



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 2864 (1955-C)
September 20, 1993

SUBJECT: Transfers of Farm Inventory Property to Federal
or State Agencies for Conservation Purposes

TO: State Directors, District Directors, and
County Supervisors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to outline FmHA policy for transferring farm inventory property to a Federal or State agency for conservation purposes. This AN also outlines the information needed by the National Office in order to authorize a transfer. The intent is to clarify Section 1955.139(c) of FmHA Instruction 1955-C, and to ensure a consistent approach in the transfer of inventory property for conservation purposes.

COMPARISON WITH PREVIOUS AN:

This AN is a reissue of AN No. 2644(1955), "Transfers of Farm Inventory Property to Federal or State Agencies for Conservation Purposes," dated September 14, 1992.

IMPLEMENTATION RESPONSIBILITIES:

Section 1955.139(c) of FmHA Instruction 1955-C states that farm inventory property may be transferred to a Federal or State agency for conservation purposes. The following guidelines will be used to process transfer requests:

- A. General Requirements for Property Disposition
1. Transfers will only be considered after all Leaseback/Buyback and Homestead Protection Rights are exhausted.
 2. The U.S. Fish and Wildlife Service (FWS) will indicate its interest in a property as part of its environmental evaluation. FWS will be responsible for notifying other agencies which may have an interest in the property.

EXPIRATION DATE: September 30, 1994

FILING INSTRUCTION:
Preceding FmHA
Instruction 1955-C



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3. Once Priority Leaseback/Buyback and Homestead Protection Rights have expired, FmHA will notify FWS and agencies which have expressed interest in the property. FmHA will permit the interested agency to apply for transfer prior to the parcel's being offered for sale as either suitable or surplus.

B. Disposition of Suitable Property

1. When the Leaseback/Buyback and Homestead Protection Rights are exhausted, suitable property which is of MAJOR IMPORTANCE, as set forth in paragraph 2 below, will be transferred to the requesting agency without advertising it for sale.
2. A property or portions thereof will be of MAJOR IMPORTANCE if it meets any one of the following criteria:
 - a. Property that is eligible for transfer under the definition of environmentally sensitive:
 - Property is or would be so encumbered with a required conservation easement as established by the current wetland regulations that further agricultural use is impractical; or
 - Property either (a) contains listed or proposed Federal/State critical habitat, (b) clearly supports Federal/State proposed or listed endangered or threatened species, or (c) is specified in a recovery plan for a listed Federal/State endangered species; or
 - Property contains wetland(s) that (a) would qualify for acquisition under the FWS wetland assessment threshold criteria, (b) is within an identified priority land acquisition area of the North American Waterfowl Management Plan, and (c) would be actively managed by the receiving agency; or
 - Property is either (a) within the boundaries of the Coastal Barrier Resources System or the National Wilderness Preservation System, or (b) borders the watercourse of a designated or proposed area of the National Wild and Scenic Rivers System; or
 - Property is within the boundaries of an Environmental Protection Agency designated sole source aquifer recharge area and also has marginal value for agricultural production; or

- Property contains an historic property of National Landmark status.
- b. Property that is eligible for transfer under the definition of special management importance:
- Property is an inholding, as verified by the requesting agency, in either a State or Federally owned area or an area legally designated for acquisition by a State or Federal agency (hereafter referred to as a legally designated area); or
 - Property is adjacent to or in close proximity to a legally designated area, as verified by the requesting agency; and property is also either (a) environmentally sensitive in its present resource state or (b) is marginal farmland; or
 - Property is adjacent to or in close proximity to a legally designated area, and there are documentable problems with adjacent land uses, such as encroachment by development; or
 - Property provides unique opportunity for necessary ingress or egress to a legally designated area.
- c. Property that is eligible for transfer under the definition of marginal value for agricultural production will normally not be considered for a priority transfer. However, if the requesting agency demonstrates that the property can serve a significant conservation purpose, FmHA will consider transfer without an attempt to sell.
3. When agencies have expressed an interest in suitable property that is NOT OF MAJOR IMPORTANCE, FmHA will offer such property for sale at least one time within 6 months from the date that FmHA gains the ability to dispose of the property by sale or transfer. This date should be immediately posted in item number 7 of Form FmHA 1955-3A to update the acquired property tracking system. After the expiration of the 6-month period, if the property is not sold, FmHA will transfer all or that portion of the property which meets the requirements of Section 1955.139(c) of FmHA Instruction 1955-C.

4. After 12 months from the date of the first advertisement, acquisition, unsold suitable property will be reclassified as surplus in accordance with Section 1955.63(a) of FmHA Instruction 1955-B. Upon request from an eligible agency, such property will be transferred for conservation purposes without further attempts to sell it. The State Director may recommend to the Administrator an appropriate subdivision of the surplus property, and if approved, may advertise the remaining portion to the general public.
5. If Leaseback/Buyback or Homestead Protection Rights are exercised through a lease with the option to purchase, but the applicant fails to exercise the option, FmHA will notify agencies which have expressed interest in the property.

C. Disposition of Surplus Property

1. Surplus property can be transferred to a State or Federal agency for conservation purposes, as defined in Section 1955.139(c) of FmHA Instruction 1955-C. To transfer surplus property, it does not have to meet the criteria of MAJOR IMPORTANCE. However, the transfer must be for conservation purposes.
2. Surplus property can be transferred to a requesting agency without advertising.

D. Submitting Requests for Transfer to the National Office

Requests to the Administrator for authorization to transfer property must include the following:

1. Written documentation from the State Director to transfer the property to a State or Federal agency. The request must include documentation supporting the eligibility of both the property for transfer and the requesting agency.

If the requesting agency is a non-Federal governmental body, and there is a question whether such an entity is a State agency, the applicable Regional Attorney should be consulted. The request must contain a copy of the legal opinion obtained from the Regional Attorney to document the eligibility of the requesting agency.

The documentation is to also include the current classification of the property, and supporting documentation for MAJOR IMPORTANCE, if applicable. The case file does not need to be sent to the National Office.

2. A recent copy of a letter from the requesting agency which specifically names the property requested for transfer and lists the number of acres contained in the property.
3. A discussion of the potential impact of the proposed transfer on adjacent properties, the overall environment of the community, and the local economy.
4. A copy of a current market appraisal of the property. If the property is to be subdivided, then a copy of a current appraisal for the whole property should be submitted with the value of the property to be transferred noted separately.
5. A discussion of the property's location in relation to other farms in the area, population centers, wildlife refuges, other environmentally sensitive properties, etc.
6. If applicable, a description of how the property will be subdivided and the rationale for the subdivision.
7. A copy of the environmental review prepared in accordance with FmHA Instruction 1940-G and a copy of the FmHA Preliminary Hazardous Waste Site Survey.

E. Decision Making Authority

Unless authorized by the Administrator, State Directors cannot approved transfers. This AN gives State Directors the authority to deny transfer, if they determine that either the property is not eligible for transfer under FmHA Instruction 1955-C, or the suitable property does not meet the definition of MAJOR IMPORTANCE.

All requests must be forwarded, with a recommendation for transfer, to the Administrator or denied by the State Director within 30 days from the date the requesting agency applied for the transfer.

When denying a request, the State Director will inform the requesting agency in writing. The requesting agency may seek the Administrator's review of the adverse decision by providing notice to the State Director within 30 days. Until the Administrator's review is completed, no further disposition actions will be taken by FmHA. If the requesting agency asks for an Administrator's review, the correspondence is to be transmitted through the State Director.

Requests received prior to the expiration of Leaseback/Buyback and Homestead Protection Rights should be acknowledged but not formally rejected.

The Administrator reserves the right to deny any transfer request meeting these guidelines when there are overriding concerns. The requesting agency will be notified of FmHA's position.

F. Accepting Funds from Federal or State Agencies

Requests from agencies that want to reimburse FmHA for the transfer of the inventory property must be submitted to the National Office with the information outlined above. The written documentation should also include evidence that the agency fully understands that there is no need to reimburse FmHA for the property, and that the agency is making the request of its own volition. This includes a copy of letters forwarded to the requesting agency explaining FmHA's policy on transferring inventory properties for conservation purposes.

The written request from the requesting agency should be included. If more than one agency is requesting a transfer on the same property, written requests from all agencies should be included.

ANY REVISIONS OR MODIFICATIONS TO THIS (AN) THAT YOU WISH TO PUBLISH AS A STATE DIRECTIVE MUST BE SUBMITTED AND APPROVED BY THE ASSISTANT ADMINISTRATOR OF FARMER PROGRAMS BEFORE IT IS RELEASED FOR IMPLEMENTATION IN YOUR STATE. THE ONLY EXCEPTION TO THIS REQUIREMENT IS WHEN THE REVISION OR MODIFICATION IS NECESSARY FOR COMPLIANCE WITH STATE LAW.

If you have any questions, please contact James P. Fortner of Farmer Programs Loan Servicing and Property Management Division, at FTS (202) 720-1976.


SHARRON S. LONGINO
Acting Administrator