

FSA HANDBOOK

Special Programs

To access the transmittal page click on the short reference.

For State and County Offices

SHORT REFERENCE

6-FLP

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

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Special Programs 6-FLP	Amendment 5
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Approved by: Deputy Administrator, Farm Loan Programs

Carolyn B. Corksie

Amendment Transmittal

A

**Reason for
Amendment**

Paragraphs 116 and 118 have been amended to implement provisions of the Farm Security and Rural Investment Act of 2002 and increase the interest-free term for seed loans from 18 months to 36 months.

Note: Guidance on notifying producers with outstanding balances will be issued under separate cover.

Page Control Chart		
TC	Text	Exhibit
	6-9 through 6-12 6-17, 6-18	

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Part 1 Introduction and Purpose

1 Purpose and Sources of Authority

A

Handbook Purpose

This handbook is designed to assist FSA in understanding:

- regulations governing special loan programs implemented under DAFLP
- roles and responsibilities for processing loans under these programs.

*--The loan programs addressed in this handbook include the:

- ITLAP
 - SALP
 - Emergency Loan for Seed Producers Program.
-

B

Sources of Authority

The sources of authority for this handbook include:

- 7 CFR Part 770 for Indian Tribal Land Acquisition Loans
 - 7 CFR Part 773 for Special Apple Loan Program
 - 7 CFR Part 774 for Emergency Loans to Seed Producers Program--*
 - * * * other Agency regulations that may be referenced throughout this handbook
 - various laws and statutes.
-

C

Regulation References

Text in this handbook that is published in CFR is printed in **bold** text. The CFR citation is also printed in **bold** text. The references and text:

- are intended to highlight the requirement spelled out in CFR
 - may be used to support FSA decisions in adverse decisions.
-

2 Related References

A
FmHA and RD
Instructions

Following are FmHA and RD Instructions about loan making and loan servicing.

Series	Title
440.1	Interest Rates, Amortization, Guarantee Fee, Annual Charge, and Fixed Period
1927-B	Real Estate Title Clearance and Loan Closing
1940-G	Environmental Programs
1941-B	Closing Loans Secured by Chattels
1951-A	Account Servicing Policies
1951-J	Management and Collection of Nonprogram (NP) Loans
1962-A	Servicing and Liquidation of Chattel Security

B
Related FSA
Handbooks

The following FSA handbooks address issues impacting the special loan programs covered by this handbook.

IF the area of concern is about...	THEN see...
canceling loan checks and processing payments	3-FI.
confidentiality	2-INFO.
appraisals or ECOA * * *	1-FLP.
forms that cannot be accepted by FAX	1-CM.
* * *	* * *
maintenance of general and administrative files	25-AS.
Privacy Act	3-INFO.
reviews and appeals	1-APP.

Continued on the next page

2 Related References (Continued)

C

Websites

The FSA website at <http://www.fsa.usda.gov> contains basic program information and program updates for Agency programs, including those covered by this handbook.

The FSA Intranet website at <http://intranet.fsa.usda.gov> provides electronic access to some FSA handbooks.

The FSA, NRCS, and Rural Development common Internet website at <http://www.sc.egov.usda.gov> contains downloadable Agency forms.

D

State Supplements

Exhibit 4 lists State supplements required by this handbook.

SED's shall:

- issue required supplements, and any additional supplements, according to 1-AS, paragraph 216
 - *--obtain approval of State supplements according to 1-AS, paragraph 220.--*
-

3-10 (Reserved)

Section 1 Program Overview

11 Objective

A
Scope

[7 CFR 770.1] This part contains the Agency’s policies and procedures for making and servicing loans to assist a Native American Tribe or tribal corporation with the acquisition of land interests within tribal reservation or Alaskan community.

B
Program
Objective

ITLAP:

- extends credit to Indian tribes or tribal corporations that do not qualify for standard commercial loans
 - benefits Native American tribes by providing credit to acquire land interests within the Federally recognized tribal reservation or Alaskan community.
-

12 Eligibility Requirements

A
Eligibility

Applicants must meet the requirements addressed in subparagraphs B through H to be eligible for an ITLAP loan.

B
Submitting
FSA-2620

[7 CFR 770.3 (a)] Submit a completed Agency application form;

The application will be submitted on FSA-2620 and will be signed by the tribe’s or tribal corporation’s authorized representative.

C
Purchase
Agreement

[7 CFR 770.3 (b)] Except for refinancing activities authorized in 770.4 (c) (subparagraph 21 A), obtain an option or other acceptable purchase agreement for land to be purchased with loan funds;

Such an agreement shall be included with the application for loan funds.--*

Continued on the next page

***--12 Eligibility Requirements (Continued)**

D**Adequate Tribal Funds Not Available**

[7 CFR 770.3 (c)] Be a Native American tribe or tribal corporation of a Native American tribe without adequate uncommitted funds based on Generally Accepted Accounting Principals, or another financial accounting method acceptable to the Secretary of Interior to acquire lands or interests therein within the Native American tribe's reservation for the use of the Native American tribe or tribal corporation or the members of either;

The applicant must provide the Agency with the following:

- a financial statement that meets generally accepted accounting principles standards
 - a cash flow statement that documents that all funds from all sources are committed
 - the past 3 years of financial statements and cash flows budget.
-

E**Inability to Obtain Other Credit**

[7 CFR 770.3 (d)] Be unable to obtain sufficient credit elsewhere at reasonable rates and terms for the purposes established in 770.4; (paragraph 21)

The applicant must provide letters from at least 3 lenders, 1 of which will be BIA, that outlines the following:

amount and terms requested by the tribe or tribal corporation
reason for denying the request.

Note: Reasonable rates and terms are those normally offered in the lending area for similar purposes.

F**Ability to Repay Loan**

[7 CFR 770.3 (e)] Demonstrate reasonable prospects of success in the proposed operation of the land to be purchased with funds provided under this part by providing;

- (1) a feasibility plan for the use of the Native American tribe's land and other enterprises and funds from any other source from which payment will be made;**
 - (2) a satisfactory management and repayment plan; and**
 - (3) a satisfactory record for paying obligations.--***
-

***--12 Eligibility Requirements (Continued)**

G
Delinquency on Federal Debt [7 CFR 770.3 (f)] Unless waived by the FSA Administrator, not have any outstanding debt with any Federal Agency (other than debt under the Internal Revenue Code of 1986) which is in a delinquent status.

H
Outstanding Recorded Judgements [7 CFR 770.3 (g)] Not be subject to a judgement lien against the tribe's property arising out of a debt to the United States.

13 Application Processing

A
Agency Official Responsibilities Agency official must review the application for completeness and ensure that the applicant meets all eligibility requirements. Specific responsibilities are addressed in subparagraphs B through H.

B
Reviewing FSA-2620 Agency official shall review FSA-2620 for completeness. All information necessary for the type of application, such as loan making and loan servicing, must be provided to consider the application complete. FSA-2621, FSA-2622, and FSA-2623 do not have to be provided to consider an application for a loan complete but must be provided before any loan closing. An option or purchase according to subparagraph 12 C must be included with the application to consider it complete.

C
Verifying Tribal Status and Unavailability of Funds Agency official must:

- contact the local BIA office to verify the Federal status of an applicant and document the contact in the case file running record

Example: Is the applicant on the list of Federally recognized tribes.

- review financial, budgetary, and cash flow information and document that the tribe has demonstrated that all income is being used for purposes other than real estate purchases.

Example: All funds generated by the tribe are used to meet the social and debt repayment needs of tribe or tribal corporation and not to the purchase of lands.--*

***--13 Application Processing (Continued)**

D

Reviewing Credit Denials

Agency official must review the credit denials provided to ensure that:

- 1 of the 3 denials is from BIA, and 2 are from commercial lenders
 - the denial letters adequately document the amount, terms requested, and reason for denial.
-

E

Determining Prospects of Success

Agency official shall:

- ensure that loan application documentation contains a pro forma financial statement and cash flow budget for the current period that demonstrates that the proposed loan or loans can be repaid and that the most recent 3 years of audited financial statements and cash flows have been provided
- review and ensure that the application file:
 - is adequately documented with the tribe's record of payment on all payment obligations
 - includes a management plan of the tribal operations about the land to be purchased.

Note: The management plan should include all income producing activities to be derived off of the land to be purchased and the ability of the land to provide enough revenue to make the proposed loan payments.

F

Outstanding Judgements

Agency officials shall ensure that loan applicants provide evidence that all Federal judgments have been released or paid in full. Loans will **not** be approved for applicants with unresolved Federal judgements. Loan funds shall not be used to pay Federal judgments. Direct questions about outstanding judgements to the Regional Attorney.--*

Continued on the next page

***--13 Application Processing (Continued)**

G

**Subsequent
Loans**

A subsequent loan may be made to a borrower for the same purposes and under the same conditions as the initial loan made to the borrower under this part. In addition to the requirement of subparagraphs B through F, the Agency official must ensure the following:

- that the tribe has demonstrated it has complied with past requests for financial information
 - that the existing loans are current.
-

H

**Delinquent
Federal Debt**

Agency officials shall use the automated CAIVRS in determining whether the applicant is delinquent on any Federal debt.--*

14-20 (Reserved)

Section 2 Loan Purposes, Terms, and Security Requirements

21 Loan Purposes and Limitations

A**Loan Purposes**

[7 CFR 770.4] Loan funds may only be used to:

- (a) Acquire land and interests therein (including fractional interests, rights-of-way, water rights, easements, and other appurtenances (excluding improvements) that would normally pass with the land or are necessary for the proposed operation of the land) located within the Native American tribe's reservation which will be used for the benefit of the tribe or its members.**
- (b) Pay costs incidental to land acquisition, including but not limited to, title clearance, legal services, land surveys, and loan closing.**
- (c) Refinance non-United States Department of Agriculture preexisting debts the applicant incurred to purchase the land provided the following conditions exist:**
 - (1) Prior to the acquisition of such land, the applicant filed a loan application regarding the purchase of such land and received the Agency's approval for the land purchase;**
 - (2) The applicant could not acquire an option on such land;**
 - (3) The debt for such land is a short term debt with a balloon payment that cannot be paid by the applicant and that cannot be extended or modified to enable the applicant to satisfy the obligation; and**
 - (4) The purchase of such land is consistent with all other applicable requirements of this part.**

[7 CFR 770.4 (d)] Pay for the costs of any appraisal conducted pursuant to this part.

--Appraisals must be completed according to 1-FLP, Part 6.--

Note: Although these costs may be included in a loan, the cost of the appraisal and land may not exceed the present market value of the property.

Continued on the next page

*--21 **Loan Purposes and Limitations (Continued)**

B

Loan Limitations [7 CFR 770.5 (a)] **Loan funds may not be used for any land improvement or development purposes, acquisition or repair of buildings or personal property, payment of operating costs, payment of finder’s fees, or similar costs, or for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agriculture commodity as further established in exhibit M of subpart G of part 1940 of this title.**

[7 CFR 770.5 (b)] **The amount of loan funds used to acquire land may not exceed the market value of the land (excluding the value of any improvements) as determined by a current appraisal.**

[7 CFR 770.5 (c)] **Loan funds for a land purchase must be disbursed over a period not to exceed 24 months from the date of loan approval.**

Note: The 24-month period begins from the date of the loan or loans approval. Sixty days before the end of the 24-month period, a letter shall be mailed to the tribal office responsible for land purchases providing notification that if the funds are not used before the end of this period, the remaining obligation will be canceled.

22 Interest Rates and Terms

A

Terms [7 CFR 770.6(a)] **Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note.**

B

Interest Rate [7 CFR 770.6(b)] **The interest rate charged by the Agency will be the lower of the interest rate in effect at the time of the loan approval or loan closing, which is the current rate available in any FSA office. Except as provided in section 770.10(b) (paragraph 39), the interest rate will be fixed for the life of the loan.**

The interest rate is published in RD Instruction 440.1, Exhibit B.--*

***--23 Security Requirements**

**A
Applicant
Responsibilities**

[7 CFR 770.7 (a)] The applicant will take appropriate action to obtain and provide security for the loan. However small the parcel purchased, the tribe or tribal corporation will provide the legal description of the parcel purchased for future loan servicing requests or actions.

Note: A legal description of the parcel purchased shall be included in the case file position relating to real estate

Example: A real estate mortgage and or assignment of income.

**B
Mortgage/ Deed
of Trust**

[7 CFR 770.7 (b)] A mortgage or deed of trust on the land to be purchased by the applicant will be taken as security for a loan, except as provided in paragraph (c) of this section.

- (1) If a mortgage or deed of trust is to be obtained on trust or restricted land and applicant’s constitution or charter does not specifically authorize mortgage of such land, the mortgage must be authorized by tribal referendum.**
- (2) All mortgages or deeds of trust on trust or restricted land must be approved by the Department of the Interior.**

Ordinarily, security will be a first lien on the real estate plus an assignment of income. However, the filing of a mortgage or deed of trust may be waived if the Agency determines that an assignment of income from the applicant provides as good or better security. The Agency shall first look to determine whether the filing of a real estate mortgage would be more advantageous to its security position and repayment of the loan.

If the purchase is for a fractionated interest, in addition to any real estate collateral, income assignments shall be used to secure the loan.--*

Continued on the next page

***--23 Security Requirements (Continued)**

C

Assignment of Income

[7 CFR 770.7 (c)] The Agency may take an assignment of income in lieu of a mortgage or deed of trust provided:

- (1) the Agency determines that an assignment of income provides as good or better security; and**
- (2) prior approval of the Administrator has been obtained.**

Note: See subparagraph 25 A for information about loan closing on assignments of income.

24 Approval or Denial Decision

A

Evaluating Loan Requirements

The loan request will be approved if:

- all eligibility requirements have been met
 - loan funds will be used for an authorized purpose
 - all security requirements have been met, or will be met at closing
 - DD has reviewed and signed FSA-2620
 - SED has reviewed and signed FSA-2620.
-

B

Loan Approval

SED's are authorized to approve all loans of \$500,000 or less. Loans greater than \$500,000 will be approved by the Administrator. Information to be provided to the National Office includes the following:

- the completed loan docket
- a proposed letter of conditions to be met by the applicant
- a copy of any comments from OGC
- SED's recommendations.

After approval, SED will forward a copy of the executed FmHA 1940-1 to the St. Louis finance office for each loan approved.

Note: If approval was authorized by the National Office, SED shall sign FmHA 1940-1 and attach a copy of the memorandum authorizing approval to FmHA 1940-1.--*

Continued on the next page

***--24 Approval or Denial Decision (Continued)**

C**Loan Denial**

The Agency shall not approve a loan if it determines that:

- the applicant is not creditworthy, or that the applicant has knowingly provided incomplete, false, or misleading information
- the applicant, the applicant's operation, or other circumstances surrounding the loan are inconsistent with the authorizing statutes, other Federal laws, or Federal credit policies, except as modified by published regulations
- a feasible plan cannot be developed, except for loans of \$30,000 or less with adequate net worth, which do not require a plan; see subparagraph 92 B
- for loan requests greater than \$30,000, there is inadequate security for the loan requested.

Denial letters shall be sent according to 1-APP and any other applicable Agency directives. All letters shall include the nondiscrimination statement in 1-FLP, subparagraph 41 C.

The approval official must thoroughly document the reasons for denying the loan in the application file. If the approval official is not in the local office, the loan file shall be sent back to the authorized agency official for completing the loan denial process.

D**Loan Funding**

Loan requests shall be funded based on the date the Agency approves the application. Loan approval is subject to the availability of funds.

The obligated loan fund shall be available to the applicant at loan closing either as a check or by electronic funds transfer.

If funds are not available to fund the loan request, the authorized agency official informs the applicant that funds are not currently available. If subsequent or additional loan funds are not available within 120 calendar days of the date of the funding shortfall, the loan application shall be withdrawn.--*

Continued on the next page

24 Approval or Denial Decision (Continued)

E

Appeals

* * *A loan applicant or borrower may request an appeal or review of an adverse decision made by the Agency according to 7 CFR Parts 11 and 780.

Agency Officials making adverse determinations shall:--*

- inform the applicant of mediation, reconsideration, and appeal rights according to 1-APP
 - follow procedure in 1-APP to process and act on appeals.
-

25 Closing Requirements

A

Loan Closing

The following are needed for loan closing.

- The Agency’s OGC must review the Tribal Constitution, Bylaws, and Tribal Resolutions authorizing the tribe to incur additional debt.
 - Agency officials will ensure that the tribe or tribal corporation has signed and provided all documentation required by FSA-2620, FSA-2621, FSA-2622 and FSA-2623, before loan closing.
 - The tribe must execute and deliver to the Agency a “General Assignment of Income” that is subordinated in favor of the Agency and acknowledged by BIA. The subordinated assignment agreement must be reviewed by the Agency’s OGC and determined to be legally sufficient. See FSA-2622 and FSA-2623.
 - Each assignment of income will be approved by BIA and recorded in the appropriate public records.
 - The tribe must provide a written agreement stipulating that they will not provide assignments or pledges to other parties of income, revenue, or other property assigned or pledged to FSA without written FSA consent.
 - The tribe must provide, in addition to the names already provided, the titles and addresses of all tribal officers.
 - In addition to properly securing the loan, Agency officials will ensure that RD 440-22 is executed at loan closing.
-

Continued on the next page

***--25 Closing Requirements (Continued)**

**B
Closing
Requirements**

The following documentation is needed for closing requirements.

- The tribe must establish a Land Acquisition Account in which loan funds will be deposited. This shall be a “Supervised Bank Account.” If funds in this account exceed \$100,000, it will be secured by the financial institution in advance.
- Agency officials must ensure that a properly bonded official of the tribe will receive monies for each account and issue receipts therefor. The bonded official will deposit all such monies in the appropriate trust or counter-signature accounts. As a basis for withdrawals, the deposit agreement for each account will require the signatures of appropriate tribal official or officials and the Agency official or an official from DOI, BIA, depending on whether the account is a BIA trust account or an FSA supervised account in a commercial bank.

**C
Real Estate Trust
Property**

If real estate trust property is to be taken as security for the loan or loans, the following steps shall be taken as part of loan closing.

Step	Instructions for Loan Closing
1	The applicant will request BIA to provide Title Status Reports to Agency Officials.
2	If all administrative closing requirements can be met, BIA will prepare the deeds and obtain the needed signatures. The Agency will supply BIA with RD 1927-1 and RD 440-22. BIA will insert the appropriate land descriptions. The partly completed real estate mortgage and note will be returned to the Agency.
3	The loan check can then be ordered and the loan closed. The mortgage and note will be completed and signed, but no funds will be disbursed. A conformed copy of the note with the original mortgage and 2 copies will be forwarded to BIA. BIA will insert a certification on the mortgage and then return it to the Agency. BIA will also indicate that the deeds have been recorded and the priority of the Government’s lien in a continuation of the Title Status Report. However, the certification about the lien priority may be made on the old Status Report if BIA prefers.
4	The certified original mortgage will then be recorded by the Agency in the county where the land is located if OGC determines that such recording is necessary. Funds can be disbursed as soon as the mortgage is recorded or the determination is made that recording is not necessary.

---*

Continued on the next page

***--25 Closing Requirements (Continued)**

D

Non Trust Land

Title clearance will be obtained according to RD Instruction 1927-B.

E

Rights-of-Way

The applicant will be responsible for obtaining adequate, continuous, and valid rights-of-way for operating and maintaining the property. The following documentation will be provided by the tribe to FSA:

- a copy of the form of rights-of-way instrument to be used if it differs from RD 442-20

Note: Rights-of-way with restrictive provisions should be accepted only in very unusual circumstances.

- whenever the form of this instrument differs from RD 442-20 or contains special provisions that are required by either the applicant or the grantor, copies of these instruments will be submitted to FSA for review before accepting and recording
 - either specific rights-of-way or general rights-of-way containing only a description of the tract or parcel of land affected may be used.--*
-

26-36 (Reserved)

*--Section 3 Loan Servicing

37 General Servicing

A**General**

[7 CFR 770.8(a)] Subject to section 770.5(d) (subparagraph 37 B) land acquired with loan funds, or other property serving as security for a loan under this part, may be leased, sold, exchanged, or subject to a subordination of the Agency's interests, provided:

- (1) the Agency provides prior written approval of the action;**
- (2) the Agency determines that the borrower's loan obligations to the Agency are adequately secured; and**
- (3) the borrower's ability to repay the loan is not impaired.**

[7 CFR 770.8(b)] Title to land acquired with a loan under this part may, with the approval of the Secretary of the Interior, be taken by the United States in trust for the tribe or tribal corporation.

B**Selling
Non-Renewable
Assets**

[7 CFR 770.5(d)] The sale of assets that are not renewable within the life of the loan will require a reduction in loan principal equal to the value of the asset sold.

Any sale of non-renewable assets must receive prior consent from the Agency. This may include the sale of timber, mineral, or other assets that generally will not be renewable within the term of the loan. The Agency will review the security for the loan or loans to determine whether after the sale of the asset, the Agency will remain well secured. If the Agency remains fully secured, the sale may be approved. All sales require prior approval of the Administrator.--*

Continued on the next page

***--37 General Servicing (Continued)**

C

Land Exchanges [7 CFR 770.10(d)] **In the cases where a borrower proposes to exchange any portion of land securing a loan for other land, title clearance and a new mortgage on the land received by the borrower in exchange, which adequately secures the unpaid principal balance of the loan, will be required unless the Agency determines any remaining land or other loan security is adequate security for the loan.**

Title clearance can be accomplished through the BIA office serving that particular tribe or tribal corporation's reservation.

If an assignment of income is determined to be adequate security for the loan, refer to subparagraph 25 A for using income assignment. If the exchange is for land that is less valuable than the land securing the indebtedness, the Agency will approve this action if the total land base securing the loans or on which an assignment of income from land purchased with ITLAP funds has been used for repayment is greater than the amount presently owed to the government.

To identify security for each loan, the tribe or tribal corporation must maintain a record of the tract or tracts purchased with loan funds and any transfers or exchanges that have been substituted for land originally purchased.

D**Appraisals**

[7 CFR 770.9(a)] **The applicant or the borrower, as appropriate, will pay the cost of any appraisal required under this part.**

[7 CFR 770.9(b)] **Appraisals must be completed in accordance with section 761.7 of this chapter.--***

***--38 Reamortization**

A**Eligibility**

[7 CFR 770.10(a)(1)] The Agency may consider reamortization of a loan provided:

- (i) The borrower submits a completed Agency application form; and**
- (ii) The account is delinquent due to circumstances beyond the borrower's control and cannot be brought current within 1 year; or**
- (iii) The account is current, but due to circumstances beyond the borrower's control, the borrower will be unable to meet the annual loan payments.**

Example: Circumstances beyond the borrower's control are increased expenses resulting from unfunded or partially funded Federal or State mandates, or natural disasters.

B**Term of a Loan**

[7 CFR 770.10(b)(2)] The term of a loan may not be extended beyond 40 years from the date of the original note.

- (i) Reamortization within the remaining term of the loan will be predicated on a projection of the tribe's operating expenses indicating the ability to meet the new payment schedule; and**
- (ii) No intervening lien exists on the security for the loan which would jeopardize the Government's security position.**

The interest rate will be the loan rate or the current program rate (if lower) if the borrower meets the requirements of subparagraph 39 A.

C**Consolidation
Authorized**

[7 CFR 770.10(b)(3)] If one or more notes are to be reamortized, consolidation of the notes is authorized.

The term of the consolidated note cannot exceed 40 years from the date of the most recently closed loan.

The interest rate will be the rate charged on the most recently closed loan or the current program rate (if lower) if the borrower meets the requirements of subparagraph 39 A.--*

***--39 Interest Rate Reduction**

A

Requirements

[7 CFR 770.10(b)] The Agency may consider a reduction of the interest rate for an existing loan to the current interest rate as available from any Agency office provided:

- (1) the borrower submits a completed Agency application form;**
 - (2) the loan was made more than 5 years prior to the application for the interest reduction; and**
 - (3) the Department of the Interior and the borrower certify that the borrower meets at least one of the criteria contained in paragraph (e)(2) of this section (subparagraph 41 B).**
-

40 Deferral

A

Requirements

[7 CFR 770.10(c)] The Agency may consider a full or partial deferral for a period not to exceed 5 years provided:

- (1) the borrower submits a completed Agency application form;**
- (2) the borrower presents a plan which demonstrates that due to circumstances beyond their control, they will be unable to meet all financial commitments unless the Agency payment is deferred; and**
- (3) the borrower will be able to meet all financial commitments including the Agency payments, after the deferral period has ended.**

The tribe or tribal corporation must provide a cash flow projection that indicates that there will be enough income to meet all expense and payment obligations after the deferral period ends.--*

***--41 Debt Write-down**

A**Application**

[7 CFR 770.10(e)(1)] The Agency will consider debt write-down under either the land value option or rental value option, as requested by the borrower.

- (i) The borrower must submit a completed Agency application form;**
 - (ii) If the borrower applies and is determined eligible for a land value and a rental value write down, the borrower will receive a write-down based on the write-down option that provides the greatest debt reduction.**
-

B**Eligibility**

[7 CFR 770.10(e)(2)] To be eligible for a debt write down, the borrower (in the case of a tribal corporation, the Native American Tribe of the borrower) must:

- (i) be located in a county which is identified as a persistent poverty county by the United States Department of Agriculture, Economic Research Service pursuant to the most recent data from the Bureau of Census; and**
- (ii) have a socio-economic condition over the immediately preceding 5-year period that meets the following two factors as certified by the Native American tribe and the Department of the Interior:**
 - (A) The Native American Tribe has a per capita income for individual enrolled tribal members which is less than 50 percent of the Federally established poverty income rate established by the Department of Health and Human Services;**
 - (B) The tribal unemployment rate exceeds 50 percent.**

Note: DOI must certify that the above criteria have been met.--*

Continued on the next page

*--41 Debt Write-down (Continued)

C

**Land Value
Write-down**

[7 CFR 770.10(e)(3)] The Agency may reduce the unpaid principal and interest balance on any loan made to the current market value of the land that was purchased with loan funds provided;

- (i) The market value of such land has declined by at least 25 percent since the land was purchased as established by a current appraisal;**

Note: The tribe must identify the lands purchased and account for any trade, substitution, or exchange made since the loan or loans were first made to complete an appraisal and document the loss in value.

The cost of the appraisal will be paid by the tribe or tribal corporation.

- (ii) Land value decrease is not attributed to the depletion of resources contained on or under the land;**

Example: The harvesting of timber, strip mining, or any other action that would reduce the value of land by removal of resources contributing to the value of the land.

- (iii) The loan was made more than 5 years prior to the application for land value writedown; and**
- (iv) The loan has not previously been written down under paragraph (e)(4) (subparagraph D) of this section and has not been written down within the last 5 years under this paragraph.**

The decrease in value must be attributable to outside economic forces; natural disaster, including flood and insect damage; or other factors beyond the borrower's control for which they are unable to mitigate the negative effects. Agency officials will document the reason attributable to the decrease in value before land value write-down approval.--*

Continued on the next page

*--41 Debt Write-down (Continued)

D**Rental Value
Write-down**

[7 CFR 770.10(e)(4)] The Agency may reduce the unpaid principal and interest on any loan, so the annual loan payment for the remaining term of each loan equals the average of annual rental value of the land purchased by each such loan for the immediately preceding 5-year period if:

- (i) The loan was made more than 5 years prior to the rental value writedown.**
- (ii) the description of the land purchased with the loan funds and the rental values used to calculate the 5-year average annual rental value of the land have been certified by the Department of the Interior.**

Note: To meet this requirement, the tribe or tribal corporation must provide the number of acres that were purchased with FSA loan funds, information on the average number of ITLAP purchased acres rented per year in the previous 5-year period, and the total income from ITLAP purchased land leased for livestock or crop production. DOI's BIA must certify in writing as to the validity of the figures used by the tribe requesting a write-down.

- (iii) The borrower provides a current appraisal of the land; and**

Note: The cost of the appraisal will be paid by the tribe or tribal corporation.

- (iv) The loan has not been previously written down under this paragraph and has not been written down within the last 5 years under paragraph (e)(3) of this section (subparagraph C).**

Note: If the loan has previously received a rental value write-down it cannot receive another rental value write-down. If the loan received a land value write-down within the last 5 years it cannot receive a rental value write-down.--*

***--42 Reserve Accounts**

A

Releasing Reserve Account Funds

[7 CFR 770.10(e)] Existing reserve accounts may be released for the purpose of making ITLAP loan payments or to purchase additional lands, subject to the following;

(1) a written request is received providing detailed use of the funds;

(2) the loan is not delinquent;

(3) the loan is adequately secured by a general assignment of tribal income.

43 Graduation

A

Graduation Requirement

FSA-2621 and RD 1927-1 contain requirements about graduation.

B

Borrower Action

If at any time it appears to Agency officials that the tribe is able to refinance the loan, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purpose and periods of time, the tribe will, upon request of the Agency, apply for and accept such loan in sufficient amount to repay the Agency.--*

44-54 (Reserved)

Parts 3 and 4 (Reserved)

55-84 (Reserved)

Part 5 Special Apple Loan Program

85 Overview

A

Scope

[7 CFR 773.1] This part contains the terms and conditions for loans made under the Special Apple Loan Program. These regulations are applicable to applicants, borrowers, and other parties involved in making, servicing, and liquidating loans.

B

Program Objective

[7 CFR 773.1] The program objective is to assist producers of apples that are suffering from economic loss as a result of low apple prices.

86 General Eligibility Requirements

A

Eligibility Requirements

[7 CFR 773.6] Loan applicants must meet all of the following requirements to be eligible for a Special Apple Loan Program loan. Eligibility requirements are addressed in subparagraphs B through H.

B

Apple Producer

[7 CFR 773.6(a)] The loan applicant must be an apple producer.

[7 CFR 773.2] Apple producer is a farmer in the United States or its territories that produced apples, on not less than 10 acres, for sale in 1999 or 2000.

For lease arrangements, a producer, who is not the owner of the real estate, is eligible to apply for SALP. Land owners on a crop share lease are not considered the apple producer. The applicant is not required to continue growing apples during the term of the SALP loan.

Continued on the next page

86 General Eligibility Requirements (Continued)

C**United States
Citizenship**

[7 CFR 773.6(b)] The loan applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationalization Act. For a business entity applicant, the majority of the business entity must be owned by members meeting the citizenship test or other entities that are domestically owned. Aliens must provide the appropriate Immigration and Naturalization Service forms to document their permanent residency.

Aliens must provide I-151 or I-551 to show permanent residency status. If the Authorized Agency Official questions the authenticity of I-151 or I-551 or the information on the form, the Authorized Agency Official may complete G-845 to request that INS verify the information. G-845 can be obtained from and submitted to the nearest INS District Office. To waive the service fee, the Authorized Agency Official shall insert "INTERAGENCY LAW ENFORCEMENT REQUEST" in the upper right corner of G-845.

D**Legal Capacity
to Incur Debt**

[7 CFR 773.6(c)] The loan applicant and anyone who will execute the promissory note must possess the legal capacity to enter into contracts, including debt instruments.

The loan applicant must be of legal age and mental capacity to enter into a legally binding agreement with FSA. An entity applicant, and the entity members who will execute the promissory note, must be able to enter into this contract.

Continued on the next page

86 General Eligibility Requirements (Continued)

E**Delinquency on Federal Debt**

[7 CFR 773.6(d)] At loan closing the loan applicant and anyone who will execute the promissory note must not be delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986.

Delinquencies will be verified by a review of a CAIVRS report for the applicant, including if the applicant is an entity, the members that will be executing the loan notes and agreements. The loan applicant may be considered eligible if the delinquency will be remedied by the date of loan closing. Loan applicants may use loan funds to cure delinquencies. Federal debt includes, but is not limited to, student loans, CCC loans, FSA loans, Veteran's Administration loans, and Small Business Association loans. FSA guaranteed loans are not considered Federal debts.

Note: An applicant who is current on or who has successfully completed a bankruptcy reorganization plan that covers a Federal debt will not be considered delinquent.

F**Outstanding Recorded Judgments**

[7 CFR 773.6(e)] At loan closing the loan applicant and anyone who will execute the promissory note must not have any outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

Loan applicants must provide evidence that all Federal judgments have been released or paid in full. Loans will not be approved for applicants with unresolved Federal judgments. Loan funds shall not be used to pay Federal judgments. Direct questions about outstanding judgments to Regional Attorney.

Continued on the next page

86 General Eligibility Requirements (Continued)

G**Providing False Information**

[7 CFR 773.6(f)] The loan applicant, in past or present dealings with the Agency, must not have provided the Agency with false information.

The applicant must not have knowingly provided false information, or misleading documents or statements, to affect a credit or program decision. Examples include inaccurate balance sheets or falsified production records.

See Exhibit 2 for the definition of "false information".

H**Credit History**

[7 CFR 773.6(g)] The individual or business entity loan applicant and all entity members must have acceptable credit history demonstrated by debt repayment. A history of failure to repay past debts as they came due (including debts to the Internal Revenue Service) when the ability to repay was within their control will demonstrate unacceptable credit history. Unacceptable credit history will not include isolated instances of late payments which do not represent a pattern and were clearly beyond the applicant's control or lack of credit history.

Applicants are expected to have paid debts when due without patterns of late payments, judgments, chargeoffs, or collection accounts. An unacceptable credit history will be demonstrated by a history of failures to repay past debts as they come due when the ability to repay was within the applicant's control. Any occurrences that are more than 36 months old will not be considered if more recent activity reflects a more acceptable performance.

I**Loans to FSA Employees**

Loans may be made to Agency employees.

87 Eligible Loan Purposes

A**General Loan Purposes**

The Authorized Agency Official shall review applications to ensure that SALP funds are used for authorized purposes.

B**SALP Loan Purposes**

[7 CFR 773.7] Loan funds may be used for any of the following purposes related to the production or marketing of apples:

- (a) Payment of costs associated with reorganizing a farm to improve; profitability;**
- (b) Payment of annual farm operating expenses;**
- (c) Purchase of farm equipment or fixtures;**
- (d) Acquiring, enlarging, or leasing a farm;**
- (e) Making capital improvements to a farm;**

Note: SALP funds may be used for real estate purposes; however, the loan must be repaid within 3 years.

- (f) Refinancing indebtedness;**

Note: The debt must have been incurred for a purpose related to the production or marketing of apples.

- (g) Purchase of cooperative stock for credit, production, processing, or marketing purposes; or**
 - (h) Payment of loan closing costs.**
-

88 Loan Limitations

A**Maximum Loan Amount**

[7 CFR 773.8(a)] The maximum loan amount any individual or entity may receive under Special Apple Loan Program is \$500,000.

[7 CFR 773.8(b)] The maximum loan is further limited to \$300 per acre of apple trees in production in 1999 or 2000, whichever is greater.

Note: The applicant will certify to actual acres in apple production in 1999 and 2000 on CCC-2651. The year with the greater acreage in production will be used to determine the base acreage used to calculate the maximum loan the applicant is eligible to receive. Immature trees, not of bearing age, may be considered.

B**Prohibited Use of Loan Funds**

[7 CFR 773.8(c)] Loan funds may not be used to pay expenses incurred for lobbying or related activities.

[7 CFR 773.8(d)] Loans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

Note: A decision by the Agency to reject an application for this reason is appealable. An appeal questioning the presence of a wetland, converted wetland, or highly erodible land on a particular property must be filed directly with the USDA agency making the determination according to the Agency's appeal procedures.

89 Environmental Requirements

A**Environmental
Evaluation**

[7 CFR 773.9(a)] Except as otherwise specified in this section, prior to approval of any loan, an environmental evaluation will be completed by the Agency to determine if the proposed action will have any adverse impacts on the human environment and cultural resources. Loan applicants will provide all information necessary for the Agency to make its evaluation.

B**NEPA and
NHPA
Compliance**

[7 CFR 773.9(b)] The following loan actions were reviewed for the purpose of compliance with the National Environmental Policy Act (NEPA), 40 CFR Parts 1500 through 1508, and determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. Therefore these loan actions are categorically excluded from the requirements of an environmental evaluation:

- (1) Payment of legal costs associated with reorganizing a farm to improve its profitability as long as there are no changes in the land's use or character;**
- (2) Purchase of farm equipment which will not be affixed to a permanent mount or position;**
- (3) acquiring or leasing a farm;**

Note: Provided that no loan funds are used to expand the operation in a manner which may have the potential for environmental impacts

- (4) Refinancing an indebtedness not greater than \$30,000;**
- (5) Purchase of stock in a credit association or in a cooperative which deals with the production, processing, or marketing of apples; and**
- (6) Payment of loan closing costs.**

Continued on the next page

89 Environmental Requirements (Continued)

B NEPA and NHPA Compliance (Continued)

[7 CFR 773.9(c)] The loan actions listed in paragraph (b) of this section were also reviewed in accordance with section 106 of National Historic Preservation Act (NHPA). It was determined that these loan actions are non-undertakings with no potential to effect or alter historic properties and therefore, will not require consultation with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other interested parties.

For loan actions which are categorically excluded, the following statement should be included in the running record of the case file:

"This loan is categorically excluded from the requirements of an environmental evaluation and has been determined a non-undertaking under section 106."

C Environmental Review

For all other loan purposes, an environmental evaluation will be completed using FSA-850 according to 1-FSFL.

[7 CFR 773.9(d)] If adverse environmental impacts, either direct or indirect, are identified, the Agency will complete an environmental assessment in accordance with the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA to the extent required by law.

For example, if completion of FSA-850 identifies adverse environmental or cultural resource impacts and no alternative or mitigation measures exist, a Class II Environmental Assessment will be completed according to RD Instruction 1940-G, Section 1940.318 and Exhibit H.

If it is determined from completing the environmental assessment process that there are significant impacts and no alternatives or mitigation measures exist, the County Office shall do either of the following:

- deny the applicant's request for a loan
- request that SED request assistance from the National Office for further assessment of the impacts of the project and any associated alternatives and mitigation measures.

Continued on the next page

89 Environmental Requirements (Continued)

D**Emergencies**

When emergency circumstances arise that prevent implementing the provisions of this section, follow the provisions in RD Instruction 1940-G, Section 1940.332.

E**Monitoring**

FSA staff, who normally have responsibility for the post-approval inspection and monitoring of approved projects, shall ensure that mitigation measures that were identified in the approval stage and required to be undertaken to reduce adverse environmental impacts are effectively implemented.

FSA staff shall review the action's approval documents and consult with the preparer of the action's environmental review document before making site visits or requesting project status reports to determine whether there are environmental requirements to be monitored.

- The preparer will directly monitor actions containing difficult or complex environmental special conditions.
- Before certifying that conditions within offers of financial assistance have been fully met, the responsible monitoring staff will obtain the opinion of the preparer for those conditions developed as a result of the environmental review. Satisfactory completion of required mitigation measures will be documented as an addendum to Exhibit 12 of FSA-850 on file with initials of the reviewing official on the addendum.
- Whenever noncompliance with an environmental special condition is detected by FSA, SEC will be informed immediately and take appropriate steps, in consultation with the responsible program office, to bring the action into compliance.

Continued on the next page

89 Environmental Requirements (Continued)

**F
Due Diligence**

[7 CFR 773.9(e)] In order to minimize the financial risk associated with contamination of real property from hazardous waste and other environmental concerns, the Agency will complete an environmental risk evaluation of the environmental risks to the real estate collateral posed by the presence of hazardous substances and other environmental concerns.

- (1) The Agency will not accept real estate as collateral which has significant environmental risks.**
- (2) If the real estate offered as collateral contains significant environmental risks, the Agency will provide the applicant with the option of properly correcting or removing the risk, or offering other non-contaminated property as collateral.**

The release or presence of a hazardous substance, hazardous waste, or leaking underground storage tank on a property could affect the value of the property that is offered as security for a loan. Furthermore, a borrower with substantial liability associated with hazardous waste contamination or a leaking underground storage tank may indicate a severely diminished ability to repay. Therefore, due diligence will be performed for all new loans involving real estate as security, including real estate offered as additional security. Due diligence will be completed by the County Office by completing the Transaction Screen Questionnaire, which is available from all SEC's.

If FSA determines that the property being offered as security contains possible hazardous waste contamination based on the completion of a Transaction Screen Questionnaire, FSA shall notify the applicant that no further processing of the loan application can take place until 1 of the following occurs:

- the applicant provides an environmental site assessment completed by a qualified environmental professional that shows the property offered for security is not contaminated
 - new non-contaminated property is offered as security for the loan or loans
 - the contaminated property being offered as security has been fully remediated according to a plan approved by the appropriate regulatory agency
 - the contaminated property can be subdivided, thus leaving a non-contaminated property to offer as security.
-

90 Other Requirements

A
**Other Federal,
State, and Local
Requirements**

[7 CFR 773.10] Borrowers are required to comply with all applicable:

- (a) Federal, State, or local laws;**
- (b) Regulatory commission rules; and**
- (c) Regulations which are presently in existence, or which may be later adopted including, but not limited to, those governing the following:**
 - (1) Borrowing money, pledging security, and raising revenues for repayment of debt;**
 - (2) accounting and financial reporting; and**
 - (3) Protection of the environment.**

Notes: Additional instruction as to applicable laws, rules, and regulations will be provided in State supplements.

Agencies that may have regulations or other guidance that the borrower will have to follow include State Historic Preservation Offices, State Environmental Boards, local zoning boards, and local Conservation Districts.

B
**Non-
discrimination
Statement**

The nondiscrimination statement in 1-FLP, subparagraph 41 D shall be included in all materials produced for public information or distribution.

91 Applying for Loan Funds

A **Application** **Package**

[7 CFR 773.18(a)] **A complete application will consist of the following:**

- (1) A completed Agency application form;**
- (2) If the applicant is a business entity, any legal documents evidencing the organization and any State recognition of the entity;**
- (3) Documentation of compliance with the Agency's environmental regulations contained in 7 CFR part 1940, subpart G;**
- (4) A balance sheet on the applicant;**
- (5) Payment to the Agency for ordering a credit report;**
- (6) Any additional information required by the Agency to determine the eligibility of the applicant, the feasibility of the operation, or the adequacy and availability of security.**

Note: If the applicant is an existing FSA farm loan borrower, information from the existing case file may be used with appropriate adjustments for the loan request.

See subparagraph H for additional application requirements for loans:

- over \$30,000
- for applicants who do not demonstrate strong owner equity.

B **Application** **Form**

Applicants shall submit CCC-2651, completing all certifications, including apple acreage and loan purposes. FSA will not verify certifications unless there is reason to believe they are inaccurate.

Continued on the next page

91 Applying for Loan Funds (Continued)

C**Entity Applicants**

A business entity applicant must provide legal documents evidencing the organization and any State recognition of the entity such as articles of incorporation or partnership agreements, must be submitted. The application must include the following information for each entity member:

- name
- address
- Social Security number, or IRS tax ID number for a member that is a business entity
- percent ownership interest in the entity
- in the case of a member that is itself a business entity, legal documents evidencing the organization and any State recognition of the entity.

This information is required for FSA to:

- identify the members
 - document that the entity meets eligibility requirements
 - determine which members are required to execute the promissory note.
-

D**Environmental Information**

Applicants must comply with the environmental requirements in RD Instruction 1940-G.

Borrowers are required to have a current AD-1026 on file with FSA. FSA can conduct its environmental review in most cases without additional information. In cases where additional information is required such as wetland determinations, potential historical or archaeological sites, etc., the loan application is not considered complete, and the loan processing timeframe does not start, until this information is received.

E**Balance Sheet**

The application package for all loans must include a balance sheet on the applicant that was prepared within 90 calendar days of the date the application was submitted.

Continued on the next page

91 Applying for Loan Funds (Continued)

**F
Credit Report**

Applicants are required to provide payment for ordering a credit report. The cost is \$28 for a single applicant, \$34 for joint applicants, and \$40 for an entity applicant. FSA will obtain and review a current credit report. Credit report fees will be submitted according to 3-FI and applicable FI notices.

If an applicant is applying for another farm loan at the same time, then only 1 report will be ordered and payment will be handled according to FLP procedures.

**G
Additional
Information**

Additional information may be required if necessary to determine the eligibility of the applicant, the feasibility of the operation, or the adequacy and availability of security. This information may include collateral documents such as depreciation schedules, deeds, county assessments, tax records, etc. Verification of debts with significant impact on repayment and/or collateral security will also be obtained. These verifications can be made with copies of the last statements, or by using FSA-440-32.

**H
Loans Over
\$30,000 or
Without Strong
Owner Equity**

For any loan request when the applicant's net worth is less than 3 times the loan amount **and** on all loan requests greater than \$30,000, a complete application will include the following, in addition to the items in subparagraph A:

- **[7 CFR 773.18(a)(5)] The farm's operating plan, including the projected cash flow budget reflecting production, income, expenses, and loan repayment plan;**

[7 CFR 773.18(a)(6)] The last 3 years of production and income and expense information.

Note: The documentation may include income statements, income tax returns, and actual production records.

92 Ability to Repay Loan

A

Purpose

[7 CFR 773.19(e)(1)] All loan applicants must demonstrate that the loan can be repaid.

B

Loans of \$30,000 or Less When Applicant Has Strong Net Worth

[7 CFR 773.19(e)(2)] For loans that are for \$30,000 or less where the applicant's balance sheet shows a net worth of three times the loan amount or greater, repayment ability will be considered adequate without further documentation.

For loan requests of \$30,000 or less, a cash flow budget will not be required, if the applicant's balance sheet shows a net worth of 3 times the loan amount or greater.

C

Loans Greater Than \$30,000 or Any Loan When Applicant Has Weak Net Worth

[7 CFR 773.19(e)(4)] For loans that are for more than \$30,000, repayment ability must be demonstrated using the farm's operating plan, including a projected cash flow budget based on historical performance.

[7 CFR 773.19(e)(3)] For loans that are for \$30,000 or less where the applicant's balance sheet shows a net worth of less than three times the loan amount, repayment ability must be demonstrated using the farm's operating plan, including a projected cash flow budget based on historical performance. Such operating plan is required notwithstanding Section 773.18 of this part.

For those applicants with a net worth that is not at least 3 times the loan amount or requesting a loan greater than \$30,000, repayment ability must be demonstrated using the farm's operating plan, including a projected cash flow budget based on historical performance.

The operating plan must include documentation of the ability to repay the loan requested. Cash flow must include a projection listing all anticipated cash inflows (including all farm income, nonfarm income, and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred by the borrower during the period of the budget, based on prior history and be consistent with anticipated prices for similar goods and services. It must be documented in sufficient detail to adequately reflect the overall condition of the operation. A cash flow budget may be completed either for a 12 month period, a typical production cycle, or the life of the loan, as appropriate to determine repayment ability.

93 Interest Rates and Loan Terms

A

Establishing Interest Rate

[7 CFR 773.19(a)] The interest rate will be fixed for the term of the loan. The rate will be established by the Agency and available in each Agency Office, based upon the cost of Government borrowing for loans of similar maturities.

The rate will be published in RD Instruction 440.1, Exhibit B.

B

Loan Term

[7 CFR 773.19(b)] The loan term will be for up to 3 years, based upon the useful life of the security offered.

The final maturity date for each loan cannot exceed 3 years from the date of the promissory note. A lesser term will be used if the security offered is not adequate to secure the loan for 3 years. The installments will be equal with the loan to be paid in full in 3 years from the date of the note. Balloon installments are prohibited. The Approval Official will document in the case file that the payment schedule is consistent with the income generated by the operation and the collateral securing the loan.

94 Security Requirements

A**Purpose**

[7 CFR 773.19(c)] The Agency will take a lien on the following security, if available, as necessary to adequately secure the loan:

- (1) Real estate;**
- (2) Chattels;**
- (3) Crops;**
- (4) Other assets owned by the applicant;**

Note: Examples include non-farm real estate, certificates of deposit, personal guarantees, etc.

- (5) Assets owned and pledged by a third party.**

Security must be taken to protect the Government's interest and as protection against possible loss.

Note: The applicant must provide a detailed description and valuation of possible security with the loan application, such as legal description of all owned farm real estate and local property tax assessments or list of equipment and income tax depreciation schedule.

B**Loans of \$30,000 or Less**

[7 CFR 773.19(d)(1)] For loans that are for \$30,000 or less, collateral value will be based on the best available, verifiable information. These loans will be considered adequately secured by taking a best lien obtainable on the applicant's real estate. If the applicant does not own real estate, a lien will be taken on crops and available chattel security.

Continued on the next page

94 Security Requirements (Continued)

**C
Loans Greater
Than \$30,000**

Loan requests greater than \$30,000 require greater Agency scrutiny and documentation of adequate security. The Approval Official must determine the amount and type of security required to adequately secure the loan. When the applicant owns real estate, FSA will normally file a lien on all real estate. If other security, such as chattels or non-farm assets, will offer better protection of the Government's interest, the Approval Official may take a lien on the alternate security. When available, the security value should be at least 150 percent of the loan amount. In all cases, at a minimum, the value of the security must be at least equal to the loan amount.

**D
Identifiable
Security**

Loans must be secured by collateral that can be distinguished from other security items and can be adequately described in security instruments.

**E
Real Estate**

A survey is not required, if the property is adequately described. The applicant is responsible for obtaining and paying any costs for documentation that must be completed to properly identify the security property.

Continued on the next page

94 Security Requirements (Continued)

F

Chattels

Chattels consist of equipment or livestock. Equipment must be identified by manufacturer, model, year, and serial number, where available. If this information is not available, a written description of the equipment that is adequate to define the security will be kept in the case file.

G

Crops

Security interest in crops will be perfected by a UCC-1 filing according to State law.

H

Other Collateral

An applicant may provide other collateral to strengthen the value of the Agency's lien. Other collateral may be non-farm real estate, certificates of deposit, or collateral pledged by others. The applicant will need to provide satisfactory documentation as to the value of the collateral and availability for FSA to perfect a lien.

I

Insurance

The applicant will obtain insurance policies covering FSA loan security, if they are available and cost effective.

95 Appraisals

A

Loans of \$30,000 or Less

FSA will take a lien on the applicant's farm property, if it is owned. If not owned, FSA will take a lien on crops and chattels.

Appraisals or other methods of collateral valuation are not required.

B

Loans Greater Than \$30,000

[7 CFR 773.19(d)(2)] For loans of greater than \$30,000 where the applicant's balance sheet shows a net worth of three times the loan amount or greater, collateral value will be based on tax assessment of real estate and depreciation schedules of chattels, as applicable, less any existing liens. An appraisal will not be required.

[7 CFR 773.19(d)(3)] For loans of greater than \$30,000, where the applicant's balance sheet shows a net worth of less than three times the loan amount, collateral value will be based on an appraisal. Such appraisals must be obtained by the applicant, at the applicant's expense, and be acceptable to the Agency. Appraisals of real estate must be completed in accordance with USPAP. These appraisals must comply with 1-FLP, Part 6. The applicant will be supplied a list of acceptable appraisers at the time of loan application and must select an appraiser from this list to complete the appraisal. In addition, the applicant will be provided a list of appraisal requirements to give to the appraiser. The applicant should request the appraiser submit the appraisal directly to FSA. A current appraisal in the applicant's direct or guaranteed loan file, if applicable, is also acceptable. See 1-FLP, subparagraph 141 F for guidance on using third-party appraisals.

Note: Loans can be approved subject to obtaining an appraisal.

96 Summary of Documentation and Security Requirements

A

Summary Chart

Use the following table to determine security, appraisal, and repayment documentation requirements.

Loan Characteristics	Security	Appraisal Required	Repayment Documentation
<ul style="list-style-type: none"> • less than \$30,000 • net worth greater than 3 times the loan amount 	best lien obtainable on real estate or chattels	No	not required
<ul style="list-style-type: none"> • less than \$30,000 • net worth less than 3 times the loan amount 	best lien obtainable on real estate or chattels	No	projected cash flow budget
<ul style="list-style-type: none"> • greater than \$30,000 • net worth greater than 3 times the loan amount 	must at least equal loan amount	No Use tax assessment/ depreciation schedules.	projected cash flow budget
<ul style="list-style-type: none"> • greater than \$30,000 • net worth less than 3 times the loan amount 	must at least equal loan amount	Yes	projected cash flow budget

97 Loan Processing/Approval or Denial Decisions

**A
Approval
Authorities**

Use this table to determine approval authorities.

FLO GS-7	FLO GS-9	FLO GS- 11	FLM	SED and delegated State Office
\$50,000	\$100,000	\$150,000	\$200,000	\$500,000

An Agency employee must have been delegated FLP loan approval authority to exercise the approval authorities in this part.

County Office employees will not be given approval authority without authorization from DAFLP, and may not exceed the loan approval authority equivalent to that of the equivalent grade for FLO or FLM.

SED may delegate approval authority to qualified State Office employees.

**B
Other FSA
Loans**

SALP loans may be approved up to \$500,000. Outstanding loan balances from other FLP's, direct or guaranteed, will not affect the amount an applicant is eligible to receive or the amount an Agency employee with approval authority is able to approve within the appropriate authority. Likewise, outstanding SALP loans will not affect the amount an applicant is eligible to receive under any other FSA loan program.

**C
Processing
Timeframes**

The Approval Official must make the decision to approve or deny the loan and notify the applicant within 30 calendar days after the loan application is complete.

All applications will be entered into MAC. SED, DD, and FLM will monitor the processing of all loan applications to ensure that all applications are processed in a timely manner.

Continued on the next page

97 Loan Processing/Approval or Denial Decisions (Continued)

D**Evaluating Loan Requirements**

[7 CFR 773.21(a)(1)] The Agency will approve the loan if it determines that:

- (i) The loan can be repaid;**
- (ii) The proposed use of loan funds is authorized;**
- (iii) The applicant has been determined eligible;**
- (iv) All security requirements have been, or will be met at closing;**
- (v) All other pertinent requirements have been, or will be met at closing.**

The Approval Official has the ultimate responsibility for evaluating the loan file to determine whether the proposed request complies with established FSA policies and all pertinent regulations.

At a minimum, the Approval Official shall verify the following items in the final review before making the loan decision and is responsible for determining that the:

- applicant is eligible
- funds are requested for authorized purposes
- loan is within the limits the applicant is eligible to receive
- environmental requirements have been met
- security is adequate
- applicant has the ability to repay the loan.

A loan requiring a real estate appraisal for the determination of adequate security may be approved subject to obtaining an appraisal in those cases where:

- available financial information indicates security will be adequate when the appraisal is completed
- the approval requirements include obtaining an acceptable appraisal before loan closing.

Continued on the next page

97 Loan Processing/Approval or Denial Decisions (Continued)

E

Loan Approval [7 CFR 773.21(a)(2)] The Agency will place conditions upon loan approval as necessary to protect its interest.

The Authorized Agency Official will:

- document the loan approved by completing and executing FmHA 1940-1; the applicant will not be required to sign FmHA 1940-1
notify the applicant of loan approval using the following guide letter.

Form containing fields for Applicant, Address, City, State, ZIP Code, Dear, and numbered list items 1-5 regarding Loan Amount, Use of Proceeds, Interest Rate, Term, and Repayment Schedule.

Continued on the next page

97 Loan Processing/Approval or Denial Decisions (Continued)

E
Loan Approval
(Continued)

6. Collateral - The loan will be secured by the following:

(Enter the collateral to be taken).

7. Insurance - You must maintain liability insurance coverage for any collateral securing the loan funds advanced throughout the term of the loan.

8. Reporting - You must notify FSA of any adverse actions, including but not limited to, anticipated default on the loan.

9. Legal Authority - You will certify that you (a) are duly formed, incorporated, and in compliance with applicable laws to conduct and perform its programs and purposes, and (b) have satisfied all statutory and regulatory requirements for continuing operations.

10. Environmental Requirements - You will certify that all Federal and State statutory and regulatory environmental requirements have been complied with. Throughout the term of the loan the borrower will comply with all applicable environmental laws and regulations relative to its activities.

11. Expiration - This commitment letter remains effective until close of business on _____(enter 60 calendar days from the date of the letter). The loan closing and release of loan funds are subject to you and FSA agreeing upon all terms and conditions to be contained in the documentation required for the loan, including promissory notes, loan agreements, and security instruments.

Your signature on all loan closing documents will indicate your acceptance of the conditions of this letter. The loan closing is scheduled for _____. If you have any questions concerning this proposal, please contact the FSA office at _____

Sincerely,

Continued on the next page

97 Loan Processing/Approval or Denial Decision (Continued)

F**Loan Denial**

The Agency will **not** approve a loan if it determines that:

- the applicant is not creditworthy, or that the applicant has knowingly provided incomplete, false, or misleading information
- the applicant, the applicant's operation, or other circumstances surrounding the loan are inconsistent with the authorizing statutes, other Federal laws, or Federal credit policies, except as modified by published regulations
- a feasible plan cannot be developed, except for loans of \$30,000 or less with adequate net worth, which do not require a plan; see subparagraph 92 B
- for loan requests greater than \$30,000, there is inadequate security for the loan requested.

Denial letters will be sent according to 1-APP and any other applicable Agency directives. All letters will include the nondiscrimination statement in 1-FLP, subparagraph 41 C.

The Approval Official must thoroughly document the reasons for denying the loan in the application file. If the Approval Official is not in the local office, the loan file will be sent back to the Authorized Agency Official for completing the loan denial process.

G**Appeals**

[7 CFR 773.3] A loan applicant or borrower may request an appeal or review of an adverse decision made by the Agency in accordance with 7 CFR part 11.

Approving authorities making adverse determinations will:

- inform the applicant of mediation, reconsideration, and appeal rights according to 1-APP
 - follow procedure in 1-APP to process and act on appeals.
-

Continued on the next page

97 Loan Processing/Approval or Denial Decisions (Continued)

H

Loan Funding

[7 CFR 773.20] Loan requests will be funded based on the date the Agency approves the application. Loan approval is subject to the availability of funds.

The obligated loan funds will be available to the applicant at loan closing either as a check or by electronic funds transfer. Loan funds must be provided to the applicant within 15 calendar days after obligation, unless the applicant agrees to a longer timeframe.

If funds are not available to fund the loan request, the Authorized Agency Official informs the applicant that funds are not currently available. If subsequent or additional loan funds are not available within 120 calendar days of the date of the funding shortfall, the loan application will be withdrawn.

I

Loan Closing and Loan Fees

The Approval Official, or designee, shall close the loan according to the following.

- **[7 CFR 773.21(b)(1)] The applicant must meet all conditions specified by the loan approval official in the notification of loan approval prior to loan closing.**

[7 CFR 773.21(b)(2)] There must have been no significant changes in the plan of operation or the applicant's financial condition since the loan was approved. A certification to this effect is included on CCC-2652.

- **[7 CFR 773.21(b)(3)] The applicant will execute all loan instruments and legal documents required by the Agency to evidence the debt, perfect the required security interest in property securing the loan, and protect the Government's interests, in accordance with applicable State and Federal laws. In the case of an entity applicant, all officers or partners and any board members also will be required to execute the promissory notes as individuals.** CCC-2652 will be executed to provide evidence of repayment requirements and security pledged. No SALP loan funds will be transferred to the applicant until CCC-2652 has been executed.
-

Continued on the next page

97 Loan Processing/Approval or Denial Decisions (Continued)

**I
Loan Closing
and Loan Fees
(Continued)**

Notes: For loans that require more than 2 signatures, the Approval Official will seek guidance from the appropriate Regional Attorney for assistance in properly executing an addendum or attachment for additional signatures.

SED will issue State supplements, with the advice of the Regional Attorney, on perfecting the liens, including preparing mortgages, for closing loans.

[7 CFR 773.21(c)] The applicant will pay all loan closing fees including credit report fees, fees for appraisals, fees for recording any legal instruments determined to be necessary, and all notary, lien search, and similar fees incidental to loan transactions. No fees will be assessed for work performed by Agency employees.

Payment of loan fees is an eligible loan purpose.

SALP loans, secured by real estate, will be closed according to RD Instruction 1927-B. Loans with real estate security will be closed by a closing agent, selected by and paid for by the applicant. When loans of \$30,000 or less are secured by real estate, they will be secured by a "best lien obtainable"; therefore title searches, certifications, or insurance will not be required. However, FSA may send the loan documents to an agent, selected and paid for by the applicant, for preparation, closing, and recording. SALP loans, with security other than real estate, will be closed according to FmHA Instruction 1941-B.

98 Loan Servicing

A**Guidance**

[7 CFR 773.22] Loans will be serviced in accordance with subpart J of part 1951, or its successor regulation, during the term of the loan. If the loan is not paid in full during this term, servicing will proceed in accordance with 1951.468.

If any installment is not paid according to the terms of the loan agreement, the loan is not fully satisfied at expiration of the loan agreement, or the borrower is in default on the terms of the loan agreement or security instruments, the loan will be serviced according to FmHA Instruction 1951-J.

99 Exception to Security Requirement

A**Exception**

[7 CFR 773.23] The Agency may grant an exception to the security requirements of this section, if the proposed change is in the best financial interest of the Government and not inconsistent with the authorizing statute or other applicable law.

DAFLP, or designee, is authorized to approve exceptions to:

- real estate security requirements
- requiring an appraisal or a title opinion.

If the applicant has an abundance of security available, DAFLP may approve an exception. The case file must contain documentation as to the basis for the determination and evidence that security and collectability for the loan are not adversely affected. DAFLP's decision to grant or deny exceptions is final, and appeal rights will not be given.

100-109 (Reserved)

Part 6 Emergency Loan for Seed Producers Program

110 Overview

A Scope

[7 CFR 774.1] The regulations of this part contain the terms and conditions under which loans are made under the Emergency Loan for Seed Producers Program. These regulations are applicable to applicants, borrowers, and other parties involved in making, servicing, and liquidating these loans.

B Program Objective

[7 CFR 774.1] The program objective is to assist certain seed producers adversely affected by the bankruptcy filing of AgriBiotech.

111 General Eligibility Requirements

A Eligibility Requirements

[7 CFR 774.6] Loan applicants must meet all of the following requirements to be eligible under the Emergency Loan for Seed Producers Program.

B Seed Producer

[7 CFR 774.6(a)] The applicant must be a seed producer.

[7 CFR 774.2] Seed producer is a farmer that produced a 1999 crop of grass, forage, vegetable or sorghum seed for sale to AgriBiotech under contract.

A contract includes a sales contract with AgriBiotech or its predecessor organizations for the sale of 1999 grass, forage, vegetable, or sorghum seed. In addition, a written or oral extension of a previous years contract is also acceptable. The producer must not have received full payment for seed produced under contract to AgriBiotech as a result of the bankruptcy proceeding involving AgriBiotech. The documentation that the producer did not receive payment for seed production will be a bankruptcy proof of claim that is not contested and has not been assigned, sold, or transferred to another party in whole or in part.

Continued on the next page

111 General Eligibility Requirements (Continued)

B**Seed Producer
(Continued)**

If there has been a change of business entity between the time that the 1999 seed crop was produced and loan closing, the Agency can make the loan to the successor organization provided that the individuals that owned a majority interest in the business entity that produced the 1999 crop are also members of the successor business entity, and the business entity that filed the proof of claim assigns their monetary interests to the Agency in consideration for the loan.

C**Proof of Claim**

[7 CFR 774.6(b)] The individual or entity loan applicant must have a timely filed proof of claim in the Chapter XI bankruptcy proceedings involving AgriBiotech and the claim must have arisen from a contract to grow seeds in the United States.

Note: Proof of claims that are uncontested will be accepted as valid and assumed to be submitted in good faith for the purpose of obtaining an FSA loan. If claims are found to be false, these findings will be grounds for loan denial.

D**United States
Citizenship**

[7 CFR 774.6(c)] The loan applicant must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence under the Immigration and Naturalization Act. For a business entity applicant, the majority of the business entity must be owned by members meeting the citizenship test or other entities that are domestically owned. Aliens must provide appropriate Immigration and Naturalization Service forms to document their permanent residency.

Aliens must provide I-151 or I-551 to show permanent residency status. If the Authorized Agency Official questions the authenticity of I-151 or I-551 or the information on the form, the Authorized Agency Official may complete G-845 to request that INS verify the information. G-845 can be obtained from and submitted to the nearest INS District Office. To waive the service fee, the Authorized Agency Official shall insert "INTERAGENCY LAW ENFORCEMENT REQUEST" in the upper right corner of G-845.

Continued on the next page

111 General Eligibility Requirements (Continued)

E**Legal Capacity to Incur Debt**

[7 CFR 774.6(d)] The loan applicant and anyone who will execute the promissory note must possess the legal capacity to enter into contracts, including debt instruments.

The loan applicant must be of legal age and mental capacity to enter into a legally binding agreement with FSA. An entity applicant, and the entity members who will execute the promissory note, must be able to enter into such a contract.

F**Delinquency on Federal Debt**

[7 CFR 774.6(e)] At loan closing, the loan applicant, and anyone who will execute the promissory note must not be delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986.

Delinquencies will be verified by review of a CAIVRS report for the applicant, including if the applicant is an entity, the members that will be executing the loan notes and agreements. The loan applicant may be considered eligible if the delinquency will be remedied by the date of loan closing. Loan applicants may use loan funds to cure delinquencies. Federal debt includes, but is not limited to, student loans, CCC loans, FSA loans, Veteran's Administration loans, and Small Business Association loans. FSA guaranteed loans are not considered Federal debts.

Note: An applicant who is current on or who has successfully completed a bankruptcy reorganization plan that covers a Federal debt will not be considered delinquent.

Continued on the next page

111 General Eligibility Requirements (Continued)

G**Outstanding
Recorded
Judgments**

[7 CFR 774.6(f)] At loan closing, the loan applicant and anyone who will execute the promissory note must not have any outstanding unpaid judgments obtained by the United States in any court. Such judgments do not include those filed as a result of action in the United States Tax Courts.

Loan applicants must provide evidence that all Federal judgments have been released or paid in full. Loans will not be approved for applicants with unresolved Federal judgments. Loan funds will not be used to pay Federal judgments. Direct questions about outstanding judgments to Regional Attorney.

H**Providing False
Information**

[7 CFR 774.6(g)] The loan applicant, in past or present dealings with the Agency, must not have provided the Agency with false information.

The applicant must not have knowingly provided false information, or misleading documents or statements, to affect a credit or program decision. Examples include inaccurate balance sheets or falsified production records.

See Exhibit 2 for the definition of "false information".

I**Loans to FSA
Employees**

Loans may be made to FSA employees.

112 Eligible Loan Purposes

A

Reason for Program

The Emergency Loan for Seed Producers Program was designed to provide bridge loans to growers who were not paid for their 1999 crop of grass, forage, vegetable, or sorghum seed because of the AgriBiotech bankruptcy filing.

Borrowers may use loan funds for any typical expense that would have been funded with proceeds from the sale of their crop. Funds may not be used for any purpose prohibited according to paragraph 113.

113 Loan Limitations

A

Maximum Loan Amount

[7 CFR 774.8(a)] The maximum loan amount any individual or business entity may receive will be 65 percent of the value of the timely filed proof of claim against AgriBiotech in the bankruptcy proceeding as determined by the Agency.

The maximum loan amount any individual or business entity may receive under the Emergency Loan for Seed Producers Program may not exceed 65 percent of the value of the applicant's timely filed proof of claim in the AgriBiotech bankruptcy proceeding for 1999 seed produced or sold under contract.

The value of the applicant's timely filed proof of claim will be the amount of the applicant's uncontested claim for 1999 seed produced or sold under contract with AgriBiotech, less any payments or distributions which may have been made for the delivery or sale of 1999 seed inventory in the applicant's possession and included in the proof of claim amount at the time of filing.

The maximum loan amount will be rounded down to the nearest multiple of \$10.

Continued on the next page

113 Loan Limitations (Continued)

B**Prohibited Use of
Loan Funds**

- **[7 CFR 774.8(b)] Loan funds may not be used to pay expenses incurred for lobbying or related activities.**
- Loan funds may not be used to pay judgments obtained by the United States.
- **[7 CFR 774.8(c)] Loans may not be made for any purpose which contributes to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.**

Note: A decision by the Agency to reject an application for this reason is appealable. An appeal questioning the presence of a wetland, converted wetland, or highly erodible land on a particular property must be filed directly with the USDA agency making the determination according to the agency's appeal procedures.

114 Other Requirements

A**Other Federal,
State, and Local
Requirements**

[7 CFR 774.10] Borrowers are required to comply with all applicable:

- (a) Federal, State, or local laws;**
- (b) Regulatory commission rules; and**
- (c) Regulations which are presently in existence, or which may be later adopted including, but not limited to, those governing the following:**
 - (1) Borrowing money, pledging security, and raising revenues for repayment of debt;**
 - (2) Accounting and financial reporting; and**
 - (3) Protection of the environment.**

Additional instructions as to applicable laws, rules, and regulations will be provided in State supplements.

B**Non-
discrimination
Statement**

The nondiscrimination statement in 1-FLP, subparagraph 41 D will be included in all materials produced for public information or public distribution.

C**Environmental
Requirements**

[7 CFR 774.9] The loan actions in this part were reviewed for the purpose of compliance with the National Environmental Policy Act (NEPA), 40 CFR parts 1500 through 1508, and determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. These loan actions are categorically excluded from the requirements of an environmental evaluation due to the fact that the loan funds would be utilized to replace operating capital the applicant would have had if AgriBiotech had not filed bankruptcy.

The following statement should be included in the running record of the case file:

"This loan is categorically excluded from the requirements of an environmental evaluation."

115 Applying for Loan Funds

A**Application
Package**

[7 CFR 774.17] A complete application will consist of the following:

- (a) A completed Agency application form;
 - (b) Proof of a bankruptcy claim in the AgriBiotech bankruptcy proceedings;
 - (c) If the applicant is a business entity, any legal documents evidencing the organization and any State recognition of the entity;
 - (d) Documentation of compliance with the Agency's environmental regulations in 7 CFR part 1940, subpart G;
 - (e) A balance sheet on the applicant; and
 - (f) Any other additional information the Agency needs to determine the eligibility of the applicant and the application of any Federal, State or local laws.
-

B**Application
Form**

The applicant will submit FSA-2661, completing all certifications.

C**Proof of Claim**

The applicant must have filed a timely * * * proof of claim in the bankruptcy proceedings involving AgriBiotech that has not been transferred, assigned, or sold to another party, in whole or in part. An applicant will be required to provide proof of a valid claim. This may include a copy of the filed claim, written correspondence from the court affirming the claim, and any other legal documentation providing proof of the amount of, validity of, and holder of the claim. FSA may use public documents from the court to verify claims.

--Claims may also be verified using the Excel spreadsheet, Claimant List, posted to the Ag Credit File Library on BBS or available on request from the Loan Making Division at 202-720-3889. Such verification will not negate the need for the applicant to provide proof of a filed claim.--

Continued on the next page

115 Applying for Loan Funds (Continued)

C

**Proof of Claim
(Continued)**

--Claims will not be considered eligible if filed after the July 5, 2000, bar date. The amount of the claim will be the "Claimed Amount" and eligible applicants will have a "Claim Number" as well as a "Creditor Number". Applicants will not be eligible for a loan greater than 65 percent of the claimed amount. However, agency officials will not deny loan requests based solely on such information initially submitted on or with the application, but will instead provide the applicant an opportunity to submit additional information as to the validity of the amount claimed and documentation of the proof of the claim. The Authorized Agency Official will notify the applicant in writing as to the items that need to be documented or clarified. The applicant must provide the needed items within 30 calendar days of the Agency's notification.--

Continued on the next page

115 Applying for Loan Funds (Continued)

D
Entity
Applicants

A business entity applicant must provide legal documents evidencing the organization and any State recognition of the entity such as articles of incorporation or partnership agreements, must be submitted. Entity applicants must submit additional information for each entity member. The application must contain the following information about each entity member:

- name
- address
- Social Security number or IRS tax identification number for a member that is a business entity
- percent ownership interest in the business entity
- in the case of a member that is itself a business entity, legal documents evidencing the organization and any State recognition of the entity.

This information is required for FSA to:

- identify the members
 - document that the entity meets eligibility requirements
 - determine which members are required to execute the promissory note.
-

E
Environmental
Information

Borrowers are required to have a current AD-1026 on file with FSA.

[7 CFR 774.9] The loan actions in this part were reviewed for the purpose of compliance with NEPA, 40 CFR Parts 1500 through 1508, and determined not to have a significant impact on the quality of the human environment, either individually or cumulatively. These loan actions are categorically excluded from the requirements of an environmental evaluation because the loan funds would be used to replace operating capital the applicant would have had if AgriBiotech had not filed bankruptcy.

The loan actions listed in this part were also reviewed in accordance with section 106 of NHPA. It was determined that these loan actions are non-undertakings with no potential to effect or alter historic properties and therefore, will not require consultation with the State Historic Preservation Officer, Tribal Historic Preservation Officer, or other interested parties.

Continued on the next page

115 Applying for Loan Funds (Continued)

F

Balance Sheet

The application package for all loans must include a balance sheet on the applicant that was prepared within 90 calendar days of the date the application was submitted.

G

Additional Information

Additional information required by the Agency to determine the eligibility of the applicant, the maximum loan amount, the availability of security, or the applicability of any Federal, State, or local laws may include information such as seed production contracts, contract numbers, seed varieties produced, amounts produced, seed test reports, seed lot numbers, bills of lading, and other similar documents or information.

Additional instructions as to applicable laws, rules, and regulations will be provided in State supplements.

116 Interest Rates and Loan Terms

A

Interest Rate

[7 CFR 774.18(a)(1)] The interest rate on the loan will be zero percent for *--36 months or until the date of settlement of, completion of, or final--* distribution of assets in the bankruptcy proceeding involving AgriBiotech, whichever comes first.

[7 CFR 774.18(a)(2)] There after interest will begin to accrue at the regular rate for an Agency Farm operating-direct loan (available in any Agency office).

The interest rate will be published in RD Instruction 440.1, Exhibit B.

Continued on the next page

116 Interest Rates and Loan Terms (Continued)

B**Loan Term and Amortization**

[7 CFR 774.18(b)(1)] Loans shall be due and payable upon the earlier of the *--settlement of the bankruptcy claim or 36 months from the date of the--* note.

[7 CFR 774.18(b)(2)] However, any principal remaining thereafter will be amortized over a term of 7 years at the farm operating-direct loan interest rate.

If not paid in full on or before the earlier of the settlement of the bankruptcy claim *--or 36 months from the date of the note, the unpaid balance of the note will--* be amortized in annual installments at the regular interest rate for farm operating-direct loans then in effect, over a loan term of 7 years from the date of amortization.

The first amortized installment should be scheduled in a manner consistent with when income is received by the operation but in no case more than 12 months *--from when the bankruptcy is settled or 36 months from the date of the note.--* The remaining amortized installments will be scheduled annually from the date of the first amortized installment.

The loan will be amortized without additional review. The borrower will not be required to demonstrate creditworthiness or repayment or to pledge additional *--security. The borrower will be sent the following guide letter 36 months--* after the date of the original note or when instructed by the National Office.

Continued on the next page

116 Interest Rates and Loan Terms (Continued)

**B
Loan Term and
Amortization
(Continued)**

*--

_____(Borrower name)
_____(Address)
_____(City, State, ZIP Code)

Dear _____:

By this letter, the United States of America, acting through the Farm Service Agency (FSA), is providing notice of the beginning of interest accrual on your loan balance effective

(Enter the date 36 months after the date of the original note or the date provided by the National Office Farm Loan Programs for the settlement of, completion of, or final distribution of assets in the AgriBiotech bankruptcy) and the loan installments due.

The basic terms and conditions of the loan amortization are set forth in this letter. These are an addendum to your loan agreement signed _____:

- 1. Loan Amount - The current principal balance is:

\$ _____.

- 2. Interest Rate - The Interest rate on the loan will be _____%, the current Direct farm-operating rate. This rate will be fixed for the term of the loan.

- 3. Term - The term of the loan will be seven (7) years form the date of interest accrual, noted above.

- 4. Repayment Schedule - The repayment schedule will be

(Enter proposed repayment schedule, including installment amount, and date due).

- 5. Reporting - You must notify FSA of any adverse actions, including but not limited to, anticipated default on the loan.

If you have any questions concerning this proposal, please contact the FSA office at

_____.

Sincerely,

--*

Continued on the next page

116 Interest Rates and Loan Terms (Continued)

C**Loan Payment
and Payment
Schedule**

All payments received as a result of distributions from the bankruptcy estate of AgriBiotech and as a result of the delivery or sale of stored 1999 seed in the borrower's possession produced or sold under contract with AgriBiotech, are considered proceeds generated from the sale of basic security as defined in FmHA Instruction 1962-A, section 1962.4 and will be applied to the unpaid balance as extra payments as defined in FmHA Instruction 1951-A, section 1951.8(b).

If an extra payment of 20 percent or more of the unpaid balance of the loan after initial amortization is received, the remaining unpaid balance will be reamortized at the original interest rate within the remaining term of the loan.

The Approval Official will notify the borrower of the reamortization and the resulting payments using the guide letter in subparagraph B modifying the language referring to amortization to reamortization.

117 Security Requirements

A
Loan Security
Requirements

[7 CFR 774.18(c)(1)] The Agency will require a first position pledge and assignment of the applicant's monetary claim in the AgriBiotech bankruptcy estate to secure the loan.

[7 CFR 774.18(c)(2)] If the applicant has seed remaining in their possession that was produced under contract to AgriBiotech, the applicant will also provide the Agency with a first lien position on this seed. It is the responsibility of the applicant to negotiate with any existing lienholders to secure the Agency's first lien position.

A lien search will also be completed to determine whether any liens may impair the Agency's security position.

The collateral description in the Agency's security instruments will include a reference to or description of:

1999 seed, and proceeds from 1999 seed, produced or sold under contract with AgriBiotech or its predecessor or successor organizations

* * *

all monetary interests in and distributions resulting from the applicant's claim against the bankruptcy estate of AgriBiotech.

Any creditor that may claim a lien or security interest in the applicant's contract rights, general intangibles, accounts receivable, 1999 seed and seed proceeds produced under contract with AgriBiotech, any remaining 1999 seed inventory produced under contract with AgriBiotech, or the applicant's interest in the bankruptcy estate of AgriBiotech must subordinate that lien or security interest in favor of the Agency. FSA-2663 will be completed for this purpose.

118 **Loan Processing/Approval or Denial Decisions**

A
Approval
Authorities

Use this table to determine approval authorities.

FLO GS- 7	FLO GS-9	FLO GS-11	FLM	SED and delegated State Office
\$50,000	\$100,000	\$150,000	\$200,000	over \$200,000

An Agency employee must have an existing FLP loan approval authority to exercise the approval authorities in this part.

County Office employees will not be given approval authority without authorization from DAFLP, and may not exceed the loan approval authority equivalent to that of the equivalent grade for FLO or FLM.

SED may delegate approval authority to qualified State Office employees.

Continued on the next page

118 Loan Processing/Approval or Denial Decisions (Continued)

B**Other FSA
Loans**

Loans made under the Emergency Loan for Seed Producers Program may be approved for any amount that the applicant is eligible to receive. Outstanding loan balances from other FLP's, direct or guaranteed, will not affect the amount any applicant is eligible to receive or the Agency employee with approval authority for the loan request. Likewise, outstanding Emergency Loans for Seed Producers loans will not affect the amount an applicant is eligible to receive under any other FSA loan program.

C**Processing
Timeframes**

[7 CFR 774.19] Applications will be processed until such time that funds are exhausted, or all claims have been paid and the bankruptcy involving AgriBiotech has been discharged. When all loan funds have been exhausted or the bankruptcy is discharged, no further applications will be accepted and any pending application will be considered withdrawn.

Applicants will be notified by letter if loan funds have been exhausted and that, as a result, their application is being withdrawn.

The Approval Official must make the decision to approve or deny the loan and notify the applicant within 30 calendar days after the loan application is determined complete.

All applications will be entered into MAC. SED, DD, and FLM will monitor the processing of all loan applications to ensure that all applications are processed in a timely manner.

Continued on the next page

118 Loan Processing/Approval or Denial Decisions (Continued)

D**Evaluating Loan Requirements**

The Approval Official has the ultimate responsibility for evaluating the loan file to determine whether the proposed loan complies with established FSA policies and all pertinent regulations. The Approval Official should verify the following items before making a loan decision:

- that the applicant is eligible
- that the loan is no more than 65 percent of the value of the bankruptcy claim
- that the environmental requirements have been met
- that the security requirements have been met
- that the proceeds will not be used for prohibited purposes.

Continued on the next page

118 Loan Processing/Approval or Denial Decisions (Continued)

E

Loan Approval

The term on FmHA 1940-1 will be 2 years. At amortization, the term will be revised to 7 years. The Authorized Agency Official will document loan approval by completing and executing FmHA 1940-1. The applicant will not be required to sign FmHA 1940-1. The Authorized Agency Official will use the following guide letter to notify the applicant of approval.

*--

_____(Applicant)
 _____(Address)
 _____(City, State, ZIP Code)

Dear _____:

By this letter, the United States of America, acting through the Farm Service Agency (FSA), has approved your loan request under the Emergency Loans to Seed Producers program for \$_____. Subject to the enumerated conditions and available funding, this loan approval will become binding and effective upon your acceptance of all conditions at loan closing.

The basic terms and conditions of the loan are set forth in this letter. These terms are not intended to be exhaustive, as final documentation will be binding in the loan closing documents. A promissory note and security agreement incorporating these and other necessary, usual, and customary terms will be signed prior to release of funds to you. Subject to those qualifications, the loan will be made on the following terms and conditions:

1. Loan Amount - The loan will total \$_____.
2. Use of Proceeds -The loan will be used only for following loan purposes.

(Enter loan purposes)

Any material changes from the uses outlined in the application must have the express prior consent of FSA.
3. Interest Rate - The Interest rate on the loan will be zero percent for 36 months or until the date of settlement of, completion of, or final distribution of assets in the bankruptcy proceeding involving AgriBiotech, which ever comes first. Thereafter, the interest will begin to accrue at the regular rate for a CONACT Farm operating-direct loan (available in any County FSA Office). This rate will be fixed for the term of the loan.
4. Term - The term of the loan will not exceed one hundred twenty (120) months, from the date of loan closing.
5. Repayment Schedule - The repayment schedule, when implemented, will be in equal installments for the term of the loan.

--*

Continued on the next page

118 Loan Processing, Review, Approval or Denial Decisions (Continued)**E**
Loan Approval
(Continued)

*--

6. Collateral - The loan will be secured by the following: (a) an assignment of and lien on proceeds of your claim in the AgriBiotech bankruptcy; and (b) a first lien on 1999 seed and seed proceeds produced or sold under contract with AgriBiotech, remaining in your possession. In the case of any security in which another lender holds a secured interest, the other lender must agree to a subordination of the security interest based upon the borrower's debt FSA will hold after the loan is closed and advanced.
7. Reporting - You will notify FSA of any adverse actions, including but not limited to, anticipated default on the loan.
8. Legal Authority - You will certify, that you (a) are duly formed, incorporated, and in compliance with applicable laws to conduct and perform its programs and purposes, and (b) have satisfied all statutory and regulatory requirements for continuing operations.
9. Environmental Requirements - You will certify that all Federal and State statutory and regulatory environmental requirements have been complied with. Throughout the term of the loan you must comply with all applicable environmental laws and regulations relative to its activities.
10. Expiration - This commitment letter remains effective until close of business on _____ (enter 60 calendar days from the date of the letter). The loan closing and release of loan funds are subject to you and FSA agreeing upon all terms and conditions to be contained in the documentation required for the loan, including promissory notes, loan agreements, and security instruments.

Your signature on all loan closing documents will indicate your acceptance of the conditions of this letter. The loan closing is scheduled for _____. If you have any questions concerning this proposal, please contact the FSA office at _____.

Sincerely,

--*

The obligated loan funds will be available to the applicant at loan closing either as a check or by electronic funds transfer. Loan funds must be provided to the applicant within 15 calendar days of obligation, unless loan closing conditions require otherwise or the applicant agrees to a longer timeframe.

Continued on the next page

118 Loan Processing/Approval or Denial Decisions (Continued)

F**Loan Denial**

The Agency will not approve a loan if it determines that the applicant:

- is not eligible
 - has assigned, transferred, or sold the proof of claim, in whole or in part, to another party
- has not provided complete, truthful, and accurate information
- proof of claim or its amount is contested or unverifiable
 - is unable to provide the Agency with the required security position
 - will use loan funds for prohibited purposes
- or the operation, or other circumstances surrounding the loan are inconsistent with the authorizing statutes, other Federal laws, or Federal credit policies.

The Approval Official must indicate the reasons for denial in the loan file, and inform the loan applicant. If the Approval Official is not in the local office, the loan file will be sent back to the Authorized Agency Official for completing the loan denial process. All letters shall include the nondiscrimination statement in 1-FLP, subparagraph 41 C.

Denial letters will be sent according to 1-APP and any other applicable Agency directive.

Continued on the next page

118 Loan Processing/Approval or Denial Decision (Continued)

G

Appeals

[7 CFR 774.3] A loan applicant or borrower may request an appeal or review of an adverse decision made by the Agency in accordance with 7 CFR part 11.

Approving authorities making adverse determinations will:

- inform the applicant of their mediation, reconsideration, and appeal rights according to 1-APP
 - follow procedure in 1-APP to process and act on appeals.
-

H

Loan Funding

[7 CFR 774.20] Loan requests will be funded based on the date the Agency approves an application. Loan approval is subject to the availability of funds.

I

Loan Closing

The Approval Official, or designee, shall close the loan according to the following.

- **[7 CFR 774.22(b)] The applicant will execute all loan instruments and legal documents required by the Agency to evidence the debt, perfect the required security interest in the bankruptcy claim and protect the Government's interest, in accordance with applicable State and Federal laws. In the case of an entity applicant, all officers or partners and any board members will be required to execute the promissory notes as individuals.**

As required by subparagraph 117 A, the applicant must also execute any legal documents required to perfect a lien on any seed produced under contract to AgriBiotech remaining in their possession.

Continued on the next page

118 Loan Processing/Approval and Denial Decisions (Continued)

**I
Loan Closing
(Continued)**

FSA-2662 will be executed to provide evidence of repayment requirements and security pledged. FSA-2664 will be executed to provide FSA with a lien and assignment of the applicant's interest in the bankruptcy estate of AgriBiotech for security purposes. Loan funds will not be transferred to the applicant until FSA-2662 and FSA-2664 have been executed.

Note: For loans that require more than 2 signatures, the Approval Official will seek guidance from the appropriate Regional Attorney for assistance in properly executing an addendum or attachment for additional signatures.

- **[7 CFR 774.22(c)] The applicant will pay all loan closing fees for recording any legal instruments determined to be necessary and all notary, lien search, and similar fees incidental to the loan transaction. No fees will be assessed for work performed by Agency employees.**
- The Approval Official will prepare UCC-1 with a description of the applicant's interest in the AgriBiotech bankruptcy estate and, if applicable, 1999 stored seed in the applicant's possession. UCC-1 will be filed or recorded according to State law.

Emergency Loans for Seed Producers will be closed according to FmHA Instruction 1941-B. All loan closing fees will be paid by the applicant. Closing fees are an authorized loan purpose.

Note: SED will issue State supplements with the advice of OGC on perfecting proper lien position in preparing to close seed loans.

***--J
Processing
FSA-2664**

Before disbursing any funds, the agency official shall secure the loan with properly executed closing documents. The claimant or borrower shall assign any future payments from the court in the AgriBiotech bankruptcy to FSA by executing FSA-2664. The Authorized Agency Official is responsible for filing the assignment as expeditiously as possible. Delays in filing may compromise the Agency's claim for payment.--*

Continued on the page

118 Loan Processing/Approval and Denial Decisions (Continued)

*--J

**Processing
FSA-2664
(Continued)**

The original FSA-2664 will be filed by mailing the following cover letter with the assignments.

Robert L. Berger & Associates LLC
Attn: Yvette
16501 Ventura Blvd., Suite 440
Encino, CA 91436

Re: AgriBioTech, Inc.
Chapter 11 Case No. 00-10533 LBR
District of Nevada

Dear Mr. Berger:

By this letter, the United States of America, acting through the Farm Service Agency (FSA), is seeking to secure its interest in the payments that may be made on the following claims in the AgriBioTech, Inc. Chapter 11 bankruptcy.

(For each FSA-2664 attached, enter the claim number, claimant name, and dollar amount of claim.)

As discussed in Mr. William P. Wientraub's December 17, 2000, letter, this letter and attached Notice of Claim Assignment serve as notice that you should amend your records and forward any payments to be received for each claim to the address on the face of each of the attached Notice of Claim Assignment.

Any questions or correspondence concerning this matter should be directed to me at **(enter contact office telephone number)**.

Sincerely,

The letter and attached FSA-2664 must be mailed "Certified Mail - Return Receipt Requested". Each FSA-2664 must include the correct address for any future payments to be sent. The agency official sending the letter shall receive a return notice of assignment from Robert L. Berger and Associates LLC that will document the filing of the assignment of proceeds. The Authorized Agency Official will verify that the return notice is received for each Assignment of Claim filed. The notice will be kept in the casefile to document the Agency's interest in the bankruptcy proceeds.--*

Continued on the next page

118 Loan Processing/Approval and Denial Decisions (Continued)

*--K

Other Issues

Loan funds may be distributed upon proper execution of all required loan documents at loan closing.--*

119 Loan Servicing

A**Guidance**

[7 CFR 774.23] Loans will be serviced in accordance with subpart J of part 1951 or its successor regulation. If the loan is not repaid as agreed and default occurs, servicing will proceed in accordance with section 1951.468.

If any installment is not paid according to the terms of the loan agreement, the loan is not fully satisfied at expiration of the loan agreement, or the borrower is in default on the terms of the loan agreement or security instruments, the loan will be serviced according to FmHA Instruction 1951-J.

120 Exceptions to Program Requirements

A**Exception**

[7 CFR 774.24] The Agency may grant an exception to any of the requirements of this section if the proposed change is in the best financial interest of the Government and not inconsistent with the authorizing statute or other applicable law.

DAFLP has the authority to make exceptions to the rules for the Emergency Loan for Seed Producers Program. Exceptions will only be made on a case-by-case basis where the proposed exception is in the best interest of FSA and the loan applicant.

SED's shall evaluate all requests for exceptions and forward to DAFLP with their analysis of the benefits or problems, and a recommendation for approval. No exception will be granted without an analysis and documentation of why the exception is in the Government's best interest. DAFLP's decision on granting exceptions is final and appeal rights will not be given.

Reports, Forms, Abbreviations, and Delegations of Authority

Reports None

Forms This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification (Assembled as a component with AD-1026 Appendix)		91, 115
CCC-2651	Request for Special Apple Loan Program Assistance		88, 91, 97
CCC-2652	Special Apple Program Promissory Note and Security Agreement		97
FmHA 1940-1	Request for Obligation of Funds - Direct Loans		24, 97, 118
FSA-440-32	Verification of Debts and Collateral		91
FSA-850	Environmental Evaluation Checklist		89
FSA-2620	Indian Tribal Land Acquisition Program Loan Application		12, 13, 24, 25
FSA-2621	Indian Tribal Land Acquisition Program Tribal Council Resolution and Certification		13, 25, 43
FSA-2622	Indian Tribal Land Acquisition Program Assignment of Tribal Income and Funds		13, 25
FSA-2623	Indian Tribal Land Acquisition Program Subordination Agreement		13, 25
FSA-2661	Request for Emergency Loan for Seed Producers Program		115, 118
FSA-2662	Emergency Loans for Seed Producers Promissory Note and Security Agreement		118
FSA-2663	Subordination Agreement in Favor of the Government Emergency Loans for Seed Producers		117
FSA-2664	Emergency Loans for Seed Producers Program Notice of Claim Assignment		118
G-845	Verification Request		86, 111

Continued on the next page

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Number	Title	Display Reference	Reference
I-151	Alien Registration Receipt Card		86, 111
I-551	Alien Registration Receipt Card		86, 111
RD 440-22	Promissary Note (Association or Organization)		25
RD 442-20	Right-of-Way Easement		25
RD 1927-1	Real Estate Mortgage for (State)		25, 43
UCC-1	Financing Statement		94, 118

Continued on the next page

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
BIA	Bureau of Indian Affairs	12, 13, 25, 37
CAIVRS	Credit Alert Interactive Voice Response System	13, 86, 94, 111, 117
CFR	Code of Federal Regulations	Text, Ex. 2
DOI	Department of the Interior	2, 5, 25, 41
ECOA	Equal Credit Opportunity Act	2
FLM	Farm Loan Manager	97, 118
FLO	Farm Loan Officer	97, 118
INS	Immigration and Naturalization Service	86, 111
ITLAP	Indian Tribal Land Acquisition Program	11, 41, 42
MAC	Management of Agricultural Credit System	2, 97, 118
NEPA	National Environmental Policy Act	89, 114, 115
NHPA	National Historic Preservation Act	89, 114, 115
SALP	Special Apple Loan Program	1, 2, 86-88, 97
SEC	State Environmental Coordinator	89
USPAP	Uniform Standards of Professional Appraisal Practice	95

Redelegations of Authority None

Definition of Terms Used in This Handbook

***--Administrator** [7CFR 770.2 (b)] Administrator is the head of the Farm Service Agency.

Agency (Applies to Part 2) [7 CFR 770.2 (b)] Agency is Farm Service Agency (FSA).

Agency (Applies to Parts 5 and 6)--* [7 CFR 773.2 and 7 CFR 774.2] Agency is the Farm Service Agency, its employees, and any successor agency.

AgriBiotech AgriBiotech is AgriBiotech, Inc., a Nevada Corporation and large forage and cool-season turfgrass seed company that filed for relief under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the District of Nevada on January 25, 2000. (Bankruptcy Case No. BK-S-00-10533, jointly administered with Bankruptcy Case Nos. BK-S-00-10534 through BK-S-00-10537)

Apple Producer [7 CFR 773.2] Apple producer is a farmer in the United States or its territories that produced apples, on not less than 10 acres, for sale in 1999 or 2000.

***--Applicant (Applies to Part 2)** [7 CFR 770.2 (b)] Applicant is a Native American tribe or tribal corporation established pursuant to the Indian Reorganization Act seeking a loan under this part.

Applicant (Applies to Parts 5 and 6) [7 CFR 773.2 and 7 CFR 774.2] Applicant is the individual or business entity applying for the loan.

Appraisal [7 CFR 770.2 (b)] Appraisal is an appraisal for the purposes of determining the market value of land (less the value of any existing improvements that pass with the land) that meets the requirements of part 761 of this chapter.--*

Business Entity [7 CFR 773.2] A business entity is a corporation, partnership, joint operation, trust, limited liability company, or cooperative.

Continued on the next page

Definitions of Terms Used in This Handbook (Continued)

Cash Flow Budget	[7 CFR 773.2] <u>Cash flow budget</u> is a projection listing all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred by the borrower during the period of the budget. A cash flow budget may be completed either for a 12 month period, a typical production cycle or the life of the loan, as appropriate.
<hr/>	
Domestically-Owned Entity	[7 CFR 773.2 and 7 CFR 774.2] <u>Domestically-owned entity</u> is an entity organized in the United States under the law of the state or states in which the entity operates and a majority of the entity is owned by members meeting the citizenship test.
<hr/>	
False Information	[7 CFR 773.2] <u>False information</u> is information provided by an applicant, borrower, or other source to the Agency which information is known by the provider to be incorrect and was provided to the Agency to obtain benefits for which the applicant or borrower would not otherwise have been eligible.
	[7 CFR 774.2] <u>False information</u> is information provided by an applicant, borrower, or other source to the Agency that the borrower knows to be incorrect, and that the borrower or other source provided in order to obtain benefits for which the borrower would not otherwise have been eligible.
<hr/>	
Feasible Plan	[7 CFR 773.2] <u>Feasible plan</u> is a plan that demonstrates that the loan will be repaid as agreed, as determined by the Agency.
<hr/>	
*--Loan Funds	[7 CFR 770.2 (b)] <u>Loan Funds</u> refers to money loaned under this part. Loan funds include protective advances.
<hr/>	
Native American Tribe	[7 CFR 770.2 (b)] <u>Native American tribe</u> is:
	(1) An Indian tribe recognized by the Department of the Interior; or
	(2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.--*

Continued on the next page

Definitions of Terms Used in This Handbook (Continued)

***--Reservation** [7 CFR 770.2 (b)] **Reservation** is lands or interest within:

- (1) The Native American tribe's reservation as determined by the Department of the Interior; or
- (2) A community in Alaska incorporated by the Department of the Interior pursuant to the Indian Reorganization Act.

Reserve [7 CFR 770.2 (b)] **Reserve** is an account established for loans approved in accordance with regulations in effect prior to February 8, 2001, which required that an amount equal to 10 percent of the annual payment be set aside each year until at least one full payment is available.

Note: Regulations in effect before February 8, 2001, were published in 7 CFR 1823, Subpart N. Further guidance was contained in FmHA Instruction 442.11.--*

Security [7 CFR 773.2] **Security** is real estate or personal property pledged as collateral to assure repayment of a loan in the event there is a default on the loan.

Seed Producer [7 CFR 774.2] **Seed producer** is a farmer who has produced a 1999 crop of grass, forage, vegetable or sorghum seed for sale to AgriBioTech under contract.

A contract includes a sales contract with AgriBioTech or its predecessor organizations for the sale of 1999 grass, forage, vegetable, or sorghum seed. In addition, written or oral extension of a previous years contract is also acceptable.

***--Tribal Corporation** 7 CFR 770.2 (b)] **Tribal Corporation** is a corporation established pursuant to the Indian Reorganization Act.--*

USPAP [7 CFR 774.2] **USPAP** is Uniform Standards of Professional Appraisal Practice.

State Supplements

Subparagraph	State Supplement
90 A and 114 A	Additional instructions about laws, rules, and regulations which are presently in existence, or which may be later adopted including, but not limited to, those governing the following: borrowing money • pledging security and raising revenues for repayment of debt • accounting and financial reporting • protection of the environment.
97 I	Advice of OGC on perfecting proper lien position (preparation of mortgage) in preparing to close SALP loans.
115 F	Additional information needed to verify eligibility, maximum loan amount, availability of security, or the applicability of any Federal, State, or local laws.
118 I	Advice of OGC on perfecting proper lien position in preparing to close seed loans.
