

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

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

**Amendment 13**

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

*Chris P. Beyerhelm*

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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 66 A has been amended to add CL as a loan type for loans of \$125,000 or less.

Subparagraph 66 J has been amended to add the conservation plan documentation required for CL.

Subparagraph 70.5 A has been amended to clarify the conditions under which CL's may be made to a noneligible enterprise.

Subparagraph 70.5 B has been amended to clarify FICO credit score for entity applicants.

Subparagraph 108 D has been amended to clarify that CAIVRS will be used to verify an applicant is not delinquent on any Federal debt.

Subparagraph 108 L has been amended to remove reference to the suspension of term limits.

Subparagraph 108 M has been amended to remove reference to the suspension of term limits and clarify the process for determining years of eligibility for guaranteed OL's.

Subparagraph 124 B has been amended to clarify a noneligible enterprise income for CL.

Subparagraph 152 F has been amended to notate that the lender must use FSA-2004 or the lender's authorization form for release of borrower's financial information.

Subparagraph 196 A has been amended to clarify where memorandum of understanding has been approved by DAFLP.

Subparagraphs 230 D, 230 E, and 362 A have been amended to update contact information for FLOO.

Subparagraph 265 F has been amended to clarify the documentation required for SEL lenders for their annual borrower financial analysis.

## Amendment Transmittal (Continued)

### A Reasons for Amendment (Continued)

Subparagraph 285 C has been amended to clarify the documentation required for release of liability by authorized agency officials.

Part 12 and subparagraph 300 A have been amended to reflect a title change from “Distressed” to “Delinquent”.

Subparagraph 359 A has been amended to reflect that all lenders are to submit an estimated loss claim no later than 150 calendar days after the payment due date.

Subparagraph 363 I has been amended to clarify that FSA-2254 must be completed for lender recoveries.

Subparagraph 364 F has been amended to update FDIC/FSA Interagency Agreement.

Subparagraph 375 B has been amended to remove reference to interest rate reduction as reason for repurchase of a guaranteed loan unless in conjunction with a servicing action.

Exhibit 5 has been added to list and clarify the electronic systems that are involved in guaranteed lending and used by lenders.

Exhibit 13 has been replaced with a new Interagency Agreement.

Exhibit 15, subparagraph B has been amended to clarify how a lender will appraise CAFO property when it will not be used for CAFO in the future.

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**Part 5 Loan Application Requirements (7 CFR 762.110)****Section 1 Application Requirements for SEL's and CLP Lenders****65 General Application Requirements****A Application Requirements**

SEL's and CLP lenders must perform at least the same level of evaluation and documentation for guaranteed loans as for nonguaranteed loans of a similar type and amount.

Good communication with lenders will minimize problems and help ensure a rapid review of applications. The authorized agency official should communicate with lenders throughout the application preparation and submission process. Lenders should be encouraged to:

- contact authorized agency officials for assistance with the application
- address any issues or deficiencies before they become problems.

Lenders may use FSA-2291 as an application processing checklist. FSA may use FSA-2292 to review an application for completeness.

**B Maintaining Complete Loan File**

**All lenders must compile and maintain in their files a complete application for each guaranteed loan. CLP lenders must certify that the required items, not submitted, are in their files.**

The lender's file must contain the applicable items in paragraphs 66 and 67 and all correspondence with the borrower about servicing actions and other loan-related documentation generated after loan approval.

**The Agency may request additional information from any lender or review the lender's loan file as needed to make eligibility and approval decisions.**

## 66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110)

**A Application Package**

**A complete application for loans of \$125,000 or less from SEL and CLP lenders must, at least, consist of:**

- **the application form** (Application for Guarantee) (subparagraph B)
- **loan narrative** (subparagraph C)
- **balance sheet** (subparagraph D)
- **cash flow budget** unless waived (subparagraph E)
- description of farmed land (subparagraph F)
- **credit report** (subparagraph G)
- environmental information (if needed, see subparagraph H)
- information related to entity applicants (if needed, see subparagraph I)
- **for CL guarantees, a copy of the conservation plan** (subparagraph J)
- **plans to transition to organic or sustainable agriculture** (if needed for CL, see subparagraph K).

**In addition to the minimum requirements, the lender will perform at least the same level of evaluation and documentation for a guaranteed loan that the lender typically performs for non-guaranteed loans of a similar type and amount.**

**The \$125,000 threshold includes any single loan, or package of loans submitted for consideration at any one time. A lender must not split a loan into two or more parts to meet the threshold thereby avoiding additional documentation.**

\*--Separate \$125,000 thresholds apply to CL, FO, and OL/LOC. An application requesting guarantees of loans of different types (CL, FO, or OL/LOC), each of which is \$125,000 or--\* less, will be processed under the requirements of this paragraph. The maximum loan package that can be processed under this paragraph is \$250,000.

**The Agency may require lenders with a lender loss rate in excess of the rate for CLP lenders to assemble additional documentation from** (paragraph 67).

On an individual lender basis, FSA may request additional information to make eligibility and approval decisions.



## 66 Requirements for Loans of \$125,000 or Less (7 CFR 762.110) (Continued)

**G Credit Report**

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

**H Environmental Information**

Borrowers are required to have a current AD-1026 on file with FSA. Lenders should remind borrowers that AD-1026 must be executed with FSA, if AD-1026 is **not** already on file.

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

**I Additional Requirements for Entity Applicants**

Entity applicants must submit additional information for each entity member. The application must contain the following information about each entity member:

- full legal name
- address
- Social Security number
- percent ownership interest in the entity
- current balance sheet.

**J Conservation Plans**

CL applicants must submit a copy of their current conservation plan. The plan must address conservation practices that will be financed by the CL request.

\*--Note: NRCS CPA-1155 or Tool Kit is considered sufficient documentation.--\*

**K Transition Plan**

To request consideration for priority funding when the loan funds will be used to facilitate a transition to organic or sustainable agriculture, an applicant must submit a plan discussing how they will carry out the transition. This plan can be:

- part of the conservation plan, as described in subparagraph J, or an organic plan that has been approved by a certified agent and the State Organic Certification Program
- a grant that was awarded by the Sustainable Agriculture Research and Education Program of the National Institute of Food and Agriculture, USDA.

**67 Requirements for Loans Over \$125,000 (7 CFR 762.110)****A Application Package**

**A complete application package for a guaranteed loan over \$125,000 will consist of the** ~~items~~ **in paragraph 66, plus subparagraphs B through G, unless waived when conditions in** subparagraph 70.5 B are met.~~.\*~~

**B Verification of Income**

Nonfarm and “other farm” income should be documented using the same documentation the lender uses for its nonguaranteed loans.

**C Verification of Debts Over \$1,000**

Verification can be documented using the same documentation the lender uses for its nonguaranteed loans.

**D Financial History**

The financial history should support cash flow projections and include 3 years of income and ~~expenses~~ and 3 years of balance sheets, unless waived by subparagraph 70.5 B.

**E Production History**

The application should include **3 years of production history (SEL only)**, unless waived by subparagraph 70.5 B.~~.\*~~

**F Proposed Loan Agreements**

Any proposed nontypical agreements between the lender and the borrower should be explained in the narrative.

**G Development Plans**

**If construction or development is planned, a copy of the plans, a copy of the specifications, and a development schedule is needed.**

### Section 3 Other Guaranteed Application Options

#### 70.5 Application Requirements for CL's (7 CFR 762.110(d))

##### A CL Program

The objective of the CL Program is to facilitate implementing conservation practices rather than be a safety net for family farmers. Because of the emphasis on the environment, the CL Program can provide funds to individuals and entities that normally would **not** qualify for FSA assistance.

CL's:

- are **not** limited to family farmers and CL applicants can operate noneligible enterprises as defined in Exhibit 2

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

- will **not** need to pass the test for credit, and the graduation requirements of OL and FO loans do **not** apply.

All CL applications will consist of the applicable items as outlined in paragraphs 66, 67, 68, and 70.

##### B Streamlined CL's

Applicants who qualify for Streamlined CL's have already developed a higher level of management skills and financial security. For applicants with exceptionally strong financial positions, the lender will **not** be required to perform as intensive a cash flow analysis as is necessary for other applicants. The lender will only be required to follow their internal process that they would use for nonguaranteed applicants for cash flow analysis.

**[7 CFR 762.110(d)] For CL guarantee applicants meeting all the following criteria, the cash flow budget requirement in this section will be waived:**

- **be current on all payments to all creditors including the Agency (if currently an Agency borrower)**
- **debt to asset ratio is 40 percent or less**
- **balance sheet indicates a net worth of 3 times the requested loan amount or greater**
- **\*--FICO credit score is at least 700. For entity applicants, the FICO credit score of the majority of the individual members must be at least 700.--\***

**71 Application Requirements for Subsequent OL's****A Application Requirements**

Subsequent OL's within the same operating cycle do not require the complete application submission in paragraphs 65, 66, 67, 68, and 70. See subparagraph B.

**B Submission Requirement**

Only items that have changed from the original application must be submitted, such as the cash flow projection.

**72 Market Placement Program (7 CFR 762.110(g))****A Purpose**

The Market Placement Program:

- is designed to assist qualified existing direct loan borrowers and new direct loan applicants in obtaining a guaranteed farm loan from a commercial lender
- reduces the number of direct loans FSA makes, which reduces FSA costs while still meeting the credit needs of the farmer
- helps new lenders become familiar with FSA lending standards and, therefore, serves a marketing function for the Guaranteed Farm Loan Program.

\*--**Note:** The Market Placement Program does **not** apply to CL's because there is no test for credit requirement.--\*

**B Lender Participation**

Each County Office shall identify lenders who are interested in participating in the Market Placement Program. To identify lenders, the County Office shall contact lenders:

- currently participating in the Guaranteed Farm Loan Program
- who are **not** participating in the Guaranteed Farm Loan Program.

Lenders should advise FSA of their interest.

**72 Market Placement Program (7 CFR 762.110(g)) (Continued)****C FSA Preparation of Loan Application**

**When the Agency determines that a direct loan applicant or borrower may qualify for guaranteed credit, the Agency may submit the applicant or borrower's financial information to one or more guaranteed lenders. If a lender indicates interest in providing financing to the applicant or borrower through the guaranteed loan program, the Agency will assist in completing the application for guarantee.**

FSA shall complete and provide the following to lenders:

- Application for Guarantee
- farm business plan
- a narrative
- a suggested plan for servicing
- an appraisal.

To complete the guaranteed loan application, the authorized agency official shall use estimated interest rates and terms. If more than 1 lender is interested in the guaranteed loan, the applicant shall select 1 of the lenders. The lender must prepare the loan or LOC agreement. SEL's must submit the loan or LOC agreement to FSA before FSA issues the Conditional Commitment. The Conditional Commitment shall be issued upon the lender's acceptance of the loan application and confirmation that funds are available.

**73 Filing Applications Electronically****A Registering to Submit Applications**

Lenders may submit applications electronically through USDA's Online Services web site. Lenders interested in filing electronically must first register. An explanation of the registration process, along with the necessary form, can be found by either of the following:

- at <http://www.sc.egov.usda.gov>, CLICK "Register"
- contacting any USDA Service Center.

Currently, registration is limited to individuals; lenders cannot be registered as organizations. However, persons representing lenders may register as an individual, and then may electronically sign and submit applications on behalf of the lender.

**73 Filing Applications Electronically (Continued)****B Submitting Applications**

After a lender's representative has registered and received a user ID and password, the representative may submit applications electronically. Go to <http://www.sc.egov.usda.gov>, CLICK "eForms", sign in, and follow the instructions to find, complete, and submit forms. Other electronic documents needed for a complete application may be attached to the application form and submitted to FSA. Lenders shall see Exhibit 5 for additional information about registering and accessing FSA's electronic online systems.--\*

If the lender submits the application electronically and all the required electronic signatures are not obtained, the application will be processed. However, the original, completed Application for Guarantee or Preferred Lender Application, with appropriate applicant signatures, must be provided to FSA before FSA will issue the guarantee.

**C Lender Requirements for Electronic Reporting**

Information supplied by lenders through the USDA LINC web site meets the submission requirements. Lenders are not required to submit hard copies of information, such as loan closing reports or status reports.

Lenders must complete the following requirements to participate in electronic reporting through the USDA LINC web site.

- Each lender employee who participates in electronic reporting must create a Level 2 eAuthentication ID and password at [www.eauth.egov.usda.gov](http://www.eauth.egov.usda.gov).
- Level 2 security provides users with the ability to conduct official electronic business transactions with USDA agencies through the Internet. If a lender's employee presently has a Level 2 eAuthentication ID/account with any USDA agency, then a second account is not needed.
- Lenders are responsible for ensuring that all employees who will have access to electronic reporting adhere to the requirements in FSA-2201.
- Each lender must designate an employee as their Security Administrator who will have the authority and responsibility of granting access to other employees designated by the lender to use FSA's electronic reporting applications. The Security Administrator can have authority over all of the lender's portfolio as a Lender Administrator or can be limited to a single branch as a Branch Administrator. The Security Administrator will be the point of contact for FSA for maintaining the lender employees' eAuthentication ID's in AASM. A lender can choose to designate additional Security Administrators to act as a backup for the primary Security Administrator.

## 73 Filing Applications Electronically (Continued)

**C Lender Requirements for Electronic Reporting (Continued)**

After the Security Administrators are designated and the requirements have been fulfilled, the lender shall have the Security Administrator contact FSA with his/her eAuthentication ID and lender information to be validated and entered into AASM.

After Security Administrators are validated in the system, they will receive an e-mail confirmation validating their authorization and authority to add additional lender employees to AASM. Additional lender employees may be added by logging into the USDA LINC web \*--site at <https://usdalinc.sc.egov.usda.gov>. Lenders shall see Exhibit 5 for additional information about registering and accessing FSA's electronic online systems.--\*

**Note:** The e-mail confirmation is sent to the e-mail address the Security Administrator entered when creating the eAuthentication account.

The following types of roles can be assigned to lender employees in AASM by the Security Administrator.

- “Representative” is an employee that the lender designates and authorizes to input electronic data through the USDA LINC website. The Security Administrator can authorize access for the entire portfolio as a Lender Representative or limit access to a specific branch as a Branch Representative.
- “Viewer” is an employee that the lender authorizes to view loan data and has view only capabilities of all transactions in the USDA LINC site. The Security Administrator can authorize access for the entire portfolio as a Lender Viewer or limit access to a specific branch as a Branch Viewer.

**Note:** FSA does **not** add or maintain any roles for lenders' employees.

## 74-82 (Reserved)





**C No Agency Loss (Continued)**

A borrower who has successfully completed a bankruptcy reorganization plan will be considered to be current on the plan.

All debt forgiveness actions that are part of 1 transaction and occur on or about the same date are normally considered 1 occasion of debt forgiveness, regardless of the number of loans involved. Since debt forgiveness on direct loans and guaranteed loans are always considered separate transactions, concurrent forgiveness on direct and guaranteed loans are separate occasions. A single loan may have debt forgiveness on more than 1 occasion, when, for example, a borrower received a writedown and the loan was later liquidated at a loss.

A lender should contact the local FSA office if it is unsure of an applicant's eligibility.

**Note:** The authorized agency official shall verify and document previous loss to the government, or debt forgiveness, for each applicant and all individuals who will sign the promissory note. SSN or tax ID number for each will be entered into the following databases to document eligibility. Screen prints of the information used as the basis for the eligibility determination will be placed in the case file.

- DLS Customer Profile (printer friendly version) verification of both current/past debts and any prior debt forgiveness.
- The View Loan Screen in GLS will be used to verify previous debt forgiveness for guaranteed loans. At the Loan List Screen, enter the tax ID number or name of the applicant and each individual who will sign the promissory note. The Loan List Screen will be displayed with 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.

**108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)****D Delinquency on Federal Debt**

**The applicant, and anyone who will execute the promissory note, is not delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986. Any debt under the Internal Revenue Code of 1986 may be considered by the lender in determining cash flow and credit worthiness.**

Federal debt not paid within 90 calendar days of the due date is considered delinquent.

The applicant may be considered eligible if the delinquency will be remedied by the date of loan closing. Unless otherwise prohibited, applicants may use loan funds to cure delinquencies. Federal debt includes, but is not limited to, student loans, CCC loans, FSA direct loans, VA loans, and SBA loans. FSA-guaranteed loans are not Federal debts.

Loans that are made, using the following, become a delinquent Federal debt upon the payment of a final loss claim:

- FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date
- Application for Guarantee or Preferred Lender Application.

\*--The authorized agency official shall verify, through CAIVRS, that the applicant and all individuals who will sign the promissory note are not delinquent on Federal debt. CAIVRS screen prints will be placed in the case file to document the basis for eligibility.--\*

**E Outstanding Recorded Judgments**

**The applicant, and anyone who will execute the promissory note, has 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.**

Applicants must provide evidence that all Federal judgments have been released or paid in full to be eligible for guaranteed loans. Loan funds will not be used to pay Federal judgments. Questions by FSA employees about outstanding judgments should be directed to OGC.

**K Controlled Substances**

**[7 CFR 762.120] 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.

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

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

Application for Guarantee or Preferred Lender Application both 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 Application for Guarantee and Preferred Lender Application will be the only documentation required involving convictions of controlled substances.

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)

**\*--L 15-Year OL Term Limit--\***

\* \* \*

[7 CFR 762.122] No guaranteed OL shall be made to any applicant after the 15<sup>th</sup> year that an applicant, or any individual signing the promissory note, received a direct or guaranteed OL.

If a borrower had any combination of direct or guaranteed OL closed in 10 or more prior calendar years, before October 28, 1992, eligibility to receive new guaranteed OL is extended for 5 additional years from October 28, 1992, and the years need not run consecutively. However, in the case of a line of credit, each year in which an advance is made after October 28, 1992, counts toward the 5 additional years.

Once determined eligible, a loan or line of credit may be approved for any authorized term.

**Example:** A 5-year LOC may be approved on the last year an applicant is eligible and advances may be made for 5 years.

108 General Eligibility Requirements for OL, FO, and CL (7 CFR 762.120) (Continued)

**M Determining Years of Eligibility for Guaranteed OL's**

\* \* \*

Applicants are eligible to close guaranteed or direct OL's in 15 nonconsecutive years. The following table summarizes the eligibility requirement based on the applicant's status on October 28, 1992, and the number of years the applicant has received direct or guaranteed loans.

\*--

IF the applicant had...	THEN the applicant is eligible for...
direct and/or guaranteed OL's closed in 10 or more years on or before October 28, 1992	5 years of guaranteed OL closing after October 28, 1992.  5 years - $\frac{\text{(# years direct or guaranteed OL's closed after 10/28/92 or advances made on GLOC)}}{\text{(# years remaining)}}$
fewer than 10 years of direct and/or guaranteed OL's closed on or before October 28, 1992	15 years of guaranteed OL.  15 years - $\frac{\text{(# years direct or guaranteed OL's closed or advances made on GLOC)}}{\text{(# years remaining)}}$

--\*

**Note:** Before October 28, 1992, only the year in which the loan was closed is counted. Subsequent year advances on LOC's closed before October 28, 1992, do **not** count as an additional year of eligibility. However, after October 28, 1992, subsequent advances on LOC's are counted as a year of eligibility used.

**N Operator Requirement**

A loan application should be submitted in the name of the actual operator of the farm. This should be consistent with any representations previously made by the applicant for farm program benefits.

If inconsistencies in the structure of the farming operation are identified, the application will be considered incomplete and the lender will be informed according to paragraph 97. The inconsistencies must be resolved before the application being considered complete.

109 Specific Requirements for OL’s (7 CFR 762.120(i))

**A Operator Requirement**

**For Operating Loans, the individual or entity applicant must be an operator of not larger than a family farm after the loan is closed.**

When determining whether or not the farm meets the family farm definition, the authorized agency official shall:

- analyze all the factors that make up the regulatory definition of family farm and the items discussed in the following table
- look at all aspects and the circumstances of the farm operations.

**Note:** Consider and analyze these factors and how they relate to each another.

Application of judgment, combined with documentation of all the factors for the decision, should provide reasonable determinations of an applicant’s qualifications as a family farm.

Item	Factor	Consideration
1	Recognized in the community as a farm	Consider how the applicant’s farm operation compares to similar farm operations in the community. In most areas of the country and in most farming enterprises, the family will provide most of the day-to-day labor on a family farm. An exception may be made for enterprises that produce high-value, labor-intensive crops, such as fruit or vegetables.
2	Management and control of the farm business	All of the day-to-day management and operational decisions should be made by members of the farm family. The use of consultants, advisors, and similar experts is certainly acceptable provided someone in the farm family is the decision maker.
3	Amount of labor	A substantial amount of the full-time labor required must be contributed by family or entity members to the operation. The use of seasonally hired labor should not be precluded. The borrower may not necessarily perform a majority of the labor, but the amount of labor provided by the borrower is significant. One distinguishing characteristic of a family farm is that the family members provide both physical labor and management for the farm. Consider the labor requirements that are necessary for the production of specific high-value, labor-intensive crops.

**\*--123.5 CL Purposes (7 CFR 762.121(c)) (Continued)****B CL Purposes (Continued)**

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

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

**124 Loan Limitations (7 CFR 762.122 and 762.121)****A General Guaranteed Loan Limitations**

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

**\*--B Specific OL, FO, and CL Limitations--\***

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

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

**The Agency will not guarantee any loan made with the proceeds of any obligation the interest on which is excluded from income under Section 103 of the Internal Revenue Code of 1954, as amended. Funds generated through the issuance of tax-exempt obligations may not be used to purchase the guaranteed portion of any Agency guaranteed loan. An Agency guaranteed loan may not serve as collateral for a tax-exempt bond issue.**

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

## 124 Loan Limitations (7 CFR 762.122 and 762.121) (Continued)

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

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

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

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

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

See Part 10 for maximum loan amount limitations.

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

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

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

**125-134 (Reserved)**



**152 Calculating Projected Income and Expenses by SEL's (7 CFR 762.125) (Continued)****C Commodity Price Forecasts**

**Lenders must use price forecasts that are reasonable and defensible. Sources must be documented by the lender and acceptable to the Agency.**

The lender may use price forecasts from land grant universities, other published prices, forward contracted prices, futures, or price histories of specialty crops on other commodities. The lender should use price forecasts that provide an accurate projection of commodity prices that the borrower will receive.

**D Estimating Production**

**Standard eligible lenders must use the best sources of information available for estimating production in accordance with this subsection when developing operating cash flow budgets.**

**Deviations from historical performance may be acceptable, if specific to changes in operation and adequately justified and acceptable to the Agency.**

**For existing farmers, actual production for the past 3 years will be utilized.**

**For those farmers without a proven history, a combination of any actual history and any other reliable source of information that are agreeable with the lender, the applicant, and the Agency will be used.**

**When the production of a growing commodity can be estimated, it must be considered when projecting yields.**

152 Calculating Projected Income and Expenses by SEL’s (7 CFR 762.125) (Continued)

**E Declared Disaster**

When the applicant’s production history has been so severely affected by a declared disaster that an accurate projection cannot be made, the following applies.

- County average yields are used for the disaster year if the applicant’s disaster year yields are less than the county average yields. If county average yields are not available, State average yields are used. Adjustments can be made provided there is factual evidence to demonstrate that the yield used in the farm plan is the most probable to be realized.
- To calculate a historical yield, the crop year with the lowest actual or county average yield may be excluded, provided the applicant’s yields were affected by disasters at least 2 of the previous 5 consecutive years.

County or State average yields should be substituted only when the other information is not available to make an accurate projection. The objective is to arrive at a projection of the most reliable estimate of the production level the operator is expected to achieve.

**F Lender’s Documentation**

Lenders must maintain supporting documentation for their determination of cash flow budgets in their files. The following table summarizes the loan documentation that can be used to support the cash flow budget.

Cash Flow Element	Documentation to Support Elements
Income and Expense Projections	<ul style="list-style-type: none"> <li>• Historical performance data.</li> <li>• FSA records.</li> <li>• Extension or county data.</li> <li>• Thorough loan narrative.</li> </ul>
Nonfarm Income	<ul style="list-style-type: none"> <li>• * * * Lender verification of income form.</li> <li>• W-2, pay stub, telephone record, or historical performance data.</li> </ul>
Loan Balances and Payment Schedules	<ul style="list-style-type: none"> <li>• * * * Lender verification of debt form.</li> <li>• Loan statement, credit report, or telephone record.</li> </ul>

196 Exception to Standard Guarantee Limits (7 CFR 762.129) (Continued)

A Exceptions (Continued)

The weighted average guarantee is calculated as follows.

$$\frac{\text{Outstanding direct loan}}{\text{Guaranteed loan amount.}} \times 95\% + \frac{\text{Portion of guaranteed loan not refinancing direct loan}}{\text{Guaranteed loan amount.}} \times \text{Percent of guarantee.} =$$

$$\frac{90,000}{300,000} \times 95\% + \frac{300,000 - 90,000}{300,000} \times 90\% = 91.5 \text{ percent}$$

The weighted average guarantee must be rounded up to the next whole percent, so the guarantee in this example would be 92 percent.

- **when the purpose of an FO loan guarantee is to participate in the down payment loan program**
- **when a guaranteed OL is made to a farmer who is participating in the Agency’s down payment loan program**

**Notes: The guaranteed OL must be made during the period that a borrower has the down payment loan outstanding.**

The downpayment loan program refers only to FO made under 3-FLP, Part 7, Section 2. Applicants meeting only the definition of beginning or socially disadvantaged farmer will not qualify for a 95 percent guarantee.

- loans made under a State beginning farmer program where a memorandum of \*--understanding between the State and USDA has been approved by DAFLP--\*
- **when a guaranteed OL is made to a farmer who farms land subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction on an Indian tribe.**

197-207 (Reserved)



**230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p))****A Consolidation of Loans**

**Loans covered by interest assistance agreements cannot be consolidated.**

**B Transfer and Assumption**

**For loans covered by an IA agreement, such loans can be transferred only when the transferee was liable for the debt on the effective date of the interest assistance agreement. Loans covered by interest assistance can be transferred to an entity if the entity is eligible in accordance with § 762.120 (paragraph 108 and applicable paragraphs 109 and 110) and § 762.150(b) (paragraph 224) and at least one entity member was liable for the debt on the effective date of the interest assistance agreement.**

**C Debt Writedown**

When consideration is given to using a debt writedown to service a delinquent account, the subsidy level will be recalculated before any writedown. If IA is available on the loan and a feasible plan can be obtained using IA, IA will be used instead of a writedown. **Interest assistance will be discontinued as of the date of any writedown on a loan covered by an interest assistance agreement.** No further IA will be available on any loan that has been written down.

**D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding**

**When a borrower defaults on a loan with interest assistance or the loan otherwise requires rescheduling or deferral, the interest assistance agreement will remain in effect for that loan at its existing terms. The lender may reschedule the loan in accordance with § 762.145 (see also paragraphs 312-327). For Interest Assistance Agreements dated June 8, 2007, or later increases in the restructured loan amount above the amount originally obligated do not require additional funding; however, interest assistance is not available on that portion of the loan as interest assistance is limited to the original loan amount.**

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

**D Rescheduling or Deferral of Loans and Additional Beginning Farmer IA Funding (Continued)**

If additional funding is required because of additional years of IA either for loans being rescheduled or for beginning farmers receiving additional years of IA, the authorized agency official must modify loan documents according to the following table.

Loan Document	Action
Original FSA-1940-3 or FSA-2231	<p>In item 5, ENTER “This loan has been restructured. The term of the IA is being modified from _ years to _ years.”</p> <p>Modify the Guarantee Obligation Request Screen to indicate the correct IA term.</p> <p>In GLS the Beg Farmer/Rancher dropdown menu must be checked in order to have the additional funding obligated, if IA is being extended beyond 5 years for a beginning farmer.</p>
FSA’s copy of FSA-1980-64 or FSA-2221	Strike through the original expiration date and enter the new expiration date as applicable. The lender, borrower, and FSA shall initial the changes.

**Note:** The effective ending date must be equal to or before the new loan maturity date but cannot be greater than 10 years from the effective date of the borrower’s first FmHA-1980-64, FSA-1980-64, or RD-1980-64 for loans made before June 8, 2007. For loans made after June 8, 2007, the ending date of the FSA-2221 must not exceed 5 years from the date of the first FSA-2221, unless the borrower was a beginning farmer at the time of rescheduling, reamortization, or deferral.

\*--Copies of the modified loan documents will be FAXed or sent to FLOO, according to 1-FLP, paragraph 5.--\*

\* \* \*

230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)

**E Capitalization of Interest on Loans with IA (Continued)**

Loans made after June 8, 2007, cannot receive IA on any capitalized amount above the original loan amount. For these loans whether or not capitalization of interest exceeds the original loan amount and the IA term is not being extended, restructuring will be accomplished according to paragraph 326. For these loans whether or not capitalization of interest exceeds the original loan amount and the IA term is being extended, the authorized agency official will complete the following:

Loan Document	Action
FSA-1940-3 or FSA-2231	<p>In item 5, ENTER “This loan has been restructured. The term of the IA is being modified from ____ years to ____ years.”</p> <p>Modify the Guarantee Obligation Request Screen to indicate the correct IA term.</p>
FSA’s copy of FSA-2221	<p>Strike through the original expiration date and enter the new expiration date as applicable.</p> <p><b>Note:</b> The lender, borrower, and FSA shall initial the changes.</p>

Copies of the original and new FSA-1940-3, FSA-2231, and FmHA-1980-64, FSA-1980-64, \*--or RD-1980-64 and FSA-2221, as applicable, will be FAXed or sent to FLOO, according to 1-FLP, paragraph 5.--\*

\* \* \*

The lender may submit either:

- one FSA-2222 at the annual review date if sufficient documentation is provided by the lender for the authorized agency official to verify the loan balances
- FSA-2222 for the period from the previous FSA-2222 to the date of the restructuring and submit a second FSA-2222 from the date of the restructuring to the annual review date.

**Note:** Both FSA-2222’s will be submitted for payment at the annual review date.

**230 Servicing of Loans Covered by FSA-2221 (7 CFR 762.150(j), (k), (l), (n), (p)) (Continued)****F Other Requirements**

The rescheduling of a loan with IA must meet all the conditions described in this paragraph and Part 12.

**G Bankruptcy**

**In cases where the interest on a loan covered by an interest assistance agreement is reduced by court order in a reorganization plan under the bankruptcy code, interest assistance will be terminated effective on the date of the court order.** The lender will file a claim due through the effective date of the court order. **Guaranteed loans which have had their interest reduced by bankruptcy court order are not eligible for interest assistance.**

**H Adjustment of Assistance between Review Dates**

After the initial or renewal request for IA is processed, no adjustments can be made until the next review or adjustment date, except to service loans made before June 8, 2007, with a rescheduling or deferral.

**I Excessive IA**

**Upon written notice to the lender, borrower, and any holder, the Agency may amend or cancel the interest assistance agreement and collect from the lender any amount of interest assistance granted which resulted from incomplete or inaccurate information, an error in computation, or any other reason which resulted in payment that the lender was not entitled to receive.**



265 Annual Analysis of Borrower’s Financial Condition (7 CFR 762.140(b)(5)) (Continued)

**E Documents Submitted to FSA by CLP in Support of Annual Analysis**

[7 CFR 762.141(c)] CLP lenders shall submit the following to FSA in support of their annual analysis:

- a written summary of the lender’s annual analysis of the borrower’s operation

**Note:** This summary should describe the borrower’s progress and prospects for the upcoming operating cycle. This annual analysis may be waived or postponed if the borrower is financially strong. The summary will include a description of the reasons an analysis was not necessary.

- for lines of credit, an annual certification stating that a cash flow projecting at least a feasible plan has been developed, that the borrower is in compliance with the provisions of the line of credit agreement, and that the previous year income and loan funds and security proceeds have been accounted for.

<b>Submission Summary</b>	
Real Estate	Either a summary of lender’s analysis or summary as to why financial strength makes analysis unnecessary.
Term Chattels	Either a summary of lender’s analysis or summary as to why financial strength makes analysis unnecessary.
Lines of Credit	Certification that cash flow was obtained Borrower in compliance with Lender’s Agreement Lender has accounted for previous year’s income and loan funds and security proceeds are accounted.

These documents must be submitted to the authorized agency official within 30 calendar days of the completion of the annual financial analysis.

**265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)****F FSA Review of Annual Financial Analyses**

Upon receiving the annual borrower financial analysis supporting documentation from SEL, the authorized agency official should review the documentation for the following:

- indications of borrower financial distress or major changes in the borrower's financial status from the previous year
- changes in the appearance of the operation or collateral. If the authorized agency official notices any problems, he or she should call the lender to discuss these concerns.

For borrowers with LOC, FSA must determine at this time whether or not LOC should be renewed for the next year.

Upon receiving the annual borrower financial analysis supporting documentation from a CLP lender, the authorized agency official should review the documentation of the borrower's progress on loan payback. The narrative should summarize factors of financial strength which support the lender's determination that further analysis is unnecessary, if applicable.

After reviewing the annual financial analyses submitted by the SEL and CLP lender, the authorized agency official must document their review of the annual financial analysis by making an entry in the borrower's County Office guaranteed loan file. To the extent the authorized agency official has concerns about a specific borrower or lender's management and supervision of FSA-guaranteed loans in general, the authorized agency official should communicate these concerns to the lender in writing.

- \*--Copies of correspondence, including authorization to advance LOC funds in SEL cases,--\* will be placed in the borrower's FSA guaranteed loan file. A copy of any correspondence sent to a lender about their management of a loan will be placed in the lender's file and, if the deficiency is major, a copy forwarded to SED. The borrower's file will be marked for necessary followup actions.

## 266 Lender Reporting Requirements (7 CFR 762.141)

### A Overview

This section covers the general reporting requirements for all lenders. These reporting requirements are not tied to any specific servicing action. Many servicing actions require additional reports and updates from lenders, which this paragraph does not cover. See Exhibit 12 for a checklist of all lender reporting requirements.

### B General Reporting Requirements

**Lenders are responsible for providing the local Agency credit officer with all of the following information on the loan and the borrower:**

- **When the guaranteed loan becomes 30 days past due, and following the lender's meeting or attempts to meet with the borrower, all lenders will submit the appropriate Agency form showing guaranteed loan borrower default status. The form will be resubmitted every 60 days until the default is cured either through restructuring or liquidation.**
- **All lenders will submit the appropriate guaranteed loan status reports as of March 31 and September 30 of each year.**
- **PLP lenders will submit additional reports as required in their Lender's Agreement.**
- **A lender receiving a final loss payment must complete and return an annual report on its collection activities for each unsatisfied account for 3 years following payment of the final loss claim.**

Lenders shall submit FSA-2248 to comply with the requirement to report borrower defaults. This report is used first to notify FSA that a loan is in default, second, as a progress report on the lender's attempt to make the loan current again, and third, once a loan is brought current, as a means to notify FSA of the new loan terms and conditions. See Part 12 for more details on this reporting requirement.

Lenders should submit FSA-2241 to comply with the requirement to submit a semi-annual loan status report. This report provides an update on the borrower's progress on loan payback and the loan's terms and conditions.

- \*--Note:** Lenders who are authorized to participate in electronic reporting shall update loan information for FSA-2248 and FSA-2241 in LINC. Lenders shall see Exhibit 5, for additional information about registering and accessing FSA's electronic online systems.--\*

Lenders should submit FSA-2261 to satisfy the requirement for an annual report on collection activities. See Part 14 for more details on this reporting requirement.

## 266 Lender Reporting Requirements (7 CFR 762.141) (Continued)

**C FSA Monitoring of Lender Reports**

\* \* \*

\*--If not received through LINC, the authorized agency official will enter information from--\* FSA-2241 into GLS when FSA-2241 is received from the lender. Lenders will be required to update loan information on loans that have a status report record created in GLS or displayed on FSA-2241 mailed to the lenders. Status reports will not be required to be updated until the next reporting period for loans that do not have a status report record created or that are \*--not displayed on the mailed FSA-2241. If the lender is not sending these reports in a timely manner, the authorized agency official should document attempts to obtain the reports and communicate problems to SED.

The authorized agency official should review the information to determine whether it--\* indicates that the loan is in good standing. If the principal balance has not been reduced in over a year, the accrued interest balance appears inordinately large, the interest rate does not comply with the promissory note, or other concerns, the issue should be discussed with the lender. If necessary, the discussion should be followed by a letter requesting that the account be corrected and a new FSA-2241 submitted.

An indication on FSA-2241 that the loan is past due will not place the account in default in FSA's records. If the lender has indicated that an account is past due, and FSA-2248 has not been submitted, the authorized agency official shall contact the lender and request that FSA-2248 be submitted if the account will not be brought current within a few days.

Entering information from FSA-2248, which shows a loan has been brought to a current status, will remove that loan from a delinquency status; however, it will not change the amount the loan payments are shown as Ahead/Behind. The authorized agency official will prepare an updated FSA-2241, using the information from FSA-2248, and process into GLS. If the information on FSA-2241 shows the loan as current, and the amount Ahead/Behind is shown as zero, the management reports will reflect the correct status of the loan.

See:

- Part 12 for other FSA-2248 actions
- Part 14 for FSA-2261 actions.

**267 FSA Loan Servicing Responsibilities (Continued)****F Authorized Agency Official Review of Loan Servicing Reports Provided by Lender**

The authorized agency official is responsible for obtaining all required information from lenders about the servicing of guaranteed loans. This includes the annual financial analysis performed to determine the borrower's progress on loan payback and goal achievement (paragraph 265), loan status reports (paragraph 266), and all other materials submitted to FSA, including requests by lenders to perform certain servicing actions.

**G Authorized Agency Official Approval Authority**

Authorized agency officials can approve the following servicing actions:

- alterations in loan conditions that do not prejudice the government's interest
- replacement of collateral
- the use of proceeds from the disposition of collateral.

**H DD Servicing Responsibilities**

DD servicing responsibilities include:

- providing guidance and assistance to the authorized agency official in monitoring guaranteed loans
- reviewing a sample of lender visit reports and loan reviews, making recommendations or comments, and forwarding reports of deficiencies to SED
- make recommendations to the authorized agency official on all delinquent loans
- conducting other servicing actions as directed by SED.

**267 FSA Loan Servicing Responsibilities (Continued)****I SED Servicing Responsibilities**

SED's have broad management responsibilities for the guaranteed loan program. SED servicing responsibilities include, but are not limited to, the following:

- review deficiencies identified by the authorized agency official and provide recommendations for resolution
- perform an annual review of each lender's CLP and PLP status, and if the lender is found to be deficient in meeting the minimum criteria, then upon notification to the lender, remove the status

**Note:** For PLP lenders, the decision to remove PLP status must be made in the National Office after reviewing SED's recommendation.

- perform appraisal reviews according to 1-FLP, paragraph 143

**Note:** See 1-FLP, Part 6 for additional guidance on appraisal review issues.

- maintain a lender file for each guaranteed lender in the State Office.

**J Addressing Deficiencies**

If deficiencies in loan servicing are detected by FSA, the authorized agency official will work with the lender to correct any problems. If the lender fails to correct a major loan servicing deficiency, and the deficiency results in a loss, the loss claim may be reduced or denied.

\*--Subparagraph 52 H contains examples of major and minor deficiencies. See paragraphs 48 and 54 for followup actions and consequences of not correcting deficiencies for SEL's and PLP lenders, respectively.

**K Interagency Agreement Between FSA and FDIC--\***

If a lender who participates in FSA's guaranteed FLP's fails, FDIC may, as Receiver, assume responsibility for the Conditional Commitment, Loan Guarantee, and/or FmHA-449-34 for all guaranteed loans to which the closed bank was a party.

Exhibit 13 outlines the responsibilities of FSA and FDIC in such cases.

**268-277 (Reserved)**

**285 Release of Liability Upon Withdrawal (7 CFR 762.146(b)) (Continued)****B Lender Request for Release of Borrower From Liability Upon Withdrawal**

PLP lenders shall submit documentation to the authorized agency official in support of a release from liability, as specified in the Lender's Agreement.

**C FSA Actions to a Request for Release of Liability Upon Withdrawal**

Upon review of the request, the authorized agency official must forward the request and a recommendation to SED for action. SED shall notify the lender of the decision in a timely manner either by notifying the lender directly or by instructing the County Office to inform the lender of whether the borrower may be released from liability.

\*--The authorized agency official shall manually maintain a Released of Liability list of borrowers and/or co-borrowers who signed FSA-1980-25 or FSA-1980-28 with the July 20, 2001, for later revision date and have been approved and released of liability on active and terminated guaranteed loans. The following information shall be documented for each borrower:

- borrower name
- FSA borrower ID
- loan numbers
- date the release liability was approved.

The "Remove Co-Borrower from the Loan" function in GLS shall not be used in cases where release of liability has been approved.

**Note:** If a borrower and/or co-borrower have been released from liability on a loan where a final loss has been paid and a debt offset receivable has been established, the authorized agency official shall update the Maintain Debt Offset Screen to remove the borrower and/or co-borrower from offset referral.--\*

**D Annual Review of Lender Loan Files in Cases of Release Liability Upon Withdrawal**

During the annual FSA lender loan file review, for loans that received a release of liability, the authorized agency official must ensure that the lender proceeded with the release according to the documents provided when seeking FSA approval. In addition, authorized agency officials should ensure that the original loan note has been amended or a new note that is tied to the original has been issued to reflect the release of liability. If anomalies in process or documentation are noted, the authorized agency official should discuss the shortcomings with the lender.

## 286 Consolidation of Debt (7 CFR 762.146(e))

## A Overview

**Only OL may be consolidated.**

**Existing lines of credit may only be consolidated with a new line of credit if the final maturity date and conditions for advances of the new line of credit are made the same as the existing line of credit.** OL loan note guaranteed loans may only be consolidated with other OL loan note guarantees.

**The borrower must project a feasible plan after the consolidation.** See Exhibit 2 for definition of feasible plan.

**Guaranteed OL may not be consolidated with a line of credit, even if the line of credit has been rescheduled.**

The combining of outstanding principal and interest balances of 2 or more OL's or LOC's constitutes a consolidation of debt.

The following FSA loans cannot be consolidated:

- CL's
- FO's
- **OL's or lines of credit secured by real estate**

**Note:** The "ACT" prohibits consolidation for loans secured by real estate.

- OL's or lines of credit with outstanding Interest Rate Buydown Agreement, IA Agreement, or SAA
- non-FSA loans.

The following conditions also apply to consolidation:

- **guaranteed loans made before October 1, 1991, cannot be consolidated with those loans made on or after October 1, 1991**
- when 2 or more OL's or LOC's are consolidated the combined principal and interest must be kept separate; capitalization of interest is not allowed when loans are only being consolidated.

**Note:** When a loan is consolidated with a loan that was made using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application with the July 20, 2001, or later revision date, the consolidated debt is eligible for offset.



**\*--Part 12 Servicing Delinquent Accounts--\***

**Section 1 General Process for Restructuring Guaranteed Loans**

**300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143)**

**\*--A Default and Servicing Delinquent Loans--\***

**A borrower is in default when they are 30 days past due on a payment or in violation of provisions of the loan documents.**

When a default occurs, the lender is expected to work with the borrower so that the loan can be brought current and the borrower can continue the farming operation. Prompt followup on delinquent payments, early recognition of loan problems, and prudent use of restructuring tools are keys to resolving many delinquent loans. The lender has an assortment of restructuring tools that may be used to bring the loan current. These include:

- rescheduling
- deferral
- debt writedown
- IA, if eligible.

\*--The following table represents the timeline for servicing delinquent loans and the required lender actions for restructuring guaranteed loans.

<b>Delinquent Loan Servicing Timeline (Monetary Default)--*</b>	
Payment Due Date	Payment Missed
30 Calendar Days After Due Date	Borrower in Default
Within 45 Calendar Days After Due Date	Meeting Between Borrower and Lender
60 Calendar Days After IA Determination	Earliest Date that Lender Can Initiate Foreclosure Action
Within 120 Calendar Days After Due Date	Loan Restructuring Plan Implemented or Decision to Liquidate Made

**300 Monetary Default - Overall Loan Servicing Process (7 CFR 762.143) (Continued)****B Loan Past Due**

Default occurs on the loan immediately upon failure to make a scheduled installment on the day it is due. However, many lenders provide for a 30-calendar-day grace period before a notice of default is mailed or other actions are taken. To comply with this standard, FSA has established 30 calendar days after the payment due date as the maximum allowed before a loan must be declared in default. No direct action, other than monitoring of the situation, is required before this date. However, a lender does not have to wait until the loan is 30 calendar days past due before taking action. For example, perishable security, such as produce, or instances of maltreated livestock may dictate a quicker response to default than 30 calendar days.

**If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted in accordance with § 762.145 of this part and Section 2 prior to the payment coming due.**

If through their involvement with an FSA direct loan, or in any manner, the authorized agency official becomes aware that a guaranteed borrower is in default or likely to default on their loan, they should communicate their concerns to the lender. If the loan payment was due but not paid over 30 calendar days ago, and no reports have been received from the lender, the authorized agency official will contact the lender to request a status report and remind them that they must work with the borrower and take timely action to correct delinquencies or liquidate the loan. Failure to address default in a prudent and timely fashion may result in a reduction or rejection of a lender's request for a loss claim, should a loss claim result. A loss claim may be reduced by the amount caused by the lender's failure to secure property after a default, and will be reduced by the amount of interest that accrues while no contact is made with the borrower or no action is taken to cure the default, once it occurs. Face to face or telephone communication should be followed up with a letter if the loan remains in default and corrective action is not taken.

## 359 Lender Submission of Estimated Loss Claim (7 CFR 762.149)

## A Overview

**\*--An estimated loss claim must be submitted by all lenders no later than 150 days after--\* the payment due date unless the account has been completely liquidated and then the final loss claim must be filed. The estimated loss will be based on the following:**

- **The Agency will pay the lender the guaranteed percentage of the total outstanding debt, less the net recovery value of the remaining security, less any unaccounted for security**
- **The lender will discontinue interest accrual on the defaulted loan at the time the estimated loss claim is paid by the Agency. The Agency will not pay interest beyond 210 days from the payment due date. If the lender estimates that there will be no loss after considering the costs of liquidation, an estimated loss of zero will be submitted and interest accrual will cease upon approval of the estimated loss and never later than 210 days from the payment due date.**

See subparagraph 329 C for loss claims on restructured loans.

## B Estimated Liquidation Expenses

Certain reasonable costs to liquidate a loan may be included in the estimated loss claim. Eligible liquidation expenses include, but are not limited to, the following:

- appraisals
- marketing expenses
- auctioneer expenses
- legal fees.

**Note:** Legal fees associated with the liquidation are a liquidation expense. FSA allows reasonable and necessary legal fees, including fees incurred in a Chapter 7 liquidation bankruptcy, to be deducted from the sale of the collateral before application of the net proceeds to the guaranteed debt. Lenders will be compensated for liquidation expenses incurred before the filing of a reorganization bankruptcy proceeding. An estimate of legal fees, and all liquidation costs, must be provided with an estimated loss claim, and documentation of actual expenses incurred must be provided with the final loss claim.

**Packager fees and outside consultant fees for servicing of guaranteed loans are not covered by the guarantee, and will not be paid in an estimated loss claim.**

**359 Lender Submission of Estimated Loss Claim (7 CFR 762.149) (Continued)****B Estimated Liquidation Expenses (Continued)**

In-house expenses are not allowable liquidation costs. In-house expenses include, but are not limited to, the following:

- employee salaries
- staff lawyers
- photocopying
- travel.

**C Lender Submission of Estimated Loss Claim**

\*--Lenders will prepare and submit the estimated loss claim on FSA-2254 along with other supporting documentation to support the estimates to the authorized agency official.--\*

The lender's supporting documentation shall include the following:

- unpaid accrued interest
- advances
- payments
- periods of time
- interest rates
- principal balances.

SEL and CLP lenders will also be required to submit appraisals and other documentation to support the estimates on FSA-2254. Estimated loss claims for PLP lenders will only be reviewed for accuracy and calculations of FSA-2254. FSA-2254 instructions provide examples on how to complete certain fields.

The lender must justify and explain any liquidation expenses on the estimated loss claim \* \* \*.

**D Unapproved Loans or Advances**

**The amount of any payments made by the borrower on unapproved loans or advances outside of the guarantee will be deducted from any loss claim submitted by the lender on the guaranteed loan, if that loan or advance was paid prior, and to the detriment of, the guaranteed loan.**

**361 Release of Liability After Liquidation (7 CFR 762.146(c)) (Continued)****C Loans Made Using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application With the July 20, 2001, or Later Revision Date**

For loans made using FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application with the July 20, 2001, or later revision date, a lender's request to release the borrower of liability after liquidation of the collateral but before the payment of a final loss claim can only be approved by DAFLP. The payment of a final loss claim on these loans establishes a Federal debt that is subject to offset. (Collection of the Federal debt will be pursued according to 7 CFR 762.149(m). See paragraph 363.)

SED's shall thoroughly evaluate all requests and forward them to DAFLP with their recommendation. All requests will include an analysis along with supporting documentation that includes a monetary analysis as to why such an exception is in the Government's best interest. DAFLP will evaluate each request on a case-by-case basis. DAFLP's decision is final and is not appealable.

## 362 Miscellaneous Liquidation Items (7 CFR 762.149)

**A Future Recovery**

**The application of the loss claim payment to the account does not automatically release the borrower of liability for any portion of the borrower's debt to the lender. The lender will continue to be responsible for collecting the full amount of the debt and sharing future recoveries with the Agency in accordance with paragraph (j) of this section.**

**The lender will remit any recoveries made on the account after the Agency's payment of a final loss claim to the Agency in proportion to the percentage of guarantee in accordance with the lender's agreement until the account is paid in full or otherwise satisfied.**

A lender receiving a loss payment must complete and return in a timely manner a report on its collection activities, FSA-2261, for each unsatisfied account for three years following payment of loss claims.

In late October of each year, the authorized agency official will forward FSA-2261 with instructions to lenders that have received a loss claim because of liquidation in the past 3 years. FSA-2261 must be completed and returned by November 30.

**Note:** FSA-2261 will not be completed for Chapter 7 liquidation bankruptcy cases that have received a discharge.

SED's shall compile State reports and submit the results to the National Office upon request.

When FSA's share of an amount is received, the funds will be deposited according to 3-FI. The following items will be completed on FSA-2254:

- enter code 4 in item 5, "Report Type Code"
- enter the date funds were received in item 15, "Date of Settlement"
- enter the amount received in item 51, "Amount Due FSA by Lender".

\*--FSA-2254 will be FAXed or sent to FLOO, according to 1-FLP, paragraph 5.--\*

\* \* \*

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)**

**I Collections and Refunds**

Amounts collected through administrative offset will be applied to the debtor’s account according to 3-FI using the Guaranteed Collection Codes in this table.

<b>Code</b>	<b>Description</b>
70	Administrative Offset – Other
71	Administrative Offset – DCP
72	Administrative Offset – LCP
73	Administrative Offset – CRP
74	Administrative Offset – EQIP
75	Administrative Offset – Tobacco
76	Administrative Offset – Peanuts
77	Administrative Offset – Rice
78	Administrative Offset – LDP/Markt Asst Loan
79	Administrative Offset – DCP in Stay
80	Voluntary Collection
81	DOJ Collection
82	Debt Settlement Collection
83	Other Collection

**Notes:** Collections will be applied to the oldest delinquent Federal debt first.

According to 58-FI, paragraph 164, delinquent debts due to FSA will be collected before an assignment is honored.

\*--Lender recoveries, voluntary, and other collections, except IAO, DOJ, and Debt--\* Settlements, for loans subject to offset with a debt offset receivable established, must have FSA-2254 completed manually and FAXed to FSC, FLOO for processing. The collection will be processed as an offset collection.

Refunds of amounts offset will be made within 45 calendar days if FSA determines that an amount should not have been offset or that the debtor has prevailed in an appeal. SED shall approve and submit refund requests to FSC, FLOO.

**J Notifying Lender of FSA Collections**

County Offices shall notify the lender of any collections received through IAO or TOP by November 30 of each year. The annual notification shall include the following:

- amount collected by loan number
- current balance of the Federal debt.

**Note:** County Offices can obtain account information from the GLS loan offset view screen.

**363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors  
(7 CFR 762.149(m)) (Continued)****K Debt Settlement**

Once a final loss claim is paid, FSA will be able to consider settlement offers received directly from the debtor. Compromise and adjustment offers should be compared against other collection options available, such as IAO and TOP. The option that offers the greatest recovery to the Government should be pursued.

FSA shall process a compromise or adjustment offer according to RD Instruction 1956-B, section 1956.66.

The debt settlement will only cover the Federal debt owed by the debtor. FSA shall notify the lender of the approval of a debt settlement.

After all payments under the compromise or adjustment offer have been received, the remaining balance of the debt will be written off. SED shall FAX or mail a copy of RD 1956-1 along with a memorandum requesting that the debt be written off to FSC, FLOO.

**L Bankruptcy Effect**

FSA, subject to advice provided by the Regional OGC, will immediately file a proof of claim upon notification of a bankruptcy filing for any debtor subject to offset. At a minimum, the following shall be filed with the proof of claim as evidence of the debt:

- FSA-1980-25, FSA-1980-28, Application for Guarantee, or Preferred Lender Application
- FSA-1980-27 or Loan Guarantee
- copy of promissory note
- documentation of FSA's final loss claim payment to the lender.

Bankruptcy filing will halt any FSA offsetting actions. The debtor shall be removed from referral of IAO and TOP through the GLS maintenance screens.

Debts discharged in bankruptcy will be written off upon receipt of the discharge order. SED shall FAX or mail a copy of the discharge order along with a memorandum requesting that the debt be written off to FSC, FLOO.

**M Write Off of Debt When the Debtor Is Released From Liability by DAFLP**

Debtors released from liability under subparagraph 361 C will have their outstanding debt written off. SED shall FAX or mail a copy of DAFLP approval along with a memorandum requesting that the debt be written off to FSC, FLOO.



**364 Release from Liability and Unauthorized Assistance (Continued)****F Involuntary Cancellation by Lender**

In the following circumstances, FSA can terminate an FSA-1980-27 or Loan Guarantee on a loan without the lender's concurrence:

- the guarantee fee is not paid

**Note:** The guarantee fee is usually paid when FSA-2233 is submitted and the loan is closed. Under 7 CFR 762.130, a Loan Guarantee should not be issued until all guarantee fees are paid.

- improper transfer by FDIC of an FSA guaranteed loan to a nonguaranteed loan to a nonparticipating lender.

**\*--Note:** Interagency Agreement between FSA and FDIC was signed by FSA on January 12, 2011, providing rules about FSA guaranteed loan servicing originated by failed banks. FDIC may sell FSA guaranteed loans only to eligible lenders. Barring the presence of a holder, the improper transfer is grounds for a denial of liability. See Exhibit 13 for a copy of the Interagency Agreement.--\*

**G Unauthorized Interest Assistance**

For unauthorized interest assistance see:

- paragraph 231
- 7 CFR 762.150(h) and (j).

FSA may make demand on lenders for repayment of unauthorized assistance payments.

**365-372 (Reserved)**



**375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144)****A Holder Demand for Repurchase**

The holder may request the lender to repurchase the unpaid guaranteed portion of the loan when either:

- the borrower has not made a payment of principal and interest due on the loan for at least 60 days
- the lender has failed to give the holder its pro-rata share of any payment made by the borrower within 30 days of receipt of a payment.

The holder shall notify FSA when these circumstances exist. If the holder chooses not to make demand, authorized agency officials will monitor the account. If the loan remains past due for 90 calendar days, the lender will be requested to repurchase the loan. If the lender refuses to repurchase, FSA will immediately require the holder and lender to reconcile the loan balances. FSA will then repurchase from the holder no later than 150 calendar days past due.

**When a lender is requested to repurchase a loan from the holder, the lender must consider the request according to the servicing actions that are necessary on the loan. In order to facilitate servicing and simplified accounting of loan transactions, lenders are encouraged to repurchase the loan upon the holder's request.**

**If the lender does not repurchase the loan, the holder must inform the Agency in writing that demand was made on the lender and the lender refused. Following the lender's refusal, the holder may continue as holder of the guaranteed portion of the loan or request that the Agency purchase the guaranteed portion. Within 30 days after written demand to the Agency from the holder with required attachments, the Agency will forward to the holder payment of the unpaid principal balance, with accrued interest to the date of repurchase. If the holder does not desire repurchase or purchase of a defaulted loan, the lender must forward the holder its pro-rata share of payments, liquidation proceeds and Agency loss payments.**

If the lender believes the holder is making demand for repayment outside the allowable reasons, the lender should detail why they believe the demand is unreasonable in a refusal letter to the holder. A copy of this letter should also be forwarded to FSA.

Upon repurchase, the lender shall notify FSA by returning the original FSA-2242.

**375 Repurchase of Guaranteed Portion From a Secondary Market Holder (7 CFR 762.144)  
(Continued)**

**B Lender Initiated Repurchase**

**If due to loan default or imminent loan restructuring, the lender determines that its repurchase is necessary to adequately service the loan, the lender may repurchase the guaranteed portion of the loan from the holder, with the written approval of the Agency.**

The requirements in FSA-2242 are as follows:

- the lender may demand repurchase to conduct any of the servicing actions in Part 9, 12, \*--or 14 and for interest rate reductions according to subparagraph 284 B, as long as all the requirements of this paragraph are met--\*
- lender repurchase is not required if the holder will agree to the restructured terms of the note
- if interest is capitalized, a new note is taken, the original note is amended, or the principal amount is modified, the lender must ensure that the assignment is amended to reflect the actual guaranteed portion held by the holder

**Note:** In cases involving the secondary market, a restructuring action may involve repurchase from the holder.

- **the lender will not repurchase from the holder for arbitrage purposes. With its request for Agency concurrence, the lender will notify the Agency of its plans to resell the guaranteed portion following servicing**
- **the holder will sell the guaranteed portion of the loan to the lender for an amount agreed to between the lender and the holder.**

If the lender chooses to repurchase the loan for servicing, SEL and CLP lenders must receive written approval from the authorized agency official or SED or designee before repurchasing a guarantee. The request for approval must include the reason for repurchase; for example, IA, \* \* \* default, restructuring, or liquidation; and the proposed servicing or liquidation plan, if any, for the loan or asset.

Once the request is received by FSA, the lender will receive notification of FSA's approval or rejection within 14 calendar days. PLP's do not need FSA approval to repurchase, but must repurchase the guarantee according to the terms of their Lender's Agreement.

The lender must document all attempts to repurchase the loan from the holder in the loan file.

## Reports, Forms, Abbreviations, and Redelegations of Authority

### Reports

This table lists the required reports in this handbook.

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

### Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation and Wetland Conservation Certification		66, 208
FEMA-81-93	Standard Flood Hazard Determination Form		138
FmHA-449-34	Loan Note Guarantee		267, 281
FmHA-1980-64	Interest Assistance Agreement		224, 228, 230
FSA-1940-3	Request for Obligation of Funds Guaranteed Loans		226, 230
FSA-1980-25	Application For Guarantee		108, 285, 286, 360, 361, 363
FSA-1980-27	Loan Guarantee		364, 376
FSA-1980-28	Preferred Lender Application For Guarantee		108, 285, 360, 361, 363
FSA-1980-36	Assignment of Guarantee		375
FSA-1980-64	Interest Assistance Agreement		224, 228, 230
FSA-2028	Security Agreement		50, 280
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		249

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

## Forms (Continued)

Number	Title	Display Reference	Reference
FSA-2201	Lender's Agreement		Text
FSA-2202	USDA-FSA Certified Lender Sticker		50
FSA-2203	Preferred Lender Sticker		53
FSA-2211	Application for Guarantee		Text
FSA-2212	Preferred Lender Application for Guarantee		Text
FSA-2221	Interest Assistance Agreement		Text
FSA-2222	Request for Interest Assistance Payment		228, 326
FSA-2231	Request for Obligation of Funds Guaranteed Loans		226, 230, 244
FSA-2232	Conditional Commitment		Text
FSA-2233	Lender Certification		247
FSA-2235	Loan Guarantee		Text
FSA-2236	Guaranteed Loan Closing Report		227, 247, 249, 286
FSA-2241	Guaranteed Farm Loan Status Report as of		250, 266, 355, 376, Ex. 12
FSA-2242	Assignment of Guarantee		373-375, Ex. 12
FSA-2243	Notice of Substitution of Lender (Transaction 4034)		287
FSA-2244	Guaranteed Loan Status Update Adjustment (Transaction 4048)		288
FSA-2245	Modification of Loan Guarantee		281, 313, 326, Ex. 12
FSA-2246	Notification of Transfer and Assumption of a Guaranteed Loan Transaction Code 4037		281
FSA-2247	Guaranteed Loan Borrower Adjustments		281, 284, 288
FSA-2248	Guaranteed Farm Loan Default Status Report		Text, Ex. 12
FSA-2249	Request for Restructuring Guaranteed Loans		313

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

## Forms (Continued)

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

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

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

Re delegations of Authority

This table lists the re delegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20



**\*--Electronic Access to Forms for FSA Lenders**

**A Creating an Account With USDA eAuthentication Level 2 Access**

USDA developed a centralized eAuthentication service to provide authentication for USDA Web services. USDA eAuthentication provides centralized administration of users and a unified credential that can be used to provide users with single sign-on capability across all participating Web applications.

USDA eAuthentication Level 2 accounts enable the secure presentation of information and electronic signing of submissions. FSA lenders **must** obtain USDA eAuthentication Level 2 account to acquire a Level 2 user ID and password. Follow these steps to obtain a Level 2 account.

Step	Action
1	Go to <a href="http://www.eauth.egov.usda.gov/eauthCreateAccount.html">http://www.eauth.egov.usda.gov/eauthCreateAccount.html</a> and CLICK “Level 2 Access” hyperlink.
2	Complete and submit the 4-step registration. Required fields are indicated by asterisk (*).
3	After users submit the registration, the Level 2 Access Confirmation Page will be displayed that provides instructions on activating the newly created Level 2 account.
4	Users will receive a confirmation e-mail within 24 hours of registering. The e-mail message will provide further instructions and the link necessary to activate the account.
5	Obtain final verification of user’s identity by presenting a Government-issued ID card (such as, State-issued driver’s license or ID, military ID, passport) at user’s local USDA Service Center, where a Local Registration Authority will verify user’s identity. This <b>must</b> be done in person; otherwise, Level 2 authorization <b>cannot</b> be granted. To locate user’s local USDA Service Center, go to <a href="http://offices.sc.egov.usda.gov/locator/app">http://offices.sc.egov.usda.gov/locator/app</a> .
6	Send request, in writing to FSA State Office, ATTN: FLP Division, to link the validated eAuthentication ID as either a Lender Administrator or Branch Administrator.

**B Accessing Forms**

Although all FSA lenders have access to online forms, users **must** register for a USDA Level 2 user ID and password to be able to save their information on the form and to submit the form electronically.

Lenders with an eAuthentication Level 2 user ID and password shall follow these steps to access forms.

Step	Action
1	Go to the Service Center Agencies eForms Home Page at <a href="http://forms.sc.egov.usda.gov/eForms/welcomeAction.do">http://forms.sc.egov.usda.gov/eForms/welcomeAction.do</a> and CLICK “Login”.
2	On the eAuthentication Warning Screen, CLICK “I Agree”.
3	On the USDA eAuthentication Login Screen, enter user ID and password and CLICK “Login”.
	<b>Note:</b> When viewing forms, have only 1 browser window open. Each form has a supporting instruction file that explains how to complete the form.

--\*

**\*--Electronic Access to Forms for FSA Lenders (Continued)**

**C Searching for Forms**

To search for forms, follow subparagraph B, under “eForms”, CLICK “**Browse Forms**”, and do either of the following:

- select the Agency, program, and service name from the corresponding drop-down menus to narrow the search results
- when searching for a specific form, enter information in the “Form Number” and “Title or “Keywords” fields.

CLICK “**Search**” to view all forms that meet user’s search criteria.

**D Submitting Forms**

Forms may be submitted to FSA as follows.

- lenders without an eAuthentication Level 2 account may submit printed forms (that is, paper hardcopies) to FSA. After users have located the form they need at <http://forms.sc.egov.usda.gov/eForms/welcomeAction.do> and filled in all the required information, users may print out and mail or FAX the form to the local USDA Service Center.

**Note:** To locate user’s local USDA Service Center, go to <http://offices.sc.egov.usda.gov/locator/app>.

- lenders with an eAuthentication Level 2 account may submit forms to FSA electronically. The eAuthentication Level 2 user ID serves as the signature when submitting forms electronically.

**E Application Authorization Security Management (AASM) System**

AASM is the database that contains lenders’ information and the eAuthentication user ID’s of all lender-employees authorized to participate in electronic reporting. FSA initially, and the lender’s Security Administrators (SA’s) thereafter, will use AASM to authorize lender-employees to access the USDA Lender Interactive Network Connection (LINC).

After authorized in AASM, lender-employees may use LINC to close guaranteed loans and manage lender semiannual and default status reports that keep the lender up-to-date in FSA’s accounting records. Lenders may request more than one SA to be authorized in AASM.--\*

**\*--Electronic Access to Forms for FSA Lenders (Continued)**

**E Application Authorization Security Management (AASM) System (Continued)**

The lenders' SA's are:

- FSA points-of-contact for maintaining the lender-employees' USDA eAuthentication Level 2 ID's in AASM
- responsible for adding and removing other employees designated by the lender to use LINC.

Lender-employees:

- are responsible for ensuring that they adhere to the requirements outlined in FSA-2201
- are required to have a Level 2 user ID and password before being authorized in AASM (subparagraph A)
- do not need another Level 2 account and may use their existing Level 2 user ID and password if they have Level 2 access with another USDA Agency.

The FSA LINC User Guide at

**[http://www.fsa.usda.gov/Internet/FSA\\_File/gls\\_lender\\_linc\\_user\\_guide.pdf](http://www.fsa.usda.gov/Internet/FSA_File/gls_lender_linc_user_guide.pdf)** provides further details on adding a lender-employee in AASM.

**F Lender Interactive Network Connection (LINC)**

LINC, located at **<https://usdalinc.sc.egov.usda.gov/>**, allows electronic reporting by lenders to FSA. LINC allows lenders to:

- submit semiannual and default status reports
- add loan closings
- view loans
- add lender EFT's for pre-authorized debit (PAD) information
- add lender-employees in AASM.

See the FSA LINC User Guide for instructions on completing these functions.--\*



\*--Interagency Agreement

**INTERAGENCY AGREEMENT  
BETWEEN  
UNITED STATES DEPARTMENT OF AGRICULTURE AND  
THE FEDERAL DEPOSIT INSURANCE CORPORATION**

I. PURPOSE

The purpose of this Inter Agency Agreement (“IAA”) between the United States Department of Agriculture (USDA) and the Federal Deposit Insurance Corporation, in its receivership capacities (“FDIC”), is to provide timely and cost-effective administration, servicing, collection, and sale of loans or portions thereof, that are guaranteed by the USDA and are acquired by FDIC from a USDA lender.

This Agreement supersedes all previous agreements and Memoranda of Understanding between Farm Service Agency (FSA) or Rural Development (RD), USDA and FDIC previously agreed to and any subsequent amendments.

II. BACKGROUND

Under the authority of 7 USC 1981 the Secretary of Agriculture may make contracts for services incident to making, insuring, collecting, and servicing loans and property as necessary to carry out the purposes of the Consolidated Farm and Rural Development Act (Con Act), 7 USC 1921 et seq. FSA Farm Loan Programs and most Rural Development (RD) loans are authorized by the Con Act. The Secretary has similar authority to enter into agreements to carry out title V of the Housing Act of 1949 under 42 USC 1480. That title authorizes the RD housing programs. RD also makes guaranteed loans under the energy title of the Farm Security and Rural Investment Act of 2002 (Pub.L. 107-171), as amended by the Food, Conservation, and Energy Act of 2008 (Pub.L. 110-246). Under 12 USC 1821 (d)(2)(E) and 12 USC 1823(d)(3)(A), the FDIC acting in its corporate or receivership capacities has the authority to liquidate the assets of failed insured depository institutions (“failed financial institutions”) when the FDIC is appointed Receiver. Under 12 USC 1819(a), FDIC has the authority to enter into an agreement such as this IAA. It is not the purpose of this IAA to abrogate existing statutes, rules or regulations of the FDIC, or USDA.

NOW THEREFORE, USDA and FDIC, in a spirit of cooperation, agree as follows:

III. DEFINED TERMS

Whenever used in this Agreement, the following terms will have the meanings set forth in this Section III:

- “FDIC Investor” means any purchaser from the FDIC who/which is not an FSA or RD approved lender.

**FDIC/USDA IAA-09-23-2010**

1

\*--Interagency Agreement (Continued)

- “FDIC Loan Sale” means a sale conducted by the FDIC in accordance with Section IV(L) of this IAA, for the purposes of liquidating loans owned or made by a failed financial institution and transferring them to one or more FSA or RD Lenders, or FDIC Investors.
- “FDIC Loan Sale Agreement” means the written agreement between the FDIC and any purchaser of loans in an FDIC Loan Sale.
- “FSA Borrower” means all obligors and guarantors of an FSA guaranteed farm loan.
- “FSA Lender” means a lender that is an approved lender under FSA’s guaranteed Farm Loan Program.
- “FSA Loan” means any Farm Loan Programs loan guaranteed under the Con Act.
- “FSA Purchased Loan” means an FSA Loan of which FSA has repurchased a guaranteed portion of the loan from a holder and is the legal owner of such interest in the FSA Loan.
- “Performing Loan” means a loan that is paying as agreed (currently less than 60 days past due) and is expected to pay in full under the terms of the note. Prior delinquencies or file-documentation problems do not disqualify a loan as performing.
- “Non-performing Loans” means a loan that is 60 days past due or is past the note (including modifications) maturity date, regardless of whether ongoing payments are being received from the borrower. Non-performing Loans also include all guaranteed loans with loan related judgments, deficiency balances, or charge-offs regardless of delinquency.
- “Participation” means a loan arrangement where a primary or lead lender is the lender of record but the loan funds may be provided by one or more other lenders due to the loan size or other factors. Typically, participating lenders share in the interest income or profit on the loan based on the relative amount of the loan funds provided after deducting the servicing fees of the primary or lead lender. USDA has no guarantee responsibilities to such participants.

\*--Interagency Agreement (Continued)

- “RD Borrower” means all obligors and guarantors of an RD guaranteed Loan.
- “RD Lender” means a lender that is an approved lender for the relevant RD guaranteed loan program.
- “RD Loan” means any loan guaranteed by RD that has been acquired by the FDIC, whether or not RD has purchased the guaranteed portion of such loan.
- “RD Purchased Loan” means an RD Loan of which RD has repurchased a guaranteed portion from the holder and is the legal owner of such repurchased interest in the RD Loan.
- “Rural Development” or (RD) means the mission area within USDA which includes the Rural Housing Service (RHS), Rural Utilities Service (RUS), and Rural Business-Cooperative Service (RBS).
- “Secondary Market Investor” or “Secondary Market Holder” means a purchaser of all or part of a guaranteed interest in an FSA Loan or an RD Loan.
- “Servicing released” means the FSA or RD Loan sold by the FDIC requires the buyer to service that loan. In some instances the FDIC will service a “servicing released” loan for an interim period between the date of closing the sale, and the date the loan is transferred to the buyer’s system of record. This interim servicing period is not intended to be longer than thirty (60) calendar days after the closing date.

IV. SCOPE AND RESPONSIBILITIES

A. PROTOCOL FOR REFERENCE TO USDA LOANS

All correspondence, spreadsheets, and other communications between FDIC and USDA regarding FSA or RD Loans will include: (1) the FSA or RD Loan number and the borrower name, and (2) any loan number and loan name assigned by the failed financial institution or FDIC.

B. FDIC TO NOTIFY USDA WHEN FDIC IS APPOINTED RECEIVER OF AN FSA OR RD LENDER

FDIC will notify the appropriate USDA contact(s) by certified email within five (5) business days after FDIC is appointed Receiver of a financial institution which operated as an FSA or RD Lender. Upon receiving this

\*--Interagency Agreement (Continued)

notification, USDA will, within 3 business days, provide a list of all guaranteed loans with the failed financial institution to the FDIC contact identified in the notification. Additionally, USDA will provide the FDIC Point of Contact ("POC") with the contact names, addresses and phone numbers of the local USDA offices the FDIC receivership will be working with on any acquired FSA and/or RD loans.

C. FDIC TO NOTIFY AFFECTED FSA AND RD BORROWERS

1. When FDIC acquires any FSA or RD Loan or when FDIC is appointed to manage the affairs of and liquidate an FSA or RD Lender, FDIC will notify affected FSA or RD Borrowers in writing and give them the address to which future loan payments should be submitted and provide contact information for FDIC.
2. When FDIC sells an FSA or RD Loan in an FDIC Loan Sale, FDIC will send a "good-bye" letter to the FSA or RD Borrower stating the date the loan was sold and the contact information for the buyer of the Loan.

D. SERVICING OF FSA AND RD LOANS PRIOR TO SALE BY FDIC

1. FDIC will service all FSA or RD Loans, using generally accepted commercial banking standards employed by prudent lenders and applicable FSA and RD regulations and contracts. FSA and RD shall provide the FDIC POC with Internet links and other necessary documents to facilitate the FDIC's efforts to adhere to the applicable FSA and RD regulations and contracts. This will continue until the FSA or RD Loan is sold to an FDIC Investor, or a FSA or RD Lender and the servicing is released to such buyer.

For the avoidance of doubt, nothing contained in this IAA shall waive or prevent the exercise of any powers granted to the FDIC as Receiver of a failed financial institution, by statute or otherwise, including the right to repudiate contracts.

2. If the failed financial institution sold participation(s) to third parties that were repurchased by FSA or RD, the FDIC will continue to perform under these participation agreements as successor-in-interest to the failed financial institution. Notwithstanding this provision, the FDIC retains its authority relative to the handling of loans where obligors elect to exercise their right of offset on excess deposits. This may result in the FDIC issuing a Receivership Certificate to FSA or RD to the extent of the offset.



\*--Interagency Agreement (Continued)

3. In those instances where FDIC is servicing FSA or RD Loans:
  - a. FDIC will receive loan payments directly from FSA or RD Borrowers.
  - b. FDIC will respond to any FSA or RD Borrower inquiries regarding payments on such loans. All borrower inquiries shall be directed to FDIC.
  - c. FDIC will keep all necessary records regarding payments received and will make all payment distributions to FSA or RD and holders of the unguaranteed interests or participation interests in each FSA or RD Loan as appropriate.
  - d. If the guaranteed portion of an FSA or RD Loan has been sold to a Secondary Market Investor, and FSA or RD has not purchased such portion of the loan, FDIC will forward the Secondary Market Investor's share of any loan payments along with an accounting of such funds.
  - e. For all non-performing loans with guarantees that FSA or RD consider valid, FDIC will consider restructuring with all servicing actions authorized by the appropriate state office of the FSA or RD. After receipt of a restructuring approval request from the FDIC, the respective FSA or RD state office shall have 10 business days from the date of receipt or date of receipt of any additional information requested to provide the requested approval. If the requested approval is not received by the FDIC POC within the 10 day period, the FDIC shall immediately notify the FSA and/or RD POC as designated in this IAA and allow for an additional 3 business days to acquire the requested approval. After such 3-day period and if the requested approval has still not been received by the FDIC POC, the FDIC shall proceed forward as it deems in the best interest of the respective receivership; FSA and/or RD shall be bound by the FDIC receivership decision.
  - f. When an FSA or RD Conditional Commitment for Guarantee has been issued to a closed bank and the related loan has not been funded prior to the date of the receivership, such commitment will be deemed canceled unless the Receiver and USDA agree that the funding of the loan will be in the best interest of USDA and enhance the

\*--Interagency Agreement (Continued)

ability of the FSA or RD Borrower to fulfill its obligation under any existing USDA direct or guaranteed loan.

E. USDA AND FDIC WILL MAXIMIZE THE NUMBER OF FSA AND RD LOANS INCLUDED IN FDIC SALES EVENTS

It is the goal of FDIC to market 90 percent of all saleable FSA and RD Loans to approved lenders for the programs involved when appropriate, and to FDIC Investors within ninety (90) days of a financial institution's failure. It is highly desirable and beneficial for FDIC and USDA to work together to expeditiously sell all performing and non-performing FSA and RD Loans to FSA and RD approved lenders with the guarantee intact after the failure of a financial institution. Sales to "FDIC Investors" will not retain the USDA guarantee. Therefore, FDIC and USDA shall work together to include as many FSA or RD Loans as possible in FDIC's post-financial institution failure loan sales ("FDIC Loan Sales") and sell such loans to FSA and RD Lenders when appropriate. For the avoidance of doubt, nothing contained in this IAA shall prevent the FDIC from selling FSA and RD loans to FDIC Investors, including without limitation, an assuming institution in connection with a failed bank resolution, even if such sale would result in the loss of the USDA guarantee.

F. DISPOSITION OF GUARANTEED LOANS

USDA and the Receiver shall resolve the specific loan scenarios for Performing and Non-Performing Loans in accordance with paragraphs IV(H) through (L).

G. USDA FILE REVIEW

1. USDA's determination of the validity and continuation of its guarantee on each of its loans in the failed financial institution's FSA or RD Loan portfolio is critical to the accomplishment of FDIC's goal stated in Paragraph F above. In order for USDA to make its determination regarding the continuation of the guarantees, it is necessary that USDA review the failed financial institution's FSA and RD Loan files. The parties will safeguard all personally identifiable borrower information during this review in accordance with applicable law. To facilitate USDA's ability to expeditiously review these files, as soon as is practical after the appointment of FDIC as receiver of the failed financial institution, FDIC will segregate FSA and RD Loan files from the failed financial institution's other loan files. Depending on the book value of the loan(s) and number of loans involved, FDIC will make

\*--Interagency Agreement (Continued)

FSA and RD Loan files available to USDA in one of the following manners in preferred order:

- a. FDIC will provide USDA access at the failed bank premises to conduct a file review, as appropriate; or
  - b. FDIC, at its own expense, will image the necessary documents for FSA and/or RD based on the FSA/RD provided instructions. In coordination with USDA, these imaged documents will be transferred in the form of encrypted CDs or DVDs by overnite mail to USDA for review as appropriate.
2. USDA and FDIC will work together during the file review so that USDA can determine whether any future loss claim would be reduced or denied, or if the guarantee is valid as of the date of the file review.
  3. Within twenty (20) business days of the completion of the USDA file review, or within a timeframe agreed to by FDIC and USDA, USDA will identify for FDIC based on the information available as of the date of the file review: (a) those FSA and RD Loans that have a valid guarantee; and (b) those FSA and RD Loans that may have a problem that may cause FSA or RD to reduce or deny any future loss claim request. USDA will notify FDIC of any reasons for possible denial or reduction of any future loss claim for each FSA and RD Loan, including denial or reduction due to documentation deficiencies.
  4. Before a final decision is rendered on loans that USDA has indicated a possible denial or reduction due to documentation deficiencies, FDIC will be provided a period of 10 business days to locate the missing documents. If the documents are located, FDIC will submit the missing documents to USDA for reconsideration. Within 10 business days of the FDIC presenting the missing documentation, USDA shall provide the FDIC with a final decision that USDA is satisfied with the additional documentation and USDA will provide FDIC with a final report of (1) loans indicating the validity and continuation of its guarantee based on the information available at that time and (2) those loans wherein there is no guaranty.

H. FDIC'S REQUEST FOR USDA TO PAY A FINAL LOSS CLAIM ON  
NON-PERFORMING FSA OR RD LOANS WHEN USDA HAS  
DETERMINED THE GUARANTEE IS VALID

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\*--Interagency Agreement (Continued)

Within twenty (20) business days of FDIC receiving USDA's notification described in Paragraph G(3) and (4) of this Section of the IAA, or within a timeframe agreed to by FDIC and USDA, FDIC will submit to the appropriate USDA Point of Contact ("POC") listed in Section VII of this IAA via certified email written formal requests for USDA to honor its guarantee and purchase obligations on certain non-performing FSA/RD guaranteed loans. FDIC Purchase Requests (the equivalent of a final loss claim) will consist of the principal and interest balances less appraised value of collateral, based on a current appraisal. Purchase Requests will include all documentation required by the applicable USDA regulations. To facilitate these Purchase Requests, the USDA shall provide the FDIC POC with a detailed list of the required documentation or shall provide the FDIC POC with an Internet link to the specific USDA regulation that details the documentation required. Within twenty (20) business days after receiving the Purchase Requests from FDIC or within a timeframe agreed to by FDIC and USDA, USDA will examine all Purchase Request documentation and determine in its sole discretion whether USDA will pay the loss claims. FSA or RD will either (1) agree to the loss claims and remit the required funds to FDIC electronically; or (2) withhold one or more of the loss claims and provide written explanation to FDIC for such withholding.

In the event USDA denies or reduces a loss claim, USDA and FDIC shall immediately discuss and address the loss claim so that USDA can reach a final loss claim determination on that FSA or RD Loan.

I. USDA SECONDARY MARKET PURCHASE, FDIC SALE, PAYMENT AND CANCELLATION OF USDA GUARANTEE

When FSA or RD is required to purchase the guaranteed portion of a performing loan from a Secondary Market Investor while FDIC holds an ownership interest, the guarantee will become invalid as to that portion purchased by FSA or RD. FDIC will obtain a current appraisal of the remaining loan collateral and any other documentation necessary to determine the value of the loan. FDIC shall place the loan into a loan pool as described in Section L. Upon the sale of the loan, FSA and/or RD shall be entitled to their participatory interest of the sale proceeds attributed to that loan.

J. THIS SECTION INTENTIONALLY OMMITTED

K. CANCELLATION OF USDA GUARANTEE

Notwithstanding the provisions in Paragraph H or I, USDA reserves the right to cancel or reduce its guarantee on any FSA or RD Loan in accordance with applicable USDA regulations. In the event that USDA cancels or reduces a

\*--Interagency Agreement (Continued)

guarantee, it will notify the FDIC POC via read receipt email within 5 business days of the FSA or RD cancellation or reduction.

L. FDIC'S MARKETING AND SALE OF FSA AND RD LOANS

In accordance with FDIC's goal cited in Paragraph E of this Section, FDIC will attempt to market FSA and RD Loans within ninety (90) days of the related financial institution's failure.

1. FDIC will utilize its assigned Financial Advisor's database of interested FDIC Investors and FDIC's Franchise Marketing database when advertising an FDIC loan sale of FSA and RD loan. By using the FDIC Franchise Marketing database, the FDIC will be notifying all financial institutions within the state where a financial institution failure occurred, all financial institutions in the contiguous states and certain financial institutions that have been designated as "national" buyers of FSA and RD loans. By utilizing these two databases, the FDIC will be exposing the FSA and RD loans to the widest possible market of potential buyers. Additionally, by using the FDIC Franchise database, the FDIC will market FSA Loans to FSA Lenders in the region or geographic location of the farming operations financed by the loans and to FDIC Investors. FDIC will market RD Loans to RD Lenders and FDIC Investors. FDIC and USDA understand and agree that to maintain the FSA or RD guarantees, a purchaser must be an FSA or RD approved lender, respectively. Lender approval requirements will vary by guaranteed loan program.
2. FDIC will assemble and pool a failed financial institution's outstanding FSA Loans and RD Loans as follows:
  - a. 100% owned FSA Loans when the failed institution retains the guaranteed portion of the loan - This pool will include all loans which FSA indicates its guarantee remains in-force, or FSA has found documentation deficiencies that, if cured, would allow FSA to entertain a request from the buyer for transfer of the FSA guarantee. FDIC will make every effort to correct document deficiencies prior to the sale of these loans. FDIC will disclose in the loan sale those loans which have documentation deficiencies. This pool must be sold to an FSA Lender in accordance with FSA regulations in order for the FSA guarantee to remain in-force.
  - b. 100% owned RD Loans when the failed institution retains the guaranteed portion of the loan - This pool will include

\*--Interagency Agreement (Continued)

all loans which RD indicates its guarantee remains in-force, or RD has found documentation deficiencies that, if cured, would allow RD to entertain a request from the buyer for transfer of the RD guarantee. FDIC will make every effort to correct document deficiencies prior to the sale of these loans. FDIC will disclose in the loan sale those loans which have documentation deficiencies. This pool must be sold to a RD approved Lender in accordance with appropriate agency regulations in order for the RD guarantee to remain in-force.

- c. FSA Loans when the guaranteed portion of the loans is held by third parties - This pool must be sold to an FSA Lender, to retain the guarantee to the lender.
- d. RD Loans when the guaranteed portion of the loans is held by third parties - This pool must be sold to an RD Lender, to retain the guarantee to the lender.
- e. FSA Purchased Loans - This pool will include those loans of which FSA has purchased the guarantee portion from a Secondary Market Investor or when FSA has paid an estimated loss claim, prior to the time the Receivership is established and those non-performing loans that FSA purchases subsequent to establishment of the Receivership. This pool will be comprised of the unguaranteed portion of FSA Loans owned by FDIC and the FSA purchased portion of the loans that have been assigned to FDIC.

When the FDIC is servicing an FSA secondary market purchased loan and retains a legal ownership interest, USDA shall expeditiously assign any ownership interest it has in the loan to FDIC pursuant to an Authorization and Consent to the Sale of Loans and Assignment of Participation Interest form as set out in Exhibit A attached hereto. All loans will be sold on a Servicing Released basis without the guarantee.

- f. RD Purchased Loans - This pool will include those loans of which RD has purchased the guarantee portion from a Secondary Market Investor or when RD has paid an estimated loss claim, prior to the time the Receivership is established and those non-performing loans that RD purchases subsequent to establishment of the Receivership. This pool will be comprised of the unguaranteed portion of

\*--Interagency Agreement (Continued)

RD Loans owned by FDIC and the RD purchased portion of the loans that have been assigned to FDIC.

When the FDIC is servicing an RD secondary market purchased loan and retains a legal ownership interest, USDA shall expeditiously assign any ownership interest it has in the loan to FDIC pursuant to an Authorization and Consent to the Sale of Loans and Assignment of Participation Interest form as set out in Exhibit A attached hereto. All loans will be sold on a Servicing Released basis without the guarantee.

- g. Loans that FSA or RD has determined their guarantee is no longer valid, including those on which FSA or RD has already paid a final loss claim to FDIC, will be placed in various homogenous loan pools of the failed financial institution as loans without a guarantee.
3. FDIC sales of assembled pools to purchasers of failed financial institution loans.

FDIC reserves the right to sell loan pools to the highest bidder as follows:

- a. For loans described in Paragraph L(2)(a), FSA loans that are 100% owned by the FDIC, the FDIC must make all purchasers aware that the loan is not guaranteed by FSA if the purchaser is not an eligible FSA Lender. The FDIC POC will notify FSA via read receipt email, within 2 business days of the FDIC determining the winning bidder of the name of the winning bidder. FSA will, within 5 business days of this FDIC notification, notify the FDIC POC via read receipt email, if the winning bidder is not eligible as an FSA lender.
- b. For loans described in Paragraph L(2)(c), the FDIC must sell these loans to an FSA lender in order to retain the guaranty to the lender and protect the third party participant.
- c. For loans described in Paragraph L(2)(b), RD loans that are 100% owned by the FDIC, the FDIC must make all purchasers aware that the loan is not guaranteed by RD if the purchaser is not an eligible RD lender. The FDIC POC will notify RD via read receipt email, within 2 business days of the FDIC determining the winning bidder of the

\*--Interagency Agreement (Continued)

name of the winning bidder. RD will, within 5 business days of this FDIC notification, notify the FDIC POC via read receipt email, if the winning bidder is not eligible as an RD lender.

- d. For loans described in Paragraph L(2)(d), the FDIC must sell these loans to an RD lender in order to retain the guaranty and protect the third party participant.
4. FDIC will remit to USDA its share of the sale proceeds as described in Exhibit A, Authorization and Consent to the Sale of Loans and Assignment of Participation Interest.
5. FSA will reimburse FDIC, within twenty (20) business days from receipt of FDIC's notification to FSA, for FSA's pro rata share of any loan required to be repurchased, under the terms of an FDIC Loan Sale Agreement, from a party that purchased the loan in an FDIC Loan Sale. FDIC notice of any error or omission must be received within 90 days of sale.

RD will reimburse FDIC, within twenty (20) business days from receipt of FDIC's notification to RD, for RD's pro rata share of any loan required to be repurchased, under the terms of an FDIC Loan Sale Agreement, from a party that purchased the loan in an FDIC Loan Sale. FDIC notice of any error or omission must be received within 90 days of sale.

V. ONGOING PROCEDURES

FSA and FDIC agree to jointly establish procedures for administration, servicing, collection, and sale of FSA loans. RD and FDIC agree to jointly establish procedures for administration, servicing, collection, and sale of RD loans.

VI. EXPENDITURES

This IAA does not authorize the expenditure of funds by either FDIC or USDA.

VII. POINTS OF CONTACT (POC)

The individuals, offices, and departments listed in this section will be the respective points of contact for this IAA. This POC may be amended by any party upon written notice to the other party.

The POC for this IAA will be the following:

For FSA:

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\*--Interagency Agreement (Continued)

Director  
Loan Servicing and Property Management Division  
Farm Service Agency  
1400 Independence Ave, SW  
STOP 0523  
Washington, DC 20250

Telephone: (202) 690-0155  
Fax: (202) 720-5804  
E-mail:

For RD:

Mr. David Lewis  
Branch Chief  
Business and Industry Division (Servicing)  
USDA, Rural Development  
1400 Independence Ave, SW  
MS 3224, Room 6859  
Washington, DC 20250

Telephone (202) 690-0797  
Fax: (202) 720-6003  
E-mail: David.Lewis@wdc.usda.gov

For FDIC:

Mr. Michael G. Cummins or the  
Resolutions and Receiverships Specialist  
Federal Deposit Insurance Corporation  
1601 Bryan Street  
Dallas, Texas 75201

Telephone: (972) 761-8226  
Fax: (972) 761-2836  
E-mail: [mcummins@fdic.gov](mailto:mcummins@fdic.gov)

Mr. Willie Lake  
Resolutions and Closings Manager  
1601 Bryan Street  
Dallas, Texas 75201

Telephone: (972) 761-8329  
Fax: (972) 761-2836

\*--Interagency Agreement (Continued)

E-mail: [wlake@fdic.gov](mailto:wlake@fdic.gov)

The POCs will facilitate communication between the two parties as necessary. All notices required under this IAA must be delivered to each POC.

VIII. INITIAL TERM OF IAA AND RENEWAL

This IAA will take effect at the time of execution by all parties and will remain in effect for three years from that date. Unless the IAA is renewed, FDIC may not sell or transfer USDA's interest in any FSA or RD Loan after the end of the three-year period. The parties may, before or after expiration of the IAA, agree in writing to renew the IAA with the same or modified terms and conditions for a maximum renewal term of three years. Expiration of this IAA will have no effect on the obligations of USDA or FDIC with respect to all FSA or RD Loans that FDIC administered, serviced, collected and/or sold prior to the expiration of this IAA.

No later than 180 days before the expiration of the initial term of this IAA, the parties will discuss renewal or modification of this IAA.

IX. AMENDMENTS AND MODIFICATIONS

USDA and FDIC may negotiate modifications to this IAA to clarify, expand or revise its terms. Any party may request negotiations to effect changes to this IAA. This IAA may be amended or modified only upon written mutual agreement of the parties.

X. RESOLUTION OF DISPUTES BETWEEN PARTIES

This IAA is for the purpose of improving the servicing process and disposition of USDA guaranteed loan portfolios under the supervision of FDIC. Nothing within this IAA alters the legal rights of either party pursuant to signed agreements between the FSA and any FSA Lender for which FDIC serves as Receiver. Nothing within this IAA alters the legal rights of either party pursuant to signed agreements between the RD and any RD Lender for which FDIC serves as Receiver. This IAA does not create any legal rights or obligations on the part of any third parties. FDIC and USDA shall attempt to resolve all disputes or disagreements regarding this IAA through the Points of Contact listed in Section VII.

XI. TERMINATION

USDA or FDIC may terminate this IAA on thirty (30) days written notice to the other parties. Termination will have no effect on the obligations of USDA or FDIC with respect to any FDIC Loan Sale that was approved prior to termination of this IAA.

XII. ASSIGNMENT

**\*--Interagency Agreement (Continued)**

Except as provided herein, neither USDA nor FDIC will assign its respective rights, duties, responsibilities, or obligations under this IAA without prior written consent of the other party.

**XIII. NO THIRD PARTY BENEFICIARY**

The parties acknowledge that this IAA is intended to benefit only USDA and FDIC and their respective successors and permitted assigns, and no other party is entitled to enforce the obligations of this IAA.

**XIV. APPLICABILITY**

This IAA applies to all FSA and RD Loans that FDIC is appointed to administer, service, collect, and sell which are currently held by or acquired by the FDIC after the execution date of this IAA but prior to the expiration of this IAA. This IAA applies to FDIC only in its Receivership capacity and its corporate liquidator capacity as the successor in interest to assets of failed depository institutions.

**XV. AUTHORITY**

The parties enter into this IAA under the authority of 7 USC 1981, 42 USC 1480, 12 USC 1819(a), 12 USC 1821(d)(2), and 12 USC 1823 (d)(3)(A) of the Federal Deposit Insurance Act, all as amended.

**XVI. SIGNATURES**

The signatories below represent they have the authority to make the commitments set forth in this IAA on behalf of their respective organizations. This IAA is being signed on behalf of USDA by the Farm Service Agency and the Rural Housing Service, the Rural Utilities Service, and the Rural Housing-Cooperative Service, the three agencies that are under the Rural Development mission area at USDA. This instrument may be executed in a number of identical counterparts, each of which, for all purposes, shall be deemed an original.

**SIGNATURE PAGE TO FOLLOW**

\*--Interagency Agreement (Continued)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREFORE, EACH PARTY HAS CAUSED THIS INSTRUMENT TO BE SIGNED ON ITS BEHALF BY ITS DULY AUTHORIZED AGENTS.

Executed this 12 day of JANUARY, ~~2010~~ 2011

UNITED STATES DEPARTMENT OF AGRICULTURE by

FARM SERVICE AGENCY

By Carolyn B. Cooksi

*for* Title: Administrator, Farm Service Agency  
and

RURAL DEVELOPMENT

By Judith A. Candi

Title: Administrator, Rural Business Service

By Lance J. Jernigan

Title: Administrator, Rural Housing Service

By Joseph A. DeStani

Title: Administrator, Rural Utilities Service

\*--Interagency Agreement (Continued)

FEDERAL DEPOSIT INSURANCE CORPORATION

By Mitchell L. Bloomer

Title: Director, Division of Resolutions and Receiverships

\*--Interagency Agreement (Continued)

EXHIBIT "A"

AUTHORIZATION AND CONSENT TO THE SALE OF LOANS  
AND ASSIGNMENT OF PARTICIPATION INTEREST

This Authorization and Consent to the Sale of Loans (this "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the U.S. Department of Agriculture ("USDA") and the Federal Deposit Insurance Corporation (the "FDIC") as Receiver of \_\_\_\_\_ (name of failed financial institution, city and state).

RECITALS

A. \_\_\_\_\_ (name of failed financial institution, city and state) (the "Lender") originated and was the holder of an interest in each of the loans identified on Attachment I to this Agreement (the "Loans"), each of which Loans were previously guaranteed by Farm Service Agency (FSA) or Rural Development (RD), USDA pursuant to a Lender's Agreement executed by the Lender and Agency and a Loan Note Guarantee executed by the Agency.

B. The Lender was declared insolvent and FDIC was appointed as Receiver ("FDIC/Receiver"). FDIC/Receiver assumed all of Lender's rights, title, and interest in the Loans.

C. As a result of a default, USDA purchased the guaranteed portion from a secondary market investor or holder pursuant to the Loan Guarantee and acquired a participation interest in the Loans. FDIC/Receiver holds legal title to and a participation interest in the Loans. FDIC/Receiver is the Servicer of the Loans.

D. FDIC/Receiver wishes to include the Loans in several pools of loans ("Pool") in one of its upcoming loan sales ("Sale"), of which the Sale will involve the transfer of all legal rights, title, and interest in the Loans.

E. In order to facilitate the marketing and sale of the Loans, USDA wishes to transfer its participation interest in the Loans to FDIC/Receiver pursuant to the terms and conditions set forth in this Agreement so FDIC/Receiver will have all rights, title, and interest in the Loans at the time the transactions that constitute a Sale are consummated.

TERMS

1. When USDA holds a financial interest in the loan as a result of paying an estimated loss claim or purchasing the guaranteed portion from a secondary market investor, FDIC/Receiver promises to promptly remit to USDA its share of sale proceeds and other payments in accordance with Paragraphs 5 and 6. Therefore, USDA hereby assigns, transfers, sets over, and conveys to FDIC/Receiver all of FSA's and RD's participation interests in the Loans.

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**\*--Interagency Agreement (Continued)**

2. USDA hereby authorizes and consents to FDIC's sale of the Loans so long as the Pool in which a Loan or Loans is sold, is sold at or above FDIC/Receiver's reserve price for that Pool.

3. In the event FDIC/Receiver wishes to sell a Pool including a Loan or Loans for a price lower than FDIC/Receiver's reserve price for that Pool (a "Below-reserve Pool"), the FDIC/Receiver POC will, via certified email, to USDA POCs listed in the Inter -Agency Agreement between the parties, the decision of FDIC's Senior Management Oversight Committee on the Sale Case regarding the Below-reserve Pool.

USDA shall have 2 business days from receipt of this certified email notification to agree to or decline the sale of such Below-reserve Pool at the proposed below-reserve price. Within said 2 business day , USDA will notify the FDIC POC, via certified email written notice of its decision. If USDA agrees to the sale of the Below-reserve Pool, FDIC/Receiver may sell the Below-reserve Pool. If FSA or RD does not agree to the sale of the Below-reserve Pool, the FDIC/Receiver may not sell the Below-reserve Pool. In no event shall USDA have the authority to instruct FDIC/Receiver to sell a Below-reserve Pool if FDIC/Receiver chooses not to sell such Below-reserve Pool.

4. In connection herewith, USDA authorizes FDIC/Receiver to undertake such actions as FDIC/Receiver may deem appropriate to market and sell the Loans, including, but not limited to, the disclosure of any and all information in FDIC/Receiver's possession regarding the Loans.

5. Attachment I sets out the percentage of USDA's present ownership in each Loan. In consideration of the mutual benefits to be derived from FDIC/Receiver's sale of the Loans as described above, FDIC/Receiver and USDA agree that USDA will receive, as to each Loan sold in a Sale, the same percentage of net proceeds of that Loan as the percentage of USDA's ownership in that Loan shown in Attachment I. Also, FDIC/Receiver will pay USDA that same percentage of the principal and interest portion of any Loan payments received by the FDIC/Receiver on or prior to the date of the sale of the pool, except as those proceeds are derived from an obligor's exercising their right of offset resulting in the issuance of a Receivership Certificate to the participant.. FDIC/Receiver agrees to remit USDA's share of proceeds and Loan payments to USDA within thirty (30) days after closing with the successful bidder.

6. As part of the Sale, FDIC/Receiver will require the successful bidder(s) to break down the bid on each Pool as to the percent of the bid attributable to each loan in the Pool. This will enable FDIC/Receiver to demonstrate the sale price of each Loan. Following the sale of the Loans, FDIC/Receiver will remit to USDA their share of proceeds as described in Paragraph 5 above. FDIC/Receiver agrees to provide this bid information to USDA upon its request.

7. As an inducement to FDIC/Receiver to include the Loans in a Sale, USDA represents and warrants to and covenants with FDIC/Receiver that, as to the participation interests it has assigned herein:

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\*--Interagency Agreement (Continued)

- (a) USDA had a participation interest in each of the Loans;
- (b) USDA had the right to sell such interests;
- (c) USDA had not pledged, hypothecated, assigned, released or subordinated its interests in any of the Loans;

(d) USDA has all requisite power and authority to execute this Agreement and to perform all of its obligations pursuant to this Agreement and USDA has taken all necessary actions to authorize the execution, delivery, and performance of this Agreement and this Agreement is a valid and binding agreement enforceable against USDA in accordance with its terms;

8. FDIC/Receiver and USDA agree to cooperate in facilitating the transactions contemplated in this Agreement by promptly executing any required amendments or documents or providing necessary information as appropriate and authorized by law.

9. This Agreement will be governed by, construed and enforced in accordance with applicable Federal law.

10. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11. Each part of this Agreement is intended to be severable. If any term, covenant, condition, or provision hereof is illegal, invalid, or unenforceable for any reason, such illegality, invalidity, or unenforceability is not to affect the legality, validity, or enforceability of the remaining parts of this Agreement, and all such remaining parts of this Agreement will be legal, valid, and enforceable and have full force and effect as if the illegal, invalid, or unenforceable part had not been included.

12. This instrument may be executed in a number of identical counterparts, each of which, for all purposes, shall be deemed an original.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first written above.

U.S. DEPARTMENT OF AGRICULTURE  
Farm Service Agency

WITNESS

By:  
Printed name:  
Title: State Executive Director



**\*--Interagency Agreement (Continued)**

	OR
	U.S. DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT
WITNESS	By: Printed name: Title: State Director
	FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER OF (THE SPECIFIC BANK NAME)
ATTEST/WITNESS	By: Printed Name: Attorney-in-Fact

\*--Interagency Agreement (Continued)

ACKNOWLEDGMENTS

DISTRICT OF COLUMBIA, ss:

Before me, the undersigned Notary Public, personally appeared \_\_\_\_\_,  
the Authorized Agent for the United States Department of Agriculture and the person  
who executed the foregoing instrument by virtue of the authority vested in him, and he  
acknowledged to me that he executed the same for the purposes and consideration therein  
expressed and in the capacity therein stated.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

[SEAL]

Notary Public

My commission expires

\*--Interagency Agreement (Continued)

STATE OF TEXAS        )  
                                  )  
COUNTY OF DALLAS    )

Before me, the undersigned Notary Public, personally appeared \_\_\_\_\_,  
Attorney-in Fact for the Federal Deposit Insurance Corporation and the person who  
executed the foregoing instrument by virtue of the authority vested in him/her, and he  
acknowledged to me that he/she executed the same as the act of the Federal Deposit  
Insurance Corporation acting in the capacity therein stated for the purposes and  
consideration therein expressed.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

Notary Public

**\*--Interagency Agreement (Continued)**

ATTACHMENT I  
SCHEDULE OF LOAN

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## **Appraisals for the Liquidation of Poultry and Other CAFO's**

### **A Background**

Poultry and other CAFO facilities are often appraised for the “liquidation or salvage” value by a guaranteed lender when submitting a loss claim because CAFO is no longer active. Subsequently, a third party may purchase the facility for the “liquidation or salvage” value and obtain a contract from an integrator that then inflates the value of the property to its “highest and best use” value as an active CAFO. This results in a greater loss paid by FSA than necessary and the possibility that FSA will approve a guarantee on the same property on which it previously paid a substantial loss.

### **B State and County Offices Responsibilities**

State and County Offices are required to:

- analyze lender’s liquidation appraisals for poultry and other CAFO’s to ensure that the market conditions for CAFO’s and the demand for producers by area integrators has been properly reflected in the appraisal
- advise guaranteed lenders that they should, according to USPAP when submitting loss claims, appraise CAFO property to determine the “highest and best use” value considering the demand for CAFO facilities and operators by the area integrators and only use “liquidation or salvage” value appraisals when there is no demand and it is likely that the \*--property will not be used for a CAFO in the future.--\*

### **C Appraising Poultry Facilities and Other CAFO’s for Loss Claims**

If the market indicates that there is a demand for CAFO facilities with integrators in the area, then the appraisal requested by the lender will be a market value appraisal less the cost of repairs or retro-fitting, if necessary. When assigning the scope of work for the appraisal according to USPAP Standards Rule 1-2(f), the lender should require appraiser to:

- survey all existing integrators in the area as to the feasibility of the availability of an operating contract on the property
- appraise the property for its “highest and best use” value as required by USPAP Standard Rule 1-3.

Appraisers should be held accountable by the lender for a “liquidation or salvage” value appraisal of a CAFO facility that is in fact suitable as a functional facility. Lenders will be advised that FSA will be closely reviewing these types of appraisals.

Appraisals for the Liquidation of Poultry and Other CAFO's (Continued)

**D Appraisals and Actions After Final Loss Claims**

This table provides guidance for appraisals and actions that shall be taken after final loss claims.

<b>IF...</b>	<b>THEN...</b>
within 2 years of payment of the final loss claim, there is a loan request on the same property that includes an appraisal at a greater value than the appraisal used to calculate the final loss payment	the appraisals should be thoroughly reviewed to determine the reason for the discrepancy  <b>Note:</b> Any loan application received in this circumstance must be very thoroughly reviewed.
it is determined that the property appraisal at the time of the loss claim payment was deficient	FSA will initiate actions against the lender to recover the difference in value.
a property securing a poultry operation or other CAFO is repurchased at the foreclosure sale and subsequently re-sold by the lender for a higher value than the appraised value	the proceeds exceeding the appraised value must be paid proportionally to FSA as determined in the final loss claim.