

# Guaranteed Loan Making Training

JAN / FEB 2023

## ➤ PLP Status Approval

### 1. What is the process for becoming a Preferred (PLP) status lender?

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 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 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 PLP eligibility criteria.
3. 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. The State Office FLP division will prepare a "Letter of Recommendation" to FSA's National Office.
6. 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]

### 2. My bank is currently a CLP Lender. Can you discuss some of the benefits of moving up to PLP status?

PLP is the top status that a lender can hold in the FSA Guaranteed Farm Loan Program.

Some of the benefits include:

1. The amount of supporting documents a lender must submit to FSA with an Application for Guarantee is significantly reduced.

A complete application for PLP Lenders will consist of:

- a. An application form (FSA-2211)
- b. A Loan Narrative
- c. Necessary environmental information
- d. Any other items agreed to during the approval of the PLP lender's status and contained in the PLP Lender's CMS.

2. The PLP status allows lenders to originate and service guaranteed loans using much of the same information and processes as they would other loans in their portfolio.
3. The PLP status results in reduced turnaround time on FSA actions. FSA must make a loan approval decision within 14 days of receiving a complete application or the loan is automatically approved.
4. The PLP lender has additional servicing authorities which eliminates waiting for FSA concurrence on many actions.
5. These streamlined processes allow PLP lenders to reduce administrative costs, provide a quick turnaround time, and offer a higher level of service to their customers.

### 3. When renewing PLP status, will the 20 loans in 5 years requirement remain in place or has FSA considered reducing this threshold?

Currently this eligibility requirement is still in place for PLP status renewal; however, we are reviewing our rules to consider alternative thresholds for either initial approvals or renewals.

## » Appraisals

### 4. Clarify the requirements for real estate secured loans under \$250,000. What is satisfactory for appraisals? What if the loan is right at \$250,000, would an appraisal be required?

For loans of \$250,000 or less, the lender must document the value of the real estate by applying the same policies and procedures as their nonguaranteed loans.

For loans of \$250,000 or less, an internal evaluation may be used if that is consistent with a lender's internal policies for non-guaranteed loans. Most regulators require the lender to follow the Interagency Appraisal and Evaluation Guidelines when valuing real estate security. FSA Handbook 2-FLP guidance on real estate valuation for loans of \$250,000 or less closely follows these Interagency Guidelines for completing an evaluation and report. Also, the lender is expected to follow their internal policies when deciding whether to use an appraisal or evaluation for loans of \$250,000 or less.

As a best practice, we recommend before completing an evaluation that the lender review 2-FLP Paragraph 183A and discuss their plans with the local FSA office. [FSA Handbook 2-FLP, Par. 183A]

### 5. Does FSA require a copy of appraisals on all poultry operations?

No, FSA does not require a lender to submit a copy of an appraisal for poultry operations. However, information from the appraisal report is frequently helpful to support the effective age and remaining useful life of poultry buildings. This information can be included in the lender's narrative without providing a copy of the appraisal report.

### 6. When did FSA change the age for a current appraisal from 12 months to 18 months?

The rule amending 7 CFR 761.7(c), 762.127(c), and 766.202(a) to allow the use of real estate appraisals completed within the previous 18 months, rather than 12 months was published on August 9, 2021 (86 FR 43381).

### 7. The 18-month threshold for a "current" appraisal applies to real estate appraisals, not chattel appraisals, correct?

Correct, Chattel Appraisals must still be no older than 12 months. [FSA Handbook 2-FLP, Par. 182A]

### 8. When FSA uses a third-party appraisal from a commercial lender for jointly financed transactions, can you clarify the requirements? Must the appraisal be completed by an FSA approved appraiser, or is any Certified General appraiser acceptable?

When transactions involve joint financing with an FSA Direct loan and a commercial lender, the commercial lender may use FSA's appraisal to save the borrower additional appraisal cost. There are certain Federal contracting requirements that must be followed when FSA pays for the appraisal for a direct loan, so FSA may not always choose the same appraiser that a lender would select in those situations.

Conversely, to save processing time for the applicant, FSA may use the lender's appraisal provided the appraisal was completed within the past 18 months, meets FSA Handbook 1-FLP Part 6 Paragraph 142B requirements, and FSA's review of the appraisal indicates it is acceptable. If the appraisal was ordered and prepared for a commercial lender, the appraiser may be any certified general appraiser. [FSA Handbook 1-FLP, Par. 141H, 142B]

### 9. Why hasn't FSA adjusted the appraisal threshold to match the current bank regulatory guidelines?

FSA must operate its credit programs consistent with direction from the Office of Management and Budget (OMB). The current version of OMB Circular A-129, "Policies for Federal Credit Programs and Non-Tax Receivables" sets the threshold for appraisals by State Licensed or Certified appraisers at \$250,000 for business loans. In the past, FSA felt this threshold was appropriate as a risk mitigation measure since the loans for which lenders request a guarantee generally tend to be tightly leveraged with relatively high loan to value. However, we recognize it has been some time since this threshold has been set, and FSA's maximum loan limits have increased since then. We did consult with the Small Business Administration and discovered they increased their appraisal threshold as a result of specific legislative provisions. We will evaluate our options to increase the appraisal threshold.

### 10. Our bank accepts tax assessed valuations for an evaluation of real estate collateral. Will FSA concur?

FSA Handbook 2-FLP, Paragraph 183A details what is required for an acceptable evaluation of real estate collateral. The evaluation report must describe the analysis performed and supporting information used to determine the property's market value. When requested, the lender must demonstrate that the method or tools used to determine value is consistent with safe and sound lending practices.

Agricultural real estate market value estimates from a tax assessor are particularly challenging due to characteristics of the subject property, improvements, economic, and market conditions. Additionally, assessed valuations lack consistent historical comparable sales through their mass valuation techniques. Tax assessed valuations can be a reasonable source for an estimate of value, but they typically should be supported by other sources, like comparable sales of similar land. [FSA Handbook 2-FLP, Par. 183A]

## Environmental

### 11. Who is responsible for completing environmental due diligence (FSA-851 or a similar form) for guaranteed loans? When should that be completed?

The environmental due diligence review (Form FSA-851, “Environmental Risk Survey Form” or a similar form) addresses the suitability of the loan security, which is separate and distinct from the National Environmental Policy Act (NEPA) environmental review completed by FSA.

Lenders are responsible for completing the FSA-851 or a similar form for guaranteed loans with real estate serving as primary security. Lenders should generally complete this review prior to submitting the application because the lender must certify on the FSA-2211 “Application for Guarantee” that they’ve completed a site visit and they must indicate whether or not any environmental hazards are present.

Lenders are not required to submit that due diligence review to FSA unless their review indicates that potential hazards may exist. If a lender fails to complete the review and there is a loss claim, that loss claim may be reduced or denied if environmental hazards contributed to the loss.

### 12. If a guaranteed lender is making a guaranteed loan in conjunction with an FSA direct loan, can FSA complete the environmental due diligence for the lender?

While lenders are encouraged to work collaboratively with FSA in joint financing situations, the lender should still complete their own due diligence review on the FSA-851 or other similar form.

### 13. Who is responsible for completing the NEPA environmental review and any associated consultations with outside agencies?

The NEPA environmental review focuses on the potential environmental impact of whatever action is being facilitated by the guaranteed loan funds. FSA is responsible for completing this review and any related

consultations that may be necessary. However, FSA may need the lender’s assistance in obtaining the information needed to complete the NEPA review and consultations.

Depending on the complexity of the review, an FSA employee may need to conduct a site visit to complete the review.

### 14. Is it possible for FSA’s NEPA environmental review to be started prior to submission of a guaranteed loan application?

FSA encourages lenders to contact the Agency early in the planning process for an application which may include ground disturbance and/or a large number of confined or livestock. The review can generally be started prior to the application being submitted, but the lender should work with FSA to make sure it appears that the other aspects of the application (eligibility, feasibility, security, etc.) are favorable before dedicating a significant amount of time to the NEPA environmental review.

### 15. When is a guaranteed loan application considered complete in situations where a more advanced NEPA environmental review is required?

The application is not considered complete until FSA has all the information needed to complete the NEPA environmental review. If consultations with outside agencies are required, the application is not considered complete until all those consultations are finished. FSA Handbook 2-FLP, Paragraph 97 allows for extended application processing timeframes if a more complex environmental review is required.

If FSA has inadvertently determined an application to be complete, but later discovers additional information is needed for the NEPA environmental review, that information still must be provided since NEPA requires that the environmental review must be fully completed before the application for guarantee can be approved. This statutory requirement related to NEPA supersedes the requirement that FSA must make an approval decision on an application for guarantee from a PLP lender within 14 days of receiving a complete application.

### 16. What types of loan requests typically require a more advanced NEPA environmental review?

All FSA loans require some degree of NEPA environmental review prior to approval. The complexity of that review varies depending on the details of the specific loan request. Requests that involve disturbance of previously undisturbed ground beyond the plow layer typically need a more advanced review to be completed. Additionally, loans involving Concentrated Animal Feeding Operations (CAFOs) generally require a more complex review.

Those more detailed reviews typically involve consultations with outside Agencies, and sometimes public comment. Outside Agencies may include, but are not limited, to State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO), the U.S. Fish and Wildlife Service (FWS), and other Federal and State agencies.

**17. Why do FSA's requirements for the NEPA environmental review sometimes differ from state level requirements?**

While each state may have their own environmental laws and regulations, FSA is required to ensure the Agency complies with NEPA requirements from the Federal perspective.

**18. Why do applicants sometimes need to complete FSA's Form AD-1026, "Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification (Includes Form AD-1026 Appendix)" when they initially apply for a loan, but then also have to complete another AD-1026 after the loan has closed (in the case of a real estate purchase)?**

Form AD-1026 is used to document compliance with the Highly Erodible Land (HEL) and Wetland (WL) requirements of the Food Security Act of 1985. The answers to the questions on the form are influenced by prior land use and any plans for future use of the land. Land being purchased may not yet be under the control of the applicant; therefore, access to make the needed determinations may not be available at the time of application.

FSA's Farm Program staff manage the documentation of compliance with these requirements, as well as who owns and operates any farm receiving FSA benefits. As a result, when someone purchases a farm and the ownership changes, there is sometimes a need to complete an updated AD-1026 depending on the applicant's plans for the use of that land. Additionally, if the applicant participates in FSA's Farm Programs, the requirements of those programs could also trigger the need for an updated AD-1026 to be completed.

## Application Information Requirements

**19. What is a PLP lender required to provide to FSA for a complete application?**

A complete application for PLP Lenders will consist of:

1. An application form (FSA-2211)
2. A Loan Narrative
3. Necessary environmental information
4. Any other items agreed to during the approval of the PLP Lender's Status and contained in the PP Lender's Credit Management System (CMS).

As a best practice, PLP lenders should be aware of any additional information described in their CMS. PLP lenders are also expected to be superior communicators and should be able to present a thorough narrative that answers the questions necessary for an FSA approval official to make eligibility and other program determinations. Nevertheless, FSA's approval official may have questions for the PLP lender, which can typically be addressed in an email or phone conversation. [FSA Handbook 2-FLP, Par.69]

**20. What handbook paragraph addresses requests for additional information? Can FSA require balance sheets, income statements, or other financial documents from PLP lenders?**

FSA Handbook 2-FLP, Paragraph 69A states the agency may request additional information from any lender or review the lender's files as needed to make eligibility and approval decisions. These requests should be made only in situations when, because of the unique characteristics of the loan request, an eligibility or approval decision cannot be made without additional information.

FSA should not generally require or collect additional financial documents from PLP lenders. However, there may be questions that arise during FSA's review of a loan request that would be most easily answered by the lender providing the source document (e.g., balance sheet or cash flow projection). Questions during FSA's review can typically be answered in an email or phone conversation; however, if during the conversation, FSA and the PLP lender agree that providing a financial document would be the best way to answer questions, this would be acceptable on a limited, case-by-case basis. [FSA Handbook 2-FLP, Par.69A & B]



- 21. What should an FSA approval official do if the lender narrative does not properly address the 5C's of credit or does not provide enough information for an approval determination to be made? Can FSA request financials or ask for the narrative to be revised?**

The loan narrative must include sufficient detail to provide the FSA official with the information required to ensure the guaranteed loan applicant meets the eligibility and other program requirements. The level of detail necessary in the lender's loan narrative is determined by a variety of factors including the structure of the farming operation, loan type, and purpose.

If the lender's loan narrative does not provide sufficient detail, the loan approval official should contact the lender and discuss the additional details needed to evaluate the loan request. In most situations, the lender should be able to answer questions in an email or phone conversation. In rare situations, the lender may need to revise the loan narrative to address the issue. Only in extremely rare situations would a lender need to provide additional documentation, and the reasons for this should be documented in FSA's loan file.

- 22. There are times where FSA needs additional information after an application from a PLP lender is determined to be complete? What are FSA's options when a lender does not respond to inquiries?**

FSA loan officials must be particularly careful before determining an application from a PLP lender complete because of the automatic 14-day approval that results if FSA does not approve or reject a complete application for guarantee from a PLP lender. However, we understand this may occasionally occur. If an application has been determined complete, FSA's request for additional information should be strictly limited to those items critical to supporting an approval decision. Lenders should be reminded that the automatic approval process results in a lower percentage of guarantee, so it's in their best interest to provide FSA with the additional information needed to finish the analysis of the application. If the missing information truly casts doubt on key items such as eligibility, feasibility, or security; and the PLP lender has not been responsive, FSA staff should contact their State Office for guidance on how to proceed. State Offices can contact the National Office as needed.

## General Guarantee Questions

- 23. Can you provide the website where we can obtain the most up to date 2-FLP regulations.**

A complete, current copy of FSA Handbook 2-FLP, "Guaranteed Loan Making and Servicing" can be located on the Guaranteed Loans - Lender Toolkit page at: <https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/guaranteed-farm-loans/guaranteed-loans-lender-toolkit> or <https://www.fsa.usda.gov/programs-and-services/laws-and-regulations/handbooks/index>

Look for 2-FLP, "Guaranteed Loan Making and Servicing" under Farm Loan Programs.

- 24. If there are no changes in the terms of a line of credit, is a lender able to renew an existing guarantee, or must the lender re-apply for a new guarantee?**

If an existing 5-year line of credit guarantee is maturing and the lender wishes to continue with a guarantee, a new Application for Guarantee must be submitted for another 5-year line.

- 25. Does FSA still use Moody's Lending Cloud aka Web Equity for underwriting/processing loan requests/servicing?**

Yes. FSA currently uses Moody's Lending Cloud for its direct loan underwriting.

- 26. Does FSA require a formal entity such as an LLC to be formed if the applicants are two or more non-married individuals, for example father/son or siblings? Or, would an informal joint operation suffice? Must the entity have a separate EIN #?**

FSA regulations do not prohibit two or more unmarried individuals from applying for a loan as a joint operation, or as an informal partnership, provided that is how they operate the farm and they represent their operation in this same manner to FSA's Farm Programs and other agencies. However, FSA does require that the entity applicant be authorized to operate under state laws, and some states may have more specific requirements for registering an entity. FSA does not require a separate EIN number for an informal entity.

**27. Are unofficial entities you mentioned such as Joint Ventures eligible to apply for loans, and if so, then what documentation on the entity do you need?**

Joint Operations are an eligible entity for FSA loans provided they are allowed to operate in the state in which the farm and farm operation is located. Since state laws vary, we recommend you contact the local office to discuss necessary documentation.

**28. How are you handling EIDL loans that have priority lien positions? By nature of the EIDL agreement, it is automatically prior to all other liens without a subordination.**

SBA's Economic Injury Disaster Loan (EIDL) and EIDL Advance programs were offered to eligible agricultural businesses beginning in 2021. For most borrowers, EIDL repayment began in late 2022. For those loans where deferment has expired, scheduled payments should be included in cash flow budgets.

SBA has indicated their intent was not to perfect a lien on farm products; nevertheless, the original SBA UCC-1's did perfect a lien on farm products, including crops and livestock. Accordingly, for EIDL's where SBA filed broad UCC-1's covering farm products, crops, and livestock, a subordination may be necessary. Since 2021, SBA has provided subordinations to lenders, including FSA, who require a superior lien position on farm products, including crops and livestock.

**29. A borrower plans to apply for an FSA direct loan and joint financing with a lender. Is the process for the direct loan application any different if the lender is a PLP lender?**

When applying for financing jointly with an FSA direct loan and a commercial lender, the process is the same for the FSA direct loan regardless of lender status. In any case, the borrower should let FSA and the lender know who else they are working with when they submit applications so information may be shared between the two lenders, saving the borrower time and effort.

**30. What is FSA using for 2023 corn/soybeans prices in cash flow projections?**

FSA planning prices are determined by our State Offices. We recommend you contact your local or state office for a current price list.

**31. What is the best practice regarding conditional commitment revisions? Before or after loan closing?**

If the revisions are minor, the FSA office may issue an email response to the lender documenting approval of the agreed upon condition.

If the revision is more significant, a written letter should be attached to the original conditional commitment and the revision should be noted on the conditional commitment itself.

Best practice is to obtain FSA concurrence to any changes prior to loan closing. Under certain circumstances, FSA may provide post-closing approval, but this is not recommended. The lender may be at risk in the event FSA is unable to agree with the change after loan closing.

**32. Is there training for new lenders who have not worked with FSA prior?**

FSA plans to provide national training to new lenders unfamiliar with our loan programs in the future. In the meantime, you should contact your local FSA office and they would be able to provide this training.

**33. What must be included in a shortened narrative for a loan approved through Scorecard lending?**

When a PLP lender uses scorecard underwriting for a loan, there is no difference in FSA's narrative requirements. FSA relies on the lender narrative for a thorough description of the operation, and support that the loan applicant meets eligibility and all other program requirements. FSA acknowledges the capacity and capital sections of the narrative will be abbreviated, but the lender should refer to the scorecard policies and results in lieu of a more detailed discussion. Also, particular attention should be given to a thorough discussion of why the lender is requesting a guarantee when the applicant already meets the lender's underwriting requirements through the scorecard results.

**34. Can we apply for an FSA Guarantee for a borrower if the borrower would potentially qualify for Farmer Mac 1?**

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.

## Guaranteed Servicing Questions

### 35. At annual renewals, what is the acceptable/required documentation that a Lender should be obtaining on operating line of credit disbursements to document the use of the draws/funds from the line of credit?

While not required during the annual renewal of a line of credit (unless stated in a PLP lender's CMS) it is recommended that all lenders maintain documentation such as the date, amount, purpose of each disbursement, payments, and payment source in a ledger-type or similar format, as this information is required if a loss claim payment is requested, according to 7 CFR 762.149 and 2-FLP Paragraph 360F. This information would be needed during a loss claim process to ensure that lenders have met the requirement of 7 CFR 762.140(b) and 2-FLP Paragraph 263B which states that it is the lender's responsibility to ensure loan funds are not used for unauthorized purposes. FSA reduces or denies loss claim requests on lines of credit more often than other types of loans due to the lender's inability to document that loan funds were used for authorized purposes.

### 36. What does a PLP lender need to provide to FSA when re-advancing on a LOC?

Submission requirements necessary for re-advancing on a LOC would be described in the CMS for that PLP lender.

### 37. Can a direct downpayment loan portion with FSA be assumed by another borrower as well as the guarantee in place with a PLP lender? Or would a new loan application need to be done in order for FSA to review loan limits, etc.?

The FSA guaranteed FO portion may be assumed. PLP lenders may process transfers and assumptions in accordance with their CMS, however this also includes a new application for guarantee to ensure the new borrower is eligible for the guaranteed loan being assumed. The transferee must meet all eligibility requirements and loan limitations for the loan being transferred, including requirements relating to loan rates and terms, loan security, feasibility, environmental and other loan stipulations applicable to an applicant. If transfers and assumptions are not discussed in the CMS, the PLP lender will follow the same procedure as SEL and/or CLP lenders.

The direct FO down payment loan program has additional criteria for assumptions. Loans made to beginning or socially disadvantaged farmers in conjunction with the direct FO down payment loan program may be transferred to and assumed only by beginning farmers or socially disadvantaged farmers. Loans made to beginning farmers participating in a qualified State beginning farmer program may be transferred to and assumed only by beginning farmers.

### 38. What advice do you have for a lender when the borrower no longer farms and rents out or sells the land?

When the land is sold the loan(s) would hopefully be paid in full, often eliminating the lender's guaranteed loan and Agency's direct loan balance. If a loan balance remains on the guaranteed loan, because the borrower is no longer farming, the account is no longer eligible for loan servicing under the guarantee, according to 7 CFR 762.145 and 2-FLP Paragraph 312A. The lender will need to evaluate all options to determine what is in the best interest of the government. This could include restructuring the loan outside of the guarantee or filing a final loss claim. If the lender determines that restructuring the account outside of the guarantee is in the government's best interest, any final loss claim later filed would only be reduced by the dollar amount of loss caused by the lender's decision to restructure (if any).

### 39. Related to Guaranteed loans, what is status of the distressed borrower assistance in the Inflation Reduction Act (IRA)?

Currently, FSA has not finalized any special programs under the authorities of IRA that provide assistance to financially distressed FSA guaranteed loan borrowers. FSA continues to evaluate potential assistance to distressed guaranteed farm loan borrowers and further announcements will be made as additional assistance becomes available.

### 40. If a PLP lender has guaranteed LOC 's made while the lender was CLP, how are requests made to re-advance in subsequent years of the line?

CLP requirements no longer apply once a lender is granted PLP status. Requests to re-advance on a LOC subsequent to a lender achieving PLP status would be processed in accordance with the lender's CMS.

**41. Is it preferred to have a shared first lien or split the parcels and have separate collateral when doing an FSA guaranteed and non-guaranteed bank loan at the same time and on the same collateral?**

Either option is acceptable as long as the collateral is sufficient to cover the debt, the lien positions are clearly defined and identified, and all requirements of FSA Handbook 2-FLP Paragraphs 166-169 are met.

**42. We have a 5-year guaranteed line of credit. Our customer's situation has changed and they now need a larger line of credit. Must we submit a new application, or is there a way to increase the existing one?**

If the need for a larger line of credit ceiling will be ongoing, and is not a one-time unexpected expense, the lender may apply for a subsequent guaranteed line of credit for the difference needed. Once the subsequent guaranteed line of credit has closed, the lender may consolidate these lines into a single loan according to FSA Handbook 2- FLP, Paragraph 286.

If an unexpected expense is a one-time occurrence, the lender may make an emergency advance. The emergency advance will be made as an advance under the line and not as a separate note. There are examples where this may be an appropriate option as outlined in 2-FLP, Paragraph 283A.

As a best practice, the lender should discuss any question with their local FSA office.