



FmHA AN No. 3150 (1951-S)

April 11, 1995

TO: Acting State Directors, District Directors  
and County Supervisors  
Rural Economic and Community Development

SUBJECT: Processing Requests for Primary Loan Servicing  
in Conjunction with a Direct Loan Application

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance on processing applications for Primary Loan Servicing (PLS) in conjunction with an application for a direct loan.

The intended outcome is to provide for uniform handling of these applications. The provisions of this AN do not apply to annual production loans made to delinquent borrowers under section 1941.14 of FmHA Instruction 1941-A.

COMPARISON WITH PREVIOUS AN:

There is no previous AN on this subject.

IMPLEMENTATION RESPONSIBILITIES:

In some cases, a borrower's request for PLS may be accompanied by a request for a direct loan. Due to the reduction in funds allocated for the direct loan program, it may be impossible to meet the credit needs of all applicants requesting assistance. Therefore, it is important to consider our funding situation when processing the borrower's request for PLS.

Section 1951.909(a) of FmHA Instruction 1951-S provides that County Supervisors must use the Debt and Loan Restructuring System (DALR\$) in accordance with Exhibits J or J-1, as appropriate, to determine if a feasible plan can be developed when a borrower requests PLS. Exhibits J and J-1 provide for the rates and terms of proposed loans to be entered in DALR\$. This information is used to determine if a feasible plan can be developed utilizing PLS, allowing for repayment of both planned and existing loans. However, PLS cannot be approved when the DALR\$ Analysis Report reflects the borrower's need for a direct loan for which funds are not available, as it is impossible to predict if and when funds will become available.

EXPIRATION DATE: January 31, 1996

FILING INSTRUCTIONS:  
Preceding FmHA  
Instruction 1951-S



Therefore, if a request for both PLS and a direct loan is received, and a feasible plan is found using DALR\$, the County Supervisor must contact the State Office to determine if adequate loan funds are available. Based on the availability of funds, action should be taken as follows:

#### Direct Loan Funds are Available

If the funds are available, the loan should be approved and obligated in accordance with sections 1941.33 of FmHA Instruction 1941-A or 1943.33 of FmHA Instruction 1943-A, as appropriate. The following condition must be listed under item 44 of Form FmHA 1940-1, "Request for Obligation of Funds":

Approval of this loan is subject to your acceptance and the completion of our offer to restructure your existing loans as provided on (insert Exhibit B for financially distressed borrowers or Exhibit F for delinquent borrowers) of FmHA Instruction 1951-S and the DALR\$ Analysis Report provided to you on this date.

Based on the requirements of this condition, it will be necessary to provide the borrower with a copy of Exhibit B or F, and the DALR\$ Analysis Report at the time of loan approval. The terms of the Agency's offer to restructure, including the fact that the offer to restructure is subject to the Agency's approval of the loan application, must be stated in the exhibit. In the case of a delinquent borrower, Exhibit F and a copy of the DALR\$ Analysis Report must also be sent certified mail, return receipt requested, in accordance with section 1951.909(h)(1) of FmHA Instruction 1951-S after the loan has been approved. Providing the borrower with a copy of the exhibit and report at the time of loan approval does not diminish the Agency's notification responsibilities required by FmHA Instruction 1951-S. The new loan should be closed on or after the date the loan restructuring is completed.

#### Direct Loan Funds Are Not Available

Applications for direct loans received when funds are not available should be processed in accordance with section 1910.6(g) of FmHA Instruction 1910-A. The Instruction provides that "Farmer Programs loan applications received when funds are not available will be processed through approval subject to the availability of funds." This policy must be followed for those borrowers that have requested only direct loan assistance. However, delinquent or financially distressed borrowers that have requested both PLS and direct loan assistance cannot be approved for either type of assistance unless a feasible plan is developed reflecting repayment of both the proposed and restructured loans.

In those situations where adequate loan funds are not available, and will not be available within 45 days (the time provided to a borrower to accept an offer made on Exhibit B or F of FmHA Instruction 1951-S), the County Supervisor should take all of the following actions:

1. Immediately advise the borrower that a feasible plan was not found because loan funds are not available for the loan application.

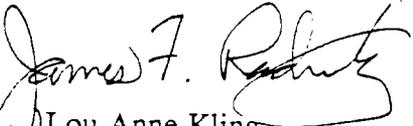
2. Once again, consider whether the borrower's credit needs can be met through any other sources such as the use of guaranteed loans, subordination, dealer credit, release of normal income security and nondisturbance agreements.
3. Modify the Farm and Home Plan (FHP) to reflect the new source of funds (if available), eliminate the proposed Agency loan, etc., as applicable.

Based on the information obtained from the borrower and the revised FHP, a new DALR\$ Analysis Report should be prepared. If a feasible plan is developed, the borrower should be provided Exhibit B or F of FmHA Instruction 1951-S. If a feasible plan cannot be found or no alternative plan is available, a delinquent borrower should be provided with Exhibit E of FmHA Instruction 1951-S in accordance with section 1951.909(h)(3) and the loan request denied with appeal rights in accordance with FmHA Instruction 1900-B. If a feasible plan is not found for a financially distressed borrower as identified in section 1951.908, the request for both new loan assistance and loan servicing should be denied with appeal rights in accordance with FmHA Instruction 1900-B. A copy of the DALR\$ Analysis Report must be attached in accordance with section 1951.908(c)(3) of FmHA Instruction 1951-S. In both cases, the loan denial should reflect that a feasible plan could not be achieved without the use of PLS, and that a feasible plan for PLS could not be achieved as loan funds are not available to meet credit needs as reflected on the Farm and Home Plan.

Should the delinquent borrower request mediation or a meeting of creditors, the request for loan assistance and the unavailability of funds should be addressed. Agency personnel attempting to develop a feasible plan through mediation must point out the shortage of available loan funds. If a feasible plan is not developed through the use of mediation/meeting of creditors, the borrower should be provided with Exhibits 5 and 6 or 5A and 6A of FmHA Instruction 1951-S as appropriate.

The above actions do not supersede or diminish the Agency's responsibilities to meet regulatory and statutory time limitations pertaining to loan making and loan servicing.

If you have any questions, please contact Bill Cobb, Loan Servicing and Property Management Division, at 202-690-4011.

*acting for*   
Lou Anne Kling  
Acting Deputy Administrator for  
Farm Credit Programs  
Consolidated Farm Service Agency

Sent via electronic mail on 4/17/98 at 11am by GSS. The State Director should advise other personnel as appropriate.