

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 9

Approved by: Deputy Administrator, Farm Loan Programs

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Amendment Transmittal

A Reasons for Amendment

Subparagraph 1 C has been amended to update the example and remove reference to Lo-Doc.

Subparagraph 42 A has been amended to update the requirements for a complete loan application.

Subparagraph 43 A has been amended to add the requirements for a complete Streamlined OL application.

Subparagraph 62 A has been amended to clarify the requirements for individuals convicted of drug trafficking.

Subparagraph 65 D has been amended to provide that credit scores are not to be used as part of the credit history determination.

Subparagraph 67 A has been amended to remove reference to the Current/Past Debts and Borrower Cross Reference Inquiry screens.

Subparagraph 68 A has been amended to add FSA-2301 to be used by applicants to self certify that they have not been disqualified because of crop insurance violation.

Subparagraph 112 D has been added to provide requirements for using NAP.

Subparagraph 131 B has been amended to clarify that income generated should be proportionate to FO loan request.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 132:

- C has been amended to clarify owner and operator requirements for entities
- D has been amended to clarify farm experience requirements.

Subparagraph 151 C has been amended to provide that applicants are required to be beginning farmers to be eligible for downpayment loans.

Subparagraph 153 C has been amended to remove FSA as a lender for downpayment loan balances.

Subparagraph 201 B has been amended to provide guidance for assisting applicants in obtaining part of their OL funding from other sources when possible.

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

Subparagraph 216 B has been amended to provide that for ML's, an operation must have gross sales of at least \$1,000 to be recognized as a farm.

Subparagraph 217 A has been amended to provide clarification on the requirements for Streamline OL process and clarify what constitutes a signature change.

Subparagraph 353 A has been amended to clarify the notification procedure when there is a lack of program funds.

Subparagraph 371 C has been amended to update example 1.

Subparagraph 472 B has been amended to clarify guidance for determining whether to waive training requirements.

| Page Control Chart | | |
|---------------------------|--|----------------|
| TC | Text | Exhibit |
| 1-4 | 1-1, 1-2 3-3 through 3-12 4-1, 4-2 4-7 through 4-12 6-3, 6-4 7-1 through 7-6 7-41, 7-44 9-1, 9-2 9-15 through 9-72 15-7, 15-8 16-3, 16-4 18-3, 18-4 | 1, page 5 |

Table of Contents

Page No.

Part 1 Introduction and Purpose

| | | |
|------|--|-----|
| 1 | Purpose and Sources of Authority | 1-1 |
| 2 | Related References | 1-2 |
| 3 | FLP Forms | 1-4 |
| 4 | Introduction to Direct FLP's..... | 1-7 |
| 5-20 | (Reserved) | |

Part 2 (Reserved)

21-40 (Reserved)

Part 3 Loan Application

| | | |
|-------|---|------|
| 41 | Obtaining and Filing a Loan Application | 3-1 |
| 42 | Complete Loan Applications | 3-5 |
| 43 | ML and Streamlined OL Requests..... | 3-11 |
| 44 | Youth Loan Requests..... | 3-13 |
| 45 | Processing Loan Applications | 3-14 |
| 46-60 | (Reserved) | |

Part 4 General Eligibility and Loan Limitations

Section 1 Eligibility Requirements

| | | |
|-------|--|------|
| 61 | Overview..... | 4-1 |
| 62 | Controlled Substances..... | 4-2 |
| 63 | Legal Capacity | 4-3 |
| 64 | Citizenship | 4-4 |
| 65 | Credit History | 4-5 |
| 66 | Credit Elsewhere..... | 4-9 |
| 67 | Delinquent Federal Debt and Unpaid Federal Judgments | 4-10 |
| 68 | Federal Crop Insurance Violations | 4-11 |
| 69 | Managerial Ability..... | 4-11 |
| 70 | Borrower Training | 4-14 |
| 71 | Owner/Operator of a Family Farm | 4-14 |
| 72 | Entity Composition | 4-16 |
| 73 | Final Eligibility Determination..... | 4-18 |
| 74 | Limitations | 4-20 |
| 75-90 | (Reserved) | |

Table of Contents (Continued)

Page No.

Part 5 Loan Security

| | | |
|-------------------|---|------|
| 91 | Security Requirements | 5-1 |
| 92 | Real Estate Security | 5-4 |
| 93 | Other Security Requirements..... | 5-10 |
| 94 | Exceptions to Security Requirements | 5-11 |
| 95 | Appraisals and Values | 5-14 |
| 96-110 (Reserved) | | |

Part 6 Insurance

| | | |
|--------------------|---------------------------------|-----|
| 111 | Overview..... | 6-1 |
| 112 | Type of Insurance Required..... | 6-2 |
| 113 | Documentation..... | 6-4 |
| 114 | Indemnity | 6-6 |
| 115-130 (Reserved) | | |

Part 7 Farm Ownership Loan (FO) Programs

Section 1 FO's

| | | |
|--------------------|--|------|
| 131 | Uses..... | 7-1 |
| 132 | Eligibility | 7-4 |
| 133 | Limitations | 7-7 |
| 134 | Joint Financing Arrangements | 7-9 |
| 135 | Rates, Terms, Payments, and Security | 7-10 |
| 136 | Subsequent Loans | 7-12 |
| 137 | Program Outreach | 7-13 |
| 138-150 (Reserved) | | |

Section 2 Downpayment Program

| | | |
|--------------------|----------------------------------|------|
| 151 | Uses..... | 7-41 |
| 152 | Eligibility | 7-42 |
| 153 | Limitations | 7-43 |
| 154 | Rates, Terms, and Security | 7-44 |
| 155-170 (Reserved) | | |

Table of Contents (Continued)

Page No.

Part 8 Conservation Loan (CL) Program

Section 1 CL's

| | | |
|---------|-----------------------------------|-----|
| 171 | Uses..... | 8-1 |
| 172 | Eligibility | 8-2 |
| 173 | Limitations | 8-3 |
| 174 | Rates, Terms, and Repayment | 8-4 |
| 175 | Security | 8-6 |
| 176-190 | (Reserved) | |

Section 2 Streamlined CL's

| | | |
|---------|-----------------------------|------|
| 191 | Streamlined CL Process..... | 8-31 |
| 192-200 | (Reserved) | |

Part 9 Operating Loan (OL) Program

Section 1 OL's

| | | |
|---------|-----------------------------------|------|
| 201 | Uses..... | 9-1 |
| 202 | Eligibility | 9-6 |
| 203 | Limitations | 9-12 |
| 204 | Rates, Terms, and Repayment | 9-13 |
| 205 | Security | 9-16 |
| 206-215 | (Reserved) | |

Section 2 Microloans and Streamlined OL's

| | | |
|---------|------------------|------|
| 216 | ML Process | 9-45 |
| 217-225 | (Reserved) | |

Section 3 Youth Loans

| | | |
|---------|--------------------------------------|------|
| 226 | Youth Loan Application Process | 9-73 |
| 227 | Uses and Limitations | 9-74 |
| 228 | Eligibility | 9-76 |
| 229 | Rates, Terms, and Repayment | 9-78 |
| 230 | Security | 9-79 |
| 231-240 | (Reserved) | |

Table of Contents (Continued)

Page No.

Part 10 Emergency Loan (EM) Program

| | | |
|---------|--|-------|
| 241 | Uses..... | 10-1 |
| 242 | Eligibility | 10-8 |
| 243 | Limitations | 10-16 |
| 244 | Calculating Losses | 10-17 |
| 245 | Rates, Terms, and Repayment | 10-23 |
| 246 | Security Requirements | 10-26 |
| 247 | Real Estate Security Requirements..... | 10-28 |
| 248 | Appraisal and Valuation Requirements | 10-28 |
| 249-265 | (Reserved) | |

Part 11 (Reserved)

266-285 (Reserved)

Part 12 (Reserved)

286-305 (Reserved)

Part 13 (Reserved)

306-330 (Reserved)

Part 14 (Reserved)

331-350 (Reserved)

Part 15 Loan Decision

| | | |
|---------|--|-------|
| 351 | Reviewing and Evaluating Applications..... | 15-1 |
| 352 | Loan Approval | 15-4 |
| 353 | Funding Approved Loans | 15-8 |
| 354 | Changes After Loan Approval..... | 15-10 |
| 355 | Monitoring FSA Approval..... | 15-12 |
| 356 | Loan Denial..... | 15-15 |
| 357 | Actions if Loan Denial is Overturned in NAD Final Determination..... | 15-17 |
| 358-370 | (Reserved) | |

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(d)(4)(6)**] **Submit items (1), (2), (3), (7), (11) and 15 of paragraph (b) of this section** (paragraph 42).”

Note: The text “**items (1), (2), (3), (7), (11) and 15 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.

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.

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.

41 Obtaining and Filing a Loan Application (Continued)

E SED Action (Continued)

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.

--The authorized agency official shall consider if an application can be ML or Streamlined before requiring a regular, full documentation application. See paragraphs 216 and 217. ML and Streamlined OL applications should be filed according to paragraph 43.--

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.

[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, FSA-2314, or FSA-2330. However, after reviewing the financial information--* and type of loan requested (EM's have a different 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.

[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.

42 Complete Loan Application (Continued)

A Requirements (Continued)

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
- 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.

42 Complete Loan Application (Continued)**A Requirements (Continued)**

[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, according to 1-FLP, Part 5.

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 and Streamlined OL Requests*A Complete Streamlined OL Application**

A complete Streamlined OL application includes:

- completed FSA-2314
- environmental information
- farm operating plan (updated to current production year)
- payment of credit report fee
- balance Sheet
- prior year(s) Financial and Production records.

Notes: An applicant is qualified for loan processing under Streamlined OL provisions when all the Streamlined OL requirements in subparagraph 217 A are met.

The Farm Business Plan information, (cash flow, balance sheet, financial records, production records, and Credit Presentation) shall be updated only as necessary to complete information added to the records.--*

B 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

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

- 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.

[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.

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

* * *

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.

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 | 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. |
| 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 | 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. Note: Exceptions for EM's still apply. The authorized agency official should document all findings in the case file. |

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.

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.

65 Credit History (Continued)

D Assessing Past Repayment Problems (continued)

(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.

***--Note:** Credit scores will not be:

- used as an indicator of poor credit history
- used as a basis of denial
- cited as an indicator of unacceptable credit in a denial letter.--*

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 * * * 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-2301, 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.--*

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 sign-up period for crop insurance has expired.

*--D NAP

The NAP program is an important tool in managing potential risk for individuals who raise crops not covered by standard crop insurance. The authorized agency official will discuss the NAP program with all applicants who plan to raise crops which are eligible for NAP coverage. FSA should determine if using NAP coverage is cost effective for the operation and if it will likely benefit both the applicant and the Agency as part of the overall farm plan. If NAP coverage is likely to provide benefits to the operation, applicants will be encouraged to participate in the NAP program.--*

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.

Part 7 Farm Ownership Loan (FO) Programs**Section 1 FO's****131 Uses****A General**

[7 CFR 764.151] FO loan funds may only be used to:

See subparagraphs B through F for FO uses.

B Farm Purchases

FO funds may only be used to:

[7 CFR 764.151(a)] Acquire or enlarge a farm or make a down payment on a farm.

Examples include, but are not limited to, the purchase of easements, the applicant's portion of land being subdivided, purchase of cooperative stock, appraisal and survey fees, and participation in special FO programs. Downpayments are authorized as a loan purpose subject to the following.

- A deed is obtained and the transaction is properly documented by debt and security instruments.
- Any prior liens meet the FO security requirements for FSA's junior lien position.
- For contract purchases, purchase contracts must properly obligate the buyer and seller to fulfill the terms of the contract, provide the buyer with possession, control, and beneficial use of the property, and entitle the buyer to marketable title upon fulfillment of the contract terms. The deed must be held in trust by a bonded agent until transferred to the buyer. Upon a buyer's default, the seller must give FSA written notice of the default and a reasonable opportunity to cure the default. The applicant must repay any sums advanced by FSA.

***--Note:** The gross farm income generated by the operation (the applicant's entire proposed operation, including the property to be purchased) associated with the purchase must be proportionate to the purchase price. An operation generating a few thousand dollars in annual gross sales is not considered proportionate for the purchase of real estate requiring debt service of multiples of the operation's gross sales. A typical year plan must reflect that the operation will produce a significant amount of the income necessary to repay the loan.--*

131 Uses (Continued)

B Farm Purchases (Continued)

The authorized agency official should advise the applicant to have an understanding with the seller on such items as:

- land description and number of acres
- buildings and fixtures included in the transaction

Note: The applicant should determine the condition of property attached to the land and the working condition of any fixtures with movable parts.

- minerals and the effect any mineral reservation has on the land value and operating it as a farm
- access to the land or any part of it
- the party responsible for taxes and insurance
- the party who will receive the income from the land during the crop year of the transaction.

C Capital Improvements

FO funds may only be used to:

[7 CFR 764.151(b)] Make capital improvements to a farm owned by the applicant, for construction, purchase or improvement of farm dwellings, service buildings or other facilities and improvements essential to the farming operation. In the case of leased property, the applicant must have a lease to ensure use of the improvement over its useful life or to ensure that the applicant receives compensation for any remaining economic life upon termination of the lease;

FO funds can be used to purchase, improve, or build any type of structure, including a *--dwelling that either adequately meets family needs and is modest in size, cost, and design, provided the structure is related to the farming enterprise. The dwelling shall be located on the farm when FO funds are used to purchase the dwelling. However, if the applicant--* already owns a dwelling located close to the farm, FO funds may be used to repair or improve the dwelling.

An applicant must be the owner of the property, or hold a lease interest for the property, which has a term at least equal to the term of the proposed loan on the property, which the improvement is to be made. In the case of Indian tribal lands, trust properties, and Hawaiian homelands, the applicant's leasehold must show an ownership interest as specified by a State supplement.

131 Uses (Continued)**D Soil and Water Conservation and Protection**

FO funds may only be used to:

[7 CFR 764.151(c)] Promote soil and water conservation and protection;

Examples include the correction of hazardous environmental conditions and the construction or installation of tiles, terraces, and waterways. All soil and water conservation projects are subject to the limitations in subparagraph 74 D.

E Loan Closing Costs

FO funds may only be used to:

[7 CFR 764.151(d)] Pay loan closing costs;

FO funds may not be used to pay loan packaging or consultant fees associated with applying for or obtaining a FSA loan.

F Refinance Bridge Loan

FO funds may only be used to:

[7 CFR 764.151(e)] Refinance a bridge loan if the following conditions are met:

- (1) The applicant obtained the loan to be refinanced to purchase a farm after a direct FO was approved;**
- (2) Direct FO funds were not available to fund the loan at the time of approval;**
- (3) The loan to be refinanced is temporary financing; and**
- (4) The loan was made by a commercial or cooperative lender.**

Note: Refinancing of a bridge loan is not guaranteed. The applicant and the lender must understand that the anticipated FO is subject to all conditions of loan approval and availability of funds. FSA personnel shall not make any commitments or imply that a bridge loan will be refinanced.

132 Eligibility

A General Eligibility

[7 CFR 764.152] The applicant:

(a) Must comply with the general eligibility requirements established at § 764.101 (paragraphs 62 through 72).

FO specific eligibility is addressed in this paragraph. If different from the general eligibility in paragraphs 62 through 72, the information in this paragraph is to be substituted for those portions.

B No Prior Debt Forgiveness

The applicant:

[7 CFR 764.152(b)] And anyone who will sign the promissory note, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.

The authorized agency official shall review debt verification obtained under subparagraph 65 B to determine whether there is any prior loss by the Government.

C FO Individual and Entity Owner and Operator Requirement

The applicant:

[7 CFR 764.152(c)] Must be the owner-operator of the farm financed with Agency funds after the loan is closed. In the case of an entity:

(1) The entity is controlled by farmers engaged primarily and directly in farming in the United States, after the loan is made;

(2) The entity must be authorized to own and operate the farm in the State in which the farm is located;

(3) If the entity members holding a majority interest are:

(i) Related by blood or marriage, at least one member of the entity must operate the farm;

***--(ii) Not related by blood or marriage, the entity members holding a majority interest must operate the farm.**

Note: 7 CFR 764.152(c) (3 (1) about entity members holding ownership interests is incorrect as it conflicts with the authorizing statute. The language in subparagraph 132 C (3) (ii) is correct and should be used until a CFR change can be completed.--*

132 Eligibility (Continued)

D Farm Experience

The applicant:

[7 CFR 764.152(d)] And in the case of an entity, one or more members constituting a majority interest, must have participated in the business operations of a farm for at least 3 years out of the 10 years prior to the date the application is submitted.

Factors to determine participation in the business operations of a farm (see definition in Exhibit 2) are similar to those for determining adequate farming experience necessary to *--ensure a reasonable prospect of success in the operation. The level of farm experience or managerial ability 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.--*

Note: The applicant need not have been the primary operator.

Applicants shall document that their participation in the business operation of a farm was not solely as a laborer. Documentation may include, but is not limited to:

- written statements from other parties with knowledge of applicant's role and responsibilities in the business operation of a farm
- documents from the applicant that indicate their responsibilities in the business operation of a farm.

For an individual applicant to be an operator, the applicant must have participated and provided labor and management of the farm for at least 3 years.

For an entity applicant to be an operator, 1 or more members constituting a majority interest must have participated in the operation of the farm for at least 3 years and provided labor and management.

Example 1: Jane Smith applies for FO to purchase a hog farm adjacent to the hog farm currently owned by her mother. She recently graduated from law school. Her father died 4 years ago and she assumed responsibility for the farm, and continued to oversee the day-to-day operation of the farm while she attended school.

Jane Smith is eligible for FO since she has had significant responsibility for the day-to-day business operations of a farm for more than 3 years within the last 10 years.

132 Eligibility (Continued)

D Farm Experience (Continued)

***--Example 2:** John Doe applies for FO to purchase a grain farm. He indicates on his application that he was born and raised on a farm and worked for his father until about 5 years ago. His father then turned over 40 acres of the family farm to him. For 2 years, John made all management decisions for the 40 acres. In addition, John helped make management decisions when working with his father before operating his 40 acres. For the last 3 years, John has worked in town and has not been involved with the farm.

John Doe is eligible for FO as he had management responsibility, and made day-to-day decisions on the 40 acres for 2 years, and before that, participated in the operation of a farm for more than 1 year as he made management decisions while working for his father. This combination of experience enables John to meet the requirement that he has participated in the operation of a farm for 3 out of the last 10 years.

Example 3: John Smith applies for an FO to purchase a farm. He indicates on his application that he has worked as a migrant laborer for the last 10 years. 5 years ago he was placed in a managerial position where in addition to supervising the work crew, he decides what fields are to be worked, planting rates, and the majority of daily management decisions related to the operation.

John Smith is eligible for an FO as his work as the crew leader and daily manager of the operation is sufficient to qualify for FSA assistance.--*

E Term Limits

The applicant:

[7 CFR 764.152(e)] And anyone who will sign the promissory note, must satisfy at least one of the following conditions:

- (1) Meet the definition of a beginning farmer;**
- (2) Have not had a direct FO loan outstanding for more than a total of 10 years prior to the date the new FO loan is closed.**
- (3) Have never received a direct FO loan.**

Section 2 Downpayment Program

151 Uses

A General

[7 CFR 764.201] Downpayment loan funds may be used to partially finance the purchase of a family farm by an eligible beginning farmer or socially disadvantaged farmer.

***--Note:** For Downpayment loan purposes, the applicant must meet the definition of a beginning farmer, according to Exhibit 2, at the time the application is received by FSA.--*

152 Eligibility**A Requirements**

[7 CFR 764.202] **The applicant must:**

- (a) Comply with the general eligibility requirements established at § 764.101 (paragraphs 62 through 72) and the FO eligibility requirements of § 764.152 (paragraph 132); and**
- (b) Be a beginning farmer or socially disadvantaged farmer.**

See Exhibit 2 for the definition of a beginning farmer and SDA farmer.

B Farm Size for Beginning Farmers

The applicant must not own more than 30 percent of the median size farm as established under the beginning farmer definition at the time of the application. The applicant may exceed the 30 percent after the loan is closed.

The median farm acreage and 30 percent of the median acreage shall be published in a State supplement. The 30 percent of the median acreage will be rounded to the closest tenth of a percent.

Example: The median size farm for the county is 94 acres. 30 percent of the median, rounded to the nearest tenth, is 28.2 acres. Therefore to meet the beginning farmer requirements, the applicant must own no more than 28.2 acres.

If the farm is located in more than 1 county, FSA uses the median farm acreage of the county where the applicant's residence is located.

If the applicant's residence is not located on the farm or if the applicant is an entity, FSA uses the median farm acreage of the county where the largest portion of the farm is located.

Note: Median farm size does **not** apply to SDA applicants. However, the family farm requirement under § 764.101(k) (paragraph 71) does apply.

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 a commercial, cooperative, or private
lender, including the seller.--*

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.

*--**Note:** To conserve FSA funding, applicants will be strongly encouraged to obtain a portion of their credit needs from other sources if possible. Such arrangements may include splitting annual operating from term loan purposes, vendor credit, FSA guarantees, and subordinations. Maximizing the use of other available credit sources, especially for shorter term operating credit, will allow FSA to better meet program demand.--*

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.

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 secured 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 and up to 150 percent if available, without taking a lien on personal residences or nonessential assets.--

[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 and Streamlined OL's**

216 ML Process

A Overview

--Applicants meeting the requirements established in subparagraph 43 B 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.**

*--**Note:** For ML purposes, FSA has determined that an operation with gross sales of ag
products of at least \$1,000 annually will be recognized as a farm.--*

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.

***--Note:** If the operation consist of the same type of commodities and/or livestock and will not require additional labor or equipment resources, the change will not be considered significant. However, if the operation changes or adds commodities or practices, or makes a change that requires additional labor or equipment resources, the change will be considered significant. Whenever there are significant changes to the operation, a streamlined application is not appropriate.--*

- (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 primary loan servicing in the previous year;
- (8) All other requirements remain the same as any standard OL

***-- Notes:** 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.

See subparagraph 43 A for what constitutes a complete streamlined OL Application.--*

218-225 (Reserved)

352 Loan Approval (Continued)

D Actions After Loan Approval

After the loan application is approved, the authorized agency official will:

- input data into DLS
- notify applicant of approval and any conditions using FSA-2313
* * *
- prepare for loan closing.

[7 CFR 764.402(e)(1)] Loan funds will be made available to the applicant within *--15 “business” days of loan approval, subject to the availability of funding.--*

Funds must be provided to the applicant within 15 workdays of when they become available unless the applicant agrees to a longer period.

Loan applications will be processed through approval subject to the availability of funds. FSA-2313 will be executed at the time of approval.

E Failure to Meet or Accept Loan Approval Conditions

If an applicant informs the authorized agency official that the loan approval conditions established under subparagraph B are unacceptable or cannot be met:

- the authorized agency official will meet with the applicant to discuss the condition or conditions which are unacceptable or cannot be met
- explore alternatives which are different from the condition in question but would result in compliance with the program requirements the condition addresses
- the application will be withdrawn, and the applicant notified with appropriate review rights for nonappealable decisions according to 1-APP, if an agreement cannot be reached and the applicant cannot or will not meet the conditions in question.

Note: The loan obligation shall not be cancelled until the withdrawal decision is administratively final, as defined in 1-APP.

353 Funding Approved Loans**A Lack of Program Funds**

[7 CFR 764.53(e)] In the absence of funds for a direct loan, the Agency will keep an approved loan application on file until funding is available. At least annually, the Agency will contact the applicant to determine if the Agency should retain the application or if the applicant wants the application withdrawn.

The authorized agency official will notify the applicant in writing that funds are not currently available and place the approved loan on a waiting list based on the date the loan application was received.

The authorized agency official will contact the approved loan applicant at least once a year to determine whether the applicant is still interested in receiving a FSA loan. If the applicant *--wants the loan application to remain active, the applicant must provide FSA with a response within 30 calendar days. If the applicant does not respond or does not want the loan application to remain active, it will be withdrawn and the applicant will be notified in writing.--*

B Preferences When There is Limited Funding

[7 CFR 764.54(a)] When there is a shortage of loan funds, approved applications will be funded in the order of the date the application was received, whether or not complete.

[7 CFR 764.54(b)] If two or more applications were received on the same date, the Agency will give preference to:

(1) First, an applicant who is a veteran of any war;

See Exhibit 2 for the definition of veteran.

Note: Period of war means that it was officially declared a war, with a defined beginning date, by Congress and was officially ended, with a prescribed date, by either Presidential proclamation or concurrent resolution of the Congress.

371 Overview (Continued)

C Loan Document Signatures (Continued)

Required signatures:

- in the case of an entity applicant will include:
 - each individual required to obligate the entity
 - each individual member of the entity
 - cosigner if required
 - other signatures as required in State supplements
- in the case of a partnership or joint operation will include:
 - both the partner or joint operator authorized to sign for the entity
 - all partners in the partnership or joint operators in the joint operation, as individuals

Note: Husband and wife informal joint operations will only sign FSA-2026 as individuals.

- in the case of a cooperative or corporation will include:
 - both the individual authorized to sign for the entity
 - all members or stockholders, as individuals
- *--in the case of a trust or entities, including LLC's, SED will, after consultation with the Regional OGC, issue a State supplement for trusts outlining signature requirements on FSA-2026's and security instruments.--*

* * *

(3) Despite minority status, a youth executing a promissory note for a Youth Loan will incur full personal liability for the debt.

- in the case of a youth applicant will include:
 - youth applicant individually
 - cosigner, if required.

Note: A cosigner will be required only if it is determined that the applicant cannot possibly meet the repayment or security requirements for the loan request. When a plan is feasible using realistic figures, a cosigner will not be required.

371 Overview (Continued)

C Loan Document Signatures (Continued)

(4) A cosigner will be required to sign the promissory note if they assist the applicant in meeting the repayment requirements for the loan requested.

Note: A cosigner is required to complete FSA-2001, Part C of the applicant's current application to provide necessary information, including self certifications.

Exception: In the case of a married couple, when 1 spouse of the couple applies individually, if the spouse that is not party to the application has off farm income that:

- pays only family living expenses and does not contribute to the farm operation, then neither the off farm income nor the family living expenses will be included in FBP and the spouse will not be required to sign FSA-2026
- is needed to contribute to a feasible farm operating plan, then both the off farm income and family living expenses will be included in FBP and the spouse will be required to sign FSA-2026 as a cosigner and would therefore, be required to be eligible under certain requirements according to paragraphs 62 through 72.

Example 1: Tom has applied for a term operating loan. Mary's salary for her job as a teacher is \$35,000. FBP indicates that family living would total \$35,000 and would all be paid from Mary's salary. After removing Mary's income and the family living from FBP, the ending cash remains positive. In this case, Mary will not be required to sign FSA-2026 and will not be considered a cosigner.

Example 2: Bruce has applied for a term operating loan. Camille's salary as a nurse at the local hospital is \$60,000. FBP indicates that family living would total \$40,000. The ending cash on hand is -\$10,000 if Camille's salary is not included. In this case, it is clear that Camille's income must be included to show positive ending cash on hand. Camille would be required to sign FSA-2026 as a cosigner and would therefore, be required to be eligible under certain requirements under paragraphs 62 through 72.

472 Assessing an Individual's Need for Training (Continued)

B Determining Whether to Waive Training Requirements

[7 CFR 764.453(a)] The applicant must request the waiver in writing.

Use FSA-2370 to request a waiver.

[7 CFR 764.453(b)] The Agency will grant a waiver for training in production, financial management, or both, under the following conditions:

(1) The applicant submits evidence of successful completion of a course similar to a course approved under section § 764.457 (paragraph 492) and the Agency determines that additional training is not needed; or

(2) The applicant submits evidence, which demonstrates to the Agency's satisfaction the applicant's experience and training necessary for a successful and efficient operation.

After the applicant has been determined eligible, and before loan closing, the authorized agency official will determine whether to waive training.

If an applicant is applying for additional FSA assistance or benefits, such as a subsequent loan, the authorized agency official must reassess whether to waive a borrower's training requirements even if FSA waived training for the applicant's initial loan.

The authorized agency official will:

- determine whether to waive financial management training based on the applicant's:
 - FSA-2002 and FSA-2302
 - practical experience
 - demonstrated ability to keep records
 - education and training
- *--consider the complexity of the applicant's operation and amount of loan requested--*
- determine whether to waive the production training requirement based on a review of FSA-2003 and FSA-2302.

If the applicant does not have a 3-year production history, the authorized agency official will consider any similar practical experience the applicant might have.

472 **Assessing an Individual's Need for Training (Continued)****B Determining Whether to Waive Training Requirements (Continued)**

[7 CFR 764.453(c)] If the production and financial functions of the operation are shared among individual entity members, the Agency will consider the collective knowledge and skills of the individuals when determining whether to waive training requirements.

[7 CFR 764.452(f)] The Agency cannot reject a request for a direct loan based solely on an applicant's need for training.

However, as described in paragraph 69, an applicant must demonstrate managerial ability through education, training, or experience to be eligible to receive a direct loan.

C Notifying Applicant of the Training Decision

[7 CFR 764.452(g)] The Agency will provide written notification of required training or waiver of training.

* * *

--If training is required, on FSA-2313 include the names of approved vendors in the applicant's area.--

[7 CFR 764.452(e)] Even if a waiver is granted, the borrower must complete borrower training as a condition for future loans if and when Agency supervision provided in 7 CFR 761 subpart C (1-FLP, Part 8) reflects that such training is needed.

D Production Training Requirements

[7 CFR 764.452(b)] When the Agency determines that production training is required, the applicant must agree to complete course work covering production management in each crop or livestock enterprise the Agency determines necessary.

FSA will require an applicant to complete production management training only in crop or livestock enterprises that are relevant to the applicant's operation.

Items to be included in the training are those production management requirements found in subparagraph 492 C.

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 |
| 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

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

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Redelegations of Authority

None

