by the Agency to reject an application for this reason may be appealable. An appeal questioning the presence of a wetland, converted wetland, or highly erodible land on a particular property must be filed directly with the USDA agency making the determination in accordance with the agency's appeal procedures.

Loans may not be used to satisfy judgments obtained in the United States District courts. However, Internal Revenue Service judgment liens may be paid with loan funds.

See Part 10 for maximum loan amount limitations.

[7 CFR 762.125(a)(9)] Except for CL, guaranteed loan funds will not be used to establish or support a noneligible enterprise as defined in Exhibit 2, even if the noneligible enterprise contributes to the farm.

The purpose of the CL Program is to provide funding that results in a net benefit to the environment regardless of the type of enterprise, including noneligible enterprises as defined in Exhibit 2.

Note: A portion of the applicant's income may be derived from a noneligible enterprise source and the conservation measure may benefit the noneligible enterprise. However, the applicant must be engaged in production agriculture (an enterprise that would normally be eligible for FSA's FO or OL programs and does not meet FSA's definition of noneligible enterprise).

125-134 (Reserved)

Subsection 3 Appraisals

*--181 General Requirements (7 CFR 762.127(a))

A Purpose

[7 CFR 762.127(a)(1)] The lender is responsible for ensuring that the value of chattel and real estate pledged as collateral is sufficient to fully secure the guaranteed loan.

Collateral valuation is an integral part of the loan evaluation process. This paragraph will discuss general collateral valuation requirements and when appraisals or evaluations are and are not required. See subparagraph 267 I for SED responsibilities about appraisals.

B General Requirements

The requirements in this paragraph apply to all 3 types of lenders.

Appraisals or evaluations of collateral are not part of a complete application and guarantees may be approved by FSA, subject to the lender obtaining an acceptable appraisal or evaluation. The lender is responsible for properly documenting the market value of collateral before loan closing and FSA issuing the loan guarantee. SEL's must provide FSA with a copy of the appraisal or evaluation.

Each lender is responsible for ensuring that the person completing the appraisal or evaluation has the necessary qualifications. Real estate appraisals must be completed according to USPAP.

Notes: FSA may conduct administrative and technical appraisal reviews according to 1-FLP, subparagraphs 143 C and E.

A current copy of USPAP may be obtained from
<http://www.appraisalfoundation.org>.

See Exhibit 15 for additional guidance about appraisals for the liquidation or penalty and other CAFO's.

C Loan Servicing

Appraisals are required under the following loan servicing actions:

- transfer of security and assumption of debt
- debt writedown
- servicing FSA-2253's
- liquidation
- partial releases of security if determined necessary by FSA.--*

--181 General Requirements (7 CFR 762.127(a)) (Continued)*D Situations Where Appraisals or Evaluations Are Not Required**

[7 CFR 762.127(a)(2)] The lender is not required to complete an appraisal or evaluation of collateral that will serve as additional security, but the lender must provide an estimated value.

Appraisals or evaluations are not required on property to be taken as additional security that is clearly in excess of what is needed to fully secure the loan. The lender shall provide an estimate of value on the Application for Guarantee or Preferred Lender Application, as applicable.

E Appraisal Costs

[7 CFR 762.127(a)(3)] Except for authorized liquidation expenses, the lender is responsible for all appraisal costs, which may be passed on to the borrower or transferee in the case of a transfer and assumption.

Appraisal costs may be deducted from security proceeds when part of authorized liquidation expenses.

182 Chattel Appraisals (7 CFR 762.127(b))**A When Are Chattel Appraisals Required**

[7 CFR 762.127(b)(1)] A current appraisal (not more than 12 months old) of primary chattel security is required on all loans except loans or lines of credit for annual production purposes secured by crops, which require an appraisal only when the guarantee is requested late in the current production year and actual yields can be reasonably estimated. An appraisal is not required for loans of \$50,000 or less if a strong equity position exists.

B Techniques

[7 CFR 762.127(b)(2)] The appraised value of chattel property will be based on public sales of the same or similar property in the market area. In the absence of such public sales, reputable publications reflecting market values may be used.

Appraisals on machinery, farm equipment, and livestock will be based on recent auction sales in the local area, where possible. However, if the number and frequency of sales is limited, it may be necessary to consult published prices.--*

--182 Chattel Appraisals (7 CFR 762.127(b)) (Continued)*C Reports**

[7 CFR 762.127(b)(3)] Appraisal reports may be on the Agency's appraisal of chattel property form or on any other appraisal form containing at least the same information.

D Appraiser Qualifications

[7 CFR 762.127(b)(4)] Chattel appraisals will be performed by appraisers who possess sufficient experience or training to establish market (not retail) values as determined by the Agency.

The important qualification for chattel appraisers is the ability to establish the value of equipment as reflected at auction sales. An appraiser's qualifications can be demonstrated through their years of experience, number of appraisals performed, and any relevant education or training.

183 Real Estate Security (7 CFR 762.127(c))**A Loans of \$250,000 or Less**

[7 CFR 762.127(c)(1)] For loans of \$250,000 or less, the lender must document the value of the real estate by applying the same policies and procedures as their non-guaranteed loans.

Federal regulators published Interagency Appraisal and Evaluation Guidelines detailing both when a lender may use an evaluation of collateral rather than obtain an appraisal, and the standards that an evaluation must meet. An evaluation is an alternative method to establish collateral value. When requested, lenders must be able to support they have met the requirements contained in the Interagency Appraisal and Evaluation Guidelines.

Interagency Appraisal and Evaluation Guidelines direct lenders to establish policies outlining when to obtain an appraisal. These policies should consider the borrower's risk characteristics, the collateral's expected loan-to-value ratio, the type of property involved, and other factors. FSA expects the lender to:

- apply these same policies to guaranteed loans
- request an appraisal when they would do so for nonguaranteed loans, such as when the expected loan-to-value is above their established standards.

Authorized agency officials have the discretion to require an appraisal, but will do so **only** for loans with unusually high risk factors. Justification for this requirement will be clearly documented.--*

--183 Real Estate Security (7 CFR 762.127(c)) (Continued)*A Loans of \$250,000 or Less (Continued)**

An acceptable evaluation must:

- identify the location of the property
- provide a description of the property, including any improvements and its current and projected use
- provide confirmation that the property was physically inspected and the date of the inspection
- describe the analysis performed and supporting information used to determine the property's market value
- provide information supporting the preparer's experience and other qualifications to complete the evaluation and independence from the loan transaction

Note: Qualifications may be demonstrated through years of experience, number of appraisals or evaluations performed, and any other relevant education or experience.

- include an effective date of the evaluation and a signature of the preparer.

When requested, the lender must demonstrate that the method or tools used to determine value is consistent with safe and sound lending practices. This includes supporting the qualifications of the person completing the evaluation or the validity of any automated tool used.

B Loans Greater Than \$250,000

[7 CFR 762.127(c)(2)] For loans greater than \$250,000, the lender must document the value of real estate using a current appraisal (not more than 12 months old) completed by a State Certified General Appraiser. Real estate appraisals must be completed in accordance with USPAP. Restricted reports as defined in USPAP are not acceptable. The Agency may allow an appraisal more than 12 months old to be used only if documentation provided by the lender reflects each of the following:

(i) Market conditions have remained stable or improved based on sales of similar properties,

(ii) The property in question remains in the same or better condition, and

(iii) The value of the property has remained the same or increased.

Note: Appraisals more than 12 months old may be used for all loans, including loans of \$250,000 or less.--*

--183 Real Estate Security (7 CFR 762.127(c)) (Continued)*B Loans Greater Than \$250,000 (Continued)**

[7 CFR 762.127(c)(3)] Agency determinations under paragraph (c)(2) of this section (this subparagraph) to permit appraisals more than 12 months old are not appealable.

Note: When using an appraisal over 12 months old, all collateral and loan approval considerations will be based on the market value stated on the appraisal. The value will not be adjusted for time or any other reason.

Generally, the 3 approaches to value are required when all are necessary to produce credible assignment results. Appraisal development may, however, be limited in nature as established in the scope of work. An appraisal that has been limited in scope might result in an exclusion of 1 or more of the approaches to value, if deemed unnecessary or not representative. An example of this might be the exclusion of the cost approach to value when appraising cropland where there are no improvements or when the improvements are functionally obsolete and have no remaining contributory value.

The appraisal report must be a USPAP compliant appraisal report. Restricted reports, as defined in USPAP, are normally only for internal use, may be simply a letter of value, have limited information, and are not acceptable for guarantee requests.--*

184-194 (Reserved)

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- when required, personal, joint operation, partnership, or corporate guarantees have been obtained
- liens have been perfected and priorities are consistent with requirements of the conditional commitment
- loan proceeds have been, or will be disbursed for purposes and in amounts consistent with the conditional commitment and as specified on the loan application

Note: In line of credit cases, if any advances have occurred, advances have been disbursed for purposes and in amounts consistent with the conditional commitment and line of credit agreements.

- there has been no material adverse change in the borrower's condition, financial or otherwise, since submission of the application
 - all other requirements specified in the conditional commitment have been met.
- FSA-2236

***--Note:** [7 CFR 762.130(d)(4)(i)] The lender must complete an Agency closing report form and return it to the Agency.

- a completed Application for Guarantee or Preferred Lender Application with appropriate signatures if the lender submitted the application electronically without all required signatures
- an acceptable evaluation or appraisal from SEL's, if the guarantee was approved, subject to an evaluation or appraisal

Note: SEL's should be encouraged to submit the evaluation or appraisal to FSA before loan closing to ensure compliance with FSA requirements.

- Lenders Agreement

Note: [7 CFR 762.130(d)(3)] The lender must execute the Agency's lender's--* agreement and deliver it to the Agency. If a current Lenders Agreement is not on file with FSA, then 1 must be executed before issuing the Loan Guarantee.

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- guarantee fee

--[7 CFR 762.130(d)(4)(ii)] The guarantee fee for the loan type will be calculated--
as follows:

FO guarantee fee = Loan Amount x % guaranteed x (FO percentage established by FSA)

OL guarantee fee = Loan Amount x % guaranteed x (OL percentage established by FSA)

CL guarantee fee = Loan Amount x % guaranteed x (CL percentage established by FSA).

Note: The guarantee fee is established by the Agency at the time the guarantee is obligated. The fee, beginning in FY 2012, is 1.5 percent. The current fee schedule is available at any FSA office. The Agency may change the guarantee fee by a notice in the Federal Register. Guaranteed fees may be adjusted annually based on factors that affect program costs. The nonrefundable fee is paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds.

--[7 CFR 762.130(d)(4)(iii)] The following guaranteed loan transactions are not--
charged a fee:

- loans involving interest assistance
- loans where a majority of the funds are used to refinance an Agency direct loan
- loans to beginning or socially disadvantaged farmers involved in the direct Downpayment Loan program or beginning farmers participating in a qualified State Beginning Farmer Program.

Note: Only applicants who meet both of the following requirements will qualify for a waiver of the fee:

- meets definition of a beginning farmer according to Exhibit 2 as of the date the application is received, for the type of guarantee being requested, or socially disadvantaged farmer, **and**

247 Actions Before Issuing the Loan Guarantee (7 CFR 762.130) (Continued)

B FSA Actions

After FSA receives the information from the lender detailed in subparagraph A, the authorized agency official must take the following actions before executing the Loan Guarantee to guarantee the loan.

- Review the Conditional Commitment to ensure that the loan closed according to the agreed conditions.
- Review the executed loan agreement and promissory note and compare with the Conditional Commitment to ensure consistency with the agreed upon terms and personal liability of entity members.
- *--For SEL's, review the evaluation or appraisal of collateral to ensure that it meets the requirements of paragraph 183. For CLP and PLP lenders, the agency official will review 20 percent of each lender's evaluations. This should be completed during the lender's file review required by subparagraph 267 B.

Note: For real estate evaluations, this review shall be completed on FSA-2234.--*

- Review the lender's proposed marketing plans to the secondary market. If the lender is proposing to sell the loan or a portion of the loan into the secondary market, documents should be checked to ensure consistency before sale. The authorized agency official should take additional care to review the Conditional Commitment, the Loan Guarantee, the loan agreement, and promissory notes to ensure the following:
 - principal amount and interest rate are consistent and interest rate does not exceed the maximums established in paragraph 135
 - closing date on the note and guarantee are consistent
 - borrower's name, lender's name, and FSA contact information are consistent on all documents.
- For loans involving construction, review the lender's proposed plans for construction inspections and how they intend to ensure that the project is completed according to agreed upon terms.

248 Issuing the Loan Guarantee**A Action**

Once the requirements of paragraph 247 have been met, the authorized agency official may prepare and issue the Loan Guarantee. The original Loan Guarantee should be provided to the lender to be attached to the original note. A conformed copy, or signed and dated photocopy, with copies of the note should be kept by FSA in the loan docket.

B Documents To Be Transmitted to FSC, FLOO

--The guarantee fee will be processed through the National Receipts and Receivable System using applicable collection type. See 3-FI for additional guidance. The authorized agency-- official shall make every attempt to review the closing documents before processing the guarantee fee. However, FSA shall adhere to the timeframes in 3-FI to process the fee even in situations when the authorized agency official is not able to review the closing documents timely. The Loan Closing Transaction shall be input through GLS Add Loan Screen.

C Refund of Guarantee Fee

The guarantee fee is not refundable once the Loan Guarantee has been issued and loan funds disbursed. However, if the fee was processed before reviewing closing documents and it is later determined that the guarantee cannot be issued, the fee may be refunded to the lender.

The authorized agency official will forward a memorandum to the State Office with the reasons FSA was not able to issue the Loan Guarantee and request that the fee be refunded. If approved, the State Office will FAX the memorandum to FSC, FLOO, requesting that the fee be refunded.

A request for a guarantee fee refund for any other reason shall be forwarded to the National Office for approval.

249 Deobligation of Loan Funds**A Deobligation of Funds**

Under certain circumstances, the authorized agency official may need to consider a deobligation of loan funds. If the conditions for the loan or LOC cannot be met after completing the appeal process, the authorized agency official must execute FSA-2072 to cancel the actual obligation.

B FAXing FSA-2072

FSA-2072 should be FAXed to the State Office that will process the cancellation or deobligation through GLS.

283 Emergency Advances (7 CFR 762.146(a)) (Continued)**C FSA Response to Request for Emergency Advance**

The authorized agency official:

- shall review a SEL's and CLP lender's request for an emergency advance and notify the lender of FSA's decision in a timely manner
- should make every effort to respond to a request for an emergency advance within several days of receiving the lender's request.

284 Interest Rate Changes (7 CFR 762.146(d))**A Overview**

The lender may change the interest rate on a performing (nondelinquent) loan only with the borrower's consent.

B Changing Interest Rates

A lender must follow the following procedures to change the interest rate.

- **If the loan has been sold on the secondary market, the lender must repurchase the loan according to subparagraph 375 B or obtain the holder's written consent.**
- **To change a fixed rate of interest to a variable rate of interest or vice versa, the lender and the borrower must execute a legally effective amendment or allonge to the existing note.**
- **If a new note is taken, it will be attached to and refer to the original note.**
- **The lender will inform FSA of the rate change.**

--The new interest rate may not exceed the maximums established in paragraph 135.--

The authorized agency official shall update the rate change in GLS on the Loan Maintenance Screen.

Note: Lenders do **not** need to seek FSA concurrence to change an interest rate.

285 Release of Liability Upon Withdrawal (7 CFR 762.146(b))

A General Requirements

***--[7 CFR 762.146(b)] An individual who is obligated on a guaranteed loan may be--* released from liability by a lender with the written consent of the Agency provided the following conditions have been met.**

- **The individual to be released has withdrawn from the farming operation.** The lender must submit a narrative outlining who is to be released and why.
- **A divorce decree and final property settlement does not hold the withdrawing party responsible for the loan payments.** A copy of the divorce decree must be submitted with the lender's request. The lender must document that release of divorced borrowers is a common practice carried out in their nonguaranteed loan portfolio.
- **The withdrawing party's interest in the security is conveyed to the individual or entity with whom the loan will be continued.**
- **The ratio of the amount of debt to the value of the remaining security is less than or equal to .75, or the withdrawing party has no income or assets from which collection can be made.**
- **Withdrawal of the individual does not result in legal dissolution of the entity to which the loans are made. Individually liable members of a general or limited partnership may not be released from liability. Partners, parents, cosigners, stockholders, and entity members may often be released from liability.** However, when the guaranteed loan is made to individuals farming as a partnership, and each partner is fully liable, release of 1 partner would terminate the partnership and the existence of the entity to which the loans were made. The lender must document that release of withdrawing members is common in their unguaranteed portfolio and all other conditions in this paragraph are met.
- ***--The remaining liable party projects a feasible plan (see § 761.2(b) of this chapter).--*** The lender must submit a cash flow projection for the remaining liable party with the request for release. A release will not be approved when a loss is probable.

Section 2 Restructuring Requirements for Guaranteed Loans

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)

A General Requirements

For any restructuring action, the following conditions apply.

- **The borrower meets the eligibility criteria of § 762.120, except the provisions regarding prior debt forgiveness and delinquency on a Federal debt do not apply.**

Note: When a lender submits a request for FSA concurrence with a restructuring action, the authorized agency official will review the borrower's eligibility for the loan. However, the eligibility provisions of subparagraphs 108 C and D do not apply to the restructuring of existing loans.

- **The borrower's ability to make the amended payment is documented by the following:** (SEL and CLP lender only; PLP lender shall see the Lender's Agreement)

- **a feasible plan * * ***

Note: If interest assistance is required to achieve a feasible plan, the items required by Sec. 762.150(d) must be submitted with a restructuring request.

- **current financial statements from all liable parties**
- **verification of nonfarm income**
- **verification of all debts of \$1,000 or more**
- **applicable credit reports**
- **financial history (and production history for standard eligible lenders) for the past 3 years to support the cash flow projections.**
- **A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.**

**312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)
(Continued)**

A General Requirements (Continued)

- **Loans secured by real estate and/or equipment can be restructured using a balloon payment, equal installments, or unequal installments. Under no circumstances may livestock or crops alone be used as security for a loan to be rescheduled using a balloon payment. If a balloon payment is used, the projected value of the real estate and/or equipment security must indicate that the loan will be fully secured when the balloon payment becomes due. The projected value will be derived from a current appraisal adjusted for depreciation of depreciable property, such as buildings and other improvements, that occurs until the balloon payment is due. For equipment security, a current appraisal is required. The lender is required to project the security value of the equipment at the time the balloon payment is due based on the remaining life of the equipment, or the depreciation schedule on the borrower's Federal income tax return. Loans restructured with a balloon payment that are secured by real estate will have a minimum term of 5 years, and other loans will have a minimum of 3 years before the scheduled balloon payment. If statutory limits on terms of loans prevent the minimum terms, balloon payments may not be used. If the loan is restructured with unequal installments, a feasible plan, as *--defined in §761.2(b) of this chapter, must be projected for when installments are--* scheduled to increase.**

Example of unequal installment: A payment that increases as the cash flow and debt repayment ability of the farming operation increases because of development or expansion. Unequal installments may be used when development is being financed, such as the planting of orchards or other perennial crops, the construction of livestock or other processing facilities, or the purchase of foundation livestock. Since typical production income may not be realized for quite a number of years in some cases, higher installments could be scheduled later in the life of the loan. For instance, an orchard development may be financed resulting in the planting of immature trees. In years 1 through 3, there may be no realized production and income. In years 4 through 6, initial production may be anticipated; however, full production may not be expected until years 8 through 10. Unequal payments may be adjusted accordingly.

- **If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted prior to the payment coming due.**
- **The lender may capitalize the outstanding interest.** See subparagraph 326 D.

328 Debt Writedown (7 CFR 762.145(e))**A Overview**

A debt writedown involves writing off a portion of the outstanding balance of a loan. A lender may write down a delinquent guaranteed loan only in an amount sufficient to enable the borrower to repay the reduced debt over the remaining term of the loan. All lenders must seek FSA concurrence before they can execute a debt writedown. Debt writedown loss claims must be approved by SED.

B General Requirements

***--[7 CFR 762.145(e)(1)] The following conditions apply to debt writedown:**

- **A lender may only writedown a delinquent guaranteed loan or line of credit in an amount sufficient to permit the borrower to develop a feasible plan of operation as defined in § 761.2(b) of this chapter.--***
- **The lender will request other creditors to negotiate their debts before a writedown is considered.**
- **The borrower cannot develop a feasible plan after consideration is given to rescheduling and deferral under this section.**
- **The present value of the loan to be written down, based on the interest rate of the rescheduled loan, will be equal to or exceed the net recovery value of the loan collateral.**
- **The loan will be restructured with regular payments at terms no shorter than 5 years for a line of credit and OL term note; and no shorter than 20 years for FO and CL, unless required to be shorter by paragraphs (c)(1)(i) through (ii) of this section (subparagraph 326 B).**
- **No further advances may be made on a line of credit that is written down.**
- **Loans may not be written down with interest assistance. If a borrower's loan presently on interest assistance requires a writedown, the writedown will be considered without interest assistance.**

328 Debt Writedown (7 CFR 762.145(e)) (Continued)

B General Requirements (Continued)

- **The writedown is based on writing down the shorter-term loans first.**
- **When a lender requests approval of a writedown for a borrower with multiple loans, the security for all of the loans will be cross-collateralized and continue to serve as security for the loan that is written down. If a borrower has multiple loans and one loan is written off entirely through debt writedown, the security for that loan will not be released and will remain as security for the other written down debt. Additional security instruments will be taken if required to cross-collateralize security or maintain lien priority.**
- **The writedown will be evidenced by an allonge or amendment to the existing note or line of credit reflecting the writedown.**

The payment of a loss claim in conjunction with a debt writedown does not establish a Federal debt and is not subject to offset.

The holder or holders, if any, must agree to the writedown or the lender must repurchase the guaranteed portion.

C Borrower Execution of FSA-2253

The borrower executes an Agency shared appreciation agreement for loans which are written down and secured by real estate. See paragraph 288 for information on servicing FSA-2253's.

- **The lender will attach the original agreement to the restructured loan document.**
- **The lender will provide the Agency a copy of the executed agreement.**
- **Security instruments must ensure future collection of any appreciation under the agreement.**

358 Lender Liquidation Plan (7 CFR 762.149(b))**A Overview**

--All lenders must prepare a liquidation plan with 150 calendar days of the payment due date. SEL and CLP lenders must submit a liquidation plan. If applicable, the lender should submit a request for IA reimbursement to FSA within 30 calendar days. The liquidation plan must-- include a schedule of all projected liquidation activities, and a complete inventory of the security to be sold.

B General Requirements

If a default cannot be cured after considering servicing options and mediation, the lender will proceed with liquidation of the collateral in accordance with the following.

*--**Within 150 days after the payment due date, all lenders will prepare a liquidation plan. Standard eligible and CLP lenders will submit a written liquidation plan to the Agency which includes:--***

- **Current balance sheets from all liable parties or, if the parties are not cooperative, the best information available, or in liquidation bankruptcies, a copy of the bankruptcy schedules or discharge notice**
- **A proposed method of maximizing the collection of debt which includes specific plans to collect any remaining loan balances on the guaranteed loan after loan collateral has been liquidated, including possibilities for judgment**
- **If the borrower has converted loan security, the lender will determine whether litigation is cost effective. The lender must address, in the liquidation plan, whether civil or criminal action will be pursued. If the lender does not pursue the recovery, the reason must be documented when an estimated loss claim is submitted (subparagraph 360 E).**
- **Any proposal to release the borrower from liability will be addressed in the liquidation plan in accordance with § 762.146(c)(2) (paragraph 361).**

Note: If according to paragraph 361 the release of liability can be approved, it will not be granted until either all of the collateral is voluntarily conveyed to the lender or it is liquidated.

358 Lender Liquidation Plan (7 CFR 762.149(b)) (Continued)

B General Requirements (Continued)

- **an independent appraisal report on all collateral securing the loan that meets the requirements of § 762.127 (paragraphs 181 through 183) and a calculation of the net *--recovery value of the security as defined in §761.2(b) of this chapter (Exhibit 10).--***
The appraisal requirement may be waived by the Agency in the following cases:

Note: For poultry and other CAFO facility appraisals, see Exhibit 15.

- **the bankruptcy trustee is handling the liquidation and the lender has submitted the trustee's determination of value**
- **the lender's proposed method of liquidation rarely results in receipt of less than market value for livestock and used equipment**
- **a purchase offer has already been received for more than the debt.**
- **an estimate of time necessary to complete the liquidation**
- **an estimated loss claim if the liquidation period is expected to exceed 90 days (paragraph 359)**
- **an estimate of reasonable liquidation expenses**
- **an estimate of any protective advances (paragraph 360).**

C Liquidation Status Reports

Lenders must submit FSA-2248 to the authorized agency official every 60 calendar days during liquidation to report on the progress of liquidation. This report should provide information on the disposition of collateral, costs incurred, and specific actions taken by the lender or their representative since the previous FSA-2248 submission.

Details on future planned actions, and their estimated dates, must be identified on FSA-2248. Further, any changes in the approved liquidation plan must also be identified on FSA-2248. The authorized agency official shall input the loan status information on FSA-2248 into the GLS and monitor lender compliance with the 60-calendar-day reporting cycle for any loan in default until payment of a final loss claim.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

This table lists the required reports in this handbook.

Report Control Number	Title	Reporting Period	Submission Date	Negative Report	Reference
RPT-1-00-FLP-09-2	SDA Loan Review Summary	Annually	October 31	Required	84

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation and Wetland Conservation Certification		66, 208
FmHA-449-34	Loan Note Guarantee		267, 281
FmHA-1980-64	Interest Assistance Agreement		224, 228, 230
FSA-1940-3	Request for Obligation of Funds Guaranteed Loans		226, 230
FSA-1980-25	Application for Guarantee		108, 285, 286, 360, 361, 363
FSA-1980-27	Loan Guarantee		364, 376
FSA-1980-28	Preferred Lender Application for Guarantee		108, 285, 360, 361, 363
FSA-1980-36	Assignment of Guarantee		375
FSA-1980-64	Interest Assistance Agreement		224, 228, 230
FSA-2028	Security Agreement		50, 280
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		249

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2201	Lender's Agreement		Text
FSA-2203	Preferred Lender Sticker		53
FSA-2211	Application for Guarantee		Text
FSA-2212	Preferred Lender Application for Guarantee		Text
FSA-2221	Interest Assistance Agreement		Text
FSA-2222	Request for Interest Assistance Payment		228, 326
FSA-2231	Request for Obligation of Funds Guaranteed Loans		226, 230, 244
FSA-2232	Conditional Commitment		Text
FSA-2233	Lender Certification		247
FSA-2234	FSA Review of Lender's Evaluation of Collateral		247
FSA-2235	Loan Guarantee		Text
FSA-2236	Guaranteed Loan Closing Report		227, 247, 249, 286
FSA-2241	Guaranteed Farm Loan Status Report as of		250, 266, 355, 376, Ex. 12
FSA-2242	Assignment of Guarantee		373-375, Ex. 12
FSA-2243	Notice of Substitution of Lender (Transaction 4034)		287
FSA-2244	Guaranteed Loan Status Update Adjustment (Transaction 4048)		288
FSA-2245	Modification of Loan Guarantee		281, 313, 326, Ex. 12
FSA-2246	Notification of Transfer and Assumption of a Guaranteed Loan Transaction Code 4037		281
FSA-2247	Guaranteed Loan Borrower Adjustments		281, 284, 288
FSA-2248	Guaranteed Farm Loan Default Status Report		Text, Ex. 12
FSA-2249	Request for Restructuring Guaranteed Loans		313

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2250	FSA Purchase of a Guaranteed Loan Portion		375
FSA-2251	Lender's Guaranteed Loan Payment to USDA		376
FSA-2252	Farm Loan Programs Guaranteed Writedown Worksheet		328, Ex. 12
FSA-2253	Shared Appreciation Agreement for Guaranteed Loans		181, 288, 328, 341, Ex. 12
FSA-2254	Guaranteed Loan Report of Loss		136, 288, 328, 342, Part 14, 376, Ex. 12
FSA-2261	Report on Collection Activities on Liquidated Accounts		266, 362, Ex. 12
FSA-2262	Notice of Liquidation Responsibility		362
FSA-2291	Lender's Processing Checklist		65, 95
FSA-2292	Guaranteed Loan Processing Checklist		65
FSA-2293	Annual File Review Checklist for SEL and CLP Lenders		267
FSA-2294	Debt Writedown Review Checklist		329
FSA-2295	Guaranteed Estimated Loss Review Checklist for SEL and CLP Lenders		342, 359
FSA-2296	Guaranteed Loan Final Loss Review Checklist		360
IRS-1099-C	Cancellation of Debt		362
IRS-8379	Injured Spouse Claim and Allocation		Ex. 17, 18
NRCS CPA-1155	Conservation Plan or Schedule of Operations		66
RD 1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD 1956-1	Application for Settlement of Indebtedness		363
RD-1980-64	Interest Assistance Agreement		224, 228, 230
UCC1	Financing Statement		364
W-2	Wage and Tax Statement		152

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AASM	Application Authorization Security Management	73, Ex. 5
ACT	Consolidated Farm and Rural Development Act	1, 108, 286
ADPB	average daily principal balance	228, Ex. 10
CAFO	Concentrated Animal Feeding Operation	181, 358, Ex. 15
CL	conservation loan	Text, Ex. 2
CMS	Credit Management System	Text
EL	emergency livestock loan	108
EO	economic opportunity loan	108
FmHA	Farmers Home Administration	108, Part 9, Part 11, 360
GFO	guaranteed farm ownership loan	135
GLOC	guaranteed line of credit	108
GOL	guaranteed operation loan	135
IA	interest assistance	18, Parts 9, 11-15, Ex. 10
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
LIBOR	London Interbank Offered Rate	135
LINC	Lender Interactive Network Connection	73, 266, Ex. 5
LOC	line of credit	Text
NPO	nonprofit organization	111
PLP	Preferred Lender Program	Text, Ex. 12
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 7
SAA	Shared Appreciation Agreement	286, 288, Ex. 2
SDMS	State Directive Management System	84
SEL	Standard Eligible Lender	Text, Ex. 12
USCIS	U.S. Citizenship and Immigration Services	Ex. 7, 8

Re delegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20