

Farm Service Agency, USDA

§ 764.51

Subpart E—Downpayment Loan Program

- 764.201 Downpayment loan uses.
- 764.202 Eligibility requirements.
- 764.203 Limitations.
- 764.204 Rates and terms.
- 764.205 Security requirements.
- 764.206–764.250 [Reserved]

Subpart F—Operating Loan Program

- 764.251 Operating loan uses.
- 764.252 Eligibility requirements.
- 764.253 Limitations.
- 764.254 Rates and terms.
- 764.255 Security requirements.
- 764.256–764.300 [Reserved]

Subpart G—Youth Loan Program

- 764.301 Youth loan uses.
- 764.302 Eligibility requirements.
- 764.303 Limitations.
- 764.304 Rates and terms.
- 764.305 Security requirements.
- 764.306–764.350 [Reserved]

Subpart H—Emergency Loan Program

- 764.351 Emergency loan uses.
- 764.352 Eligibility requirements.
- 764.353 Limitations.
- 764.354 Rates and terms.
- 764.355 Security requirements.
- 764.356 Appraisal and valuation requirements.
- 764.357–764.400 [Reserved]

Subpart I—Loan Decision and Closing

- 764.401 Loan decision.
- 764.402 Loan closing.
- 764.403–764.450 [Reserved]

Subpart J—Borrower Training and Training Vendor Requirements

- 764.451 Purpose.
- 764.452 Borrower training requirements.
- 764.453 Agency waiver of training requirements.
- 764.454 Actions that an applicant must take when training is required.
- 764.455 Potential training vendors.
- 764.456 Applying to be a vendor.
- 764.457 Vendor requirements.
- 764.458 Vendor approval.
- 764.459 Evaluation of borrower progress.

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Subpart A—Overview

§ 764.1 Introduction.

(a) *Purpose.* This part describes the Agency's policies for making direct FLP loans.

(b) *Types of loans.* The Agency makes the following types of loans:

- (1) FO, including Downpayment loans;
- (2) OL, including Youth loans; and
- (3) EM.

§ 764.2 Abbreviations and definitions.

Abbreviations and definitions for terms used in this part are provided in § 761.2 of this chapter.

§§ 764.3–764.50 [Reserved]

Subpart B—Loan Application Process

§ 764.51 Loan application.

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

(b) A complete loan application, except as provided in paragraphs (c) through (e) of this section, will include:

(1) The completed Agency application form;

(2) If the applicant is an entity:

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

(ii) A current personal financial statement from each member of the entity;

(iii) A current financial statement from the entity itself;

(iv) A copy of the entity's charter or any entity agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing), and a resolution adopted by the Board of Directors or entity members authorizing specified officers of the entity to apply for and

§ 764.52

7 CFR Ch. VII (1-1-10 Edition)

obtain the desired loan and execute required debt, security and other loan instruments and agreements;

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

(3) A written description of the applicant's farm training and experience, including each entity member who will be involved in managing or operating the farm;

(4) The last 3 years of farm financial records, including tax returns, unless the applicant has been farming less than three years;

(5) The last 3 years of farm production records, unless the applicant has been farming less than 3 years;

(6) Documentation that the applicant and each member of an entity applicant cannot obtain sufficient credit elsewhere on reasonable rates and terms, including a loan guaranteed by the Agency;

(7) Documentation of compliance with the Agency's environmental regulations contained in subpart G of 7 CFR part 1940;

(8) Verification of all non-farm income;

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

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

(11) Payment to the Agency for ordering a credit report on the applicant;

(12) Verification of all debts;

(13) Any additional information deemed necessary by the Agency to effectively evaluate the applicant's eligibility and farm operating plan; and

(14) For EM loans, a statement of loss or damage on the appropriate Agency form.

(c) For a Lo-Doc OL request, the applicant must:

(1) Be current on all payments to all creditors including the Agency (if an Agency borrower);

(2) Have not received primary loan servicing on any FLP debt within the past 5 years; and

(3) Meet one of the following sets of criteria:

(i) The loan requested is \$50,000 or less and the total outstanding Agency OL loan debt at the time of loan closing will be less than \$100,000; or

(ii) The loan requested is to pay annual operating expenses and the applicant is an existing Agency borrower who has received and timely repaid at least two previous annual OL loans from the Agency.

(4) Submit items (1), (2), (7), (9), and (11) of paragraph (b) of this section. The Agency may require a Lo-Doc applicant to submit any other information listed in paragraph (b) of this section as needed to make a determination on the loan application.

(d) For a youth loan request:

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

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

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

(e) The applicant need not submit any information under this section that already exists in the applicant's Agency file and is still current.

§ 764.52 Processing an incomplete application.

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

(b) If the additional information is not received, the Agency will provide written notice that the application will be withdrawn if the information is not