

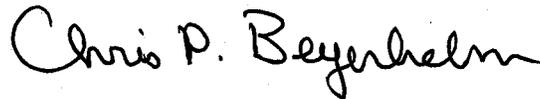
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

General Program Administration
1-FLP (Revision 1)

Amendment 60

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 41 H has been amended to add a reference to Exhibit 13.5 which provides information on servicing settlement claims.

Exhibit 12 has been amended to remove the first note.

Exhibit 13 has been amended to reference Exhibit 13.5.

Exhibit 13.5 has been added to address servicing of settlement claimants.

Note: State and County Offices shall contact Jenny Breece at 202-720-4572 to obtain FSA-2198 and FSA-2199.

B Obsolete Materials

Notice FLP-573 is obsolete.

Page Control Chart		
TC	Text	Exhibit
3, 4	3-5, 3-6	1, pages 1, 2 12, page 3 13, pages 1, 2 13.5, pages 1-4 (add)

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41 Nondiscrimination in FLP (Continued)

G Processing Loan and Servicing Applications When an Applicant Files a Discrimination Complaint (Continued)

If an applicant or borrower files, or has filed, a discrimination complaint against the agency official responsible for processing the loan or servicing application, DD or SED will assign a different official to process the request. Processing responsibility may be reassigned to:

- an authorized agency official from either of the following:
 - same district, but a different county
 - another district
- DD.

Note: Reassignment of processing loan or servicing applications is temporary. When the investigation is closed, and if it is determined that discrimination did not occur, the loan or servicing application will be returned to the appropriate office.

H Determining if a Discrimination Complaint Has Been Filed at CR

FLC or designee will contact the National Office by e-mail to ensure that a discrimination complaint has not been filed before borrower account acceleration, again before borrower account foreclosure, and if needed, just before reclassifying debt as CNC. Before:

- acceleration, State Office must contact the National Office for civil rights filing clearance after conclusion of all primary and preservation loan servicing and related appeal rights
- foreclosure, States with:
 - judicial foreclosure, FLC must contact the National Office after account acceleration and before referring the account to OGC for liquidation action

Note: If a discrimination complaint is filed after referral to DOJ, then DOJ will decide if the foreclosure shall proceed.

- nonjudicial foreclosure, FLC must contact the National Office after the account has been accelerated and before the collateral is advertised for foreclosure sale
- reclassifying an account as CNC, State Offices must contact the National Office for civil rights filing clearance.

Notes: See Exhibit 12 for flow charts of the process used to determine if a discrimination complaint has been filed and is open at CR.

--The process established in Exhibit 12, subparagraph B is suspended because of the Settlement Agreement entered into by USDA in the Keepseagle Class Action Lawsuit. See applicable FLP notices for further guidance.--

41 Nondiscrimination in FLP (Continued)

H Determining if a Discrimination Complaint Has Been Filed at CR (Continued)

See Exhibit:

- 13 for information to be included in e-mail to the National Office for civil rights clearance
- *--13.5 for instructions on servicing settlement claimants and National Office FLP programmatic reviews.--*

Discrimination complaints will be processed according to 18-AO, Part 7.

I 2008 Farm Bill Acceleration and Foreclosure Moratorium

[7 CFR 766.358(a)] Notwithstanding any other provisions of this subpart, borrowers who file or have filed a program discrimination complaint that is accepted by USDA Office of Adjudication or successor office (USDA), and have been serviced to the point of acceleration or foreclosure on or after May 22, 2008, will not have their account accelerated or liquidated until such complaint has been resolved by USDA or closed by a court of competent jurisdiction. This moratorium applies only to program loans made under subtitle A, B, or C of the Act (for example, CL, FO, OL, EM, SW, or RL). Interest will not accrue and no offsets will be taken on these loans during the moratorium. Interest accrual and offsets will continue on all other loans, including, but not limited to, non-program loans.

Under the 2008 Farm Bill, there is a moratorium on the acceleration or foreclosure for certain borrowers who have a pending program discrimination complaint, or file a program discrimination complaint that is accepted as valid by OA.

When the State Office is notified by OCR or LSPMD that the borrower has an accepted complaint, it will process DLS Transaction “5G”, “Establish Descriptive Code”, using Descriptive Code “7” to establish the indicator for accounts that may be eligible for a moratorium. The effective date of the “5G” transaction will be the date the complaint was accepted by OA.

Note: State Offices will monitor all accounts flagged “OAC1”. The State Office will process DLS Transaction “5H”, “Remove Descriptive Code”, using Descriptive Code “7” at the conclusion of the moratorium.

If the borrower has an accepted complaint at OA and the account is at the point of acceleration or in foreclosure, interest will not accrue and no offsets will be taken on any CL’s, FO’s, SW’s, RL’s, OL’s, and EM’s and any recoverable costs associated with these loans.

The moratorium will end on the date the claim is resolved.

If any requests for debt settlement or payoff during the moratorium are received, contact LSPMD.

Reports, Forms, Abbreviations, and Redelegations of Authority

Reports

This table lists the required reports of this handbook.

Reports Control Number	Title	Reporting Period	Submission Date	Negative Reports	Reference
FLP4	FLPRA Annual Report	Annually	By February 1 each year	Required	403

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
CCC-10	Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents		Ex. 35
CCC-257	Schedule of Deposit		Ex. 35
FmHA 2006-21	Information Systems Management (ISM) Request for Changes to User Documentation		52
FSA-13-A	Data Security Access Authorization Form		53, 54, Ex. 15
FSA-137	Address Information Request		46
FSA-159	Request for Supplies, Forms, and/or Publications		Ex. 5, 17
FSA-470	Tractor Feed Post Card for Metered Postage		46
FSA-603	Collection Register for State and County Offices		Ex. 35
FSA-851	Environmental Risk Survey Form		Ex. 35
FSA-2001	Request for Direct Loan Assistance		44, 47, 48, Ex. 35
FSA-2007	Statement Required by the Privacy Act for Non-Applicants		48
FSA-2037	Farm Business Plan Worksheet Balance Sheet		Ex. 15
FSA-2038	Farm Business Plan Worksheet Projected/Actual Income and Expense		Ex. 15
FSA-2040	Agreement and Record of the Disposition of FSA Security/Release of Proceeds		262, 263, Ex. 7, 35
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		168

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

Forms (Continued)

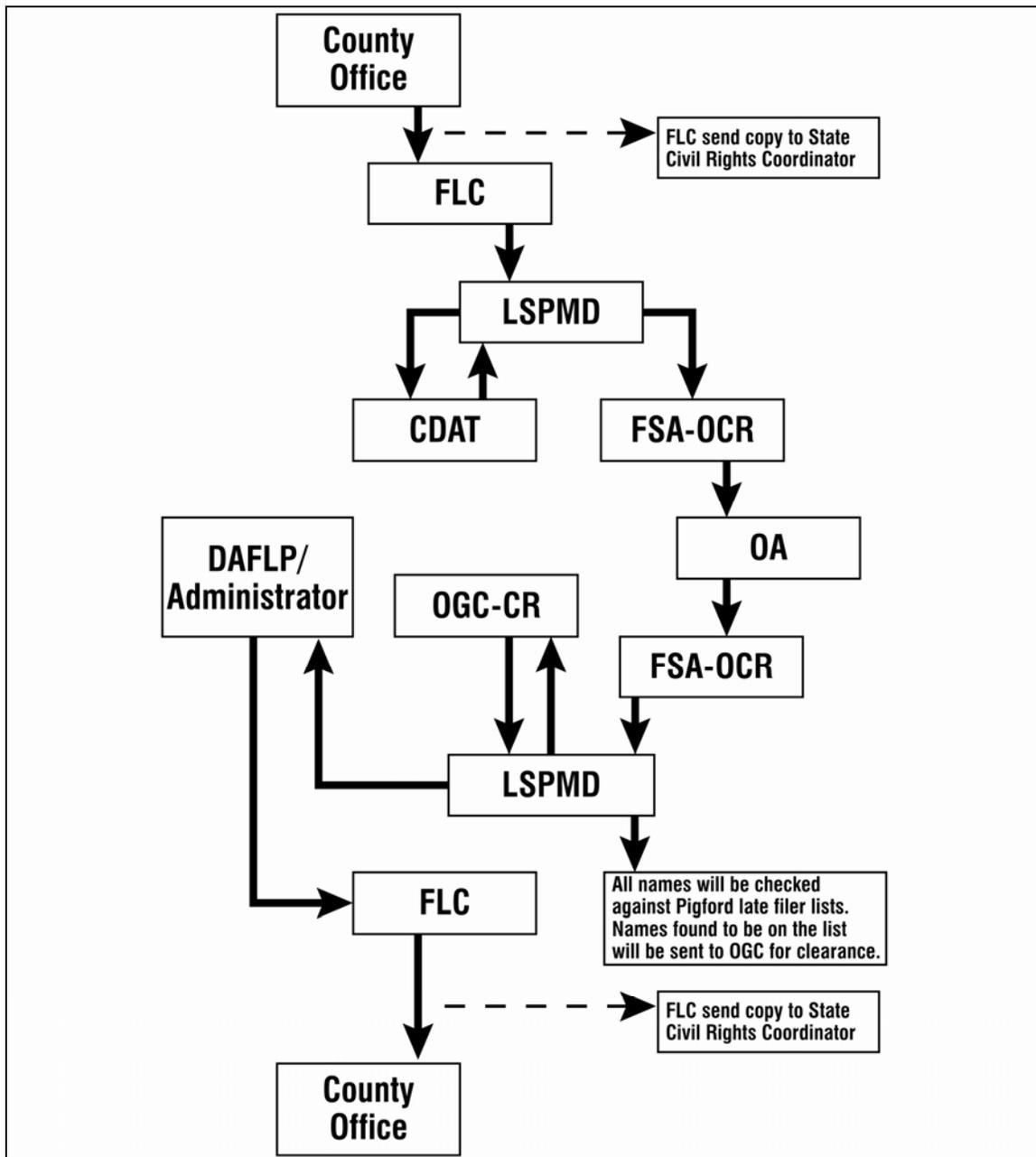
Number	Title	Display Reference	Reference
FSA-2101	DD FLP Oversight Report Guide		443
FSA-2103	Direct Loan Making File Review Questionnaire		28
FSA-2104	Guaranteed Loan Making File Review Questionnaire		28
FSA-2119	Delinquent Borrower Servicing File Review Questionnaire		28
FSA-2120	Moratorium Notice		41
FSA-2121	Termination of Moratorium		41
FSA-2125	Farm Loan Program County Information File Changes		46
FSA-2126	Program Loan Cost Expense (PLCE) Request (Non-Contractuals only)		162, 164, 166-168
FSA-2139	Notification of Exemption From Requirement to Provide Social Security Number		102
FSA-2140	Deposit Agreement		101, 102
FSA-2141	Interest-Bearing Deposit Agreement		102
FSA-2142	Statement of Deposits and Withdrawals		103
FSA-2144	Designated Financial Institution Pledge of Collateral		102
FSA-2145	Demand for Withdrawal of Supervised Bank Account Funds		103
FSA-2150	Development Plan		122, 125
FSA-2153	Release by Claimants		122
FSA-2154	Release by Contractor		122
FSA-2160	Appraisal of Chattel Property		142
FSA-2161	Appraisal Report - Agricultural Tract		142
FSA-2162	Real Estate Sales Data		142
FSA-2163	Supplemental Forms-Agricultural Appraisal		142
FSA-2164	Appraisal for Mineral Rights		142
FSA-2165	Administrative Appraisal Review		143
FSA-2166	Technical Appraisal Review and Certification		143
FSA-2171	Substitute Invoice		166
FSA-2172	Request for Emergency Payment		168
FSA-2173	Foundation Financial Information System (FFIS) Vendor Code Request		162
FSA-2198 1/	Claimants With Closed Settlement Claims With No Appeal Hearing in Suspension		Ex. 13.5
FSA-2199 1/	Claimants With Closed Settlement Claims With Appeal Hearing in Suspension		Ex. 13.5
FSA-2201	Lender's Agreement		47, Ex. 35
FSA-2211	Application for Guarantee		44, 47

1/ Contact Jenny Brece at 202-720-4572 to obtain FSA-2198 and FSA-2199.

Discrimination Complaint E-Mail Clearance System (Continued)

C Clearance Process for African American Borrower's Account

The following illustrates the clearance process for African American borrower's account.



Note: When a review has been completed through this process for pre-acceleration, the CDAT and DAFLP/Administrator reviews will not be completed again for the pre-foreclosure clearance. See subparagraph A for the pre-foreclosure clearance process.

Instructions for E-Mail to the National Office for Discrimination Complaint Status

A E-Mail Recipients

FLC or designee shall provide an e-mail to the National Office at **FSA-DIRECTLOANS@wdc.usda.gov**.

B E-Mail Subject

The e-mail subject block should read, "Civil Rights Complaint Clearance - Borrower's Name and State."

C E-Mail Attachment

The e-mail message shall:

- be encrypted
- *--include the following information for the primary borrower:
 - name and 12-digit account number (state and county code and SSN/TIN)
 - complete residence address
 - race
 - gender
 - ethnicity (Hispanic or not Hispanic)
- include the following information for **all liable parties**:
 - name
 - SSN
 - race
 - gender
 - ethnicity (Hispanic or not Hispanic)
- provide the type of request (pre-acceleration, pre-foreclosure, or CNC)
- include prior review history including the following information:
 - previously cleared for acceleration by memo or e-mail on (specific date)
 - case review (specific date) and returned for additional servicing
- include prior civil rights complaint information, including complaint number if known.--*

Note: The prior civil rights complaint information will help to clarify complaints that may have been previously closed or to further identify the race or involvement in pending suits against the government. That is, possible Keepseagle, Pigford, Love, or Garcia; ALJ Case #XXXXXXXX, last contact (specific date).

Instructions for E-Mail to the National Office for Discrimination Complaint Status (Continued)

C E-Mail Attachment (Continued)

If the case involves a borrower who is a claimant under a Class Action or USDA Settlement
--Agreement, follow guidance in Exhibit 13.5.--

***--Servicing Settlement Claimants and National Office FLP Programmatic Review**

A Background

The *Pigford*, *Keepseagle*, and *Pigford II* legal settlements and USDA's initiative to settle outstanding group actions (Women and Hispanic) have affected the way FSA services delinquent loan accounts of claimants in these cases.

B Closed Settlement Claims

A claim is considered closed when a final decision has been issued.

State Offices:

- are advised by the Consent Decree Action Team when a *Pigford* claim is closed
- will be advised by memorandum from DAFLP when *Keepseagle*, *Pigford II*, Women, and Hispanic claims are closed.

All closed claims will fall into 1 of the following 2 categories.

- Category 1 – individuals:
 - whose settlement claims have been closed and were **not** delinquent on their FLP debt at that time; or
 - who had no FLP loans.
- Category 2 – individuals whose settlement claims have been closed and were delinquent on their FLP debt at that time.--*

***--Servicing Settlement Claimants and National Office FLP Programmatic Review (Continued)**

C County Office Servicing Actions

Upon receiving notification that the claim of a settlement claimant has been closed, the County Office will service the account according to the following.

- Category 1 cases require no special servicing.
- Category 2 cases.
- **Delinquent borrowers with outstanding servicing applications that have not been concluded.** Contact the borrowers to determine whether they want to continue with the existing loan servicing application or receive a new notification of the availability of loan servicing.

Note: Use FSA-2198 or FSA-2199, as appropriate, to contact these borrowers.

- For borrowers who return FSA-2198 or FSA-2199, as appropriate, within 15 calendar days, begin the loan servicing process again by sending a new notification of the availability of loan servicing according to 5-FLP, Part 3.
- For borrowers who do not return FSA-2198 or FSA-2199, as appropriate, within 15 calendar days, continue processing the pending application.

Note: Claimants may have an appeal hearing in suspension, pending closure of their claim. When the authorized agency official is notified that the claim has been closed, the official should notify the Appeal Hearing Officer of the closure.

- **Delinquent borrowers with no pending servicing request.** Unless the account has already been accelerated, send a new notification of the availability of loan servicing according to 5-FLP, Part 3. The decision on the settlement claim may have improved borrowers' financial conditions and could affect their ability to qualify for FSA assistance.

Note: When all loan servicing rights have been concluded for Category 2 borrowers, without resolving the delinquency, submit the completed FSA-2580 and FSA-2581, to the State Office, as required by 5-FLP, subparagraph 533 B.--*

***--Servicing Settlement Claimants and National Office FLP Programmatic Review (Continued)**

C County Office Servicing Action (Continued)

- **Delinquent borrowers whose accounts have already been accelerated.** Except for cases already held by DOJ, submit the completed FSA-2580 and FSA-2581 to the State Office requesting civil rights clearance review required by subparagraph 41 H or pre-CNC if liquidation has already occurred. If DOJ is holding a case, the U.S. Attorney's office should be advised when the claim is closed.

If a Category 2 borrower's delinquency is cured by payment, rescheduling, writedown, or any other resolution, and a new delinquency occurs at a later date, the normal pre-acceleration review required by Exhibits 12 and 13 will be performed. Likewise, Category 1 individuals who later become delinquent on any FLP debt will be subject to the same review process.

D State Office Servicing Action

For Category 2 borrowers, when requesting the National Office civil rights clearance required by subparagraph 41 H, in addition to the documentation required by Exhibit 13, the State Office will include FSA-2580 and FSA-2581 documenting the findings of the State Civil Rights Review Group.

Note: FSA-2580 and FSA-2581 only need to be submitted once. If FSA-2580 and FSA-2581 are submitted for pre-acceleration clearance of a Category 2 borrower, FSA-2580 and FSA-2581 will not need to be submitted for subsequent pre-foreclosure and/or pre-CNC clearance.

E National Office Action

The National Office shall:

- review FSA-2580 and FSA-2581, other documentation provided according to Exhibit 13 and supporting documentation found in DLS-Special Servicing, FBP, and eDALR\$ to ensure that all servicing and appeal rights were properly administered before further consideration of acceleration, foreclosure, or CNC
- provide written guidance to the State Office for each case after completing the review.--*

***--Servicing Settlement Claimants and National Office FLP Programmatic Review (Continued)**

F Servicing Actions for Pending Settlement Claimants

Until individual claims are closed through the respective settlement processes, the policy of not accelerating or foreclosing against claimants remains in effect. Do not take acceleration or foreclosure action until a claim has been closed, and for Category 2 borrowers, the National Office has provided written guidance according to subparagraph E.

Where there is a potential fraud in borrowers' loan relationships with FSA, for example, conversion, the cases would generally be referred to OIG with copies to OGC. In cases where the borrowers are claimants, continue to refer the particulars of the situations to OIG with copies to OGC, including any applicable information about the claimant's under the respective settlement.--*