

# FSA HANDBOOK

## Regular Direct Loan Servicing

To access the transmittal page click on the short reference

For State and County Offices

SHORT REFERENCE

4-FLP

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



**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

---

<b>Regular Direct Loan Servicing</b> <b>4-FLP</b>	<b>Amendment 48</b>
--	---------------------

---

**Approved by:** Deputy Administrator, Farm Loan Programs



---

**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 118 A has been amended to clarify personal property subordinations to lines of credit.

Subparagraph 118 B has been amended to describe multi-year subordinations.

Subparagraphs 146 D and F have been amended to clarify requirements for release without compensation.

Subparagraph 146 E has been amended to remove the requirement for an updated security agreement.

Subparagraph 196 A has been amended to clarify the notes about transfer of real estate to a revocable trust for estate planning purposes.

Subparagraph 199 B has been amended to require LSPMD consent for a public auction of real estate unless certain conditions are met.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
	6-35, 6-36 6-71, 6-72 6-72.3 through 6-72.6 7-44.5, 7-44.6 7-53	1, pages 1-4



## Table of Contents

		Page No.
<b>Part 1</b>	<b>Introduction and Purpose</b>	
1	Purpose and Sources of Authority .....	1-1
2	Related References.....	1-2
3	FLP Forms .....	1-4
4	FSA Exception Authority .....	1-7
5	Introduction to Direct Loan Servicing (Regular).....	1-9
6	ECOA Requirements for Actions Involving Real Estate Security .....	1-10
7	Non-procurement Debarment Suspension .....	1-10
8	Processing Incomplete Regular Direct Loan Servicing Applications.....	1-11
9-15	(Reserved)	
<b>Part 2</b>	<b>Operational Reviews</b>	
16	Reviewing a Borrower's Account.....	2-1
17	Updating the Assessment.....	2-3
18	Updating Account Classification .....	2-5
19	Graduation Review .....	2-5
19.5	Non-Compliance with Graduation Requirements.....	2-8.5
20	Agreement for Using Proceeds .....	2-9
21	Limited Resource Review.....	2-10
22	Analysis.....	2-14
23	Summary of Operational Review.....	2-15
24-30	(Reserved)	
<b>Part 3</b>	<b>(Withdrawn--Amend. 35)</b>	
31-33	(Withdrawn--Amend. 35)	
34-45	(Reserved)	
<b>Part 4</b>	<b>(Withdrawn--Amend. 35)</b>	
46-48	(Withdrawn--Amend. 35)	
49-60	(Reserved)	
<b>Part 5</b>	<b>Borrower Payments</b>	
61	General.....	5-1
62	Regular Payments .....	5-4
63	Extra Payments .....	5-5
64	Distributing Payments to Loans.....	5-5
65	Final Payments.....	5-7
66	(Withdrawn--Amend. 46)	
67	Managing Pre-Authorized Debit (PAD) .....	5-11
68	Completing IRS W-9 .....	5-15
69-95	(Reserved)	

## Table of Contents (Continued)

	Page No.
<b>Part 6                    Protecting FSA's Security Interests</b>	
<b>Section 1                General Security Preservation and Lien Protection</b>	
96                        Servicing Policy .....	6-1
97                        Maintaining Debt Instruments .....	6-3
98                        Maintaining Security Instruments.....	6-6
99                        Borrower Responsibilities for Complying With Loan Instruments.....	6-9
100                      (Withdrawn--Amend. 37)	
101                      Making Protective Advances .....	6-15
102                      Notifying Potential Purchasers .....	6-17
103                      FSA Responsibilities Under Third Party Actions .....	6-18
104-115                (Reserved)	
<b>Section 2                Subordinations</b>	
116                      Requesting Subordinations .....	6-31
117                      Conditions for Real Estate Subordinations .....	6-32.5
118                      Conditions for Personal Property Subordinations.....	6-35
119                      Appraisal Requirements.....	6-36
120                      Approving or Denying Subordination Requests .....	6-37
121-125                (Reserved)	
<b>Section 3                Junior Liens</b>	
126                      General Conditions for Junior Liens.....	6-47
127-135                (Reserved)	
<b>Section 4                Severance Agreements</b>	
136                      Conditions for Severance Agreements.....	6-61
137-145                (Reserved)	
<b>Section 5                Release of Real Estate and Personal Property Security Liens Without Monetary Compensation</b>	
146                      Release Without Monetary Compensation .....	6-71
147                      Releasing Valueless Liens .....	6-74
148-160                (Reserved)	

## Table of Contents (Continued)

	Page No.
<b>Part 7        Disposition of Security</b>	
<b>Section 1     Disposition of Normal Income and Basic Personal Property Security</b>	
161    General Requirements.....	7-1
162    Agreement for Disposition of Normal Income and Basic Personal Property Security .....	7-4
163    Using Proceeds From Personal Property Security .....	7-7
164    Multiple Releases for Farm Operating Expenses Within the Term of an Annual OL .....	7-8
165    (Reserved)	
166    Releasing Security Interest .....	7-11
167-180    (Reserved)	
<b>Section 2     Unapproved Disposition of Security</b>	
181    Initial FSA Actions Upon Discovery .....	7-31
182    Post-Approval of Personal Property Disposition.....	7-33
183    Requirements for Handling Borrower Non-compliance.....	7-34
184-195    (Reserved)	
<b>Section 3     Real Estate Security Releases, Exchanges or other Disposition of Portion or Interest</b>	
196    Requirements .....	7-44.5
197    Allowable Use of Proceeds From the Release of Real Estate Security .....	7-48
198    Appraisals .....	7-51
199    Approving or Denying Partial Releases or Exchanges .....	7-52
200-210    (Reserved)	
<b>Section 4     (Withdrawn--Amend. 28)</b>	
211, 212    (Withdrawn--Amend. 28)	
213-230    (Reserved)	
<b>Part 8        Withdrawing Existing Party</b>	
231    Withdrawal Requirements .....	8-1
232-245    (Reserved)	

## Table of Contents (Continued)

	Page No.
<b>Part 9 Transfer of Real Estate and Personal Property Security</b>	
246 Transfer of Security and Assumption of Debt .....	9-1
247 Types of Transfers and Assumptions.....	9-3
248 Assumption Terms .....	9-7
249 Reviewing Transfer Request.....	9-12
250 Closing the Transfer.....	9-13
251 Determining Transferor Liability After Closing.....	9-14
252-265 (Reserved)	
<b>Part 10 Deceased Borrowers</b>	
266 General.....	10-1
267 Servicing Options for Program Loan Accounts.....	10-3
268 Servicing Options for NP Accounts.....	10-4
269-280 (Reserved)	
<b>Part 11 Borrowers Entering the Armed Forces</b>	
281 General.....	11-1
282 Servicemembers Civil Relief Act of 2003 .....	11-2
283 Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 .....	11-6
284-290 (Reserved)	
<b>Part 12 Transferring Borrower Records, Security, and Servicing Responsibilities</b>	
291 Procedures and Servicing Responsibility.....	12-1
292-300 (Reserved)	
<b>Part 13 (Withdrawn--Amend. 38)</b>	
301 (Withdrawn--Amend. 38)	

## Table of Contents (Continued)

### Exhibits

- 1 Reports, Forms, Abbreviations, and Redesignations of Authority
- 2 Definitions of Terms Used in This Handbook (7 CFR 761.2(b))
- 3 (Reserved)
- 4 State Supplements
- 5-18 (Reserved)
- 19 Graduation Flowchart
- 20 Request for Operational Review Information
- 21 (Withdrawn--Amend. 20)
- 22 Lender Agricultural Loan Underwriting Standards
- 23 Borrower Prospectus
- 24 Notice to Borrower to Refinance FSA Indebtedness
- 24.5 Addendum to the Promissory Note or Assumption Agreement Converting to Non-Program Rates and Terms
- 25 Notice of Change in Interest Rate
- 25.3 Example of Loan Payment Reminder – Annual Installment Due Letter
- 25.4 (Withdrawn--Amend. 43)
- 25.5 IRS Forms, Corrections, and Reports
- 25.6 Examples of How to Complete FSA-2061
- 26 Notification of Payoff Amount
- 27 Notice of Termination of Security Interests in Farm Products
- 27.5 (Withdrawn--Amend. 46)
- 28 (Withdrawn--Amend. 46)
- 28.4 (Withdrawn--Amend. 46)
- 28.5 (Withdrawn--Amend. 37)
- 29 Notification Letter to Potential Purchasers
- 30 Change in List of FSA Borrowers
- 31 Notification of Unauthorized Use of Proceeds
- 31.5 Notification of Unauthorized Use of Proceeds (Bankruptcy Borrower)
- 32 Initial Notification of Third-Party Purchaser
- 33 SED Notification of Third-Party Purchaser
- 34 (Withdrawn--Amend. 30)
- 35 Denial of Non-Program Assistance
- 36-50 (Reserved)
- 51 Service Members Civil Relief
- 52 Borrowers Entering Active Duty
- 53 Borrowers Leaving Active Duty



## 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 direct loan regular or routine servicing
- roles and responsibilities in implementing regulations and other responsibilities in direct loan regular or routine servicing.

#### B Sources of Authority

The sources of authority for this handbook include:

- 7 CFR Part 765 and other regulations that may be referenced throughout this handbook
- various laws and statutes passed by Congress, including CONACT.

#### C Regulation References

Text in this handbook that is published in CFR is printed in **bold** text. CFR citation is printed in brackets in front of the text. The references and text:

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

**Note:** Cross-references printed in bold are citing a section of CFR. The handbook paragraph or subparagraph where the cross-referenced CFR text can be found is printed in non-bold text in parenthesis (within the bold text).

**Example:** Subparagraph 118 A provides “[**7 CFR 765.205(c)**] (1) **For loans secured by chattel, the subordination must meet conditions contained in paragraphs \*(b)(3)(i) through (b)(3)(xiii) of this section** (subparagraph 117 A.”)

The text “**paragraphs (b)(1)(i) through (b)(3)(xiii) of this section**” refers to 7 CFR 765.205 (b)(3). The nonbold reference indicates that 7 CFR 765.205(b) is included in subparagraph 117 A.--\*

## 2 Related References

### A Related FSA Handbooks

The following FSA handbooks concern FLP.

IF the area of concern is about...	THEN see...
appeals and mediation	1-APP.
civil rights compliance and administration for FSA programs	18-AO.
common management and operating provisions for program management activities, functions, and automated applications, such as forms that cannot be accepted by FAX	1-CM.
highly erodible land conservation and wetland conservation provisions	6-CP
debt collection and resolution	7-FLP.
direct loan making	3-FLP.
direct loan special servicing and inventory property management	5-FLP.
disaster designations	1-DIS.
employee development and training	6-PM.
environmental requirements	1-EQ.
environmental risk management	2-EQ
general and administrative regulations governing FLP, and implementing NAD final determinations	1-FLP.
guaranteed loan making and servicing	2-FLP.
the Emergency Loan Seed Producers Program, Horse Breeder Loan Program, Indian Tribal Land Acquisition Program, Special Apple Loan Program, Land Contract Guarantee Program, and servicing of minor loan programs	6-FLP.
personnel management, such as employee conflict of interest	3-PM.
policies and procedures for the acquisition of supplies, equipment, and services	27-AS.
procedures for collecting, maintaining, or disclosing data or information concerning an individual	3-INFO.
procedures for making records available to the public, other Federal agencies, and Congress	2-INFO.
processing collections and canceling loan checks and payments	*--FPAC NRRS Guide--*
State and county organization and administration policies, procedures, principles, and standards, such as work organization	16-AO.
State and county records management	32-AS

### B Helpful Links

The Handbook Link web site at <http://intranet.fsa.usda.gov/dam/handbooks/handbooks.asp> provides links to useful web sites.

**2      Related References (Continued)**

**C   State Supplements**

See Exhibit 4 for State supplements required by this handbook. SED's are authorized to issue State supplements to this handbook in addition to State supplements listed in Exhibit 4, \*--according to 1-FLP, subparagraph 2 C.--\*

\* \* \*

### 3 FLP Forms

#### A Form References

\*--Except as provided in this paragraph, this handbook references forms according to the forms numbering system that became effective December 31, 2007. Forms executed before December 31, 2007, may have a number different from that referenced. See 1-FLP, Exhibit 5 for a comparison of form numbers before and after December 31, 2007.--\*

**Note:** See Exhibit 1 for titles of forms referenced in this handbook.

With the exception of FSA-2510, FSA-2512, and FSA-2514, form numbers are not referenced in CFR (**bold**) text. CFR refers to forms by either:

- the common name of the form

**Example:** CFR may state, “a promissory note”, instead of stating, “FSA-2026”.

- purpose or the information collected.

**Example:** CFR may state, “a shared appreciation agreement”, instead of stating, “FSA-2543”.

This handbook may refer to the following forms by title and/or form number.

Form Number	Form Title
FSA-2026	Promissory Note
FSA-2029	Mortgage/Deed of Trust
FSA-2543	Shared Appreciation Agreement

**3 FLP Forms (Continued)****B FSA-2029**

All references to FSA-2029 within this handbook are intended as a reference to the applicable State-specific Mortgage or Deed of Trust. State-specific Mortgages or Deeds of Trust are available on the FFAS Employee Forms/Publications Online Website at <http://intranet.fsa.usda.gov/dam/ffasforms/forms.html> and are numbered FSA-2029 “ST”.

**Notes:** “ST” represents the appropriate State acronym.

SED is not required to issue a State supplement for the State-specific version of FSA-2029.

**C Notary Acknowledgement**

\*--See 1-FLP, subparagraph 3 C.

**D Applicant and Borrower Signatures**

See 1-FLP, subparagraph 3 D.

**E State-Modified National Forms**

See 1-FLP, subparagraphs 3 E and H.

**F State-Created Forms**

See 1-FLP, subparagraphs 3 F and H.

**G Other Sources of Forms**

See 1-FLP, subparagraph 3 G...\*



## 4 FSA Exception Authority

## A General

**[7 CFR 765.501] On an individual case basis, the Agency may consider granting an exception to any regulatory (or 4-FLP handbook) requirement or policy of this part if:**

**(i) The exception is not inconsistent with the authorizing statute or other applicable law; and**

**(ii) The Agency's financial interest would be adversely affected by acting in accordance with published regulations or policies and granting the exception would resolve or eliminate the adverse effect upon the Agency's financial interest.**

A decision as to whether an exception request will be submitted will be at FSA's discretion and is not appealable.

A request for an exception to program regulations should not be pursued under normal servicing conditions. FSA considers requests submitted under extraordinary circumstances only.

## B Submitting Exception Requests

\*--Only SED or Acting SED have the authority to submit an exception request, and the request must be submitted to DAFLP by e-mail to **SM.FSA.DCWa2.AdmException** or **adminexception@usda.gov**. The e-mail subject should read “Administrator’s Exception--\* to (cite 4-FLP subparagraph) – (Borrower’s Name and State).” State Office FLP staff must be involved in the development of the Exception Request. An attachment must fully describe the status of the account, including:--\*

- a brief background on the case
- total outstanding FSA indebtedness; loan types and amounts
- current status of the account; if it is delinquent, where it is in Primary Loan Servicing
- \*--type of security (personal property or real estate) and estimated value--\*
- prior liens
- proposed plan of action that warrants the exception request

**4 FSA Exception Authority (Continued)****B Submitting Exception Requests (Continued)**

- what procedure is to be waived
- the adverse effect to FSA resulting from compliance with the regulation and how it would be eliminated or minimized through the exception
- discussion of graduation
- \*--how the action is in the best financial interest of the Government
- additional information that SED thinks will be needed to review the case
- a Farm Business Plan credit action pertaining to the requested exception, including but not limited to:
  - updated farm assessment
  - appropriate environmental review, if needed
  - credit presentation demonstrating all other feasibility, eligibility, and security requirements are met for the request.--\*

## 5 Introduction to Direct Loan Servicing (Regular)

### A Purpose

**[7 CFR 765.1(a)]** This part describes the policies for servicing FLP direct loans, except for borrowers who are delinquent, financially distressed, or otherwise in default on their loan.

### B Servicing Actions

**[7 CFR 765.1(b)]** Servicing actions described in this part include:

- (1) Limited resource reviews;**
- (2) Graduation to commercial credit;**
- (3) Application of payments;**
- (4) Maintaining and disposing of security;**
- (5) Transfer of security and assumption of debt; and**
- (6) Servicing accounts of deceased borrowers.**

### C Loans Covered

**[7 CFR 765.1(c)]** The Agency services FLP direct loans under the policies contained in this part. This part is not applicable to Non-program loans, except where noted.

This handbook discusses the regular servicing of the following types of FSA loans:

<ul style="list-style-type: none"><li>• EE</li><li>• EM</li><li>• FO (including beginning farmer downpayment)</li><li>• NP (where specifically addressed)</li><li>• OL (including youth)</li></ul>	<ul style="list-style-type: none"><li>• RHF</li><li>• RL</li><li>• ST</li><li>• SW</li><li>• CL.</li></ul>
--	--

## ECOA Requirements for Actions Involving Real Estate Security

### A Release of Real Estate Appraisals

Equal Credit Opportunity Act (ECOA) requires the Agency to provide a copy of a written real estate appraisal or valuation performed on any real estate that is pledged as security as part of an application for FSA assistance. For servicing actions authorized by this handbook that involve FSA completing any real estate valuation, local offices will comply with the requirements of 1-FLP paragraph 148 to provide a copy of the valuation to the borrower, when applicable.

## 7 Non-Procurement Debarment and Suspension

### A Covered Transactions

**[2 CFR 417.10]** This part adopts the OMB guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the USDA policies and procedures for non-procurement debarment and suspension. It thereby gives regulatory effect for the USDA to the OMB guidance, as supplemented by this part.

**[2 CFR 417.210]** All non-procurement transactions, as defined in section 417.970 are covered transactions unless listed in section 417.215.

**[2 CFR 417.970]** (a) “Non-procurement transaction” means any transaction, regardless of type (except procurement contracts), including, but not limited to . . .

#### (6) Loans.

**[2 CFR 417.215]** (a) Transactions not covered:

(1) An entitlement or mandatory award required by a statute, including a lower tier entitlement or mandatory award that is required by a statute.

(7) Permits, licenses, exchanges and other acquisitions of real property, rights of way and easements under natural resource management programs.

\*--Assumption of Debt (see Part 9, 3-FLP, paragraph 75, and 1-FLP, paragraph 43) is a--\* non-procurement transaction in this handbook not covered by exceptions.

## 7 Non-Procurement Debarment and Suspension

**B System for Award Management (SAM) Exclusions**

**[2 CFR 417.500]** SAM exclusions is a widely available source of the most current information about persons who are excluded or disqualified from covered transactions.

**[2 CFR 416.595]** (a) Federal agency officials use SAM Exclusions to determine whether to enter into a transaction with a person, as required under section 180.430 of this title.

Before offering an applicant an assumption of debt, the agency approval official will ensure that 3-FLP, paragraph 75 and 1-FLP, paragraph 43 are followed.

A copy of this search will be placed in position 3 of the case file. If a borrower or applicant has been excluded or disqualified, the transaction will not be offered. Appeal rights will be provided as set forth in Parts 6 or 9. See 1-FLP paragraph 43.

**\*--8 Processing Incomplete Regular Direct Loan Servicing Applications****A Determining if Application is Complete**

Except for operational reviews and graduation under Part 2, subordinations under Part 6, and transfers and assumptions under Part 9, incomplete regular servicing applications will be processed under this paragraph. Upon receiving FSA-2061, the Agency official will:

- insert date application was received on FSA-2061
- determine whether the application is complete
- enter application information in DLS.

**B Initial Notification of Incomplete Regular Direct Loan Servicing Application**

Within 7 calendar days of receipt of an incomplete regular servicing application, the agency official will use the FSA-2091 to provide the applicant written notice of any additional information which must be provided. The applicant must provide additional information within 30 calendar days of the date the FSA-2091 is sent.

If the 30th calendar day is a Saturday, Sunday, Federal holiday, or any other day the office is closed, FSA will accept the applicant's additional application information the next business day.

FSA-2091 will:

- list the additional information needed
- state that the application cannot be processed until all required information is received
- offer assistance to the applicant if they do not understand what is required or are having difficulty obtaining the required information
- establish a due date for receiving the information of 30 calendar days from the date of FSA-2091.--\*

**\*--8 Processing Incomplete Regular Direct Loan Servicing Applications (Continued)****C Final Notification of Incomplete Regular Direct Loan Servicing Application**

If a complete regular servicing application is not received within 30 calendar days of the FSA-2091, the application will be withdrawn and the borrower notified using the FSA-2092. The FSA-2092 will state the reason for withdrawal and that the application is withdrawn as of the date of the letter.

**Note:** A borrower may voluntarily withdraw an application at any time in writing. FSA-2092 will be sent when an application is voluntarily withdrawn.

Once a servicing application is withdrawn, it may not be reactivated. A new servicing application may be filed, and any information that is still current from the withdrawn application may be included with the new application. Information that is less than 90 days old, unless otherwise noted, is considered current.--\*

**9-15 (Reserved)**

**Part 2 Operational Reviews****16 Reviewing a Borrower's Account****A Overview**

\*--Full operational reviews will be completed at least every 3 years on each account except as--\* noted in subparagraph B. More frequent operational reviews may be completed at the agency official's discretion or in conjunction with an analysis according to 1-FLP, subparagraph 263 A.

An operational review is performed to:

- update the:
  - assessment review \* \* \*
  - account classification
- complete:
  - the graduation review
  - FSA-2040 (if debt secured by crops, livestock, equipment, or machinery).
  - the limited resource review (if applicable)
  - \*--analysis (if applicable).--\*

\*--The triennial operational review will be tracked and monitored within DLS and documented--\* in FBP by completing a D-Loan/Class/LR/YEA Only credit action; if no loan making or special servicing credit action is applicable. If a loan making action is being completed, select that credit action to document the operational review.

## 16 Reviewing a Borrower's Account (Continued)

**B Requesting Information**

**[7 CFR 761.102(b)] A borrower also must agree in writing to:**

- (1) Cooperate with the Agency and comply with all supervisory agreements, farm assessments, farm operating plans, and all other loan-related requirements and documents**
- (2) Submit financial information and an updated farm operating plan when requested by the Agency**
- (3) Immediately notify the Agency of any proposed or actual significant change in the farming operation, any significant changes in family income, expenses, or the development of problem situations, or any losses or proposed significant changes in security.**

**[7 CFR 765.101(c)] The borrower must submit all information that the Agency requests in conjunction with the review of the borrower's financial condition, including Federal income tax returns.**

\*--At least every 3 years, each borrower will be sent Exhibit 20 requesting information to assist the Agency in completing the operational review.

**Exceptions to completing the operational review every 3 years.**

- Accounts whose cash flow has been significantly impacted by disasters should be prioritized for completion of operational reviews regardless of the timing of the last review.
- Accounts which have been 90 days past due at any time during the current or past FY must be reviewed regardless of the timing of the last review.
- Operational reviews of accounts subject to assessment requirements of 1-FLP paragraph 263 must be completed as required by Part 2. These include:
  - accounts with limited resource rates which must be reviewed biennially
  - accounts on PLS deferral which must be reviewed annually while on deferral.

When the authorized agency official determines that a scheduled operational review will not be completed, the operational review workflow will remain in place, but the reminder will be paused.--\*

**Note:** Exceptions to requesting information is for borrowers with only Y-OL's, CL's, NP's, judgment, CNC's, or whose accounts are flagged "BAP", "ACL", "FAP", "CAP", or otherwise determined by OGC.

**16      Reviewing a Borrower's Account (Continued)****B      Requesting Information (Continued)**

County Offices will add the “OGC” flag (5-FLP, Exhibit 11) in DLS to indicate OGC has determined FSA should suspend certain routine servicing. This flag will only be used when specific written correspondence from OGC is provided, advising to suspend certain routine loan servicing actions. For example, a borrower might have pending litigation against the Agency and OGC determines FSA should suspend an Operational Review and other routine servicing actions.

The “OGC” flag will be removed when the suspension is no longer applicable. The “OGC” flag is available from the Manage Flags section of Customer Management. This is a DLS only flag, meaning that it will not process a transaction to ADPS. The flag will only be visible in DLS. Refer to the DLS User Guide for instructions to add and remove the flag.

Exhibit 20 will be sent twice in a 30-day period if the borrower does not supply the required information. The first time Exhibit 20 is sent, the borrower will be given 30 calendar days to supply the required information. The second Exhibit 20 will be sent on day 15, only if the required information has not been submitted and will give the borrower 15 calendar days to submit the required information.

Borrowers who fail to respond will be serviced according to subparagraph 19.5 A, for graduation review, or 21 D, if subject to limited resource interest rates.



**16      Reviewing a Borrower's Account (Continued)****C    Developing Farm Operating Plan**

The agency official will use the financial information provided by the borrower as requested by Exhibit 20 for the most recent operating cycle to develop a farm operating plan according to 1-FLP, Part 8, Section 3. This farm operating plan will be used to complete the components of the operational reviews described in this part.

\*--If the review reflects that the operation will be financially distressed, the account will be serviced according to 5-FLP, Part 3.--\*

**17      Updating the Assessment****A    Objective of Annual Review**

**[7 CFR 761.103(e)] The Agency reviews the assessment to determine a borrower's progress at least annually, combining any required classification and graduation reviews as part of the review. For streamlined CLs, the borrower must provide a current balance sheet and income tax records. Any negative trends noted between the previous years' and the current years' information must be evaluated and addressed in the assessment of the streamlined CL borrower.**

**[7 CFR 761.103(f)] If a CL borrower becomes financially distressed, delinquent, or receives any servicing options available under part 766 of this chapter (5-FLP), all elements of the assessment in paragraph (b) of this section (1-FLP, paragraph 222) must be addressed.**

The annual assessment review monitors the borrower's progress towards the operation's goals including progression to commercial credit.

**Note:** 1-FLP, subparagraph 263 B requires that an assessment update be prepared for each subsequent loan. The assessment update will constitute the annual assessment review.

## 17 Updating the Assessment (Continued)

### B Scope of Annual Review

\*--During the triennial operational review, information obtained from Exhibit 20 will be used--\* to update the annual assessment.

The review must address any significant changes to the borrower's farming operation, expenses, or financial condition that have occurred since the most recent assessment update. The authorized agency official must pay particular attention to the following:

- changes in operations or goals, including current production cycle goals and long-term development goals
- status of progress toward goals, including progression to commercial credit and accumulation of a reasonable amount of working capital reserves and savings, including savings for retirement and education of family members
- need for additional borrower training
- term limits
- remind borrower to review farm transition and estate planning documents.

**Note:** The assessment update will not address the actual contents nor include the actual documents of the farm transition and estate planning.

\*--Except for the triennial operational review, the annual review may be completed in the form--\* of an office visit, field visit, letter, or phone conversation and documented in FBP.

**Note:** During a time of limited staffing resources the authorized agency official may prioritize the completion of the annual review during the non-operational review year according to current agency directives.

### C Documentation

If significant changes have occurred, the authorized agency official must document the nature of each change and the reason for the change.

The documentation must address only new or changed information.

**18 Updating Account Classification****A Action**

The FBP completed in subparagraph 16 C will be used to update the account classification according to 1-FLP, Part 8, Section 4.

\*--The classification review will be documented with the triennial DLS full operational review.--\*

**19 Graduation Review****A General**

Direct FLP is a temporary source of credit. Graduation reviews are completed as part of the biennial operational review to assess the borrower's ability to graduate to commercial credit.

\*--See Exhibit 19 for a graduation flowchart.--\*

**B Graduation Criteria**

**[7 CFR 765.101(g)] CLs are not subject to graduation requirements under this part.**

The requirements of this part apply only to program borrowers, except CL-only borrowers. NP loans and borrowers with only youth loans are also not subject to graduation requirements.

**[7 CFR 765.101(a)] In accordance with the promissory note and security instruments, the borrower must graduate to another source of credit if the Agency determines that:**

- (1) The borrower has the ability to obtain credit from other sources; and**
- (2) Adequate credit is available from other sources at reasonable rates and terms.**

**[7 CFR 765.101(b)] The Agency may require partial or full graduation.**

**(1) In a partial graduation, all FLP loans of one type (i.e. all chattel loans or all real estate loans) must be paid in full by refinancing with other credit with or without an Agency guarantee.**

**(2) In a full graduation, all FLP loans are paid in full by refinancing with other credit with or without an Agency guarantee.**

**(3) A loan made for chattel and real estate purposes will be categorized according to how the majority of the loan's funds are expended.**

**Note:** Promissory notes for certain soil and water loans may not include graduation requirements. FSA will review provisions of individual promissory notes for loan type SW to determine if graduation language is included.

19 **Graduation Review (Continued)****C Obtaining Underwriting Criteria from Local Lenders**

Each October, the authorized agency official will contact local lenders to obtain their underwriting criteria for making agricultural loans. Information gathered from these contacts will be summarized on Exhibit 22, with any additional comments in narrative form, and placed in the county operational files FLPF-4-B "Graduation," according to 32-AS. At a minimum, the narrative for each lender will contain the following:

- lender's interest in refinancing FSA borrowers, including interest in receiving the graduation prospectus described in subparagraph E
- lender's rates, terms, fee, loan conditions, and policies for annual operating, term operating and real estate loans.

**D Screening Borrowers**

**Note:** Exceptions to consideration for graduation include borrowers with only Y-OL's, CL's, NP's, judgment, CNC's, or whose accounts are flagged "BAP", "ACL", "FAP", "CAP", or otherwise determined by OGC.

The FBP completed in subparagraph 16 C and updated account classification completed in paragraph 18 will be used to determine if the borrower's financial condition has improved to where they can refinance their FSA debt in full or in part with commercial credit.

If the financial information provided indicates that the borrower cannot meet local underwriting criteria, the authorized agency official will document why the borrower, despite being classified a "1" or "2," is unlikely to graduate. The authorized agency official will record this in the FBP Credit Presentation and in the Operational Review workflow in DLS.

Borrowers classified a "1" or "2" should be evaluated to determine if the classification score is due, in part, to higher TDCLR or liquidity ratio resulting from the accumulation of a reasonable amount of working capital reserves and savings. The non-essential asset provisions of 3-FLP, subparagraph 66 A will be considered, including recognition that working capital reserves and savings in excess of the greater of \$30,000 or 20 percent of planned typical year farm operating expenses (not including interest or depreciation) are considered non-essential assets unless a written exception is provided by SED, FLC, FLS, or DD. Additionally, essential assets include funds in IRS recognized retirement accounts or qualified tuition programs held by the applicant, borrower, or entity members in the case of an entity, as well as funds held by the applicant or borrower which are accumulated for specific farm related capital \*--purchases to be realized in the next operating cycle.

Similarly, borrowers are unlikely to meet local underwriting criteria if they are or recently--\* were financially distressed, have recently received primary loan servicing, or whose current repayment schedules include deferrals, interest-only or reduced principal payments.

If the borrower's financial information indicates that the borrower meets local underwriting criteria \* \* \*, the borrower's prospectus will be forwarded according to subparagraph E.

**\*--19 Graduation Review (Continued)****E Sending Prospectus**

**[7 CFR 765.101(d)] The Agency may provide a borrower's prospectus to lenders in an attempt to identify sources of non-Agency credit and assess the lenders' interest in refinancing the borrower's loan. The Agency will notify the borrower when the borrower's prospectus is provided to one or more lenders.**

If the borrower's financial information indicates they meet local underwriting criteria, the authorized agency official will:

- include the borrower's name, loan type, balance sheet, and projected cash flow on Exhibit 23
- send Exhibit 23 to commercial lenders.

Exhibit 23 asks lenders to indicate an interest in further review of borrowers listed. The lenders review will determine if they would be willing to refinance FSA.

When an authorized agency official includes a borrower's information on Exhibit 23 and sends it to a lender, a copy of Exhibit 23 will be sent to the borrower with a cover letter with language similar to: "Enclosed, please find Exhibit 23. This exhibit has been sent to several lenders in the area so they could review your financial information and consider refinancing your FSA account."

**F Applying for Commercial Credit**

**[7 CFR 765.101(e)] If a lender expresses an interest in refinancing the borrower's FLP loan, the borrower must:**

- (1) Apply for a loan from the interested lender within 30 days of notice; or**
- (2) Seek guaranteed loan assistance under the market placement program in accordance with section 762.110(g) of this chapter (2-FLP, paragraph 72).**

An authorized agency official will assist the borrower with completion of an application for guaranteed loan, if a lender expresses an interest in providing assistance with a guarantee.

See 2-FLP for information on guaranteed loans...\*

**19 Graduation Review (Continued)****F Applying for Commercial Credit (Continued)**

If any lenders are interested in refinancing FSA, the authorized agency official will send the borrower a letter similar to Exhibit 24 listing lenders that are interested in refinancing the borrower's FSA loans.

The borrower must contact the lenders listed in the letter and complete an application for commercial credit within 30 calendar days.

If the borrower finds a creditor who will make a loan to refinance FSA at reasonable rates and terms, the borrower must graduate.

**[7 CFR 765.101(f)] The borrower will be responsible for any application fees or purchase of stock in conjunction with graduation.**

If a commercial lender rejects the borrower, the borrower must obtain from the lender written evidence that specifies the reasons for rejection. The borrower must submit these documents to FSA.

**G Transfer and Assignment of FSA Liens**

**[7 CFR 765.103] The Agency may assign its lien to the new lender when the borrower is graduating and all FLP debt will be paid in full.**

Promissory notes and lien instruments for graduating borrowers may be assigned to the new lender by SED with the concurrence and as directed by Regional OGC.

\* \* \*

**\*--19.5 Non-Compliance with Graduation Requirements****A Borrower Non-compliance with Graduation Requirements**

**[7 CFR 765.102(a)] Borrower failure to fulfill all graduation requirements, including failure to submit information as specified 7 CFR 765.101(c), within the time-period specified by the Agency constitutes default on the loan. Except as provided in paragraph (b) of this section, the Agency will accelerate the borrower's loan without offering servicing options provided in 7 CFR Part 766 (5-FLP) if any outstanding direct loan was closed prior to September 25, 2024.**

If the borrower with an outstanding direct loan closed prior to September 25, 2024, fails to provide requested financial information or to graduate when able to do so, the authorized agency official will notify the borrower and all entity members of the non-compliance by sending FSA-2420 that provides FSA's intent to accelerate the loans with appeal rights according to 1-APP and informing the borrower(s) of their option to make a written request for conversion of their loan(s) to NP status according to subparagraph 19.5 B.

FSA-2420 must be sent by certified mail to the last known address of the borrower. If the certified mail is not accepted, the notice will be sent immediately by first class mail to the last known address.

Special Servicing will be initialized in DLS utilizing Chart 4 "Borrower in Non-Monetary or Monetary and Non-Monetary Default".

The authorized agency official must prepare and submit all required documents for concurrence to accelerate and liquidate. This adverse action does not require primary loan servicing. See 5-FLP, Parts 15 and 16 for more detail on acceleration and liquidation.--\*

**\*--19.5 Non-Compliance with Graduation Requirements (Continued)****B Conversion to NP Rates and Terms in lieu of Acceleration**

**[7 CFR 765.102(b)] If all outstanding direct loans were closed after September 25, 2024, or when the borrower, or borrowers in the case of an entity, that has at least one outstanding direct loan closed on or before that date, makes a written request in response to the Agency's notification of intent to accelerate within provided timeframes, the Agency will convert the debt to a non-program loan under the following conditions:**

**(1) It is in the interest of the Agency;**

**(2) The debt will be subject to the interest rate for non-program loans in effect at the time of default;**

See 1-FLP, Exhibit 17 for NP interest rates.

**(3) The debt will be serviced as a non-program loan; and**

**(4) The term of the non-program loan will be:**

**(i) For FOs, the Agency will schedule repayment in equal installments over the lesser of the remaining number of years on the loan, the useful life of security, or 25 years.**

**(ii) For OLs, the Agency will schedule repayment in equal installments over the lesser of the remaining number of years on the loan, the useful life of security or 5 years.**

**Note:** Conversion to NP terms will not be used to extend the maturity date of the original note. For example, a 7-year OL that is currently in year 5 will be scheduled for repayment with equal installments for the remaining 2 years.

If the borrower with all outstanding direct loans closed on or after September 25, 2024, fails to provide requested financial information or to graduate when able to do so within provided timeframes, the authorized agency official will notify the borrower and all entity members of the non-compliance and intent to convert their loan(s) to NP status by sending FSA-2421 with appeal rights according to 1-APP. If the borrower does not appeal, the loan official will convert the loan(s) to NP status, documenting the action in FBP with a credit action approved by the authorized agency official, and send FSA-2422 to the borrower informing them of the new provisions of the loan(s). The date of the conversion to NP status will be the date the notification is signed by the authorized agency official. The borrower will be given a copy of the addendum at closing. A copy of the notification will be attached to the original promissory note.--\*

**19.5 Non-Compliance with Graduation Requirements (Continued)****B Conversion to NP Rates and Terms in lieu of Acceleration (Continued)**

Borrowers with an outstanding direct loan closed prior to September 25, 2024, that fail to provide requested financial information or to graduate when able to do so within provided timeframes, will be sent FSA-2420. Should the borrower and all entity members request in writing conversion of their loan(s) to NP status within prescribed timeframes, the authorized agency official will convert the loan(s) to NP status, documenting the action in FBP with a credit action approved by the authorized agency official. All liable parties must sign Exhibit 24.5 providing the new provisions of the loan(s). The date of the conversion to NP status will be the date the notification is signed by the authorized agency official. The borrower will be given a copy of the addendum at closing. A copy of this notification will be attached to the original promissory note.

See 1-FLP, Part 2, for levels of authority for approval of NP loans. SED has unlimited approval authority for NP loans.

**C Final Processing**

\*--Contact LSPMD for guidance on processing the conversion to NP rates and terms in the event that a borrower fails to graduate at **SM.FSA.DCWa7.DirectLoans** or [fsa-directloans@usda.gov](mailto:fsa-directloans@usda.gov)--\*



**20      Agreement for Using Proceeds****A    Planning**

**[7 CFR 765.302(a)] The borrower and the Agency will execute an agreement for the use of proceeds.**

Using the FBP prepared in subparagraph 16 C the agency official will complete the FSA-2040 to describe plans for disposition of security and use of proceeds during the next operating year. Borrower will review the FSA-2040, initial, date, and sign in the designated places.

For established operations, where significant changes are not planned and with the borrower's input and consent, the FBP prepared in subparagraph 16 C may be used to complete the FSA-2040 for a second operating year.

For borrowers with:

- normal income security, the agreements will be updated at least biennially
- \*--basic security only, the agreement will be completed when disposition is planned during the period covered by the operating plan.

**Note:** Voluntary liquidation should be handled according to 5-FLP, Part 13.--\*

Disposition of security will be reported according to paragraph 162 and 163.

If the farm operating plan prepared for the operational review is not feasible, the account will be serviced according to 5-FLP.

## 21 Limited Resource Review

### A Borrower Account Reviews

**[7 CFR 765.51(a)] At least every two years, a borrower with limited resource interest rate loans is required to provide the Agency the operation's financial information to determine if the borrower can afford to pay a higher interest rate on the loan. The Agency will review the information provided in accordance with §761.105 of this chapter.**

The authorized agency official will usually review borrower accounts during the operational review \* \* \*; however, reviews may be completed at any time. The limited resource interest rate review process will be documented in FBP and tracked and monitored within DLS Operational Review workflow.

\* \* \*

Based on results of the review, the authorized agency official may adjust the interest rate, if the:

- borrower's debt service margin shows that the borrower can afford to pay a higher interest rate according to subparagraph B
- borrower makes a request to be removed from limited resource rates according to subparagraph C
- borrower defaults on the loan agreements according to subparagraph D.

The authorized agency official must approve the interest rate change by completing the Limited Resource Review section in the applicable FBP Credit Presentation. The interest rate change will be accomplished by completing the Operational Review workflow in DLS.

When a review is completed and no change is to be made to the borrower's interest rate, the authorized agency official will document the review in the applicable FBP Credit Presentation. This review will also be documented in the Operational Review workflow in DLS.

**\*--21 Limited Resource Review (Continued)****B Debt Service Margin**

**[7 CFR 765.51(b)] If the borrower's farm operating plan shows that the debt service margin exceeds 110 percent, the Agency will increase the interest rate on the loans with a limited resource interest rate until:**

**(1) A further increase in the interest rate results in a debt service margin of less than 110 percent; or**

**(2) The interest rate is equal to the interest rate currently in effect for the type of loan.**

TDCLCR from FBP is used to establish eligibility for limited resource rates. TDCLCR is located in the Repayment Capacity/Sensitivity and the Ratio/Indicators Reports within FBP.

If TDCLCR exceeds 110 percent, the authorized agency official will recalculate the borrower's total debt repayment by replacing the current interest rate with an interest rate that is 1 percentage point above the current interest rate. If the current regular interest rate is less than 1 percent higher than the borrower's existing limited resource rate, the authorized agency official will:

- apply the regular interest rate to the total debt repayment calculation
- recalculate the borrower's TDCLCR using the new total debt repayment amount.

This process is repeated, using increments of 1 percent, if needed, until the interest rate that allows the borrower's TDCLCR to be as close to, but not less than, 110 percent is identified or the regular interest rate currently in effect has been achieved. Increments of less than 1 percent may only be used to reach the regular interest rate currently in effect.

**Example:** The current interest rate for the type of loan is 7.25 percent. The limited resource interest rate is 5 percent. After increasing the interest rate by full percentage points to 7 percent, if the 110 percent TDCLCR requirement can still be met, the rate may be increased by 0.25 percent to reach the current full interest rate for the type of loan.

If the borrower has more than 1 limited resource loan, the authorized agency official will alternate increasing the interest rate on 1 loan at a time, until the borrower's TDCLCR is as close as possible, but not less than, 110 percent or the regular interest rate currently in effect has been reached for all existing limited resource loans.--\*

**\*--21 Limited Resource Review (Continued)****C Borrower Request**

The authorized agency official may adjust the interest rate on a borrower's limited resource loan to the regular interest rate for that type of loan, if all of the following provisions apply:

- borrower makes the request in writing
- borrower's TDCLCR at the regular interest rate is greater than or equal to 100 percent
- regular rate is lower than or equal to the limited resource rate.

**D Loan Agreement Default**

**[7 CFR 765.51(c)] Except as provided in paragraph (d) (subparagraph E) of this section, the Agency will increase the limited resource interest rate to the current interest rate for the type of loan, if the borrower:**

- (1) Purchases items not planned during the term of the loan;**
- (2) Refuses to submit information the Agency requests for use in reviewing the borrower's financial condition;**
- (3) Ceases farming, as described in § 765.253 (paragraph 99); or**
- (4) Is ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718 (1-CM).**

**E Deferred Loans**

**[7 CFR 765.51(d)] If the borrower has limited resource interest rate loans that are deferred, the Agency will not change the interest rate during the deferral period.--\***

**21      Limited Resource Review (Continued)****F      Sending Notification Letters**

The authorized agency official must notify a borrower of any decision to change an interest rate with a letter similar to Exhibit 25. The letter must inform the borrower of:

- the new interest rate
- the authorization and reason for the change in interest rate
- the effective date of the new rate
- the amounts of new payments and dates due
- appeal rights unless the borrower requested the rate increase.

\*--The letter must be sent by certified mail to the last known address of the borrower. If the certified mail is not accepted, the notice will be sent immediately by first class mail to the last known address. A copy of the notification letter shall be attached to the original promissory note and a file copy of the promissory note shall be maintained in the borrower's case file. The authorized agency official will not apply the increased interest rate until 30--\* calendar days after the letter is sent to the borrower. If the borrower appeals FSA's decision to increase the interest rate, the rate will not be changed until the appeal is concluded.

**G      Change in Regular Interest Rate**

If the rate is being changed to the regular rate, and as of the effective date the regular rate of interest is something other than the rate noted in Exhibit 25, the borrower will receive the lower of the 2 rates.

## 22 Analysis

**\*--A Degree of Analysis Required--\***

\* \* \*

The following is a summary of analysis to be completed with Operational Review and level of documentation.

- \*--A full analysis according to 1-FLP, paragraph 263 is required for a new loan to existing borrower (except YOL or Application Fast Track (AFL) loans), an assumption, a subordination--\* prepared for the lender by FSA (or request from a lender with whom FSA has no experience or the request is principally to refinance the lender's debt), a PLS action, a loan on deferral, or a Limited Resource Interest Rate Review.
- Triennial Operational Review is required for a subordination prepared and submitted by an experienced lender (see subparagraph 116 B), or when there is no new loan request being considered.
- If only an Annual Assessment update is being completed, the following criteria--\* apply:
  - there will be no analysis completed
  - documentation of discussion for annual assessment will be completed.

## 23 Summary of Operational Review

### A Summary

The following is a summary of the operational review components to be completed.

	Par Ref	*--Full Analysis	Triennial Operational Review--*	Annual Assessment Update Only
Farm Assessment – Update	17	Yes	Yes	No
Farm Assessment – Discussion Documentation	17 B	No	No	Yes
Classification Review	18	Yes	Yes	No
Graduation Review	19	Yes	Yes	No
FSA-2040	20	If personal property according to subparagraph 20 A	If personal property according to subparagraph 20 A	No
Limited Resource Review	21	If Applicable	If Applicable	No
Analysis	22	Yes	Yes	No

### 24-30 (Reserved)

### Part 3 Withdrawn--Amend. 35

#### 31-33 (Withdrawn--Amend. 35)

#### 34-45 (Reserved)

### Part 4 Withdrawn--Amend. 35

#### 46-48 (Withdrawn--Amend. 35)

#### 49-60 (Reserved)



## Part 5 Borrower Payments

### 61 General

#### A Purpose

This part identifies how payments received by FSA from the borrower are to be applied to borrower loans. For borrowers with personal property security, this part refers to proceeds that FSA will apply to the borrower's FLP debt according to FBP and FSA-2040.

#### B Acceptable Payment Forms

**[7 CFR 765.151(a)] Borrowers must submit their loan payments in a form acceptable to the Agency, such as checks and money orders. Forms of payment not acceptable to the Agency include, but are not limited to, foreign currency, foreign checks, and sight drafts.**

**Note:** Cash payments are limited to no more than \$100 per transaction. Payments over \$100 can be made in the form of ACH, check, debit card, money order, or wire transfer.

PML is a self-service application for borrowers to make payments on their direct loans. To use the feature, borrowers must have a farmers.gov account. To create an account, borrowers will need to visit [farmers.gov/account](http://farmers.gov/account). \* \* \*

#### C Processing Payments

**[7 CFR 765.151(b)] The Agency credits the borrower's account as of the date the Agency receives payment.**

**Note:** When an office is closed because of a lapse in government funding, natural disaster, or response to emergency situation, borrower payments submitted by mail will be credited as of the date of the postmark.

When FSA receives a payment, the authorized agency official must record and process the \*--payment according to FPAC NRRS Guide.--\*

A receipt for payments received will be given when cash is received, or the borrower requests a receipt with other payment forms.

Any subsequent correction of applications will be processed in NRRS. For the correction to be updated to borrower's account, the authorized agency official will need to submit FSA-2429 through the RD Business Center, FLB, ECM system. Changes in application of loan payments will not be for trivial or minor purposes. FSA-2429 **must** be submitted as soon as the error in application of payments is discovered or by December 31 of the current CY, to not adversely impact FSA issuance of IRS-1098.

SED's are authorized to make changes in past calendar years or after IRS-1098's have been prepared using FSA-2429. This authority may not be redelegated. If this authority is \*--exercised, date, State, borrower name, case number, corrective action and mitigation of--\* errors must be documented and an annual report must be completed by February 1 of each year according to Exhibit 1. Reports are required to be submitted by email to **SM.FSA.DCWa7.DirectLoans** or [fsa-directloans@usda.gov](mailto:fsa-directloans@usda.gov).

## 61 General (Continued)

**D Identifying Regular and Extra Payments**

When FSA receives a payment from the borrower, the authorized agency official will identify the source of income from which the payment was derived. The source of the income or proceeds is essential to determine whether FSA applies payments as regular or extra.

**[7 CFR 765.152(a)] Regular payments are derived from, but are not limited to:**

- (1) The sale of normal income security;**
- (2) The sale of farm products;**
- (3) Lease income, including mineral lease signing bonus;**
- (4) Program or disaster-related disbursements from USDA or crop insurance entities; and**
- (5) Non-farm income.**

**[7 CFR 765.152(b)] Extra payments are derived from any of the following:**

- (1) Sale of chattel security other than normal income security;**

such as farm equipment and breeding livestock.

- (2) Sale of real estate security;**

- (3) Refinancing of Agency debt;**

**\*--Note:** As required in the FPAC NRSS Guide, page 345, collections for refinancing are--\* coded as "Y" in NRSS.

- (4) Proceeds of insurance claims received on Agency security, if not being used to repair or replace the security;**

Repair and replacement of security may include expenses such as engineering fees, contractor estimates or similar expenses to ensure insurance companies have properly adjusted damages to Agency security.

- (5) Any transaction that results in a loss in the value of any Agency basic security;**

- (6) Refunds of duplicate program benefits or assistance to be applied on CL or EM loans; or**

- (7) Refunds of unused loan funds.**

**61 General (Continued)****E Canceling Undisbursed Loan Funds**

After a loan has been closed, the authorized agency official will complete FSA-2425 to cancel the obligation of funds that will not be used by the borrower. No interest accrues, since the funds were obligated, but not advanced.

FSA-2072 must also be prepared and submitted with a copy of FSA-2425 to the RD Business Center, FLB. See 1-FLP, subparagraph 5 B.--\*

The original FSA-2425 with the borrower's signature will be stapled to the original promissory note in the locked, fire-resistant file cabinet. A copy of FSA-2425 will be placed in the borrower's file in position 2 with the note and an ADPS Unclosed (UN) Screen

\*--screen-print, after completion of the deobligation by the RD Business Center, FLB.--\*

If it is clear that the unused funds will not be used, but the borrowers will not sign FSA-2425, SED's are authorized to approve cancellation of undisbursed loan funds after all PLS options have been exhausted or the debt is paid in full. This authority may not be redelegated. If PLS has not been exhausted, States Offices shall contact LSPMD for directions.

\*--The RD Business Center, FLB record of the loan will indicate the loan amount was--\* reduced after deobligation. Keeping FSA-2425 with the promissory note (both original and copy) is the paper trail evidence that the loan amount was reduced after closing and the borrower consented.

DLS will be updated as required.

## 62 Regular Payments

### A Applying Regular Payments

**[7 CFR 765.153(a)] A regular payment is credited to a scheduled installment on program and non-program loans. Regular payments are applied to loans in the following order:**

- (1) Annual operating loan;**
- (2) Delinquent FLP installments, paying least secured loans first;**
- (3) Non-delinquent FLP installments due in the current production cycle in order of security priority, paying least secured loans first;**
- (4) Any future installments due.**

Regular payments received will be credited by the RD Business Center, FLB to loans in the order provided in subparagraph 64 A, beginning first with administrative costs and protective advances plus interest. Administrative costs and protective advances will only add on to FO's, SW's, and CL's. For other loan types, a new loan account is established. The loan number for these loans is generally between 75 and 99. Any protective advance or administrative cost charged back to a borrower's account is immediately due and payable.

### B Regular Payments From Real Estate Sale Security With SED Approval

**[7 CFR 765.152(c)] Notwithstanding any other provision of this section, payments derived from the sale of real estate security will be treated as regular payments at the Agency's discretion, if the FLP loans will be adequately secured after the transaction.**

When FSA becomes aware that the borrower is selling all or a portion of the real estate security, FSA-2061 (See Exhibit 25.6 for examples of how to complete FSA-2061) for a partial sale should be requested from the borrower. When FSA receives the payment from the sale of real estate security, the authorized agency official must consult FSA-2061 to determine the loan to which the payment should be applied, generally in the order of lien priority.

**Notes:** Only items 1 through 5 of the FSA-2061 are required if the transaction results in FSA debts being paid in full.

If the borrower requests that payments resulting from the sale or exchange of real estate security be applied to current, delinquent, or unmatured loan installments; the borrower, with the assistance of the authorized agency official, must complete and submit FSA-2061. Only SED's may approve this application of funds. The authorized agency official will forward the completed FSA-2061 and any other materials required to SED for review. The authorized agency official will inform the borrower of the decision and \*--provide appeal rights according to 1-APP, if FSA-2061 is not approved. See 1-FLP, subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

## 63 Extra Payments

## A Applying Extra Payments

[7 CFR 765.153(b)] An extra payment is not credited to a scheduled installment and does not relieve the borrower's responsibility to make scheduled loan installments, but will reduce the borrower's FLP indebtedness. Extra payments are applied to FLP loans in order of lien priority except for refunds of unused loan funds, which shall be applied to the loan for which the funds were advanced.

## 64 Distributing Payments to Loans

## A Order

[7 CFR 765.154] The Agency applies both regular and extra payments to each loan in the following order, as applicable:

(a) Recoverable costs and protective advances plus interest;

(b) Deferred non-capitalized interest;

\*--Note: To simplify IT modernization, all deferred non-capitalized interest has been paid in full.--\*

(c) Accrued deferred interest;

\* \* \*

(d) Interest accrued to date of payment; and

(e) Loan principal.

## B Distribution

Distribute payments according to the following.

IF the loan...	THEN...
number is identified correctly on the payment information	the RD Business Center, FLP will automatically distribute the payment to borrower debt according to subparagraph A.
costs are separate from their parent loan (usually identified by loan numbers between 75 and 99)	the payment needs to be specifically identified to be applied to those loan cost accounts and then to the original loan.

**64 Distributing Payments to Loans (Continued)****C Notification of Account Activity and Status**

\*--The RD Business Center, FLB sends the borrower:

- Exhibit 25.3 sixty calendar days before the installment due date

**Note:** Exhibit 25.3 shows the installments due on each loan. A copy is provided to the local FSA office.

- FSA-2065 annually, which shows the loan status and all transactions completed during the calendar year.

**Notes:** Exhibit 25.3 and FSA-2065 provide the VRU telephone number (1-888-518-4983).--\* VRU is a secure, automated system that requires a PIN number, and guides borrowers in obtaining the status of their loans at any time. If further loan information is needed, such as a payoff amount, borrowers are directed to call the FSA office.

The borrower has the ability to change their PIN using the following instructions:

- borrower calls toll free number
- after being asked for their ID, the system checks to see if a PIN is present
- if so, the borrower will be asked to enter the PIN
- if they enter the incorrect PIN they will be given the option to PRESS “1” to re-enter it, or PRESS “2” to change it
- after pressing 2, they will be walked through the process of changing their PIN.

**Note:** See Exhibit 25.5 for an explanation of IRS forms sent to borrowers annually.

**65 Final Payments****A Calculating the Final Payment**

When FSA is notified of the date the borrower will make the final payment, the authorized agency official calculates the final payoff amount by checking the “TPOF” field of the ADPS AI and PF Status Screens.

The authorized agency official shall verify that no other accounting transactions are pending that would affect the payoff amount. This may include, but is not limited to, payments that may not yet have been applied, loan costs that may not be posted on the account yet, interest rate changes, accounting corrections, and shared appreciation recapture.

Final payoffs shall be verified by 2 agency officials to lessen the possibility of an incorrect payoff amount being provided. Both officials will initial the AI and PF Status Screens and any other documentation to certify the amount. Exhibit 26 will be sent to the borrower only if the request for payoff is made before the day of payment in full.

**Note:** If a customer is on PAD, this must be cancelled prior to submitting the final payment through NRRS.

\*--For borrowers that choose to use wire transfer to remit the payoff amount, County Offices shall contact the RD Business Center Collections Branch for guidance on accepting wire transfers. See 1-FLP, subparagraph 5 G for contact information.--\*

**B Supervised Bank Accounts and Undisbursed Loan Funds**

If a borrower has a supervised bank account, the authorized agency official may apply any remaining funds in the account to the final payoff or release the remaining funds in the supervised bank account to the borrower after they have paid the account in full.

See 1-FLP, Part 4 for more information on supervised bank accounts.

If a borrower has undisbursed loan funds, they must be canceled according to subparagraph 61 E before the account is paid off.

**65 Final Payments (Continued)****C Overpayment**

**[7 CFR 765.155(c)] If an Agency miscalculation of a final payment results in an overpayment by the borrower of less than \$10, the borrower must request a refund from the Agency in writing. Overpayments of \$10 or more automatically will be refunded by the Agency.**

In NRRS, a refund receipt will be created for the remaining portion of the remittance. For refunds less than \$10, the borrower must request the refund from the Agency in writing.

\*--See FPAC NRRS Guide, page 262 for more information on FLP refunds.--\*

**D Underpayment**

**[7 CFR 765.155(d)] If an Agency miscalculation of a final payment amount results in an underpayment, the Agency may collect all account balances resulting from its error. If the Agency cannot collect an underpayment from the borrower, the Agency will attempt to settle the debt in accordance with subpart B of 7 CFR part 1956. (7-FLP, Part 12)**

If the authorized agency official discovers that the borrower underpaid FSA in an amount that exceeds \$10, the account will be serviced according to 5-FLP, Part 10.

If the promissory notes or security instruments have been released, the authorized agency official will immediately request guidance from the State Office, who will consult OGC.

If voluntary payment is not made to pay the debt in full, if a compromise offer is not made or accepted, or if court action is not initiated to collect the debt, the account will be referred for collection under TOP and cross-servicing after appropriate notice, if the remaining debt exceeds \$100.

Debt cancellations over \$10 will only be processed after all other attempts to collect the debt have been exhausted.

## 65 Final Payments (Continued)

## E Borrower Refunds

**[7 CFR Part 765.155(b)] If the borrower refunds the entire loan after the loan is closed, the borrower must pay interest from the date of the note to the date the Agency received the funds.**

## F Security Instrument Releases

**[7 CFR Part 765.155(a)] (1) Unless the Agency has reservations regarding the validity of the payment, the Agency may release the borrower's security instruments at the time payment is made, if the borrower makes a final payment by one of the following methods:**

- (i) U.S. Treasury check;
- (ii) Cashier's check; or
- (iii) Certified check.

**[7 CFR Part 765.155(a)(2)] Security instruments will only be released when all loans secured by the instruments have been paid in full or otherwise satisfied.**

The authorized agency official will check FSA's automated systems, including ADPS, DLS, NRRS, and all information in the borrower's file.

**Note:** If NRRS financial transaction status is not showing settled, send an e-mail to **SM.FSA.DCWA7.NRRS** requesting to check Treasury record for status of Remittance ID XXXX.

SED may issue a State supplement providing guidance about actions and filing fees for the release of loan security instruments.

**[7 CFR 765.155(a)(3)] The Agency will return the paid note and satisfied security instruments to the borrower after the Agency processes the final payment and determines that the total indebtedness is paid in full.**

After verifying that the loans are paid in full and the payment has cleared, the authorized agency official will close the case files and return the documents to the borrower according to 32-AS. FSA-2071 shall be attached with the documents sent to the borrower with a copy placed in the case file. Any assignments held by FSA will be terminated using Exhibit 27 and satisfaction of liens will be recorded on FSA-2433.

## 66 (Withdrawn--Amend. 46)



## \*--67 Managing Pre-Authorized Debit (PAD)

### A PAD Payments and Receipts

FSA FLP has discontinued the establishment of new PAD agreements for direct loans. RDBCSO will continue to service existing PAD agreements unless changes are required. Modifications to PAD agreements including changes to banking information will trigger an automatic termination of PAD. Terminated PAD agreements may not be reinstated. This is not an appealable decision.--\*

Scheduled PAD payments are withdrawn from borrowers' FI accounts and updated to PLAS (ADPS). FLB manually applies any payments that do not automatically update to PLAS. The PAD transaction will be reflected on the statement the borrower receives from their FI. The statement is the borrower's payment receipt.

\* \* \*

### B Dealing With Non-Payment

When the FI cannot post the PAD transaction to the designated borrower's account, the FI is \*--instructed by CB to reject the transaction. A rejected transaction will trigger an automatic termination of the PAD agreement. A terminated PAD agreement may not be reinstated. This is not an appealable decision.--\*

\* \* \*

### C Restructures and Assumptions

When a loan on PAD is being considered for restructuring or assumption, the County Office must FAX a detailed memo to CB to terminate the original RD 3550-28. To avoid additional payment withdrawals this should be done at least 5 workdays before the termination request date.

The County Office will notify the borrower that PAD is being canceled to process the restructuring or assumption. A record of the notification will be kept in the case file \*--(or FBP if appropriate). This is not an adverse decision. A terminated PAD agreement may not be reinstated. This is not an appealable decision.--\*

\* \* \*



**\*--67 Managing Pre-Authorized Debit (PAD)--\***

**D Final Payments**

To ensure proper account coding, final payments should not be submitted through PAD, but by the County Office through NRRS. County Office should take future PAD withdrawals into account when calculating final payments to reduce the number of refunds.

At least 5 workdays before loan pay off, County Office should notify CB to terminate PAD. The County Office will notify the borrower that PAD has been terminated to reduce the risk of overpayment and to ensure proper accounting of the final payment. A copy of the notification will be kept in the case file (or FBP if appropriate). This is not an adverse decision.

If the PAD cancellation is not processed before the payoff and a PAD payment is drafted, the County Office must notify CB requesting refund of the drafted PAD. CB will notify CSB. The refund process can take up to 2 weeks to be completed by CSB.

**E Canceling PAD**

A borrower may voluntarily cancel PAD by submitting a written request to the County Office. Within 5 workday of receipt of borrower's request to cancel PAD, County Office should notify CB to terminate PAD by detailed letter. A copy of the borrower's request and County Office's \*--letter will be kept in the case file. A terminated PAD agreement may not be reinstated. This is not an appealable decision.--\*

\* \* \*

**F Additional Information**

Below is a description of how the Bi-Weekly and Weekly PAD debits work.

• Bi-Weekly:

- is always the 1<sup>st</sup> and 3<sup>rd</sup> or 2<sup>nd</sup> and 4<sup>th</sup> week of the month of any day of week
- cycle (1<sup>st</sup> and 3<sup>rd</sup>) or (2<sup>nd</sup> and 4<sup>th</sup>) the initial payment falls on.

**Note:** There will always be (2) debits per month and all will fall on the same day of the week. The initial debit cannot be the 5<sup>th</sup> week of the month.

**Example:** If a borrower chooses to have their first payment pulled on Sunday, May 1, the actual debit from their account would be on May 2<sup>nd</sup> and then on May 16<sup>th</sup>. In this case, their debit will always be on the 1<sup>st</sup> and 3<sup>rd</sup> Mondays of the month and the date of credit will be on the 1<sup>st</sup> and 3<sup>rd</sup> Sundays of the month, etc.

**\*--67 Managing Pre-Authorized Debit (PAD)--\*****F Additional Information (Continued)**

Bi-Weekly 2 is always on the 1<sup>st</sup> and 15<sup>th</sup> of the month.

**Note:** There will always be (2) debits per month and the day of the week will vary from month to month. The initial debit must be on the 1<sup>st</sup> or 15<sup>th</sup> of the month.

**Example:** If a borrower chooses to have their first payment pulled on Sunday, May 1<sup>st</sup>, the actual debit from their account would be on May 2<sup>nd</sup> and then on May 16<sup>th</sup>. In this case, their debit will always be on the 1<sup>st</sup> and 15<sup>th</sup> of the month and the actual debit will be on that date unless it falls on a weekend and then it will be the following Monday. The credit date will always be the 1<sup>st</sup> and 15<sup>th</sup>.

Weekly 1 is always the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> week of the month of any day of the week the initial payment falls on.

**Note:** There will always be (4) debits per month and all will fall on the same day of the week. The initial debit cannot be the 5<sup>th</sup> week of the month.

**Example:** If a borrower chooses to have their first payment pulled on Sunday, May 1<sup>st</sup>, the actual debit from their account would be on May 2<sup>nd</sup>, then May 8<sup>th</sup> would debit on May 9<sup>th</sup>, then May 15<sup>th</sup> would debit on May 16<sup>th</sup> and then May 22<sup>nd</sup> would debit on May 23<sup>rd</sup>. If a borrower chooses to have their first payment pulled on May 24<sup>th</sup>, then the next debit would be on Monday, June 7<sup>th</sup>. Thereafter, June 14<sup>th</sup>, June 21<sup>st</sup>, and June 28<sup>th</sup>. There would be no debit for the last Tuesday in May, which is May 31<sup>st</sup>.

Weekly 2 is always on the 1<sup>st</sup>, 8<sup>th</sup>, 15<sup>th</sup>, and 22<sup>nd</sup> of the month. There will always be (4) debits per month and the day of the week will vary from month to month. The initial debit **must** be on the 1<sup>st</sup>, 8<sup>th</sup>, 15<sup>th</sup>, or 22<sup>nd</sup> of the month.

**Example:** If a borrower chooses to have their first payment pulled on Sunday, May 1<sup>st</sup>, the actual debit from their account would be on May 2<sup>nd</sup>, then May 8<sup>th</sup> would debit on May 9<sup>th</sup>, then May 15<sup>th</sup> would debit on May 16<sup>th</sup> and then May 22<sup>nd</sup> would debit on May 23<sup>rd</sup>.

**\*--G PAD Alternatives**

Incremental decommissioning of the PAD service represents a potential hardship for producers for making timely payments. County Office staff are encouraged to offer suggestions for alternative methods of payment to affected producers. Most banking institutions offer a bill pay service which could be set up to send payments to FSA without manual user intervention on a recurring basis. Additionally, FSA's introduction of the PML portal provides customers with the option to make their payment online. The ability to establish recurring payments is not currently available in PML. Payments continue to be accepted in person and via telephone at any County Office location.--\*

**68 Completing IRS W-9****A Instructions**

When FSA has security interest in proceeds from a borrower's insurance, integrator, buyer etc. FSA may receive a request from the third-party issuer of the payment to complete IRS Form W-9. IRS Form W-9 has instructions, however, the following are specific instructions for FSA:

- item 1 - USDA Farm Service Agency
- item 2 - do not complete
- item 3 - check "Other" and write "Federal Government"
- item 4 - "Exemption Payee Code" (2), and "Exemption from FATCA reporting"
- item 5 - Address, Stop 0523, 1400 Independence Ave. SW
- item 6 - Washington, D.C. 20250-0523

•\*--Part I – For FSA employer identification number see 62-FI, subparagraph 47 C

- Part II - an authorized agency official may sign and date the document.--\*

**Note:** A copy of the document should be filed in position 2 of the case file.

**69-95 (Reserved)**



**Part 6 Protecting FSA's Security Interests****Section 1 General Security Preservation and Lien Protection****96 Servicing Policy****A Overview**

This Part describes FSA's policies on general security preservation and lien protection, subordinations, junior liens, severance agreements, and releases of liens without monetary consideration.

**B General Policy**

**[7 CFR 765.201] All Agency servicing actions regarding preservation and protection of Agency security will be consistent with the covenants and agreements contained in all loan agreements and security instruments.**

**C Security Inspections**

\*--Personal property will be inspected at least every 3 years.

**Exception:** If the account has been 90 days past due at any time in the current or last FY, an inspection is required to be completed annually. More frequent inspections may be required according to subparagraph 183 A.--\*

These security inspections will be scheduled after a new loan has been closed by creating a new Farm Visit workflow in DLS.

\*--After completing the Farm Visit workflow, follow-up security inspections must be--\* scheduled in DLS; thereafter, based on the applicable requirements of this section for the type of loan security and for the remainder of the loan term.

\* \* \*

**96 Servicing Policy (Continued)****C Security Inspections (Continued)**

The authorized agency official:

- will inspect real property security at least once every 5 years
- should conduct more frequent inspections for a delinquent borrower \* \* \*.

The purpose of inspections is to:

- verify that the borrower possesses all the property listed in the security instruments
- determine that the borrower is maintaining security properly
- update security instruments.

The authorized agency official will record all security inspections in borrower's FBP and in DLS by using the Farm Visit Scheduling, tracking and monitoring, workflow activities.

A field visit to complete a security inspection may be used to:

- review the accomplishments and goals (assessment) with the borrower
- emphasize any agreements that have been made
- discuss any concerns about the operation
- discuss any proposed changes.

For personal property secured loans, the following will be documented on the FSA-2028 work copy:

- individual security items that are inspected
- any revisions to the condition of the individual items
- number and condition of livestock and equipment
- any discrepancies from original livestock numbers that were discussed.

**Note:** See Part 7 for guidance on handling discrepancies.

**D Documenting Reviews Not Completed As Scheduled**

When the authorized agency official determines that a scheduled personal property inspection will not be completed as scheduled, the Farm Visit workflow in DLS will be terminated. The terminated workflow must be documented as to why the workflow was not completed. A new Farm Visit workflow must be created and scheduled immediately as applicable.

**97 Maintaining Debt Instruments****A Identifying Debt Instruments**

Debt instruments are documents that show a debt owing with the terms of the debt amount, interest rate, years, etc. These instruments can include any of the following:

- accelerated repayment agreements
- approved debt settlement applications
- assumption agreements
- bankruptcy plans and/or stipulations accompanied by the confirmation order showing approval by the court and, when appropriate, discharge orders
- cost voucher documents
- court ordered or debt settlement documents
- promissory notes
- FSA-2543's
- suspension agreements.

**Note:** Many of these documents are considered essential FLP records that require maximum protection and must be filed and locked in fire-resistant file cabinets, according to 32-AS, subparagraph 59 A.--\*

## 97 Maintaining Debt Instruments (Continued)

**B Conducting Yearly Debt Instrument Inventory**

\*--Service centers must conduct yearly debt instrument inventory reviews on all loans that originated within the past calendar year. All other loans, which originated before the previous calendar year, must be reviewed once every 3 years.--\*

In March of each year, the RD Business Center will prepare RC 830A listing all borrowers who should have debt instruments maintained in the County Office. The RC 830A report will be made available through an email from Rural Development Business Center Servicing Office to the State Office distribution list. State Offices will be responsible for distributing the report to local Service Centers for review.

RC 830A includes the following for each borrower:

- name and case number
- fund code and loan numbers
- date of loan
- interest rate
- amount of noncapitalized interest, if applicable
- principal loan amount
- account flag.

\*--When RC 830A is received, County Offices must complete the following to conduct a debt instrument inventory review:--\*

- verify that the debt instruments exist

**Notes:** Debt instruments such as bankruptcy plans and discharge orders should be attached to the instruments which they amend.

Shared appreciation payment agreements are not currently reflected on RC 830A, but should be noted and checked for accuracy.

- compare the information provided on RC 830A to the related debt instrument to identify any discrepancies

\*--**Note:** Review findings should be documented on RC 830A.--\*

97 **Maintaining Debt Instruments (Continued)****B Conducting Yearly Debt Instrument Inventory (Continued)**

- take necessary corrective action when the:
  - difference in the principal loan amount or noncapitalized interest amount is more than \$100
  - interest rate must be corrected

**Note:** Attach a copy of the letter changing the interest rate to the promissory note (it is **not** necessary to correct promissory notes when the rate on the promissory note does not match RC 830A as a result of the interest rate being modified based on a limited resource review).

- obtain guidance from the OGC regional attorney, through the State Office, about any necessary corrections to promissory notes, or shared appreciation agreements
- ensure that copies of all instruments are filed in case files
- submit cases requiring corrections to the State Office coordinator on FSA-2446 and State \*--Office coordinators will send completed FSA-2446's to the RD Business Center, FLB.--\* See 1-FLP, subparagraph 5 B.

**Note:** State Office coordinators should track and monitor the submission and resolution of account corrections using FSA-2445.

- obtain guidance from OGC regional attorney, through the State Office, about the need to replace lost or missing debt instruments
- advise SED of the review results by July 31 of each year and retain RC 830A as a subdivided file under FLP-1-B, "Reports" according to 32-AS until the next year's report has been received and reviewed.

97 **Maintaining Debt Instruments (Continued)****C Conducting Yearly Debt Instrument Inventory for CNC Accounts**

Coinciding with the Yearly Debt Instrument Inventory provided in subparagraph 97 B, the \*--County Office must review a listing of all CNC borrowers who should have debt instruments--\* maintained in the County Office. Offices will use the current year March RC 540-L to complete this action.

\*--When the March RC 540-L is received, the County Office must:--\*

- verify that the debt instruments exist and are filed in the Service Center locking-type, fire-resistance file cabinets in accordance with 32-AS
- compare the information provided on March RC 540-L to the related debt instrument to identify any discrepancies

\*---Note: Review findings should be documented on March RC 540-L.--\*

- ensure that copies of all instruments are filed in case files
- obtain guidance from the National Office, through the State Office, about missing debt instruments
- advise SED of the review results by July 31 of each year and retain the March RC 540-L as a subdivided file under FLP-1-B, “Reports” according to 32-AS until the next year’s report has been received and reviewed.

98 **Maintaining Security Instruments****A Maintaining Security Documents**

Each County Office must maintain security instruments according to 32-AS.

An FSA UCC Security Guide is available for guidance on perfecting and maintaining interest in non-real estate security. This is available from the Farm Loan Programs Systems page at <https://intranet-apps.fsa.usda.gov/flp/IndexServlet>. Under “Informational Links”, CLICK “FLP Training SharePoint” to go to the Farm Loan Programs Training SharePoint page.

Even if a borrower is being serviced under a bankruptcy plan, it is critical that the FSA UCC financing statement does not lapse. A continuation financing statement must be filed when necessary. FSA is permitted to do so without obtaining relief from the automatic stay according to 11 U.S.C. 362 (b)(3). See 5-FLP, Part 11 for additional bankruptcy guidance.

**98      Maintaining Security Instruments (Continued)****B    Maintaining Current Information**

FSA must review or renew financing statements, security agreements, and other documents for each borrower periodically. County Offices will use DLS to identify and track security instruments that need to be continued or updated. The authorized agency official will notify the borrower of any required information and documents. Notification, if not made in writing, should be documented in FBP.

**C    Obtaining Subsequent FSA-2028's**

\*--FSA obtains new FSA-2028's when:

- FSA obtains new or additional security through a new loan request, or a request for regular or special loan servicing
- modifications to the security listed on the working copy of current FSA-2028's have been made.

**Exception:** FSA Security Agreements, FSA-2028, with a revision date of September 25, 2024, (and those for ML only customers with a revision date before August 21, 2025) do not include a blanket security interest in all equipment now owned or later acquired. Therefore, it is necessary for the FSA-2028 to be reviewed and updated regularly to ensure it accurately reflects FSA security interests in specific collateral. Should specific items of equipment be replaced, for example, FSA must notate the changes on the working copy of the FSA-2028. However, FSA should not execute a new FSA-2028 in these specific cases unless the borrower has subsequently requested a new loan or loan servicing.

SED will issue a State supplement to specify when to obtain a subsequent FSA-2028 is needed for other reasons based on State law.--\*



**98      Maintaining Security Instruments (Continued)**

\* \* \*

**D   Continuing, Amending, or Obtaining New Financing Statements**

Unless State law provides otherwise, financing statements filed according to UCC are effective for 5 years from the filing date. The authorized agency official must continue existing financing statements to retain FSA's security position beyond the original 5-year period. The authorized agency official will file the appropriate continuation form within the 6-month period before the end of the current 5-year period to extend the effective date of the original filing for an additional 5 years.

**Note:** A lien search is not required when the financing statement is properly continued.

**98 Maintaining Security Instruments (Continued)****D Continuing, Amending, or Obtaining New Financing Statements (Continued)**

The authorized agency official shall amend or file a new financing statement only if the debt will be additionally secured either by:

- property not already described specifically or by type in the existing financing statement
- crops growing or to be grown that are not already covered by the existing financing statement
- fixtures not already described on the existing financing statement.

SED's will issue State supplements as needed to provide additional guidance and ensure compliance with State laws and procedures. Supplements should include the appropriate forms to be used for continuation, amendment, or new filings.

**E Purchase Money Interest (PMI) Identification Requirements for New FSA-2028's**

If separate and identifiable livestock security cannot be clearly established, all of the type of livestock purchased with loan funds will be listed on the security agreement and the PMI identifier (\*) will be used with a "Note" showing the number of livestock originally purchased with loan funds.

**Example:** Borrower used loan funds to purchase 100 cows. Borrower owned 100 cows before receiving the loan. Borrower now also owns 25 bred heifers. The FSA-2028 will list 225 cows identified with (\*) PMI and note-PMI in 100 cows.

**98 Maintaining Security Instruments (Continued)****F Obtaining Assignments**

FSA may require that borrowers assign FP payments to FSA for FLP loan payments. Assignments for program payments will be maintained according to 63-FI.

SED's will issue State supplements as needed to:

- provide guidance on maintaining existing assignments
- ensure compliance with State laws.

**G Real Estate Security Instruments**

Real estate security instruments will be obtained, corrected, amended, or continued according to applicable State law. SED's will issue State supplements to provide guidance for complying with State requirements.

**Note:** No limitations period exists with respect to actions by government agencies to foreclose mortgages or deeds of trust per 28 U.S.C.A. § 2415I. Accordingly, State limitations periods, and specifically those governing foreclosures, are not effective against the Federal Government. Regional OGC should be contacted for guidance on specific cases.

**99 Borrower Responsibilities for Complying With Loan Instruments****A General Policy**

**[7 CFR 765.202] The borrower must:**

**(a) Comply with all provisions of the loan agreements;**

**(1) Non-compliance with the provisions of loan agreements and documents, other than failure to meet scheduled loan repayment installments contained in the promissory note, constitutes non-monetary default on FLP loans by the borrower;**

**(2) Borrower non-compliance will be considered by the Agency when making eligibility determinations for future requests for assistance and may adversely impact such requests;**

**Note:** Non-compliance by borrowers should be addressed according to 5-FLP, Part 3.

99      **Borrower Responsibilities for Complying With Loan Instruments (Continued)****B    Borrower Responsibilities**

**[7 CFR 765.202]** The borrower must:

- (b) Maintain, protect, and account for all security;**
- (c) Pay the following, unless State law requires the Agency to pay:**
  - (1) Fees for executing, filing, or recording financing statements, continuation statements or other security instruments; and**

**\*--Notes:** FSA-2409 will be used to inform the borrower of any fees required.

FSA-2410 will be used for borrowers in bankruptcy.--\*

- (2) The cost of lien search reports;**
- (d) Pay taxes on property securing FLP loans when they become due;**
- (e) Maintain insurance coverage in an amount specified by the Agency;**
- (f) Protect the interests of the Agency when a third party brings suit or takes other action that could affect Agency security.**

**C    Requirement to Operate Security**

**[7 CFR 765.251]** (a) A borrower is required to be the operator of Agency security in accordance with loan purposes, loan agreements and security instruments. See operator in Exhibit 2.

(b) A borrower who fails to operate the security without Agency consent is in violation of loan agreements and security instruments.

(c) The Agency will consider a borrower's request to lease or cease to operate the security as provided in §§ 765.252 and 765.253 (subparagraphs D and E).

**D    Conditions for FSA Consent to Borrower Ceasing to Operate**

**[7 CFR 765.253]** If the borrower requests Agency consent to cease operating the security or if the Agency discovers that the borrower is failing to operate the security, the Agency will give consent if:

- (a) Such action is in the Agency's best interests;**
- (b) The borrower is unable to graduate on any program except for CL;**
- (c) The borrower is not ineligible as a result of disqualification for Federal Crop Insurance violation according to 7 CFR part 718;**

## 99 Borrower Responsibilities for Complying With Loan Instruments (Continued)

## D Conditions for FSA Consent to Borrower Ceasing to Operate (Continued)

## (d) Any one of the following conditions is met:

- (i) The borrower is involved in the day-to-day operational activities, management decisions, costs and returns of the farming operation, and will continue to reside in the immediate farming community for reasonable management and operation involvement;
- (ii) The borrower's failure to operate the security is due to age or poor health, and the borrower continues to reside in the immediate farming community for reasonable management and operation involvement; or
- (iii) The borrower's failure to operate the security is beyond the borrower's control, and the borrower will resume the farming operation within 3 years.

\*--This section applies to borrower requests to cease operating all of the farm. For requests to continue operating while leasing out a portion of the current farming operation, see subparagraph E.--\*

FLC's have the primary authority to approve a borrower's request or action to cease operating the security under this section.

If FSA cannot grant the borrower consent to cease operating security, FSA will immediately notify the borrower of non-monetary default according to 5-FLP, paragraph 66.

\*--Incomplete applications will be processed according to paragraph 8 of this handbook.--\*



## 99 Borrower Responsibilities for Complying With Loan Instruments (Continued)

## E Real Estate Surface Leases

**[7 CFR 765.252(a)] The borrower must request prior approval to lease the surface of real estate security. The Agency will approve requests provided the following conditions are met:**

- (1) The lease will not adversely affect the Agency's security interest;**
- (2) The term of consecutive leases for agricultural purposes does not exceed 3 years, or 5 years if the borrower and the lessee are related by blood or marriage. However, the term of surface leases for farm property no longer in use, such as old barns, or for nonfarm purposes, such as wind turbines, communication towers, or similar installations can be for any term;**
- Note: If it is determined that an extended lease term is in the agency's best financial interest, an Administrator's Exception request may be submitted.**
- (3) The lease does not contain an option to purchase;**
- (4) The lease does not hinder the future operation or success of the farm, or, if the borrower has ceased to operate the farm, the requirements specified in § 765.253 are met (subparagraph D). Leases for nonfarm enterprises, such as solar farms, which take significant acreage of the Agency's security out of agriculture production are not authorized. Non-productive land may be considered for this type of lease; and**
- (5) The lease and any contracts or agreements in connection with the lease must be reviewed and approved by the Agency.**

\*--FLC's have the primary authority to approve leases under this section. Approval of leases must be documented by executing either FSA-2061 or the electronic signature command in FBP. If the FLC reviews the lease and determines that legal clarification is necessary, State Office may request regional OGC opinion.

For requests that involve both a lease and a SNDA, the FLC is primary approval official. If FSA-2061 is utilized to document approval of the real estate lease, the recommendation or decision must be supported within Part D of FSA-2061. A satisfactory environmental review (FSA-850) for the action must also be completed before approval and placed in the physical file.

Regardless of the method chosen to document approval of the real estate lease, an operational review under Part 2 is required to be completed within FBP to ensure the request meets E (4). The borrower's remaining operation must be sufficient for the farm to continue on a sound basis.--\*

If FSA cannot grant the borrower consent to lease the real estate security, FSA will immediately notify the borrower of non-monetary default according to 5-FLP, paragraph 66.

\*--Incomplete applications will be processed according to paragraph 8 of this handbook.--\*

99      **Borrower Responsibilities for Complying With Loan Instruments (Continued)**

\* \* \*

**F   Mineral Leases**

**[7 CFR 765.252 (b)] The borrower must request Agency consent to lease any mineral rights used as security for FLP loans.**

**(1) For FO loans made from December 23, 1985, to February 7, 2014, and loans other than FO loans secured by real estate and made from December 23, 1985, to November 1, 2013, the value of the mineral rights must have been included in the original appraisal in order for the Agency to obtain a security interest in any oil, gas, and other mineral associated with the real estate security.**

**(2) For all other loans not covered by paragraph (b)(1) of this section**

**\*--(subparagraph 99 F), the Agency will obtain a security interest in any oil, gas, and other--\***  
**mineral on or under the real estate pledged as collateral in accordance with the applicable security agreement, regardless of whether such minerals were included in the original appraisal.**

**(3) The Agency may consent to a mineral lease if the proposed use of the leased rights will not adversely affect either:**

**(i) The Agency's security interest; or**

**(ii) Compliance with any applicable environmental requirements of part 799 of this chapter.**

See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.

**(4) The term of the mineral lease is not limited.**

99      **Borrower Responsibilities for Complying With Loan Instruments (Continued)****G Personal Property Security Leases**

**[7 CFR 765.252(c)] The borrower must request prior approval to lease chattel security. The Agency will approve requests provided the following conditions are met:**

- (1) The term of lease does not exceed 12 months and does not automatically renew;**
- (2) The lease does not contain an option to purchase;**
- (3) The lease does not hinder the future operation or success of the farm, or, if the borrower has ceased to operate the farm, the requirements specified in § 765.253 are met; and**
- (4) The lease must be in the best interest of the Agency as determined by the authorized Agency official;**
- (5) Leased security must be accessible and readily identifiable at all times. Leased livestock required to be branded, tagged or be otherwise specifically identifiable; and**

The authorized agency official must consider the following factors in determining if the lease is acceptable:

- excessive wear and tear where the loss of value in the security that would not be economically feasible to repair or replace
- provisions for the return of the security and enforcement of those provisions
- provisions designating responsibility for repair or loss of security
- proposed location for the use of security and if that security will be comingled with other security
- the borrower will always maintain hazard insurance.

**Note:** The FSA borrower is responsible for the security at all times.

**99 Borrower Responsibilities for Complying With Loan Instruments (Continued)****G Personal Property Security Leases (Continued)****(6) The lease and any contracts or agreements in connection with the lease must be reviewed and approved by the Agency.**

Upon approval of the lease, the authorized agency official will notify the lessee of the Agency's lien on the borrower's security. The letter should state that payments for the lease will be issued jointly to FSA and the borrower unless otherwise agreed between the Agency and the borrower. All projected lease payments will be documented on the FSA-2040.

FSA immediately notifies the borrower of non-monetary default according to 5-FLP, paragraph 66 if determined a lease was previously approved.

**\*-H Incomplete Applications**

Incomplete applications will be processed according to paragraph 8 of this handbook.--\*

**99 Borrower Responsibilities for Complying With Loan Instruments (Continued)****I Allotments Leases**

**[7 CFR 765.252(e)] (1) The Agency will not approve any crop allotment lease that will adversely affect its security interest in the allotment.**

**(2) The borrower must assign all rental proceeds from an allotment lease to the Agency.**

**J Lease Proceeds**

**[7 CFR 765.252 (d)] Lease proceeds are considered normal income security and may be used in accordance with § 765.303 (paragraph 163).**

**100 (Withdrawn—Amend. 37)**

**101 Making Protective Advances****A Allowed Protective Advance Uses**

**[7 CFR 765.203] When necessary to protect the Agency's security interest, costs incurred for the following actions will be charged to the borrower's account:**

FSA may act to protect its interest when the borrower fails to do so. If there is a prior lien, FSA will not make protective advances unless the prior lienholder refuses to take action. The authorized agency official must document evidence of the prior lienholder's refusal to take action in the borrower's case file. Further, the authorized agency official must document in FBP that advancing Government funds to protect FSA collateral is in FSA's best interest based on the equity available for FSA recovery or as determined through 5-FLP, Exhibit 37.

FSA will make protective advances according to 1-FLP, Part 7 on program loan expenses.

Once a protective advance is made, that protective advance is a debt owing and immediately \*--due and payable. Borrowers will immediately be notified of a non-monetary default and--\* serviced according to 5-FLP. According to 5-FLP, Part 4, only protective advances used to pay real estate taxes may receive primary loan servicing. All other protective advances cannot be restructured and must be immediately repaid by the borrower.

**101 Making Protective Advances****A Allowed Protective Advance Uses**

Borrower payments received will be applied first to annual operating loans and then to any advance made for protective advance purposes according to Part 5.

**[7 CFR 765.203(a)] Maintain abandoned security property;**

FSA may only make a protective advance for necessary emergency repairs if the borrower abandons the property, or the property is custodial property. Total expenditures for emergency repairs in excess of \$1,000 must have prior SED approval. The authorized agency official will determine if the borrower has abandoned the property according to 5-FLP, paragraph 701.

**[7 CFR 765.203(b)] Preserve inadequately maintained security;**

FSA may maintain security that the borrower has not adequately maintained, but has not abandoned. FSA must document in the borrower's FBP the borrower's failure to maintain the security adequately. Expenditures under this paragraph must receive prior approval from SED.

**101 Making Protective Advances (Continued)****A Allowed Protective Advance Uses (Continued)****[7 CFR 765.203(c)] Pay real estate taxes and assessments;**

FSA may pay borrower real estate taxes and assessments. FSA will make protective advances to pay delinquent real estate taxes only if there is imminent danger that the property will be forfeited.

When allowed under State law, for accounts that have been accelerated, the Agency will protect its lien by bidding at the tax sale according to 5-FLP, Part 17.

While the Agency may bid at a tax sale, the payment of real estate taxes is discouraged unless necessary to protect the government's interest. SED will issue a State Supplement on processing actions, procedures, and timing for the payment of a borrower's real estate taxes.

**[7 CFR 765.203(d)] Pay property, hazard, or flood insurance;**

FSA may make protective advances to maintain insurance coverage on security only to \*--protect FSA's financial interests and with the concurrence of DAFLP.--\*

**[7 CFR 765.203(e)] Pay harvesting costs;****[7 CFR 765.203(f)] Maintain Agency security instruments;**

FSA may make protective advances to maintain security instruments only when necessary to protect the interest of FSA.

**[7 CFR 765.203(g)] Pay ground rents;****[7 CFR 765.203(h)] Pay expenses for emergency measures to protect the Agency's collateral; and**

The authorized agency official will determine when it is appropriate to make protective advances for the payment of harvesting costs, ground rents, or expenses for emergency measures to protect FSA's collateral on a case-by-case basis.

**[7 CFR 765.203(i)] Protect the Agency from actions by third parties (5-FLP, paragraphs 602 and 603).****B Protective Advance Alternatives**

FSA may consider making a loan, releasing income, loan servicing, subordination, or transfer and assumption, if the borrower meets all applicable eligibility, feasibility, and security requirements instead of making a protective advance.

**102 Notifying Potential Purchasers****A States With CFS**

**[7 CFR 765.204(a)] The Agency participates and complies with central filing systems in States where CFS has been organized. In a State with a CFS, the Agency is not required to additionally notify potential purchasers that the Agency has a lien on the borrower's chattel security, unless specifically required by State law.**

States with CFS maintain records reflecting liens placed against agricultural products according to the Food Security Act of 1985 (Pub. L. 99-198). It is the purchasers' responsibility to obtain information about lien filings using CFS.

**B States Without CFS**

**[7 CFR 765.204(b)] In a State without CFS, the Agency follows the filing requirements specified for perfecting a lien on a borrower's chattel security under State law. The Agency will distribute the list of chattel and crop borrowers to sale barns, warehouses, and other businesses that buy or sell chattels or crops. In addition, the Agency may provide the list of borrowers to potential purchasers upon request.**

Potential purchasers listed by the borrower on FSA-2040 will be notified of the Agency's lien \*--on the borrower's personal property security. Exhibit 29 will be completed and must--\* include the following items as required by Section 1324 of the Food Security Act of 1985, codified at 7 U.S.C. § 1631:

- FSA Office address (the name and address of any secured party)
- name and address of each debtor
- Social Security number of each debtor, or other approved unique identifier, and if a debtor does business other than as an individual, the tax ID number
- description of the farm products given as security, including:
  - reasonable description of the farm product or products produced by the borrower (such as type and amount of crops, livestock, or farm machinery)
  - crop year
  - county (or counties) in which the products are produced or located
  - any payment obligations imposed on the buyer by FSA (the secured party) as a condition for release of the security interest.

**102 Notifying Potential Purchasers (Continued)****B States Without CFS (Continued)**

SED shall issue a State Supplement after consulting with the Regional OGC, providing the method to notify potential purchasers, and document receipt of the notification as required by the Food Security Act, 7 U.S.C. § 1631 (g)(3).

**Note:** Follow applicable directives providing guidance for protecting PII.

To ensure that purchasers are aware of the Government's security interests, this notification will be updated annually by a new Exhibit 29 or Exhibit 30. If there are any material changes or at the discretion of the authorized agency official, a new Exhibit 29 and/or 30 should be sent more often.

If requests are made for notification beyond the listed requirements, they can only be sent by  
 \*--Exhibit 29 to business firms in the trade area that buy personal property or crops or sell them--\* for commission.

Pre-notification requirements of this subparagraph are not required for the sale of products listed on FSA-2040, Items 6 D and E if the potential purchaser is unknown. Typically, these cases are specialty crops that a producer sells to the public at a local farmer's market.

All checks, bank drafts, or money orders that the borrower receives from the sale of normal security must be made payable to the borrower and the Agency. After all Agency installments for the production cycle and past due installments have been made, the authorized agency officials may notify potential purchasers that proceeds may be made payable solely to the borrower.

**103 FSA Responsibilities Under Third Party Actions****A County Office Responsibility**

The authorized agency official will immediately send the borrower notice to cure the non-monetary default according to 5-FLP, Part 3 when FSA:

- learns about a third party action or other borrower's failure to comply with the loan agreement that could affect FSA's security interest, or
- is made a party to a court action that could affect FSA's security interest.

**103 FSA Responsibilities Under Third Party Actions (Continued)**

**B SED's Responsibility**

SED's will:

- consult with OGC about all lawsuits involving the property and any other third party actions when necessary
- advise the authorized agency official on the actions the County Office should take to protect FSA's security interest.

**104-115 (Reserved)**



**Section 2 Subordinations****116 Requesting Subordinations****A Borrower Application**

**[7 CFR 765.205 (a)] The borrower must submit the following, unless it already exists in the Agency's file and is still current as determined by the Agency:**

\*--Separate and distinct entities or operations that are not liable for outstanding obligations to the agency are not considered eligible borrowers for subordinations, even if an agency borrower is involved.--\*

**[7 CFR 765.205 (a)] (1) Completed Agency application for subordination form;**

\*--FSA-2062 will be used for all personal property and real estate subordination requests under this paragraph.--\*

**Note:** State Offices should contact LSPMD for guidance if a subordination request is received from a non-commercial lender. Commercial lenders are subject to State or Federal government oversight.

**[7 CFR 765.205 (a)] (2) A current financial statement, including, in the case of an entity, financial statements from all entity members;**

FSA-2037 or any other format approved by FSA containing the same information.

**[7 CFR 765.205 (a)] (3) Documentation of compliance with the Agency's environmental regulations contained in part 799 of this chapter;**

AD-1026.

See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.

**[7 CFR 765.205 (a)] (4) Verification of all non-farm income;**

\*--See 3-FLP, subparagraph 42 A for the verification of non-farm income.--\*

**[7 CFR 765.205 (a)] (5) The farm's operating plan, including a projected cash flow budget reflecting production, income, expenses, and debt repayment plan; and FSA-2038 or any other format approved by FSA containing the same information.**

**[7 CFR 765.205 (a)] (6) Verification of all debts.**

**116 Requesting Subordinations (Continued)****A Borrower Application (Continued)**

A credit report is required unless current credit information is already contained in the borrower's case file or is otherwise available. The credit report fee will be paid by FSA unless the borrower has also applied for an FLP loan.

A current credit report obtained by the participating lender is authorized for use to verify debts.

See 3-FLP, subparagraph 42 A for the verification \* \* \* of \* \* \* debts.

With subordinations, FSA and the lender essentially partner in providing joint financing to the borrower and share applicable financial and loan information. The loan officer should confirm with the lender the loan rate, term, purposes, and security requirements, and what the lender specifically requires from FSA.

FSA may accept application items listed on FSA-2062 Part A, Item 3 from borrowers, or directly from lenders who submit documents on behalf of the borrower; or obtain copies of the items from the guaranteed lenders FSA file, to support subordination requests.

These items will be input into FBP. The analysis completed by the approval official can be brief since both FSA and the lender have processed loans according to their respective credit quality requirements.

**116 Requesting Subordinations (Continued)****B Processing Subordination Requests**

The authorized agency official will enter the following information into DLS and use it to track and monitor subordination requests:

- date the application is received
- applicant name
- type of assistance requested
- subordination amount requested.

\*--See paragraph 22 for depth of analysis required for subordinations.

The authorized agency official may approve a subordination request without an operational review when the decision is based upon the cash flow submitted by the lender which the agency concurs. An FBP cashflow is not being used; however, concurrence will be documented in FBP Running Record.--\*

**C Incomplete Applications**

**[7 CFR 765.205 (b)] Incomplete applications will be processed in accordance with 7 CFR 764.52 (3-FLP Paragraph 45).**

DLS Workflow SI-Other should be utilized as a reminder tool for sending incomplete notifications or when to withdraw. DLS SI-Other for subordinations currently records an outcome for withdrawal.

**117 Conditions for Real Estate Subordinations****A Real Estate Security**

**Note:** See Part 7 Section 3 for requirements for subordinations and non-disturbance agreements made for non-lending purposes.

**[7 CFR 765.205(c)] For loans secured by real estate, the Agency will approve a request for subordination subject to the following conditions:**

**(1) If a lender requires that the Agency subordinate its lien position on the borrower's existing property in order for the borrower to acquire new property and the request meets the requirements in paragraph (b) (3) of this section (subparagraph 117 A), the request may be approved. The Agency will obtain a valid mortgage and the required lien position on the new property. The Agency will require title clearance and loan closing for the property in accordance with § 764.402 of this chapter (3-FLP, Part 16).**

Separate and distinct entities or operations that are not liable for outstanding obligations to the agency cannot request subordination of agency security, even if an agency borrower is a member of the entity.

## 117 Conditions for Real Estate Subordinations (Continued)

## A Real Estate Security (Continued)

**(2) If the borrower is an entity and the Agency has taken real estate as additional security on property owned by a member, a subordination for any authorized loan purpose may be approved when it meets the requirements in paragraph (b)(3) of this section (subparagraph 117 A) and it is needed for the entity member to finance a separate farming operation. The subordination must not cause the unpaid principal and interest on the FLP loan to exceed the value of loan security or otherwise adversely affect the security.**

**(3) The Agency will approve a request for subordination of real estate to a creditor if:**

**(i) The loan will be used for an authorized loan purpose or is to refinance a loan made for an authorized loan purpose by the Agency or another creditor;**

See 3-FLP for authorized loan purposes. Exception: Refinancing real estate debt is an authorized purpose for a subordination.

**\*--Exception:** 2-FLP, subparagraph 279 A and related CFR allows a lender to obtain a direct loan subordination when they are making a guaranteed loan to refinance debt, regardless of whether the debt being refinanced is their own or that of another lender.--\*

**(ii) The credit is essential to the farming operation, and the borrower cannot obtain the credit without a subordination;**

**(iii) The FLP loan is still adequately secured after the subordination, or the value of the loan security will be increased by an amount at least equal to the advance to be made under the subordination;**

**(iv) Except as authorized by paragraph (c)(2) of this section (subparagraph 118 B), there is no other subordination outstanding with another lender in connection with the same security;**

**\*--Note:** If there is an outstanding subordination on security to lender A, then a subordination to lender B on the same security is prohibited.--\*

**(v) The subordination is limited to a specific amount;**

**(vi) The loan made in conjunction with the subordination will be closed within a reasonable time and has a definite maturity date;**

## 117 Conditions for Real Estate Subordinations

## A Real Estate Security (Continued)

(vii) If the loan is made in conjunction with a guaranteed loan, the guaranteed loan meets the requirements of § 762.142(c) of this chapter (2 FLP, paragraph 279);

(viii) The borrower is not in default or will not be in default on FLP loans by the time the subordination closing is complete;

(ix) The borrower can demonstrate, through a current farm operating plan, the ability to repay all debt payments scheduled, and to be scheduled, during the production cycle;

(x) Except for CL, the borrower is unable to partially or fully graduate;

**Note:** Account classification must have been completed within the last 24 months as required by 1-FLP, Part 8, Section 4. For accounts classified as 1 or 2, graduation \*--review must have been completed according to requirements of Part 2.--\*

(xi) The borrower must not be ineligible as a result of a conviction for controlled substances according to part 718 of this chapter (1-CM);

(xii) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to part 718 of this chapter (1-CM);

(xiii) The borrower will not use loan funds in a way that will contribute to erosion of highly erodible land or conversion of wetlands as described in part 799 of this chapter; (1-EQ and 6-CP)

(xiv) Any planned development of real estate security will be performed as directed by the lessor or creditor, as approved by the Agency, and will comply with the terms and conditions of § 761.10 of this chapter (1-FLP);

(xv) If a borrower with an SAA mortgage is refinancing a loan held by a lender, subordination of the SAA mortgage may only be approved when the refinanced loan does not increase the amount of debt; and

(xvi) In the case of a subordination of non-program loan security, the non-program loan security also secures a program loan with the same borrower.

(4) The Agency will approve a request for subordination of real estate to a lessee if the conditions in paragraphs (b)(3)(viii) through (b)(3)(xvi) of this section are met (subparagraph 117 A and subparagraph 196).

**Note:** Real estate subordination to a lessee must be approved by SED.

## 117 Conditions for Real Estate Subordinations (Continued)

**B Releasing and Refiling Lien Instruments Instead of Subordination**

SED's may approve releasing and refiling lien instruments instead of subordination when the request meets the following:

- application meets requirements in subparagraphs 116 A and 117 A
- subordination is unacceptable to the lender refinancing the borrower's loan

**Note:** The refinanced loan will be sold on the secondary market and a first lien is required.

- the borrower agrees to execute new security instruments

**Notes:** The new security instruments will be refiled immediately following the lender's security instrument securing the loan.

SED will consult OGC to obtain instructions in protecting FLP's lien position. SED will issue a State supplement to provide additional guidance and ensure compliance.

- no additional debt will be placed ahead of FLP's debt, except for customary costs appropriate to the transaction

**\*--Notes:** On a case-by-case basis, the SED may approve an increase in debt ahead of FSA if the requirements in subparagraph 117 A are met and it is determined to be in the best interest of the government.

**Example:** A borrower is seeking to refinance a first lien on a primary residence taken as additional security. However, they need to cash-out additional funds to make necessary real estate repairs and improvements which results in an increase in the value of FSA security such that the overall Agency security position is unchanged or improved.--\*

If construction is started before a request is received, approval will not be provided.

See subparagraph 197 B for customary costs.

- the refinancing will result in better repayment terms that, except for CL, will assist the borrower in progressing toward graduation.

**Note:** SED's may delegate their approval authority for releasing and refiling lien instruments instead of subordination to FLC, FLS, or DD.

## 118 Conditions for Personal Property Subordinations

### A Personal Property Security

[7 CFR 765.205(d)] The requirement for chattel subordinations are as follows:

**(1) For loans secured by chattel, the subordination must meet the conditions contained in paragraphs (b)(3)(i) through (xiii) of this section** (subparagraph 117 A). Multi-year subordinations may only be approved according to OGC-approved State supplements.

### \*--B Multi-Year Subordinations

Multi-year subordinations for LOC may only be approved according to OGC-approved State supplements.

Multi-year subordinations must meet all requirements set forth in this subparagraph. State--\* supplements must specifically address the following:

- borrower's inability to obtain credit without subordination, including guarantee
- borrower's inability to partially graduate
- borrower's ability to pay debt before funds are released for each production cycle
- advances for the subsequent years are not authorized without FSA's written consent.

### \*--C Second Subordinations on Personal Property--\*

[7 CFR 765.205(d)(2)] The Agency will approve a request for a second subordination to enable a borrower to obtain crop insurance, if the following conditions are met:

- (i) The creditor to whom the first subordination was given did not provide for payment of the current year's crop insurance premium, and consents in writing to the provisions of the second subordination to pay insurance premiums from the crop or insurance proceeds;
- (ii) The borrower assigns the insurance proceeds to the Agency or names the Agency in the loss payable clause of the policy; and
- (iii) The subordination meets the conditions under paragraphs (b)(1) through (12) of this section (subparagraph 117 A).

### \*--D CCC Loans--\*

CCC-679's will be used according to 8-LP instead of a subordination when FP makes a CCC loan to the borrower. FSA does not subordinate to CCC loans.

## 119 Appraisal Requirements

## A Appraisals

**\*--[7 CFR 765.205(e)] An appraisal of the property that secures the Agency loan will--\***  
**be required when the Agency determines it necessary to protect its interest. Appraisals**  
**will be obtained in accordance with § 761.7 (1-FLP) of this chapter.**

At a minimum, real estate appraisals will be obtained when property is to be improved, purchased, or exchanged. FSA does not require an appraisal for real estate security when either of the following occur:

- borrower's case file contains an existing appraisal that was completed within the previous 18 months and meets the requirements of 1-FLP, subparagraph 141 G.
- loan for which the borrower requests the subordination is:
  - to refinance an existing prior lien and the resulting prior lien will **not** be increased except for customary costs appropriate to the transactions

**Note:** See subparagraph 197 B for customary costs.

- for an essential repair that is needed to restore the value of the security and complies with subparagraph 117 A.

**\*--FSA does **not** require an appraisal for personal property security when either of the following criteria are met:**

- the proposed subordination is for annual operating and family living expenses only and the projected income from farm production exceeds the subordination amount
- the existing FSA personal property appraisal is less than 1 year old and meets the requirements of 1-FLP, subparagraph 141 G.--\*

The authorized agency official must consider property additions to, and deletions from, the latest FSA appraisal and fully document the decision.

**120 Approving or Denying Subordination Requests****A Approval Authority**

Except for SED's, approval officials may approve subordinations if the amount of the subordination, plus the principal balance of existing subordinations, is not more than their maximum approval authority according to 1-FLP, subparagraph 29 D. SED authority to approve subordinations is limited to \$1 million total EM indebtedness; otherwise, SED's may approve subordinations regardless of the amount. SED's may delegate their authority for approving subordinations to FLC, FLS, or DD.

**Note:** SED's are the only FSA officials with approval authority for subordinating real estate security for an operating-type loan purpose, which includes an annual line of credit and multi-year line of credit. This specific approval authority cannot be redelegated.

The authorized agency official may approve the subordination by executing the electronic signature command in the credit presentation section of FBP. Under the electronic signature, the approval official may designate the local servicing official the responsibility to execute agency and required legal documents to complete the subordination.

The authorized agency official must include in the physical case file, all components of FBP that require signatures as provided in the FBP User Guide, available at <https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>.

The authorized agency official will sign FSA-2455 or any other format required in State supplements, as necessary, to meet State legal requirements.

Once a request is approved, it is closed according to State supplements. The authorized agency official must enter the date that FSA approves a request in DLS.

**B Appeal Rights**

If a request under this section cannot be approved, the borrower will be notified of all appeal \*--rights according to 1-APP. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

**121-125 (Reserved)**



### Section 3 Junior Liens

#### 126 General Conditions for Junior Liens

##### A General Policy

**[7 CFR 765.206(a)] The borrower will not give a lien on Agency security without the consent of the Agency. Failure to obtain Agency consent will be considered by the Agency when making eligibility determinations for future requests for assistance and may adversely impact such requests.**

To request FSA approval of a junior lien, the borrower must submit to FSA:

\* \* \*

•\*--FSA-2061--\*

- a copy of the farm operating plan submitted to the junior lienholder
- an FBP or other similar plan of operation that shows the junior lien and repayment schedule
- any other information necessary for FSA to make a decision.

**126 General Conditions for Junior Liens (Continued)****B Conditions for Consent to a Junior Lien**

**[7 CFR 765.206(b)] The Agency will consent to the terms of a junior lien if all of the following conditions are met:**

**[7 CFR 765.206(b)] (1) The borrower's ability to make scheduled loan payments is not jeopardized;**

**[7 CFR 765.206(b)] (2) The borrower provides the Agency a copy of the farm operating plan submitted to the junior lienholder, and the plan is consistent with the Agency operating plan;**

**[7 CFR 765.206(b)] (3) The total debt against the security does not exceed the security's market value;**

FSA will not obtain appraisals to consider junior liens. Any appraisal required by FSA to make this decision must be supplied by the borrower or lender and will be reviewed by FSA to ensure that all 1-FLP requirements are met.

**[7 CFR 765.206(b)] (4) The junior lienholder agrees in writing not to foreclose the security instrument unless written notice is provided to the Agency;**

**[7 CFR 765.206(b)] (5) The borrower is unable to graduate on any program except for CL; and**

**[7 CFR 765.206(b)] (6) The junior lien will not otherwise adversely impact the Agency's financial interests.**

**Note:** Approval authority rests with any authorized agency official.

**C Unapproved Junior Liens**

FSA will consider an unapproved junior lien on security when determining future borrower eligibility for FSA loan making or servicing actions.

**\*--D Incomplete Applications**

Incomplete applications will be processed according to paragraph 8 of this handbook.--\*

**127-135 (Reserved)**

**Section 4 Severance Agreements****136 Conditions for Severance Agreements****A Severance Agreements Conditions**

**[7 CFR 765.207]** For loans secured by real estate, a borrower may request Agency consent to a severance agreement or similar instrument so that future chattel acquired by the borrower will not become part of the real estate securing the FLP debt. The Agency will consent to severance agreements if all of the following conditions are met:

- (a) The financing arrangements are in the financial interest of the Agency and the borrower;
- (b) The transaction will not adversely affect the Agency's security position;
- (c) The borrower is unable to graduate on any program except for CL;
- (d) The transaction will not jeopardize the borrower's ability to pay all outstanding debts to the Agency and other creditors; and
- (e) The property acquired is consistent with authorized loan purposes.

The borrower must submit all information required under subparagraph 126 A to request FSA consideration.

**B Items That May Be Included in a Severance Agreement**

Examples of items that the borrower may acquire subject to a personal property lien and, therefore, may be included in a severance agreement are:

- silos
- storage bins
- bulk milk tanks
- irrigation equipment
- other income producing facilities.

**\*--C Incomplete Applications**

Incomplete applications will be processed according to paragraph 8 of this handbook.--\*

**136 Conditions for Severance Agreements (Continued)**

**D Approving Severance Agreements**

SED is authorized to approve severance agreements. This authority may be redelegated to the FLC, FLS, or DD.

The authorized agency official will approve a severance request by executing FSA-2061 and the necessary severance agreements. OGC approval must be obtained on a severance agreement submitted on a form that has not previously been approved for use in the State.

The authorized agency official may approve the severance agreement by executing the electronic signature command in the credit presentation section of FBP. Under the electronic signature, the approval official may designate the FLM, SFLO, or FLO the responsibility to execute agency and required legal documents to complete the severance agreement. The authorized agency official must include in the physical case file, all components of FBP that require signatures as provided in the FPB User Guide, available at <https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>.

Processing and tracking a request for severance agreement will be done in DLS, Consent Request. Indicate in the comment section “Severance Agreement dated mm/dd/yr” (insert date).

SED's may issue State supplements on approving severance agreements, as appropriate.

**E Appeals Rights**

If a request under this section cannot be approved, the borrower will be notified of all appeal \*--rights according to 1-APP. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

**137-145 (Reserved)**

## Section 5 Release of Real Estate and Personal Property Security Liens Without Monetary Compensation

### 146 Release Without Monetary Compensation

#### A Approval

\*--SED, or delegated FLC, FLS, or DD, may approve a request for release by authorizing--\* execution of FSA-2045, FSA-2061, FSA-2470, or other documents approved by OGC. Before approval of a release without monetary compensation, borrower's ability to graduate to commercial credit must be considered and documented. The SED or delegated official's authorization must be attached to the applicable executed documents.

The transaction may be approved by using the electronic signature command in the credit presentation section of FBP. SED may designate responsibility to an authorized agency official to execute agency and required legal documents to complete the transaction in FBP. All components of FBP that requires signatures must be included in the physical case file.

#### B Release Because of Mutual Mistakes

SED's can authorize a release because of mutual mistakes only when they do all of the following:

- determine that a mutual error existed when the security was included in FSA's mortgage or lien
- obtain OGC's advice on whether a mutual mistake was made
- substantiate that the mistake was made
- document the findings in the borrower's FBP credit presentation.

#### C Release Because of No Evidence of Indebtedness

SED may release a borrower's mortgage or lien, if the records of State and County Offices and the RD Business Center, FLB contain no evidence of an existing indebtedness secured by the mortgage or lien.

**Note:** The authorized agency official should verify that the borrower has no outstanding debt with the Rural Development. The findings should be documented in the borrowers FBP credit presentation.

146 **Release Without Monetary Compensation (Continued)****D Borrower Requested Personal Property Security Release**

**[7 CFR 765.305(c)] The Agency will release its lien on chattel security without compensation, after written request from the borrower provided all the following criteria are satisfied:**

**Note:** The borrower will submit FSA-2061 to request a release of security.

**(1) The borrower is current on all loan accounts with FSA and has not received PLS, DBSA, or DSA on any loan within the last 36 months;**

Borrowers:

- who currently have an installment that is less than 90 days past due are not considered current and do not meet this requirement
- requesting PLS, DSA, or DBSA at the same time they are requesting a release under this section do not meet this requirement
- that have executed a Conservation Contract without a PLS action may meet this requirement, as Conservation Contracts are not considered PLS.

**(2) The borrower has paid in full direct term loan installments that include principal reduction in each of the last 3 calendar years;**

**Notes:** The borrower must demonstrate timely payment according to loan schedules of \*--each direct loan installments over the most recent 36-month period. When--\* evaluating payment history, payments made no later than 90 days of the scheduled due date are considered timely. Borrowers must still be current at the time of request, see D(1).

To meet this requirement, installments must have originally included scheduled principal reduction. Scheduled payments consisting of interest only, regardless of any extra payments made, do not meet this requirement.

\*--A borrower who recently received a direct loan does not meet this requirement until they demonstrate timely payment of their installments (with principal reduction) over the most recent 36-month period for that new loan, regardless of their repayment history on prior FSA loans.--\*

**(3) After the release, the security margin on each Agency direct loan will be 125 percent (or more, if it is not practicable to separate the property, if necessary to ensure the loan is fully secured for the life of the loan, or if the borrower requests only a portion of Agency security to be released). The value of the retained and released security will normally be based on appraisals obtained as specified in § 761.7 of this chapter (1-FLP, Part 6); however, well documented recent sales of similar properties can be used if the Agency determines a supportable decision can be made without current appraisals;**

**146 Release Without Monetary Compensation (Continued)****D Borrower Requested Personal Property Security Release (Continued)**

The authorized agency official with SED delegated authority to prepare personal property appraisals under 1 FLP, Exhibit 7, will adequately document the analysis and determination to release security as provided in this paragraph. In some cases, more than a 125 percent security margin may be required. For example, borrowers with a balloon installment, the authority agency official must ensure adequate security is available when the balloon installment comes due. The authorized agency official will not release to 125 percent if the balloon installment is under secured. Non-PMI security will be considered for release prior to considering the release of security with perfected PMI.

**Note:** The value of personal property security to be released does not need to be appraised or valued unless it is necessary to support the value of retained security; however, the value of security to be retained must be obtained and analyzed as instructed in D(3).

Livestock can only be released in whole by species. Individual animal units within a species cannot be released.

**Example:** A release of a borrower's beef cattle herd can be authorized, but the agency will retain its lien on the borrower's swine herd to maintain the 125 percent security margin.

\*--A borrower may request to replace primary personal property security with real estate security to facilitate the release of personal property security under this section. The request must meet all applicable requirements. The real estate offered as primary security must meet the requirements of subparagraph 196 F(2) of this handbook regarding appraisals, title clearance and security.--\*

**146 Release Without Monetary Compensation (Continued)****D Borrower Requested Personal Property Security Release (Continued)**

\*--In lieu of a subordination, individual units of equipment may be released using UCC-3.--\*

\* \* \*

\*--**Example 1:** FSA has a lien on three tractors, which include two John Deere tractors that were funded by FSA (PMSI) and a Kubota tractor that represents non-PMSI security. The borrower has asked to use the Kubota tractor as a security for a new loan and has requested that it be released. A release of lien on an individual tractor is authorized provided that a 125 percent security margin is maintained. The Kubota tractor is the first tractor considered for release as it represents non-PMSI security.

A borrower may request the agency file a UCC-3 to document release of specific items of equipment. In this instance, the borrower must pay FSA the cost for recording UCC-3.--\*

**(4) Any asset requested for release must serve only as security for term loan(s) that have been outstanding for at least the prior 36 months and cannot serve as adequate security for another existing Agency direct loan;**

\*--Consideration should be given to whether the security to be released is adequate security for a direct loan at the time of release. Any security, whether primary or additional security at the time of loan making, may be considered for release subject to the requirements of this section. In some cases, it may not be feasible to distinguish the primary security from the additional. For example, with loans that were restructured multiple times, and each time additional security was taken, it may be difficult to determine what is primary security. In--\* those cases, an Administrator Exception can be submitted for review according to paragraph 4.

146 **Release Without Monetary Compensation (Continued)****(5) Except for CL, the borrower is unable to fully graduate as specified in § 765.101 (Part 2).**

The authorized agency official will prepare FBP credit presentation explaining how each of the applicable conditions above are met and submit the narrative along with supporting documentation to the State Office for review and concurrence. A satisfactory environmental review must be completed. The environmental review will typically meet exception L-CatEx 1K, unless extraordinary circumstances exist, which require a higher level of environmental review (see 1-EQ).

To meet the 36-month requirement for not having received PLS, DBSA, or DSA, the borrower's request can only be made at least 36 months since their initial loans. Supporting documentation will include all calculations and copies of any well-documented recent sales, such as recent auctions, or other transactions in the area. In addition, the authorized agency official will assure that requirements in Part 2 are completed. State Office officials will review the request and if they concur, submit the request to the SED for approval.

**E Processing Release Requests**

Incomplete applications for release without monetary compensation will be processed according to paragraph 8 of this handbook.

The authorized agency official will inform the borrower in writing of the approval and include a copy of the FSA-2061 executed by the authorized agency official.

Security released without monetary compensation will be documented on the FSA-2045 in accordance with the form instructions. A new security agreement, FSA-2028, must be obtained in accordance with subparagraph 98 C, detailing the specific FSA security. \* \* \*

FSA's blanket UCC-1 will not be amended to reflect the release of personal property security unless there is a specific category of security that is being released. For example, if all \*--livestock security is released, the authorized agency official may file a UCC-3 to reflect the--\* release, if determined necessary. SED will issue a State Supplement on amending financing statements after consulting with the Regional OGC, as appropriate, to satisfy State legal requirements.

**Notes:** If through a subsequent loan making action, an item of security that was released becomes FSA security again, that item(s) will be lined through on the FSA-2045, initialed and dated by an authorized loan official.

\* \* \*

## 146 Release Without Monetary Compensation (Continued)

**F Borrower Requested Real Estate Security Release**

**[765.351(f)] Real estate security may be released by FSA without compensation upon written request from the borrower when the requirements of paragraph (a) of this section (subparagraph 196 B), except paragraph (a)(3) of this section (subparagraph 196 B), are met, and all the following criteria are satisfied:**

**(1) The borrower is current on all loan accounts with FSA and has not received DBSA, DSA, or PLS within the last 36 months;**

Borrowers:

- who currently have an installment that is less than 90 days past due are not considered current and do not meet this requirement.
- requesting PLS, DSA, or DBSA at the same time they are requesting a release under this section do not meet this requirement
- that have executed a Conservation Contract without a PLS action may meet this requirement, as Conservation Contracts are not considered PLS.

**(1) The borrower has paid in full scheduled direct term loan installments that include--\* principal reduction in each of the last 3 calendar years;**

**\*--Notes:** The borrower must demonstrate timely payment according to loan schedules of each--\* direct loan installments over the most recent 36-month period. When evaluating payment history, payments made no later than 90 days of the scheduled due date are considered timely. Borrowers must still be current at the time of request, see F(1).

To meet this requirement, installments must have originally included scheduled principal reduction. Scheduled payments consisting of interest only, regardless of any extra payments made, do not qualify for release without monetary compensation.

\*--A borrower who recently received a direct loan does not meet this requirement until they demonstrate timely payment of their installments (with principal reduction) over the most recent 36 month period for that new loan, regardless of their repayment history on prior FSA loans.--\*

**(3) The property released will not interfere with access to or operation of the remaining farm;**

**(4) Essential buildings and facilities will not be released if they reduce the utility or marketability of the remaining property;**

**(5) Any issues arising due to legal descriptions, surveys, environmental concerns, utilities are the borrower's responsibility and no costs or fees will be paid by FSA;**

## 146 Release Without Monetary Compensation (Continued)

## F Borrower Requested Real Estate Security Release (Continued)

**(6) After the release, the security margin on each Agency direct loan will be 125 percent (or more if it is not practical to separate the property, if necessary to ensure the loan is fully secured for the life of the loan, or if the borrower requests only a portion of Agency security to be released). The value of the retained security will normally be based on appraisals obtained as specified in § 761.7 of this chapter (1-FLP, Part 6); however, well documented recent sales of similar properties can be used if the Agency determines a supportable decision can be made without current appraisals;**

The authorized agency official with SED delegated authority to prepare real estate evaluations under 1-FLP, Exhibit 7 will adequately document the analysis and determination to release security as provided in this paragraph. The 125 percent security margin applies to each direct loan on the account, including any proposed new loans.

**(7) Any asset requested for release must serve only as security for term loan(s) that have been outstanding for at least the prior 36 months and cannot serve as adequate security for another existing Agency direct loan;**

\*--Consideration should be given to whether the security to be released is adequate security for a direct loan at the time of release. Any security, whether primary or additional security at the time of loan making, may be considered for release, subject to the requirements of this section.

In some cases, it may not be feasible to distinguish the primary from additional. For example, with loans that were restructured multiple times and each time additional security was taken it may be difficult to determine what is primary security. In those cases, an--\* Administrator Exception can be submitted for review according to paragraph 4.

**\*--(8) Except for CL, the borrower is unable to fully graduate as specified in § 765.101 (Part 2).--\***

The authorized agency official will prepare a FBP credit presentation explaining how each of the applicable conditions above are met and submit the narrative along with supporting documentation to the State Office for review and concurrence. A satisfactory environmental review must be completed. The environmental review will typically meet L-CatEx 1K unless extraordinary circumstances exist which require a higher level of environmental review (see 1-EQ).

To meet the 36-month requirement for not having received PLS, DBSA, or DSA, the borrower's request can only be made at least 36 months since their initial loan. Supporting documentation will include all calculations and copies of any well-documented recent sales, such as real estate comparables, recent auctions, or other transactions in the area. In addition, \*--the authorized agency official will assure that requirements in Part 2 are completed, including the requirement for a feasible plan. State Office officials will review the request and if they--\* concur, submit the request to the SED for approval.

## G Appeals Rights

If a request under this section cannot be approved, the borrower will be notified of all \*--appeal rights according to 1-APP. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

## 147 Releasing Valueless Liens

**A Conditions for Releasing Valueless Liens**

SED's are authorized to release FSA mortgages or other liens, if 1 of the following is determined:

- the mortgage or lien has no present or prospective value
- enforcement of the mortgage or lien would be ineffectual or uneconomical.

SED authority may:

- be exercised under any of the following:
  - for the borrower to convey title of the property to a third party
  - because of litigation
  - if the account has been accelerated and either of the following is occurring:
    - Government is liquidating the security
    - borrower has voluntarily liquidated all other remaining security
- **not** be redelegated; however, an acting SED may approve releases.

SED's cannot release a valueless judgment lien or valueless statutory redemption rights, except with OGC's consent.

**B Information Required to Release a Valueless Lien**

To determine the present or prospective value of the security to be released, the authorized agency official should obtain all of the following:

- market value appraisal report on the security prepared according to 1-FLP, Part 6 except in cases in which FSA determines that the lien is invalid

**Note:** Exceptions may be requested in accordance with paragraph 4 for appraisals completed between 12 and 18 months ago which have not been updated by the appraiser.

- names of the holders of prior liens on the property
- written verification of the amount secured by each lien that is before FSA's
- amount of taxes or assessments
- other items that might constitute a prior claim.

The authorized agency official must document this information in the borrower's FBP and submit the case file to SED for review.

**147 Releasing Valueless Liens (Continued)****B Information Required to Release a Valueless Lien (Continued)**

The SED may approve the valueless lien by executing FSA-2433, FSA 2470, or other documents approved by OGC.

The SED may approve the release by executing the electronic signature command in the credit presentation section of FBP. Under the electronic signature, the SED may designate the FLM, SFLO, or FLO the responsibility to execute the required legal documents to complete the transaction.

The authorized agency official must include in the physical case file, all components of FBP that require signatures as provided in the FPB User Guide, available at

**\*--<https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>--\***

**148-160 (Reserved)**



**Part 7 Disposition of Security****Section 1 Disposition of Normal Income and Basic Personal Property Security****161 General Requirements****A Security Accounting**

**[7 CFR 765.301(a)] The borrower must account for all chattel security, and maintain records of dispositions of chattel security and the actual use of proceeds. The borrower must make these records available to the Agency upon request.**

The authorized agency official may require that the borrower provide receipts or other \*--documentation to verify the personal property security sale.--\*

**B Fair Market Value**

**[7 CFR 765.301(b)] The borrower may not dispose of chattel security for an amount less than its market value. All proceeds, including any amount in excess of the market value, must be distributed to lienholders for application to the borrower's account in the order of lien priority.**

**[7 CFR 765.301(b)(1)] The Agency considers the market value of normal income security to be the prevailing market price of the commodity in the area in which the farm is located.**

The authorized agency official may consult readily and commonly available sources of price information to assess the adequacy of the price.

**[7 CFR 765.301(b)(2)] The market value for basic security is determined by an appraisal obtained in accordance with § 761.7 of this chapter (1-FLP, Part 6).**

\*--FSA may require an appraisal to determine the fair market value of basic personal property security, unless the security is sold through a legitimate public auction.--\*

**C FSA Lien Release**

**[7 CFR 765.301(c)] When the borrower sells chattel security, the property and proceeds remain subject to the Agency lien until the lien is released by the Agency.**

## 161 General Requirements (Continued)

**D Consent of Lienholders for Release of Proceeds**

**[7 CFR 765.301(d)] The Agency and all other lienholders must provide written consent before a borrower may use proceeds for a purpose other than payment of lienholders in the order of lien priority.**

The authorized agency official may permit the borrower to use proceeds from the sale of normal income security for payment of transaction costs before application to FSA loan balances if:

- costs incurred are considered routine and customary marketing costs for the transaction
- the borrower cannot pay the costs
- the purchaser will not pay the costs.

The authorized agency official may require:

- that the borrower provide receipts or other documents that can be used to verify the type and amount of transaction costs
- the borrower to reimburse FSA, if it is determined that any of these conditions have not been met.

**E Disruption of Farming Operation**

**[7 CFR 765.301(e)] The transaction must not interfere with the borrower's farming operation or jeopardize the borrower's ability to repay the FLP loan.--\***

When reviewing the borrower's proposal for disposition of basic security and use of proceeds, the authorized agency official must determine if and how the proposed disposition and use of proceeds will affect:

- the financial viability of the borrower's operation, including the borrower's ability to repay obligations to FSA and non-FSA creditors
- the management of the borrower's operation
- FSA's security interest.

The authorized agency official may approve the transaction after determining that it will improve the borrower's financial position or structure in such a way that improves the borrower's ability to repay FSA loans or improves the financial basis of the operation.

**161 General Requirements (Continued)****F Furthering FSA Program Objectives**

**[7 CFR 765.301(f)] The disposition must enhance the program objectives of the Agency loan.**

**G Security Exchange or Replacement**

**[7 CFR 765.301(g)] When the borrower exchanges security property for other property or purchases new property with sale proceeds, the acquisition must be essential to the farming operation as well as meet the program objectives, purposes, and limitations for the type of loan.**

**H Proceeds Payable to Both the Borrower and FSA**

**[7 CFR 765.301(h)] All checks, drafts, or money orders which the borrower receives from the sale of Agency security must be payable to the borrower and the Agency. If all \*--FLP loan installments and any past due installments, for the period of the agreement--\* for the use of proceeds have been paid, however, these payments from the sale of normal income security may be payable solely to the borrower.**

**\*--162 Agreement for Disposition of Normal Income and Basic Personal Property Security--\*****A Agreement for the Use of Proceeds**

See paragraph 20 for information on the preparation of the agreement.

**B Using the Agreement for the Use of Proceeds**

**[7 CFR 765.302(b)] The borrower must report any disposition of basic or normal income security to the Agency as specified in the agreement for the use of proceeds.**

**[7 CFR 765.302(c)] If a borrower wants to dispose of normal income security in a way different than provided by the agreement for the use of proceeds, the borrower must obtain the Agency's consent before the disposition unless all FLP payments planned on the agreement have been paid.**

**[7 CFR 765.302(d)] If the borrower sells normal income security to a purchaser not listed in the agreement for the use of proceeds, the borrower must immediately notify the Agency of what property has been sold and of the name and business address of the purchaser.**

**\*--162 Agreement for Disposition of Normal Income and Basic Personal Property Security  
(Continued)--\*****B Using the Agreement for the Use of Proceeds (Continued)**

\*--FSA will record the disposition of security on FSA-2045. When the borrower sells personal property and notifies FSA, the authorized agency official must complete FSA-2045--\* to record the:

- description of security sold
- quantity of security sold
- way in which security was sold (such as to a wholesaler, to a neighbor, etc.)
- date of sale
- amount of proceeds received
- use of proceeds (exact amount recorded for debt repayment, operating expenses, family living, or capital purchases).

The authorized agency official must indicate whether approval is granted for the disposition and use of proceeds by marking “yes” or “no”, initialing, and dating the agreement in the appropriate location. If the disposition or use of proceeds is not authorized on the agreement, the authorized agency official will take action according to Part 7, Section 2.

Normal income security dispositions listed on the FSA-2040 will continue to be reported and recorded until all annual installments due to FSA have been paid current. Basic security dispositions must be reported until FSA no longer has a lien against the security.

**C Government Payments and Insurance**

The borrower must submit documentation of all Government payments, crop insurance, and insurance proceeds derived from the loss of security.

**\*--162 Agreement for Disposition of Normal Income and Basic Personal Property Security  
(Continued)--\*****D Modifying and Updating Agreements for the Use of Proceeds--\***

**[7 CFR 765.302(e)] The borrower must provide the Agency with the necessary information to update the agreement for the use of proceeds.**

**[7 CFR 765.302(f)] Changes to the agreement on the use of proceeds will be recorded, dated, and initialed by the borrower and the Agency.**

FSA and the borrower will document agreed upon changes to FBP and FSA-2040 through entering, initialing, and dating mutually accepted modifications as indicated for each FBP and FSA-2040. See 1-FLP, Part 8, Section 3.

**Note:** The authorized agency official and the borrower must complete a new FBP and revise FSA-2040 for major changes to the borrower's farming operation.

SED's may issue further guidance as needed on the changes that require FBP revision or replacement.

When FSA and the borrower agree to revisions over the telephone, the authorized agency official will:

- initial and date the change
- mark FBP or FSA-2040 with "Revised through telephone contact."
- send written confirmation to the borrower of any significant changes
- have the borrower date and initial the change the next time the borrower is in the County Office.

**\*--163 Using Proceeds From Personal Property Security--\*****A General Requirements**

**[7 CFR 765.303(a)] (1) Proceeds from the sale of basic security and normal income security must be remitted to lienholders in order of lien priority.**

**(2) Proceeds remitted to the Agency may be used as follows:**

**(i) Applied to the FLP loan;**

**(ii) Pay customary costs appropriate to the transaction.**

**(3) With the concurrence of all lienholders, proceeds may be used to preserve the security because of a natural disaster or other severe catastrophe, when funds cannot be obtained by other means in time to prevent the borrower and the Agency from suffering a substantial loss.**

**(4) Security may be consumed as follows:**

**(i) Livestock may be used by the borrower's family for subsistence;**

**(ii) If crops serve as security and usually would be marketed, the Agency may allow such crops to be fed to the borrower's livestock, if this is preferable to marketing, provided the Agency obtains a lien or assignment on the livestock, and livestock products, at least equal to the lien on the crops.**

**B Releasing Normal Income Security for Essential Family Living and Farm Operating Expenses**

**[7 CFR 765.303(b)] In addition to the uses specified in paragraph (a) of this section, the agreement for the use of proceeds will allow for release of proceeds from the sale of normal income security to be used to pay essential family living and farm operating expenses. Such releases will be terminated when an account is accelerated.**

See Exhibit 2 for the definition of essential family living and farm operating expenses. FSA may not consider all of the examples included in the definition as essential for every family and farming operation. The authorized agency official must consider all of the following:

- the individual borrower's operation
- what is typical for that type of operation in that area
- what is an efficient method of production considering the borrower's resources.

## 163 Using Proceeds From Personal Property Security (Continued)

**B Releasing Normal Income Security for Essential Family Living and Farm Operating Expenses (Continued)**

The borrower must contact FSA for approval if the borrower wants to use proceeds to pay for farm operating expenses for future operations not included in the current FBP, so that FSA may work with the borrower to develop a feasible FBP. When the borrower and FSA cannot agree on security releases for essential family living and operating expenses, the borrower must request the release in writing. If rejected, the authorized agency official will notify the borrower, in writing, why the requested release was denied, including why the expenses requested for release are not basic, crucial, or indispensable to the family, the farming operation, or both. Appeal rights will be included with the notification. See 1-APP for appeal \*--procedures. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

**C Basic Security**

**[7 CFR 765.303(c)] In addition to the uses specified in paragraph (a) of this section:**

- (1) Proceeds from the sale of basic security may not be used for any family living and farm operating expenses.**
- (2) Security may be exchanged for chattel property better suited to the borrower's farming needs if the Agency will acquire a lien on the new property at least equal in value to the lien held on the property exchanged.**

**Notes:** FSA Security Agreements, FSA-2028, do not include a blanket security interest in all equipment or livestock now owned or later acquired. Therefore, it is necessary for the FSA-2028 to be reviewed and updated regularly to ensure it accurately reflects FSA security interests in specific collateral. Should specific items be replaced, for example, FSA must obtain an updated security agreement as a condition of authorizing the replacement. Updated subordinations may also be required.--\*

Insurance proceeds not being used immediately to replace the security should be kept in a supervised bank account according to 1-FLP, Part 4. If an account is not established, SED may request an Administrator's Exception under paragraph 4.

- (3) Proceeds may be used to purchase chattel property better suited to the borrower's farming needs if the Agency will acquire a lien on the purchased property. The value of the purchased property, together with any proceeds applied to the FLP loan, must at least equal the value of the Agency lien on the old security.**

**A Review of Production Cycles**

FSA may, on a case-by-case basis for annual OL's only, authorize normal income security \*--releases for the purpose of reinvestment within a 12-month period in accordance with the--\* farm business plan associated with the annual OL at the time of loan approval. These releases may be specifically beneficial for operations with multiple growing and marketing seasons within the term of the annual OL. These releases may be outside of other planned releases for authorized annual OL purposes (e.g., family living expense).

\*--**Example 1:** A cattle feeder operation plans to purchase and feed three sets of calves within a 12-month period (1 set every 4 months with \$125,000 of associated credit--\* needed for each rotation). FSA approves a \$125,000 direct annual OL request to purchase and feed the initial set of cattle. When the first set of calves are sold, FSA may release the sale proceeds in accordance with the approved farm operating plan and FSA-2040. The sale proceeds will be used to purchase the \*--second set of calves and inputs. This may continue through the second set of calves. The sale proceeds from the third set of calves would be used to pay--\* the direct annual OL in full.

\*--According to 3-FLP, subparagraph 201 D, use of this provision is not authorized to finance production cycles that are projected to exceed a 12-month period from the date of loan closing. Loan maturities beyond 12 months will only be authorized to allow time to complete marketing and sale of commodities.--\*

Authorizing releases under this subparagraph will require substantial planning and analysis throughout the term of the annual OL. Releases considered under this subparagraph must have been projected as part of the approved farm business plan reflecting releases for purposes of reinvestment pursuant to 3-FLP, subparagraph 201 D.

Before release of normal security for reinvestment for a subsequent growing or marketing season, the borrower must submit the following for the purpose of analyzing the previous and the upcoming production cycles:

- current balance sheet
- actual financial and production performance for the previous production cycle
- revisions, if necessary, to projected income/expense for the next production cycle.

Loan officials must conduct a review of the operation's performance using the established guidelines for Operational Reviews. See Paragraph 22 for additional details. The review can be limited in scope to coincide with the previous production and marketing cycle.

**164    Multiple Releases for Farm Operating Expenses Within a Production Year (Continued)****B    Determination to Release**

The authorized agency official will determine if, based on the results of the review of the previous production cycle and current projections, a release for reinvestment is authorized. The FBP “Ending Cash On Hand” must be positive for each production cycle under this subparagraph. If there are significant changes to the operation or projections from the original approved FBP cash flow budget, then an updated FBP cash flow projection may be necessary to demonstrate a feasible plan is still achievable. The agency official will discuss with the borrower the benefits of paying the outstanding accrued interest on the annual OL before releases for a subsequent production cycle. The agency will release only the amount necessary to fund the reinvestment as determined in the income/expense projection for the next production cycle. \* \* \* Before releases for the final production cycle within the annual OL term, the income/expense review must show the borrower will be able to pay the direct OL loan installment due at annual OL maturity.

During the term of the annual OL, the authorized agency official and borrower will revise, if necessary, FSA-2040 in accordance with subparagraph 162 D.

If a request for a release of proceeds under this paragraph is rejected, the authorized agency official will notify the borrower, in writing, why the requested release was denied. Appeal \*--rights will be included with the notification. See 1-APP for appeal procedures. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

**165    (Reserved)**

**166 Releasing Security Interest****A Lien Release General Requirements**

**[7 CFR 765.305(a)] When Agency security is sold, exchanged, or consumed in accordance with the agreement for the use of proceeds, the Agency will release its security interest to the extent of the value of the security disposed.**

**B Specific Security Item Releases**

\*--When releasing specific items that must be recorded under UCC or personal property--\* mortgage laws, the authorized agency official will use FSA-2470 or other form approved by OGC and required by State law. However, FSA may not deliver the actual release until 15 calendar days after receiving the payment unless the payment is made in cash, money order, certified check, or check from a known and reputable lender. When SED's must approve a transaction or when FLM, SFLO, or DD want advice on approval of a transaction, the borrower's case folder and any other information pertinent to the transaction will be sent to the State Office. The authorized agency official must ensure that only specific items are released.

**Note:** When specific items are listed on FSA-2028, the authorized agency official **must** record the disposition on the working copy of FSA-2028 and FSA-2045.

**166 Releasing Security Interest (Continued)****C Releasing Wool and Mohair Lien Conditions**

**[7 CFR 765.305(b)] Security interests on wool and mohair may be released when the security is marketed by consignment, provided all of the following conditions are met:**

- (1) The borrower assigns to the Agency the proceeds of any advances made, or to be made, on the wool or mohair by the broker, less shipping, handling, processing, and marketing costs;**
- (2) The borrower assigns to the Agency the proceeds of the sale of the wool or mohair, less any remaining costs in shipping, handling, processing, and marketing, and less the amount of any advance (including any interest which may have accrued on the advance) made by the broker against the wool or mohair; and**
- (3) The borrower and broker agree that the net proceeds of any advances on, or sale of, the wool or mohair will be paid by checks made payable jointly to the borrower and the Agency.**

The authorized agency official may execute releases of FSA's lien on wool and mohair on FSA-2465. As FSA-2465 is not a binding agreement until executed by all parties in interest, including the borrower, the broker, and FSA. The authorized agency official may execute it before other parties.

**167-180 (Reserved)**

**Section 2 Unapproved Disposition of Security****181 Initial FSA Actions Upon Discovery****\*--A Unauthorized Personal Property Security Disposition Discoveries--\***

**[7 CFR 765.304(a)] If a borrower disposes of chattel security without Agency approval, or misuses proceeds, the borrower must:**

- (1) Make restitution to the Agency within 30 days of Agency notification; or**
- (2) Provide disposition or use information to enable the Agency to consider post-approval within 30 days of Agency notification.**

Borrower disposal of security or use of proceeds in a way not listed on FSA-2040 violates the loan agreement and FSA will not release its security interest.

Upon noting an apparent unauthorized disposition of security, FSA will notify the borrower using Exhibit 31.

**Note:** If a borrower has been discharged in bankruptcy of all FSA debt and security has not been liquidated when FSA discovers the unauthorized disposition, use Exhibit 31.5.

\*--The authorized agency official must document an unapproved disposition of personal property security on FSA-2045, FSA-2551, and in the borrower's FBP. The borrower will--\* also be initialized into DLS Special Servicing under the "Borrower Potentially Commits a Non-Monetary Default" category and tracked until servicing is completed. DD will review any unauthorized dispositions being tracked in DLS Special Servicing as part of the Quarterly Review.

If the borrower does not make restitution or provide information necessary for FSA to post-approve the sale within 30 calendar days, the authorized agency official will notify the borrower of non-monetary default according to 5-FLP, Part 3, and proceed according to 5-FLP, Part 11, Section 2.

**181 Initial FSA Actions Upon Discovery (Continued)****B Notification to Third Party Purchasers**

With SED concurrence, the authorized agency official will send Exhibit 32 to third-party purchasers when the:

- disposition cannot be approved
- third party has purchased collateral for an FSA loan
- borrower is unable or unwilling to make restitution and has been notified according to 5-FLP, Part 3.

If the borrower's account is in liquidation, FSA will often attempt to liquidate remaining \*--personal property security on which FSA holds a first lien before making demand or--\* taking civil action against third-party purchasers. Exhibit 32 makes demand on the third-party purchaser to return the property or pay the value of the security to FSA within 30 calendar days.

If no response has been received within 30 calendar days, Exhibit 33 will be forwarded to the purchaser by SED. If satisfaction is not made within 15 calendar days, SED will forward the account to OGC according to 5-FLP, paragraph 421.

**\*--182 Post-Approval of Personal Property Disposition--\*****A Post-Approval of Unapproved Dispositions**

When FSA discovers that a borrower has disposed of all or some of the security property not listed on the agreement or has used funds for some purpose not listed on the borrower's agreement, FSA may post-approve the disposition if all of the requirements of paragraph 163 are met.

The authorized agency official must document the decision to post-approve an unauthorized \*--personal property disposition on the agreement and in the borrower's FBP.--\*

**B Denying Post-Approval Requests**

\*--The authorized agency official may not post-approve a disposition of personal property if--\* the use of proceeds does not comply with paragraph 163. Servicing will continue according to subparagraph 181 A.

**C Determining the Disposed Security's Value**

FSA will not release its lien if the security was sold for less than the market value, until the full value of the security is remitted to FSA.

FSA will determine the disposed security's value in each unapproved disposition case through either:

- the most recent appraisal
- a current value price listing for similar property
- an updated property value appraisal based on FSA-2028 information.

**\*--183 Requirements for Handling Borrower Non-compliance--\*****A Future Eligibility Decisions**

**[7 CFR 765.304(b)] Failure to cure the first unauthorized disposition in accordance with paragraph (a) of this section (subparagraph 181 A), or a second unauthorized disposition, whether or not cured, constitutes a non-monetary default, will be considered by the Agency when making eligibility determinations for future requests for assistance, may adversely impact such requests, and may result in civil or criminal action.**

**\*--The authorized agency official will process the non-monetary default according to 5-FLP, Part 3. The default can be corrected by post-approval but will be considered by FSA in future eligibility decisions. If FSA does not post-approve the transaction or the borrower does not make restitution, FSA will proceed according to 5-FLP, Part 11, Section 2. DLS Customer Profile, Loan Servicing Information section, will be displayed with information related to Unauthorized Disposition of Security that was entered in DLS Special Servicing, Potential Non-Monetary Default (NMD) category.--\***

**184-195 (Reserved)**

### Section 3 Real Estate Security Releases, Exchanges or other Disposition of Portion or Interest

#### 196 Requirements

##### A General

**[7 CFR 765.351] The borrower must obtain prior consent from the Agency for any transactions affecting the real estate security, including but not limited to, sale or exchange of security, a right-of-way across security, and a partial release. The Agency may consent to such transactions provided the conditions in this section are met.**

**\*--Note:** This section also applies to:

- subordinations and non-disturbance agreements made for non-lending purposes

**Note:** A lien waiver for Farm Programs is considered a subordination for non-lending purposes.

- conservation easements
- the sale of water and water rights
- transfer of security to a revocable trust (without assumption of debt) for estate planning purposes when both of the following apply:
  - the borrower and any spouse are the sole settlers or grantors of the revocable trust
  - the borrower and any spouse are the sole beneficiaries during the borrower's life.--\*

The borrower must:

- complete and sign FSA-2061 with the assistance of the authorized agency official
- provide a written contract or an agreement for the property indicating the price and terms of the transaction
- complete an operational review according to 4-FLP, Part 2, reflecting the proposed transaction. If the review reflects that the operation will be financially distressed, the account will be serviced according to 5-FLP, Part 3, if needed, to determine if conditions for approval under paragraph B can be met.
- sell the property for not less than the appraised value unless FSA is being paid in full.



## 196 Requirements (Continued)

**B Conditions for Approval**

**[7 CFR 765.351(a)] The following conditions apply to all transactions affecting real estate:**

**[7 CFR 765.351(a)] (1) The transaction will enhance the objectives for which the Agency loan or loans were made;**

**\*--Note:** Releases without compensation properly completed according to subparagraph 146 F, enhance the objectives for which the agency loans were made.--\*

**[7 CFR 765.351(a)] (2) The transaction will not jeopardize the borrower's ability to repay the Agency loan, or is necessary to place the borrower's operation on a sound basis;**

**Notes:** Partial releases after acceleration can be approved, according to subparagraph 197 E, as items (1) and (2) can be met by orderly liquidation.

\*--If there will be no significant changes to the operation, a new FBP is not required for release without compensation according to subparagraph 146 F.

**Example:** The release will permit an adult child of the borrower to build a house on 10 acres of unproductive land.--\*

**[7 CFR 765.351(a)] (3) Except for releases in paragraph (f) of this section (subparagraph 146 F), the amount paid for the security being disposed of, or the rights being granted, is not less than the market value and will be remitted to the lienholders in the order of lien priority;**

**Note:** Release of real estate security to be retained by the borrower is not authorized except in conjunction with an approved debt settlement action or as set forth in subparagraph 146 F.

Appraisals are required to determine market value of the right being granted, see paragraph 198. Conservation easements and rights-of-way granted to another federal agency still require appraisals to ensure that market value is being received.

**[7 CFR 765.351(a)] (4) The transaction must not interfere with the borrower's farming operation;**

**[7 CFR 765.351(a)] (5) The market value of the remaining security is adequate to secure the Agency loans, or if the market value of the security before the transaction was inadequate to fully secure the Agency loans, the Agency's equity in the security is not diminished;**

**[7 CFR 765.351(a)] (6) The environmental requirements of part 799 of this chapter must be met (1-EQ and 6-CP);**

See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.

## 196 Requirements (Continued)

## B Conditions for Approval (Continued)

**[7 CFR 765.351(a)] (7) The borrower cannot graduate to other credit on any program except for CL;**

**\*--Note:** Account classification must have been completed within the last 24 months as required by 1-FLP, Part 8, Section 4. For accounts classified as 1 or 2, graduation review must have been completed according to requirements of Part 4.--\*

**[7 CFR 765.351(a)] (8) The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718.**

**\*--C Sale of Timber, Gravel, Oil, Gas, Coal, Other Minerals, Water, or Water Rights--\***

**[7 CFR 765.351(b)] (1) Agency security instruments require that the borrower request and receive written consent from the Agency prior to certain transactions, including but not limited to, cutting, removal, or lease of timber, gravel, oil, gas, coal, or other minerals, except small amounts used by the borrower for ordinary household purposes.**

**(i) The sale of timber from real estate which secures an FLP loan will be considered a disposition of a portion of the security.**

**Note:** When renewable annual sales of timber can be projected, the proceeds may be treated as normal income.

**(ii) When the Agency has a security interest in oil, gas, or other minerals as provided by § 765.252(b) (subparagraph 99 G), the sale of such products will be considered a disposition of a portion of the security by the Agency.**

**\*--The sale of water or water rights from real estate that secures an FLP loan will be considered a disposition of a portion of the security.--\***

## D Compensation for Damage to Real Estate Security

**[7 CFR 765.351(b)(2)] Any compensation the borrower may receive for damages to the surface of the real estate security resulting from exploration for, or recovery of, minerals must be assigned to the Agency. Such proceeds will be used to repair the damage, and any remaining funds must be remitted to lienholders in the order of lien priority or, with all lienholders' consent, used for an authorized loan purpose.**

## E Disposition of Security for Outstanding ST's

**[7 CFR 765.351(a)(9)] The disposition of real estate security for an outstanding ST loan will only be authorized if the transaction will result in full repayment of the loan.**

Commodities produced by the property, such as when timber is thinned, can be sold without paying ST in full, as long as all proceeds are applied to ST.

## 196 Requirements (Continued)

## F Exchange of Security Property

**[7 CFR 765.351(c)] (1) When an exchange of security results in a balance owing to the borrower, the proceeds must be used in accordance with § 765.352 (paragraph 197).**

**(2) Property acquired by the borrower must meet program objectives, purposes and limitations relating to the type of loan involved as well as applicable requirements for appraisal, title clearance and security.**

\*-- See 3-FLP:

- Parts 7 through 10 for program objectives, purposes and limitations for the type of loan involved
- Part 6 for hazard and flood insurance requirements
- subparagraph 371 D for title clearance requirements

**Note:** In addition, FLC may waive title insurance requirements for real estate previously acquired as additional security that is being substituted for primary security if a professional title search will provide adequate protection.

- paragraph 95 for appraisal requirements.--\*



## 196 Requirements (Continued)

**G Sale Under a Contract for Deed**

**[7 CFR 765.351(d)] A borrower may sell a portion of the security for not less than its market value under a contract for deed subject to the following:**

- (1) Not less than 10 percent of the purchase price will be paid as a down payment and remitted to lienholders in the order of lien priority;**
- (2) Payments will not exceed 10 annual installments of principal plus interest or the remaining term of the FSA loan, whichever is less. The interest rate will be the current rate being charged on a regular FO loan plus 1 percent or the rate on the borrower's notes, whichever is greater. Payments may be in equal or unequal installments with a balloon final installment;**
- (3) The Agency's security rights, including the right to foreclose on either the portion being sold or retained, will not be impaired;**
- (4) Any subsequent payments must be assigned to the lienholders and remitted in order of lien priority, or with lienholder's approval, used in accordance with § 765.352; (paragraph 197)**
- (5) The mortgage on the property sold will not be released prior to either full payment of the borrower's account or receipt of the full amount of sale proceeds;**
- (6) The sale proceeds applied to the borrower's loan accounts will not relieve the borrower from obligations under the terms of the note or other agreements approved by the Agency;**
- (7) All other requirements of this section are met.**

**\*--H Incomplete Applications**

Incomplete applications will be processed according to paragraph 8 of this handbook.--\*

**197 Allowable Use of Proceeds From the Release of Real Estate Security****A Applying Proceeds to Liens**

**[7 CFR 765.352(a)] Proceeds from transactions affecting the real estate security may only be used as follows:**

**(1) Applied on liens in order of priority;**

**B Use of Proceeds for Paying Costs**

**[7 CFR 765.352(a)(2)] To pay customary costs appropriate to the transaction, which meet the following conditions:**

- (i) Are reasonable in amount;**
- (ii) Cannot be paid by the borrower;**
- (iii) Will not be paid by the purchaser;**
- (iv) Must be paid to consummate the transaction; and**
- (v) May include postage and insurance when it is necessary for the Agency to present the promissory note to the recorder to obtain a release of a portion of the real estate from the mortgage.**

Examples of customary costs may include:

- abstracts

\* \* \*

- real estate broker's commissions
- real estate taxes that must be paid to complete the transaction
- reasonable attorney's fees
- surveys
- title examination
- title insurance.

## 197 Allowable Use of Proceeds From the Release of Real Estate Security (Continued)

**C Use of Proceeds for Land Development**

With SED consent, proceeds may also be used for:

**[7 CFR 765.352(a)(3)] For development or enlargement of real estate owned by the borrower as follows:**

- (i) Development or enlargement must be necessary to improve the borrower's debt repayment ability, place the borrower's farming operation on a sound basis, or otherwise enhance the objectives of the loan;**
- (ii) Such use will not conflict with the loan purposes, restrictions or requirements of the type of loan involved;**
- (iii) Funds will be deposited in a supervised bank account in accordance with subpart B of part 761 (1 FLP, Part 4) of this chapter;**
- (iv) The Agency has, or will obtain, a lien on the real estate developed or enlarged;**
- (v) Construction and development will be completed in accordance with § 761.10 of this chapter.**

The authorized agency official must:

- require the borrower to prepare a development plan for the planned activity
- conduct a final inspection of the borrower's property after construction completion.

## 197 Allowable Use of Proceeds From the Release of Real Estate Security (Continued)

**\*--D Capital Gains Taxes**

**[7 CFR 765.352(a)(4)] To pay capital gains taxes on real estate transactions when the following conditions are met:**

- (i) The borrower is unable to obtain commercial credit at reasonable rates and terms to pay the capital gains taxes;**
- (ii) The Agency approves the amount to be retained to pay capital gains taxes;**
- (iii) The remaining Agency debt remains fully secured;**
- (iv) All other lienholders will:**
  - (A) be fully satisfied from the sale, or**
  - (B) consent to the use of proceeds to be used to pay capital gains taxes;**
- Note:** Written confirmation from the other lienholders is required prior to approval.
- (v) At the borrower's expense, funds will be held in escrow, or deposited in a supervised bank account in accordance with subpart B of part 761 of this chapter; and**
- (vi) Funds that are not used within 18 months towards the capital gains taxes will be remitted to the Agency debt.**

With SED consent, proceeds from the sale of real estate security may be used to pay capital gains taxes when determined to be in the best interest of the Government. It will typically be in the interest of the agency to authorize the release if the alternative method to cover capital gains taxes would require a new direct loan request. The authorized agency official should consider if a release of proceeds is preferable to extending additional credit through use of direct loan funds. Examples of when a release is preferable include when:

- the borrower is not concurrently considering a new loan request that could include financing of the capital gains taxes
- the sale of real estate is time sensitive and would not allow FSA to underwrite a new loan
- the cash flow margin would not support additional debt payments
- the borrower would exceed term limits or loan limits if a new loan was closed
- there are insufficient direct loan funds available for funding a new loan.--\*

## 197 Allowable Use of Proceeds From the Release of Real Estate Security (Continued)

**E Additional Proceeds Usage Requiring FSA Consent**

With SED's consent, proceeds may be applied to FSA as regular payments, according to paragraph 62. SED's should consider the following when providing consent:

- using real estate proceeds as regular payment should not be a re-occurring event
- FSA has significant excess security based upon current appraisals
- the security being sold is a non-essential asset
- the borrower has not received disaster set-aside or PLS within the past 3 years or have payments deferred
- \*--the application of the payment is not being used to resolve non-monetary default or--\*  
impending acceleration
- the borrower has been impacted directly by a disaster, is still in recovery, and the sale and application of the proceeds will allow the borrower to resume normal payments.

**Note:** SED's authority may be redelegated to FLC.

**F Pending Liquidation**

**[7 CFR 765.352(b)] After acceleration, according to 5-FLP, Part 15, the Agency may approve transactions only when all the proceeds will be applied to the liens against the security in the order of their priority, after deducting customary costs appropriate to the transaction. Such approval will not cancel or delay liquidation, unless all loan defaults are otherwise cured.**

Necessary and customary costs appropriate to the transaction:

- include only those costs that the borrower cannot pay from their own resources
- do not include capital gains taxes or junior liens.



## 198    Appraisals

## A    Appraisal Requirements

**[7 CFR 765.353(a)] (1) The Agency will obtain an appraisal of the security proposed for disposition.**

**(2) The Agency may waive the appraisal requirement when the estimated value is less than \$50,000.**

\*--FSA-2132 will be used to document a real estate evaluation completed by FLP staff. The--\* authorized agency official is responsible for estimating value. The estimate will be based upon the intended use of the real estate and will be supported by comparable sales and/or discussions with real estate agents and documented in the case file.

An appraisal report for the security to be transferred or released (except for releases without \*--monetary compensation under subparagraph 146 F) will be obtained when the authorized--\* agency official believes it necessary to protect the financial interest of the government or the disposition is greater than \$50,000.

**[7 CFR 765.353(b)] The Agency will obtain an appraisal of the remaining security if it determines that the transaction will reduce the value of the remaining security.**

A new appraisal report for the security being retained will only be obtained when the authorized agency official determines that the value of the retained property could be adversely affected by the loss of the transferred or released property.

**[7 CFR 765.353(c)] Appraisals, when required, will be conducted in accordance with § 761.7 of this chapter (1-FLP, Part 6).**

**Note:** Exceptions may be requested according to paragraph 4 for appraisals completed between 12 and 18 months ago.

Appraisal reports under this section may show the current market value of the property being transferred or released, and the property being retained (when determined appraisal is necessary), on a single appraisal report or on separate appraisal reports.

The value of rights to mining products, gravel, oil, gas, coal, or other minerals will be specifically included as a part of the appraised value of the real estate security.

**199 Approving or Denying Partial Releases or Exchanges****A Approval Authority**

Approval officials may approve partial releases or exchanges when FSA indebtedness, after the transaction, does not exceed their approval authority for the type of loan or a combination of types of loans according to 1-FLP, subparagraph 29 D. When more than 1 type of loan is involved in the transaction, the loan approval authority of the approval official will be the highest combination amount authorized in 1-FLP, subparagraph 29 D for any loan types involved. SED is authorized to approve any transaction consistent with this section.

On an individual case basis, SED may approve a partial release or exchange for less than the appraised value under this paragraph when:

- the amount being received is within 10 percent of the appraised value

**Note:** This authority applies to this paragraph only.

**Example 1:** A borrower is selling a parcel of real estate and has agreed to a sales contract for \$200,000. However, the appraisal indicates a value of \$215,000. Since the appraisal is within 10 percent ( $215,000 \times .10 = 21,500 \sim 193,500 - 215,000$ ), the transaction can be approved without a DAFLP exception.

- the property has been professionally and extensively marketed.

\*--The authorized agency official must approve a partial release by executing either FSA-2061, or the electronic signature command in the credit presentation section of FBP, and FSA-2470.

If FSA-2061 is utilized to document approval of the partial release, the recommendation or decision must be supported within Part D of FSA-2061. A satisfactory environmental review (FSA-850) for the action must also be completed before approval and placed in the physical file.

Regardless of the method chosen to document approval of the partial release request, an operational review is typically required to be completed within FBP to ensure that the requirements in Part 7, Section 3 are met, including repayment ability. An operational review will not be required if either of the following conditions exist:

- the request will result in all agency debt being paid in full
- a sufficient operational review has been completed within the past year and no changes are expected as a result of the request.

For more complex requests, it may be more efficient to complete the credit action and approval in FBP, but the method used to document approval is ultimately left to the discretion of the authorized agency official.--\*

**199 Approving or Denying Partial Releases or Exchanges****A Approval Authority (Continued)**

The authorized agency official may approve the transaction by executing the electronic signature command in the credit presentation section of FBP. Under the electronic signature, the approval official may designate the FLM, SFLO, or FLO the responsibility to execute agency and required legal documents to complete the transaction.

The authorized agency official must include in the physical case file, all components of FBP that require signatures as provided in the FPB User Guide, available at <https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>.

Processing and tracking a request for partial release will be done in DLS.

\* \* \*



**199 Approving or Denying Partial Releases or Exchanges (Continued)****B Real Estate Auctions**

Borrower requests to sell real estate at public auction may only be approved through an Administrator's Exception unless the:

- loans secured by the property are paid in full
- auction floor bid is either:
  - the appraised market value
  - within 10% of the appraised market value and approved by SED.

If submitting a request for Administrator's Exception to approve a sale by public auction, the request will address:

- information required under subparagraph 4 B
- auctioneer's experience with selling real estate
- auctioneer's plan for advertising the auction, including where advertisements will be placed and how long they will run
- how the auction will maximize FSA recovery over a traditional sale through a realtor
- appraised values of the property as it is being advertised and auctioned.

**Note:** This can be demonstrated with an appraisal that addresses separate tract values as an addendum.

**C Appeal Rights**

If a request under this section cannot be approved, the borrower will be notified of all appeal \*--rights according to 1-APP. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

**200-210 (Reserved)****Section 4 (Withdrawn--Amend. 28)****211, 212 (Withdrawn--Amend. 28)****213-230 (Reserved)**



**Part 8 Withdrawing Existing Party****231 Withdrawal Requirements****A General**

If a jointly liable party requests FSA approval for withdrawal from an entity and conveyance of interest in the security to the remaining members in the entity, FSA considers this request according to this Part when all of the following conditions are met:

- a remaining spouse or entity member is already personally liable for the debt
- there is no change in the entity name (except in divorce cases when the account must be renamed to match the remaining spouse)
- FSA can issue FSA-2080 according to subparagraph B.

If a proposed action does not meet the requirements of this subparagraph, FSA will process the withdrawal as a transfer and assumption according to Part 9.

**Note:** For the purposes of this Part and Part 9, an entity is defined as a husband and wife, partnership, corporation, or any other entity in which more than 1 person is liable for the debt.

**B FSA-2080's**

**[7 CFR 765.406(b)(4)] Except for loans in default being serviced under 7 CFR part 766 (5-FLP), if an individual who is jointly liable for repayment of an Agency loan withdraws from the farming operation and conveys all of their interest in the security to the remaining borrower, the withdrawing party may be released from liability under the following conditions:**

- (i) A divorce decree or property settlement states that the withdrawing party is no longer responsible for repaying the loan;**
- (ii) All of the withdrawing party's interests in the security are conveyed to the persons with whom the loan will be continued; and**
- (iii) The persons with whom the loan will be continued can demonstrate the ability to repay all of the existing and proposed debt obligations.**

## 231 Withdrawal Requirements (Continued)

### B FSA-2080's (Continued)

When a transfer is not required under Part 9, and an existing party is requesting a release, the request must be submitted to the local FSA office detailing which members want to be released from liability and which members will remain liable for the debt. In addition, the borrower entity must both:

- file, with the proper authority, documentation that properly identifies and legally accomplishes the intended withdrawal and submit copies of this documentation to FSA

**Note:** This could include a divorce decree or documentation of a change in the corporation or partnership composition.

- submit:
  - a new FBP that projects the repayment ability of the remaining entity members or new entity that will be liable for the debt
  - any other documentation required by FSA in connection with the proposed withdrawal, such as individual financial statements and earning statements of the withdrawing party when the account is undersecured
  - a copy of the document transferring any security interest from the withdrawing party to the remaining borrower, and could include a new deed or bill of sale to the remaining members of the borrower entity.

\*--Generally, for a request for a withdrawal of an existing party, the analysis will be similar to that required of an operational review unless a full analysis (see paragraph 22) is necessary because of the existence of either of the following conditions:

- the account is undersecured
- the account is subject to a full assessment under 1-FLP, subparagraph 263 A.

### C Incomplete Applications

Incomplete applications will be processed according to paragraph 8 of this handbook.--\*

**231 Withdrawal Requirements (Continued)****D Approval Authority**

When FSA's debt plus prior liens, less the market value, is \$1 million or more (including principal, interest, and other charges), FSA-2080's must be approved by the Administrator or designee. FLM's or SFLO's may approve FSA-2080's when all FLP security is transferred and the total outstanding FLP debt is assumed; otherwise, SED's must approve FSA-2080's. All cases requiring FSA-2080's from SED's will be submitted for review or debt settlement under 7-FLP, Part 12.

The authorized agency official may approve the transaction by executing the electronic signature command in the credit presentation of FBP. Under the electronic signature, the approval official may designate FLM, SFLO, or FLO the responsibility to execute agency and required legal documents to complete the transaction.

If the borrower is delinquent, FSA will consider FSA-2080's according to 5-FLP, subparagraph 84 D.

**E FSA Actions**

A copy of the FSA-2080 should be placed with the original promissory note along with a copy in the borrower's case file attached to the copy of the promissory note.

The authorized agency official will manually maintain a released of liability list of borrowers and/or co-borrowers who signed FSA-2080 and have been approved and released of liability on active and paid in full loans. This list will be maintained in Operational Folder FLPF-4. The following information will/must? be documented for each borrower:

- borrower name
- FSA borrower ID
- loan numbers
- date the release liability was approved
- copy of the executed FSA-2080.

The "Unlink Related Entity" function in DLS must not be used in cases where release of liability has been approved.

**Note:** If a borrower and/or co-borrower have been released from liability on a loan and debt offset is being pursued, the authorized agency official will refer to 7-FLP, Part 4 and the DLS User Guide for instructions on unlinking the released individual before offset.

**232-245 (Reserved)**



**\*--Part 9 Transfer of Real Estate and Personal Property Security--\*****246 Transfer of Security and Assumption of Debt****A General**

**[7 CFR 765.401(a)] (1) Approval of a security transfer and corresponding loan assumption obligates a new borrower to repay an existing Agency debt.**

**(2) All transferees will become personally liable for the debt and assume the full responsibilities and obligations of the debt transferred when the transfer and assumption is complete. If the transferee is an entity, the entity and each entity member must assume personal liability for the loan.**

**(3) A transfer and assumption will only be approved if the Agency determines it is in the Agency's financial interest.**

FBP must demonstrate the repayment ability and management capacity of the transferee.

**\*--Note:** Applicant must be screened for debarment and suspension. See 3-FLP, paragraph 75, and paragraph 7.--\*

**[7 CFR 765.401(b)] A borrower must request and obtain written Agency consent prior to selling or transferring security to another party.**

FSA requires the transfer and assumption of security and FSA debt when:

- a new borrower wants to replace the existing borrower
- an existing borrower is now operating, or proposes to operate as an entity with a non-relative
- an existing borrower proposes to transfer FSA security to an entity controlled or owned by the borrower.

FSA requires an assumption of debt, but not a transfer of security (assumes title to assets is not changing) when:

- a new member wants to join the borrower entity
- the entity member withdraws when remaining entity members are not personally liable for the debt

**Note:** See definition of operator in Exhibit 2.

Operators include borrowers who obtained individual loans and later formed an operating entity with a relative. If the member with the individual loan owns at least 50 percent of the operating entity, the individual meets the definition of operator for loan servicing purposes.

## 246 Transfer of Security and Assumption of Debt (Continued)

## A General (Continued)

**Example:** An individual obtains an FO and later forms an operating-only entity with a relative and obtains an OL for the same operation. The individual then needs servicing for the individual FO. In these cases, if the individual owns at least 50 percent of the operating entity, the definition of operation is met.

Borrowers who obtained individual loans and later formed an operating-only entity with a non-relative must have the entity assume the debt to be eligible for loan servicing, as provided in 4-FLP, subparagraph 248 C. However, transfer of the collateral to the entity is not required.

In either of these circumstances, the operating entity must have their own unique tax ID number.

## B ST's

ST's will only be transferred on NP rates and terms according to subparagraph 248 E, unless transfer is required because of the death of a borrower, in which case transfer will be considered according to Part 10.

## \*--C Junior Liens to FSA's Debt--\*

When a transferee assumes:

- the transferor's entire FSA debt, SED's must concur with the proposed transfer of any junior liens
- less than the full amount of FSA's debt, junior liens to the assumed debt are prohibited.

## D Partial Transfer and Assumption

A borrower may transfer FSA indebtedness in whole notes only. The borrower and transferee may not split an individual loan. The borrower must demonstrate that a proposed partial sale is in the best financial interest of the operation and that the sale will not adversely affect the security and/or Government's financial interest.

The compensation received by the transferor and applied to the transferor's FSA debt may not be less than the market value of the property sold.

When the value of the property exceeds the debt to be assumed, the transferee may pay with cash on hand or obtained through credit. FSA applies such cash payment to the transferor's indebtedness according to Part 5.

## 246 Transfer of Security and Assumption of Debt (Continued)

## E Determining the Assumption Amount

[7 CFR 765.403(d)] The transferee must assume the lesser of:

- (1) The outstanding balance of the transferor's loan; or
- (2) The market value of the security, less prior liens and authorized costs, if the outstanding loan balance exceeds the market value of the property.

## F Determining the Value of the Security Property

The value of the security property must be determined before approving a transfer and assumption. Appraisals will be conducted according to 1-FLP, Part 6. The appraisal determines the value of the security and the amount of the indebtedness that may be assumed.

## G Forgiveness of Youth Loan Debt

Notwithstanding any other FSA regulation, forgiveness of youth loan debt, because of circumstances beyond the borrower's control, does not preclude the applicant, or any member of an entity applicant, from obtaining additional direct or guaranteed loans from FSA. This includes assumption of FSA debt or any other financial assistance that cites this section as part of its eligibility. The criteria for determining if the forgiveness was beyond the borrower's control are the same criteria used in 7 CFR section 766.104(a)(1). Any borrower who met those criteria when the youth loan was forgiven will not be denied loan assistance based on forgiveness of youth loan debt. Debt that was forgiven on any other type of loan, even with the same borrower, is still considered according to the present regulations and can preclude the applicant from receiving a loan from FSA.

## 247 Types of Transfers and Assumptions

## A New Eligible Borrower

[7 CFR 765.403(a)] The Agency may approve transfers of security with assumption of Agency debt, other than EM loans for physical or production losses, by transferees eligible for the type of loan being assumed if:

- (1) The transferee meets all loan and security requirements in part 764 (3-FLP) of this chapter for the type of loan being assumed; and
- (2) The outstanding loan balance (principal and interest) does not exceed the maximum loan limit for the type of loan as contained in § 761.8 (1-FLP) of this chapter.

\*--Transfer of security and assumption of debt for a new eligible borrower is completed at new rates and terms. If the debt for the existing borrower is delinquent, the delinquency is resolved when the transfer and assumption at new rates and terms is completed.--\*

## 247 Types of Transfers and Assumptions (Continued)

## A New Eligible Borrower (Continued)

**[7 CFR 765.403(f)] Transferees must submit a complete application in accordance with 7 CFR 764.51 (3-FLP subparagraph 42 A).**

Before a sale, the borrower and the proposed transferee should contact their local FSA office and submit or participate in completion of the documents to initiate the transfer and assumption process.

The completed documents must include, as applicable:

- complete application by the proposed transferee for the type of loan and amount of debt to be assumed according to 3-FLP, Part 3
- narrative by the authorized agency official describing the proposal
- appraisal from the transferor's file, with a copy to the transferee's file
- transferring "deed" or "bill of sale" from the transferor to the transferee
- FSA-2025
- FSA-2061
- FSA-2080, if applicable
- FSA-2476
- FSA-2489
- additional documents such as UCC1's, FSA-2028's, and mortgages as required.

\*--See 3-FLP, subparagraph 45 B for processing incomplete applications.--\*

## B Adding a New Member to a Borrower Entity

To add new entity members to an existing borrower entity, the proposed individual entity members and the entity as a whole must meet the eligibility requirements as defined in 3-FLP, Part 4. Adding a new member to a borrower entity is completed at same rates and terms.

The borrower and the proposed entity member should contact their local FSA office and submit or participate in the completion of the documents to initiate the transfer and assumption process. The completed documents may include:

- complete application by the proposed new entity for the type of loan and amount of debt to be assumed according to 3-FLP, Part 3
- narrative by the authorized agency official describing the proposal

247 **Types of Transfers and Assumptions (Continued)****B Adding a New Member to a Borrower Entity (Continued)**

- FSA-2025
- FSA-2489 or FSA-2026, or both
- new FSA-2026's, if needed
- FSA-2476, if applicable
- security instruments, as appropriate.

\*--See 3-FLP, subparagraph 45 B for processing incomplete applications.--\*

The transaction will be completed under subparagraph 248 C.

**C Withdrawing a Member and the Remaining Members Are Not Jointly Liable**

If a personally liable party withdraws from an entity and all remaining entity members are not jointly liable for the debt, FSA will process the transfer and assumption according to this part. Accordingly, all transferees will become personally liable for the debt and assume the full responsibilities and obligations of the debt transferred when the transfer and assumption is complete. If all remaining entity members are jointly liable, the withdrawal is processed according to Part 8.

The borrower and the proposed transferee should contact their local FSA office and submit or participate in completion of the documents to initiate the transfer and assumption process. The completed documents may include:

- FBP, for the new entity demonstrating the repayment ability and management capacity of the remaining borrower entity
- updated farm assessment
- documents identifying the reason for the withdrawal such as a death certificate, a divorce decree, or a change in the composition of a corporation or partnership
- documentation of the transfer of the property such as a "deed" or "bill of sale" to the remaining members of the borrower entity
- narrative by the authorized agency official describing and recommending the proposal
- FSA-2025
- FSA-2489, FSA-2026, or both
- FSA-2080, if applicable
- FSA-2476, if applicable
- new security instruments, as appropriate.

\*--See 3-FLP, subparagraph 45 B for processing incomplete applications.--\*

## 247 Types of Transfers and Assumptions (Continued)

**D Adding New Entity**

When an existing individual borrower forms an entity, the borrower should contact their local FSA office and submit or participate in the completion of the documents to initiate the transfer and assumption process.

**Example 1:** Existing individual borrower has created a sole proprietor LLC. Borrower will now operate the farm under this new LLC.

**Example 2:** Existing sole individual borrower is requesting to add his son as a co-borrower. The primary borrower (father) will remain the same, but there will now be 2 individual co-borrowers. As a result, the operation will be considered an entity as the definition within handbook 4-FLP consists of an exception to include any arrangement in which more than 1 person is party to the debt

The completed documents may include:

- FSA-2001
- narrative by the authorized agency official describing the proposal
- FBP demonstrating the repayment ability
- new security instruments, as appropriate
- FSA-2489, FSA-2026, or both
- FSA-2476, if applicable.

\*--See 3-FLP, subparagraph 45 B for processing incomplete applications.--\*

The transaction will be completed under subparagraph 248 C.

**E NP Applicant**

FSA may allow NP assistance only when it is in FSA's best financial interest.

FSA allows NP assistance only to accommodate enhanced collection potential for outstanding loans.

FSA application requirements for a NP transfer and assumption are the same as for a program eligible applicant, except FSA does not need to determine the borrower's eligibility. An applicant, including all entity members, for NP assistance will only be approved if the applicant, including all entity members, meets the requirements as provided in subparagraph 248 E.

**F Security Requirements**

**[7 CFR 765.403(g)] All security must be transferred to the transferee with possession taken in accordance with the requirements of part 764 of this chapter for the type of loan being assumed (3-FLP Part 5).**

**248 Assumption Terms****A Basic Policy**

Loans will generally be assumed on new rates and terms. A loan may only be assumed on the same rates and terms according to paragraph C.

**B Eligible Applicant - New Rates and Terms**

**[7 CFR 765.403(e)] The interest rate and loan term will be determined according to rates and terms established in part 764 (3-FLP) of this chapter for the type of loan being assumed.**

**C Eligible Applicant - Same Rates and Terms**

A transfer and assumption of all debt and security processed at the same rates and terms does not require an appraisal.

**[7 CFR 765.402] An eligible applicant may assume an Agency loan under the same rates and terms as the original note if:**

**(a) The original borrower has died and the spouse, other relative, or joint tenant who is not obligated on the note inherits the security property;**

**(b) A relative of the borrower or an entity comprised solely of relatives of the borrower assumes the debt along with the original borrower;**

\* \* \*

**(c) An individual with an ownership interest in the borrower entity buys the entire ownership interest of the other members and continues to operate the farm in accordance with loan requirements. The new owner must assume personal liability for the loan;**

**\*--Note: Includes an existing individual borrower that has created a sole proprietor entity and will now operate the farm under the new entity.--\***

**(d) A new entity consisting of the same members as the borrower entity buys the borrower entity and continues to operate the farm in accordance with loan requirements; or**

## 248 Assumption Terms (Continued)

## C Eligible Applicant - Same Rates and Terms (Continued)

(e) The original loan is an EM loan for physical or production losses and persons who were directly involved in the farm's operation at the time of the loss will assume the loan. If the original loan was made to:

(1) An individual borrower, the transferee must be a relative of the original borrower or an entity in which the entity members are comprised solely of relatives of the original borrower.

(2) A trust, partnership or joint operation, the transferee must have been a member, partner or joint operator when FSA made the original loan or remain an entity comprised solely of people who were original entity members, partners or joint operators when the entity received the original loan.

(3) A corporation, including limited liability company, cooperative, or other legal business organization, the transferee must:

(i) Have been a corporate stockholder, cooperative member, or other member of a legal business organization, when the Agency made the original loan or will be an entity comprised solely of entity members who were entity members when the entity--\* received the loan; and

(ii) Assume only the portion of the physical or production loss loan equal to the transferee's percentage of ownership. In the case of entity transferees, the transferee must assume that portion of the loan equal to the combined percentages of ownership of the individual stockholders or entity members in the transferee.

## D Application Requirements

[7 CFR 765.402(f)] Transferees must submit a complete application in accordance with \*--7 CFR 764.51 of this chapter (3-FLP. subparagraph 42 A). See 3-FLP, subparagraph 45 B for processing incomplete applications.--\*

FSA application requirements for transfer and assumption at same rates and terms are the same as an eligible applicant as described in subparagraph 247 A.

## E Security

[7 CFR 765.402(g)] All security must be transferred to the transferee with possession taken in accordance with the requirements of part 764 of this chapter for the type of loan being assumed (3-FLP Part 5).

## 248 Assumption Terms (Continued)

**F Transfer and Assumption of Types of Loans No Longer Made by FSA**

**[7 CFR 765.403(c)] Real estate loan types the Agency no longer makes (i.e. EE, RL, RHF) may be assumed and reclassified as FO loans if the transferee is eligible for an FO loan under part 764 of this chapter (3-FLP) and the property proposed for transfer meets program requirements.**

**G Transfer of Security and Assumption of Debt by Ineligible Borrowers**

See 1-FLP, Part 2 for levels of authority for approval of NP loans. SED has unlimited approval authority for NP loans. FSA approves NP loans on FSA-2025. Applications for NP assistance that cannot be approved will be denied by sending Exhibit 35 to the applicant. Applicants have 15 calendar days to request a review of the decision by the next level supervisor within FSA.

**[7 CFR 765.404(a)] (1) The Agency will allow the transfer of real estate and chattel security property to applicants who are ineligible for the type of loan being assumed only on Non-program loan rates and terms.**

**(2) The Agency will reclassify the assumed loan as a Non-program loan.**

**[7 CFR 765.404(b)] Transferees must:**

**(1) Provide written documentation verifying their credit worthiness and debt repayment ability;**

The authorized agency official will use guidance in 3-FLP to determine if the NP applicant is credit worthy or has not acted in good faith. If the applicant is not credit worthy or has not acted in good faith, the NP assistance will be denied.

**(2) Not have received debt forgiveness from the Agency;**

The authorized agency official will review agency records including past debts history in DLS/ADPS to determine if the applicant has had prior debt forgiveness. NP assistance will not be approved if the applicant caused the Agency a loss, unless specifically exempted in 3-FLP, subparagraph 65 A.

**(3) Not be ineligible for loans as a result of a conviction for controlled substances according to 7 CFR part 718; and**

**(4) Not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718.**

## 248 Assumption Terms (Continued)

## G Transfer of Security and Assumption of Debt by Ineligible Borrowers (Continued)

**[7 CFR 765.404(c)]** The transferee must assume the total outstanding Agency debt or if the value of the property is less than the entire amount of debt, an amount equal to the market value of the security less any prior liens. The total outstanding Agency debt will include any unpaid deferred interest that accrued on the loan to the extent that the debt does not exceed the security's market value.

**[7 CFR 765.404(d)]** Non-program transferees must make a down payment to the Agency of not less than 10 percent of the lesser of the market value or unpaid debt.

**[7 CFR 765.404(e)]** The interest rate will be the Non-program interest rate in effect at the time of loan approval.

See 1-FLP, Exhibit 17 for NP interest rates.

**[7 CFR 765.404(f)] (1) For a Non-program loan secured by real estate, the Agency schedules repayment in 25 years or less, based on the applicant's repayment ability.**

**(2) For a Non-program loan secured by chattel property only, the Agency schedules repayment in five years or less, based on the applicant's repayment ability.**

**\*--H Security Requirement**

**[7 CFR 765.404(g)]** All security must be transferred to the transferee with possession taken in accordance with the requirements of part 764 of this chapter for the type of loan being assumed (3-FLP Part 5).--\*

**248 Assumption Terms (Continued)****I Modification of Security Instruments**

Covenants in promissory notes and/or security instruments (mortgage or deed of trust) relating to graduation to other credit, inability to secure other financing, restrictions on leasing, FLP operation requirements, and consent to junior lien encumbrance will be deleted. Deletions are made by lining through only the specific inapplicable language with both the NP borrower and the approval official initialing the changes.

**J Transfer from a NP Borrower**

**[7 CFR 765.403(b)] Applicants eligible for FO loans under part 764 (3-FLP) of this chapter may assume Non-program loans made for real estate purposes if the Agency determines the property meets program requirements. In such case, the Agency will reclassify the Non-program loan as an FO loan.**

When a NP borrower proposes to sell security property, the authorized agency official may approve assumption of indebtedness on program or NP terms based on the eligibility of the transferee.

FSA does not release NP borrowers of liability.

**249 Reviewing Transfer Request****A Reviewing Required Documents**

The authorized agency official will review the transfer request to assure that the documents required are present and complete according to paragraph 247. See 1-FLP, Part 2 for transfer and assumption approval authority.

If the required documents are incomplete or additional information is needed, FSA will request the transferor and the transferee to provide the additional information, as appropriate. The authorized agency official must inform the transferor and the transferee that FSA will not process the transfer request until the application is complete.

**B Insurance Requirements**

A transferee must obtain insurance according to 3-FLP, Part 6.

**C Title Clearance**

A transferee must obtain title clearance and legal services for closing a transfer according to 3-FLP, Part 16. FSA does not require title clearance and legal services when the interest of a liable party on the note is conveyed to another liable party who assumes the total indebtedness at same rates and terms.

**D Reviewing Loan Application**

The authorized agency official will review the application according to this Part and 3-FLP, Part 3.

**E Approving the Transfer and Assumption**

Approval officials may approve transfer and assumption when the FSA indebtedness, after the transaction, does not exceed their approval authority for the type of loan or a combination of types of loans according to 1-FLP, subparagraph 29 D. When more than 1 type of loan is involved in the transaction, the loan approval authority of approval official will be the highest combination amount authorized in 1-FLP, subparagraph 29 D for any loan types involved. SED may redelegate their authority to approve transfer and assumption to FLC, FLS, or DD.

The authorized agency official may approve the transfer and assumption by executing the electronic signature command in the credit presentation section of FBP. Under the electronic signature, the approval official may designate the FLM, SFLO, or FLO, the responsibility to execute the required documents to complete the transaction.

The authorized agency official must include in the physical case file, all components of FBP \*--that require signatures as provided in the FPB User Guide, available at <https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>--\*

**249 Reviewing Transfer Request (Continued)****E Approving the Transfer and Assumption (Continued)**

The authorized agency official will use FSA-2025 to notify the applicant that the transfer and assumption has been approved.

If FSA rejects the transfer and assumption request, the authorized agency official will notify \*--the borrower of appeal rights according to 1-APP. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.--\*

**250 Closing the Transfer****A Basic Policy**

**[7 CFR 765.405] The transferor and transferee are responsible for paying transfer costs such as real estate taxes, title examination, attorney's fees, surveys, and title insurance. When the transferor is unable to pay its portion of the transfer costs, the transferee, with Agency approval, may pay these costs provided:**

- (a) Any cash equity due the transferor is applied first to payment of costs and the transferor does not receive any cash payment above these costs;**
- (b) The transferee's payoff of any junior liens does not exceed \$5,000;**
- (c) Fees are customary and reasonable;**
- (d) The transferee can verify that personal funds are available to pay transferor and transferee fees; and**
- (e) Any equity due the transferor is held in escrow by an Agency designated closing agent and is disbursed at closing.**

The authorized agency official will prepare closing documents according to 3-FLP, Part 16 and State and local requirements. Closing documents will be filed according to State law and as described in the State supplement.

**B Final Processing**

The authorized agency official will follow the flowchart in DLS Loan Servicing Users Guide, \*--Section 10.4, to determine if a "1M", "4A", or "4D" transaction is needed in DLS to record--\* the transfer and assumption of the loan or loans.

The signed documents in the transfer docket will be placed in the transferee's case file and the transferor's file shall be maintained according to 32-AS.

In situations where the transferee provides a down payment to the transferor, the down payment funds will be applied towards the transferor's existing balance prior to processing the transfer and assumption within DLS per subparagraph 250 B.

**251 Determining Transferor Liability After Closing****A Full and Complete Transfer**

**[7 CFR 765.406(b)(1)]** The Agency may release the transferor from liability when all of the security is transferred and the total outstanding debt is assumed.

**B Transfer and Assumption of a Portion of the Indebtedness**

**[7 CFR 765.406(a)]** Agency approval of an assumption does not automatically release the transferor from liability.

**[7 CFR 765.406(b)(2)]** If an outstanding debt balance will remain and only part of the transferor's Agency security is transferred, the written request for release of liability will not be approved, unless the deficiency is otherwise resolved to the Agency's satisfaction.

**[7 CFR 765.406(b)(3)]** If an outstanding balance will remain and all of the transferor's security has been transferred, the transferor may pay the remaining balance or request \*--debt settlement in accordance with subpart B of 7 CFR part 1956. (7-FLP, Part 12)--\*

If all security has been transferred, the remaining debt will be considered for debt settlement instead of release of liability under this Section.

In partial debt and partial security transfer cases, the transferee may pay any sale price or security shortfalls to resolve deficiencies as approved by the authorized agency official by any of the following:

- cash contribution
- participation credit
- subsequent FSA loans.

If only a portion of the indebtedness is to be assumed by the transferee, the authorized agency official must recommend and SED must approve or deny settlement of the remaining indebtedness.

**251 Determining Transferor Liability After Closing (Continued)**

**C Authority**

\*--The approval official for the transfer and assumption may consider and execute FSA-2080--\* in conjunction with the transfer and assumption action when all of the following conditions are met:

- transferee assumes the entire amount of the indebtedness
- transferee's indebtedness is fully secured
- transferor transfers all security
- transfer and assumption will not result in a loss to the Government.

If any of these requirements are not met, only SED's have the authority to execute FSA-2080's.

**252-265 (Reserved)**



**Part 10 Deceased Borrowers****266 General****A Overview**

This Part describes the procedures FSA follows upon learning of the death of an FLP borrower.

**B Contacting the Deceased's Family, Heirs, or Other Liable Parties**

The authorized agency official will contact the family, heirs, or liable parties as soon as practical after the death of a borrower to discuss plans for the farm.

The authorized agency official will complete FSA-2490 to:

- determine how to proceed with the deceased borrower's account
- assess FSA's security position
- ensure FSA's security is adequately protected and maintained.

If no liable party remains, the heirs/representatives contacted will be informed that:

- the loan can be paid in full or assumed on eligible or ineligible rates and terms, if all requirements are met
- estates cannot be FSA program or NP borrowers.

**\*--Note:** A copy of the borrower's obituary or DNP documentation (see 1-FLP paragraph 53) will be attached to FSA-2490.--\*

## 266 General (Continued)

**C Consulting SED**

To complete FSA-2490 and determine an appropriate course of action, the authorized agency official will refer to State supplements, as appropriate; however, SED's will always be notified when:

- determining claim priority
- filing a proof of claim
- withdrawing a proof of claim
- initiating, participating in, or contributing to a probate or administrative hearing
- servicing a borrower's account when no will exists.

SED's will consult with OGC, as appropriate.

When necessary, the authorized agency official will forward the following information to SED:

- FSA-2490
- the borrower's case file
- a recommendation on how FSA should proceed with the borrower's account.

**267 Servicing Options for Program Loan Accounts****A Continuation**

**[7 CFR 765.451(a)] Following the death of a borrower, the Agency will continue the loan with any individual who is liable for the indebtedness provided that the individual complies with the obligations of the loan and security agreements.**

The authorized agency official will process applicable changes to MIDAS Business Partner and DLS to change any name, account number, or case number.

**B Transfer and Assumption**

**[7 CFR 765.451(b)] The Agency will continue the loan with a person who is not liable for the indebtedness in accordance with subpart I of this part.**

See Part 9 for more information on transfer and assumptions.

**C Shared Appreciation (FSA-2543's)**

If an FSA-2543 exists at the time of the borrower's death, see 5-FLP, subparagraph 342 A.

**D Liquidation**

If a deceased borrower's farm loan accounts cannot be paid in full, voluntarily liquidated, resolved through continuation with existing obligors, or transferred to a third party, the \*--authorized agency official will comply with 5-FLP, subparagraph 65 B before proceeding according to 5-FLP, paragraph 66. If the deceased borrower's loan payments are deferred, the authorized agency official will include canceling the deferral as of the date of the borrower's death with the notification provided in 5-FLP, subparagraph 65 B.--\*

**268 Servicing Options for NP Accounts****A General Policy**

When a borrower with only NP's dies, FSA shall determine whether the borrower's NP's may be continued or assumed by another party. If NP's cannot be continued or assumed, FSA shall liquidate NP's according to 5-FLP, Part 16.

**B Continuation with a Jointly Liable Borrower**

**[7 CFR 765.452(a)(1)] The Agency will continue the loan with a jointly liable borrower if the remaining borrower continues to pay the deceased borrower's loan in accordance with the loan and security instruments.**

\*--The authorized agency official shall process applicable changes to MIDAS Business Partner and DLS to change the borrower's name and case number.--\*

**C Transfer and Assumption**

**[7 CFR 765.452(b)] A deceased borrower's loan may be assumed by an individual not liable for the indebtedness in accordance with subpart I of this part (Part 9).**

**[7 CFR 765.452(a)(2)] The Agency may continue the loan with an individual who inherits title to the property and is not liable for the indebtedness provided the individual makes payments as scheduled and fulfills all other responsibilities of the borrower according to the loan and security instruments.**

See subparagraph 248 C for information on continuing or assuming a loan.

**D Security Transfer Beyond Heirs**

**[7 CFR 765.452(c)] (1) The Agency will not continue a loan for any subsequent transfer of title by the heirs, or sale of interests between heirs to consolidate title; and**

**(2) The Agency treats any subsequent transfer of title as a sale subject to requirements listed in subpart I of this part (Part 9).**

**269-280 (Reserved)**

**Part 11 Borrowers Entering the Armed Forces****281 General****A Protections for Borrowers on Active Duty**

[7 CFR 765.161] (a) *Protections for borrowers on active duty.* The Servicemembers Civil Relief Act (Public Law 108-189) and the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 (Public Law 108-375) provide certain loan servicing protections for military borrowers. The Agency will apply those loan servicing protections to applicable Farm Loan borrowers.

- (1) The benefits and protections of the Servicemembers Civil Relief Act apply to borrowers on active duty at all times.
- (2) The requirements of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 apply during a time of a war or national emergency as declared by the President or Congress.

--Servicing officials should check 50 U.S.C 1621 for the annual status of Proclamation 7463 at [50 USC 1621: Declaration of national emergency by President; publication in Federal Register; effect on other laws; superseding legislation \(house.gov\)](#). Proclamation 7463 was issued by President Bush and has been renewed each year since its inception in 2001 to maintain a declared national emergency due to the continuous threat of terrorism.

**Note:** When navigating the above website, select the “notes” tab as this will display the current and past continuations of the proclamation.--\*

(b) *Eligibility for National Guard members and military reservists.* Borrowers who are National Guard members or military reservists will be eligible for the protections covered by this section, as specified in paragraphs (b)(1) and (2) of this section:

- (1) **National Guard members must be on duty for at least 30 consecutive calendar days.**
- (2) **Military reservists are eligible from the date orders are received to report for active duty.**

(c) *Entity eligibility.* National Guard members and military reservists on active duty and any operating entity owned solely by the active duty borrower may be considered for protections specified in paragraph (a) of this section.

**282 Servicemembers Civil Relief Act of 2003****A Interest Rate**

Subject to paragraph 283, FSA may not charge interest exceeding 6 percent on existing FLP debt if the borrower enters full-time active military duty.

\*--Upon learning that a borrower enters active duty, the authorized agency official will send Exhibit 51 to the borrower stating that the interest rate on their existing FSA loans will not exceed 6 percent while the borrower is on active military duty. The borrower will submit--\* written notice and a copy of the military orders calling the service member to military service and any orders further extending military service. The interest rate change will be effective with the date the military service started (as verified in the military orders submitted by the borrower).

If the borrower's interest rate is already lower than the 6 percent rate, the borrower will be notified that FSA will not increase the borrower's interest rate.

In times of war or national emergency, active duty members are eligible to have their FSA interest and payments deferred on existing loans. Exhibit 52 may be used as is or a similar notification letter may be used to address the borrower's specific circumstances. See paragraph 283 for additional details.

Adjustments to the interest rate based on military service must be processed by the RD Business Center, FLP only; therefore, the authorized agency official should send a memorandum to the RD Business Center, FLP that confirms the military service of the borrower and the effective date of that service.

\*--In addition, the authorized agency official will process applicable changes to MIDAS--\* Business Partner to change the borrower's address to the address at which FSA may contact the borrower while on active military duty or the address of a designated power of attorney.

**B Penalty for Violations**

Violations of the Servicemembers Civil Relief Act of 2003 are misdemeanors. Knowingly violating the provisions of the Servicemembers Civil Relief Act of 2003 is punishable by fines, imprisonment for not more than 1 year, or both.

## 282 Servicemembers Civil Relief Act of 2003 (Continued)

**C Borrower Contact**

When the authorized agency official learns that a borrower plans to enter the Armed Forces on full-time active duty, the authorized agency official shall immediately contact the borrower to ensure that someone adequately cares for the borrower's loan security during their absence. The authorized agency official shall determine whether the borrower wants to:

- \*--retain personal property or real estate security while on active duty--\*
- lease real estate security while on active duty
- \*--dispose of personal property or real estate security before reporting to active duty.--\*

In addition, during the contact the authorized agency official shall ask the borrower to provide the servicing office with a copy of the military orders calling the service member to military service and any orders further extending military service that apply. The orders will be placed in position 4 of the case file. The contact efforts and the outcome must be documented in FBP running record.

**D Power of Attorney**

If the borrower decides to retain ownership of the FSA loan security while on active duty and there are no other parties liable for the debt, the authorized agency official shall encourage the borrower to authorize a power of attorney. The borrower may designate a power of attorney before entering active duty. A person designated with a power of attorney has the responsibility to ensure both:

- \*--proper use and maintenance of the borrower's personal property and real estate security--\*
- timely payment on the borrower's insurance, taxes, and FSA loan.

The borrower should be encouraged to use a military power of attorney prepared and executed pursuant to 10 U.S.C. 100b. No further legal review is required for a power of attorney prepared for the borrower by the military. SED's shall issue State supplements for all other acceptable power of attorney documents.

**E Real Estate Security Leases**

The authorized agency official, when appropriate, may encourage a borrower, while on active duty, to lease real estate security in which FSA has a security interest when the rental income fully repays the borrower's:

- annual installment
- real estate taxes
- required hazard insurance.

If the borrower decides to lease the real estate security, the authorized agency official may encourage the borrower to enter into a written lease and obtain an assignment of rental income proceeds in an amount sufficient to cover the borrower's annual FSA installment using FSA-2044.

**282 Servicemembers Civil Relief Act of 2003 (Continued)****F Disposal of Security**

If the borrower decides to sell the security before entering military service, the borrower may:

- dispose of the security with a voluntary sale and then apply the sale proceeds to the balance of the FSA loan according to Part 5
- transfer the security and the loan to another person according to Part 9.

**G Borrower Default**

If, while serving on active duty, the borrower becomes delinquent on payments or is otherwise in default, the authorized agency official will send the borrower and the person designated by the borrower with power of attorney notices as required by 5-FLP, Part 3. SED's will fully use the exception authority granted in 5-FLP when additional time is needed by the borrower for submitting a complete servicing application.

FSA may not sell or seize a borrower's property while the borrower is on active duty and 3 months thereafter, except by court order. OGC and SED must provide consent before an authorized agency official may accelerate an account.

If the account has been referred to DOJ, FSA must notify DOJ that the borrower is entitled to relief under the Servicemembers Civil Relief Act of 2003.

**H Security Abandonment**

If the borrower abandons the security, FSA will service the borrower's account according to 5-FLP, Part 18.

**I Failure to Cooperate**

The date a borrower is released from active duty may often be obtained from the Service Members Civil Relief Act website at <https://scra.dmdc.osd.mil/>.

\*--Access to the website may be established for verification of active duty status at the State Office. Each State Office may establish or open their own account as needed based on borrowers who are in active duty status. The application will send an 8-digit access code to the employee's email to enter the website. Google Chrome is the recommended browser.--\*

However, if the borrower fails to cooperate with FSA and the date cannot be obtained, the authorized agency official shall consult with the State Office for servicing guidance.

**282 Servicemembers Civil Relief Act of 2003 (Continued)****J Treasury and Internal Administrative Offsets**

Treasury and internal administrative offsets will be discontinued once a borrower is ordered to report for induction or military service, and any payments received as a result of offset after the date the borrower was called to active duty will be refunded. Treasury offsets shall be suspended by State Offices by deleting affected loans each quarter on the Borrowers Eligible for TOP Offset Certified Screen or the Borrowers Eligible for TOP Offset Screen. Co-borrowers associated with this debt must also be deleted in an effort to reduce hardship on the family. See applicable FI directives for further information. The suspension will begin when the borrower is ordered to report for induction or military service and continues during the period of active duty and 3 months thereafter.

**Note:** Use delete code “07”, “Borrower was indebted to FSA before entering full time active duty military service and the account is being serviced according to the National Defense Act.”

**K Treasury Cross-Servicing**

Borrowers and co-borrowers called to active military duty similarly shall not be referred for cross-servicing.

**Note:** If the borrower has been referred to Treasury for cross-servicing, State Offices must  
\*--FAX FSA-2722's with code “07” in item 14A to the RD Business Center, FLB.--\*  
See 1-FLP, subparagraph 5 B.

**L Canceling the 6 Percent Interest Rate**

If FSA decreased the borrower's interest rate, as soon as the authorized agency official verifies that a borrower is no longer on active duty, the authorized agency official shall send a \*--letter to the RD Business Center, FLB. This letter instructs the RD Business Center, FLB--\* to terminate the 6 percent interest rate and revert to the rate in existence before the assignment of the 6 percent rate.

283 **Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005****A Suspension of Interest Accrual and Payments**

During a time of war or national emergency as declared by the President or Congress, the FLP payments on existing loans of borrowers on active duty will be suspended and interest will not accrue beginning on October 28, 2004, or the date in which they enter active duty, whichever is later. If any regular payments have been made since the date noted, October 28, 2004, the borrower should be contacted, and the payment will be refunded at their request. For **existing** loans, all payments due, as well as the due dates of all payments due during and after such active duty will be suspended or deferred for a period of time equal to the time the borrower is on active duty during war or a national emergency.

**Example:** A borrower with an OL (matures January 15, 2019, annual payment on January 1) and a FO (matures February 15, 2040, annual payment on January 1) enters active duty on October 1, 2016, and is discharged on April 1, 2017 (182 days).

- Interest will not accrue from October 1, 2016, to April 1, 2017.
- The payments on both loans will be due on September 30 each year (April 1, 2017 + 182 days = September 30).

**\*--Notes:** Suspension of payments and interest accrual only applies to loans that were outstanding at the time a borrower enters active duty. This does not apply to any loans obtained by the borrower while in active duty status.--\*

Funds from the sale of basic security must be applied as an extra payment according to subparagraph 63 A.

When information is received by the County Office that a borrower has entered or is entering active duty, the County Office will send:

- the borrower, Exhibit 52, informing them that for **existing** loans, payments will be suspended and interest will not accrue during time of active duty
- the RD Business Center, FLB a courtesy copy by FAX (1-FLP, subparagraph 5 B).

**283    Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005  
(Continued)**

**B    Reinstating Annual Payments and Interest Accrual**

The payment suspension and interest nonaccrual status will end on the earlier of the date the:

- war or national emergency is over
- borrower is released from active duty.

When information is received that the war or national emergency is over, or the borrower has  
\*--been released from active duty, the County Office will:--\*

- send the borrower Exhibit 53, informing them that suspension and nonaccrual status has ended, the payment deferral period has started, and the expected due date of the post-deferral payment
- send the RD Business Center, FLB a courtesy copy by FAX
- attach a copy of Exhibit 53 to the impacted promissory notes.

**Note:** Pre-military service delinquent payments will also be deferred on Exhibit 53 for a period equal to the length of service. Any delinquency remaining at the end of the deferral period will be serviced under 5-FLP, Part 3.

**\*--C    PLS, DBSA, and DSA--\***

When a borrower applies for PLS, it will be treated like a normal servicing application under 5-FLP, Part 3 and will be entered into eDALR\$ accordingly without any changes to the servicing term available. If eDALR\$ generates a feasible plan, provide the offer to the borrower as normal.

\*--For instances where a feasible plan cannot be found or the borrower requests DBSA or DSA, State Offices will contact LSPMD for assistance.--\*

**D    Acceleration or Foreclosure**

FSA will not accelerate or foreclose on the property of a borrower in the armed forces during the borrower's tenure of service and for the term of their deferral, thereafter.

**Notes:** If the account has been referred to DOJ, notify DOJ that the borrower is entitled to relief under the Servicemembers Civil Relief Act of 2003 and the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 (subparagraph 281 A).

Notify DOJ once information is received that the war or national emergency is over, or if the borrower has been released from active duty.

**284-290    (Reserved)**



**Part 12 Transferring Borrower Records, Security, and Servicing Responsibilities****291 Procedures and Servicing Responsibility****A General**

When a borrower moves from 1 office jurisdiction to another, FSA will transfer loan records and servicing responsibilities. In general, the County Office for the borrower's old location should transfer borrower records when the farm headquarters is relocated to another jurisdiction.

When FSA has referred an account to DOJ or Treasury, borrower records will remain in the existing County Office location.

A County Office may not transfer a borrower's records to another County Office while FSA is considering a debt settlement application for that borrower.

**B Borrower Responsibilities**

When FSA receives notification that a borrower intends to relocate loan security, the authorized agency official must notify the borrower of his or her responsibilities arising from the move.

A borrower who moves or plans to move must:

- notify the County Office in which the security is currently located that they want to move FSA security and provide the intended new address or property location through FSA-2495
- arrange for the care and/or disposition of any loan-related security or properties that the borrower will not move
- promptly execute and provide recording and lien search fees for any new security instruments FSA may require.

For moves within a county, the borrower may apply verbally for approval to relocate security.

**291 Procedures and Servicing Responsibility (Continued)****C File Transfer and Notification Procedure**

When files or servicing responsibilities are proposed for transfer to another FSA jurisdiction within the same State, the transferring County Office must route FSA-2495, together with the borrower's case file, to SED for concurrence and processing guidance.

When the borrower proposes a move to another State, the transferring County Office must route FSA-2495 and the borrower's case file to the transferring SED. SED reviews the transfer material for relocation acceptability and route the transfer material to the receiving State's SED. In such cases, the receiving SED will then:

- contact transferring SED with any concerns or questions
- notify the transferring SED of the address of the receiving County Office
- forward the transferred material to the receiving County Office.

The transferring County Office should process the transfer by completing a "9G" transaction in DLS.

The transferring County Office:

- shall send the receiving office the original security and debt instruments along with the case file, using a carrier method that provides for protection of PII and documentation of delivery
- \*--is responsible for notifying the borrower about whether the relocation of personal property is authorized.--\*

For moves within a county, the authorized agency official may verbally notify the borrower of FSA's decision. However, the authorized agency official should always document any decision in the borrower's FBP.

If FSA does not approve the transfer, the transferring County Office will service the case according to 5-FLP, Part 3.

Transferring and receiving FSA Offices may request each other's assistance as appropriate.

For special or problem circumstances accompanying a security or records relocation, SED should seek assistance from the Regional OGC.

**291 Procedures and Servicing Responsibility (Continued)****D Receiving Office Responsibilities**

New security instruments are necessary for borrower relocations and borrower crop and  
\*--personal property relocations, unless other guidance is provided through a State supplement--\*  
or from the Regional OGC.

The receiving County Office must obtain a new UCC1 and FSA-2028 (3-FLP, Part 16) when a  
borrower moves:

- to a new farm and crops or fixtures on new real estate will serve as security
- to a new farm which is to serve as security
- \*--FSA personal property to a new County Office location.--\*

The receiving County Office must obtain a new UCC1 and FSA-2028 as soon as possible, but  
no later than 30 calendar days after the borrower's move.

If the borrower does not execute the new instruments, the County Office shall refer the case to  
SED with recommendations for appropriate action. Normally, the receiving County Office will  
notify the borrower according to 5-FLP, subparagraph 66 A and proceed to liquidation with the  
assistance of the transferring County Office. For interstate moves, the receiving County Office  
must execute and file a new UCC1 with the following text:

“The above collateral was brought into \_\_\_\_ from \_\_\_\_ County, State of \_\_\_\_, subject to a  
security interest of the Secured Party.”

The receiving County Office should see the applicable State supplement for instructions and  
guidance on lien searches.

**292-300 (Reserved)**



**Part 13 (Withdrawn--Amend. 38)**

**301 (Withdrawn--Amend. 38)**



## Reports, Forms, Abbreviations, and Redelegations of Authority

### Reports

Title	Reporting Period	Submission Date	Negative Reports	Reference
Payment Corrections From Previous Calendar Years	Annually	By February 1 each year	Required	61

### Forms

This table lists all forms referenced in this handbook.

Form Number	Title	Display Reference	Paragraph Reference
AD-1026	Highly Erodible Land Conservation and Wetland Conservation Certification		116
CCC-679	Lien Waiver		118
FSA-850	Environment Screening Worksheet		99, 199
FSA-2002	Three-Year Financial History		Ex. 20
FSA-2003	Three-Year Production History		Ex. 20
FSA-2025	Notification of Approval Terms and Conditions and Borrower Responsibilities		247-249
FSA-2026	Promissory Note		3, 247, Ex. 2, 20
FSA-2028	Security Agreement		Text, Ex. 2, 4
FSA-2029	Mortgage/Deed of Trust		3
FSA-2037	Farm Business Plan – Balance Sheet		116, Ex. 20
FSA-2038	Farm Business Plan – Income and Expenses		116, Ex. 20
FSA-2040	Agreement for the Use of Proceeds and Security		20, 162, 181, Ex. 29
FSA-2044	Assignment of Income		281
FSA-2045	Record of the Disposition of FSA Security/Release of Proceeds		146, 162, 166, 181
FSA-2061	Application for Partial Release or Consent	25.6	Text
FSA-2062	Application for Subordination to a Commercial Lender		116
FSA-2065	Annual Statement of Loan Account		64, Ex. 25.5
FSA-2071	Transmittal of Document		65
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		61
FSA-2080	Release From Personal Liability		231, 247, 251
FSA-2091	Incomplete Application Letter		8
FSA-2092	Notice of Application Withdrawal		8
FSA-2132	Real Estate Evaluation		198
FSA-2409	Request for Continuation Statement Filing Fee		99
FSA-2410	Notice of FSA's Right to File a UCC Continuation Statement		99

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

Form Number	Title	Display Reference	Paragraph Reference
FSA-2420	Intent to ACL for Failure to Provide Information or to Graduate		19.5
FSA-2421	Intent to Convert Program Loans to Non-Program		19.5
FSA-2422	Notice of Non-Program Rates and Terms		19.5
FSA-2425	Request to Cancel Undisbursed Loan Funds		61
FSA-2429	Request for Change in Application		61
FSA-2433	Satisfaction of Lien		65, 147
FSA-2445	Control Log PLAS/GLAS Account Corrections		97
FSA-2446	PLAS/GLAS Account Correction		97
FSA-2450	Temporary Amendment of Consent to Payment of Proceeds From Sale of Farm Proceeds		162
FSA-2455	Subordination by the Government		120
FSA-2465	Assignment, Acceptance, and Release (Wool and Mohair)		166
FSA-2470	Partial Release		166, 212, 146, 147, 199
FSA-2476	Transfer of Real Estate Security		247
FSA-2489	Assumption Agreement		247
FSA-2490	Deceased Borrower Report		266
FSA-2491	Denial of NP Loan Assistance		248
FSA-2495	Application to Move Security Property		291
FSA-2543	Shared Appreciation Agreement		3, 97, 267
FSA-2551	Request for Non-monetary Default Determination		100, 181
FSA-2585	Acquisition or Abandonment of Secured Property		Ex. 25.5
FSA-2722	Update to TOP and Cross-Servicing Information		282
IRS 1098	Mortgage Interest Statement		61, Ex. 25.5
IRS 1099-A	Acquisition or Abandonment of Secured Property		Ex. 25.5
IRS 1099-C	Cancellation of Debt		Ex. 25.5
IRS 1099-G	Certain Government Payments		Ex. 25.5
IRS 1099-INT	Interest Income		Ex. 25.5
IRS 1099-MISC	Miscellaneous Income		Ex. 25.5

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

Form Number	Title	Display Reference	Paragraph Reference
IRS W-9	Request for Taxpayer Identification Number and Certification		68
UCC-1	National Financing Statement		247, 291
UCC-3	National Amendment Form		146

**Abbreviations Not Listed in 1-CM**

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AI	account information	65
APCD	type of applicant code	Ex. 25.5
CB	Collections Branch	66, 67
CFS	Central Filing System	102
CL	conservation loan	Text, Ex. 2
CNC	currently not collectible	Ex. 25.5
CONACT	Consolidated Farm and Rural Development Act	1, Ex. 2
CSB	Community Servicing Branch	67
DBSA	Distressed Borrower Set-Aside	146, 283
DSA	Disaster Set-Aside	146, 283
ECM	Enterprise Content Management	61
FLB	Farm Loan Branch	Text, Ex. 51-53
LOC	Line of Credit	118
NP	nonprogram loan	Text
PAD	Pre-Authorized Debit	66, 67
PF	Payoff Balance	65
PIN	personal ID number	63
PLS	primary loan servicing	61, 98, 146, 197, 283
PML	Pay My Loan	61
PRB	Program Reports Branch	Ex. 25.5
RC	report code	Text, Ex. 25.5
RDBCSO	Rural Development Business Center Servicing Office	67, Ex. 25.3
SAA	Shared Appreciation Agreement	117, Ex. 2
SAM	System for Award Management	7
SNDA	subordination, non-disturbance, and attornment	99, 199, Ex. 25.6
ST	softwood timber loan	16, 196, 246
SW	soil and water	19
TDCLCR	Term Debt and Capital Lease Coverage Ratio	21, 32
VRU	Voice Response System	63

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

SED's may redelegate their authority to approve:

•\*--subordinations, release without monetary compensation, or releasing and refiling lien--\* instruments instead of subordination to FLC, FLS, or DD

- surface leases for farm property no longer in use (such as old barns) or for nonfarm purposes (such as wind turbines, communication towers, or other similar installations) to FLC, FLS, or DD
- severance agreement to FLC, FLS, or DD
- transfer and assumption to FLC, FLS, or DD.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b))****Abandoned Security Property**

**Abandoned security property** is security property that a borrower is not occupying, or is not in possession of, or has relinquished control of, and has not made arrangements for its care or sale.

**Acceleration**

**Acceleration** is a demand by a lender for immediate repayment of the entire balance of a debt if the security instrument or promissory note is breached. When FSA accelerates an account, the entire loan balance is due in 30 calendar days.

**Additional Security**

**Additional security** is any property which provides security in excess of the amount of security value equal to the loan amount.

**Agency**

**Agency** is FSA, an agency of USDA, including its personnel and any successor Agency.

**Agency Official**

**Agency official** is any employee with the agency. This term is used when the action does not require inherent or delegated authority.

**\*--Agreement for the Use of Proceeds**

**Agreement for the use of proceeds** is an agreement between the borrower and the Agency for each production cycle that reflects the proceeds from the sale of normal income security that will be used to pay scheduled FLP loan installments, including any past due installments, during the production cycle covered by the agreement.--\*

**Approval Official**

**Approval official** is the specific employee who has the authority to approve or deny the described action.

**Assumption**

**Assumption** is the act of agreeing to be legally responsible for another party's indebtedness.

**Authorized Agency Official**

**Authorized agency official** is an employee who has either inherent or delegated authority to complete the described action.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****Basic Security**

**Basic security** is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency.

**Borrower (or Debtor)**

**Borrower (or debtor)** is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term “borrower” includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

\* \* \*

**Civil Action**

**Civil action** is a court proceeding to protect the Agency’s financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt’s assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

**Collateral**

**Collateral** is property pledged as security for a loan to ensure repayment of an obligation.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****CONACT or CONACT Property**

CONACT or CONACT property is property that secures a loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 USC 1921 et seq.).

\* \* \*

**Cooperative**

Cooperative is an entity that has farming as its purpose, whose members have agreed to share the profits of the farming enterprise, and is recognized as a farm cooperative by the laws of the state in which the entity will operate a farm.

**Corporation**

Corporation is a private domestic corporation created and organized under the laws of the state in which it will operate a farm.

**Debt Settlement**

Debt settlement is a compromise, adjustment, or cancellation of an Agency debt.

**Debt Service Margin**

Debt service margin is the difference between all of the borrower's expected expenditures in a planning period (including farm operating expenses, capital expenses, essential family living expenses, and debt payments) and the borrower's projected funds available to pay all expenses and payments.

\* \* \*

**Deed**

Deed is a signed instrument legally transferring real estate to another.

**Default**

Default is the failure of a borrower to observe any agreement with the Agency, or the lender in the case of a guaranteed loan, as contained in promissory notes, security instruments, and similar or related instruments.

**Delinquent Borrower**

Delinquent borrower, for loan servicing purposes, is a borrower who has failed to make all scheduled payments by the due date.

## Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Direct Loan**

**Direct loan** is a loan funded and serviced by the Agency as the lender.

**Embedded Entity**

**Embedded Entity** means entity that has a direct or indirect interest, as a stockholder, member, beneficiary or otherwise, in an entity.

**Entity**

An **entity** means a corporation, partnership, joint operation, cooperative, limited liability company or trust.

**Exception:** For Parts 8 and 9, an **entity** is defined as a husband and wife, partnership, corporation, or any other arrangement in which more than 1 person is party to the debt.

**Entity Member**

An **entity member** means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

**Essential Family Living and Farm Operating Expenses**

**\*--Essential family living and farm operating expenses** means those expenses that:

**(i) Are those that are basic, crucial, and indispensable.**

**(ii) Are determined by the Agency based on the following considerations:**

**(A) The specific borrower's operation;**

**(B) What is typical for that type of operation in the area; and**

**(C) What is an efficient method of production considering the borrower's resources.**

**(iii) Include, but are not limited to, essential: Household operating expenses; food,--\* including lunches; clothing and personal care; health and medical expenses, including medical insurance; house repair and sanitation; school and religious expenses; transportation; hired labor; machinery repair; farm building and fence repair; interest on loans and credit or purchase agreement; rent on equipment, land, and buildings; feed for animals; seed, fertilizer, pesticides, herbicides, spray materials, and other necessary farm supplies; livestock expenses, including medical supplies, artificial insemination, and veterinarian bills; machinery hire; fuel and oil; taxes; water charges; personal, property, and crop insurance; auto and truck expenses; and utility payments.**

## Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Family Living Expenses**

**Family living expenses** are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

**Family Members**

**Family members** are the immediate members of the family residing in the same household with the borrower, or, in the case of an entity, with the operator.

**Farm**

**Farm** is a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term "farm" also includes the term "ranch." It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

**\*--Financially Distressed Borrower**

**Financially distressed borrower** is a borrower unable to develop a feasible plan for the current or next production cycle.--\*

**FLP's**

**Farm Loan Programs** are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

**Foreclosed**

**Foreclosed** is the completed act of selling security either under the power of sale in the security instrument or through judicial proceedings.

**Good Faith**

**Good faith** is when an applicant or borrower provides current, complete, and truthful information when applying for assistance and in all past dealings with the Agency, and adheres to all written agreements with the Agency including, loan agreement, security instruments, farm operating plans, and agreements for use of proceeds. If the borrower's inability to adhere to all agreements is due to circumstances beyond the borrower's control, the Agency will consider the borrower to have acted in good faith. In addition, the Agency may also consider fraud, waste, or conversion actions when determining if an applicant or borrower has acted in good faith. Such determinations that are substantiated by a legal opinion from OGC constitute an independent basis for determinations of not having acted in good faith.

**Note:** A lack of good faith determination must be made for each decision. See 3-FLP subparagraph 65 A.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****Graduation**

**Graduation** means the payment in full of all direct FLP loans, except for CLs, made for operating, real estate, or both purposes by refinancing with other credit sources either with or without an Agency guarantee.

**Guaranteed Loan**

**Guaranteed loan** is a loan made and serviced by a lender for which the Agency has entered into a Lender's Agreement and for which the Agency has issued a Loan Guarantee. This term also includes guaranteed lines of credit except where otherwise indicated.

**Hazard Insurance**

**Hazard insurance** is insurance covering fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workers compensation, or any similar insurance that is available and needed to protect the Agency security or that is required by law.

**Initial Loan**

**Initial loan** is the first loan of its type processed by FSA. A borrower having one OL and one FO has 2 initial loans, because they are different loan types.

**Joint Operation**

**Joint operation** is an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

**Junior Lien**

A **junior lien** is a lien that is subordinate to a prior lien on the same item of security.

**Lien**

**Lien** is a legally enforceable claim against real or chattel property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.

**Limited Resource Interest Rate**

**Limited resource interest rate** is an interest rate normally below the Agency's regular interest rate, which is available to applicants unable to develop a feasible plan at regular rates and are requesting:

\*--(i) FO or OL loan assistance under part 764 of this title; or

(ii) Primary loan servicing on an FO, OL, or SW loan under part 766 of this title.--\*

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****Liquidation**

**Liquidation** is the act of selling security for recovery of amounts owed to the Agency or lender.

Liquidation occurs when no further assistance will be given and includes instituting civil suit against a borrower to recover security or Economic Opportunity property or against third parties to recover security or its value or to recover amounts owed to FSA; filing claims in bankruptcy or similar proceedings or in probate or administrative proceedings.

**Loan Costs**

**Loan costs** are administrative costs and/or protective advances that have been charged back to a borrower's account according to the promissory note, other security instrument, or FSA regulation.

**Note:** Most loan costs are tied to specific loans; however, PLAS will only "Add on" this cost if the loan fund code is that of farm ownership or soil and water. If the loan fund code is for operating, emergency, or other loan types, the cost item is established under a separate loan number with the same fund code as the original loan. This loan numbering system generally starts with loan 99 and works backwards (98, 97, 96) with each loan cost paid. The interest rate of the loan cost will be the same as the original loan; however, the loan account is immediately due and payable and will reflect a final year of the loan the same as the year the cost was paid.

**Loan Agreement**

**Loan Agreement** is a contract between the borrower and the lender that contains certain lender and borrower agreements, conditions, limitations, and responsibilities for credit extension and acceptance.

**Loan Servicing Programs**

**\*--Loan servicing programs include any primary loan servicing program, conservation--\***  
**contract, current market value buyout, and homestead protection.**

**Market Value**

**Market value** is the amount that an informed and willing buyer would pay an informed and willing, but not forced, seller in a completely voluntary sale.

**Mortgage**

**Mortgage** is a legal instrument giving the lender a security interest or lien on real or personal property of any kind. The term "mortgage" also includes the terms "deed of trust" and "security agreement."

## Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Net Recovery Value of Agency Security**

**Net recovery value of Agency security** is the market value of the security property, assuming that the lender in the case of a guaranteed loan, or the Agency in the case of a direct loan, will acquire the property and sell it for its highest and best use, less the lender's or the Agency's costs of property acquisition, retention, maintenance, and liquidation.

**Net Recovery Value of Non-Essential Assets**

**Net recovery value of non-essential assets** is the appraised market value of the non-essential assets less any prior liens and any selling costs that may include such items as taxes due, commissions, and advertising costs. However, no deduction is made for maintenance of the property while in inventory.

**Non-Capitalized Interest**

**Non-capitalized interest** is accrued interest on a loan that was not reclassified as principal at the time of restructuring. Between October 10, 1988, and November 27, 1990, the Agency did not capitalize interest that was less than 90 days past due when restructuring a direct loan.

**Non-Essential Assets**

\*--**Non-essential assets** mean assets in which the borrower has an ownership interest, that:

**(i) Do not contribute to:**

**(A) Income to pay essential family living expenses, or**

**(B) The farming operation; and**

**(ii) Are not exempt from judgment creditors or in a bankruptcy action.**

For direct loans, working capital reserves and savings that do not exceed the greater of \$30,000 or 20 percent of planned typical year farm operating expenses (not including interest or depreciation) are considered essential. Working capital reserves and savings in excess of these amounts are considered non-essential assets unless a written exception is provided by SED, FLC, FLS, or DD. Additionally, essential assets include funds in IRS recognized retirement accounts or qualified tuition programs held by the applicant, borrower, or entity members in the case of an entity. As well, funds held by the applicant, borrower, or entity members in the case of an entity, which are accumulated for specific farm related capital purchases, farm operating expenses, and family living expenses, to be realized in the next operating cycle, are considered essential assets.--\*

**Non-Monetary Default**

**Non-monetary default** means a situation where a borrower is not in compliance with the covenants or requirements of the loan documents, program requirements, or loan.

**Note:** Filing for bankruptcy and failing to complete the required borrower training are not considered non-monetary defaults. See 3-FLP, subparagraph 474 C.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****Nonprogram Loan**

**Non-program loan** is a loan on terms more stringent than terms for a program loan that is an extension of credit for the convenience of the Agency, because the applicant does not qualify for program assistance or the property to be financed is not suited for program purposes. Such loans are made or continued only when it is in the best interest of the Agency.

**Normal Income Security**

**Normal income security** is all security not considered basic security, including crops, livestock, poultry products, other property covered by Agency liens that is sold in conjunction with the operation of a farm or other business, and FSA Farm Program payments.

Normal income security does not include any equipment (including fixtures in States that have adopted UCC) or foundation herd or flock that is the basis of the farming operation and is the basic security for an FSA loan.

**Note**

A note is written evidence of indebtedness, such as a bond or FSA-2026.

**Operator**

**Operator** is the individual or entity that provides the labor, management, and capital to operate the farm. The operator can be either an owner-operator or tenant-operator. Under applicable State law, an entity may have to receive authorization from the State in which the farm is located to be the owner and/or operator of the farm. Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

**Note:** Operators include borrowers who obtained individual loans and later formed an operating entity with a relative. If the member with the individual loan owns at least 50 percent of the operating entity, the individual meets the definition of operator for loan servicing purposes.

**Example:** An individual obtains an FO and later forms an operating-only entity with a relative and obtains an OL for the same operation. The individual then needs servicing for the individual FO. In these cases, if the individual owns at least 50 percent of the operating entity, the definition of operation is met.

Borrowers who obtained individual loans and later formed an operating-only entity with a non-relative must have the entity assume the debt to be eligible for loan servicing, as provided in 4-FLP, subparagraph 248 C. However, transfer of the collateral to the entity is not required.

In either of these circumstances the operating entity must have their own unique tax ID number.

## Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

**Partnership**

**Partnership** is any entity consisting of two or more individuals who have agreed to operate a farm as one business unit. The entity must be recognized as a partnership by the laws of the State in which the partnership will operate a farm. It also must be authorized to own both real and personal property and to incur debt in its own name.

**\*--Personal Property**

**Personal property** is property that may consist of but is not limited to, crops, livestock, aquaculture species, farm equipment, inventory, accounts, contract rights, general intangibles, and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments. It is property that is not real estate, and the term is generally used to replace references to the term "chattel".

**Primary Loan Servicing Programs****Primary loan servicing programs means:**

- (i) **Loan consolidation and rescheduling, or reamortization;**
- (ii) **Interest rate reduction, including use of the limited resource rate program;**
- (iii) **Deferral;**
- (iv) **Write-down of the principal or accumulated interest; or**
- (v) **Any combination of paragraphs (i) through (iv).--\***

**Prior Lien**

A **prior lien** is a lien that is recorded in front of, or is otherwise superior to, an FSA lien on the same security. The individual or entity that has filed this lien is the prior lienholder.

**Prospectus**

**Prospectus** consists of a transmittal letter, a current balance sheet, and projected year's budget which is sent to commercial lenders to determine their interest in financing or refinancing specific FSA direct loan applicants and borrowers.

**Protective Advance**

A **protective advance** is an advance made by the Agency or a lender to protect or preserve the collateral itself from loss or deterioration. A protective advance may be used for purposes, including but not limited to the following:

- delinquent taxes
- annual assessments
- ground rents
- hazard or flood insurance premiums against or affecting the collateral
- harvesting costs
- other expenses needed for emergency measures to protect the collateral.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)****\*--Related By Blood or Marriage**

**Related by blood or marriage** is being connected to one another as husband, wife, parent, child, brother, sister, uncle, aunt, grandparent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, nephew, niece, cousin, grandson, granddaughter, or the spouses of any of those individuals. “Related by blood or marriage” is used for consistency with a requirement in the CONACT. It has the same meaning as the word “relative” for the Farm Loan Programs regulations in this Chapter.--\*

**Relative**

**\*--Relative** means the spouse and anyone having one of the following relationships to an applicant or borrower: parent, son, daughter, sibling, stepparent, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, cousin, grandparent, grandson, granddaughter, or the spouses of any of those individuals. Relative has the same meaning as the term “related by blood or marriage” for the Farm Loan Programs regulations in this Chapter.--\*

**Security**

**Security** is property or right of any kind that is subject to a real or personal property lien. Any reference to “collateral” or “security property” will be considered a reference to the term “security.”

**Security Instrument**

**Security instrument** includes any document given the Agency a security interest on real or personal property.

**Shared Appreciation Agreement**

**Shared Appreciation Agreement** is an agreement between the Agency, or a lender in the case of a guaranteed loan, and a borrower on the appropriate Agency form that requires the borrower who has received a write-down on a direct or guaranteed loan to repay the Agency or the lender some or all of the write-down received, based on a percentage of any increase in the value of the real estate securing an SAA at a future date.

**Subordination**

**Subordination** is a creditor’s temporary relinquishment of all or a portion of its lien priority to another party providing the other party with a priority lien on the collateral.

**Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**

**Subsequent Loan**

**A subsequent loan is any FLP loan processed by the Agency after an initial loan of the same type has been made to the same borrower.**

**Transfer and Assumption**

**Transfer and assumption is the conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of a loan in return for the assuming party's binding promise to pay the debt outstanding or the market value of the collateral.**

**Trust**

**Trust is an entity that under applicable state law meets the criteria of being a trust of any kind but does not meet the criteria of being a farm cooperative, private domestic corporation, partnership, or joint operation.**

**\*--Unauthorized Disposition Of Personal Property Security**

**Unauthorized disposition of personal property security is the sale of personal property security--\* not authorized by FSA before the sale.**

**VRU**

**VRU is a secure automated system that requires a PIN number, and guides borrowers in obtaining the status of their loans at any time. If further loan information is needed, such as a payoff amount, borrowers are directed to call the FSA office.**

## **State Supplements**

The following table lists required State supplements.

<b>Subparagraph</b>	<b>Required State Supplement</b>
***	
***	
***	
65 F	Loan security instruments releases.
98 C	Obtaining new FSA-2028's.
98 E	Continuing financing statements.
*--98 G	Obtaining assignments.
98 H	Real Estate Security Instruments--*
***	
101 A	Payment of a borrower's real estate taxes.
102 B	Potential purchaser notification.
117 B	Releasing and refiling lien instruments.
118 A	Multi-year subordinations.
120 A	Real estate subordinations.
136 C	Severance agreements.
250 A	Closing documents for transfer and assumptions.
266 C	Guidance for deceased borrower processing.
282 D	Establishment of power of attorney.
291 D	Transfer of borrower's records and lien searches.

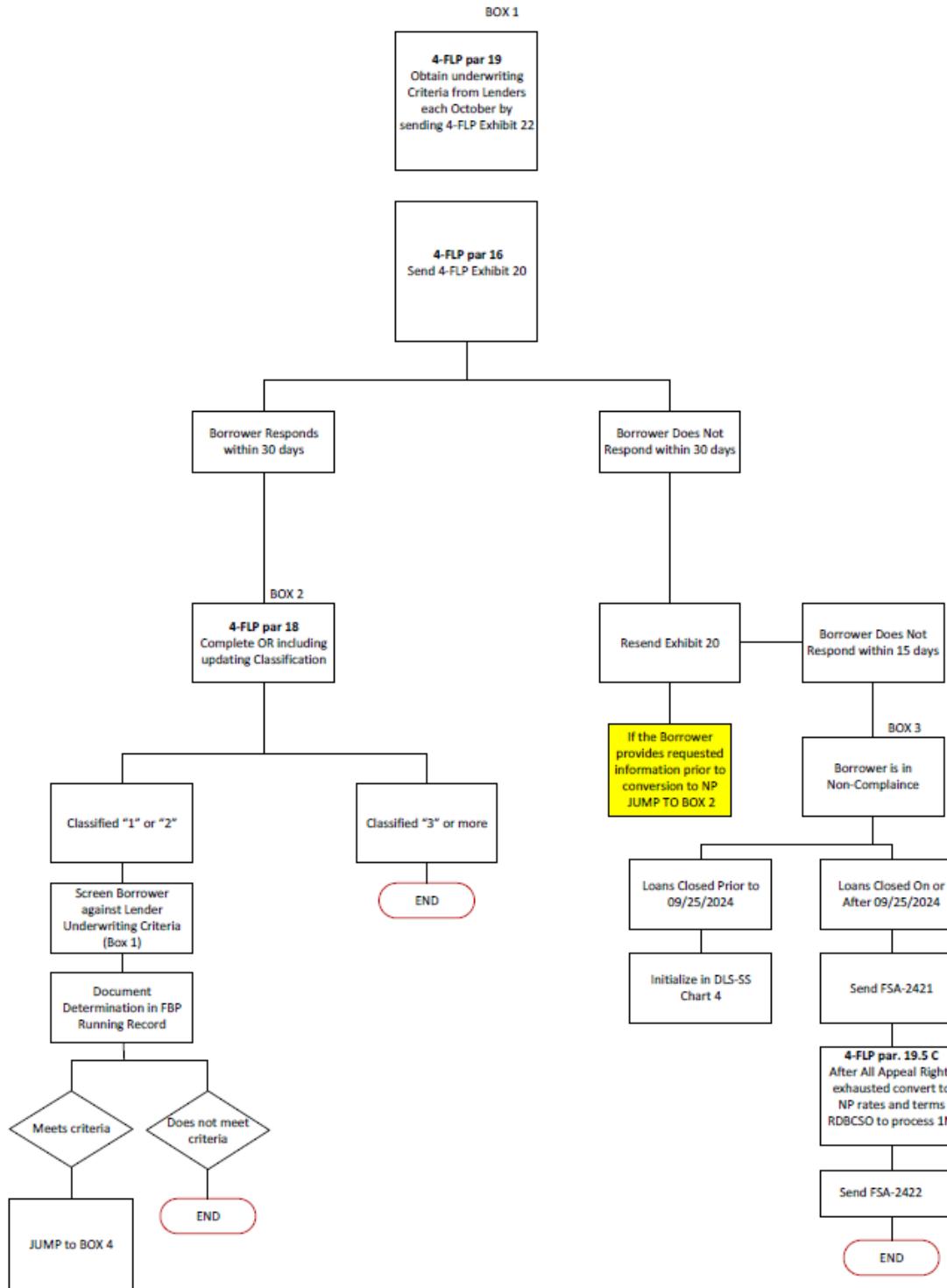
**Note:** SED's shall:

- issue State supplements according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

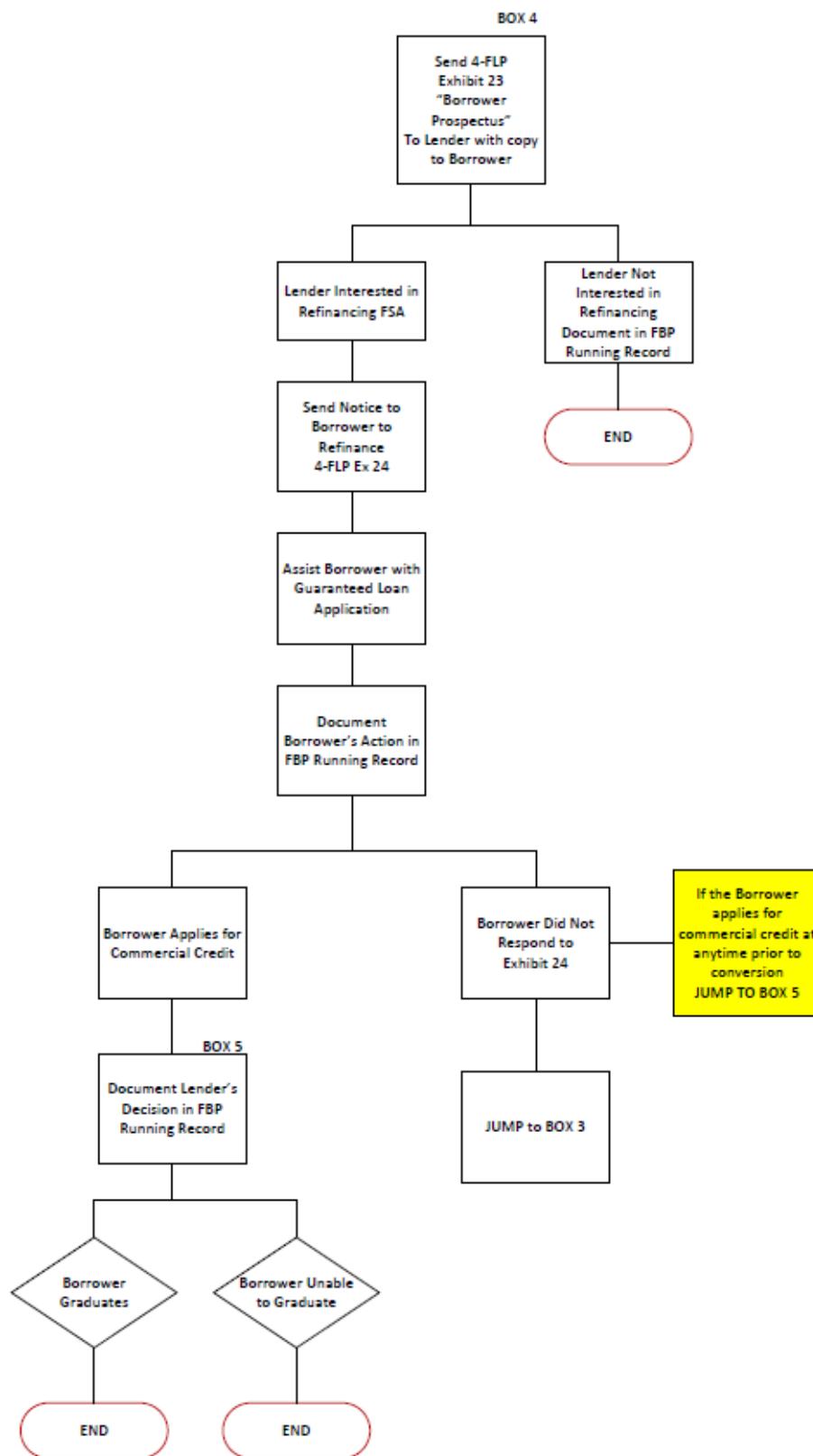


## Graduation Review Flowchart

Follow the flow chart to determine the appropriate steps for graduation review of a borrower.



**Graduation Review Flowchart (Continued)**



## **Request for Operational Review Information**

The following is a sample letter the authorized agency official should use to **request--\* information from borrower**. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number” ENTER “4-FLP Exhibit 20”.

**\*--**

**4-FLP, Exhibit 20  
(08-21-25)**

(Use Agency Letterhead format with local return address)

### **REQUEST FOR OPERATIONAL REVIEW INFORMATION**

Dear:

At the time you obtained your loan from the Farm Service Agency (FSA), you were unable to get the credit you needed from conventional lenders. The objective of the FSA credit program is to provide you with temporary credit assistance. Once you become financially able to obtain credit from conventional lenders, you are required to refinance and pay off your FSA loan (also called “Graduation”).

Agency policy requires that we complete an operational review to determine your financial status and the progress you are making at least every three years. As you progress financially, you may become eligible for release of FSA security. More frequent reviews are required when you obtain a subsequent FSA loan or subordination, become financially distressed or delinquent, or have loans with deferred payments. In order to complete an accurate review, we ask you to provide the following information to our office.

- 1) Actual financial performance for the past year (a copy of your last year's tax return or last year's income and expense records is acceptable).
- 2) Current balance sheet,
- 3) Projected income/expense for next year (a copy of your current year's is also acceptable)
- 4) Annual crop and livestock production yields
- 5) Review and update, if needed, of assessment (copy attached). Please pencil in comments or changes.

Enclosed are forms you can use to provide us with the requested information, or you can provide us with copies of the actual records as indicated above. Please provide this information to our office by

(1<sup>st</sup> mailing) [insert date 30 calendar days from the letter].

(2<sup>nd</sup> mailing) [insert date 15 calendar days from the letter].

If you have made sufficient progress, the information or other information in your case file may be provided to lenders to determine if they can refinance your Farm Loan Programs debt.

(Insert the following paragraph only into 2<sup>nd</sup> mailing:)

Failure to submit the required documents is a violation of your loan agreement. You do not want to violate your loan agreement since this can impact any future request for Farm Loan Programs assistance. In addition, (please select one of the following):

FSA may send you FSA-2420 “Intent to Accelerate for Failure to Provide Information or to Graduate.”

FSA may send you FSA-2421 “Intent to Convert Program Loans to Non-Program”.

If you have questions, or need help putting the information together, please contact our office.

Sincerely,

(Name)  
(Title)



**Lender Agricultural Loan Underwriting Standards**

Each October, the authorized agency official shall contact local lenders to obtain their underwriting criteria for making agricultural loans. Information gathered from these contacts will be summarized \*--on the following. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number” ENTER “4-FLP Exhibit 22”.--\*

**Lender Agricultural Loan Underwriting Standards**

<b>Short-Term Credit</b>					
	<b>Lender</b>	<b>Lender</b>	<b>Lender</b>	<b>Lender</b>	<b>Applicant</b>
Date Completed					
Name					
Lending Limit					N/A
Minimum Loan Size					N/A
Percent Equity					
Percent Repayment Margin					
Types of Security Required					
Maximum Loan to Security Value					N/A
Maximum Term of Loan					N/A

<b>Intermediate-Term Credit</b>					
	<b>Lender</b>	<b>Lender</b>	<b>Lender</b>	<b>Lender</b>	<b>Applicant</b>
Date Completed					
Name					
Lending Limit					N/A
Minimum Loan Size					N/A
Percent Equity					
Percent Repayment Margin					
Types of Security Required					
Maximum Loan to Security Value					N/A
Maximum Term of Loan					N/A

<b>Long-Term Credit</b>					
	<b>Lender</b>	<b>Lender</b>	<b>Lender</b>	<b>Lender</b>	<b>Applicant</b>
Date Completed					
Name					
Lending Limit					N/A
Minimum Loan Size					N/A
Percent Equity					
Percent Repayment Margin					
Types of Security Required					
Maximum Loan to Security Value					N/A
Maximum Term of Loan					N/A



**Borrower Prospectus**

If any lenders are interested in refinancing FSA loans, the authorized agency official will send the lender a letter similar to the following, providing financial summary information on the borrower. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number” ENTER “4-FLP Exhibit 23”.

\*--

**4-FLP, Exhibit 23  
(09-05-25)**

(Use Agency Letterhead format with local return address.)

**BORROWER PROSPECTUS**

Dear:

FSA is required to determine if direct loan applicants can obtain commercial credit with an FSA loan guarantee. Also, FSA direct loan borrowers must be referred to commercial lenders for guaranteed or nonguaranteed financing when they appear to meet the lending criteria of a cross-section of local lenders.

Your institution is among those that asked to receive prospectus information on all such FSA applicants and borrowers. Therefore, we have attached financial summary information on the following borrower for your review and consideration:

Name	Eligible for FSA Loan Guarantee	Total Amount Existing FSA Term Loan(s)	Estimated Loan Needed
YES	NO		

We would like to know whether we may refer this borrower to you for further consideration, and have enclosed a stamped, self-addressed envelope. Should more than one lender extend a firm offer to provide credit, the borrower will choose the lender.

FSA loan guarantees of up to 95 percent are available to qualified applicants and borrowers. FSA may guarantee up to \$ \_\_\_\_\_ in some circumstances. Guaranteed loan fees (1.5%) are waived for loans to beginning farmers involved in the direct down payment loan program, and for loans to beginning farmers participating in a qualified State Beginning Farmer Program, and in cases where at least a majority of the guaranteed loan funds are used to refinance an Agency direct.

This borrower qualifies for a Market Placement application. In such cases, FSA will make the feasibility determination and present the lender with the completed initial application package for review.

Please return this letter within 10 days with your referral determination indicated. We are always available to answer questions you may have.

Sincerely,

Lender Use:

Refer  
 Do Not Refer

Name  
Title  
Attachments

--\*

**Borrower Prospectus (Continued)**

\*--

**4-FLP, Exhibit 23 (09-05-25)**

***Non-Discrimination Statement:*** In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oasrc/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

--\*

**\*--Notice to Borrower to Refinance FSA Indebtedness**

If any lenders are interested in refinancing FSA loans, the authorized agency official will send the borrower a letter, similar to the following, listing lenders that are interested in refinancing the borrower's FSA loans. Go to <https://inside.fsa.usda.gov/>. CLICK "Employee Forms" at the top of the page and CLICK "Find Current Forms Using Our Form Number Search". For "Form Number" ENTER "4-FLP Exhibit 24".

**4-FLP, Exhibit 24**

(Use Agency Letterhead format with local return address.)

**LETTER TO NOTIFY BORROWERS TO REFINANCE THEIR FSA INDEBTEDNESS**

Dear:

The financial progress you have made since receiving your Farm Service Agency (FSA) loan(s) has been reviewed. You should take pride in the progress you have made. We share that pride with you and are pleased that we may have been of service.

Your FSA loan and security instruments require you to refinance the unpaid balance of your loan(s), when you have progressed to the extent that you can obtain credit from responsible cooperative or commercial lenders.

Lenders have been contacted to determine their requirements and the availability of credit to new customers. We have evaluated your financial progress, together with the lender requirements, and find that you should now be able to secure satisfactory credit to pay your FSA loan(s). Therefore, we request that you refinance your [Enter type of loan, FO, OL, etc] loan(s) in full.

This approximate balance is \$ \_\_\_\_.

We suggest you contact the following lenders within 30 days. You may contact other lenders if they offer credit for the type of loan(s) being considered for refinancing. [Enter lenders that have indicated they would consider the credit]

If you are unable to graduate your loan(s) in full, you will need to provide this office within \_\_\_\_ days with written evidence showing that you made an earnest effort to seek other credit. Such evidence should include:

- The name(s) of other lender(s) contacted
- The amount of loan requested by you and the amount, if any offered by the lender(s)
- The rates and terms offered by the lender(s) or the specific reason(s) why other credit is not available, and
- The purpose of the loan request.

If you wish, an appointment will be arranged to discuss questions you may have. Our telephone number is \_\_\_\_.

Sincerely,

[Authorized Agency Official's Title]

--\*

**\*--Notice to Borrower to Refinance FSA Indebtedness (Continued)**

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.*

*Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.*

*To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider, employer, and lender.*

--\*

**Addendum to the Promissory Note or Assumption Agreement Converting to Non-Program Rates and Terms**

If a loan is converted to NP rates and terms for failure to graduate, this addendum will be completed and attached to the original debt instrument.

Exhibit 24.5 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 24.5”.

4-FLP, Exhibit 24.5 (09-25-24)															
<p><b>ADDENDUM TO THE PROMISSORY NOTE OR ASSUMPTION AGREEMENT CONVERTING TO NON-PROGRAM RATES AND TERMS</b></p> <p>(only for Notes or Agreements signed before August 19, 2024)</p> <p>THIS ADDENDUM TO PROMISSORY NOTE or ASSUMPTION AGREEMENT (“Addendum”) is hereby made a part of the Promissory Note or Assumption Agreement, including all renewals, extensions, modifications and substitutions thereof, (“Note”) Fund Code _____ Loan Number _____ dated _____, from _____ (“Borrower”) payable to the order of the United States of America acting through the Farm Service Agency, United States Department of Agriculture (“Government”), or its assigns in the principal amount of _____ dollars \$ _____.</p> <p>Due to the Borrower(s) failure to comply with the graduation requirements of the Government, the Borrower(s) request that the Government convert the Note to Non-Program (NP) rate and terms, and the Government’s determination that conversion is in the best interest of the Government, this addendum amends the above-described Note to set forth the terms and conditions for conversion of the Note to NP rates and terms.</p> <p>Interest on the unpaid principal balance of _____ dollars \$ _____, shall now be charged at the NP RATE of _____ percent _____ % per annum from the date of this Addendum.</p> <p>Principal and interest shall be paid in _____ equal installment amounts of \$ _____ due on or before the original due dates described in the Note until the principal and interest are fully paid. The maturity date is; _____ (date).</p> <p>This Addendum does not modify any other conditions or terms of the Note except to the extent the same may be inconsistent with the amendments contained herein.</p> <p>The undersigned borrower and any cosigners hereby agree to pay the installments, as set forth on the Note as amended.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 33%;">Borrower Name</td> <td style="width: 33%;">Signature</td> <td style="width: 33%;">Date (MM/DD/YYYY)</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	Borrower Name	Signature	Date (MM/DD/YYYY)												
Borrower Name	Signature	Date (MM/DD/YYYY)													



**Notice of Change in Interest Rate**

The following is an example letter the authorized agency official may use to notify a borrower of any decision to change an interest rate. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number” ENTER “4-FLP Exhibit 25”.

\*--

<p><b>4-FLP, Exhibit 25 (09-05-25)</b></p> <p>(Use Agency Letterhead format with local return address.)</p> <p style="text-align: right;">[Date]</p> <p>[Borrower's Name] [Borrower Address] [City, State, Zip Code]</p>
<p><b>NOTICE OF CHANGE IN LIMITED RESOURCE INTEREST RATE</b></p> <p>Dear:</p> <p>Your promissory note dated _____ for the original amount of _____ dollars (\$ _____) provides for a change in interest rate for a limited resource loan in accordance with the Farm Service Agency regulations.</p> <p>Effective _____, the interest rate on this loan will change to _____ percent (_____ %) on the unpaid principal balance. This rate change will affect your payment amount. The next installment due _____, 20_____, and all future installments will be \$ _____. (Important Note: This rate is an estimate. This is the interest rate in effect today. If FSA experiences a rate change between the effective date above and the date of this letter, you will receive another notice of the subsequent rate and payment change).</p> <p>You have the right to appeal the decision to change your interest rate. Those options are described below. Please read them carefully, as this is your only opportunity to appeal this decision. Please note, that should you decide to appeal, the interest rate will not change until those proceedings are concluded.</p> <p>This change in interest rate is for the reason indicated below.</p> <p><input type="checkbox"/> Increase in repayment ability as shown on Farm Business Plan dated _____ and according to 7 CFR 765.51 (b). A copy of the Farm Business Plan is attached.</p> <p><input type="checkbox"/> You have defaulted on your loan agreements by _____ (Enter other reason for increase in interest rate. i.e., you failed to keep the agreements made when the deferral was granted, you purchased items not planned for during the term of the loan, refused to submit information requested, ceased farming, borrower request). The increase in interest rate is authorized by 7 CFR 765.51(c).</p> <p><input type="checkbox"/> You requested this change in writing on _____. Because this is a voluntary action supported by the Farm Business Plan dated _____ and because your new interest rate is lower than or equal to the limited resource rate, this is not an adverse decision by FSA.</p>

**Notice of Change in Interest Rate (Continued)**

\*--

**4-FLP, Exhibit 25  
(09-05-25)**

(Insert the following only if an FSA adverse decision is being made by checking either of the first two checkboxes.  
Do not include the following if the borrower voluntarily requested the interest rate change)

If you believe that this decision is erroneous, you have the following options.

**Reconsideration**

You may request that I reconsider this determination by filing a written request no later than 30 calendar days after you receive this notice in accordance with FSA appeal procedures found at 7 CFR Part 780. If you request reconsideration, you have the right to an informal hearing which you or your representative may attend either personally or by telephone. If you choose to seek reconsideration, you may later appeal the determination to the National Appeals Division. To request reconsideration, write to me at the following address and explain why you believe this determination is erroneous.

**(Insert applicable address)**

**Mediation**

Mediation is available as part of FSA's informal appeal process. Mediation may enable us to narrow the issues and resolve the matter by mutual agreement. You may have to pay all or part of the cost of mediation. If you request mediation, the running of the time frame in which you may file an appeal stops. When mediation closes, the clock restarts, and you will have the balance of the days remaining in that period to file an appeal. To request mediation, you must submit your written request no later than 30 calendar days after you receive this notice. To request mediation, write to the FSA State Executive Director at the following address:

**(Insert SED address or Mediation Program address, as applicable.)**

Appeal to the Department of Agriculture National Appeal Division (NAD)

You may appeal this determination to NAD by filing a written request no later than 30 calendar days after you receive this notice in accordance with the NAD Appeal procedures found at 7 CFR Part 11. If you appeal to NAD, you have the right to a hearing which you or your representative may attend. Once a hearing with NAD begins, you waive any rights you might have to reconsideration, appeal to FSA, and mediation. To appeal, you must write to NAD at the following address, or to the NAD website at [www.nad.usda.gov](http://www.nad.usda.gov), explain why you believe this determination is erroneous, and provide a copy to FSA. You must personally sign your written appeal to NAD and include a copy of this letter.

**(Insert applicable NAD address)**

If you do not timely exercise one of the preceding options, this shall be the final administrative determination with respect to this matter in accordance with the regulations at 7 CFR Part 780 and 7 CFR Part 11.

If you have questions, please contact this office at (insert telephone number and email address)

Sincerely,

Name  
Title

--\*

**Notice of Change in Interest Rate (Continued)**

\*--

**4-FLP, Exhibit 25  
(09-05-25)**

***Non-Discrimination Statement:*** In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

--\*



**\*--Example of Loan Payment Reminder – Annual Installment Due Letter**

The following is an example of a payment reminder letter sent to a borrower 60 calendar days before their installment due date.

**Note:** RDBCSO is responsible for mailing Exhibit 25.3 to all borrowers nationwide and will provide copies of mailed letters to the local FSA office.

**USDA**

United States  
Department of  
Agriculture

Farm Production  
and Conservation  
Business Center  
(FPAC)

Farm Service  
Agency

10/30/24

**REMINDER OF PAYMENT(S) TO BE MADE**

According to the Farm Service Agency (FSA) records, you agreed to make annual payments on your farm loans. This is a reminder of loan(s) with installments due in 60 days. If you have loans with other due dates you will be notified by another letter as they become due. "This reminder does not include any cost items which are immediately due and payable."

Make checks and money orders payable to: FARM SERVICE AGENCY  
Continue to submit your payments through your local servicing office.

If the amount due has been submitted through payment or assignment, please disregard this notice. You may call 1-888-518-4983 to check the current status of your account. If you have questions, please contact your local FSA farm loan official.

LOAN NBR	LOAN DATE	LOAN AMOUNT	INSTALLMENT DATE	INSTALLMENT AMOUNT	AMOUNT DUE
[REDACTED]					

--\*



## IRS Forms, Corrections, and Reports

### A IRS Forms

County Offices receive reports for the year ending December 31 of FLP borrowers reported on IRS 1099-A, IRS 1099-C, IRS 1099-G, and copies of IRS 1099-INT and IRS 1099-MISC with the form mailed to the borrower, as applicable.

**Note:** The RD Business Center, PRB reports this information to IRS and the borrower.

\*--State Offices may contact PRB regarding issues with documents by email at [RD.SO.PRB@usda.gov](mailto:RD.SO.PRB@usda.gov)--\*

The following forms are mailed out by **COB January 31** of each year.

IRS Form	Explanation
1098	<p>IRS 1098:</p> <ul style="list-style-type: none"><li>• is attached to FSA-2065 for the annual yearend reporting</li><li>• applies only to loans secured by real estate only or secured by real estate and personal property.</li></ul>
1099-A	<p>IRS 1099-A is sent to IRS and the affected FLP borrowers:</p> <ul style="list-style-type: none"><li>• whose security property was acquired as a full or partial satisfaction of their debt during the calendar year</li><li>• reported on FSA-2585 during the calendar year.</li></ul> <p><b>Note:</b> Use FSA-2585 as a substitute for IRS 1099-A when State and County Offices become aware of an abandonment and the acquisition <b>will not</b> be processed within 6 months. The borrower receives 1 copy and the RD Business Center, PRB receives the other copy through e-mail at <a href="mailto:RD-MOSTL-NFAOC-PRB@stl.usda.gov">RD-MOSTL-NFAOC-PRB@stl.usda.gov</a> no later than the <b>first workday in January</b>. Contact information is available in 1-FLP, subparagraph 5 E. The information on the RD Business Center, PRB copy is data converted and merged with the IRS 1099-A acquisition data reported to IRS. It is <b>critical</b> that all spaces on FSA-2585 be completed.</p> <p>County Offices receive RC 960 that identifies each borrower, the unpaid principal, and market value of the acquired or abandoned property reported to IRS and the borrower.</p>

**IRS Forms, Corrections, and Reports (Continued)**

**A IRS Forms (Continued)**

IRS Form	Explanation
1099-C	<p>IRS 1099-C is provided to each borrower with a direct loan that had debt discharged through a writeoff, shared appreciation write-down, * * * or writeoff of a lease account during the calendar year. Writeoffs processed with a class of writeoff code “5”, which are CNC (borrower is <b>not</b> released from liability), and equity receivable <b>writeoffs</b> are <b>not</b> reported to IRS. The total amount of debt canceled with an effective date in the calendar year will be reported on IRS 1099-C. The amount includes the following:</p> <ul style="list-style-type: none"> <li>• deferred interest</li> <li>• deferred noncapitalized interest</li> <li>• interest discharged from the note and advance</li> <li>• noncapitalized interest</li> <li>• principal discharged from the note and advance.</li> </ul> <p>County Offices receive RC 970 that identifies each borrower and the amount of discharged debt reported to IRS and the borrower.</p>
1099-G	<p>IRS 1099-G will be provided to <b>all</b> recipients of grant funds during the calendar year. Grant disbursements with current year check dates will be reported.</p> <p>IRS 1099-G generated with invalid addresses will be mailed to the appropriate State Office to distribute immediately to the grant recipients. Servicing offices will receive RC 980 that identifies each grant recipient and the disbursed amount reported to IRS and the borrower.</p>
1099-INT	<p>IRS 1099-INT is provided to IRS for direct loan borrowers who received interest income (interest paid) on refunds made under the Internal Administrative Offset Program.</p> <p><b>*--Note:</b> The RD Business Center, PRB mails a copy to the borrower and--* the County Office. IRS 1099-INT is sent to borrowers who <b>must</b> have APCD on the ADPS MI Status Screen of “1”, “Individual”, or “2”, “Partnership”, and interest paid of \$10.01 or more. These forms are prepared manually.</p>
1099-MISC	<p>IRS 1099-MISC is provided to IRS for individuals who received payments <b>from FSA</b> for a nonclass action, discrimination claim settlement. A copy is mailed to the individual and the County Office. These forms are prepared manually.</p>

**\*--IRS Forms, Corrections, and Reports (Continued)**

**B Corrections**

All activity processed after the loan activity cutoff date, which affects amounts initially reported to IRS, may result in the generation of corrected IRS 1098, IRS 1099-A, IRS 1099-C, or IRS 1099-G. The corrected IRS form may require the borrower to file an amended tax return.

**Notes:** If borrowers request assistance in filing their tax return, advise them to contact a tax consultant.

See 1-FLP, subparagraphs 49 E and 52 J for current year's loan activity cutoff dates.

Corrections to initial calendar yearend IRS reporting will be issued in April, July, October, and January (the month **after** the end of each quarter in the calendar year). Accounting activity **not** included on calendar yearend IRS reporting, because of the loan activity cutoff date in January, will be on the first quarter correction forms.

**Note:** There is **no** correction process for FSA-2065's. Any current year and previous years' corrections processed to the borrower's account after the cutoff date will be reflected on the next year's FSA-2065's.

**C Reports**

For each quarterly IRS corrections cycle, reports are generated to notify offices of IRS forms produced for IRS and mailed to borrowers for the activity processed after the loan activity cutoff. The following reports are sent to applicable offices.

<b>Report</b>	<b>Title</b>
RC 951	Inquiry Listing of IRS Form 1098, Mortgage Interest Payments for Current and 2 Prior Years Reporting
RC 961	Inquiry Listing of IRS Form 1099-A, Acquisition and Abandonment of Secured Property
RC 971	Inquiry Listing of IRS Form 1099-C, Cancellation of Debt
RC 981	Inquiry Listing of IRS Form 1099-G, Certain Government Payments

--\*



## Examples of How to Complete FSA-2061

### A Example 1 - Release of a Portion of FSA Real Estate Security

Ms. Elsa L. Cropper operates her farm on a 100-acre parcel. She also possesses a separate 5-acre parcel adjacent to the farm, but this parcel does not contribute to farm production and is not relied upon for farm operations. Both parcels serve as FSA real estate security, but Ms. Cropper is requesting to sell the 5-acre parcel for \$40,000 and will apply all sales proceeds to her FSA loan number 41-01.

<b>FSA-2061</b> (09-25-24)	U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	Position 5															
<b>APPLICATION FOR RELEASE OR CONSENT</b>																	
<p><b>INSTRUCTIONS:</b> Return this completed form to your County FSA Office.</p> <p><b>PART A - BORROWER REQUEST – REAL ESTATE SECURITY</b></p> <p>Note: If the transaction will result in all FSA debt being paid in full, Part A Items 1 through 5 are required.</p>																	
<p>1. The undersigned (a) <u>Elsa Lee Cropper</u></p> <p>("Borrower") in accordance with the terms of the real estate security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency (called "Government") on the property, applies for:</p> <p>(b) release, Sell a 5-acre parcel, which represents a portion of FSA Real Estate Security</p> <p>(c) Subordination, Non-Disturbance and Attornment Agreement (SNDA)</p> <p>(d) consent to,</p>																	
<p>2. Description of Property:</p> <p>Tax Parcel Number 991234567. Vacant parcel with no structures and no crops. This parcel has not contributed to farm production and is not currently relied upon for farm operations.</p>																	
<p>3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 33%;">A. Name of Lien Holder</th> <th style="width: 33%;">B. Approximate Amount of Lien</th> <th style="width: 34%;">C. Lien Priority</th> </tr> </thead> <tbody> <tr> <td>USDA, Farm Service Agency</td> <td>\$200,000</td> <td>1st</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>			A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority	USDA, Farm Service Agency	\$200,000	1st									
A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority															
USDA, Farm Service Agency	\$200,000	1st															
<p>4. The use to be made of the property covered by this application:</p> <p>Sold to a potential buyer via public listing.</p> <p>Future use is not a concern as the borrower's and FSA's interest in the property are legally transferred and proceeds will not be utilized for any development and will be applied toward the borrower's FSA loan.</p>																	
<p>5. The anticipated proceeds or benefits from this transaction are:</p> <p>\$40,000</p>																	
<p>6. Borrower proposes to use the proceeds as follows:</p> <p>Applied towards FSA loan #41-01 as an extra payment.</p>																	

**Examples of How to Complete FSA-2061 (Continued)**

**A Example 1 - Release of a Portion of FSA Real Estate Security (Continued)**

FSA-2061 (09-25-24)			Page 2 of 5	
7. Complete Application for Release or Consent			YES	NO
A. Copy of proposed contract or agreement			<input checked="" type="checkbox"/>	<input type="checkbox"/>
B. Copy of environmental assessment for proposed release or consent, if available ( <i>This will not replace FSA's environmental assessment, but may be helpful as documentation</i> )			<input type="checkbox"/>	<input type="checkbox"/> N/A
C. Copy of survey, if needed, with legal description for partial release or consent			<input type="checkbox"/>	<input type="checkbox"/> N/A
D. Documentation required for operational review:				
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes			<input checked="" type="checkbox"/>	<input type="checkbox"/>
E. FSA will obtain an appraisal			<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>PART B - BORROWER REQUEST – PERSONAL PROPERTY SECURITY – ONLY FOR RELEASE WITHOUT COMPENSATION</b>				
1. The undersigned (a) _____				
"Borrower") in accordance with the terms of the personal property security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency ( <i>called "Government"</i> ) on the property, applies for:				
(b) release, _____				
2. Description of Property from the current FSA-2028 (Security Agreement):  _____				
3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:				
A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority		
4. Complete Application for Release or Consent				
A. Documentation required for operational review:			YES	NO
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )			<input type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet			<input type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )			<input type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields			<input type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes			<input type="checkbox"/>	<input type="checkbox"/>
B. FSA will obtain an appraisal			<input type="checkbox"/>	<input type="checkbox"/>

**Examples of How to Complete FSA-2061 (Continued)**

**A Example 1 - Release of a Portion of FSA Real Estate Security (Continued)**

FSA-2061 (09-25-24)		Page 3 of 5	
<b>PART C – CERTIFICATIONS AND SIGNATURES</b>			
1. Have you, or any members of an entity, if applicable, ever been:		YES	NO
A. Convicted under any Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the previous 5 crop years? (See the Food Security Act of 1985, Pub. Law. 99-198)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Determined ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Determined ineligible for Federal benefits based on Federal Crop Insurance Corporation fraud? (See 7 U.S.C. 1515)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Explanation for any "YES" answers to Item 1:			
<p>3. ECOA - RIGHT TO RECEIVE APPRAISAL: As part of the assistance provided by FSA, an appraisal report or written real estate valuation may be required to determine the value of the property you intend to pledge or have pledged as security. If FSA orders an appraisal or completes a written real estate valuation, you will receive a copy at no cost. You will receive a copy at least three business days prior to the closing of your loan or servicing action. On occasion, the three-day waiting period could cause a delay in closing the loan or servicing action. If you so choose, you have a right to waive this waiting period and a copy will be provided to you no later than the time of loan closing or servicing action.</p> <p>4. I understand that unless FSA executes a separate written instrument for partial release, FSA's approval of this application will merely constitute and evidence FSA's consent, as lienholder, to the proposed transaction without in any way releasing any of its security, modifying the payment terms of my loans, or otherwise affect any FSA rights. If this application is approved, I agree to comply with such terms as may be set by FSA and to dispose of the proceeds as required by FSA.</p> <p>The statements and representations made above are made in connection with the request for a change in the loan security and/or the release of USDA- provided funds. The making of any false statement or misrepresentations herein may be a crime punishable under 18 U.S.C., §1001. I certify that the statements made are true, complete, and correct to the best of my knowledge and belief.</p>			
5A. Signature of Borrower	SIGNATURE of Elsa Lee Cropper	5B. Date 10/10/2024	
5A. Signature of Borrower		5B. Date	
5A. Signature of Borrower		5B. Date	
5A. Signature of Borrower		5B. Date	

**Examples of How to Complete FSA-2061 (Continued)**

**A Example 1 - Release of a Portion of FSA Real Estate Security (Continued)**

FSA-2061 (09-25-24)		Page 4 of 5		
<b>PART D - FSA APPROVAL (For FSA Use Only)</b>				
1. Recommendation for approval/denial of the request and comments: <span style="border: 1px solid black; padding: 2px;">Borrower:</span> Elsa Lee Cropper				
<p>Recommend for Approval as the request meets all of the applicable conditions under 4-FLP subparagraph 196B, 197A(1), and 198A.</p> <p>The requested partial release will not affect the farm's repayment ability or ability to operate. The requested partial release will pay down the borrower's FSA debt, which will improve her overall financial position and chances of obtaining commercial credit in the future.</p> <p>Per 4-FLP subparagraph 198A(2), an appraisal was not required as the value of real estate involved is less than \$50,000. An estimated value was utilized, which has been documented within the file.</p>				
2A. Initial Payment		2B. Subsequent Payment		
(1) to prior liens		(1) % to prior liens		or
(2) to extra payment on FSA loan	\$40,000	(2) % to extra payment of FSA loan		or
(3) to regular payment on FSA loan		(3) % to regular payment of FSA loan		or
(4) other (specify):		(4) other (specify):		or
(5) to borrower		(5) % to borrower		or
3. I hereby:				
A. Recommend this application for approval <input checked="" type="checkbox"/>		B. Do NOT recommend this application be approved <input type="checkbox"/>		
C. Recommending Official Name John C. Green		D. Recommending Official Title Farm Loan Officer		
E. Signature SIGNATURE of John C. Green		F. Date 10/11/24		
4. I hereby:				
A. Approve this application <input checked="" type="checkbox"/>		B. Do NOT approve this application <input type="checkbox"/>		
C. Reason for denial of the request				
D. Approving Official Name Audrey S. Ashburn		E. Approving Official Title Farm Loan Manager		
F. Signature SIGNATURE of Audrey S. Ashburn		G. Date 10/12/24		

**Examples of How to Complete FSA-2061 (Continued)**

\* \* \*

**B Example 2 - Consent to Right-of-Way Easement on FSA Real Estate Security**

Mr. Joseph M. Cooper has been approached by a land developer in the area, Big Land Corporation, who is in the process of developing new parcels behind Mr. Cooper's property and will need to develop an access road for those new parcels. The proposed access road would run along the entire western property line of Mr. Cooper's parcel, which is unfenced and 1,000 feet long. The road will encroach 15 feet into Mr. Cooper's property line throughout the entire western side of his parcel. In return for granting this right-of-way easement, the land developer is offering to pay Mr. Cooper \$15,000. Mr. Cooper is requesting FSA's consent and approval to grant the requested right-of-way easement.

FSA-2061 (09-25-24)	U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	Position 5															
<b>APPLICATION FOR RELEASE OR CONSENT</b>																	
<p><b>INSTRUCTIONS:</b> Return this completed form to your County FSA Office.</p> <p><b>PART A - BORROWER REQUEST – REAL ESTATE SECURITY</b></p> <p>Note: If the transaction will result in all FSA debt being paid in full, Part A Items 1 through 5 are required.</p>																	
<p>1. The undersigned (a) <u>Joseph Matthew Cooper</u></p> <p>("Borrower") in accordance with the terms of the real estate security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency (called "Government") on the property, applies for:</p> <p>(b) release,</p> <hr/> <p>(c) Subordination, Non-Disturbance and Attornment Agreement (SNDA)</p> <hr/> <p>(d) consent to,</p> <p>Grant Right of Way to Big Land Corporation for the Development of an Access Road 2.</p>																	
<p>2. Description of Property:</p> <p>15,000 sq. ft. portion of Tax Parcel Number 884412356. The proposed access road will run along the entire length of his western property line (1,000 ft. long) and will encroach 15 ft. into the borrower's property line throughout the entire western side of his parcel.</p>																	
<p>3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:</p> <table border="1"> <thead> <tr> <th>A. Name of Lien Holder</th> <th>B. Approximate Amount of Lien</th> <th>C. Lien Priority</th> </tr> </thead> <tbody> <tr> <td>USDA, Farm Service Agency</td> <td>\$185,000</td> <td>1st</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>			A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority	USDA, Farm Service Agency	\$185,000	1st									
A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority															
USDA, Farm Service Agency	\$185,000	1st															
<p>4. The use to be made of the property covered by this application:</p> <p>Development of an access road by Big Land Corporation, which will provide access to new properties that are being developed behind the borrower's parcel.</p>																	
<p>5. The anticipated proceeds or benefits from this transaction are:</p> <p>\$15,000</p>																	
<p>6. Borrower proposes to use the proceeds as follows:</p> <p>Applied towards FSA loan #41-02 as an extra payment.</p>																	

**Examples of How to Complete FSA-2061 (Continued)**

**B Example 2 - Consent to Right-of-Way Easement on FSA Real Estate Security (Continued)**

FSA-2061 (09-25-24)			Page 2 of 5	
7. Complete Application for Release or Consent			YES	NO
A. Copy of proposed contract or agreement			<input checked="" type="checkbox"/>	<input type="checkbox"/>
B. Copy of environmental assessment for proposed release or consent, if available ( <i>This will not replace FSA's environmental assessment, but may be helpful as documentation</i> )			<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. Copy of survey, if needed, with legal description for partial release or consent			<input checked="" type="checkbox"/>	<input type="checkbox"/>
D. Documentation required for operational review:				
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields			<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes			<input checked="" type="checkbox"/>	<input type="checkbox"/>
E. FSA will obtain an appraisal			<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>PART B - BORROWER REQUEST – PERSONAL PROPERTY SECURITY – ONLY FOR RELEASE WITHOUT COMPENSATION</b>				
1. The undersigned (a) _____				
<p>"Borrower") in accordance with the terms of the personal property security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency (called "Government") on the property, applies for:</p> <p>(b) release,</p> <p>_____</p> <p>_____</p>				
2. Description of Property from the current FSA-2028 (Security Agreement):				
3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:				
A. Name of Lien Holder		B. Approximate Amount of Lien	C. Lien Priority	
4. Complete Application for Release or Consent				
A. Documentation required for operational review:			YES	NO
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )			<input type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet			<input type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )			<input type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields			<input type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes			<input type="checkbox"/>	<input type="checkbox"/>
B. FSA will obtain an appraisal			<input type="checkbox"/>	<input type="checkbox"/>

**Examples of How to Complete FSA-2061 (Continued)**

**B Example 2 - Consent to Right-of-Way Easement on FSA Real Estate Security (Continued)**

FSA-2061 (09-25-24)		Page 3 of 5	
<b>PART C – CERTIFICATIONS AND SIGNATURES</b>			
1. Have you, or any members of an entity, if applicable, ever been:		<b>YES</b>	<b>NO</b>
A. Convicted under any Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the previous 5 crop years? (See the Food Security Act of 1985, Pub. Law. 99-198)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Determined ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Determined ineligible for Federal benefits based on Federal Crop Insurance Corporation fraud? (See 7 U.S.C. 1515)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Explanation for any "YES" answers to Item 1:			
<p>3. ECOA - RIGHT TO RECEIVE APPRAISAL: As part of the assistance provided by FSA, an appraisal report or written real estate valuation may be required to determine the value of the property you intend to pledge or have pledged as security. If FSA orders an appraisal or completes a written real estate valuation, you will receive a copy at no cost. You will receive a copy at least three business days prior to the closing of your loan or servicing action. On occasion, the three-day waiting period could cause a delay in closing the loan or servicing action. If you so choose, you have a right to waive this waiting period and a copy will be provided to you no later than the time of loan closing or servicing action.</p> <p>4. I understand that unless FSA executes a separate written instrument for partial release, FSA's approval of this application will merely constitute and evidence FSA's consent, as lienholder, to the proposed transaction without in any way releasing any of its security, modifying the payment terms of my loans, or otherwise affect any FSA rights. If this application is approved, I agree to comply with such terms as may be set by FSA and to dispose of the proceeds as required by FSA.</p> <p>The statements and representations made above are made in connection with the request for a change in the loan security and/or the release of USDA- provided funds. The making of any false statement or misrepresentations herein may be a crime punishable under 18 U.S.C., §1001. I certify that the statements made are true, complete, and correct to the best of my knowledge and belief.</p>			
5A. Signature of Borrower	SIGNATURE of Joseph Matthew Cooper		5B. Date 10/10/2024
5A. Signature of Borrower			5B. Date
5A. Signature of Borrower			5B. Date
5A. Signature of Borrower			5B. Date

**Examples of How to Complete FSA-2061 (Continued)**

**B Example 2 - Consent to Right-of-Way Easement on FSA Real Estate Security (Continued)**

FSA-2061 (09-25-24)		Page 4 of 5		
<b>PART D - FSA APPROVAL (For FSA Use Only)</b>				
1. Recommendation for approval/denial of the request and comments:		Borrower:	Joseph Matthew Cooper	
Recommend for Approval as the request meets all of the applicable conditions under 4-FLP subparagraph 196B, 197A(1), and 198A(2).				
A satisfactory FSA environmental review has been completed for the proposed access road, which included a review of the required ingress, egress, and staging areas.				
The requested easement will not affect the farm's repayment ability or ability to operate. The request will pay down the borrower's FSA debt, which will improve his overall financial position and chances of obtaining commercial credit in the future.				
Although this transaction does not involve a "disposition" or transfer of ownership, the requested easement would remain in effect indefinitely. As a result, 4-FLP subparagraph 198A(2) applies, but an appraisal was not required as the value of real estate involved is less than \$50,000. An estimated value was utilized, which has been documented within the file.				
2A. Initial Payment		2B. Subsequent Payment		
(1) to prior liens		(1) % to prior liens		or
(2) to extra payment on FSA loan	\$15,000	(2) % to extra payment of FSA loan		or
(3) to regular payment on FSA loan		(3) % to regular payment of FSA loan		or
(4) other (specify):		(4) other (specify):		or
(5) to borrower		(5) % to borrower		or
3. I hereby:				
A. Recommend this application for approval <input checked="" type="checkbox"/>		B. Do NOT recommend this application be approved <input type="checkbox"/>		
C. Recommending Official Name John C. Green		D. Recommending Official Title Farm Loan Officer		
E. Signature SIGNATURE of John C. Green		F. Date 10/11/24		
4. I hereby:				
A. Approve this application <input checked="" type="checkbox"/>		B. Do NOT approve this application <input type="checkbox"/>		
C. Reason for denial of the request				
D. Approving Official Name Audrey S. Ashburn		E. Approving Official Title Farm Loan Manager		
F. Signature SIGNATURE of Audrey S. Ashburn		G. Date 10/12/24		

## Examples of How to Complete FSA-2061 (Continued)

### C Example 3 - Consent to a Subordination for Non-Lending Purposes

Ms. Elizabeth S. Peppers has been approached by a wind energy company, Sustainable & Breezy Corporation, who would like to place a wind turbine on her farm. The wind energy company would like to enter a 20-year lease with Ms. Peppers, which will allow for the building and operation of the wind turbine. The lease also notes that Ms. Peppers will receive annual royalty payments of \$6,000 as compensation throughout the term of the lease. The wind energy company is also requiring that Ms. Peppers and FSA execute an SNDA agreement.

FSA-2061 (09-25-24)	U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	Position 5															
<b>APPLICATION FOR RELEASE OR CONSENT</b>																	
<b>INSTRUCTIONS:</b> Return this completed form to your County FSA Office.																	
<b>PART A - BORROWER REQUEST – REAL ESTATE SECURITY</b>																	
Note: If the transaction will result in all FSA debt being paid in full, Part A Items 1 through 5 are required.																	
1. The undersigned (a) <u>Elizabeth Sweet Peppers</u>																	
("Borrower") in accordance with the terms of the real estate security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency (called "Government") on the property, applies for:																	
(b) release,																	
_____																	
_____																	
(c) Subordination, Non-Disturbance and Attornment Agreement (SNDA) Between Sustainable & Breezy Corporation, Ms. Elizabeth Sweet Peppers, and FSA																	
(d) consent to, 20-year Wind Turbine Lease with Sustainable & Breezy Corporation																	
2. Description of Property:																	
1.5 acre portion of Tax Parcel Number 331556668.																	
3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:																	
<table border="1"> <thead> <tr> <th>A. Name of Lien Holder</th> <th>B. Approximate Amount of Lien</th> <th>C. Lien Priority</th> </tr> </thead> <tbody> <tr> <td>USDA, Farm Service Agency</td> <td>\$300,000</td> <td>1st</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>			A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority	USDA, Farm Service Agency	\$300,000	1st									
A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority															
USDA, Farm Service Agency	\$300,000	1st															
4. The use to be made of the property covered by this application:																	
Development of a wind turbine by a third party energy company - Sustainable & Breezy Corporation.																	
5. The anticipated proceeds or benefits from this transaction are:																	
\$6,000 annual royalty.																	
6. Borrower proposes to use the proceeds as follows:																	
Applied towards FSA loan #41-01 as a regular payment.																	

**Examples of How to Complete FSA-2061 (Continued)**

**C Example 3 - Consent to a Subordination for Non-Lending Purposes (Continued)**

FSA-2061 (09-25-24)		Page 2 of 5	
7. Complete Application for Release or Consent		YES	NO
A. Copy of proposed contract or agreement		<input checked="" type="checkbox"/>	<input type="checkbox"/>
B. Copy of environmental assessment for proposed release or consent, if available ( <i>This will not replace FSA's environmental assessment, but may be helpful as documentation</i> )		<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. Copy of survey, if needed, with legal description for partial release or consent		<input checked="" type="checkbox"/>	<input type="checkbox"/>
D. Documentation required for operational review:			
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes		<input checked="" type="checkbox"/>	<input type="checkbox"/>
E. FSA will obtain an appraisal		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>PART B - BORROWER REQUEST – PERSONAL PROPERTY SECURITY – ONLY FOR RELEASE WITHOUT COMPENSATION</b>			
1. The undersigned (a) _____			
<p>"Borrower") in accordance with the terms of the personal property security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency (<i>called "Government"</i>) on the property, applies for:</p> <p>(b) release,</p> <hr/> <hr/>			
2. Description of Property from the current FSA-2028 (Security Agreement):			
3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:			
A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority	
4. Complete Application for Release or Consent		YES	NO
A. Documentation required for operational review:			
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )		<input type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet		<input type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )		<input type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields		<input type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes		<input type="checkbox"/>	<input type="checkbox"/>
B. FSA will obtain an appraisal		<input type="checkbox"/>	<input type="checkbox"/>

**Examples of How to Complete FSA-2061 (Continued)**

**C Example 3 - Consent to a Subordination for Non-Lending Purposes (Continued)**

FSA-2061 (09-25-24)		Page 3 of 5	
<b>PART C – CERTIFICATIONS AND SIGNATURES</b>			
1. Have you, or any members of an entity, if applicable, ever been:		<b>YES</b>	<b>NO</b>
A. Convicted under any Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the previous 5 crop years? (See the Food Security Act of 1985, Pub. Law. 99-198)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Determined ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Determined ineligible for Federal benefits based on Federal Crop Insurance Corporation fraud? (See 7 U.S.C. 1515)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Explanation for any "YES" answers to Item 1:			
<p>3. ECOA - RIGHT TO RECEIVE APPRAISAL: As part of the assistance provided by FSA, an appraisal report or written real estate valuation may be required to determine the value of the property you intend to pledge or have pledged as security. If FSA orders an appraisal or completes a written real estate valuation, you will receive a copy at no cost. You will receive a copy at least three business days prior to the closing of your loan or servicing action. On occasion, the three-day waiting period could cause a delay in closing the loan or servicing action. If you so choose, you have a right to waive this waiting period and a copy will be provided to you no later than the time of loan closing or servicing action.</p> <p>4. I understand that unless FSA executes a separate written instrument for partial release, FSA's approval of this application will merely constitute and evidence FSA's consent, as lienholder, to the proposed transaction without in any way releasing any of its security, modifying the payment terms of my loans, or otherwise affect any FSA rights. If this application is approved, I agree to comply with such terms as may be set by FSA and to dispose of the proceeds as required by FSA.</p> <p>The statements and representations made above are made in connection with the request for a change in the loan security and/or the release of USDA- provided funds. The making of any false statement or misrepresentations herein may be a crime punishable under 18 U.S.C., §1001. I certify that the statements made are true, complete, and correct to the best of my knowledge and belief.</p>			
5A. Signature of Borrower	SIGNATURE of Elizabeth Sweet Peppers		5B. Date
			10/10/2024
5A. Signature of Borrower			5B. Date
5A. Signature of Borrower			5B. Date
5A. Signature of Borrower			5B. Date

**Examples of How to Complete FSA-2061 (Continued)**

**C Example 3 - Consent to a Subordination for Non-Lending Purposes (Continued)**

FSA-2061 (09-25-24)		Page 4 of 5		
<b>PART D - FSA APPROVAL (For FSA Use Only)</b>				
1. Recommendation for approval/denial of the request and comments: <b>Borrower:</b> Elizabeth Sweet Peppers				
<p>Recommend for Approval as the request meets all of the applicable conditions under 4-FLP subparagraphs 99E, 196B and 197A(1).</p> <p>A satisfactory FSA environmental review has been completed for the proposed wind turbine, which included a review of the required ingress, egress, and staging areas.</p> <p>Our local OGC was also consulted and confirmed that all documents involved in the transaction meet legal sufficiency.</p> <p>Appraisal requirements of 4-FLP subparagraph 198A do not apply as the request does not involve disposition or transfer of ownership and the request is limited to the term of the lease.</p>				
2A. Initial Payment		2B. Subsequent Payment		
(1) to prior liens		(1) % to prior liens		or
(2) to extra payment on FSA loan		(2) % to extra payment of FSA loan		or
(3) to regular payment on FSA loan	\$6,000	(3) % to regular payment of FSA loan	\$6,000	or
(4) other (specify):		(4) other (specify):		or
(5) to borrower		(5) % to borrower		or
3. I hereby:				
A. Recommend this application for approval <input checked="" type="checkbox"/>		B. Do NOT recommend this application be approved <input type="checkbox"/>		
C. Recommending Official Name John C. Green		D. Recommending Official Title Farm Loan Officer		
E. Signature SIGNATURE of John C. Green		F. Date 10/11/24		
4. I hereby:				
A. Approve this application <input checked="" type="checkbox"/>		B. Do NOT approve this application <input type="checkbox"/>		
C. Reason for denial of the request				
D. Approving Official Name Audrey S. Ashburn		E. Approving Official Title Farm Loan Manager		
F. Signature SIGNATURE of Audrey S. Ashburn		G. Date 10/12/24		

## Examples of How to Complete FSA-2061 (Continued)

### D Example 4 - Release of Personal Property Security Without Compensation

Mr. Dwight P. Wilson purchased his farmland over three years ago via a Direct Farm Ownership loan. FSA obtained a lien on the farmland and also took a lien on his 2019 John Deere tractor to meet the previous additional security requirements of 150 percent. Mr. Wilson's security margin is currently at 125 percent with the farmland alone. Mr. Wilson is requesting a release of the tractor, as he would like to sell this piece of equipment and keep the proceeds.

<b>FSA-2061</b> (09-25-24)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	Position 5
<b>APPLICATION FOR RELEASE OR CONSENT</b>			
<b>INSTRUCTIONS:</b> Return this completed form to your County FSA Office.			
<b>PART A - BORROWER REQUEST – REAL ESTATE SECURITY</b>			
Note: If the transaction will result in all FSA debt being paid in full, Part A Items 1 through 5 are required.			
1. The undersigned (a) _____			
("Borrower") in accordance with the terms of the real estate security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency (called "Government") on the property, applies for:			
(b) release, _____			
(c) Subordination, Non-Disturbance and Attornment Agreement (SNDA) _____			
(d) consent to, _____			
2. Description of Property:			
3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:			
A. Name of Lien Holder		B. Approximate Amount of Lien	C. Lien Priority
4. The use to be made of the property covered by this application:			
5. The anticipated proceeds or benefits from this transaction are:			
6. Borrower proposes to use the proceeds as follows:			

**Examples of How to Complete FSA-2061 (Continued)**

**D Example 4 - Release of Personal Property Security Without Compensation (Continued)**

FSA-2061 (09-25-24)		Page 2 of 5	
7. Complete Application for Release or Consent		YES	NO
A. Copy of proposed contract or agreement		<input type="checkbox"/>	<input type="checkbox"/>
B. Copy of environmental assessment for proposed release or consent, if available ( <i>This will not replace FSA's environmental assessment, but may be helpful as documentation</i> )		<input type="checkbox"/>	<input type="checkbox"/>
C. Copy of survey, if needed, with legal description for partial release or consent		<input type="checkbox"/>	<input type="checkbox"/>
D. Documentation required for operational review:			
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )		<input type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet		<input type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )		<input type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields		<input type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes		<input type="checkbox"/>	<input type="checkbox"/>
E. FSA will obtain an appraisal		<input type="checkbox"/>	<input type="checkbox"/>
<b>PART B - BORROWER REQUEST – PERSONAL PROPERTY SECURITY – ONLY FOR RELEASE WITHOUT COMPENSATION</b>			
1. The undersigned (a) <u>Dwight Peachy Wilson</u>			
<p>"Borrower") in accordance with the terms of the personal property security instruments now held by the United States, acting through U.S. Department of Agriculture, Farm Service Agency (<i>called "Government"</i>) on the property, applies for:</p> <p>(b) release,  <u>2019 John Deere Tractor, which serves as additional security</u></p>			
2. Description of Property from the current FSA-2028 (Security Agreement): <u>2019 John Deere Tractor, Model #6120M, Serial #: 881234</u>			
3. Name of lienholder, approximate amount of each lien, including FSA in the order of lien priority prior to proposed transaction:			
A. Name of Lien Holder	B. Approximate Amount of Lien	C. Lien Priority	
USDA, Farm Service Agency	\$200,000	1st	
4. Complete Application for Release or Consent		YES	NO
A. Documentation required for operational review:			
(1) Actual financial performance for the past year ( <i>a copy of your last year's tax return or last year's income and expense records are acceptable</i> )		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) Current balance sheet		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Projected income/expense for next year ( <i>a copy of your current year's is also acceptable</i> )		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) Annual crop and livestock production yields		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) Review and update, if needed, of assessment ( <i>copy attached</i> ). Please pencil in comments or changes		<input checked="" type="checkbox"/>	<input type="checkbox"/>
B. FSA will obtain an appraisal		<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Examples of How to Complete FSA-2061 (Continued)**

**D Example 4 - Release of Personal Property Security Without Compensation (Continued)**

FSA-2061 (09-25-24)		Page 3 of 5	
<b>PART C – CERTIFICATIONS AND SIGNATURES</b>			
1. Have you, or any members of an entity, if applicable, ever been:		YES	NO
A. Convicted under any Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance within the previous 5 crop years? (See the Food Security Act of 1985, Pub. Law. 99-198)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Determined ineligible for Federal benefits based on a conviction for the distribution of controlled substances or any offense involving the possession of a controlled substance under 21 U.S.C. 862?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Determined ineligible for Federal benefits based on Federal Crop Insurance Corporation fraud? (See 7 U.S.C. 1515)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Explanation for any "YES" answers to Item 1:			
<p>3. ECOA - RIGHT TO RECEIVE APPRAISAL: As part of the assistance provided by FSA, an appraisal report or written real estate valuation may be required to determine the value of the property you intend to pledge or have pledged as security. If FSA orders an appraisal or completes a written real estate valuation, you will receive a copy at no cost. You will receive a copy at least three business days prior to the closing of your loan or servicing action. On occasion, the three-day waiting period could cause a delay in closing the loan or servicing action. If you so choose, you have a right to waive this waiting period and a copy will be provided to you no later than the time of loan closing or servicing action.</p> <p>4. I understand that unless FSA executes a separate written instrument for partial release, FSA's approval of this application will merely constitute and evidence FSA's consent, as lienholder, to the proposed transaction without in any way releasing any of its security, modifying the payment terms of my loans, or otherwise affect any FSA rights. If this application is approved, I agree to comply with such terms as may be set by FSA and to dispose of the proceeds as required by FSA.</p> <p>The statements and representations made above are made in connection with the request for a change in the loan security and/or the release of USDA- provided funds. The making of any false statement or misrepresentations herein may be a crime punishable under 18 U.S.C., §1001. I certify that the statements made are true, complete, and correct to the best of my knowledge and belief.</p>			
5A. Signature of Borrower	SIGNATURE of Dwight Peachy Wilson		5B. Date 10/10/2024
5A. Signature of Borrower			5B. Date
5A. Signature of Borrower			5B. Date
5A. Signature of Borrower			5B. Date

**Examples of How to Complete FSA-2061 (Continued)**

**D Example 4 - Release of Personal Property Security Without Compensation (Continued)**

\*--

<b>FSA-2061 (09-25-24)</b>		<b>Page 4 of 5</b>	
<b>PART D - FSA APPROVAL (For FSA Use Only)</b>			
1. Recommendation for approval/denial of the request and comments: <b>Borrower:</b> <b>Dwight Peachy Wilson</b>			
<p>Recommend for Approval as the request meets all of the applicable conditions under 4-FLP subparagraph 146 D.</p> <p>Appraisals were not obtained for both the tractor and farmland. Per 4-FLP subparagraph 146 D (3), an evaluation of recent sales of similar properties was completed for both the tractor and farmland. The evaluation has been sufficiently documented within the file.</p>			
<b>2A. Initial Payment</b>		<b>2B. Subsequent Payment</b>	
(1) to prior liens		(1) % to prior liens	or
(2) to extra payment on FSA loan		(2) % to extra payment of FSA loan	or
(3) to regular payment on FSA loan		(3) % to regular payment of FSA loan	or
(4) other (specify):		(4) other (specify):	or
(5) to borrower		(5) % to borrower	or
<b>3. I hereby:</b>			
A. Recommend this application for approval <input checked="" type="checkbox"/>		B. Do NOT recommend this application be approved <input type="checkbox"/>	
C. Recommending Official Name <b>John C. Green</b>		D. Recommending Official Title <b>Farm Loan Officer</b>	
E. Signature <b>SIGNATURE of John C. Green</b>		F. Date <b>10/11/2024</b>	
<b>4. I hereby:</b>			
A. Approve this application <input checked="" type="checkbox"/>		B. Do NOT approve this application <input type="checkbox"/>	
C. Reason for denial of the request			
D. Approving Official Name <b>Rick H. Bogart</b>		E. Approving Official Title <b>Farm Loan Chief</b>	
F. Signature <b>SIGNATURE of Rick H. Bogart</b>		G. Date <b>10/12/2024</b>	

--\*

**Notification of Payoff Amount**

Final payoffs shall be verified by 2 agency officials to lessen the possibility of an incorrect payoff amount being provided. The following letter will be sent to the borrower only if the request for payoff is made before the day of payment in full. Go to <http://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using OUR Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 26”.

\*--

**4-FLP, Exhibit 26**

(Use Agency Letterhead format with local return address.)

**NOTIFICATION OF PAYOFF AMOUNT**

Dear,

Borrower's Name: \_\_\_\_\_

Borrower's Address: \_\_\_\_\_

Case Number (*last 4 digits*): \_\_\_\_\_

As of: \_\_\_\_\_

Principal Balance: \_\_\_\_\_

Interest Balance: \_\_\_\_\_

Other (*installment set-aside, deferral, equity receivable, etc.*):  
\_\_\_\_\_

Total Estimated Payoff (*all loans*): \_\_\_\_\_

Daily Interest Accrual: \_\_\_\_\_

Sincerely,

Signature	Title	Date
-----------	-------	------

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.*

*Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.*

*To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider, employer, and lender.*

--\*



**Notice of Termination of Security Interests in Farm Products**

After verifying that the loans are paid in full and the payment has cleared, the authorized agency \*--official will close the case files and return the documents to the borrower according to 32-AS, paragraph 173. Any assignments held by FSA will be terminated using the following letter and--\* satisfaction of liens will be recorded on FSA-2433. Go to <http://165.221.16.90/dam/ffasforms/forms/html>, CLICK “Find Current Forms Using Our Form Number Search”, in Form Number block, type, “4-FLP Exhibit 27”, and CLICK “Submit”.

**4-FLP, Exhibit 27**

(Use Agency Letterhead format with local return address.)

**NOTICE OF TERMINATION OF SECURITY INTERESTS IN FARM PRODUCTS**

[Purchaser's Name, Address, and Telephone Number]

[Borrower's Name, Address, and Telephone Number]

The subject borrower has fully repaid the debt secured by the farm product describe in:

- 1. Consent to Payment of Proceeds from Sale of Products (FSA-2042) dated: \_\_\_\_\_.
- 2. Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest (FSA-2043) dated: \_\_\_\_\_.
- 3. Assignment of Proceeds from the Sale of Products (FSA-2041) dated: \_\_\_\_\_.

Therefore, the Farm Service Agency (FSA) or its successor agency, no longer has a security interest in such farm products, and the payment to FSA under such consent or assignment should be discontinued.

United States of America

By \_\_\_\_\_

Title \_\_\_\_\_

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).*

*If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.*



## **Notification Letter to Potential Purchasers**

### **A Example of Notification Letter**

In States without CFS, FSA follows the filing requirements specified for perfecting a lien on a \*--borrower's personal property security under State law. FSA will distribute the list of personal property and crop borrowers to sale barns, warehouses, and other businesses listed by the borrower on FSA-2040 that buy or sell personal property or crops. The notification to--\* potential purchasers will be mailed using the following letter.

Go to <https://inside.fsa.usda.gov/>. CLICK "Employee Forms" at the top of the page and CLICK "Find Current Forms Using Our Form Number Search". For "Form Number" ENTER "4-FLP Exhibit 29".

4-FLP, Exhibit 29

(Use Agency Letterhead format with local return address.)

**NOTIFICATION LETTER TO POTENTIAL PURCHASERS**

To : \_\_\_\_\_ Date: \_\_\_\_\_

Dear Buyer,

The United States of America, through the Farm Service Agency, has made loans to borrowers living in your vicinity to enable them to carry on their farming operations. As security for such loans, the borrowers have executed in favor of the United States, (1) mortgages on crops, livestock, and farm equipment in chattel mortgage states, or (2) financing statements and security agreements on crops, livestock, supplies, other farm products, farm equipment and inventory and on the proceeds and products thereof in Uniform Commercial Code States. The appropriate instruments are filed or recorded in the place and manner prescribed by law. As you are a buyer of certain types of property on which the Farm Service Agency takes liens, we are attaching a list of the names and addresses of some of the borrowers, residing in the County indicated on the list, who have executed security instruments on such property in favor of the United States.

**This list is sent to you to comply with the notification requirements under 7 U.S.C. 1631 (protection for purchasers of farm products).** It does not relieve you of any responsibility you may have of keeping informed of recorded lien instruments covering the property you purchase. It should be treated as confidential.

If you have questions concerning any particular transaction involving any of the property on which the Farm Service Agency holds a lien, please contact \_\_\_\_\_.

Sincerely,

[Authorized Agency Official's Title]

Attachment

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, family or parental status, sexual orientation, and all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program, activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.aoac.usda.gov/complaint\\_filing\\_cust.html](http://www.aoac.usda.gov/complaint_filing_cust.html) or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.

**Notification Letter to Potential Purchasers (Continued)**

**B List of FSA Borrowers**

Complete the following list and attach to the Notification Letter to Potential Purchasers.

**\*--Note:** As required by the Food Security Act, 7 U.S.C. 1631(g), the full SSN of each debtor or, in the case of a debtor doing business other than as an individual, the full IRS TIN is required when completing this notification. Follow applicable directives providing for the protection of PII when providing this notification to potential purchasers.--\*

LIST OF FARM SERVICE AGENCY BORROWERS		
1. Name and Address of Person Indebted to Secured Party		2. Debtor's Tax I.D. or Social Security Number (9 Digits)
3A. Description of Farm Product(s)		
3B. Approximate Quantity	3C. Crop Year	3D. County Where Located
4. Checks Jointly Payable Any check you may draw in payment for the farm products described in this notice must be made payable both to: FARM SERVICE AGENCY (FSA) AND _____		
5. Any Other Payment Obligations		
1. Name and Address of Person Indebted to Secured Party		2. Debtor's Tax I.D. or Social Security Number (9 Digits)
3A. Description of Farm Product(s)		
3B. Approximate Quantity	3C. Crop Year	3D. County Where Located
4. Checks Jointly Payable Any check you may draw in payment for the farm products described in this notice must be made payable both to: FARM SERVICE AGENCY (FSA) AND _____		
5. Any Other Payment Obligations		
1. Name and Address of Person Indebted to Secured Party		2. Debtor's Tax I.D. or Social Security Number (9 Digits)
3A. Description of Farm Product(s)		
3B. Approximate Quantity	3C. Crop Year	3D. County Where Located
4. Checks Jointly Payable Any check you may draw in payment for the farm products described in this notice must be made payable both to: FARM SERVICE AGENCY (FSA) AND _____		
5. Any Other Payment Obligations		

*The information on the list of Farm Service Agency borrowers contains personally identifiable information (PII) that is protected from unauthorized use and/or unauthorized disclosure by Federal statutes to include the Privacy Act of 1974 (5 U.S.C. § 552a - As Amended). Unauthorized use and/or unauthorized disclosure of protected data may result in civil or criminal penalties for failure to comply with Federal statutory requirements and/or for wrongful use/disclosure of confidential information.*

## **Change in List of FSA Borrowers**

This notification, or Exhibit 29 at the discretion of FLM or SFLO, will be updated at least annually as required, to ensure that purchasers are aware of the Government's security interests. Go to <http://165.221.16.90/dam/ffasforms/forms.html>, CLICK "Find Current Forms Using Our Form Number Search", in Form Number block, type, "4-FLP Exhibit 30", and CLICK "Submit".

\*--

**4-FLP, Exhibit 30**

(Use Agency Letterhead format with local return address.)

### **CHANGE IN LIST OF FARM SERVICE AGENCY BORROWERS**

Dear Buyer,

With regard to the List of Farm Service Agency Borrowers forwarded to you on \_\_\_\_\_, please add or delete the names as noted below. Attached, please find complete information on those borrowers being added

Add

Delete

As security for such loans, these borrowers have executed in favor of the United States (1) mortgages on crops, livestock, and farm equipment in chattel mortgage states, or (2) financing statements and security agreements on crops, livestock, supplies, other farm products, farm equipment and inventory and on the proceeds and products thereof in Uniform Commercial Code States. The appropriate instruments are filed or recorded in the place and manner prescribed by law.

Please contact this office if you have any questions.

Sincerely,

[Authorized Agency Official's Title]

Attachment

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).*

*If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.*

--\*



**Notification of Unauthorized Use of Proceeds**

Upon noting an apparent unauthorized disposition of security, FSA will notify the borrower using the following. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number” ENTER “4-FLP Exhibit 31”.

\*--

**4-FLP, Exhibit 31**

(Use Agency Letterhead format with local return address.)

**NOTIFICATION OF UNAUTHORIZED USE OF PROCEEDS**

United States Department of Agriculture Farm Service Agency [Location].

Dear :

It is our understanding that on or about [date] you [sold, traded, exchanged] the following described property: \_\_\_\_\_ for \$ \_\_\_\_\_.

Such property is covered by a (financing statement and security agreement or chattel mortgage, as appropriate) which secures your indebtedness owed to the Farm Service Agency (FSA).

Since you did (not use the property) (not account for the proceeds) in accordance with your security instruments and signed agreement dated \_\_\_\_\_, we demand that you either pay the FSA the above described amount or replace the property with property of equal or greater value within 30 days.

If you believe you possess information that will show this demand is in error, you should contact the County Office at [Telephone number, include area code] within 10 days to arrange an appointment to discuss this matter and present such information.

If you do not comply with this demand we will declare your loans to be in default, recommend referral of this claim to the United States Attorney for appropriate action, and make demand upon the purchasers of the property.

Sincerely,

[Authorized Agency Official's Title]

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).*

*If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.*

--\*



**\*--Notification of Unauthorized Use of Proceeds (Bankruptcy Borrower)**

Upon noting an apparent unauthorized disposition of security, FSA will notify the borrower using the following. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 31.5”.

**4-FLP, Exhibit 31.5  
(Bankruptcy)**

(Use Agency Letterhead format with local return address.)

**NOTIFICATION OF UNAUTHORIZED USE OF PROCEEDS**

Dear :

It is our understanding that on or about [date] you [sold, traded, exchanged] the following described property: \_\_\_\_\_ for \$ \_\_\_\_\_.

Such property is covered by a security agreement and financing statement which secures your indebtedness owed to the Farm Service Agency (FSA). As you are aware, the security instruments executed by you in favor of FSA are not affected by a discharge in bankruptcy and the security can still be foreclosed upon or liquidated to satisfy the secured debtor.

Since you did not account for the proceeds in accordance with your security instruments and signed agreement dated \_\_\_\_\_, we request that you submit to FSA the above-described amount or replace the property with property of equal or greater value within 30 days.

**PLEASE NOTE: this informational notice is not intended as an act to collect or recover any debt from you for which your personal liability was previously discharged.**

If you believe you possess information that will show this demand is in error, you should contact the County Office at [Telephone number, include area code] within 10 days to arrange an appointment to discuss this matter and present such information.

If you do not comply with this demand we will recommend referral of this claim to the United States Attorney for appropriate action, and make demand upon the purchasers of the property.

Sincerely,

[Authorized Agency Official’s Name and Title]

cc: [Debtor’s Attorney]

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.*

*Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.*

*To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider, employer, and lender.*

--\*



## **Initial Notification of Third-Party Purchaser**

With SED concurrence, the authorized agency official will send the following notification to third-party purchasers when the:

- disposition cannot be approved
- third party has purchased collateral for an FSA loan
- borrower is unable or unwilling to make restitution and has been notified according to 5-FLP, Part 3.

\*--Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number” ENTER “4-FLP Exhibit 32”.

**4-FLP, Exhibit 32**

(Use Agency Letterhead format with local return address.)

**INITIAL NOTIFICATION OF THIRD-PARTY PURCHASER**

Dear:

It is our understanding that on or about \_\_\_\_\_, you purchased the following property from \_\_\_\_\_ for \$ \_\_\_\_\_:

\_\_\_\_\_

\_\_\_\_\_

All of the above property you purchased is covered by a [(financing statement, security agreement, chattel mortgage, etc., as appropriate)] held by the Farm Service Agency (FSA) and executed by our borrower, \_\_\_\_\_. The [(financing statement, security agreement, chattel mortgage, etc., as appropriate)] was filed in \_\_\_\_\_ on \_\_\_\_\_ and is number \_\_\_\_\_.

The borrower [(failed to apply any part, or applied only \$ \_\_\_\_\_)] of the proceeds of this sale on their FSA account. The lien on this property has not been released.

By this letter, we are notifying you of our interest in the property and making demand upon you to return the property to the borrower or pay its market value (at the time it was purchased by you) to the FSA within 30 days. This matter has been forwarded to the FSA State Office.

Please feel free to contact this office at \_\_\_\_\_ if any further information is required.

Sincerely,

[Authorized Agency Official's Title]

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.



## **SED Notification of Third-Party Purchaser**

If no response to Exhibit 32 has been received within 30 calendar days, the following will be forwarded to the purchaser by SED. If satisfaction is not made within 15 calendar days, SED will --forward the account to OGC. Go to <https://inside.fsa.usda.gov/>. CLICK "Employee Forms" at the top of the page and CLICK "Find Current Forms Using Our Form Number Search". For "Form Number" ENTER "4-FLP Exhibit 33".--\*

### **4-FLP, Exhibit 33**

(Use Agency Letterhead format with local return address.)

#### **STATE EXECUTIVE DIRECTOR NOTIFICATION OF THIRD-PARTY PURCHASER**

Dear:

Our records show that on \_\_\_\_\_ you were contacted by our local office and demand was made upon you in connection with the property you purchased from \_\_\_\_\_. This property remains under lien by the Farm Service Agency.

Since you have not met this demand, we are preparing the case for submission to the United States Attorney. If you do not comply with the demand within 15 days, this office will request that Office of the General Counsel of the United States Department of Agriculture refer the matter to the Department of Justice.

Sincerely

State Executive Director

*The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity. Washington, D.C. 20580.*

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)*

*If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or e-mail at [program.intake@usda.gov](mailto:program.intake@usda.gov).*

*Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish). Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).*



## **Denial of Non-Program Assistance**

If an application for non-program assistance cannot be approved, it will be denied with this exhibit.

**Note:** Exhibit 35 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our \*--Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 35”.

**4-FLP, Exhibit 35**

(Use Agency Letterhead format with local return address.)

### **DENIAL OF NON-PROGRAM ASSISTANCE**

Dear:

After careful consideration we were unable to take favorable action on your application/request for Farm Service Agency (FSA) services for the following reasons:

[Enter specific reasons for the adverse action]

If you think FSA is in error, you may submit evidence within 15-calendar days to the undersigned documenting why FSA's decision is in error. Your request will be forwarded to the next level supervisor within FSA for consideration. This review will be based solely upon the record including your case file. Applicable statutes and regulations and the documentation you submit to support your position will be considered by the next level supervisor.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

[Authorized Agency Official's Title]

*The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.*

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)*

*If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.usda.gov/complaint\\_filing\\_cust.html](http://www.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or e-mail at [program.intake@usda.gov](mailto:program.intake@usda.gov).*

*Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish). Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).*

--\*



## **Service Members Civil Relief**

When information is received that a borrower has entered active duty, or is scheduled to enter active duty, the County Office shall send:

- the borrower information required in paragraph 282
- \*--the RD Business Center, FLB a courtesy copy by FAX (1-FLP, subparagraph 5 B).--\*

The County Office may use this exhibit without change, or draft a similar letter to address the borrower's specific circumstances.

**Note:** Exhibit 51 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK "Employee Forms" at the top of the page and CLICK "Find Current Forms Using Our Form Number Search". For "Form Number", ENTER "4-FLP Exhibit 51".

### **4-FLP, Exhibit 51**

(Use Agency Letterhead format with local return address.)

#### **SERVICE MEMBERS CIVIL RELIEF**

Dear:

It has come to the attention of FSA that you may have entered active military duty, or may be entering active military duty in the near future.

If so, there are certain benefits you may be able to receive pursuant to the Servicemembers Civil Relief Act of 2003. These benefits may include a reduced interest rate if your current rate is above 6%; and if your account is delinquent, suspension/termination of collection through the Treasury Offset Program and cross-servicing program.

Please provide a copy of your military orders so FSA may provide all applicable benefits to you as quickly as possible.

If you are currently on active military duty and there is a pending FSA foreclosure sale scheduled for the property pledged as collateral for your FSA farm loans, please respond to this letter immediately via phone, or e-mail, or letter, so that the sale can be suspended.

If FSA does not receive a copy of your military orders to verify active duty status within 30 days of this letter, FSA will have no choice but to continue to service your account as if you are not on active military duty and FSA will not be able to provide any Servicemembers Civil Relief benefits until the required documentation is received.

If you have a military power of attorney already prepared and executed pursuant to 10 U.S.C. 100b, and would like FSA to work with that person, please provide a copy of that document. Please note that FSA is unable to prepare or help you prepare a power of attorney. We would encourage you to work with your attorney, military recruiter, or military chain of command for assistance with a power of attorney.

In addition, if you are on active duty during a time period that is declared by the President or Congress to be a war or national emergency, there are additional benefits you may be able to receive pursuant to the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005. You will receive separate notification concerning these benefits if they apply to you.

Please do not hesitate to contact this office if any further information is required.



**Borrowers Entering Active Duty in Times of War or National Emergency**

When information is received by the County Office that a borrower has entered or is entering active duty, the County Office shall send:

- the borrower the following, informing them that payments will be suspended, and interest will not accrue during time of active duty

•\*--the RD Business Center, FLB a courtesy copy by FAX (1-FLP, subparagraph 5 B).--\*

**Note:** This exhibit may only be revised by SED.

**\*--Borrowers Entering Active Duty in Times of War or National Emergency (Continued)--\***

**Note:** Exhibit 52 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 52”.

**4-FLP, Exhibit 52**

(Use Agency Letterhead format with local return address.)

**BORROWERS ENTERING ACTIVE DUTY**

Dear:

On October 28, 2004, the President signed into law the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (the Act). As per the Act, while you are on active duty, interest will not accrue and annual payments will not be required (will be suspended) on your existing Farm Service Agency (FSA) Farm Loan Program (FLP) loans while the United States is at war or during a national emergency as declared by the President or Congress. Payments due during or after active duty will be suspended or deferred for the length of time you are on active duty. New loans are not covered by the Act.

The beginning date of the suspension and non-accrual status is \_\_\_\_\_. The suspension and non-accrual status will end on the earlier of when your active duty ends or the war or national emergency is concluded.

FSA is committed to providing service to assist our borrowers who are impacted by military deployment. Please continue to keep this office apprised of your current duty status so your account can be updated in a timely manner once you are relieved from active duty (with a copy of your release orders) or the national emergency has ended.

Please do not hesitate to contact this office if any further information is required.

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.*

*Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.*

*To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW*

**Borrowers Leaving Active Duty**

When information is received that the war or national emergency is over, or the borrower has been released from active duty, the County Office shall send:

- the borrower the following, informing them that suspension and nonaccrual status has ended
- \*--the RD Business Center, FaSB a courtesy copy by FAX (1-FLP, subparagraph 5 B).--\*

**Note:** This exhibit may only be revised by SED.

## **Borrowers Leaving Active Duty (Continued)**

**Note:** Exhibit 53 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 53”.

\*--

**4-FLP, Exhibit 53**

(Use Agency Letterhead format with local return address.)

### **BORROWERS LEAVING ACTIVE DUTY**

Dear:

On October 28, 2004, the President signed into law the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (the Act). As per this Act, interest did not accrue and annual payments were suspended on your existing Farm Service Agency (FSA) Farm Loan Program (FLP) loans when the United States was at war or during a national emergency and you were on active duty. As we understand these conditions no longer exist, interest is now accruing on all your FLP loans. Your payments will be deferred for a period of time equal to the time of your active duty. This period of time has, therefore, been added to the term of your FLP loans impacted by the Act.

**NOTE:** Loans made after you went on active duty are not subject to the Act.

The beginning date of the suspension and non-accrual status was \_\_\_\_\_. The ending date of the suspension and non-accrual status was \_\_\_\_\_. The time period for your active duty was \_\_\_\_\_; therefore your post deployment deferral period ends \_\_\_\_\_.

Estimated daily interest accrual on loans with post deployment deferral are set forth below:

Loan Number	Principal Balance	Interest Rate	Daily Interest Accrual
-------------	-------------------	---------------	------------------------

Your total daily interest accrual is \$ \_\_\_\_\_. If annual payments are not made during the post deployment deferral period, your total estimated interest accrual will be \$ \_\_\_\_\_. Voluntary payments during the deferral period will reduce the overall amount of interest accrual because payments are applied to accrued interest first, then to principal.

Please do not hesitate to contact this office if any further information is required.

*In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.*

*Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.*

*To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider, employer, and lender.*

--\*