UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Notice FLP-42

442.11

For: State Offices

Indian Tribal Land Acquisition Program (ITLAP)

Approved by: Deputy Administrator, Farm Loan Programs

Carolyn B. Cooksie

1 Overview

A Background

This notice reemphasizes issues that have been identified as a result of an OIG audit regarding ITLAP loans.

B Purpose

This notice provides instruction to:

- require that a lien be taken on land purchased with ITLAP funds
- clarify that when testing for credit for ITLAP loans, funds should not be available from private or commercial sources or from BIA
- require that as a condition of loan approval, a corresponding reduction in loan principal must accompany the sale of assets that are not renewable within the life of the loan
- require that SED's coordinate with BIA to ensure that restrictions are placed on loan proceeds, debt service, and reserve accounts that are required as part of the loan agreements
- clearly establish that DD's are the primary contacts for making and servicing ITLAP loans.

Disposal Date	Distribution
March 1, 2000	State Offices

2 Action

A
Lien on Land Acquired With ITLAP Funds

FmHA Instruction 442.11 IX states, "Ordinarily, the security will include a first lien on land acquired with loan funds plus assignment(s) of income. However, the security may consist only of assignments of income if the [SED] determines that this will provide as good or better security than the land acquired with loan funds."

Effective immediately, a lien will be taken on all land to be acquired with ITLAP funds unless DAFLP concurs with the determination that an assignment of income will provide as good or better security than the land acquired with loan funds.

B
Test for Credit for ITLAP Loans

FmHA Instruction 442.11 III B states, "To be eligible for an [ITLAP] loan, the tribe must be unable to obtain sufficient credit elsewhere at reasonable rates and terms to finance the proposed land acquisition." Therefore, the tribe must be unable to obtain financing from private and commercial sources or from BIA.

C
Condition for Loan Approval Loans

As a condition for loan approval, on FmHA-1940-1, SED's shall require that a corresponding reduction in loan principal must accompany the sale of assets that are not renewable within the life of the loan.

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2 Action (Continued)

D
Accounting of Funds

FmHA Instruction 442.11 VIII E requires that land acquisition, debt service, and reserve accounts be established at loan closing.

SED must coordinate with the tribe and BIA to ensure that the specific requirements for the land acquisition, debt service, and reserve accounts, according to FmHA Instruction 442.11 VIII E, are met throughout the life of the loan. Therefore, these accounts shall be serviced at least annually by SED. Any problems that SED's are unable to resolve will be reported to DAFLP.

E
Responsibility

DD's, whose area of responsibility may include an Indian Reservation that is recognized by the Federal Government, will be primary contacts in making and servicing ITLAP loans.

DD's shall submit to SED plans to service any outstanding ITLAP loans according to FmHA Instructions 442.11, 1951-E, and 1951-F.

F
Contact

If there are any questions about this notice, contact Gary West, LSPMD, Guaranteed Loan Servicing and Inventory Property Branch.