

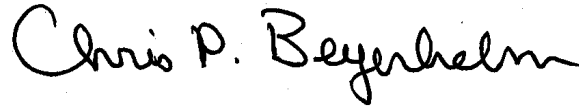
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Direct Loanmaking
3-FLP (Revision 2)**

Amendment 8

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 A has been amended to add a reference to 1-DIS.

Subparagraph 41 A has been amended to add reference to the Streamlined OL application.

Subparagraph 41 D has been amended to add Intertribal Agriculture Council to the list of organizations that provide technical assistance.

Subparagraph 42 A has been amended to clarify information about applicant tax returns, to clarify the information required from FSA-2005 and to clarify the production information applicants must submit.

Subparagraph 43 A has been amended to add reference to the ML application.

Subparagraphs 43 A and B have been amended to correct the reference to complete application.

Subparagraph 43 C has been amended to change the reference to the Streamlined CL.

Subparagraph 45 A has been amended to remove the requirement that copies of DLS screen prints be placed in the case file and clarify that DLS is the official application record.

Subparagraph 45 B has been amended to remove the requirement that a copy of FSA-2305 be sent to DD.

Subparagraph 45 C has been amended to clarify that DLS is the official application record.

Subparagraph 63 A has been amended to

- clarify that the statute for youth loans includes full personal liability regardless of minority status
- add reference to failure to file tax returns and the reference for priority consideration.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 65 C has been amended to remove the requirement that GLS screen prints be placed in the applicant case file.

Subparagraph 65 D has been amended to clarify instances where medical expenses can be considered beyond the applicant's control.

Subparagraph 69 A has been amended to clarify the farm experience requirement and to add a separate section for ML experience.

Subparagraph 71 B has been amended to clarify farm requirements.

Subparagraph 73 A has been amended to add reference to SF-3881.

Subparagraph 91 C has been amended to clarify additional security requirements for ML's.

Subparagraph 91 E has been amended to clarify nonessential asset requirements for ML's.

Subparagraph 92 B has been amended to comply with the changes to FSA-2319.

Subparagraph 95 A has been amended to change the appraisal requirements for making subsequent chattel loans.

Subparagraph 112 C has been amended to clarify acceptable reasons for not obtaining crop insurance when required.

Subparagraph 133 A has been amended to clarify that FSA may use FO funds to purchase a manufactured home.

Subparagraph 137 B and Exhibit 16 have been amended to change the approving official on MOU's from SED to DAFLP.

Subparagraph 153 C has been amended to clarify that the remaining downpayment loan portion may also be financed by either the seller or privately financed.

Paragraph 201 has been amended to include uses for ML's.

Subparagraph 205 A has been amended to clarify security requirements for ML's.

Subparagraphs 216 A and B have been amended to provide the loan requirements for ML's.

Paragraph 217 has been added for Streamlined OL processing.

Subparagraph 244 C has been amended to clarify the requirements for publishing State EM prices.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Exhibit 5 has been amended to add references to FSA-2314, FSA-2330, and clarification that the balance sheet, etc., from an individual can be no more than 90 calendar days old.

Form Status: OMB approval is pending on FSA-2314 and FSA-2330. FSA-2314 and FSA-2330 will be released when OMB approval is received.

Exhibit 16 has been amended to change the approval official on MOU.

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Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A Handbook Purpose

This handbook is designed to assist FSA in understanding:

- direct loanmaking regulations governing FLP
- roles and responsibilities in implementing those regulations and other direct loanmaking responsibilities.

B Sources of Authority

The sources of authority for this handbook include:

- 7 CFR Part 764 and other regulations that may be referenced throughout this handbook
- various laws and statutes passed by Congress, including CONACT.

C Regulation References

Text in this handbook that is published in CFR is printed in **bold** text. The CFR citation is printed in brackets in front of the text. The references and text:

- are intended to highlight the requirement spelled out in CFR
- may be used to support adverse FSA decisions.

Note: Cross-references printed in **bold** are citing a CFR section. The handbook paragraph or subparagraph where the cross-referenced CFR text can be found is printed in the nonbold text in parenthesis within the bold text.

Example: Subparagraph 43 C provides “[**7 CFR 764.51(c)(4)**] **Submit items (1), (2), (7), (9), and (11) of paragraph (b) of this section** (paragraph 42). **The Agency may require a Lo-Doc applicant to submit any other information listed in paragraph (b) of this section as needed to make a determination on the loan application**”.

Note: The text “**items (1), (2), (7), (9), and (11) of paragraph (b) of this section**” refers to 7 CFR 764.51(b)(1), (2), (7), (9), and (11). The nonbold reference indicates that 7 CFR 764.51(b) is included in paragraph 42.

2 **Related References**

A Related FSA Handbooks

The following FSA handbooks concern FLP.

IF the area of concern is about...	THEN see...
State and county organization and administration policies, procedures, principles, and standards, such as work organization	16-AO.
civil rights compliance and administration for FSA programs	18-AO.
appeals and mediation	1-APP.
State and county records management	25-AS.
policies and procedures for the acquisition of supplies, equipment, and services	27-AS.
common management and operating provisions for program management activities, functions, and automated applications, such as forms that cannot be accepted by FAX	1-CM.
environmental requirements	1-EQ.
processing collections and canceling loan checks and payments	3-FI.
general and administrative regulations governing FLP	1-FLP.
guaranteed loan making and servicing	2-FLP.
direct loan regular or routine servicing	4-FLP.
direct loan special servicing and inventory property management	5-FLP.
the Emergency Loan Seed Producers Program, Horse Breeder Loan Program, Indian Tribal Land Acquisition Program, Special Apple Loan Program, and servicing of minor loan programs	6-FLP.
procedures for making records available to the public, other Federal agencies, and Congress	2-INFO.
procedures for collecting, maintaining, or disclosing data or information about an individual	3-INFO.
personnel management, such as employee conflict of interest	3-PM.
employee development and training	6-PM.

***--Notes:** See 1-DIS for information on the disaster designation process.--*

RD Instruction 1940-G must be used along with 1-EQ.

B Helpful Links

The Helpful Links web site at <https://arcticocean.sc.egov.usda.gov/flp/InformationalLinks?Action=HelpfulLinks&caller=index> provides links to useful web sites.

4 Introduction to Direct FLP's

A FSA Loan Programs

[7 CFR 764.1(a)] This part describes the Agency's policies for making direct FLP loans.

[7 CFR 764.1(b)] The Agency makes the following types of loans:

(1) FO, including Down Payment loans (Part 7);

--(2) OL, including ML and Youth loans (Part 9);--

(3) EM (Part 10); and

(4) CL (Part 8).

5-20 (Reserved)

Part 2 (Reserved)

21-40 (Reserved)

Part 3 Loan Application

41 Obtaining and Filing a Loan Application

A Obtaining a Loan Application

A loan application may be obtained from:

- any FSA office
- FSA's web site at www.fsa.usda.gov
- eGov's web site at www.sc.egov.usda.gov.

An agency official will:

- not refuse to provide a requested application to any person
- not discourage the prospective applicant to apply for a direct loan even when loan funds are limited or unavailable

Note: On Friday, May 13, 2011, FR notice was published to inform the public that, because of a lack of funding for the CL program, direct CL applications will not be accepted until further notice. Agency officials should advise prospective applicants of the availability of other FSA loan programs.

- not make oral or written statements that would discourage any individual from applying for assistance based on any ECOA prohibited basis (race, color, religion, national origin, sex, marital status, age, applicant's income deriving from public assistance, or because the applicant has in good faith exercised any right under the Consumer Protection Act)
- provide Exhibit 5 to all persons requesting an application

Notes: Additional information, as necessary, may be requested; however, information that would create unapproved paperwork burden will not be requested. Specifically, anything that asks the applicant to provide information to FSA is not allowed by the State without approval from the National Office.

Exhibit 5 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK "FFAS Employee Forms/Publications Site" and CLICK "Find Current Forms Using Our Form Number Search". For "Form Number", ENTER "3-FLP Exhibit 5".

- provide assistance as necessary to help applicants complete the application.

Note: Information about race, national origin, sex, and marital status is collected on a *--voluntarily basis on FSA-2001, FSA-2301, FSA-2314, and FSA-2330.--*

41 **Obtaining and Filing a Loan Application (Continued)****B Filing a Loan Application**

[7 CFR 764.51(a)] A loan application must be submitted in the name of the actual operator of the farm. Two or more applicants applying jointly will be considered an entity applicant. The Agency will consider tax filing status and other business dealings as indicators of the operator of the farm.

Upon receiving an application for direct loan assistance the authorized agency official shall ensure that the type of operation reflected on FSA-2001 is consistent with any representations previously made by the applicant for FP benefits.

If any difference in representations of the farming operation is identified, notify the applicant using FSA-2304 and insert the following for why the application is incomplete.

“A review of your FSA records revealed inconsistent representations in how your farming operation is conducted. (Provide details of different representations identified by FSA records.) Documentation must be provided to resolve the inconsistencies identified prior to your application for assistance to be considered complete.”

Note: See subparagraph 45 B for notification of incomplete application guidance.

Exception: An application will not be considered incomplete if the difference in representation is the result of either of the following:

- husband and wife representing themselves as a joint operation for FLP assistance but combined as a single person for FP
- producer participating in 2 separate and distinct operations.

When receiving an application from married persons, FSA cannot treat a married couple applying together the same way as 1 person applying individually. A married person may apply according to 1 of the following, depending on how the farm is operated.

- “As an individual” – A married person should apply as an individual when they are the operator of the farm, and the spouse has minimal involvement in the farm operation, particularly the day-to-day management and operations. In such cases, the nonfarming spouse will not be required to sign the application, except when required by State law to perfect a lien on marital or jointly owned property.

41 **Obtaining and Filing a Loan Application (Continued)****B Filing a Loan Application (Continued)**

- “As a joint operation” – Married persons should apply as a joint operation if they share the responsibilities of the farm including day-to-day management and operations, they wish to apply for the loan together, and they have not formed some other operating entity such as a partnership, LLC, trust, or corporation. When a married couple does apply as a joint operation, both parties must meet the eligibility requirements in Part 4.
- “As an entity” – If married persons have formed a legal entity (partnership, LLC, etc.), which operates the farm, the entity must apply for the loan.

Notes: Forming or changing the form of an entity can have significant tax and legal consequences. Agency officials should not advise applicants whether or not to form an entity, or what type of entity to form. It is appropriate to explain the impact of any proposed change to applicant structure on loan eligibility and on any existing FSA loans. Applicants considering entity formation or a change in operating structure should be strongly encouraged to seek guidance from qualified professionals such as a tax accountant or attorney.

An application from a husband and wife as a joint operation for FLP assistance, but who are combined as a single person for FP benefits, shall be considered as being the same type of operation, and therefore requires no corrective action.

All applicants, including an entity, should ordinarily file their loan application with the FSA FLP office serving the area where the headquarters of the farm operation is located. If the authorized agency official is not present in the office when the application is filed, the receiving office must immediately contact the office where the authorized agency official is located to determine whether the application needs to be forwarded to that office for processing.

Exceptions: For applications from:

- FSA employees and relatives of employees, see 3-PM
- applicants who have either filed a new discrimination complaint or have an outstanding discrimination complaint, contact DD and SED for direction on application processing.

In unclear cases, the authorized agency official should contact SED for a determination on where the applicant should file the loan application.

Electronic applications may be accepted from applicants who have Level 2 eAuthentication credentials. FAXed applications are acceptable; however, an original signature **must** be obtained on the application before loan approval.

41 Obtaining and Filing a Loan Application (Continued)

C Notification of Targeted Funding and Limited Resource Interest Rates

To determine whether an applicant is a member of an SDA group, the applicant must voluntarily provide the applicant's ethnicity, race, and gender on FSA-2001 or FSA-2301. If the applicant will not voluntarily provide the ethnicity, race, or gender information, targeted funding will not be available.

--FSA-2001, FSA-2301, FSA-2314, and FSA-2330 provide applicants notification, as applicable, that a portion of FO, CL, and OL funds are targeted for SDA and beginning farmer assistance. In addition, FSA-2001 FSA-2314, and FSA-2330 provide notification-- of the availability of limited resource interest rates for FO's and OL's.

See Exhibit 2 for definitions of beginning farmer, limited resource interest rates, SDA applicant or farmer, and SDA group.

Note: Targeted SDA farmer funding is available for youth loans, but targeted beginning farmer assistance and limited resource interest rates are not available for youth loans.

D Technical Assistance

Agency officials are required to:

- inform applicants that FSA will provide technical assistance, if needed, to complete FSA forms and gather information necessary for a complete application
- explain the application procedure, process, and the requirements for a complete application
- assist applicants in completing FSA forms and identifying sources of information needed for a complete application, if assistance is requested
- inform applicants of other technical assistance providers who may be of assistance at minimal or no charge; examples include, but are not limited to the Cooperative Extension Service, institutions and organizations providing assistance under Section 2501 or other *--USDA outreach grants, Intertribal Agriculture Council, Service Corp of Retired--* Executives, and other similar organizations
- advise applicants of alternatives that would help overcome barriers to being determined eligible, but caution that significant changes may have tax, estate planning, or other legal implications that may require consultation with an accountant, legal counsel, or other qualified expert.

41 Obtaining and Filing a Loan Application (Continued)

E SED Action

SED's will prepare and publicize, at least semi-annually, through newspaper articles, radio announcements, and television broadcasts, that FSA targets direct and guaranteed loan funds to beginning and SDA farmers. These required outreach efforts are in addition to information provided in State or Service Center newsletters.

Note: Outreach to assist these potential applicants will include maintaining and documenting close liaison and attending meetings with local, State, and national organizations serving beginning and SDA farmers.

42 Complete Loan Application

A Requirements

[7 CFR 764.51(b)] A complete loan application, except as provided in paragraphs (c) through (f) of this section (paragraphs 43 and 44), will include:

***--[7 CFR 764.51 (b)(1)] The completed Agency application form;**

The application must be initialed, signed, and dated by the applicant. An unsigned FSA-2001, FSA-2301, FSA-2314, or FSA-2330 will be considered an incomplete application.

Notes: FSA-2001, FSA-2314, or FSA-2330 with missing initials only will not be considered incomplete; however, initials shall be obtained before loan closing.

Youth loan applications should be filed according to paragraph 44.

Streamlined OL applications should be filed according to paragraph 43, but a qualified applicant need only submit additional information necessary to make their application complete when added to the information already in the applicants file.

The authorized agency official shall consider if an application can be Lo-Doc or Streamlined before requiring a regular, full documentation application

[7 CFR 764.51 (b)(2)] If the applicant is an entity:

[7 CFR 764.51 (b)(2)(i)] A complete list of entity members showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or stock held in the entity by each member, or the percentage of interest in the entity held by each member;

Note: Each member of the entity must demonstrate individual ownership of the entity by owning either shares or a percentage of the entity.

[7 CFR 764.51 (b)(2)(ii)] A current personal financial statement from each member of the entity;

[7 CFR 764.51 (b)(2)(iii)] A current financial statement from the entity itself;--*

42 Complete Loan Application (Continued)

A Requirements (Continued)

***--[7 CFR 764.51(b)(2)(iv)] A copy of the entity's charter or any entity agreement, any--* articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution adopted by the Board of Directors or entity members authorizing specified officers of the entity to apply for and obtain the desired loan and execute required debt, security and other loan instruments and agreements;**

Note: If entity documents require more than 1 member to apply, then all identified members must sign FSA-2001, Part E, item 18A.

***--[7 CFR 764.51(b)(2)(v)] In the form of married couples applying as a joint operation,--* items (i) and (iv) will not be required. The Agency may request copies of the marriage license, prenuptial agreement or similar documents as needed to verify loan eligibility and security. Items (ii) and (iii) are only required to the extent needed to show the individual and joint finances of the husband and wife without duplication.**

For a married couple, FSA will accept any of the following to verify existence of a joint operation:

- applicable CCC-502/CCC-902
- jointly filed tax return
- marriage license
- prenuptial agreement
- similar documentation.

Ordinarily, individual financial statements are not required from a married couple applying as a joint operation. However, in States without community property laws and in some other States, individual financial statements may be necessary to obtain a complete picture of the financial situation. A State supplement will be issued when applicable to provide additional guidance and related information requirements for a married couple applying as a joint operation.

[7 CFR 764.51(b)(3)] A written description of the applicant's farm training and experience, including each entity member who will be involved in managing or *--operating the farm. Farm experience of the applicant, without regard to lapse of time between the experience and the new application, may be included in the applicant's written description. If farm experience occurred more than 5 years prior to the date of the application, the applicant must demonstrate sufficient on-the-job training or education within the last 5 years to demonstrate managerial ability.

Note: See subparagraph 69 A for additional guidance if farm experience occurred more than 5 years before application.

This requirement applies to either new applicants or when significant changes to an--* applicant's operation have occurred. The applicant will provide the information using FSA-2302.

42 Complete Loan Application (Continued)

A Requirements (Continued)

[7 CFR 764.51(b)(4)] The last 3 years of farm financial records, including tax returns, unless the applicant has been farming less than 3 years;

Financial information will be primarily provided by the applicant on FSA-2002. Additional financial records, such as balance sheets, may be requested if necessary, for the last 3 years.

The authorized agency official may request up to 2 additional years of farm financial records in extenuating circumstances, such as natural disasters or adverse economic conditions.

Notes: The applicant may submit alternate documents if they contain all information collected on FSA-2002.

--If tax returns are not available or do not exist, the application will not be considered incomplete for that reason. The authorized agency official must make a notation in the running record of the reason tax returns are not available. A lack of tax returns may be consideration when making credit history determinations as it relates to the applicant fulfilling obligations to other parties (paragraph 654), managerial ability determination (paragraph 69), or feasibility (paragraph 351).--

[7 CFR 764.51(b)(5)] The last 3 years of farm production records, unless the applicant has been farming less than 3 years;

Production information will be provided by the applicant on FSA-2003.

The authorized agency official may request up to 2 additional years of farm production records in extenuating circumstances, such as natural disasters or adverse economic conditions.

Notes: The applicant may submit alternate documents, if they contain all information collected on FSA-2003.

--For cash basis operations, such as farmers who sell produce at farmer markets, it may not be possible or useful to determine yield. In those cases, income and expenses may be substituted for yields to determine production.--

[7 CFR 764.51(b)(6)] Except for CL, documentation that the applicant and each member of an entity applicant cannot obtain sufficient credit elsewhere on reasonable rates and terms, including a loan guaranteed by the Agency;

Applicants provide documentation that they are unable to obtain credit elsewhere by signing FSA-2001. However, after reviewing the financial information and type of loan requested (EM's have difference credit elsewhere requirements), FSA may require written evidence to support the applicant's inability to obtain credit elsewhere. FSA will use the Market Placement Program to assist qualified applicants in obtaining a guaranteed farm loan from a commercial lender, where applicable.

42 Complete Loan Application (Continued)**A Requirements (Continued)****[7 CFR 764.51(b)(7)] Documentation of compliance with the Agency's environmental regulations contained in subpart G of 7 CFR 1940;**

An applicant must have AD-1026 on file for all real estate owned or rented.

Note: A new AD-1026 is not required for each subsequent loan if there has been no change to the applicant's farming operation.

See RD Instruction 1940-G and 1-EQ for additional information on environmental regulations and requirements.

[7 CFR 764.51(b)(8)] Verification of all non-farm income;

A self-employed applicant's income may be verified by 3 years of income tax returns.

An applicant employed outside of the farm will submit either of the following:

- FSA-2004 authorizing FSA to send FSA-2014 to the applicant's employer
- 2 most recent earning statements.

Notes: The amount and dependability of income from a cosigner, including a nonapplicant spouse, will be verified using the listed format. See subparagraph 371 C for information about cosigner signature and eligibility requirements.

If a nonapplicant will be providing information and will sign FSA-2026, the nonapplicant will complete FSA-2001, Part C. If a nonapplicant's income will only be used to cover family living/owner withdrawal, the nonapplicant must sign FSA-2004 and FSA-2007 but will not be required to sign FSA-2026.

If needed for an operation to cash flow, then the income of individual entity members can be verified as needed.

[7 CFR 764.51(b)(9)] A current financial statement and the operation's farm operating plan, including the projected cash flow budget reflecting production, income, expenses, and loan repayment plan;

The applicant will supply most of this information on FSA-2037 and FSA-2038.

42 Complete Loan Application (Continued)

A Requirements (Continued)

[7 CFR 764.51(b)(10)] A legal description of the farm property owned or to be acquired and, if applicable, any leases, contracts, options, and other agreements with regard to the property;

Note: FSA-2006 will be provided by the applicant as part of the complete application.

This information will be used to determine:

- FSA security
- value of security
- eligibility
- potential income affecting cash flow.

[7 CFR 764.51(b)(11)] Payment to the Agency for ordering a credit report on the applicant;

The agency official will record the date the credit report fee is received in DLS.

[7 CFR 764.51(b)(12)] Verification of all debts;

--Applicants complete FSA-2005 or similar acceptable documentation to provide a list of creditors, if not already in the applicant's file, and FSA-2004 to authorize those creditors-- to release information to FSA.

The authorized agency official:

- must verify the status of debts over \$1,000
- must confirm the balance of the debt, the applicant's payment history on the debt including any delinquency * * * and the payment schedule including the amount and date of the next scheduled installment

42 Complete Loan Application (Continued)

A Requirements (Continued)

- may obtain this information with any of the following as long as the required information is provided:
 - credit report
 - FSA-2310 (EM's)
 - CAIVRS
 - completed FSA-2015
 - most recent billing statement for the debt (e.g., credit card debt)
- * * *
- any other form of verification, including phone calls, that provides the required information.

[7 CFR 764.51(b)(13)] Any additional information deemed necessary by the Agency to effectively evaluate the applicant's eligibility and farm operating plan; * * *

Examples of additional information include:

- divorce or separation decree
- child support or alimony payments
- 2 additional years for farm production or financial records (in extenuating circumstances).

[7 CFR 764.51(b)(14)] For EM loans, a statement of loss or damage on the appropriate Agency form (FSA-2309).

[7 CFR 764.51(b)(15)] For CL only, a conservation plan or Forest Stewardship Management Plan as defined in 761.2 of this chapter; (see Exhibit 2 for definition of conservation plan and Forest Stewardship Management Plan) and

Note: NRCS CPA-1155 or Tool Kit are considered sufficient documentation.

[7 CFR 764.51(b)(16)] For CL only, and if the applicant wishes to request consideration for priority funding, plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition.

Note: For all FLP loans involving construction, see 1-FLP, Part 5.

42 Complete Loan Application (Continued)

B Existing Information in Applicant's File

[7 CFR 764.51(f)] The applicant need not submit any information under this section (subparagraph A) that already exists in the applicant's Agency file and is still current.

* * * Information less than 90 calendar days old, unless noted otherwise, is considered current.

*--43 ML Requests

A Complete ML Applications

[7 CFR 764.51(c)(2)] The applicant must submit the following:

[7 CFR 764.51(c)(2)(i)] items (1), (2), (3), (6), (7), (9), and (11) of paragraph (b) of this section (paragraph 42)

[7 CFR 764.51(c)(2)(ii)] Financial and Production records for the most recent production cycle if available, and practicable to project the cash flow of the operating cycle;

[7 CFR 764.51(c)(2)(iv)] Verification of all non-farm income relied upon for repayment; and

[7 CFR 764.51(c)(3)] The Agency may require an ML applicant to submit any other information listed in paragraph (b) of this section upon request when specifically needed to make a determination on the loan application.

A complete ML application includes:

- completed FSA-2330
- entity information, if applicable
- written description of applicant's farm training and experience, included on FSA-2330
- environmental information
- credit elsewhere requirements
- farm operating plan, included on FSA-2330
- payment of credit report fee
- balance sheet, included on FSA-2330.

Note: An applicant is qualified for loan processing under ML provisions, when all of the ML requirements in subparagraph 216 B are met.--*

* * *

--43 ML Requests (Continued)--**B Complete Streamlined CL Applications**

[7 CFR 764.51(d)(6)] **Submit the following items:**

(i) Items identified in paragraphs (b)(1), (b)(2), (b)(3), (b)(7), (b)(11), (b)(15), and (b)(16) of this section (paragraph 42),

(ii) A current financial statement less than 90 calendar days old, and,

(iii) Upon Agency request, other information specified in paragraph (b) of this section necessary to make a determination on the loan application.

A complete Streamlined CL application includes the following:

- completed FSA-2001
- entity information
- written description of farm training and experience
- environmental information
- payment of credit report fee
- approved conservation plan

Note: FSA considers either NRCS CPA-1155 or the Tool Kit proof the applicant has an NRCS-approved conservation plan.

- if desired, request for priority funding with plan to transition to organic or sustainable agriculture
- current financial statement.

Note: An applicant is qualified for loan processing under Streamlined CL provisions when all Streamlined CL requirements in subparagraph 191 B are met.

44 Youth Loan Requests**A Complete Youth Loan Application**

A youth loan application is submitted by using FSA-2301, which includes the majority of information for a youth loan application. See Part 9, Section 3 for more information on youth loans.

[7 CFR 764.51(e)] For a youth loan request:

(1) The applicant must submit items (1), (7), and (9) of paragraph (b) of this section (paragraph 42).

These items are the following:

- completed FSA-2301
- environmental information
- farm operating plan (when FSA-2301 is not considered sufficient).

(2) Applicants 18 years or older, must also provide items (11) and (12) of paragraph (b) of this section (paragraph 42).

These items are the following:

- payment to FSA for ordering a credit report
- verification of all debts.

(3) The Agency may require a youth loan applicant to submit any other information listed in paragraph (b) of this section (paragraph 42) as needed to make a determination on the loan application.

45 Processing Loan Applications

A Application Review

Upon receiving a loan application, the agency official shall:

- insert date application was received on FSA-2001
- ***--Note:** DLS is the official loan application date record.--*
- determine whether application is complete
- enter loan application information into DLS
- assemble loan application according to 25-AS
- obtain credit report
- obtain CAIVRS
- * * *
- complete RD 1940-22, or Class I or Class II assessment, whichever is applicable.

If an application is received and the applicant has not completed the section that identifies race, ethnicity, or gender of the applicant or members of the entity, the application will be processed as a non-SDA.

Exception: An application from an existing SDA, who has previously provided the documentation needed to qualify as SDA, does not need to resubmit qualifying information.

Note: Race, ethnicity, and gender determinations completed as observed by a FSA employee will not be used to qualify an applicant for SDA funding.

B Notification of Incomplete Application

When an application is received, if it is incomplete * * *, the applicant will be provided with FSA-2303. If the applicant hand delivers the application, FSA-2303 will be provided to the applicant before the applicant leaves the office. In all other situations, FSA-2303 will be mailed to the applicant within 2 workdays of receiving an incomplete application.

If the application is determined to be complete upon receipt, FSA-2303 will not be sent. The applicant will be immediately notified in writing according to subparagraph C.

45 Processing Loan Applications (Continued)

B Notification of Incomplete Application (Continued)

[7 CFR 764.52(a)] Within 10 calendar days of receipt of an incomplete application, the Agency will provide the applicant written notice of any additional information which must be provided. The applicant must provide the additional information within 20 calendar days of the date of this notice.

The authorized agency official must notify the applicant in writing within 10 calendar days, after receiving the incomplete application, by using FSA-2304. FSA-2304 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received
- offer assistance to the applicant if they do not understand what is required or are having difficulty obtaining the required information
- establish a due date for receiving the information of 20 calendar days from the date of FSA-2304.

Exception: An EM application will not be withdrawn if the information required under 7 CFR 764.51(b)(14) (see subparagraph 42 A) is the only information that has not been received. Specifically, if accurate disaster year production information is not available, because of the producer having not completed harvest, the application will be held for a reasonable time to allow for the information to become available.

Note: FSA has determined that a reasonable time period is 3 months after the normal conclusion of harvest.

For EM's, insert the following on FSA-2304 for disaster year production information only.

“We must receive the following information by (add 20 calendar days to the date the authorized agency official determines to be 3 months after the normal conclusion of harvest) so that we can continue processing your request for assistance.”

If information is needed from other USDA agencies, the agency official will inform those agencies and the applicant of the information needed, and note the date of the request in the running record. For OL applications, the agency official will request that the information be returned within 15 calendar days of receiving the request.

Note: If it is clear that the application will be rejected for obvious eligibility reasons, the authorized agency official shall provide an application rejection letter with appropriate appeal or review rights

45 Processing Loan Applications (Continued)

B Notification of Incomplete Application (Continued)

[7 CFR 764.52(b)] If the additional information is not received, the Agency will provide written notice that the application will be withdrawn if the information is not received within 10 calendar days of the date of this second notice.

If the applicant does not respond or does not supply all of the information requested within the 20 calendar day period specified on FSA-2304, the authorized agency official must immediately provide FSA-2305 by regular mail or hand delivery. FSA-2305 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received and unless the applicant supplies the required information, the application will be withdrawn
- establish a due date for receiving the information of 10 calendar days from the date of FSA-2305
- contain the ECOA statement according to 1-FLP, paragraph 41.

* * *

FSA will withdraw the application if the additional material is not provided.

Applicants will be sent FSA-2306 to inform them that their application has been withdrawn. FSA-2306 will be provided by regular mail or hand delivery.

The withdrawn application will be maintained according to 25-AS.

45 Processing Loan Applications (Continued)

C Processing of Complete Application

[7 CFR 764.53] Upon receiving a complete loan application, the Agency will:

[7 CFR 764.53(a)] Consider the loan application in the order received, based on the date the application was determined to be complete; and

[7 CFR 764.53(b)] Provide written notice to the applicant that the application is complete.

The authorized agency official must notify the applicant in writing within 10 calendar days after receiving the complete application using FSA-2307.

***--Note:** Use DLS to record the date the application was determined to be complete.--*

[7 CFR 764.53(d)] Except for CL requests, if based on the Agency's review of the application, it appears the applicant's credit needs could be met through the guaranteed loan program, the Agency will assist the applicant in securing guaranteed loan assistance under the market placement program as specified in 762.110(h) of this chapter (2-FLP, paragraph 72).

D Applicant Withdraws Application

The applicant may request that a loan application be withdrawn at any time during the loanmaking process.

If the applicant makes the request:

- in writing, the authorized agency official will send FSA-2306 and withdraw the application
- by phone, the authorized agency official will send FSA-2306 to the applicant that, per their request, the loan application will be withdrawn unless the applicant contacts the County Office within 10 calendar days of the date of FSA-2306.

Note: The authorized agency official shall maintain withdrawn applications according to 25-AS.

E Reactivating Withdrawn Application

A withdrawn application may not be reactivated. The applicant must file a new application.

Note: Any information in the withdrawn file that is still current may be included with the new application. * * * Information less than 90 calendar days old, unless noted otherwise, is considered current.

45 Processing Loan Applications (Continued)

F Loan Processing When Civil Rights Complaint Has Been Filed

The filing of a civil rights complaint does not stop loan processing activity. If an application for assistance has been filed, that request must be processed according to FSA instructions.

Because failure to advise an applicant of their ineligibility may be considered an adverse action in itself, the authorized agency official should timely process all applications, in those instances where a discrimination complaint is filed, and notify the applicant of the decision. The authorized agency official must fully explain to the applicant the basis for the unfavorable eligibility or feasibility decision according to paragraph 356.

G Priority Consideration for Prevailing Claimants

See current FLP notice for guidance on priority consideration.

46-60 (Reserved)

Part 4 General Eligibility and Loan Limitations

Section 1 Eligibility Requirements

61 Overview

A General

[7 CFR 764.101] The following requirements must be met, unless otherwise provided in the eligibility requirements for the particular type of loan.

See:

- paragraphs 62 through 72 for eligibility requirements
- subparagraph 371 C for loan document signature requirements.

62 Controlled Substances

A Controlled Substance Convictions Except Possession and Trafficking

[7 CFR 764.101(a)] The applicant and anyone who will sign the promissory note must not be ineligible for loans as a result of a conviction for controlled substances according to 7 CFR 718 of this chapter.

Notwithstanding any other provision of law, any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payment made under any Act, with respect to any commodity produced during the crop year of conviction and the 4 succeeding crop years, by such person.

B Convictions for Drug Trafficking and Possession

Applicants convicted of any Federal or State offense consisting of the distribution (trafficking) of a controlled substance shall, at the discretion of the court, be ineligible for any or all program payments and benefits:

- for up to 5 years after the 1st conviction
- for up to 10 years after the 2nd conviction
- permanently for a 3rd or subsequent conviction.

Applicants convicted of Federal or State offense for the possession of a controlled substance shall be ineligible, at the discretion of the court, for any or all program benefits, as follows:

- up to 1 year upon the 1st conviction
- up to 5 years after a 2nd or subsequent conviction.

Note: Consult with the Regional OGC Attorney before initiating any actions on cases involving controlled substance violations.

--FSA-2001, FSA-2301, FSA-2314, and FSA-2330 require applicants to certify that they are not ineligible for Federal benefits based on a conviction of any Federal or State controlled substance offense. Self-certifications on FSA-2001, FSA-2301, FSA-2314, and FSA-2330 will be the only documentation required involving convictions of controlled substances.--

63 Legal Capacity**A General Requirements**

[7 CFR 764.101(b)] The applicant, and anyone who will sign the promissory note, must *--possess the legal capacity to incur the obligation of the loan.

Note: By Statute, CONACT Section 311(b)(2), A person receiving a loan under this section who executes a promissory note; therefore, shall incur full personal liability for the indebtedness evidence by such note in accordance with its terms free of any disability of minority.--*

The applicant must be of legal age, mental capacity, and have authority to enter into a legally binding agreement. If the applicant is an entity, all members must meet this requirement.

The authorized agency official must review documentation provided by entity applicants to ensure that the entity members meet legal capacity requirements.

Note: An entity that has members who have not reached the age of majority is ineligible for assistance because of the requirement that all entity members must sign FSA-2026 as an individual.

64 Citizenship

A General Requirement

[7 CFR 764.101(c)] The applicant and anyone who will sign the promissory note must be a citizen of the United States, United States non-citizen national, or a qualified alien under applicable Federal immigration laws.

See:

- Exhibit 2 for the definition of U.S. noncitizen national and qualified alien
- Exhibits 8 and 9 for guidance about documentary evidence of U.S. noncitizen national citizenship and qualified alien status.

Note: The loan term to a qualified alien may not exceed the number of years of residency which they have been formally granted by the documents described in Exhibit 8.

65 Credit History**A General Requirement**

[7 CFR 764.101(d)] The applicant must have acceptable credit history demonstrated by debt repayment.

In the case of an entity, the applicant and all members of the entity must have an acceptable credit history.

[7 CFR 764.101(d)(1)] As part of the credit history the Agency will determine whether the applicant will carry out the terms and conditions of the loan, and deal with the Agency in good faith. In making this determination, the Agency may examine whether the applicant has properly fulfilled its obligations to other parties, including other agencies of the Federal Government.

The authorized agency official may determine that an applicant has not acted in good faith if the applicant:

- deliberately falsifies information
- intentionally omits information relevant to the loan decision
- does not make every reasonable effort to meet the conditions and terms of any previous FSA loan
- failed to make reasonable effort to resolve delinquencies with other lenders
- *--failed to file Federal tax returns when it appears that sufficient income was generated to require a tax filing.--*

Note: Applicants who provide false information may also be subject to civil and/or criminal prosecution and should be referred by the authorized agency official to OIG.

65 Credit History (Continued)

A General Requirement (Continued)

***--[7 CFR 764.101(d)(2)] When the applicant caused the Agency a loss by receiving--* debt forgiveness, the applicant may be ineligible for assistance in accordance with eligibility requirements for the specific loan type. If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the debt forgiveness in determining the applicant's creditworthiness.**

FSA will not consider the following as debt forgiveness for loanmaking purposes:

- debt reduction through a conservation easement or contract
- any debt written off as part of the resolution of a discrimination complaint against FSA, including debt written off in conjunction with the *Pigford Consent Decree*

Note: See current FLP notice for guidance on priority consideration.

- prior debt forgiveness that has been repaid in its entirety.

Notes: In the majority of cases under Chapter 11 of the Bankruptcy Code, the debt is discharged when the plan is confirmed (see 11 U.S.C. § 1141 (d) for exceptions to automatic discharge). In Chapter 12 and 13 cases, the discharge normally occurs, in 3 to 5 years, by court order. Debt forgiveness occurs when an applicant has completed all payments according to the plan and the unsecured FLP claim is written off. At that point, the applicant will be ineligible for most additional loans according to paragraphs 132, 172, 202, and 242. Specifically, according to paragraphs 132, 172, 202, and 242, the applicant may be eligible for annual production loans, but no other type of assistance.

An applicant who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan. Therefore, as long as the applicant remains current on the plan they may be eligible to receive annual production loans as outlined above. However, this status changes if the applicant subsequently becomes delinquent on any loans covered by the plan, including non-FSA loans. The denial for failure to comply with an approved bankruptcy plan is appealable. See 1-APP for further instruction.

65 Credit History (Continued)

B Verifying Direct Loan Losses

An agency official shall use the customer profile in DLS to enter TIN for the applicant and each individual who will sign FSA-2026.

IF...	THEN...
the applicant's TIN is not found in DLS	a screen print of the page will be placed in position 3 of the case file.
the applicant's TIN shows a previous debt in DLS	refer to the list of paid codes provided in Exhibit 10.
the paid code indicates debt forgiveness	<p>use the customer profile in DLS to determine the type, date, and amount of the debt forgiveness and if the debt forgiveness has been paid in full. History is available from 1989 to present. If the debt forgiveness was a write-down, determine the type, date, amount of the debt forgiveness, and if the debt forgiveness has been paid in full. If an equity record exists, the online history should be reviewed for partial write-downs.</p> <p style="text-align: center;">* * *</p>
it is determined that the applicant or any individual who will sign FSA-2026 has received debt forgiveness that has not been paid in full	<p>review appropriate program regulations to determine if the type and date of the debt forgiveness makes the applicant ineligible for the type of assistance requested.</p> <p>Note: Exceptions for EM's still apply.</p> <p>The authorized agency official should document all findings in the case file.</p>

C Verifying Guaranteed Loan Losses

The authorized agency official shall access the View Loan Screen in GLS to verify previous entity member's debt forgiveness for guaranteed loans. At the Loan List Screen, enter the random ID/account number or name of the applicant and each individual who will sign FSA-2026. The Loan List Screen will display previous and current loan information for the individuals entered. Detail information for a specific loan can be accessed by selecting the View Loan Screen from the "Action" drop-down box and clicking on the loan number hyperlink.

* * *

65 Credit History (Continued)

D Assessing Past Repayment Problems

[7 CFR 764.101(d)(3)] A history of failures to repay past debts as they came due when the ability to repay was within the applicant's control will demonstrate unacceptable credit history. The following circumstances, for example, do not automatically indicate an unacceptable credit history.

(i) Foreclosures, judgments, delinquent payments of the applicant which occurred, more than 36 months before the application, if no recent similar situations have occurred, or Agency delinquencies that have been resolved through loan servicing programs available under 7 CFR Part 766 (5-FLP).

(ii) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(iii) "No history" of credit transactions by the applicant.

(iv) Recent foreclosure, judgment, bankruptcy, or delinquent payment when the applicant can satisfactorily demonstrate that the adverse action or delinquency was caused by circumstances that were of a temporary nature and were beyond the applicant's control; or was the result of a refusal to make full payment because of defective goods or services or other justifiable dispute relating to the purchase or contract for goods or services.

*--Isolated delinquent payments because of unforeseen medical expenses are considered beyond the applicant's control.

Example: Applicant had a baby born prematurely and incurred large, unpaid accounts because of medical bills. The applicant should demonstrate that they have made payments on other debts as agreed.--*

Nonpayment of a debt because of circumstances within an applicant's control may be used as an indication of unacceptable credit history. The mere fact that an applicant filed bankruptcy will not be used as an indication of unacceptable credit history. The circumstances causing the nonpayment of debt must be considered.

When an applicant's credit history includes an adverse or delinquent account status, the authorized agency official shall meet with the applicant to discuss the questionable account. The objectives of the meeting are to gather information to determine whether the adverse account status was caused by circumstances beyond the applicant's control and to explain

--FSA creditworthiness requirements to the applicant. In addition, the applicant will be counseled about the importance of paying accounts as agreed and provided guidance on how to improve their credit history. The meeting shall be documented in the running case-- record. If additional information is to be provided by the applicant as a result of the meeting, this will be confirmed with the applicant in writing.

66 Credit Elsewhere

A General Requirement

[7 CFR 764.101(e)] Except for CL, the applicant, and all entity members in the case of an entity, must be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms. The Agency will evaluate the ability to obtain credit based on factors including, but not limited to:

(1) Loan amounts, rates, and terms available in the marketplace; and

--The applicant must certify in writing on FSA-2001, FSA-2314, or FSA-2330 that the-- applicant is unable to obtain sufficient credit, with or without a guarantee, to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in, or near, where the applicant resides for loans for similar purposes and periods of time.

(2) Property interests, income, and significant non-essential assets.

B Documentation Requirements for FO and OL

If, based on evaluation of the application, the authorized agency official determines the applicant:

- may qualify for credit elsewhere the authorized agency official:
 - may request applicant apply for credit from commercial lender and obtain letter of declination
 - may request applicant apply to additional lenders outside of local community
 - may pursue market placement according to 2-FLP, paragraph 72
 - must document results
- will not qualify for credit elsewhere, the authorized agency official must document the reasons in the applicant's file.

Note: Applicants will be encouraged to supplement FO's and OL's with credit from other credit sources to the extent economically feasible and according to sound financial management practices.

The fact that an applicant has obtained credit for farm purposes through credit cards, finance companies, or other "sub-prime" lenders does not constitute failure to meet the test for credit unless the rates and terms for that credit are similar to the rates and terms offered on loans for the same purpose by other farm lenders in the community.

66 Credit Elsewhere (Continued)

C Documentation Requirements for EM

An applicant for EM has different credit elsewhere requirements. To meet the requirements, applicants must supply documentation according to subparagraph 242 F.

67 Delinquent Federal Debt and Unpaid Federal Judgments

A General Requirement

[7 CFR 764.101(f)] As provided in 31 CFR Part 285, except for EM loan applicants, the applicant and anyone who will sign the Promissory Note must not be in delinquent status on any Federal debt, other than a debt under the Internal Revenue Code of 1986 at the time of loan closing. All delinquent debts, however, will be considered in determining credit history and ability to repay under this part.

The applicant must not be delinquent on any nontax Federal debt (not paid within 90 calendar days of the due date) according to 31 CFR §285.13. * * * Verification through CAIVRS, the credit report, DLS Current/Past Debt and Borrower Cross Reference Inquiry screens, and GLS View Loan Screen is sufficient. However, if it becomes known, and verified, through other means that the applicant is delinquent on a Federal debt, this information must be considered when making an eligibility determination.

***--Note:** A FSA-guaranteed loan is not considered a Federal debt unless a final loss claim has been paid on a guaranteed loan made using 1 of the following:

- FSA-1980-25 or FSA-1980-28 with the July 20,2001, or later revision date
- FSA-2211 or FSA-2212.--*

Delinquent Federal tax debt only affects eligibility as it relates to credit history according to paragraph 65.

[7 CFR 764.101(g)] The applicant and anyone who will sign the promissory note must have no outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

The authorized agency official shall review debt verification obtained according to subparagraph 65 B.

B Resolving Delinquent Federal Debt and Judgments

Applicants who pay their delinquent Federal debt or judgment in full or otherwise resolve the delinquency or judgment before or at loan closing may be eligible.

Note: FSA will consider such debts as part of the creditworthiness eligibility requirement and in determining cash flow during the loan evaluation process.

68 Federal Crop Insurance Violations

A General Requirement

[7 CFR 764.101(h)] The applicant, and all entity members in the case of an entity, must not be ineligible due to disqualification resulting from Federal Crop Insurance violation, according to 7 CFR Part 718.

Federal Crop Insurance Act, Section 515(h) provides that a person who willfully and intentionally provides any false or inaccurate information to FCIC or to an approved insurance provider with respect to a policy or plan of FCIC insurance after notice and an opportunity for a hearing on the record, will be subject to 1 or more sanctions that may change the applicant's eligibility for all Federal assistance.

*--Applicants, as well as individual entity members, will self certify on FSA-2001, FSA-2314, or FSA-2330 that they have not been disqualified. Additionally, RMA will notify the National Office of individuals and entities that have been disqualified as a result of crop insurance violations. The National Office will notify the State Office. State Offices shall notify the appropriate County Office.

Notes: See 7 CFR 718.11 for additional information on disqualifications.

Go to SAM at <http://www.sam.gov/portal/public/SAM> for information on disqualified individuals and entities.--*

69 Managerial Ability

A General Requirement

For an entity to meet the requirements in this subparagraph, either the individual holding the majority interest in the entity or the individual responsible for the day-to-day operations of the entity must demonstrate sufficient managerial ability as described in this paragraph.

[7 CFR 764.101(i)] The applicant must have sufficient managerial ability to assure reasonable prospects of loan repayment, as determined by the Agency. The applicant must demonstrate this managerial ability by:

*--The applicant may satisfy the managerial ability requirement with **any** combination of education, on-the-job training and farm experience, or by meeting **just 1** of these criteria. The level of management ability required will depend on the complexity of the operation and the amount of the loan request. The authorized agency official will consider each application on a case-by-case basis.--*

(1) Education. For example, the applicant obtained a 4-year college degree in agricultural business, horticulture, animal science, agronomy, or other agricultural-related field.

69 **Managerial Ability (Continued)****A General Requirement (Continued)**

*--To meet the managerial requirement through education alone, the applicant has completed or is completing an educational program in agriculture. Acceptable educational programs include any of the following:

- a 4-year college degree or graduate degree in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields
- a 2-year degree from a technical college in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields
- successful completion of farm management curriculum offered by the Cooperative Extension Service, a community college, adult vocational agriculture program, or land grant university

Examples: The Small Farm Program, University of Arkansas-Pine Bluff.

Specialty Crops Program, University of Colorado.

Cultivating Success, University of Idaho Extension, Washington State University Small Farms and Rural Roots.

- successful completion of a community-based, nationally based, non-profit, or similar farm workshop programs

Examples: Annie's Project.

Alcorn State University Small Farm Outreach Training and Technical Assistance Program.

Michigan State University Organic Farmer Program.

- other comprehensive agricultural programs that include the following or similar topics:
 - financial records and budget analysis; developing farm business plans; asset management; cost of production and benchmarking
 - risk management; developing a risk management strategy; strengths, weaknesses, opportunities, and threats analysis; business and strategic planning
 - marketing plans and strategy; advertising; product and enterprise diversification.

Note: Applicants may meet the managerial requirement through education in conjunction with farm experience or on-the-job training.--*

69 Managerial Ability (Continued)

A General Requirement (Continued)

***--Example:** Vocational or general agriculture classes in high school, provided that the applicant also has experience working on a farm and participated in and successfully completed applicable projects in 4-H, FFA, or another agriculture affiliated group.--*

(2) On-the-job training. For example, the applicant is currently working on a farm as part of an apprenticeship program.

To meet the managerial ability requirement through on-the-job training alone, the applicant is currently:

- *--working, or has recently worked, as hired farm labor with management responsibilities

Example: A hired hand or farm labor team leader who makes independent day-to-day farm management decisions.

- completing, or recently completed, a farm mentorship or internship program with an emphasis on management requirements and day-to-day farm decisions, such as those offerings found through:
 - Rogue Farm Corps
 - Cultivating Success
 - Many Hands Farm Corps
 - The Samuel Roberts Noble Foundation
 - Midwest Organic and Sustainable Education Service Farmer-to-Farmer Mentoring Program
 - Georgia Organics Mentoring Program--*

69 Managerial Ability (Continued)

A General Requirement (Continued)

- participating, or recently participated, in urban or community-supported agriculture programs which incorporate basic agricultural training, such as:
 - Agriculture Training Institute
 - Refugee Agriculture Partnership Programs
 - Columbia Center for Urban Agriculture
 - Growing Power, Inc.
 - Center for Urban Agriculture at Fairview Gardens
 - Mary Queen of Vietnam Community Development Corporation, Inc., and the Viet Village Aquaponic Park Project.

[7 CFR 764.101(i)(3)] Farming experience. For example, the applicant has been an owner, manager, or operator of a farm business for at least one entire production cycle
 --or for ML's the applicant may have obtained and successfully repaid one FSA youth OL; and--

Farm experience of the applicant, without regard to lapse of time between the farm experience and the new application, will be taken into consideration in determining loan eligibility. If farm experience occurred more than 5 years prior to the date of the new application, the applicant must demonstrate sufficient on-the-job training or education within the last 5 years to demonstrate managerial ability.

If relying solely on farm experience that occurred more than 5 years before the application, the applicant may supplement that experience with:

- recent on-the-job training, such as a mentorship
- recent education, such as extension courses or courses that meet the borrower training requirements established in Part 18.

The on-the-job training or education does not have to be fully completed, provided the training or education meets the requirements of this subparagraph. When an applicant is determined eligible subject to completion of borrower or on-the job training or education, completion of the action shall be listed as a loan approval condition on FSA-2313.

69 **Managerial Ability (Continued)****A General Requirement (Continued)**

To meet the managerial ability requirement through farming experience alone, the applicant may have:

- been an owner of a farm business with management and operator responsibilities for at least 1 entire production and marketing cycle
- been employed as a migrant farm worker and has been elevated to a leadership or foreperson position for at least 1 entire production and marketing cycle and whose responsibilities include crop and field management, livestock health, breeding supervision, labor management or hiring, or general farm management
- been employed as a farm manager or farm management consultant for at least 1 entire production and marketing cycle
- raised on a farm and held significant responsibility for day-to-day management decisions for at least 1 entire production and marketing cycle
- obtained and successfully repaid one FSA Youth-OL.

The applicant may document this experience through FSA farm records or similar documentation.

Applicants should be able to demonstrate that they have carried out their operation according to standard farming practices in the area including keeping accurate records of income and expenses, income tax records, and breeding statistics, as applicable.

***--[7 CFR 764.101(i)(4)] Alternative for ML. ML applicants also may demonstrate management ability by one of the following:**

[7 CFR 764.101(i)(4)(i)] Certification of a past participation with an agriculture-related organization, such as, but not limited to, 4-H Club, FFA, Beginning Farmers and Rancher Development Programs, or Community Based Organizations, that demonstrates experience in a related enterprise, or

[7 CFR 764.101(i)(4)(ii)] A self-directed apprenticeship combined with either prior sufficient experience working on a farm or significant small business management experience. As a condition of receiving the loan, the self-directed apprenticeship requires that the applicant seek, receive, and apply guidance from a qualified person during the first cycle of production and marketing typical for the applicant's operation, and agree to form development partnership with the applicant to share knowledge, skills, information, and perspective of agriculture to foster the applicant's development of technical skills and management ability.--*

69 Managerial Ability (Continued)

A General Requirement (Continued)

***--Example:** An application seeking ML financing to produce tomatoes to sell at a farmers market knows a local farmer that produces salad green and this farmer is willing to mentor the applicant during the first production cycle. The farmer's mentorship of the applicant can include advice and applied knowledge on crop planning, supply sources, pest and disease management, and outlets for marketing and sales. The applicant is the responsible party throughout the mentorship for obtaining guidance from the mentor.

Note: The mentor does not have to have the exact same type of operation as the applicant, but should be related, i.e. the applicant for a tomato ML should not have a dairy farmer as his mentor unless he also has produce experience.--*

70 Borrower Training

A General Requirement

[7 CFR 764.101(j)] The applicant must agree to meet the training requirements in subpart K of this part (Part 18, Section 1). Borrower training requirements for Streamlined CL applicants will be automatically waived. Applicants are required to complete FSA-2370.

71 Owner/Operator of a Family Farm

A General Requirement

[7 CFR 764.101(k)(1)] Except for CL, the applicant must be the operator of a family farm after the loan is closed.

[7 CFR 764.101(k)(2)] For an entity applicant, if the entity members holding a majority interest are:

(i) Related by blood or marriage, at least one member must be the operator of a family farm;

(ii) Not related by blood or marriage, the entity members holding a majority interest must be the operators of a family farm.

[7 CFR 764.101(k)(3)] Except for EM loans, the collective interests of the members may be larger than a family farm only if:

(i) Each member's ownership interest is not larger than a family farm;

(ii) All of the members of the entity are related by blood or marriage; and

(iii) All of the members are or will become operators of the family farm; and

71 Owner/Operator of a Family Farm (Continued)

B Factors for Consideration

[7 CFR 764.101(k)(4)] If the entity applicant has an operator and ownership interest for farm ownership loans and emergency loans for farm ownership loan purposes, in any other farming operation, that farming operation must not exceed the requirements of a family farm.

See Exhibit 2 for the definition of family farm.

The authorized agency official must consider the following factors when making the family farm determination.

- *--Produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm. Primarily, is the farm operated in a business-like manner, does the operation have records, and is the operator changing methods to try and make a profit?--*
- Members of the farm family must make all the day-to-day farm management and operational decisions. The use of outside consultants or advisors is acceptable provided that someone in the farm family is the ultimate decision-maker.
- Family or entity members must supply a substantial amount of the full-time labor. This does not preclude using seasonally hired labor, but in most instances, the family should provide most of the day-to-day labor. Exceptions may be made for enterprises that produce high value, labor-intensive crops such as fruit or vegetables.
- Credit needs. Congress established FSA's loan limits to assist family farm operations. The loan limits generally ensure that loans are made to family farm operations.
- Loan participation arrangements are acceptable when FSA farm loans cannot meet the total credit needs of the applicant. However, if the FSA loan only represents a small portion of the total credit requirements, this may be an indication that the applicant's operation is larger than a family farm when all factors are considered. The authorized agency official must also fully consider if credit is available from another source, including a guaranteed loan.

To make a determination about the family farm requirement, the authorized agency official must judge the factors individually and also weigh and consider how the factors relate to each other. If the authorized agency official determines that the applicant's farm does not satisfy the definition of a family farm, the reasoning behind the authorized agency official's decision must be documented in the loan file.

72 **Entity Composition**

A General Requirement

[7 CFR 764.101(l)] **If the applicant is an entity, the entity members are not themselves entities.** Entity applicants who are composed of other entities are not eligible applicants.

* * *

B Married Persons

Married persons applying together shall be treated as a joint operation unless they form or have formed a legal entity before application for assistance. If they apply as a joint operation, both parties must meet the general and program specific eligibility requirements for the loan requested.

C Joint Operations

In the case of an informal joint operation, where no formal tax ID number has been assigned by a taxing authority, the persons requesting the assistance will designate which TIN will be used as primary to assign the case number.

72 Entity Composition (Continued)

D Treatment of Trusts

SED's, after consultation with the Regional OGC, shall issue a State supplement about the following for trusts:

- security requirements when lending to trusts
- unique characteristics of State trust statutes.

In trusts cases, SED shall consult with the Regional OGC to determine if:

- nonparticipant beneficiaries, third party trustees, beneficiaries of a revocable trust, and beneficiaries with only a future interest need to sign on behalf of the trust and as individuals
- submitted trust documents demonstrate valid organization under State law
- trustee has authority to mortgage trust property for the planned farming purposes.

E Life Estates

An FO involving a life estate may be made under certain circumstances to:

- both the life estate holder and the remainderman, if both:
 - have a legal right to occupy and operate the farm
 - are eligible for the loan independently
 - parties sign the note and lien instrument
- just the remainderman, if the remainderman has a legal right to operate the farm
- just the life estate holder, if:
 - there is no restriction placed on a life estate holder who occupies and operates a farm
 - the lien instrument is signed by the life estate holder, remainderman, and any other party having any interest in the security.

***--F NPO's**

NPO's are not eligible to receive FSA loan assistance. Eligible entities must be comprised of members who have an individual ownership interest in the entity and can assume personal liability on FSA-2026, as required by subparagraph 371 C.--*

73 Final Eligibility Determination**A Eligible Applicants**

Within 5 calendar days of a favorable eligibility determination, the authorized agency official will provide written notification to the applicant using FSA-2308. The notification should clearly explain that a decision of eligibility does not constitute loan approval. When notifying the applicant of a favorable eligibility decision, the authorized agency official, if necessary, will schedule a meeting with the applicant to proceed with developing the loan docket.

The authorized agency official must document in the FBP Credit Action whether the applicant meets:

- all eligibility requirements
- SDA requirements
- the beginning farmer definition.

If the applicant is determined eligible and additional information becomes available that indicates the original eligibility determination was in error, the authorized agency official will reconsider the eligibility determination. The authorized agency official will clearly document in the case file whether the applicant still meets eligibility requirements. Written notification of the action taken will be sent to the applicant within 5 calendar days of the determination.

***--Note:** If not already in the applicant's file, obtain SF-3881 according to 63-FI.--*

Part 5 Loan Security

91 Security Requirements

A General

[7 CFR 764.103(a)] Security requirements specific to each loan program are outlined in *--subparts D through I of this part (Parts 7 through 10), and--*

For the specific requirements for each direct loan program, see:

- paragraph 135 for FO security
- paragraph 154 for downpayment loan security
- paragraph 175 for CL security
- paragraph 205 for OL security
- paragraph 230 for youth loan security
- paragraph 246 for EM security.

Advice on obtaining security will be obtained from OGC when necessary, especially on obtaining security when a life estate is involved.

B Adequate Security

[7 CFR 764.103(b)] All loans must be secured by assets having a security value of at *--least 100 percent of the loan amount, except for EM loans as provided in subpart I of--* this part (Part 10). If the applicant's assets do not provide adequate security, the Agency may accept:

--[7 CFR 764.103(b)(1)] A pledge of security from a third party; or--

In cases where nonapplicants will pledge the full value of chattel security, the authorized agency official will obtain CCC-10 and FSA-2028 from the nonapplicant authorizing FSA to file the required instrument to perfect FSA's lien.

In unique situations, such as areas where land is held in communal rather than fee simple title, or where DOJ lacks jurisdiction, it may be necessary for SED, with advice from OGC, to issue a State supplement.

See subparagraph 416 C for further guidance on chattel security pledged by multiple owners.

***--[7 CFR 764.103(b)(2)] Interests in property not owned by the applicant (such as--* leases that provide a mortgageable value, water rights, easements, mineral rights, and royalties).**

The value of adequate security is established according to subparagraph 95 A.

91 Security Requirements (Continued)**C Additional Security**

[7 CFR 764.103(c)] An additional amount of security up to 150 percent of the loan amount will be taken when available, except for downpayment loans, ML's made for purposes other than annual operating, and youth loans.--*

In the case of an entity, when all the security held by the entity does not meet the requirement for additional security up to 150 percent of the loan amount, FSA will take liens on personal assets held by individual members, as security to the extent that the members have suitable personal assets. The entity will select and notify FSA which asset it prefers to offer as security for the loan.

The authorized agency official will take security with a value that exceeds 150 percent of the loan amount if it is not practical to separate the property.

The value of additional security is established according to subparagraph 95 B.

Note: If a loan is in conjunction with EQIP, the EQIP contract will be considered the additional security needed to meet the 150 percent requirement.

D Choice of Security

[7 CFR 764.103(d)] The Agency will choose the best security available when there are several alternatives that meet the Agency's security requirement.

When there are several alternatives available, any 1 of which will meet the security requirements for the loan, the authorized agency official has the discretion to select the best alternative for obtaining adequate security. The choice of security will be included on FSA-2313.

FSA primarily chooses between like types of security. For example, FSA will not choose chattel over real estate if real estate is the appropriate security for the loan and other real estate is available. FSA will also consider lien position when choosing security.

91 Security Requirements (Continued)

E Requirement to Obtain Liens on all Non-essential Assets

[7 CFR 764.103(e)] The Agency will take a lien on all assets that are not essential to the farming operation and are not being converted to cash to reduce the loan amount when each such asset, or aggregate value of like assets (such as stocks), has a value in excess of \$5,000. The value of this security is not included in the Agency's additional security requirement stated in paragraph (c) of this section (subparagraph C). This requirement *--does not apply to down payment loans, CL, ML, or youth loans.--*

This requirement is intended to provide FSA with a security interest in assets that are not essential to the farming operation, but which the applicant cannot or will not convert to cash to reduce credit needs or outstanding obligations. This requirement applies to individual applicants, entity applicants, as well as all individual members of the entity.

For FO, OL, and EM, the value of nonessential assets is:

- not included as part of the 150 percent additional security requirement, except CL

Note: The value of the nonessential asset may be included in the adequate security value calculation, if necessary for the applicant to meet the 100 percent collateral requirement.

- is established according to subparagraph 95 B.

For CL, the applicant is only required to pledge enough nonessential assets to meet the 150 percent requirement.

F Securing Multiple Loans

[7 CFR 764.104(d)] The same real estate may be pledged as security for more than one direct or guaranteed loan.

[7 CFR 764.105] The same chattel may be pledged as security for more than one direct or guaranteed loan.

92 Real Estate Security

A Overview

Real estate security includes land and permanent structures, including fixtures that can be described on the security instrument, such as bins, silos, and gutter cleaners. It also includes items that are considered part of the farm and ordinarily pass with the title to the farm. These items include assignments of leases and leasehold interests having mortgageable value, water rights, easements, rights-of-way, revenues, mineral rights, and royalties from mineral rights.

Different lien positions on real estate are considered separate and identifiable security.

B Agency Lien Position

[7 CFR 764.104(a)] If real estate is pledged as security for a loan, the Agency must obtain a first lien, if available. When a first lien is not available, the Agency may take a junior lien under the following conditions:

Each prior lienholder must sign FSA-2319 before loan closing, when real estate will serve as security necessary to meet the adequate security requirement in subparagraph 91 B.

Note: The lien will be taken on the security even if FSA-2319 is not obtained.

[7 CFR 764.104(a)(1)] The prior lien does not contain any provisions that may jeopardize the Agency's interest or the applicant's ability to repay the FLP loan;

[7 CFR 764.104(a)(2)] Prior lienholders agree to notify the Agency prior to foreclosure;

In some States, a prior lienholder may be able to foreclose the security instrument without providing junior lienholders notice of the foreclosure proceedings. In that case, any prior *--lienholder must complete FSA-2319.--*

* * *

[7 CFR 764.104(a)(3)] The applicant must agree not to increase an existing prior lien without the written consent of the Agency; and

The applicant agrees on FSA-2029 to obtain permission from FSA before granting any additional security interest in the real estate.

[7 CFR 764.104(a)(4)] Equity in the collateral exists.

94 Exceptions to Security Requirements (Continued)

G ST Loans

[7 CFR 764.106(f)] On marginal land and timber that secures an outstanding ST loan.

FSA is statutorily prohibited from taking additional liens on property securing an ST loan.

H Documenting Exceptions

When security is not taken for any of the mentioned reasons, the authorized agency official must document the decision in the running record.

95 Appraisals and Values

A Adequate Security

[7 CFR 764.107(a)] The value of real estate will be established by an appraisal completed in accordance with §761.7 (1-FLP) of this chapter.

A real estate appraisal is required when real estate is taken as basic security and the amount of the loan to be secured by the real estate exceeds \$50,000.

A new real estate appraisal is not required if the latest appraisal report available is not over 1 year old, unless significant changes in the market value of real estate have occurred in the area within the 1 year period.

[7 CFR 764.107(b)] The value of chattels will be established as follows:

An appraisal will be completed to determine market value and applicant equity when:

- an initial loan is made on chattel property owned by the applicant
- *--properties to be acquired when the item can be specifically identified--*
- a subsequent loan is made to refinance debt. * * *

[7 CFR 764.107(a)(1)] The security value of annual livestock and crop production is presumed to be 100 percent of the amount loaned for annual operating and family living expenses, as outlined in the approved farm operating plan.

[7 CFR 764.107(a)(2)] The value of livestock and equipment will be established by an appraisal completed in accordance with §761.7 (1-FLP) of this chapter.

B Situation When Appraisals Are Not Required

An appraisal is not required for:

- real estate or chattels taken as additional security
- nonessential assets
- loans for annual operating and family living expenses when crops are the primary security.

The authorized agency official, to whom SED delegated authority under 1-FLP, will estimate the market value. The authorized agency official must document the value in the running record, along with the basis for the estimate. If the applicant disagrees with the estimated values, FSA may accept an appraisal from the applicant, obtained at the applicant's expense, if the appraisal meets all FSA requirements.

96-110 (Reserved)

112 Type of Insurance Required (Continued)

C Crop Insurance

[7 CFR 764.108(c)] Growing crops used to provide adequate security must be covered by crop insurance if such insurance is available. The Agency must be listed as loss payee for the insurance indemnity payment.

Note: This reference applies when FSA is actually financing the crop with loan funds. In these cases, the requirement for crop insurance cannot be waived. The assignment is obtained on crop insurance company's forms, provided they meet RMA requirements.

If perennial crops are used to secure loans with a term of more than 1 year, the applicant will be required to obtain crop insurance in all subsequent years until the loan is paid in full.

[7 CFR 764.108(d)] Prior to closing the loan, the applicant must have obtained at least the catastrophic risk protection level of crop insurance coverage for each crop which is a basic part of the applicant's total operation, if such insurance is available, unless the applicant executes a written waiver of any emergency crop loss assistance with respect to such crop. The applicant must execute an assignment of indemnity in favor of the Agency for this coverage.

Note: This reference applies when FSA is not financing the crop with loan funds, but is taking a lien on the crop for additional security. The assignment is obtained on crop insurance company's forms, provided they meet RMA requirements. The reason that crop insurance was not obtained must be documented in the case file.

Example: The loan was not obtained until after the signup period for crop insurance has expired.--*

113 Documentation**A General**

Before loan closing, applicants must provide the applicable documentation required according to subparagraphs B and C.

B Documentation of Hazard and Flood Insurance

An applicant should demonstrate hazard or flood insurance coverage by 1 or more of the following documents:

- an insurance policy showing the effective date
- an endorsement to a policy showing the effective date
- a written binder showing the effective date
- a “declaration” page furnished by the insurance company, clearly stating that it is an original declaration page, and showing the effective date
- a receipt for insurance premiums, if the receipt shows the period covered.

An applicant relying on a written binder or receipt for premiums must submit an acceptable insurance policy or endorsement to the authorized agency official within 60 calendar days after the effective date of the policy and before the expiration date of the binder.

The applicant must demonstrate, either through receipts for insurance premiums or another way, that the insurance is effective for at least 12 months following loan closing.

Coverage for a building under construction should be demonstrated by either coverage under a builder’s risk:

- policy naming the applicant as the insured
- endorsement for a policy issued to the applicant.

A policy or endorsement used to cover a building while the building is under construction must convert automatically to full coverage once the building is completed or the applicant must obtain other acceptable coverage.

The authorized agency official shall not rely upon a builder’s risk policy issued to the contractor who is constructing the building.

133 Limitations**A General**

[7 CFR 764.153] The applicant must:

- (a) Comply with the general limitations established at § 764.102 (paragraph 74);**
- (b) Have dwellings and other buildings necessary for the planned operation of the farm available for use after the loan is made.**

The necessary buildings must be located on the applicant's farm, except when the:

- applicant already owns an adequate, decent, safe, and sanitary dwelling suitable for the family's needs that is located close enough to the farm so the farm may be operated successfully
- applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm
- applicant occupies suitable buildings that the applicant will eventually inherit or be permitted to purchase from a relative
- farm does not have an adequate dwelling and the applicant owns a suitable mobile home that will be used as the applicant's home.

***--Note:** FSA can finance a manufactured home, placed on a permanent foundation; however, mobile homes, remaining on wheels, may not be financed. In both cases, FO funds can cover the cost of necessary improvements, such as--* anchoring the home and water and sanitary requirements.

B Loan Limits

See 1-FLP, paragraph 29 for FO limits.

C Refinancing

Refinancing of real estate debt is prohibited except for bridge loans according to subparagraph 131 F.

133 Limitations (Continued)

D Compliance with Special Laws and Regulations

Applicants will be required to comply with applicable Federal, State, and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic purposes; installing facilities for draining land; and making changes in the use of the land affected by zoning regulations.

SED and FLP staff will consult with NRCS, U.S. Geological Survey, Army Corp of Engineers, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. SED shall issue State supplements to provide guidelines which:

- state all requirements to be met, including the acquisition of water rights
- define areas where development of ground water for irrigation is not recommended
- define areas where land drainage is restricted.

137 Program Outreach

A General

In addition to outreach requirements in subparagraph 41 E, SED shall be responsible for:

- maintaining efforts to inform potential applicants and retiring farmers of FLP
- coordinating with State Beginning Farmer programs and other organizations that assist beginning farmers.

B Relationship between FSA and a State Beginning Farmer Program

--DAFLP has the authority to execute MOU with any State Beginning Farmer program expressing an interest in coordinating financial assistance to beginning farmers. MOU must be executed within 60 calendar days of the State notifying DAFLP in writing of such-- interest, and will be developed according to Exhibit 16.

Under MOU, FSA will agree to provide qualified beginning farmers with a downpayment loan under Section 2 and/or a guarantee of the balance of the purchase price provided by the State program.

This agreement will be subject to applicable law, loan approval requirements, and the availability of funds. FSA will not charge a fee to obtain or retain a guarantee in connection with any joint funding under MOU.

--If any changes are made to MOU, the Regional OGC will be consulted. States will send MOU's to LMD, at the following address, to obtain the DAFLP's approval:--

Director
USDA FSA DAFLP LMD
STOP 0522
1400 Independence Ave SW
Washington DC 20250-0522.

138-150 (Reserved)

153 Limitations**A General**

[7 CFR 764.203(a)] The applicant must:

- (1) Comply with the general limitations established at § 764.102 (paragraph 73).**

B Minimum Downpayment

The applicant must:

[7 CFR 764.203(a)(2)] Provide a minimum downpayment of 5 percent of the purchase price of the farm.

The applicant must provide the minimum down payment in cash.

C Maximum FSA Loan Amount

[7 CFR 764.203(b)] Downpayment loans will not exceed 45 percent of the lesser of:

- (1) The purchase price,**
- (2) The appraised value of the farm to be acquired, or**
- (3) \$500,000.**

***--Note:** The balance of the purchase price not covered by the downpayment loan and applicant downpayment may be financed by FSA, or a commercial, cooperative, or private lender, including the seller. FSA's total loan must not exceed the direct--* FO limit.

D Maximum Combined Loans

[7 CFR 764.203(c)] Financing provided by the Agency and all other creditors must not exceed 95 percent of the purchase price. Financing provided by eligible lenders may be guaranteed by the Agency under part 762 of this chapter (2-FLP).

154 Rates, Terms, and Security**A Rates**

[7 CFR 764.204(a)] The interest rate for Downpayment loans will be the regular direct FO rate minus 4 percent, but in no case less than 1.5 percent. See 1-FLP, Exhibit 17 for current rates.

B FSA Terms

[7 CFR 764.204(b)(1)] The Agency schedules repayment of Downpayment loans in equal, annual installments over a term not to exceed 20 years.

The authorized agency official may schedule repayment over a period of less than 20 years if requested by the applicant and the farm operating plan (see 1-FLP, Part 8, Section 3) indicates that the loan can be repaid within the period requested.

C Other Lender Terms

[7 CFR 764.204(b)(2)] The non-Agency financing must have an amortization period of at least 30 years and cannot have a balloon payment due within the first 20 years of the loan.

D Minimum Security Requirements

[7 CFR 764.205] A Downpayment loan must:

(a) Be secured in accordance with §§ 764.103 through 764.106 (paragraphs 91 through 93);

(b) Be secured by a lien on the property being acquired with the loan funds and junior only to the party financing the balance of the purchase price.

FSA:

- requires adequate security on a downpayment loan as it does for an FO
- does not require additional security
- does not require a lien on nonessential assets.

See Part 5 for detailed information on security requirements.

155-170 (Reserved)

Part 9 Operating Loan (OL) Program**Section 1 OL's****201 Uses****A General**

--[7 CFR 764.251(a)] See subparagraphs B through M for OL uses.--

B Reorganizing a Farm

OL funds may only be **used** for:

[7 CFR 764.251(a)(1)] Costs associated with reorganizing a farm to improve its profitability;

The following requirements apply when reorganizing a farm.

- Reorganizing the farm means changing enterprises, production practices, marketing methods, or other parts of the farm business to enhance the viability of the farm.
- Examples of acceptable use of loan funds under this provision include but are not limited to:
 - purchase of equipment to convert from conventional to no-till production
 - change from stocker to cow/calf production
 - shifting from row crop to vegetable production
 - purchasing grain drying and storage equipment to facilitate better marketing
 - purchase shares in value-added processing and marketing cooperatives.

Note: These situations are for illustrative purposes only. Any similar operational changes are acceptable as long as a realistic farm plan indicates the changes will improve the financial viability of the farm.

201 Uses (Continued)**C Chattel and Other Purchases**

OL funds may only be used for:

[7 CFR 764.251(a)(2)] Purchase of livestock, including poultry, farm equipment, quotas and bases, and cooperative stock for credit, production, processing or marketing purposes;

Funds may be used only for purchases essential to the success of the farming operation.

Farm vehicles used for farm operating purposes may be purchased, repaired, or refinanced only when the following conditions apply.

- The applicant provides verification that the vehicle will be used exclusively for farm operating purposes. Examples of vehicles used for farm operating purposes include, but are not limited to, grain or livestock hauling trucks, vehicles needed to pull wagons or livestock trailers, and pick-up trucks.
 - A pick-up truck used primarily as a personal vehicle shall not be financed.
 - The income tax treatment of a vehicle is a good indication of its use. If the farm vehicle is or will be depreciated as a farm asset, FSA financing may be authorized.
- The applicant documents need for purchasing, repairing, or refinancing.
- Other credit is not available from usual sources, including dealers and banks. When a farm vehicle is being purchased, dealer and bank financing is usually readily available, often at low rates.
- The vehicle being purchased, repaired, or refinanced is modest in size, utility, and cost and meets the needs of the operation.

201 Uses (Continued)

K Refinancing Farm Related Debts (Continued)

A direct OL may be made to refinance a guaranteed OL when the following conditions are met.

- The circumstances resulting in the need to refinance were beyond the applicant's control.
- Refinancing is in the best interest of the Government and the applicant.
- The guaranteed OL must be paid in full at the time the direct OL is closed.

L Minor Real Estate Repairs or Improvements

OL funds may only be used for:

[7 CFR 764.251(a)(11)] Costs for minor real estate repairs or improvements, provided the loan can be repaid within 7 years.

OL funds may be used for limited real estate improvements, provided the loan can be repaid within 7 years, according to the following guidelines.

- Repairs and improvements to existing structures that are treated as expenses, rather than capital improvements, shall be considered an annual operating expense.
- Fixtures to a farm building may be considered farm equipment and thus financed with OL funds.
- Loans may be approved for building construction.

Note: Construction or improvements amortized over periods longer than 7 years are assumed to be real estate rather than operating purposes and will not be financed with OL funds.

Example: An \$8,000 loan for a pole barn to be repaid over 7 years could be authorized. However, a \$100,000 building financed with a 21-year amortization and a 7-year balloon payment is not permitted. The 21-year amortization period indicates this loan is for real estate rather than operating purposes.

- Any purchase of real estate is not authorized.

***--M ML Fund Usage**

[7 CFR 764.251(b)] ML funds may be used for any OL purpose.--*

202 Eligibility**A General**

The applicant:

[7 CFR 764.252(a)] Must comply with the general eligibility requirements established at § 764.101 (paragraphs 62 through 72).

See subparagraphs B through G for OL program specific eligibility. If different from the general eligibility according to paragraphs 62 through 72, the information in this paragraph is to be substituted for those portions.

B Prior FSA Losses

The applicant:

[7 CFR 764.252(b)] And anyone who will sign the promissory note, except as provided in paragraph (c) of this section, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.

[7 CFR 764.252(c)] And anyone who will sign the promissory note may receive direct OL loans to pay annual farm operating and family living expenses, provided that the applicant meets all other eligibility requirements under this part, if the applicant:

- (1) Received a writedown under section 353 of the Act;**
- (2) Is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code; or**
- (3) Received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for the county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FLP loans prior to the beginning date of the incidence period of a Presidentially-designated emergency and received debt forgiveness on that debt within three years after the designation of such emergency meet this exception.**

204 Rates, Terms, and Repayment (Continued)**D Repayment**

The farm operating plan used to project repayment ability must be completed according to 1-FLP, Part 8.

The OL repayment schedule may include equal, unequal, or balloon payments.

- The first payment is due when income is received or within 18 months.
- After the initial payment, payments are scheduled annually unless the loan is repaid in a single payment.
- The repayment term for OL is 1 to 7 years, as determined by the applicant's projected repayment ability.
- Annual installments must cover, at a minimum, the accrued interest.
- Annual installments may be collected by assignments and supplemental payments.
- If unequal or interest only installments are scheduled, the applicant must be able to show that there will sufficient resources available to pay the loan in full by the final maturity date.

205 Security

A General

[7 CFR 764.255] An OL loan must be secured:

- (a) In accordance with §§ 764.103 through 764.106 (paragraphs 91 through 94).
 *--(b) Except for ML's, by a:

- (1) First lien on all property or products acquired or produced with loan funds;
- (2) Lien of equal or higher position of that held by the creditor being refinanced with loan funds.

[7 CFR 764.255(c)] For ML's:

[7 CFR 764.255(c)(1)] For annual operating purpose loans must be serviced by a first lien on farm property or products having a security value of at least 100 percent of the loan amount, and up to 150 percent, when available. A lien is not required on crops or livestock financed with annual operating ML's. However, the loan must be secured at least 100 percent.

[7 CFR 764.255(c)(2)] For loans made for purposes other than annual operating loans must be secured by a first lien on farm property or products purchased with loan funds and having a security value of at least 100 percent of the loan amount.

Note: Loans made for refinancing purposes will be secured by a lien on any farm property valued at least 100 percent of the loan amount.

[7 CFR 764.255(c)(3)] A lien on real estate is not required unless the value of the farm products, farm property, and other assets available to secure the loan is not at least equal to 100 percent of the loan amount.

[7 CFR 764.255(c)(4)] Notwithstanding the provisions of paragraphs (c)(1), (c)(2), and (c)(3) of this section, FSA will not require a lien on a personal residence.--*

206-215 (Reserved)

***--Section 2 Microloans**

216 ML Process

A Overview

Applicants meeting the requirements established in subparagraph 43 A may apply for ML's.

B Requirements

[7 CFR 764.51(c)] For ML request, all of the following criteria must be met:

[7 CFR 764.51(c)(1)] The loan request is:

[7 CFR 764.51(c)(1)(i)] To pay annual or term operating expenses,

[7 CFR 764.51(c)(1)(ii)] \$35,000 or less and the applicant's total outstanding Agency OL debt at the time of loan closing will be \$35,000 or less, and--*

--217 Streamlined OL Process*A Requirements**

[7 CFR 764.51(c)] For a Streamlined OL request:

- (1) The applicant must be current on all payments to all creditors including the Agency;
- (2) The loan requested is to pay annual operation expenses;
- (3) The applicant received and repaid one annual OL loan or has sufficient inventory to pay the loan in-full;
- (4) There have been no significant changes to the operation since the prior year's application.
- (5) The updated cash flow for the new loan is positive for repayment to FSA and all creditors;
- (6) The loan amount for the new loan may be increased as long as it is supported by the cash flow and the applicant continue to meet the streamlined OL requirements;
- (7) Must not have received primarily loan servicing in the previous year;
- (8) All other requirements remain the same as any standard OL

Note: If there have been no significant changes, the previous FBP will be copied and brought forward as the Streamlined OL plan. The FBP date will be changed to reflect it is the Streamed OL plan. The authorized agency official must input a new credit presentation and document on the credit presentation that the OL is being processed as a streamlined application request. All pertinent information on the previous credit presentation may be copied and brought forward. All other documents will be updated or prepared, as necessary, and required by streamlined application procedures.--*

218-225 (Reserved)

244 Calculating Losses

A Forms for Reporting and Calculating Losses

The applicant will use FSA-2309 to report all yields and acreage information as well as physical losses to FSA.

FSA will use FSA-2311 or the automated FSA-2311 to determine the applicant’s actual production, physical losses, or both.

B Determining Normal Production Yield

Normal production yield is defined in Exhibit 2.

- For NAP insured crops, the NAP APH yield will be used the same as the RMA APH. NAP APH can be obtained from CCC-452 Manual in the producer's file. For all other insured crops, APH will be based upon the APH calculation worksheet completed by the applicant's crop insurance company. A copy of the APH calculation worksheet should be obtained from the crop insurance company and placed in the applicant's file.
- The FP payment yield is a proven yield based on the applicant’s production and not the established yield set by COC.

If county averages are not available, State averages will be used. Normal production yield is calculated according to the following.

IF an applicant...	THEN...
had crop insurance in the disaster year, or the crops are covered under NAP and the Risk Management Crop Insurance Report or CCC-452 lists APH	APH will be used as the normal year yield for the entire commodity, regardless of whether or not the entire crop is insured.
did not insure its crops or had individual commodities that were not insured	the applicant’s actual reliable records for the 3 years immediately before the disaster year will be averaged to determine the normal year yield.
does not have APH and their own reliable records for any or all of the 3 years are not available	*--the applicant’s yield reported to FSA for--* receiving FP payments will be used in each or any of the years that these records are not available.
does not have APH, reliable records, or has not reported yields to FSA for any or all 3 years	county or State averages will be used in any or all of the years these records are not available.

Note: If an applicant had crop insurance in past years but did not have crop insurance during the disaster year, APH for prior years will be ignored and have no bearing when calculating losses. Only the records listed will be used.

244 Calculating Losses (Continued)

C Calculating Production Losses

[7 CFR 764.353(c)] For production loss loans, the applicant's actual crop production loss will be calculated as follows:

Losses to growing crops in designated and/or contiguous counties are used to calculate a production loss.

(1) Subtract the disaster yield from the normal yield to determine the per acre production loss;

See subparagraph D for calculating quality loss adjustments. See subparagraph F for calculation examples.

(2) Multiply the per acre production loss by the number of acres of the farming operation devoted to the crop to determine the volume of the production loss;

(3) Multiply the volume of the production loss by the market price for such crop as determined by the Agency to determine the dollar value for the production loss; and

In July of each year or sooner if information is available, SED shall:

- establish benchmark prices using the average monthly market prices for each commodity for the previous calendar year as shown in the "Agricultural Price" report published by NASS and available on the Internet at <http://usda.mannlib.cornell.edu>, ENTER "Prices" in the search box, CLICK "Search", and CLICK "Agricultural Prices"

***--Notes:** NASS no longer provides monthly data for some commodities on a State basis.

For commodities for which NASS only provides a national price or does not keep statistics and issue reports, SED will use the national price or other sources,--* such as NIFA, commodity brokers, local markets, or other reliable sources.

- issue a State supplement with the unit prices for all commodities produced commercially in the State to be used in calculating all production losses for any disaster that happens in the present calendar year, January through December.

Example: 2010 prices will be used for disasters occurring between January 1, 2011, through December 31, 2011, and so forth for each subsequent year.

Part 17 Approving Closing Agents and Title Insurance Companies

451 Approving Closing Agents

A FSA Approval of the Closing Agent

[7 CFR 764.402(d)(3)] The Agency must approve agents who will close FLP loans. Closing agents must meet all of the following requirements to the Agency's satisfaction:

The approval official has the authority to approve the closing agent, which may be either an attorney or title insurance agent selected by the applicant. If a loan must be approved at a higher approval authority level, the initiating office may still approve the closing agent.

See subparagraphs B through I for requirements for a closing agent.

B Licensing Requirements

A closing agent must:

[7 CFR 764.402(d)(3)(i)] Be licensed in the state where the loan will be closed;

An attorney must be duly licensed to practice law in the State in which the real estate security is located.

A title insurance company must be licensed to do business in the State, if a license is required.

C Not Debarred or Suspended

A closing agent must:

[7 CFR 764.402(d)(3)(ii)] Not be debarred or suspended from participating in any Federal programs;

No attorney, title insurance company, or title company closing agent, currently debarred or suspended from participating in Federal programs may participate in any aspect of FSA loan *-closing and title clearance process. The "System for Award Management" is a monthly listing of all suspended and debarred individuals at <http://www.sam.gov/portal/public/SAM>.*

451 Approving Closing Agents (Continued)**D Liability Insurance**

A closing agent must:

[7 CFR 764.402(d)(3)(iii)] Maintain liability insurance;

All closing agents must protect FSA against damage, loss, fraud, theft, or injury as a result of negligence by the closing agent, approved attorney, or title company when title clearance is done by means of a policy of title insurance.

FSA will require either a closing protection letter issued by an approved title insurance company to cover the closing agent or liability insurance. A closing protection letter is often an American Land Title Association form closing protection letter. Depending upon the area, closing protection letters may also be known as “Insured Closing Letters,” “Indemnification Agreements,” “Insured Closing Service Agreements,” or “Statements of Settlement Service Responsibilities.” This protection letter must include a certification that the company has the ability to cover losses. A title company can submit a list of attorneys in their firm to FSA and these attorneys will be approved if covered by the company’s closing protection letters.

An attorney who will be providing title clearance where the certificate of title will be an attorney’s opinion must certify to professional liability insurance coverage on FSA-2341. The minimum amount of coverage required for the attorney is \$300,000 per occurrence. The insurance coverage may include a deductible, but this may not be more than \$5,000.

E Fidelity Bond

The closing agent must:

[7 CFR 764.402(d)(3)(iv)] Have a fidelity bond that covers all employees with access to loan funds;

FSA-2341 and FSA-2342 provide certification that the closing agent meets the fidelity bond requirement.

Note: When covered by a protection letter, closing agents will not be required to obtain liability insurance or a fidelity bond.

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2301	Request for Youth Loan		41, 42, 44, 45, 62, 226
FSA-2302	Description of Farm Training and Experience		42, 472
FSA-2303	Notice of Farm Loan Programs Application Received		45
FSA-2304	Notice of Incomplete Application		41, 42, 45
FSA-2305	Second Notice of Incomplete Application		45
FSA-2306	Notice of Application Withdrawal/Pending Withdrawal		45
FSA-2307	Notice of Complete Application		45
FSA-2308	Notice of Eligibility for FSA Assistance		73
FSA-2309	Certification of Disaster Losses		42, 244
FSA-2310	Request for Lender's Verification of Loan Application		42, 242
FSA-2311	Calculation of Actual Losses Worksheet		244
FSA-2313	Notification of Loan Approval and Borrower Responsibilities		69, 91, 352, 472
FSA-2314	Streamlined Request for Direct OL Assistance		41-43, 62, 66, 68
FSA-2317	Consent and Subordination Agreement		92
FSA-2318	Agreement for the Disposition of Jointly Owned Property		416, 418
FSA-2319	Agreement with Prior Lien Holder		92
FSA-2320	Property Insurance Mortgage Clause (Without Contribution)		114, Ex. 4
FSA-2330	Request for Microloan Assistance		41-43, 62, 66, 68
FSA-2340	Selection of Attorney/Title Agent		372
FSA-2341	Certification of Attorney		372, 397, 451
FSA-2342	Certification of Title Agent		372, 397, 451
FSA-2343	Transmittal of Title Information		397
FSA-2344	Preliminary Title Opinion		397
FSA-2350	Loan Closing Instructions		398
FSA-2351	Certification of Improvement of Property		398
FSA-2352	Final Title Opinion		398, 433
FSA-2360	Report of Lien Search		417
FSA-2361	Lender Subordination Agreement		417
FSA-2370	Request for Waiver of Borrower Training Requirements		70, 472
FSA-2371	Agreement to Complete Training		473

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

Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2375	Agreement to Conduct Production or Financial Management Training		493, 494
FSA-2376	Borrower Training Course Evaluation		494
FSA-2510	Notice of Availability of Loan Servicing to Borrowers Who Are 90 Days Past Due		3
FSA-2512	Notice of Availability of Loan Servicing to Borrowers Who Are Current, Financially Distressed, or Less than 90 Days past Due		3
FSA-2514	Notice of Availability of Loan Servicing to Borrowers Who are in Non-Monetary Default		3
FSA-2535	Conservation Contract		3
G-845	Document Verification Request		Ex. 8
HUD 1	Uniform Settlement Statement		398
I-94	Arrival/Departure Record		Ex. 8
I-179	Certificate of Birth Abroad		Ex. 9
I-197	United States Citizen Identification Card		Ex. 9
I-551	Alien Registration Receipt Card		Ex. 8
I-571	Refugee Travel Document		Ex. 8
I-688B	Employment Authorization Card		Ex. 8
I-766	Employment Authorization Document		Ex. 8
N-550	Certificate of Naturalization		Ex. 9
N-560	Certificate of U.S. Citizenship		Ex. 9
N-561	Certificate of U.S. Citizenship		Ex. 9
N-570	Certificate of Naturalization		Ex. 9
NRCS CPA-1155	Conservation Plan/Schedule of Operations		42, 43, 171, Ex. 2
NRCS CPA-1202	Conservation Program Contract		173
RD 1940-22	Environmental Checklist for Categorical Exclusions		45
Schedule F (Form 1040)	Profit or Loss from Farming		246
SF-3881	ACH Vendor/Miscellaneous Payment Enrollment Form		73
UCC-1	National Financing Statement		92, 93, 373, 398, 417, 419, 433

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
BCIS	Bureau of Citizenship and Immigration Services	Ex. 8, 9
CONACT	Consolidated Farm and Rural Development Act	1, 69, Ex. 16
CAT	Catastrophic Risk Protection Endorsement	113, 244
CL	Conservation Loans	Text, Ex. 2
FFA	Future Farmers of America	69, 227
FICO	Fair Isaac Corporation	191
FmHA	Farmers Home Administration	2, 94, 202
FP	Farm Program	41, 93, 244, Ex. 2
INA	Immigration and Nationality Act	Ex. 8
Lo-Doc	low documentation	2, 43, 191, 216, Ex. 2
ML	Microloan	4, 69, 91, 201, 205, 216
NPO	nonprofit organization	72
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 8
SAM	System for Award Management	68, 451
SDMS	State Directive Management System	3, 355
ST	softwood timber	94, Ex. 2

Re delegations of Authority

None

Definition of Terms Used in This Handbook (7 CFR 761.2(b))**Act**

Act means **the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.)**.

Additional Security

Additional security means **property that provides security in excess of the amount of security value equal to the loan amount.**

Adequate Security

Adequate security means **property which is required to provide a security value at least equal to the loan amount.**

Agency

Agency means **FSA.**

Agency Official

Agency official means any employee with FSA. This term is used when the action does not require inherent or delegated authority.

Agreement for the Use of Proceeds

Agreement for the use of proceeds means **an agreement between the borrower and the Agency that reflects how, when, and to whom the borrower will sell, exchange, or consume chattel security and the planned use of any proceeds during a specific production cycle.**

Agricultural Commodity

Agricultural commodity means **livestock, livestock product, grains, cotton, oilseeds, dry beans, tobacco, peanuts, sugar beets, sugar cane, fruit, vegetable, forage, tree farming, nursery crops, nuts, aquacultural species, and other plant or animal production as determined by the Agency.**

Allowable Costs

Allowable costs means **costs for replacement or repair that are supported by acceptable documentation, including but not limited to written estimates, invoices, and bills.**

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Applicant

Applicant means **the individual or entity applying for a direct loan or direct loan servicing under either the direct or guaranteed loan program.**

***--Apprentice**

Apprentice means individual who receives applied guidance and input from an individual with the skills and knowledge pertinent to the successful operation of the farm enterprise being financed.--*

Approval Official

Approval official means the specific employee who has the authority to approve or deny the described action.

Aquaculture

Aquaculture means **the husbandry of any aquatic organisms, including fish, mollusks, crustaceans or other invertebrates, amphibians, reptiles, or aquatic plants, raised in a controlled or selected environment of which the applicant has exclusive rights to use.**

Authorized Agency Official

Authorized agency official means an employee who has either inherent or delegated authority to complete the described action.

Basic Part of an Applicant's Total Farming Operation

Basic part of an applicant's total farming operation means **any single agricultural commodity or livestock production enterprise of an applicant's farming operation, which normally generates sufficient income to be considered essential to the success of such farming operation.**

Basic Security

Basic security means **all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency.**

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Indian Reservation

Indian reservation means **all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian Tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian Tribe.**

Joint Operation

Joint operation means **an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.**

Leasehold

Leasehold means **a right to use farm property for a specific period of time under conditions provided for in a lease agreement.**

Lien

Lien means **a legally enforceable hold or claim on the property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.**

Limited Resource Interest Rate

Limited resource interest rate means **an interest rate below the Agency's regular interest rate available to farmers who are unable to develop a feasible plan at regular rates and are requesting:**

- (1) FO or OL loan assistance under part 764 of this title; or**
- (2) Primary loan servicing on an FO, OL, or SW loan under part 766 of this title.**

Livestock

Livestock means **a member of the animal kingdom, or product thereof, as determined by the Agency.**

* * *

Definition of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Majority Interest

Majority interest means **more than a 50 percent interest in an entity held by an individual or group of individuals.**

Market Value

Market value means **the amount that an informed and willing buyer would pay an informed and willing, but not forced, seller in a completely voluntary sale.**

*--Microloan (ML)

ML means a type of OL of \$35,000 or less made under reduced application, eligibility, and security requirements.--*

Mortgage

Mortgage means **a legal instrument giving the lender a security interest or lien on real or personal property of any kind. The term “mortgage” also includes the terms “deed of trust” and “security agreement”.**

Natural Disaster

Natural disaster means **unusual and adverse weather conditions or a natural phenomenon that has substantially affected farmers by causing severe physical or production, or both, losses.**

Non-Eligible Enterprise

Non-eligible enterprise means **a business that meets the criteria in any one of the following categories:**

- (1) Produces exotic animals, birds, or aquatic organisms or their products which may be agricultural in nature, but are not normally associated with agricultural production, e.g. there is no established or stable market for them or production is speculative in nature.**
- (2) Produces non-farm animals, birds, or aquatic organisms ordinarily used for pets, companionship, or pleasure and not typically associated with human consumption, fiber, or draft use.**
- (3) Markets non-farm goods or provides services which might be agriculturally related, but are not produced by the farming operation.**
- (4) Processes or markets farm products when the majority of the commodities processed or marketed are not produced by the farming operation.**

Non-Essential Asset

Non-essential asset means **assets in which the borrower has an ownership interest, that:**

- (1) Do not contribute to:**
 - (i) Income to pay essential family living expenses, or**
 - (ii) The farming operation; and**
- (2) Are not exempt from judgment creditors or in a bankruptcy action.**

Information Needed to Submit an FSA Direct Loan Application

Note: Exhibit 5 is available in a fillable format at <http://intranet.fsa.usda.gov>. CLICK “FFAS Employee Forms/Publications Site” and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “3-FLP Exhibit 5”.

*--

3-FLP, Exhibit 5

(Use Agency Letterhead format with local return address.)

[Name and Address]

INFORMATION NEEDED TO SUBMIT AN FSA DIRECT LOAN APPLICATION

Dear [Name]:

Date [MM-DD-YYYY]

Please provide the items marked with an “X” in the box so that your request for loan assistance can be considered. Any required forms are enclosed. Additional copies of forms, if needed, can be obtained at <http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>.

- 1) FSA-2001, “Request for Direct Loan Assistance”.
 - 2) FSA-2301, “Request for Youth Loan”.
 - 3) FSA-2314, “Streamlined Request for Direct OL Assistance”.
 - 4) FSA-2330 “Request for Microloan Assistance.”
 - 5) For entity applicants only:
 - a. Copies of any Organizational and Operation Documents (e.g., Charter, Articles of Incorporation, Bylaws, Partnership or Joint Operation Agreement, etc.).
 - b. Any evidence of current registration with relevant state regulatory agencies (good standing).
 - c. A duly adopted resolution to apply for and obtain financing.
 - d. A balance sheet not more than 90 days old for the entity.
 - e. A balance sheet not more than 90 days old for each individual entity member.
 - f. An AD-3030 completed by the designated agent of the corporation
- Note:** If there are no individually owned assets then husband and wife joint operations may submit a consolidated balance sheet.
- 6) Notification of Exercise of Priority Consideration under Consent Decree (FSA-2010), or similar written request, if you are exercising your right to priority consideration. If FSA does not receive your written notice, your application will be processed in the normal manner.

--*

Information Needed to Submit an FSA Direct Loan Application (Continued)

*--

- 7) FSA-2002, "Three-Year Financial History", or similar form acceptable to the Agency. Also provide tax returns, including Schedule F, for the past three years, or each year you have been in business, whichever is less. You may be asked to provide supporting documentation if you provide financial summaries. If the financial history has been previously provided, complete only for those years not previously provided.

Note: Provide 3 years balance sheets, if available.

- 8) FSA-2003, "Three-Year Production History", or similar form acceptable to the Agency, for the past three years, or each year you have been in business, whichever is less. If production history has been previously provided, complete only for those years not previously provided.

- 9) FSA-2004, "Authorization to Release Information".

Note: If you are relying on non-farm income or other assets of a non-applicant spouse to generate positive cashflow or pay family living expenses he/she must execute an FSA-2004 or provide their 2 most recent earning statements.

- 10) FSA-2005, "Creditor List".

- 11) FSA-2006, "Property Owned and Leased". Attach a copy of the legal descriptions of any farm property owned, or to be acquired, and if applicable, any lease, contracts, options and other agreements with regard to the property.

- 12) FSA-2007, "Statement Required by the Privacy Act", required from anyone who will sign loan or security documents, but is not the applicant or an entity member.

- 13) Projected farm operating plan which includes a balance sheet and cash flow for the next 12 months. You may use the Farm Business Plan Worksheets: the FSA-2037, "Balance Sheet" and FSA-2038, "Income and Expenses", or similar forms acceptable to the Agency. *(Not more than 90 days old)*

- 14) Most recent account statement for credit cards, loans, and all other bank accounts. Any original documents you submit will be returned to you.

- 15) Credit Report Fee made payable to the Farm Service Agency for the type of applicant:

Individual \$ _____ Joint \$ _____ or Commercial \$ _____

- 16) FSA-2302, "Description of Farm Training and Experience," For entity applicants, provide for each individual member involved in managing or operating the farm.

- 17) FSA-2370, "Request for Waiver of Borrower Training Requirements".

- 18) Verification of any other non-farm income (i.e., social security, rental income, pension).

- 19) RD-1940-20, "Request for Environmental Information".

Page 2

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Information Needed to Submit an FSA Direct Loan Application (Continued)

*--

- 20) AD-1026, "Highly Erodible Land Conservation and Wetland Conservation Certification".
(Initial Application and Subsequent Application when there have been changes to the real estate farmed.)
- 21) For construction loans only:
 - a. A copy of any plans and specifications for the improvements you intend to make.
 - b. A description of any planned development, the proposed schedule and cost estimate.
- 22) For EM only:
 - FSA-2309, "Certification of Disaster Losses".
 - FSA-2310, "Lender's Verification of Loan Application".
- 23) For CL only:
 - a. NRCS Approved Conservation Plan.
 - b. Financial Statement (Streamlined CL's).
- 24) Other

A DECISION CANNOT BE MADE ON A LOAN REQUEST WITHOUT ALL INFORMATION REQUESTED IN THE LETTER. HOWEVER, AFTER REVIEW OF THE PROVIDED INFORMATION FSA MAY REQUEST ADDITIONAL INFORMATION NECESSARY TO COMPLETE PROCESSING YOUR APPLICATION. THIS WILL IN SOME CASES, INCLUDE WRITTEN EVIDENCE OF YOUR INABILITY TO OBTAIN CREDIT ELSEWHERE.

Please contact this office if you need help. We can help you complete the requested forms, explain what information we need, and answer any questions about the information requested in this letter. If we cannot assist you by phone, we will schedule an appointment to meet with you.

Sincerely,

Enclosures

--*

MOU Between FSA and [Enter Name of State Beginning Farmer Program]

The following is an example format of MOU between FSA and a State beginning farmer program.

Memorandum of Understanding Between FSA and [Enter Name of State Beginning Farmer Program]

1. SUBJECT:

Implementation of Section 309(i) of the Consolidated Farm and Rural Development Act (CONACT), as added by Section 5 of the Agricultural Credit Improvement Act of 1992 (Pub. L. 102-554, October 28, 1992).

2. PURPOSE:

The purpose of this Memorandum of Understanding (MOU) is to provide cooperation and participation in joint funding between FSA and (enter name of State Beginning Farm Program).

3. BACKGROUND:

Section 309(i) of the CONACT requires that an MOU between FSA and any State Beginning Farmer Program be entered into when the State expresses interest, in writing, to coordinate financial assistance to beginning farmers. The CONACT describes a State Beginning Farmer program as any program that is “(A) carried out by, or under contract with, a State; and (B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming operations”.

4. AGREEMENT:

It is mutually agreed by the parties to this MOU that they will cooperate and participate in joint funding as specified below:

- A. If (enter name of State Beginning Farmer Program) makes a commitment to provide a qualified beginning farmer with financing to establish or maintain a viable farming operation, FSA will provide financial assistance through the use of the Downpayment Loan Program and/or the guaranteed loan programs subject to all of the following:
 - 1. applicable law and regulations
 - 2. normal loan approval criteria, and
 - 3. availability of funds.
- B. FSA will not provide guaranteed assistance when the funds have been derived from tax-exempt bonds.
- C. FSA will not charge a fee to obtain or retain a guarantee in connection with any joint funding under this MOU.

MOU Between FSA and [Enter Name of State Beginning Farmer Program] (Continued)

*--

Memorandum of Understanding Between FSA and [Enter Name of State Beginning Farmer Program]

5. IMPLEMENTATION

This MOU is effective immediately upon the last signature dated below and will continue in effect until modified or revoked by agreement of both parties, or revoked by either party alone upon thirty (30) calendar days written notice. Modification to this document may be made by mutual agreement and such modifications will be in effect upon the signing of the modified document.

(NAME)
Deputy Administrator, Farm Loan Programs
Farm Service Agency
Washington, DC 20250

(NAME)
(Name of State Beginning Farmer Program)
(City, State)

DATE

DATE

--*