

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice FLP-797

2-FLP

For: State and County Offices

Guaranteed Loan Collateral Questions and Answers (Q&A's)

Approved by: Acting Deputy Administrator, Farm Loan Programs

**1 Overview****A Background**

The FSA National Office conducted online webinar sessions about collateral requirements for FSA guaranteed loans in October 2018. Each webinar session reviewed the collateral requirements for loan making, the collateral requirements for loan servicing, and collateral documentation requirements. Questions were submitted by participants of each session. The questions, and their respective answers, from all sessions have been compiled in this notice.

B Purpose

This notice provides Q&A's (Exhibit 1) from all the guaranteed lender webinar on collateral requirements sessions.

C Contact

If there are questions about this notice:

- lenders may contact their local County Office or State Office
- County Offices shall contact their State Office
- State Offices shall contact LMD or LSPMD as appropriate.

Disposal Date	Distribution
January 1, 2020	State Offices; State Offices relay to County Offices

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2 Action

A National and State Office Action

The National Office will distribute this notice to guaranteed lenders via GovDelivery. State Offices shall:

- distribute this notice to guaranteed lenders in their State
- ensure that all FSA employees with loan approval authority have reviewed this notice and are evaluating guaranteed loans in accordance with this guidance as appropriate.

B County Office Action

County Office staff with loan approval authority shall review this notice and evaluate guaranteed loans in accordance with this guidance as appropriate.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements

These Q&A's were compiled from all sessions of FSA's guaranteed lender webinar on collateral requirements conducted in October 2018.

- Questions 1 through 7 address appraisal requirements for guaranteed loan collateral.
- Questions 8 through 20 address lien position and junior liens.
- Questions 21 through 24 address additional security requirements.
- Questions 25 through 33 address other various collateral topics related to loan making.
- Questions 34 through 54 address collateral requirements related to loan servicing.
- Questions 55 and 56 address other miscellaneous questions that were asked.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

1. **Question:** When is an appraisal completed by a State Certified General appraiser required?

Answer: Loans secured by real estate where the amount of the loan exceeds \$250,000 are required to have a USPAP compliant appraisal completed by a State Certified General Appraiser. However, for real estate secured loans of \$250,000 or less, lenders may document the value of the real estate using the same policies and procedures that they use for their non-guaranteed loans of similar size.

See 2-FLP, paragraph 183 for more information.

2. **Question:** What type of appraiser is required to complete chattel appraisals?

Answer: Chattel appraisals can be completed by outside contractors or by lender staff with the appropriate training. Generally, lenders should follow the same process for chattel appraisals as they would for non-guaranteed loans of similar size.

See 2-FLP, subparagraph 182 D for more information.

3. **Question:** If a lender is making a participation loan in conjunction with a FSA direct loan, do the same appraisal rules apply?

Answer: The guaranteed loan appraisal rules are the same when the guaranteed loan is part of a joint financing arrangement with a FSA direct loan. It is recommended that the lender be in direct contact with the local FSA loan official to coordinate appraisal requirements to minimize appraisal costs to the applicant.

See 2-FLP, paragraphs 181 through 183 for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

4. **Question:** Does FSA require a new appraisal for every new loan over the \$250,000 threshold?

Answer: If the lender has an existing appraisal that is less than 12 months old, they can generally use the existing appraisal.

If the lender has an existing appraisal that is more than 12 months old, they can only use the existing appraisal if the following criteria are met:

- Market conditions have remained stable or improved based on sales of similar properties
- The property in question remains in the same or better condition, and
- The value of the property has remained the same or increased.

SEL and CLP lenders must document this information and request FSA approval to use an appraisal older than 12 months. PLP lenders only need to document in their file that these criteria are met based on their CMS.

If the criteria above are not met for an appraisal older than 12 months, the lender would need to obtain a new appraisal.

See 2-FLP, subparagraph 183 B for more information.

5. **Question:** Most lender regulators recently updated their dollar threshold for which real estate appraisals are required from \$250,000 to \$500,000. Will FSA's requirements also be updated accordingly?

Answer: At this time FSA plans to leave the threshold for guaranteed loan real estate appraisal requirements at \$250,000. Generally, FSA guaranteed loans represent a higher risk than non-guaranteed loans made by lenders. Therefore, FSA feels it is prudent to keep our threshold at \$250,000 for the present time.

See 2-FLP, paragraph 183 for more information.

6. **Question:** Can you summarize FSA's chattel appraisal requirements?

Answer: Chattel appraisals should be based on public sales of similar property in the area or based on reputable publications if public sale information is not available. Chattel appraisals should be less than 12 months old and should be completed either by qualified lender staff or qualified 3rd parties.

See 2-FLP, paragraph 182 for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

7. **Question:** What does FSA consider the appropriate mechanism to estimate the value of loan security? The appraised value, the sale price, or the lender's internal policies?

Answer: In situations where appraisals are required, the lender should be using the appraised value of the security. In situations where evaluations are allowed (i.e. real estate loans of \$250,000 or less) the lender should value the property in the same manner as they would for a non-guaranteed loan of similar size.

See 2-FLP, paragraphs 181 through 183 for more information.

8. **Question:** The presentation indicated that junior liens on crops are generally not acceptable and are considered valueless. Does this concept apply for any other chattels?

Answer: Yes. This would also apply for other "income" security such as livestock products and market livestock.

See 2-FLP subparagraph 166 D for more information.

9. **Question:** If a lender is applying for a subsequent guaranteed loan that has the same proposed security as an existing guaranteed loan, should the existing guaranteed loan be reflected as a prior lien on the application form?

Answer: The existing guaranteed loan can be considered prior or shared, however the lender should provide the relevant information about the existing guaranteed loan so that FSA can properly evaluate the adequacy of the proposed security.

See 2-FLP, subparagraphs 166 B and 166 D for more information.

10. **Question:** When taking a junior lien, where should the lender look to find if the prior lien has future advance clauses?

Answer: The lender should review the debt and security instruments for the prior lien to check for such clauses.

See 2-FLP, subparagraph 166 D for more information.

11. **Question:** If a guaranteed loan is in a junior lien position and FSA holds the first lien for a direct loan, is it possible that FSA could re-advance on that first lien in the future?

Answer: The rules regarding prohibited items in prior lien instruments (such as future advance clauses) are the same regardless of who holds the first lien. In this situation, we would expect FSA and the lender to work together when the borrower has future credit needs to avoid jeopardizing each other's liens.

See 2-FLP, subparagraph 166 D for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

12. **Question:** When considering the loan to value for junior liens, can we consider the current balance of the prior lien, or do we have to consider the full face value of the mortgage if it has a future advance clause?

Answer: Generally, if the prior lien instrument has a future advance clause, the lender would not be able to take a junior lien for the guaranteed loan. If the prior lien instrument does not have a future advance clause, the current balance of the prior lien could be used unless the prior lien is a revolving LOC in which cause the full face value would be used.

See 2-FLP, subparagraph 166 D for more information.

13. **Question:** Does the 85% LTV restriction for junior liens apply to additional security?

Answer: No. The junior lien restrictions such as the 85% LTV rule do not apply for additional security.

See 2-FLP, subparagraph 166 E for more information.

14. **Question:** If the percent of guarantee is less than 90%, can the LTV for a junior lien exceed 85%?

Answer: No. The junior lien restrictions are the same regardless of the percent of guarantee.

See 2-FLP, subparagraph 166 D for more information.

15. **Question:** If a lender proposes a shared lien, can the LTV be 100% versus the 85% that is required for junior liens?

Answer: Yes, the LTV for a shared lien can go up to 100%. However, the lender is still required to take additional security in these situations if it is available.

See 2-FLP, subparagraph 166 D for more information.

16. **Question:** What kind of documentation is required if a lender subordinates a non-guaranteed loan in favor of a guaranteed loan that would be secured by the same chattels?

Answer: Since the lender would be subordinating a non-guaranteed loan, they would use their own subordination documents and would be responsible for executing them properly in order to document that the guaranteed loan has the first lien. The lender would need to explain this in the loan narrative, but they are also responsible for executing their own subordination document. It is also recommended that lender consult with their legal counsel throughout this process as needed.

See 2-FLP, subparagraph 166 D for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

17. **Question:** Assuming that the LTV does not exceed 85%, why is a junior lien on chattels (equipment, breeding livestock, etc.) acceptable when the first lien is held by a different lender, but not when the first lien is held by the same lender?

Answer: This is the case because FSA's regulations state that a chattel secured guaranteed loan must have a higher lien position than a non-guaranteed loan secured by the same chattels and held by the same lender. FSA added this rule because chattels are a higher risk asset to take as collateral as they depreciate quickly. Without this limitation, some lenders would easily transfer their highest risk debt to FSA while improving their own position. When the first lien is held by another lender, FSA and the Guaranteed lender are sharing in the additional risk incurred as a result of the transaction.

See 2-FLP, subparagraph 166 D for more information.

18. **Question:** With regard to shared liens, if a lender proposes that one loan be liquidated first and another loan liquidated second, is that acceptable?

Answer: No. This scenario describes how liquidation proceeds would be dispersed for a junior lien, not a shared lien. The intention of shared liens is that neither loan has priority over the other and any liquidation proceeds would generally be distributed pro-rata based on the amount of the loans.

See 2-FLP, subparagraph 166 D for more information.

19. **Question:** Can a lender use a non-guaranteed real estate loan in first position to finance part of a project (vs obtaining a guarantee on the whole amount) and then have a guaranteed FO loan in second position for the remaining balance?

Answer: Yes, this would be allowed as long as the overall LTV (including the guaranteed FO) did not exceed 85%.

See 2-FLP, subparagraph 166 D for more information.

20. **Question:** If a lender has a non-guaranteed loan in first lien position, and a guaranteed loan in second lien position, would the non-guaranteed loan be totally paid in full before liquidation proceeds would be applied to the guaranteed loan?

Answer: Yes, liquidation proceeds are to be applied in lien priority which means that the first lien gets paid before any of the junior liens do.

See 2-FLP, subparagraph 166 D for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

21. **Question:** How does a lender specify what assets will serve as additional security?

Answer: The lender should specify these details in their loan narrative.

See 2-FLP, Exhibit 4.5 for details about documentation to be included in loan narratives.

22. **Question:** If a lender has a chattel secured guaranteed loan and they also take a best lien obtainable on real estate as additional security, are there any issues the lender should be concerned about?

Answer: If the real estate is truly just additional security, the lender should be aware that the junior lien restrictions and appraisal requirements would generally not apply. Also, the lender should keep in mind that they are still required to service any additional security in the same way they would service the primary security.

See 2-FLP subparagraph 166 E for more information.

23. **Question:** Is there a standard loan to value or collateral margin for determining whether proposed security is adequate and whether or not additional security would be required?

Answer: No. That is always a case by case decision based on factors including, but not limited to, the quality of the collateral property, the availability of additional security, lien position, and repayment ability. The lender should also keep in mind their own internal security policies.

See 2-FLP, subparagraph 166 B for more information.

24. **Question:** If a lender doesn't want to take a certain asset for additional security, how and where should that be documented?

Answer: The loan narrative should be used by the lender to document what assets they did or did not choose to take as security. Lenders should summarize factors such as lien position, quality of the security, and repayment ability when explaining which items they did or did not propose to take as security. However, FSA reserves the right to require additional security as part of FSA's approval process.

See 2-FLP, subparagraphs 166 B and 166 E for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

25. **Question:** Can a Guaranteed OL with a 10 year amortization be secured by breeding livestock if the applicant is retaining the heifers and replacing them from within? Or would real estate security be required?

Answer: FSA regulations do allow breeding livestock to be used as security for 7 year OL loans that are written with balloon installments. There is no blanket requirement for real estate security in this situation since the term doesn't exceed 7 years. However, depending on the facts of the case, FSA could require real estate as additional security (if available) on a case to case basis. Specifically, the lender would have to document that the proposed security will be adequate at the time the balloon installment comes due.

See 2-FLP, subparagraphs 137 F and 168 B for more information.

26. **Question:** If a lender has an existing non-guaranteed loan secured by cattle and requests a guaranteed loan to purchase separate, additional cattle, would this arrangement be allowable if the cattle can be identified?

Answer: Generally, FSA would discourage this arrangement because it would be very difficult to keep the cattle separate and identifiable throughout the term of the loan.

See 2-FLP, subparagraphs 167 B and 167 D for more information.

27. **Question:** Can a lender take a first lien on crops that aren't stored traditionally (i.e. soybeans in bags)?

Answer: FSA does not dictate how crops serving as security for guaranteed loans must be stored. However, the lender is responsible for protecting the collateral so they need to be reasonably comfortable that the non-traditional storage method will protect the crop.

See 2-FLP, paragraphs 166 and 262 for more information.

28. **Question:** If a lender has a non-guaranteed loan secured by purchase money interest in a specific piece of equipment, could a guaranteed loan be secured by a 1st lien on other equipment?

Answer: Yes. This could be acceptable as long as the other equipment is separate and identifiable, documented as separate in the security instruments, and provides an adequate amount of security for the proposed guaranteed loan.

See 2-FLP, subparagraphs 167 B and 167 C for more information.

29. **Question:** Are security requirements any different for PLP lenders compared to other types of lenders?

Answer: No. FSA's security requirements are the same for all lender types. However, PLP lenders may establish more stringent loan security requirements in their CMS, so PLP lenders should be sure to refer to the collateral requirements in their CMS as well.

See 2-FLP, paragraph 166 for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

30. **Question:** Are lenders required to maintain hazard insurance on buildings even if their internal policy may not require it?

Answer: Lenders must require borrowers to maintain adequate property insurance to protect the lender's and the Government's interests. Specific insurance requirements may vary on a case by case basis, but ultimately it is the lender's responsibility to ensure that the collateral is adequately protected.

See 2-FLP, paragraph 138 for more information.

31. **Question:** What is the appropriate 2-FLP reference for new loan collateral requirements (including shared liens)?

Answer: Most of FSA's collateral requirements for new loans are located at 2-FLP, paragraphs 166 through 169.

32. **Question:** Can a lender include future advance clauses for their guaranteed loan?

Answer: Lenders can include their standard future advance clauses in their debt and security instruments. However, lenders should be aware the guarantee would only cover the advances up to the original loan amount. Any advances over and above that would not be covered by the guarantee unless they were covered as emergency advances or protective advances in the event of a liquidation.

See 2-FLP subparagraph 247 A, paragraph 283, and subparagraph 359 E for more information.

33. **Question:** Can a lender propose a third party pledge of security to avoid taking liens on the applicant's assets?

Answer: Ideally, third party pledges of security should only be used when the applicant's assets are not adequate or appropriate to serve as security.

See 2-FLP, paragraph 166 for more information.

34. **Question:** What should lenders be concerned about regarding borrower's signing leases for energy projects?

Answer: Lenders should explain to borrowers that they need to contact the lender prior to signing any such agreements to avoid violating their loan agreements. In turn, lenders should contact FSA to assess any potential issues related to loan servicing such as to determine if a subordination is necessary, and any potential environmental reviews that may be needed in such situations.

See 2-FLP, subparagraph 263 B and paragraph 278 for more information

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

35. **Question:** Can balance sheet numbers be used to document collateral inspections?

Answer: Lenders can document items such as livestock numbers and equipment inventories on balance sheets or other internal documents that the lender may have. However, the lender should make sure that they are periodically visiting the applicant's operation to verify such items rather than just taking the applicant's word regarding the status of the collateral.

See 2-FLP, paragraph 264 for more information.

36. **Question:** If a lender has an existing guaranteed loan secured by equipment, and they later make a non-guaranteed loan to purchase a piece of equipment, would the lender be able to take a purchase money security interest (PMSI) in that piece of equipment for the non-guaranteed loan?

Answer: If the new piece of equipment is replacing an existing piece of equipment that was sold or disposed of, the new piece of equipment would have to serve as security for the guaranteed loan to compensate for the security value that was lost from the equipment that was sold.

However, if no existing equipment was sold and the non-guaranteed loan was used simply to purchase a piece of additional equipment, the lender's PMSI could prevail over the guaranteed loan security assuming that the lender's security documents allow for that.

See 2-FLP, paragraphs 167 and 264 for more information.

37. **Question:** Provide an example of when a borrower converts loan security.

Answer: A tractor is pledged for loan collateral but the borrower sells the tractor and keeps the funds. Funds should either be applied towards the loan balance as an extra payment or used to purchase a like replacement of equal or greater value.

See 2-FLP, paragraphs 263 and 264 for more information.

38. **Question:** Can taxes or insurance be paid by the lender for a borrower that is not in liquidation, recognizing that it will not be covered by the guarantee, without putting the guarantee at risk?

Answer: Yes, and we encourage you to do so when necessary to protect your interest in the security. The original guarantee will not be at risk, however the advance amount made for real estate taxes or insurance will not be covered under the guarantee. Advances for payments of real estate taxes and property insurance while in liquidation mode may be covered by the loan guarantee.

See 2-FLP, subparagraph 360 D for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

39. **Question:** If loan documents permit adding a protective advance (real estate taxes on a farm held as collateral) is that still not allowed even though the real estate tax is considered a prior lien?

Answer: If the advance for real estate taxes or insurance was truly made as a protective advance (if the loan was in liquidation or liquidation was imminent) then the advance would be covered by the guarantee, as per subparagraph 360 D of 2-FLP. However, if the advance was made when the loan was not in liquidation or liquidation was not imminent, the advance would not be covered by the guarantee.

See 2-FLP, subparagraph 360 D for more information.

40. **Question:** If during the life of the loan, a lender advances funds to pay past due taxes or insurance premiums, and keeps taxes and insurance current with an escrow account, then requests reimbursement for the balance outstanding in the escrow account, with a loss claim, can FSA pay this?

Answer: Unless the advances were made as protective advances, when the loan was in liquidation or liquidation was imminent, the advances will not be covered under the guarantee and FSA will not include these advances with the loss claim.

See 2-FLP, subparagraph 360 D for more information.

41. **Question:** On slide 23 the dollar amounts are listed for protective advances. However, there is no listing for dollar amounts on emergency advances. We are a PLP lender and use the term "moderate" in our CMS. Does a dollar figure need to be defined?

Answer: There is no specified cap on emergency advances, however the amount of the advance and the line of credit cannot exceed the statutory loan limits. Even though we do not specify a dollar amount, you will still need to be able to document that the financial benefit to both you and the government will exceed the amount of the advance. As a PLP lender you can make this decision without asking our permission beforehand, however SELs, CLPs, and MLPs must obtain written permission from the Agency first.

See 2-FLP, paragraph 283 for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

42. **Question:** As a PLP lender, do we need prior approval from FSA on a substitution of collateral? In the instance whereby the LTV is the same or better than it was at origination, as a result of the substitution. This is a FO loan, real estate collateral.

Answer: All lenders, regardless of status, may substitute collateral without permission from FSA if the substitution results in the LTV being the same or better. However, you must document the exchange and be able to prove (via an appraisal) that the substitution has no negative effect on the collateral value. If a loss is filed and it is determined that a substitution was completed without first ensuring there would be no negative effect, your loss may be reduced or denied. It is always a good idea to consult with FSA, even if permission is not required.

See 2-FLP, paragraph 280 for more information.

43. **Question:** If a lender has a long term real estate guaranteed loan, are assignments required?

Answer: If the lender required income assignments at the time of loan closing, then it is their responsibility to maintain the assignments through the life of the loan. Subparagraph 264 A of 2-FLP states “the lender’s responsibility regarding servicing collateral include … obtain income and insurance assignments when required.”

See 2-FLP, subparagraph 264 A for more information.

44. **Question:** If collateral inspections are at the discretion of the lender, why does the FSA Guaranteed Loan Review Checklist require yearly inspections?

Answer: The review checklist for SEL and CLP lenders asks if a farm inspection report has been completed within the last year. A farm inspection report is not the same as a collateral inspection report, although often they are completed at the same time. A farm inspection report should capture details such as crops were planted on time, livestock appeared to be well taken care of, the equipment in view was well maintained, and should also point out anything that may be a cause for concern. Paragraph 265 of 2-FLP provides an explanation for when a farm inspection report is to be completed.

Collateral inspections are to be completed as often as deemed necessary, as per Subparagraph 264 A of 2-FLP.

The review checklist for a PLP lender is tailored to their CMS. If the CMS states that a collateral inspection will be completed annually, then the review checklist will ask if the collateral inspection was completed annually.

See 2-FLP, subparagraph 264 A and paragraph 265 for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

45. **Question:** Is there a specific collateral inspection form through FSA or is the Bank form adequate?

Answer: Your bank form is adequate.

46. **Question:** If a lender has a guaranteed line of credit secured by the crop for crop expenses and the customer's input provider provides financing for crop expenses, how does this affect the loan guarantee?

Answer: This will depend on the laws of the states in which the borrower lives and farms. If the state where you filed your lien grants PMSI to the supplier, then the supplier may have a first lien on the crop for the dollar amount of the inputs provided by the supplier. You can avoid an unfavorable outcome by keeping track of the use of the advances from the LOC. For example: You close a LOC for a crop operation and that borrower then receives supplier credit for the seed. The borrower then calls you to advance money to purchase seed. You should ensure that those funds will be used to repay the supplier, therefore eliminating the supplier's right to any PMSI.

See 2-FLP, subparagraph 264 A for more information.

47. **Question:** Once the lender submits a loss claim, how long does it take to get an answer on a claim?

Answer: This depends on several factors including the current workload of the office, if additional information is requested, the complexity of the case, etc. Under normal circumstances, FSA's goal is to process the loss claim within 40 days.

See 2-FLP, subparagraph 360 F for more information.

48. **Question:** Can a lender require the borrower to have crop insurance without also taking an assignment?

Answer: Yes, the decision to require an assignment is up to the lender but you should follow your normal lending practices. If the loan did not have a guarantee, would you require the assignment? If there is a loss claim filed and you did not require the assignment, we may ask for justification. If the decision to not take an assignment contributed to the loss, then we may reduce your claim.

See 2-FLP, subparagraph 264 A for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

49. **Question:** How is death loss or culling of breeding livestock handled from the lenders side?

Answer: Culling is treated as normal income if there are adequate replacements available. This should be verified by your periodic inspections. Death loss should be monitored as your normal practice dictates, which most likely includes monitoring an average annual death loss, requiring insurance for deaths related to disaster, etc.

See 2-FLP, subparagraph 167 D and Exhibit 2 (the definition of basic security) for more information.

50. **Question:** Can real estate insurance proceeds be used to repair/replace damaged buildings?

Answer: Real estate insurance proceeds are to be used to replace or repair the lost or damaged buildings or are to be applied in lien priority as extra payments.

See 2-FLP, subparagraph 264 A for more information.

51. **Question:** I refinanced a poultry operation where FSA already had a second mortgage and I only refinanced the 1st, so FSA subordinated to my mortgage. Is that subordination just for that one loan or can I re-advance back up to my original loan amount and still consider it a 1st on the real estate collateral?

Answer: The subordination is only for that transaction. As your first lien gets paid down you may not re-advance the loan to the original requested amount in the subordination.

See 2-FLP, paragraph 278 for more information.

52. **Question:** Regarding assignments and LOCs: What are your expectations for getting assignments for FSA ARC/PLC payments and on the new Market Facilitation Program payments?

Answer: The Lender will determine if the assignments are necessary. In some cases, FSA and the lender may agree on the Conditional Commitment to require the assignment. If you did not obtain the assignment and a loss claim was filed, we would request justification for why you did not, such as there was a low LTV at the time of loan closing, off farm income was projected to contribute to the repayment, etc.

See 2-FLP, subparagraph 247 A and 264 A for more information.

53. **Question:** If the lender's non-guaranteed loan has 1st lien position and the guaranteed loan holds a second lien position, in the event of a loss would the non-guaranteed loan be paid in full first?

Answer: Yes, we would expect you to pay loans in lien priority when security is liquidated.

See 2-FLP, subparagraph 263 B for more information.

Q&A's From the Guaranteed Lender Webinar on Collateral Requirements (Continued)

54. **Question:** How is a shared lien handled on a loss claim?

Answer: In situations of a shared lien, the typical practice is for both liquidation proceeds and liquidation expenses to be prorated. If another method is used, it should be discussed and agreed upon with the Agency and documented within the case file.

See 2-FLP, subparagraph 166 D for more information.

55. **Question:** If a lender is unable to restructure an existing guaranteed LOC within the maximum allowable terms, do they have any other options?

Answer: The lender could potentially write a new loan to refinance the existing LOC. Generally, FSA discourages this because it results in the borrower being charged another guarantee fee and because it reduces available guaranteed loan funds. However, if the lender can document that restructuring wouldn't assist the borrower, but refinancing with a new loan would, then FSA can consider allowing it.

See 2-FLP, subparagraphs 122 B, 122 E, and 123 B for more information

56. **Question:** Does FSA have training available for other loan programs that lender's may use in conjunction with a guarantee such as direct participation loans, direct down payment loans, etc.?

Answer: FSA doesn't have training for these topics planned at the National level at this time. However, fact sheets about various FSA programs are available online at the following link:
<https://www.fsa.usda.gov/news-room/fact-sheets/index>.

Lenders who are interested in learning more about other FSA loan programs may also contact their local FSA office for more information.