

Guaranteed Loan Making Training

JUNE 2023

Narrative

When is the lender narrative guide and sample narrative expected to be out? Where can we obtain these?

FSA Handbook 2-FLP, Exhibit 4.5 provides lenders with a guide to assist them in completing a thorough narrative to support their application for an FSA loan guarantee. FSA is updating this guide to include current standards, add a checklist, and add a sample narrative to help lenders understand the elements they must include. We anticipate that this update will be released in Fall 2023.

What new items will be included in the narrative example?

While the new sample narrative will not introduce or require any new material, our goal is to provide lenders with a clearer picture of what FSA needs in a loan narrative. Sections, such as eligibility, description of operation, and 5 C's of credit will be presented along with a descriptive text box showing which items lenders should focus on in each section of the narrative.

If we have customers that are waiting for certain FSA payments from years past, should those be added to the narrative section when updating the financials for the loans?

Yes, FSA requests that you include information about the type and amount of payment that is yet to be received in the capacity section of the loan narrative. If there are any extenuating circumstances surrounding that payment, we would also ask that you include that information as well.

For OL fund use, what type of verification do you require? Can it be a statement from the borrower or will you require a copy of an invoice of the expense paid?

For an OL loan to purchase machinery or breeding livestock, the lender should retain a copy of the invoice. For an OL to refinance debt, FSA would require documentation showing the payoff for the loans refinanced, if refinanced from external sources. For LOC funds, FSA requires the lender to document all outflows according to their internal policies. Best practices would be to obtain invoices for these expenses if possible, or track use of funds via a separate farm operating checking account. The particular method is up to the lender; however, keep in mind in the event of a loss claim, FSA may require the lender to demonstrate that LOC funds were used for authorized purposes.

Application Processing

Must the lender provide FSA with a copy of the applicant's driver's license or passport?

A copy of the applicant's driver's license or passport is not required to be submitted as part of a complete guaranteed loan application. If it is required for the lender's internal underwriting purposes, we ask that the lender retain the necessary records according to for your own policies.

Assuming you have all the documentation you need for a complete application, what is your turn time? There seems to be inconsistencies throughout the County Offices.

FSA target processing timeframes differ for each type of lender. After obtaining a complete application, the target processing timeframes for an application by type of lender are listed below. Please keep in mind that an application is not considered complete until items that may be required for FSA's environmental review such as archeological surveys or SHPO/THPO consultation have been received. This will potentially result in increased processing timeframes as applications cannot be approved until FSA's environmental review is completed and approved.

Lender Type	Processing Timeframe in Calendar Days from the Date the Application is Complete
SEL (regular loan)	30 calendar days
EZ Guarantee	14 calendar days
CLP	14 calendar days
PLP	14 calendar days

The last few FSA Guaranteed Loan applications that I have submitted have required FSA State Office approval, thus increasing the turnaround time. Are these applications no longer approved at the County level?

Each state manages their guaranteed loan application volume based on their individual staffing and workload capacity. Most states still process the applications within the county offices while some states have their state offices process those applications for a variety of reasons. Also, depending on the amount of the request, an application may need to be approved at a higher level of authority. You can inquire with your FSA State Office about their policy on guaranteed loan application processing.

Is there a group mailbox we should send applications to, or to a specific person?

Currently, FSA does not use a group email address to receive applications. You should ask your local office to identify the best email address to submit an application. When possible, we encourage FSA offices to ensure out of office emails are set to avoid issues in cases of staff absences. FSA also encourages lenders to utilize read receipts to ensure proper follow-up. We are continuing to explore ways to better serve our customers and hope to provide more electronic alternatives in the future.

Does the direction to FSA staff obtaining information from other FSA program office also extend to FSA staff gathering information from sister agencies such as NRCS?

When possible, the National Office encourages the FSA loan staff to gather information from sister agencies such as the NRCS. There may be circumstances that require the applicant to obtain the information from those agencies as some items cannot be released without the permission of the applicant.

Some states do not allow joint FSA Direct and Guaranteed financing on the same project even though FSA Handbook 2-FLP specifically allows it. Is there any plan from the national office to enforce consistency with FSA Handbook 2-FLP guidelines on this?

Joint lender and FSA financing on projects is possible in all states if the proposal meets Direct and Guaranteed program rules. FSA has implemented several initiatives to mitigate the consistency issues that exist in FLP State and Local Offices and will continue to make this a priority.

What determines which FSA office will process a loan application? The location of the collateral or the location of the applicant?

Traditionally, FSA Direct loan applications are submitted in the county where the operation is headquartered. This ensures that the FSA loan officer is knowledgeable in the local farming practices and markets. Many states follow this practice for Guaranteed loans also; however, some states have adopted alternative delivery methods for the Guaranteed program to better serve lenders doing business in multiple counties.

Do you have an updated Guaranteed Loan Processing Checklist that you could share?

The FSA-2291 "Lender's Processing Checklist" is available and can be requested from your local county/state office or [Guaranteed Loans - Lender Toolkit \(usda.gov\)](https://www.usda.gov/loan-guarantee/loan-processing-checklist). This checklist is updated as program changes occur.

Signatures

If one of the applicants are out of the area, can we collect an electronic signature, or does it have to be a wet signature?

Lenders are allowed to collect electronic and digital signatures from applicants in lieu of a "wet" signature. Generally, the following is acceptable according to FSA Handbook 2-FLP, Paragraph 3C:

- Scanned/faxed images of documents containing handwritten signatures
- Digital signatures that:
 - ◇ Have been emailed by a lender known to the Agency, from a recognized email address;
 - ◇ Identify the individual signing the document;
 - ◇ Identify the software vendor used to execute the digital signature; and
 - ◇ Provide a method to confirm the authenticity of the signature.

The following examples are not acceptable:

- Digital images of an individual's signature (.jpg or similar) pasted in the signature block with no method of validation.
- Typed names or initials on the signature line.

If lenders provide a document with acceptable electronic or digital signatures, there is no need to submit an "original" "wet" signature. Electronic or digital signatures are acceptable for both applicants and lenders.

Are electronic signatures acceptable through DocuSign?

Yes. As one of the more widely used digital signature software systems, signatures obtained via DocuSign meet the criteria of FSA Handbook 2-FLP, Paragraph 3C as outlined above, so they can be accepted by the Agency.

Interest Rate

How does FSA respond to a lender's loan based upon Prime instead of the Secured Overnight Financing Rate (SOFR)?

FSA's maximum interest rate rules don't specify which particular index a lender must use when pricing their guaranteed loans. Those rules simply refer to the SOFR (and the 5-year Treasury note rate) to establish the maximum allowable rate regardless of the actual methodology used by the lender to price the loan.

Those maximum thresholds are outlined in FSA Handbook 2-FLP, Paragraph 135. More specifically the rules are:

- For loans with variable rates or rates fixed for less than 5 years: 6.75% above the prior business day's SOFR rate; or
- For loans with rates fixed for 5 or more years: 5.5% above the prior business day's 5-year Treasury note rate

NOTE: In the event that the SOFR falls below 1.75%, each of the maximums above may be increased by an additional 1%.

How should lenders handle situations when they have been notified that the maximum interest rate has been exceeded? Are there any situations where exemptions could be allowed?

If a lender has been notified by FSA that the interest rate they charged exceeds the maximum allowed FSA's rules, they must work with FSA to adjust the rate to bring it into compliance. The rules don't allow for any exemptions.

Is the maximum interest rate only an issue at the time of loan closing?

FSA policy establishes the maximum interest rate that the lender may charge at the time of loan closing or restructuring. The rules do not specify the maximum rate charged at other times.

Eligibility

Are informal entities eligible for FSA Farm Loan guarantees (i.e. two or more person applying together)? If so, should lenders consider these Joint Operations?

FSA regulations do permit two or more unmarried individuals to apply for a loan as a joint operation, or as an informal partnership, provided that is how they operate the farm and consistent with how they represent their operation to FSA's Farm Programs and other agencies. Furthermore, FSA does require the entity applicant to be authorized to operate under state laws, and some states may have more specific requirements for registering an entity; therefore, state law has some bearing on the appropriate entity choice on the application. FSA does not require a separate EIN number for an informal entity.

Secondary Market

Is it acceptable to obtain an FSA Guarantee so the borrower can obtain a 30-year fixed rate if an in-house loan generally is only fixed for 5 years and amortized over 20 years? What if the borrower would qualify for Farmer Mac 1, does the borrower still qualify for an FSA Guaranteed loan?

When applying for a guarantee, the lender must be able to demonstrate that they are unable to make the loan without the guarantee. While there is no specific prohibition tied to the Farmer Mac 1 program, if a particular applicant qualifies for the Farmer Mac 1 program, the lender should generally be able to make the loan without a guarantee in most cases.

What is the maximum loan guarantee rate FSA will provide for a loan the lender plans to sell off on the secondary market and how is that guarantee determined?

Whether the loan is to be sold on the secondary market does not affect the percent of guarantee. For most loans, the maximum percent of guarantee is 90 percent. The loan guarantee percentage is determined by FSA based on the risk involved in the loan, before and after the guarantee. The lender may receive a 95 percent guarantee in certain circumstances, including, but not limited to when:

- The applicant meets the definition of a beginning farmer or socially disadvantaged applicant.
- The purpose of the loan is to refinance an FSA Direct loan (a weighted percentage is used if only a portion of the loan is used for this purpose)
- The purpose of an FO loan guarantee is to participate in the down payment loan program

Feasibility

For projected prices on a cash flow, the current FSA prices for cattle are significantly lower than current market prices. Are lenders only allowed to base our cash flows on the FSA planning prices, or is there some consideration for current market conditions?

Guaranteed lenders are not required to use FSA planning prices on their cash flows.

7 CFR 762.125 states: "Lenders must use price forecasts that are reasonable and defensible. Sources must be documented by the lender and acceptable to the Agency."

FSA Handbook 2-FLP, Paragraph 152 C further explains: "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.”

If a lender can document and defend the source, and the prices are reasonable given current market conditions, the Agency may accept them.

Working with FSA Direct Loan Programs

We are currently helping our customer pursue a Direct FO Participation loan with FSA. This customer had to have his father purchase the Ag RE, then had to buy the Ag RE from his father after qualifying with the FSA. There are people that can qualify for this but may not have someone to purchase for them while waiting for the FSA. Will FSA ever opt to allow bridge lending from a Lender in order to help some buyers purchase land at auction?

Bridge loans are restricted by Federal statute. Under the applicable statute, FSA is authorized to refinance bridge loans only when the following criteria is met:

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

These requirements cannot be altered without a statutory change.

Has FSA looked at being able to improve the timeliness of approvals for purchase of land at an auction?

To provide timely and equitable services to all stakeholders, FSA is required to process applications based on the date the application was determined to be complete. FSA Handbook requires a real estate purchase agreement as part of a complete application. For a real estate auction, a complete application is not typically available until the conclusion of the real estate auction, when the real estate purchase agreement is executed.

Is it true that gross farm income must be high enough to cover the total debt payments for a new loan? We have been told that even if an applicant has additional non-farm income, enough to make all obligations, the client would only be eligible for a loan with a payment that can be serviced only by the farm income.

The key determination remains whether or not the applicant meets the “Family Farm” definition found in the regulations. Part of the “Family Farm” definition found in FSA Handbook 3-FLP includes the following: “a business operation that produces agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence.” The administrative guidance, in FSA Handbook 3-FLP, states that the gross farm income generated by the operation must be proportionate to the purchase price. As a guide to determine if a proposal is proportionate, typical year gross farm income should normally be at least equal to the annual installments for any debts associated with the real estate purchase or improvement.

The “As a guide” and “should normally” language allows the FSA FLP loan official flexibility to deviate from the rule on a case by case basis if the Family Farm definition is met. This flexibility is necessary due to a variety of factors including but not limited to variances in local real estate values, improved versus vacant property, enterprise differences, interest rate changes, etc.

It is a standard practice for lenders to consider a new farmer or rancher to be someone just starting out. For a beginning farmer to qualify for an FSA Direct Farm Ownership loan, why must the borrower have operated a farm for 3 years?

Federal statute requires three years of participation in the business operations of farm to be eligible for FSA Direct Farm Ownership loans. This statute applies to all FSA Direct FO applicants including those applicants defined as beginning farmers. However, statute also allows for limited substitutions (such as education or business experience) of a portion of the three years, and in some scenarios all three years.

These requirements cannot be altered without a statutory change.

Security

If FSA issues Form FSA-2232, “Conditional Commitment” stating the lender must take a lien on all cattle, but the cattle won’t be purchased until post-closing, can the lender file lien when purchased?

Yes. Form FSA-2232, “Conditional Commitment” establishes the security that a lender is expected to take and the expected lien position. It is the lender’s responsibility to ensure they meet these conditions. In this example, if the lender obtains the expected lien position on all cattle, the condition would be met.

Miscellaneous

Our bank is not located on the guaranteed lender list. We have participated in other farm loan programs with the FSA. Do we need to complete the Lender's Agreement to be added to this list?

On our website, FSA provides the public with a list of lenders who have made a guaranteed loan in the past. It is sorted by state to make it easier for someone interested in obtaining a guaranteed loan to find a lender in their area. If a lender does not appear on the list for a particular state, it may be because they have only made guaranteed loans in another state. FSA does provide the following guidance related the list of lenders on the website:

“Please note that this list is intended to get you started by providing very basic lender contact information. It may not contain all agricultural lenders in your area, and some lenders have multiple branches which are not specifically listed. Your local FSA Farm Loan Team can help you connect with a local lender, too, or provide you with a list of lenders known to make agricultural loans in your geographic location.”

Also please note that this list is only updated periodically and does not automatically update. If a lender finds an error related to their institutions information on that list, they can reach out to FSA accordingly.

We recently acquired another bank that had FSA loans. Does FSA's national office assist with the portfolio loan transfers, or is it handled at the state or local level?

This depends on the status of the lender. FSA's national office assists with mergers and acquisitions involving PLP lenders. The state or local office would be the appropriate contact for mergers and acquisitions involving SEL and CLP lenders.

Where can we report an issue with a local FSA office?

If you have an issue with a local office, you should contact the FSA State Office Farm Loan section. You can locate the appropriate contact on our list of Guaranteed Loan FSA State Office contacts https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/Farm-Loan-Programs/xls/Lender_POC_by_State.xls.

What is the process for becoming a Certified Lender (CLP) or Preferred (PLP) status lender?

Lenders who desire to obtain CLP status must have made at least 10 FSA Guaranteed Farm Loans, 5 of which must have been closed in the past 2 years. They must also have a loss rate not exceeding 7 percent on their FSA Guaranteed Loans. Lenders who desire to obtain PLP status must have made at least 20 FSA Guaranteed Farm Loans in the past 5 years and have a loss rate not exceeding 3 percent on their FSA Guaranteed Loans. A lender does not have to hold or have held Certified Lender (CLP) status but is required to meet the CLP Eligibility Criteria to become a PLP Lender, which includes having made 5 FSA Guaranteed Loans in the past 2 years.

To begin the process of attaining CLP or PLP status:

1. The lender should first contact the FSA State Office Farm Loan Program (FLP) division and inform them of their intent to submit a request for CLP or PLP status. The lender and State Office FLP division should together develop the lender's request for approval.
2. The lender will submit a “Lender's Application Letter” demonstrating the lender meets the CLP or PLP eligibility criteria.
3. For PLP status, the State Office FLP division will review the Lender's proposed Credit Management System (CMS).
4. The State Office FLP division will gather reports including volume, loss, delinquencies, timeliness of lender reporting, etc. to confirm the lender meets the necessary thresholds.
5. For PLP status, the State Office FLP division will prepare a “Letter of Recommendation” to FSA's National Office.
6. For PLP status, the State Office FLP division will forward all documents to the National Office for review and approval. During this process, the National Office will contact the lender to discuss the program goals and requirements, and will also review the CMS with the lender to ensure understanding of the agreement.

[FSA Handbook 2-FLP Par. 53]